

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 Office of the Lieutenant Governor as required by Section 92-7(b), Hawaii Revised Statutes.

Date: Thursday, July 28, 1988

Time: 9:00 a.m.

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

Present: Gloria Damron, Chairman, Early Departure
Yoshiko Kano, Kauai Member
Michele Matsuo, Public Member, Late arrival
Larry Ordonez, Public Member
Constance Smales, Public Member
Douglas Sodetani, Maui Member
Yukio Takeya, Hawaii Member
Peter Yanagawa, Member

Calvin Kimura, Executive Secretary
Cynthia Yee, Information Officer
Russell Wong, Assistant Information Officer
Irene Kotaka, Secretary
Winfred Pong, Deputy Attorney General
Rodney Maile, Hearings Officer
Naomi Fujimoto, Law Clerk, Hearings Office
Lynn Minagawa, RICO Attorney

John Ramsey, Consultant
Eileen Luko, Educational Director, Hawaii
Association of Realtors

Walter Clark, Licensee
Ernest Yamane, Attorney for Mr. Clark
Edith Chow, Licensee
Robert Suehiro, Licensee
Jana Mugford, Licensee
Raymond Yuen, Public

Excused: Marcus Nishikawa, Member

Call to Order: The meeting was called to order by Chairman Damron at 9:05 a.m. at which time quorum was established.

Chairman's Report: Chairman Damron presented leis to the incoming Commissioner, Larry Ordonez and the reappointed Commissioners, Douglas Sodetani and Peter Yanagawa.

Approval of Minutes: The approval of the June 24, 1988 minutes was deferred to the August 26, 1988 meeting.

Additions to the Agenda: Commissioner Sodetani moved to add the following items to the agenda:

1. Education Committee Report
 - a. Annual Report Proposals
2. Licensing - Restoration of Forfeited License - Over Two Years
 - (a) Wilfred Tangonan, Salesperson
3. Licensing - Restoration of Forfeited License - Under Two Years
 - (a) David W. Robertson, Salesperson
4. Licensing - Questionable Applications
 - (a) Scott H. Wood
 - (b) Tolmie Properties, Ltd.
 - (c) CPL Realty

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

Hearings Officers' Report: WALTER N. CLARK AND WALTER CLARK REALTY
RE 87-24

Lynn Minagawa was present on behalf of the Regulated Industries Complaints Office. Mr. Clark was present and was represented by his attorney, Ernest Yamane.

Mr. Yamane presented the following oral argument on behalf of Mr. Clark:

Mr. Yamane had submitted a letter to the Executive Secretary asking for a

continuance because Mr. Clark had a quadruple by-pass operation. Mr. Yamane's office was told that the hearing was scheduled for July 13, 1988. No hearing was held on July 13, 1988.

Mr. Yamane stated that under the provisions of Chapter 484-3, Hawaii Revised Statutes, any real estate subdivision which contains over 20 lots must be registered under the provisions of Chapter 484, HRS. The subdivision in question only had 16 lots and therefore qualified for an exemption. This was not stated in the Hearings Officer's final decision.

Mr. Clark was one of five partners in the limited partnership of Phoenix Limited Partnership. Mr. Clark was a general partner. Allegations were made that he failed to disclose his involvement in the partnership. Mr. Yamane stated that documentation was submitted that stated that Mr. Clark was a trustee and owned 21%. Everyone has been repaid their money.

Mr. Clark stated that he has been active in real estate for over 40 years. He had a letter from an attorney instructing him to take the deposits for the subdivision and deposit it into an escrow account. Mr. Clark stated that he was not responsible for the registering of the subdivision. Phoenix's management office moved into Clark's office. January 1984 HonFed filed foreclosure. November 1984 Phoenix took over Windward Partners and Clark managed organization. Attorney stated to proceed with sales.

All the lots in the subdivision were put into escrow. A buyer filed suit for the return of her \$50,000 and wanted 12% interest on the money. She conducted the transaction with the Executive Committee.

Six months later, the buyer wanted to cancel out. She said that she didn't have the money. Mr. Clark stated that his only fault was in not telling the buyers that he was an owner.

Lynn Minagawa stated that the Hearings Officers did make a very detailed findings of the case. All evidence should have been presented during the hearing. In light of the respondent's 40 years of experience, Mr. Clark should have known what he needed to disclose. Mr. Clark failed to disclose, misrepresented himself and did not obtain proper consent. The exemption was established by the respondents. All evidence should have been presented at hearing.

