

REAL ESTATE COMMISSION
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii
www.hawaii.gov/hirec

MINUTES OF MEETING

The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Section 92-7(b), Hawaii Revised Statutes.

Date: Friday, February 24, 2012

Time: 9:00 a.m.

Place: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii

Present: Carol Ball, Chair, Broker/Maui Commissioner
Rowena Cobb, Broker/Kauai Commissioner
Frances Gendrano, Broker/Honolulu Commissioner
Walter Harvey, Broker/Honolulu Commissioner
Nikki T. Senter, Public/Honolulu Commissioner
Scott A. Sherley, Broker/Hawaii Island Commissioner
Aileen Wada, Broker/Honolulu Commissioner

Neil K. Fujitani, Supervising Executive Officer
Miles Ino, Executive Officer
Diane Choy Fujimura, Senior Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Amy Endo, Real Estate Specialist
David J. Grupen, Real Estate Specialist
Cheryl Leong, Condominium Specialist
Benedyne Stone, Condominium Specialist
Shari Wong, Deputy Attorney General
Lesley Matsumoto, Recording Secretary
Tammy Norton, Recording Secretary

Others: Lei Fukumura, Special Deputy Attorney General
Mitchell Imanaka, Esq., Imanaka Kudo & Fujimoto
Patrick Kelly, Regulated Industries Complaints Office
David Zinnel
Jacqueline Esser
Brian Benton, Prudential Locations, LLC
Susan Fujimura
Michael Tanoue, Esq.
Shellie Pane-Hoopili
Daria Loy-Goto, Regulated Industries Complaints Office

Absent: Stanley Kuriyama, Vice Chair, Broker/Honolulu Commissioner
Michele Sunahara Loudermilk, Public/Honolulu Commissioner

Call to Order: The Chair called the meeting to order at 9:04 a.m., at which time quorum was established.

Chair's Report: The Chair announced that the Commission may move into executive session to consider and evaluate personal information relating to individuals applying for licensure in accordance with section 92-5(a)(1), HRS, and/or to consult with the Commission's attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities in accordance with section 92-5(a)(4), HRS.

Commissioner Kuriyama and Commissioner Loudermilk were excused from the meeting. Prior notification of their non-attendance was received.

Supervising Executive Officer's Report: The Supervising Executive Officer ("SEO") informed the Commissioners that the original applications with any original associated documents to be considered at the meeting were available for review.

Minutes of Previous Meeting

Upon a motion by Commissioner Harvey, seconded by Commissioner Gendrano, it was voted on and unanimously carried to accept the minutes of the January 27, 2012, meeting as distributed.

Correction to the November 23, 2011 Minutes

Upon a motion by Commissioner Sherley, seconded by Commissioner Gendrano, it was voted on and unanimously carried to accept the correction of the November 23, 2011 minutes as distributed.

Chair Ball took matters out of order of the agenda.

Chapter 91, HRS,
Adjudicatory
Matters:

The Chair called for a recess from the meeting at 9:05 a.m., to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, HRS:

In the Matter of the Real Estate Brokers' Licenses of Tom Mukai, Brian Benton, and Helen Lindemann, and Prudential Locations, LLC; REC 2008-215-L

Commissioners Senter and Wada recused themselves due to a conflict of interest.

Patrick Kelly, attorney representing the Regulated Industries Complaints Office, was present. Mr. Mitchell Imanaka, attorney for Prudential Locations, LLC, was present for oral arguments.

Commissioner Cobb moved to draft a second proposed final order to include HRS §§467-1.6, 467-14(20), and 436B-19(9) violations, and to remand this matter back to the Hearings Officer regarding Helen Lindemann. Commissioner Harvey seconded the motion. The motion carried.

In the Matter of the Real Estate License of Naomi Capistran, a Real Estate Salesperson; REC 2011-53-L

Commissioner Sherley moved to accept the settlement agreement. Commissioner Gendrano seconded the motion. Commissioners Ball, Cobb, Gendrano, Harvey, Senter, and Sherley voted aye. Commissioner Wada voted nay. The motion passed.

