

REAL ESTATE COMMISSION
Professional and 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: January 29, 1988

Time: 9:00 a.m.

Place: Exam/Conference Room, Second Floor
Kamamalu Building
1010 Richards Street
Honolulu, Hawaii

Present: Gloria Damron, Chairman
Yoshiko Kano, Kauai Member
Marcus Nishikawa, Member (Late arrival)
Douglas Sodetani, Maui Member
Yukio Takeya, Hawaii Member
Peter Yanagawa, Member
Constance Smales, Public Member
Joseph Blanco, Member (Late arrival)

Calvin Kimura, Executive Secretary
Cynthia Yee, Information Officer
Irene Kotaka, Secretary
Grant Tanimoto, Deputy Attorney General
Rodney Maile, Hearings Officer

John Ramsey, Editor, Real Estate Bulletin
Eileen Luko, Education Director, HAR
James Wodehouse, Licensee
Gary W. K. Au Young, Esq., Recovery Fund Attorney
A. Hinano Monsarrat-Jones, Licensee

Excused: Michele Matsuo, Public Member

Call to Order: The meeting was called to order at 9:04 a.m. by Chairman Damron.

Additions to the Upon a motion by commissioner Sodetani, second by Commissioner Kano, is was voted on and unanimously carried to add the following to the agenda:

Educational Testing Service Contract

Hearings Officer's Report - Aloha
Relocation Service, Lee C. Turner, RE
84-203

Licensing - Restoration of Forfeited
License:

Over Two Years (January 1, 1985)
Flating, Laura B. - Salesperson

Under Two Years -January 1, 1987
Eremian, Marie - Salesperson
Ferry, James - Broker
Freitas, Elaine - Salesperson
Smith, Cynthia F. - Salesperson

Licensing - Questionable Applications
Johnson, Carl D.
Tharp, Jacqueline
Lee, Dianne Lynn Yee

Executive
Secretary's
Report:

The Executive Secretary reported that
the Regulated Industries Complaints
Office 1987 Annual Report is available.
If any Commissioner wishes to receive a
copy, they should contact the Commission
office.

The Mississippi Real Estate Commission
sent their season's greetings.

There will be a retirement banquet for
Jack Burchill of the South Dakota Real
Estate Board on February 13, 1988 in
Pierre, South Dakota.

Approval of
Minutes:

Commissioner Smales stated that the
correction to the Minutes of the April 24,
1987 Commission Meeting noted in the
Minutes of the December 18, 1987 Meeting)
should have indicated more clearly that it
was a correction. For this reason, the
recovery fund items corrected should be
placed in quotes.

Upon a motion by Commissioner Sodemani,
second by Commissioner Kano, it was voted
on and unanimously approved to approve the
minutes of the December 18, 1987
Commission Meeting as circulated with the
correction as noted previously.

Hearings Officer's
Reports:

REALTY PACIFIC, INC., HANSEL CHANG AND
DAVID F. NICKLE, RE 87-500

The Hearings Officer reported that the Regulated Industries Complaints Office (RICO) has received the fine from Mr. Chang.

Commissioner Smales questioned if it was a RICO policy to accept the fine prior to the settlement agreement being accepted.

The Hearings Officer stated that occasionally a licensee will submit a fine prior to the commission's approval. If the settlement agreement is rejected, the undeposited check will be returned to the licensee.

Commissioner Nishikawa arrived.

The Commission has deep concerns about a broker acting as a salesman including the trust account situation. The Commission has always dealt with these cases severely.

Commissioner Smales stated that Mr. Chang, as principal broker, was responsible for the handling of the trust accounts, but he gave up his responsibility to Mr. Nickles who was only a salesman.

The Hearings Officer stated that the Hearings Office is not involved in settlement agreements. They just serve as the intermediary between RICO and the Commission.

Commissioner Smales moved to reject the settlement agreement. Commissioner Yanagawa seconded the motion. The motion was voted on and unanimously carried.

Commissioner Blanco arrived.