Commissioner Matsuo arrived.

Mr. Yamane stated that the evidence that was introduced showed that there were only 16 lots in the subdivision. Mr. Clark stated that he could not inform the purchasers that final approval was received. The required bond was not posted. They did, however, receive tentative approval which allowed them to take deposits.

Commissioner Yanagawa questioned the applicability of Chapter 484, Hawaii Revised Statutes.

After a review of the information presented by all parties and the documents submitted, Commissioner Takeya moved to remand the matter back to the Hearings Office. Commissioner Sodehara seconded the motion. The motion was voted on and unanimously carried.

STEPHEN WOLF AND RIVER MAUS, RE 86-183

Upon a motion by Commissioner Takeya, seconded by Commissioner Kano, it was voted on and unanimously carried to approve the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order.

ALFRED ANTHONY AND PARADE REALTY, INC., RE
87-352

Commissioners Smales and Kano were excused from the meeting because they were not present at the previous meeting when this matter was discussed.

Upon a motion by Commissioner Takeya, seconded by Commissioner Matsuo, it was voted on and unanimously carried to approve the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order.

ALFRED S. BARROS DBA BARROS REALTY, RE
87-304

Upon a motion by Commissioner Takeya, seconded by Commissioner Matsuo, it was voted on and unanimously carried to approve the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order.

ROGER Y. F. CHING AND CONSUMER REALTY,
INC., RE 87-315

Upon a motion by Commissioner Takeya, seconded by Commissioner Matsuo, it was voted on and unanimously carried to approve the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order.

GEORGE C. CORDEROY DBA CORDEROY REALTY AND
MANAGEMENT, RE 87-316

Upon a motion by Commissioner Takeya, seconded by Commissioner Matsuo, it was voted on and unanimously carried to approve the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order.

GEDDES L. NILES AND NILES REALTY, LTD., RE 87-347

Upon a motion by Commissioner Takeya, seconded by Commissioner Matsuo, it was voted on and unanimously carried to approve the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order.

CHARLES J. SMITH, RE 87-362

Upon a motion by Commissioner Takeya, seconded by Commissioner Matsuo, it was voted on and unanimously carried to approve the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order.

Commissioners Smales and Kano returned to the meeting.

ISABELLA S. MADEIRA, RE 83-147A

Upon a motion by Commissioner Sodetani, seconded by Commissioner Takeya, it was voted on and unanimously carried to approve the Settlement Agreement after Petition and Commission's Final Order.

CHESTER K. OKUNO, RE-LIC 87-6

This matter was deferred to a later date.

Recovery Fund Report:

This matter was deferred to the next meeting.

Committee Reports:

EDUCATION COMMITTEE

Upon a motion by Commissioner Sodetani, seconded by Commissioner Takeya, it was voted on and carried, with Commissioner Yanagawa abstaining from voting on Recommendation 1, to accept the recommendations of the June 13, 1988 and the July 13, 1988 Meeting as follows:

1. Approve the selection of Dean Witter Reynolds to invest the Education and Real Estate Recovery Funds. Dean Witter Reynolds is to prepare a draft of an investment portfolio, conservatively targeted, for the Commission's and Attorney General's approval.
2. Approve having the Commission Chairman make the NARELLO Committee assignments.
3. Approve the selection of the Hawaii Association of Realtors to administer statewide the 1988 Legislative Update Seminar subject to the tentative format and the estimated costs as specified.
4. Approve the Commission policy of prohibiting licensees and their agents from soliciting license examinees for employment on the day of the license exam.
5. Approve the reinstatement of the instructor certification of Jackie L. Overbey effective as of July 28, 1988.
6. Approve initiation of rule making procedures for the adoption of a license fee allocation to the education fund of an additional \$20 together with the additional increase of \$20 to the general fund.
7. Request that the Department of Commerce and Consumer Affairs support legislation amending Chapters 467 and 514A of the Hawaii Revised Statutes through administrative bill.
8. Approve the instructor application of Jon Hudson and Oscar Morris.

9. Approve the renewal of the Information Officer's contract and the Assistant Information Officer's contract up to the amount set forth in the budget.

1987 ANNUAL REPORT

The Information Officer distributed a list of the proposals for the 1987 Annual Report.

Upon a motion by Commissioner Sodetani, seconded by Commissioner Takeya, it was voted on and unanimously carried to approve Trade Publishing's proposal to print the 1987 Annual Report.

