

REAL ESTATE COMMISSION  
Professional & Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii

MINUTES OF MEETING

Date: Wednesday, November 23, 1983

Place: Senate Conference Room 2  
State Capitol, 2nd Floor  
Honolulu, HI

Present: G. A. "Red" Morris, Chairman  
Edwin H. Shiroma, Vice Chairman  
Joseph F. Blanco, Member  
Gloria J. Damron, Member  
Toru Kawakami, Member  
Constance Smales, Member  
Yukio Takeya, Member  
Ralph S. Yagi, Member  
Gregg T. Yamanaka, Member

Janice B. Sevilla, Education Officer  
Cynthia T. Alm, Information Officer  
June Saito, Recording Secretary  
Glenn M. Adachi, Executive Secretary

Robert Alm, Hearings Officer  
Virginia Lea Crandall, Hearings Officer  
Calvin Ontai, Respondent  
Rodney Ching, Investigator  
Joseph Andrade, Investigator  
Rodney Maile, Staff Attorney for DCCA/RICO  
Henry Tanji, Corporation & Securities Specialist  
Ruth Tsujimura, Staff Attorney for DCCA/RICO  
Frances Higa, Attorney for the State  
Susan Sugimoto, Attorney for the State  
Joseph Ryan, Attorney for Bozena Bednarczyk  
Michael Holl, Respondent  
Joseph Caruso, Respondent  
Patrick Taomae, Attorney for Caruso  
Rodney Kim, Attorney for Holl  
Randy Iwase, Deputy Attorney General

Call to Order: The meeting was called to order at 9:25 a.m. by the Chairman.

Notice of Meeting: The notice of meeting was filed with the Office of the Lt. Governor on November 18, 1983.

Minutes of  
Previous Meeting:

Commissioner Kawakami noted that the name of a restoration applicant - Avery H. Youn was misspelled in the minutes of the October meeting.

Upon motion made by Commissioner Shiroma, seconded by Commissioner Kawakami, the minutes of the October 28, 1983 were approved as amended by Commissioner Kawakami. Motion carried unanimously.

Hearings Officers'  
Report:

The Hearings Officers, Robert Alm and Lea Crandall, summarized the following cases which were previously heard and for which findings of fact, conclusions of law and recommended orders were presented to the Commission for their review and action.

RE-LIC-83-10 Calvin W. Ontai

The Commission previously referred this case back to the Hearings Officer for additional fact finding to determine the sufficiency of funds at the time Ontai wrote his check to the department.

Upon motion by Commissioner Smales, seconded by Commissioner Yamanaka, the Commission approved the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order that Respondent be denied issuance of a broker's license.

RE-82-43 Nicholas Palazzo and Phyllis P. Perry

Upon motion by Commissioner Yamanaka, seconded by Commissioner Yagi, the Commission unanimously approved the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order.

RE-81-168 Susie C. Tamashiro, dba T & T Realty

Upon motion by Commissioner Shiroma, seconded by Commissioner Yagi, the Commission unanimously approved the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order.

RE-80-26 Robert H. Klaesson, Aaron M. Chaney, Inc.

Upon motion by Commissioner Yagi, seconded by Commissioner Takeya, the Commission unanimously approved the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order.

Upon motion by Commissioner Blanco, seconded by Commissioner Smales and unanimously approved, the following cases were added to the agenda:

RE-LIC-83-34 Patricia Lewis

RE-LIC-83-33 Kurt Carlson

RE-LIC-83-34 Patricia Lewis

After discussion of the evidence presented at the hearing, Commissioner Yagi moved, Commissioner Smales seconded and the Commission unanimously approved the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order.

RE-LIC-83-33 Kurt Carlson

Upon motion by Commissioner Yagi and seconded by Commissioner Takeya, the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order were unanimously approved.

Oral Arguments to Written Exceptions:

RE-82-111 Calvin Ontai

Commissioner Shiroma disqualified himself from the deliberations in this matter.

The Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order, the Respondent's written exceptions and the State's statement in support were reviewed by the Commissioners. Respondent Ontai presented oral arguments to supplement his written exceptions. The State also made a statement in support of the Hearings Officer's recommended decision.

After listening to the oral arguments and discussing the different sanctions the Commission could impose, the suggestion was made to modify the Hearings Officer's Recommended Order.

Upon motion by Commissioner Yagi, seconded by Commissioner Damron and unanimously approved, the Commission ordered Respondent to take the RECCAL course within 3 months of the final order.