Following the Commission's review, deliberation, and decisions in these matters, pursuant to Chapter 91, HRS, the Chair announced that the Commission was reconvening its scheduled meeting at 10:26 a.m.

Executive Session: Upon a motion by Commissioner Gendrano, seconded by Commissioner Sherley, it was voted on and unanimously carried to enter into executive session, pursuant to section 92-5(a)(1), HRS, "To consider and evaluate personal information, relating to individuals applying for professional or vocational licenses cited in section 26-9 or both;" and pursuant to section 92-5(a)(4), HRS, "To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities."

Upon a motion by Commissioner Harvey, seconded by Commissioner Sherley, it was voted on and unanimously carried to move out of executive session.

Licensing – Ratification: Upon a motion by Commissioner Harvey, seconded by Commissioner Sherley, it was voted on and unanimously carried to ratify the attached list.

Licensing – Applications: The SEO informed the Commissioners that the information provided to the Commissioners is related only to the issue that is before the Commission for consideration. The other materials submitted are available for the Commissioners review should they desire to review it. If the applicants have an issue, which is personal in nature, they have the right to request that their application be considered in executive session.

Jacquelyn T. Esser

Ms. Esser was present and was asked if she wished to have her request for preliminary decision considered in executive session. She declined the offer.

Ms. Esser stated that in 2001 she pled guilty to excessive speeding and was fined \$472.50, which she has paid in full.

Upon a motion by Commissioner Wada, seconded by Commissioner Sherley, it was voted on and unanimously carried to take the matter under advisement.

Gold Standard Realty, LLC

Mr. David Zinnel, member and proposed principal broker of Gold Standard Realty, LLC, was present. The Chair asked Mr. Zinnel if he wished to have his application considered in executive session. He declined the offer.

Mr. Zinnel stated that he has entered into a payment plan with the Hawaii State Federal Credit Union and the State of Hawaii Tax Department for monthly payments of \$50.00. He also stated that he has come full circle since last year and has earned his trust with Nike Corporation who he manages about eight employees.

Upon a motion by Commissioner Harvey, seconded by Commissioner Wada, it was voted on and unanimously carried to take the matter under advisement.

Committees and
Program of Work:

Laws and Rules Review Committee

Legislative and Government Participation Report

Legislative Report was distributed to the Commissioners for their information.

Senate Bill No. 3002, S.D. 1

Hawaii Association of REALTORS® Request for Informal, Non-Binding Interpretation Regarding HRS §467-14

Mr. Brian Benton the current chairperson of the Hawaii Association of REALTORS® (“HAR”) and the broker-in-charge for Prudential Locations was present to provide comments. Mr. Benton commented that under the current statute there are too many safeguards for the consumer and not enough for the licensee. This current bill will treat all parties fairly. HAR’s position is to protect the agents. When a consumer files a complaint, the complaint moves forward, it becomes a major hardship for the agents. The complaint should be dismissed at the intake stage at the Regulated Industries Complaints Office (“RICO”) and not move forward. Ultimately, Mr. Benton would like to have the intake caller throw cases out. According to Mr. Benton, if an agent failed to provide RICO with information on the complaint, then a summary judgment is put forward. These disciplinary decisions based on summary judgment procedures are unfair and lack due process.

Ms. Daria Loy-Goto from RICO was present. Ms. Loy-Goto responded that RICO welcomes and encourages assistance from the respondents. If there is sufficient information to process a complaint, a disciplinary action is put forth to the Office of Administrative Hearings to present the case. However, if there is not enough information, RICO will typically dismiss the matter for insufficient information. RICO has a long history of working with respondents and allowing all mitigating factors to be introduced. She believes due process rights for all parties exist. The current system is working and there has never been a simple misrepresentation disciplinary action.

SEO Fujitani asked Mr. Benton why HAR is attempting to change the statute? By changing the statute, the consumer will have less protections against unscrupulous licensees.