CURRICULUM REVIEW/CONTINUING EDUCATION SUBCOMMITTEE

Commissioner Smales reported that the subcommittee met with the Licensing Supervisor and staff from the Electronic Data Processing Division to discuss the development of a tracking system.

Dr. Ordway is in the process of developing an outline to refine the plan for continuing education. The Subcommittee will be meeting on Wednesday, August 3, 1988 to finalize the plan. The subcommittee will be ready for final discussion at the August 10, 1988 Education Committee Meeting.

REAL ESTATE RESEARCH AND EDUCATION CENTER SUBCOMMITTEE

The report was deferred to the next meeting.

CONDOMINIUM AND COOPERATIVE REVIEW COMMITTEE

Upon a motion by Commissioner Yanagawa, seconded by Commissioner Matsuo, it was voted on and unanimously carried to accept the recommendations of the July 27, 1988 Condominium and Cooperative Review Committee Meeting as follows:

1. The Attorney General's Office is to continue working on clarifying Section 514A-82(b)(2) regarding the 120 day proposed bylaw amendment by a volunteer apartment owners' committee.
2. Obtain an opinion from the Attorney General on Section 514A-82(b)(3) regarding the notice requirements for solicitation of proxies for special meetings not involving the election of directors.
3. The Condominium Specialist will respond to Colin Watanabe's letter dated July 15, 1988 to inform him that the law requires all funds collected by the condominium managing agent are to be kept within the State of Hawaii.
4. The Condominium Specialist is to initiate research to propose either rules or legislation to regulate that all condominium association funds be kept in an insured financial institution within the State of Hawaii.
5. Prior to the start of the 1989 Legislative Session, high priority shall be given to matters relating to condominium governance and the mediation program through the Neighborhood Justice Board in conjunction with the Community Association Institute.

Commissioner Yanagawa was excused from the meeting.

LAWS AND RULES REVIEW COMMITTEE

Upon a motion by Commissioner Takeya, seconded by Commissioner Smales, it was voted on and unanimously carried to approve the recommendations of the July 27, 1988 Laws and Rules Review Committee Meeting as follows:

1. Chairman Takeya will follow up with the Hawaii Association of Realtors on the Air Installation Compatible Use Zones (AICUZ) study.
2. The definition of real estate broker and real estate activities to include real estate appraisals and that real estate appraisals be defined in the rules.
3. Amend the proposed rules as follows:
 - a. "Place of business" use option 3 as proposed.
 - b. The issue of using an educational waiver only once (i.e. A waiver based on GRI for a salesperson cannot be used for a broker) and the issue of setting a time frame on educational categories (i.e. waiver shall be granted for GRI certification over 4 years old) be referred back to the Education Committee for further clarification.
 - c. References made to the University of Hawaii's RE 300 and 310 courses be deleted from the proposed amendment to the educational waiver.
4. Staff to work with the Attorney General's Office on clarifying the balance of the proposed rules.

- 5. The contingency category in proposed budget to be consolidated into the rental expense category and that the consultant studies be amended as discussed.
- 6. Commissioner Ordonez to be assigned subcommittee on Errors and Omissions insurance with reievew of the Kentucky Errors and Omissions law.

Deputy Attorney
General's Report:

No report was presented.

Executive Session:

Upon a motion by Commissioner Takeya, seconded by Commissioner Kano, it was voted on and unanimously carried to enter into Executive Session, pursuant to Chapter 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 11:20 a.m.

Chairman Damron was excused from the meeting.

Commissioner Takeya, Chairman Pro Tem, presided over the meeting.

Upon a motion by Commissioner Smales, seconded by Commissioner Kano, it was voted on and unanimously carried to move out of Executive Session at 12:15 p.m.

Licensing:

RESTORATIONS

Suehiro, Robert K. Broker

Mr. Suehiro was present at the meeting to answer any questions the Commissioners might have had.

After a review of the information presented by the applicant, Commissioner Matsuo moved that restoration be approved upon successfully passing the real estate broker's licensing examination. Commissioner Smales seconded the motion. The motion was voted on and unanimously carried.

After a review of the information submitted by each applicant and after consultation with the Deputy Attorney General, Commissioner Sodetani moved that restoration be approved upon submitting evidence of successful completion of a Commission-approved real estate course. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Hara, Glenn S. Broker

After a review of the information submitted by the applicant, Commissioner Sodetani moved for immediate conditional restoration, in that the applicant is to provide 32 hours of research to the Real Estate Research and Education Center. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Yamaguchi, Jon F. Salesperson

After a review of the information submitted by the applicant, Commissioner Sodetani moved for immediate conditional restoration, in that the applicant is to provide 32 hours of research to the Real Estate Research and Education Center. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Held, John R. Salesperson

Upon a motion by Commissioner Sodetani, seconded by Commissioner Kano, it was voted on and unanimously carried to grant Mr. Held's request for reconsideration.