Upon motion by Commissioner Kawakami, seconded by Commissioner Yagi and unanimously carried, the Commission ordered Respondent to provide an accounting of all moneys collected and paid out to Complainant within 60 days from the date of receipt of the final order.

Upon motion by Commissioner Kawakami, seconded by Commissioner Blanco and unanimously approved, the license of Respondent was suspended for two years; however, 21 months of the suspension will be suspended if Respondent complies with all of the conditions contained in the Commission's order.

Upon motion by Commissioner Damron, seconded by Commissioner Blanco and unanimously approved, Respondent's prior salesman experience was disallowed to qualify for the broker examination; furthermore Respondent's sales experience for the broker experience requirement will be counted commencing with the end of the 3-month suspension period.

Upon motion by Commissioner Yagi, seconded by Commissioner Takeya, Respondent was ordered to pay a fine of \$200 within 30 days from receipt of the final order. All Commissioners except Commissioner Smales voted in favor of the motion. Commissioner Smales voted against the motion.

Commissioner Damron moved and Commissioner Smales seconded to commend the Hearings Office for their work in the aforementioned case.

Education Committee:

The Education Officer presented her report on the current education activities of the Commission.

The Commission discussed and reviewed the program and speakers for the Commission conference.

Commissioner Blanco moved to approve the conference program, including the speakers, admission fee and budget. The motion was seconded by Commissioner Kawakami and unanimously approved.

The Commission discussed changing or cancelling the Landlord/Tenant Code Seminar scheduled for February. Commissioner Blanco moved to keep the seminar as scheduled. Commissioner Smales seconded the motion and it was unanimously approved.

The Commission discussed holding its March monthly meeting in Kona. Commissioner Kawakami expressed concern that the Commission should not be using education funds for one of its regular meetings. Funds for regular meetings should be provided by the department. The staff was directed to ask the Director if DCCA funds would be available to allow the Commission to hold a meeting in Kona.

The Commission discussed the 3 survey proposals that were submitted. Since the results of the survey proposal may assist the Commission drafting its Residential Property Transfer Code, the surveys would need to be completed by January.

Commissioner Takeya moved to approve RMS. Commissioner Shiroma seconded the motion and it was unanimously approved.

Oral Argument:

Hawaiian Vacation Council

The Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order, State's exceptions, Respondents Holl and HVC exceptions, State's statement in support and Respondent Bednarczyk's objections were distributed to the Commissioners upon receipt from the Hearings Office prior to the date of this meeting.

The parties and counsel and the Commissioners introduced themselves:

Michael Holl, Respondent  
Joseph Caruso, Respondent  
Rodney Kim and Patrick Taomae, Attorneys  
for Holl and Caruso  
Joseph Ryan, Attorney for Bozena Bednarczyk  
Frances Higa, Attorney for the State  
Susan Sugimoto, Attorney for the State

Hearings Officer's Statement:

The Hearings Officer briefly summarized the facts in the case and read a statement raising his concerns should the Commission desire to modify his proposed decision. Counsel for the Respondents and the State were allowed to present their arguments to the Commission. After listening to the oral arguments, the Commissioners asked questions of both the parties and the counsel. Upon completion of questioning the oral arguments were closed and the Commission recessed.

After the recess, the Commission discussed how to proceed with the cases. There was discussion to remand the cases to the Hearings Officer for additional fact finding. The Commission's attorney suggested that if Commission's decision is adverse to the State, then the Commission need not allow parties to file exceptions. If the decision is adverse to the Respondents, the Commission must give parties opportunity to file exceptions.

The Chairman pointed out that the Commission has the Hearings Officer's recommendation. The Commission could accept, reject, amend or come up with its own recommendations. If the Commission desires to modify the Hearings Officer's recommendation, the Commission should reject the Hearings Officer's recommendation and draft its own proposed decision.

Upon motion by Commissioner Yamanaka, seconded by Commissioner Smales and unanimously approved, it was decided that the Commission would reject the Hearings Officer's recommendations and draft its own proposed order.

There was discussion as to when and how the Commission's proposed order would be drafted.

Instructor Certification

Robert Harold Middleton

Ms. Alm reviewed the application of Robert Middleton to teach the salesman course. Commissioner Yamanaka moved to approve the application. Commissioner Damron seconded the motion and it was unanimously approved.

New Business:

LICENSING

Corporation

Plum Associates, Inc. - 1314 S. King St., #718  
Patsy L. Lum, pb Hon.