JAMES WODEHOUSE, JR., RE 87-7

Mr. Wodehouse was present to request that the conditions of the Commission's Final Order become effective from today's meeting.

The Commission's Final Order, which was approved at the September 25, 1987 Commission Meeting, was sent to Mr. Wodehouse's old address and as a result he did not receive a copy of the Final Order.

Mr. Wodehouse stated that he filed a Notification of Change form with the Licensing Branch on July 23, 1987. Mr. Wodehouse stated that he did call RICO to inquire on the status of the settlement agreement, however, he was told that the Commission had not acted on it as yet.

Commissioner Smales asked if it was a policy for the Hearings Office and RICO to check with the Licensing Branch for address changes.

The Executive Secretary informed the Commissioners that the Licensing Branch will always have a time delay on receipt of change forms and actual posting of the change forms. It was recommended that RICO and the Hearings Officer give written notice to respondents at the initial contact that the respondent is required to notify them of any address changes or changes in attorneys.

The Hearings Officer stated that their office will exhaust all known addresses.

Based upon the testimony presented by Mr. Wodehouse, Commissioner Takeya moved that Section 10 of the August 31, 1987 Settlement Agreement, pages 5 & 6, be reinstated as of the date of this meeting and that the suspension will remain until the first payment. Commissioner Sodeani seconded the motion. The motion was voted on and unanimously carried.

ALOHA RELOCATION SERVICE, LEE C. TURNER,
RE 84-203

Pursuant to one of the terms of the Commission's Final Order, an audit was submitted for Aloha Relocation Service.

Commissioner Blanco stated that the income and expenses were not stated in the audit. Commissioner Blanco also stated that Aloha Relocation Service failed to provide an accounting to the owners and still has not provided an accounting.

Commissioner Smales was excused from the meeting.

The Hearings Officer informed the Commission that if the categories that they are interested in are not listed, they could request for additional information.

Commissioner Takeya moved to accept the audit as performed by Mr. Perfecto Corpuz. Commissioner Sodehara seconded the motion. The motion was voted on and carried. Commissioner Blanco opposed the motion.

Commissioner Smales returned to the meeting.

Chairman Damron asked the Hearings Officer to note if the fine was paid.

Commissioner Smales requested that the Executive Secretary inform the Director of the backlogged situation at the Licensing Branch.

The Commissioners felt that terminals should link Licensing Branch, Hearings Office, and RICO so that information can be retrieved easily.

Commissioner Nishikawa suggested issuing laminated cards with the licensee's picture on it. He suggested making it a mandatory requirement that both the buyer and seller initial either the DROA form or the listing agreement to signify that they have verified that the licensee that they are dealing with is actually licensed.

Commissioner Sodehara moved that the Laws and Rules Review Committee be assigned the task of researching the picture identification cards and other ways to educate the public. Commissioner Smales seconded the motion. The motion was voted on and unanimously carried.

Commissioner Takeya moved that Commissioner Nishikawa be appointed to the subcommittee to research the matter. Commissioner Smales seconded the motion. The motion was voted on and unanimously carried.

Committee Reports: EDUCATION COMMITTEE

EDUCATIONAL TESTING SERVICE (ETS)

Commissioner Blanco reported that there were still some unresolved issues that were pending.

A mechanism would have to be developed so that \$1 from every exam taken could go into the NARELLO Education Fund. The present contract does not provide for this. Another issue involved the enhancement of the computer candidate tracking system.

Linda Dellaria, of ETS, recommended executing the contract and then amending it at a later date to include the unresolved issues.

The Deputy Attorney General stated that he has reviewed and approved the original contract dated July 1, 1987 without the amendment, subsequent amendments, and the modifications proposed in Appendix A that were negotiated on behalf of the Commission.

