

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

MINUTES OF MEETING

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

Date: Wednesday, December 17, 1986

Time: 9:00 a.m.

Place: Board Room, Second Floor, Kamamalu Building, 1010 Richards Street, Honolulu, Hawaii

Present: G. A. "Red" Morris, Chairman
Yukio Takeya, Member
Joseph Blanco, Member
Gloria J. Damron, Member
Yoshiko Kano, Member
Douglas Sodetani, Member
Michele Matsuo, Member
Constance Smales, Member
Peter Yanagawa, Member

Calvin Kimura, Executive Secretary
Cynthia Yee, Information Officer
Irene Kotaka, Secretary
Virginia Lea Crandall, Hearings Officer
Sidney K. Ayabe, Recovery Fund Attorney
Richard Marshall, RICO Attorney

Eileen Luko, HAR Education Officer
Charles Horne, REC Research & Education Center, Director
Brian Thomas, Honolulu Board of Realtors, President
John Ramsey, Consultant

Charles Brower, Attorney for Rudy Hirota
Scott E. Kagen, Applicant
Nancy L. Vesper, Applicant
Kerry K. Barker, Applicant
Mario Giannetto, Applicant

Call to Order:

The meeting was called to order at 9:09 a.m. by Chairman G. A. "Red" Morris. Quorum was established.

Minutes:

The minutes of the November 26, 1986 meeting was distributed to the members for their review prior to the meeting.

Upon a motion by Commissioner Takeya, second by Commissioner Kano, the Commission unanimously approved the minutes of the November 26, 1986 Meeting as circulated by the Executive Secretary.

Additions to Agenda:

Restoration Applications:

Radcliffe Welles, Salesman
Jeanne McNeil, Salesman
James Ward,
Andre Tatibouet, Salesman

Commissioner Takeya moved to add the restorations listed above to the agenda. Commissioner Sodetani seconded the motion. The motion was voted and unanimously carried.

Hearings Officer's Reports:

RE-83-11 and RE-83-88, RUDY T. HIROTA, MOTION FOR RECONSIDERATION

Commissioner Takeya was excused due to a possible conflict of interest.

Charles Brower, Mr. Hirota's attorney, was present. The State was represented by Richard Marshall, RICO attorney.

Charles Brower, Esq.:

Mr. Brower stated that he could not find anything in the laws nor in the rules which state that you can file a motion for reconsideration. Subsequently, a Notice of Appeal was filed in Circuit Court on December 1, 1986. Mr. Brower also questioned the Commission's jurisdiction on the motion.

Mr. Brower also stated that Mr. Hirota is intending to pay his creditors back.

Richard Marshall, Esq.:

Mr. Marshall objected to the issue of jurisdiction that Mr. Brower raised. He also stated that no final decisions can be made if a motion for reconsideration is pending. Mr. Marshall also stated that Mr. Brower was aware of the motion being scheduled for the past meeting prior to filing the appeal. The State supports the original decision of the Hearings Officer, stating that in the three years since the filing of the complaints, Mr. Hirota has not made any attempts to repay the claimants and there is no reorganization plan pending or approved by the court. The State feels that Mr. Hirota's license should be revoked immediately, if not suspended. Mr. Marshall stated that Mr. Hirota does have a trustee that was appointed by the Bankruptcy Court who is a broker and that there was no need for Mr. Hirota to have a license. He stated that if limitations are not put on Mr. Hirota, the public would see it as an endorsement for others to follow Mr. Hirota's conduct.

Virginia Lea Crandall:

Ms. Crandall suggested that Mr. Brower submit a brief summarizing the issues of jurisdiction by December 31, 1986. Mr. Marshall will submit a response to Mr. Brower's brief by January 14, 1987. Ms. Crandall also suggested that the for reconsideration be heard today.

The decision on the Motion for Reconsideration was deferred to the January 23, 1987 so that the Commissioners could read the briefs prior to the meeting.

Commissioner Takeya returned to the meeting.

RE-84-229, IRA GORDON, JOHN L. RUSSELL, AND JACK RUSSELL AND ASSOCIATES, INC.

This matter was deferred and will be discussed at the January 23, 1987 Commission Meeting.

RE-85-246, BEN DE LOS SANTOS

Commissioner Sodetani moved to accept the settlement agreement of a \$1,000 fine with \$500 of the fine suspended. Commissioner Blanco seconded the motion. The motion was voted on and unanimously carried.