Village Resorts, Inc. - 841 Bishop St., Ste 1000  
Philip J. Leas, pb Hon.

Tradenname

Edwin P. Auld, Real Estate Broker - Edwin P.  
Auld, dba

CJ Realty - Kekuna, Ltd. dba

Century 21 Property Network - Karen Jeffery, dba

Co-operative Realty - Tropic Isle Realty, Inc.  
dba

DTE Investments - Donald T. Eovino, dba

Michael DeGregory & Associates - Michael A.  
DeGregory, dba

Sandra Ednie, Realtor - Sandra L. F. Ednie, dba

Clifford Farrar Realty - Clifford N. Farrar, dba

Hale Koa Realty Inc./Better Homes & Gardens -  
Hale Koa Realty Inc., dba

Hawaiian Village Realty - Louis A. Pritchard,  
dba

Willa Hoogs, Realtor - Willa H. Hoogs, dba

Gary Klever Broker - Gary W. Klever, dba

David Martins Realty - David R. Martins, dba

Will R. NeSmith, Realtor, Will R. NeSmith, dba

Teresita Okihara Realty Co. - Teresita U.  
Okihara, dba

Rex Realty & Associates - Paula K. Johnson, dba

Jerry Rotter Realtor - Jerry Rotter, dba

Bob Short Realty - Robert A. Short, dba

Dawn Thompson Realty - Dawn H. Thompson, dba

Mr. Aart Vuyk, Broker - Vuyk, dba

Corp. Name Change

B. O. R. Investments, Inc. - formerly Barbara  
Odor Realty, Inc.

Century 21 Mid-Pacific Properties, Ltd. -  
formerly Mid-Pacific Properties, Ltd.

DBA Name Change

Kapalua Land Company, Ltd. dba Kapalua  
Management - formerly Kapalua Realty

Ludwig Realty - formerly United Realty

Restorations - past 2 yrs.

The statements submitted by the applicants  
were distributed prior to the meeting.

Sonia J. Lee-Gushi (s)

The information contained in her letter was insufficient to demonstrate that she was sufficiently familiar with current Hawaii real estate laws and practices. Upon motion by Commissioner Shiroma, seconded by Commissioner Yagi and unanimously approved, it was decided to waive the education requirement and allow applicant to take the salesman examination; if applicant passes the exam her license will be restored; if she fails, she will be treated as a new applicant.

John D. Stallman (s)

The information contained in his letter was insufficient to demonstrate that he was sufficiently familiar with current Hawaii real estate laws and practices.

Upon motion by Commissioner Yamanaka, seconded by Commissioner Shiroma and unanimously approved, it was decided to waive the education requirement and allow applicant to take the salesman examination; if applicant passes the exam, his license will be restored; if he fails - he will be treated as a new applicant.

Robert K. H. Yuen (s)

The information contained in his letter was insufficient to demonstrate that he was sufficiently familiar with current Hawaii real estate laws and practices.

Upon motion by Commissioner Yamanaka, seconded by Commissioner Yagi, and unanimously approved, it was decided to waive the education requirement and allow applicant to take the salesman examination; if applicant passes the exam, his license will be restored; if he fails, he will be treated as a new applicant.



Michael J. Hee (s)

The Commission reviewed statement of the above-named applicant. Commissioner Shiroma moved to approve the application because the applicant could not hold an active license due to a conflict with his employment with the State, Hawaii Housing Authority. The motion was seconded and unanimously carried.

Miscellaneous:                    Real Estate Recovery Fund Report

Ishimaru vs. Sabate

Commissioner Yamanaka moved to approve the order for payment out of the recovery fund. The motion was seconded by Commissioner Shiroma and unanimously approved.

The Commission requested that Sidney Ayabe provide a summary of the case.

Request for Waiver

Kenneth Zwern

The above-named requested a waiver of the examination now that he has completed the licensing course since he previously took examination before taking a licensing course. Commissioner Blanco moved to deny the waiver of the examination. The motion was seconded by Commissioner Yagi and unanimously carried.

Unlicensed Activity Complaint Corrected

Commissioner Blanco pointed out that Village Resorts received a real estate corporation license after a complaint for unlicensed activity was filed. Commissioner Blanco requested that this additional information be provided to RICO.


Adjournment:

There being no further business, the meeting was adjourned at 4:31 p.m.

Taken and recorded by:

APPROVED:

  
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GLENN M. ADACHI  
Executive Secretary

  
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June Saito, Recording Secretary