Commissioner Blanco moved that the contract with ETS be executed and simultaneously approved the amendment for \$1 to be deposited into the Education Fund and the enhancement of the computer candidate tracking system. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

CLIENTS TRUST SEMINARS

Eileen Luko, Education Director of the Hawaii Association of Realtors, stated that she is currently working on a proposal for the Commission-sponsored seminars. However, she needs some lead

time in setting up the seminars. She requested that the Commission consider delaying or postponing the seminar on client trust accounts as it is difficult for the guest speakers to attend due to the tax season. She suggested scheduling the Air Installation Compatibility Use Zones (AICUZ) presentation from the Department of Land and Natural Resources and the other resources available.

Commissioner Blanco will notify Ms. Luko of the next Education Committee meeting so that they can resolve this issue.

CURRICULUM REVIEW SUBCOMMITTEE

Commissioner Smales gave a report on the Curriculum Review Subcommittee.

Licensing requirements should be looked at by the Education Committee. The Subcommittee will be meeting with the Hawaii Association of Realtors, the Advisory Council, and the Real Estate Center to investigate looking into systems and costs incurred. They are currently in the process of reviewing the levels of curriculum development skills.

CONDOMINIUM AND COOPERATIVE REVIEW COMMITTEE MEETING

Upon a motion by Commissioner Yanagawa, second by Commissioner Sodehara, it was voted and unanimously carried to accept the following recommendations of the January 28, 1988 Condominium and Cooperative Review Committee Meeting as circulated:

1. Staff to follow-up in obtaining a copy of the final draft of the "Leasehold Conversion of Condominium and Cooperative Housing Project Study" which was prepared for the Housing Finance and Development Corporation.

2. The Condominium and Cooperative Study Report (without the legislation appendices) was accepted by the Commission and that Commissioner Yanagawa will work with the consultant and staff on the recommended legislation with submission to the Legislature.
3. The Fidelity Bond Study on Condominium Managing Agents and Self-Managed Condominium Associations as prepared by Stephen Tom was accepted for submission to the Legislature.
4. The Commission will accept resumes for condominium public report consultants from interested parties with the understanding that these resumes may be used as the need for consultants arise.

CONDOMINIUM MANAGING AGENT REPORT

Representative Hirono will introduce the legislation which, if passed, would allow the condominium associations to request payment through the condominium recovery fund. If passed, all condominium associations who have six units or more will be required to register. The fidelity bond amount would be increased to 1 million dollars. The bill would also give the Commission the authorization to hire employees to monitor the fund. The funds could be combined for investment purposes. The income received from investment is to be placed into a separate condominium education fund for the research and education of condominium associations and condominium managing agents. The maximum liability per transaction would be \$25,000 and \$100,000 for the association.

The Commissioners were asked to submit their comments on the Condominium Managing Agents Report to Commissioner Yanagawa.

Commissioner Nishikawa thanked Commissioner Yanagawa, Cynthia Yee and Gayle Kauihou for their hard work.

LAWS AND RULES REVIEW COMMITTEE

Upon a motion by Commissioner Takeya, seconded by Commissioner Sodekani, it was voted on and unanimously carried to approve the recommendations of the January 28, 1988 Laws and Rules Review Committee Meeting as follows:

1. The Deputy Attorney General will suggest some guidelines for the clients trust accounts, i.e., one account or more than one?
2. Linda Dellaria, of ETS, will be asked to provide letters of introduction to the Commission staff and the Commissioners so that they might be able to visit the test sites periodically.
3. The real estate schools will be given the opportunity to provide evidence of three denial letters stating the reasons why bonding was not obtained by the February 10, 1988 Education Committee Meeting. Formal notice will be given to the schools that should they not comply with the licensing laws and rules, disciplinary action can be taken.
4. The travel for Special Assistant Morris to attend the NARELLO Special Meetings in San Antonio, Texas and the amended travel of Commissioners Blanco and Yanagawa, to extend their travel for two days in order for them to travel to Salt Lake City, Utah, to attend a special computerization subcommittee meeting being held at NARELLO Headquarters was approved.
5. The financial audit of the Real Estate Recovery Fund and the Real Estate Education Fund as performed by Makiya and Sakai was accepted.