Mr. Benton responded that no one is currently protecting the licensees and the licensees have little or no rights. However, he does recognize that the misrepresentation charge is rare and this attempt to change the statute will only protect a very small amount of cases, if any.

SEO Fujitani asked Mr. Benton if there is any provision within the National Association of REALTORS’ and HAR’s bylaws to protect the licensees or consumers?

Mr. Benton responded that other agents have issues with their code of ethics. Some state that agents are protecting agents, but nothing about consumers.

Upon a motion by Commissioner Sherley, seconded by Commissioner Gendrano, it was voted on and unanimously carried to take the matter under advisement.

Education Review Committee

Broker Awareness Course, Part 1

Ms. Marsha Shimizu provided the Commissioners with an amended Broker Awareness Course, Part 1 for the Continuing Education Elective Course.

Upon a motion by Commissioner Gendrano, seconded by Commissioner Sherley, it was voted on and unanimously carried to approve the amended Broker Awareness Course, Part 1.

Licensing –
Applications:

Jacquelyn T. Esser

After review of the information presented by the applicant, Commissioner Harvey moved to approve the real estate salesperson license of Jacquelyn T. Esser. Commissioner Gendrano seconded the motion. The motion was voted on and unanimously carried.

George E. Webb

After review of the information presented by the applicant, Commissioner Harvey moved to approve the real estate salesperson license of George E. Webb. Commissioner Gendrano seconded the motion. The motion was voted on and unanimously carried.

Luxury Maui Real Estate Group, LLC

After review of the information presented by the applicant, Commissioner Gendrano moved to approve the real estate limited liability company license of Luxury Maui Real Estate Group, LLC. Commissioner Sherley seconded the motion. The motion was voted on and unanimously carried.

Gold Standard Realty, LLC

After review of the information presented by the applicant, Commissioner Sherley moved to approve the real estate limited liability company license of Gold Standard Realty, LLC. Commissioner Gendrano seconded the motion. The motion was voted on and unanimously carried.

Executive Session:

Upon a motion by Commissioner Sherley, seconded by Commissioner Harvey, it was voted on and unanimously carried to enter into executive session, pursuant to section 92-5(a)(4), HRS, "To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities."

Upon a motion by Commissioner Sherley, seconded by Commissioner Gendrano, it was voted on and unanimously carried to move out of executive session.

Committees and **Laws and Rules Review Committee**
Program of Work:

Hawaii Association of REALTORS® Request for Informal, Non-Binding
Interpretation Regarding HRS §467-14

Upon a motion by Commissioner Sherley, seconded by Commissioner Gendrano, it was voted on and unanimously carried that pursuant to § 16-201-88, Hawaii Administrative Rules, to decline HARs request for an informal, non-binding interpretation regarding HRS §467-14.

Next Meeting: Friday, March 23, 2012
9:00 a.m.
Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii

Adjournment: With no further business to discuss, the Chair adjourned the meeting at 11:42 a.m.

Reviewed and approved by:

/s/ Neil K. Fujitani

Neil K. Fujitani
Supervising Executive Officer

March 19, 2012

Date

[X] Approved as circulated.
[] Approved with corrections; see minutes of _____ meeting.

NKF:lm

APPROVED APPLICATIONS FOR REAL ESTATE
 REAL ESTATE COMMISSION MEETING ON FEBRUARY 24, 2012

<u>Brokers – Limited Liability Companies and Partnerships</u>	<u>Effective Date</u>
Diamond Head Estates, LLC Paul E. Sklansky, PB	01/18/12
Colliers International Real Estate Management Services, LLC Gary Evora, PB	01/27/12
Hillside Realty, LLC dba Hillside Realty	01/30/12
Garden Island Realtors, LLC Jeffrey A. Davis, PB	01/30/12
Koa Real Estate, LLC Jerry L. Chang, PB	01/31/12
Pacific Realty, LLC Reynold I. Chang, LLC	01/30/12
Loren Clive, LLC Loren Clive, PB	02/03/12
Hawaii Coast Realty, LLC Shannon A. Underwood, PB	02/06/12