RE-85-251, CATHERINE CARTER-STOUDT

Commissioner Takeya moved to accept the settlement agreement of a \$1,000 fine, restitution of \$1,058 to Edgar Deaton and Jack Frimodt, and that this case be written up in the Real Estate Bulletin. Commissioner Blanco seconded the motion. The motion was voted on and unanimously carried.

RE-86-196, CATHERINE J. AIU

Commissioner Sodetani moved to accept the settlement agreement of a \$3,000 fine with \$2,400 of that fine suspended. Commissioner Kano seconded the motion. The motion was voted and unanimously carried.

RE-85-246, KENNETH HUGHES

Commissioner Sodetani moved to accept the settlement agreement of a \$1,000 fine with \$250 of that fine suspended. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

LICENSING BRANCH:

The meeting was adjourned temporarily at 10:10 a.m. so that the Commissioners would be able to see first hand the computer system in Licensing Branch.

Recovery Fund:Executive Session

The meeting reconvened at 10:55 a.m. at which time Commissioner Takeya moved to enter into Executive Session, pursuant to Section 92-4, to discuss recovery fund issues with the legal counsel, Sidney Ayabe. Commissioner Matsuo seconded the motion. It was voted and unanimously carried.

Upon a motion by Commissioner Takeya, second by Commissioner Matsuo, it was voted and unanimously carried to move out of executive session at 10:58 a.m. and to resume the meeting. Motion was carried.

Commissioner Takeya moved to accept Consultant Ayabe's recommendation to file an appeal in the matter of Henry Ching vs. Walter C. Wong dba Tradewind Realty and Consultant Ayabe will draft legislation which would allow claimants an option of filing a claim through the judicial system or directly to the recovery fund. Commissioner Matsuo seconded the motion. The motion was voted and unanimously carried.

Committee Reports:

EDUCATION COMMITTEE

Upon a motion by Commissioner Blanco, second by Commissioner Takeya, it was voted and unanimously carried to accept the recommendations of the December 16, 1986 Education Committee Meeting as circulated with the addition of #3 as follows:

1. Approve Consultant Shern's Mandatory Continuing Education Report subject to Consultant's redraft of the report to include staff recommendations relating to format. Approve mandatory continuing education legislation as set forth in the report at 10 hours.
2. Approve the optional offering of KEYWAY for 4 more months ending in April, 1987.
3. Approve Commissioner's enrollment in the Real Estate Educator's Association at \$45 per year for each Commissioner and staff.

LAWS AND RULES REVIEW COMMITTEE

Upon a motion by Commissioner Takeya, second by Commissioner Yanagawa, it was voted and unanimously carried to accept the recommendations of the December 16, 1986 Laws and Rules Review Committee Meeting as circulated as follows:

1. Proceed to public hearing with the changes to the Agency Rules:
 - a. Page 2, (e): "AGENCY DISCLOSURE[S]:"
 - b. Page 2, (f):
Unless specifically restricted by the real estate broker in writing, any real estate salesman, employed by or associated with a real estate broker, [may] shall be authorized to make the required disclosures on behalf of the real estate broker. Failure to make the disclosure required by subsections (b), (c), and (d) or to obtain the written confirmation thereof shall subject the real estate broker and the real estate salesman to disciplinary action by the commission.
 - c. Page 2, (h):
A licensee representing a buyer shall disclose such agency to the seller, or the listing broker if there is a listing broker, orally or in writing, before negotiations, [including any showings] are initiated. The licensee shall disclose to the seller, or the listing broker if there is a listing broker, whether the licensee is, or intends to be, the buyer, orally or in writing, before negotiations [or any showings] are initiated.

- d. A licensee shall transmit immediately all written offers in any real estate transaction, as defined in Section 16-99-3.1, to the listing broker who has a written unexpired exclusive listing contract covering the property.
2. Pertinent Facts Study be referred back to the Pertinent Facts Subcommittee for further review and discussion. Subcommittee to work closely with the Hawaii Association of Realtors and report to reflect "as is" option.
 3. Commissioner Blanco to work with Consultant Campaniano in determining options available to proceed with the Condominium Managing Agent and Bonding Study prior to the Legislative Session.
 4. Adopt the Guidelines for Supplementary Public Report - Short Form.