INVESTMENT OF TIME CERTIFICATES

Upon a motion by Commissioner Sodeani, seconded by Commissioner Kano, it was voted on and unanimously carried to refer the matter of the investment of the Real Estate Recovery Fund and Real Estate Education Fund to Commissioner Blanco.

REAL ESTATE CENTER REPORT

Commissioner Nishikawa reported on the Real Estate Center and the Real Estate Advisory Council.

Commissioner Nishikawa reported that the executive core of the Advisory Council will be meeting on a monthly basis. He will present reports to the Commission on what is going on at the Center.

Commissioner Nishikawa stated that \$30,000 was set aside from the Center's budget for the Center to conduct studies on affordable housing on the neighbor islands. He reported that the County of Maui is able to do the study for the island of Maui on a very inexpensive basis. The County of Maui has requested that \$500 be appropriated to them to perform the study. However, Commissioner Nishikawa was not sure what expenses the \$500 would cover.

Commissioner Nishikawa reported that the contract with the Center has not been amended and is therefore causing problems. The Administrative Services Office is saying that an amendment must be completed prior to requesting more funds.

Commissioner Nishikawa requested that Commissioners Blanco, Smales, and Sodeani accompany him in meeting with the representatives from the community colleges to determine what kind of assistance the community colleges can provide in setting up and presenting courses for the mandatory continuing education requirement.

Commissioner Sodemani stated that the community colleges are not certain if they will be able to provide assistance with the Commission's mandatory continuing education programs.

A joint meeting with Commissioners and representatives from the community colleges will be held in the future. Commissioner Nishikawa will coordinate the meeting.

Commissioner Smales expressed concern about the Center getting involved in income-producing studies in consideration of the number of studies and research the Commission has requested.

Recovery Fund:

Gary W. K. Au Young, Esq., was present to provide the Commission with an updated report on the pending cases.

CHING VS. WONG

Judge Klein had granted an order directing payment out of the recovery fund and held that the initial payment by the Commission of the sum of \$18,185.00 by settlement was null and void. Judge Klein denied the Commission's Motion for Reconsideration and the matter was appealed to the Supreme Court. The Supreme Court reversed and remanded the matter to the trial court to prorate the unpaid funds in the Walter C. Wong account and to determine whether or not the \$18,185.00 should be repaid to the fund.

A motion for Settlement Out of the Account of Walter C. Wong was filed. The motion was initially heard by Judge Acoba. The parties agreed to allow Judge Klein to rule on all issues including the issue of which claimants were entitled to a proration out of the Walter C. Wong account.

Judge Klein rendered a decision upholding the Commission's position. Judge Klein ruled that only those claimants who notified the Commission and either obtained court orders or settlement with

the Commission by October 27, 1987 were entitled to a proration out of Walter C. Wong's account. Judge Klein also held that the only remaining funds in the Walter C. Wong account was the sum of \$6340.54 and that the Commission was not required to reimburse Walter C. Wong's account either for the \$18,185.00 or the \$25,474.46. The Court did not set a time limit within which the claims had to have been filed.

ASSOCIATION OF APARTMENT OWNERS OF NAPILI
SANDS VS. HO'OLI HALE REAL ESTATE
CORPORATION

The Commission received a judgment of \$317,000 against Home Insurance Company which was the carrier of the errors and omissions insurance carried by the licensee. Sidney K. Ayabe, Esq., Recovery Fund Counsel, has been in contact with Home Insurance Company. Home Insurance Company will be settling the claim.

Commissioner Sodeani was excused from the meeting.

Mr. Au Young also presented some information on a pending claim against Ho'Oli Hale Real Estate Corporation. The Association of Apartment Owners of the Lokelani Condominium have a claim pending. Mr. Au Young stated that his office is negotiating with the Association for a lower settlement.

Upon a motion by Commissioner Takeya, second by Commissioner Kano, it was voted on and unanimously carried to give the counsel for the recovery fund the authority to settle the claims in a reasonable manner.

The Commissioners requested that Mr. Au Young's office provide a more detailed summary of the cases and that the amounts to be charged to each licensee be specified.