<u>Brokers – Corporations and Partnerships</u>	<u>Effective Date</u>
Mauileasings.com, Inc. Caren Ore, PB	01/12/12
Kaina Hale Hawaii Realty, Inc. Hideo Mita, PB	01/30/12
POSR Corp. dba Point of Sail Realty Arlene K. Kim-Kawamoto	02/03/12

<u>Brokers – Sole Proprietor</u>	<u>Effective Date</u>
Joseph A. Garcia dba Kona Real Estate Management	01/19/12

<u>Trade Name</u>	<u>Effective Date</u>
Jason Hoopai dba Real Estate Strategy Advisors	01/23/12

<u>Educational Equivalency Certificate</u>	<u>Expiration Date</u>
Ying He	01/13/14
Michael Ford Lansden	01/17/14
Hiromi Mizui Rodrigues	01/18/14
Shay Macdonald Smith	01/18/14
Sandra Lee West	01/19/14
Cynthia Panaligan Lewis	01/25/14
John Jeffrey Hopf	01/25/14
Ivana Kormanikova	01/26/14
Debra Diane Pestrak	01/26/14
James Peter Calandra	01/26/14
Gary R. Sweaney	01/30/14
Vincent Joseph Carll	01/30/14
Danni Starr	01/30/14
Amy Bee-Hong Chen	02/01/14
David Richard Llewellyn	02/01/14
Heidi Bogert Dornier	02/01/14
Aileen Rodriguez Fernandez	02/01/14
Brent Allen Devere	02/02/14
Amil Joel Arroyo	02/03/14
Jennifer Clair Reno	02/09/14

Bennett Michael Hong 02/14/14

<u>Equivalency to Uniform Section of Examination Certificate</u>	<u>Expiration Date</u>
Ying He	01/13/14
Michael Ford Lansden	01/17/14
Sandra Lee West	01/19/14
Cynthia Panaligan Lewis	01/25/14
Debra Diane Pestrak	01/26/14
James Peter Calandra	01/26/14
Gary R. Sweaney	01/30/14
Danni Starr	01/30/14
Kimberly A. MacDuffee	02/01/14
David Richard Llewellyn	02/01/14
Heidi Bogert Dornier	02/01/14
Aileen Rodriguez Fernandez	02/01/14
Brent Allen Devere	02/02/14
Amil Joel Arroyo	02/03/14
Nicholas David Cotton	02/03/14
Jennifer Clair Reno	02/09/14

<u>Real Estate Broker Experience Certificate</u>	<u>Expiration Date</u>
Michael Ford Lansden	01/17/14
Megumi Kurebayashi	01/17/14
Gay N. Sapp	01/18/14
Sandra Lee West	01/19/14
Greg M. Tatsuguchi	01/20/14
Julie Olga Enriques	01/26/14
James Peter Calandra	01/26/14
Samuel Campiformio	01/30/14
Gary R. Sweaney	01/30/14
Richard Laporga	01/30/14
Heidi Bogert Dornier	02/01/14
Brent Allen Devere	02/02/14
Martin Ziacita, Jr.	02/09/14
Trina S. Martin	02/09/14

<u>Real Estate Broker (upgrade)</u>	<u>Effective Date</u>
Linda K. Hamp	01/04/12
Christina Dong	01/12/12
Barbara D. Morelli	01/12/12
Caren Ore	01/12/12
Dawn Reneau	01/13/12
Fannie Robinette Cline	01/19/12
Joseph Thomas Bonner	01/19/12
Shannon A. Underwood	01/23/12
Mimi Yi	01/27/12
Scott J. Anastasi	01/30/12
Kimiko May	01/30/12
Richard T. Dolbeare	01/31/12
Leon Mosher	02/02/12
Rene Orona	02/10/12

<u>Restoration – Real Estate Salesperson</u>	<u>Effective Date</u>
Michael D. Styring	02/01/12