After a review of the information submitted by the applicant, Commissioner Smales moved for immediate conditional

restoration, in that the applicant is to provide evidence of successful completion of a real estate broker's prelicensing course and two Real Estate Commission seminars. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Mugford, Jana J. Salesperson

Ms. Mugford appeared before the Commission to request reconsideration of the Commission's decision dated June 24, 1988.

Upon a motion by Commissioner Sodetani, seconded by Commissioner Kano, it was voted on and unanimously carried to grant Ms. Mugford's request for reconsideration.

After a review of the information submitted by the applicant, Commissioner Sodetani moved for immediate conditional restoration, in that the applicant is to provide evidence of successful completion of a real estate broker's prelicensing course and two Real Estate Commission seminars. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

QUESTIONABLE APPLICATIONS

John Wilson Enterprises, Ltd.

After a review of the information submitted by the applicant, Commissioner Smales moved to approve the extension of the site office to February 19, 1989. Commissioner Matsuo seconded the motion. The motion was voted on and unanimously carried.

Blackfield Hawaii Properties, Inc.

The Executive Secretary reported that Blackfield Hawaii Properties, Inc. has withdrawn their request for an extension of the site office. No action was taken.

Rosemary Winn

After a review of the information submitted by the applicant, Commissioner Smales moved to deny Ms. Winn's application for a place of business, home occupation exemption as one of the County of Kauai condition states, "no visits or business opportunities by the public are to be conducted in the subject premises," is in direct conflict with the Commission's rules. Commissioner Sodemani seconded the motion. The motion was voted on and unanimously carried.

Michael R. Schutta

After a review of the information provided by the applicant, Commissioner Sodemani moved to grant an educational waiver to Michael R. Schutta. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Della E. Novak

After a review of the information provided by the applicant, Commissioner Sodemani moved to deny Ms. Novak's request for an equivalency to the three listing contracts and the three escrow closing statements. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Lee Ann Miller

After a review of the information submitted by the applicant, Commissioner Sodetani moved to deny Ms. Miller's application for real estate salesperson license because she failed to submit her completed application within 90 days from the date of the examination. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Scott H. Wood

After a review of the information provided by the applicant, in that he passed Oregon real estate sales exam, but did not apply for licensure, Commissioner Sodetani moved to deny Mr. Wood's request for an educational waiver. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Tolmie Properties, Ltd.

After a review of the information submitted by the applicant, Commissioner Sodetani move to approve the real estate broker's license of Tolmie Properties, Ltd. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

CPL Realty

After a review of the information submitted by the applicant, Commissioner Sodetani moved to approve an extension of the site office located at 3811 Edward Road, Hanalei, Kauai. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Other Business:

NATIONAL ASSOCIATION OF REAL ESTATE
LICENSE LAWS OFFICIALS

The Chairman's selection to attend October 1988 Atlanta meeting:

Commissioner Yukio Takeya
Commissioner Peter Yanagawa
Commissioner Dimples Kano
Commissioner Douglas Sodetani
Commissioner Gloria Damron
Executive Secretary Calvin Kimura

Commissioners Kano and Sodetani advised they will not be able to attend. Chairman replaced with Commissioners Michele Matsuo and Larry Ordonez.

Commissioner Matsuo stated that she will be able to attend and delete from the NARELLO Western District Meeting.

AUGUST COMMISSION MEETINGS

Commission staff will coordinate with Commissioner Takeya for room reservations for the August 25 and 26, 1988, Real Estate Commission and Committee Meetings, in Hilo, Hawaii.

Chairman Damron will invite all the former Hawaii Island Commissioners to the meetings and other functions to be held in conjunction with the Commission meetings.

Next Meeting: August 26, 1988
Hilo Lagoon Center
101 Aupuni Street
Hilo, Hawaii

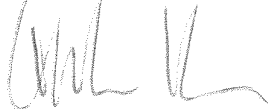
Adjournment: With no further business to discuss, Commissioner Takeya, Chairman Pro Tem, adjourned the meeting at 12:15 p.m.

Respectfully submitted,



Irene S. Kotaka, Secretary

Reviewed and approved:



Calvin Kimura
Executive Secretary

08/22/88

Date