Commissioner Sodeani returned to the meeting.

The Executive Secretary informed Mr. Au Young that the auditor had recommended that a budget be completed for the recovery fund. The Executive Secretary requested that Mr. Au Young's office send a copy of their response to the auditor's letter to the Commission office.

Executive Session:

Upon a motion by Commissioner Takeya, second by Commissioner Kano, it was voted on and unanimously carried to enter into Executive Session, pursuant to Chapter 92-4, to Section 92-5(a)(1) "To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in Section 26-9 or both," at 11:55 a.m.

Upon a motion by Commissioner Sodetani, second by Commissioner Kano, it was voted on and unanimously carried to move out of Executive Session at 1:00 p.m.

Licensing:

Restorations:

Bacon, Roger W.	Salesperson
Hale, Jasper W.	Salesperson
Walker, Johnston B.	Salesperson
Ward, Kenneth B.	Salesperson
Flating, Laura B.	Salesperson

After a review of the information submitted by the applicants, Commissioner Sodetani moved that restoration of the licensees listed above be approved upon successfully passing the salesperson's examination. Commissioner Smales seconded the motion. The motion was voted on and unanimously carried.

Chang, Yung-Lan	Salesperson
Stewart, Schyler Ann T.	Salesperson

After a review of the information submitted by the applicants, Commissioner Blanco moved that restoration of the licensees listed above be approved upon successfully passing the salesperson's examination. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Esposito, Clarence M. Broker

After a review of the information submitted by the applicant, Commissioner Blanco moved that restoration of license be approved upon submitting evidence of successful completion of the GRI II or III course. Commissioner Sodetani seconded the motion. The motion was voted on and unanimously carried.

Eremian, Marie Salesperson

Chairman Damron was excused due to a conflict of interest.

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

Chairman Damron returned to the meeting.

Ferry, James Broker

Chairman Damron was excused due to a possible conflict of interest.

After a review of the information submitted by the applicant, Commissioner Sodetani moved to approve that restoration of license be granted upon payment of fees. Commissioner Takeya seconded the motion. The motion was voted on and carried.

Chairman Damron returned to the meeting.

Freitas, Elaine Salesperson

After a review of the information submitted by the applicant, Commissioner Blanco moved that restoration of license be approved upon submitting evidence of successful completion of a Commission-approved real estate course.

Commissioner Sodetani seconded the motion. The motion was voted on and unanimously carried.

Smith, Cynthia F. Salesperson

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

Questionable Applications

Monsarrat Properties, Inc.

A. Hinano Monsarrat Jones was present to answer questions.

After a review of the information submitted and presented by the applicant, Commissioner Sodetani moved to approve the conditional real estate broker's license based upon the following conditions:

1. The Applicant and the principal broker, with Darlene A. DeMello as the initial principal broker, and any approved successor, shall not permit A. Hinano Jones to participate in the direct management of the real estate brokerage business of the Applicant, pursuant to Section 467-14(10, Hawaii Revised Statutes, until properly licensed.
2. The Applicant, the Applicant's principal broker, and A. Hinano Jones, shall not represent to anyone or use the name "Monsarrat" as part of A. Hinano Jones' name. In that, the licensing records reflect a real estate salesperson license for A. Hinano Jones. This condition includes, but is not limited to, any advertisement, business cards, correspondence, and contracts.

3. The Applicant shall deliver a copy of this agreement and notify any subsequent principal broker of the Applicant of the contents of this agreement.
4. Upon the issuance of a real estate broker license of A. Hinano Jones, the conditional real estate broker license of the Applicant shall automatically be amended to a regular real estate broker license if all provisions of the real estate licensing laws and rules are complied with.
5. The conditional real estate broker license granted to the Applicant shall automatically terminate upon the issuance of a real estate broker license to A. Hinano Jones, unless sooner terminated upon the failure to comply with, or breach of, any conditions contained therein.
6. Use of the approved conditional corporate brokers license includes a waiver of the respective individual rights of the corporation to appeal the Commission's automatic termination of your conditional corporate broker's license upon the occurrence of any of the conditions enumerated in this letter. The waiver of your appeal rights includes the giving up of your rights to an administrative hearing and judicial review of the automatic termination of the issued conditional corporate brokers license and approval of the use of the name Monsarrat Properties, Inc. for brokerage purposes.