Licensing:

Restorations:

Higashide, Richard	Broker
Jervis, Cherlyn C.	Salesman
Kaahea, Kekuhoumana H.	Salesman
Kurosu, Stephen K.	Salesman
Onaka, Stephanie	Salesman
Shipley, Mary K.	Salesman
McNeil, Jeanne	Salesman
Tatibouet, Andre	Salesman

After a review of information submitted by the applicants, a motion was made by Commissioner Takeya, seconded by Commissioner Sodetani, voted and unanimously carried to have the real estate license of those listed above restored upon producing evidence of successfully completing a Commission-approved real estate course.

Fely I. Libre	Salesman
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After a review of the information submitted by the applicant, Commissioner Sodetani moved that restoration of license be approved upon successful completion of a Commission-approved real estate course. Commissioner Sodetani seconded the motion. The motion was voted on and carried.

Iris A. Wong Salesman

After a review of the information submitted by the applicant, Commissioner Sodetani moved to approve restoration of the license upon successful completion of a Commission-approved course. Commissioner Blanco seconded the motion. The motion was voted on and carried.

Joseph E. Zimmelman Salesman

After a review of the information submitted by the applicant, Commissioner Sodetani moved to approve restoration of the license upon passing the salesman's examination. Commissioner Blanco seconded the motion. The motion was voted on and carried.

Radcliffe Welles Salesman

After a review of the information submitted by the applicant, Commissioner Sodetani moved to approve restoration of the license upon passing the salesman's examination. Commissioner Blanco seconded the motion. The motion was voted on and carried.

QUESTIONABLE APPLICATIONS:

Richard J. Hidalgo

After review of the information submitted by the applicant, Commissioner Takeya moved to deny Mr. Hidalgo's request for reconsideration of a broker experience certificate because the transactions did not go through a principal broker. Commissioner Sodetani seconded the motion. The motion was voted on and unanimously carried.

Scott E. Kagen

Mr. Kagen appeared personally before the Commission. Mr. Kagen requested that his license be restored prior to meeting the educational requirement. He stated that he is working towards his CCIM designation and that he has completed a CI-101 course and plans to attend the CI-102 course.

Upon review of the information provided by the applicants and the applicants testimony, Commissioner Smales moved to deny the corporation's application for licensure because Mr. Giannetto is not a broker. Commissioner Yanagawa seconded the motion. The motion was voted on and unanimously carried.

James Ward Salesman

Commissioner Sodemani moved to restore Mr. Ward's license prior to meeting the educational requirements provided that he submit evidence of successful completion of a Commission-approved real estate course and submit a resume of all employment and educational activities since his license was forfeited. Commissioner Blanco seconded the motion. The motion was voted on and unanimously carried.

Old Business:

Federation of Association of Regulatory Boards (FARB) Meeting

The Executive Secretary stated that the FARB Meeting will be held in San Francisco, California, on February 6-9, 1987. None of the Commissioners will be attending.

National Association of Real Estate License Law Officials (NARELLO) Convention

Commissioner Blanco moved to approve the per diem for Chairman Morris, Commissioner Yanagawa, Commissioner Damron, Commissioner Sodemani, and himself to attend the NARELLO Convention to be held in Denver, Colorado, on January 30 -February 1, 1987. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Miscellaneous:

CERTIFICATE OF APPRECIATION

Chairman Morris requested that Certificates of Appreciation be given to Sam Schneider, Consultant; Richard B. Nicholls, Arizona Real Estate Commissioner; and Brian Thomas, President, Honolulu Board of Realtors.

Commissioner Blanco moved, Commissioner Takeya seconded the motion, it was voted and unanimously carried.

BRIAN THOMAS, PRESIDENT, HONOLULU BOARD OF REALTORS

Mr. Thomas thanked the Commission for allowing the Hawaii Association of Realtors (HAR) to be able to sit in on the computer session. He also stated that he hopes that HAR will be able to work closely with the Licensing Branch in the future.

Adjournment:

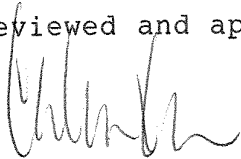
With no further business to discuss, Chairman Morris adjourned the meeting at 11:55 a.m.

Respectfully submitted,



Irene S. Kotaka, Secretary

Reviewed and approved:



Calvin Kimura, Executive Secretary



Date