HIRO Hawaii, Inc.

HIRO Hawaii is a Japanese corporation.
HIRO is not the name of any one in the corporation.

After a review of the information submitted by the applicant, Commissioner Takeya moved to approve the application for real estate corporation license of HIRO Hawaii, Inc. Commissioner Sodehani seconded the motion. The motion was voted on and unanimously carried.

Laverty, Jane S.

After a review of the information submitted by the applicant, Commissioner Takeya moved that Ms. Laverty's real estate broker's license be reinstated after successfully passing the real estate broker's examination. Ms. Laverty will be provided with a one-time educational waiver and a broker's experience certificate. Should she fail the exam, she will be required to meet the pre-licensing requirements for real estate broker applicants.

Davies, Robert M.

After a review of the documents submitted by Mr. Davies, Commissioner Takeya moved to deny Mr. Davies' request for reconsideration and to reaffirm the Commission's decision dated September 3, 1987. Mr. Davies was not granted the waiver to the broker's experience certificate. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Brooks, Donald

After a review of the information submitted by the applicant, Commissioner Blanco moved to deny Mr. Brook's request for a waiver to the broker's experience requirement. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Morris, Annette

After a review of the information submitted by the applicant, Commissioner Blanco moved to deny Ms. Morris' request for a waiver to the broker's experience requirement. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Edmonds, James B.

After a review of the information submitted by the applicant, Commissioner Smales moved that the Commission deny Mr. Edmonds' request that ETS release of his examination results and that Mr. Edmonds settle the matter with the Educational Testing Service. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

York, Vernon

After a review of the information submitted by the applicant, Commissioner Sodehani moved that Mr. York successfully complete the April GRI course and that he submit evidence of successful completion by May 1, 1988. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Johnson, Carl D.

After a review of the information submitted by the applicant, Commissioner Takeya moved to accept the experience submitted as an equivalent to the three listing contracts and three sales that have closed escrow. Commissioner Sodehani seconded the motion. The motion was voted on and unanimously carried.

Tharp, Jacqueline

After a review of the information submitted by the applicant, Commissioner Takeya moved to approve the two years full-time real estate salesman experience and the equivalency to the three listing contracts waiver to the three listing requirement. Commissioner Sodehani seconded the

motion. The motion was voted on and unanimously carried.

Lee, Dianne Lynn Yee

After a review of the information submitted by the applicant, Commissioner Takeya moved that Ms. Lee take a Commission-approved broker's prelicensing course. Commissioner Sodehani seconded the motion. The motion was voted on and unanimously carried.

Miscellaneous:

CERTIFICATES OF APPRECIATION

Commissioner Sodehani moved that Certificates of Appreciation be issued to:

1. Richard B. Nicholls, Commissioner,
Arizona Department of Real Estate
2. Charles C. Case, Jr., Executive
Director, Oklahoma Real Estate
Commission
3. Jack C. Burchill,
Secretary/Treasurer, South Dakota
Real Estate Board
4. David W. Johnson, Director, Utah
Division of Real Estate

Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

MARCH MEETING

Upon a motion by Commissioner Sodehani, second by Commissioner Kano, the March meeting dates have been changed to:

Condominium and Cooperative Review
Committee - March 23, 1988

Laws and Rules Review Committee -
March 23, 1988

Real Estate Commission - March 24, 1988

The motion was voted on and unanimously carried.


Adjournment:

With no further business to discuss, the meeting was adjourned at 1:12 p.m.

Taken and recorded by:


Irene S. Kotaka
Secretary

Reviewed and approved by:



Calvin Kimura
Executive Secretary

2/19/88