

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

Date: Wednesday, November 30, 1988

Time: 9:00 a.m.

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

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

Calvin Kimura, Executive Secretary
Cynthia Yee, Information Officer
Russell Wong, Assistant Information Officer
Irene Kotaka, Secretary
Glenn Grayson, Deputy Attorney General

Sheryl Nagata, Special Hearings Officer
Owen Tamamoto, RICO Attorney
Sharon Leng, RICO Attorney
Carla Poirier, RICO Attorney
Gary Au Young, Recovery Fund Counsel
John Ramsey, Consultant

Eileen Luko, Education Director, HAR
Brian Thomas, Liaison, Honolulu Board of
Realtors
Lorrie Lee Stone, Licensee

Absent: Peter Yanagawa, Member

Call to Order: The meeting was called to order by
Chairman Damron at 9:10 a.m., at which
time quorum was established.

Executive
Secretary's
Report: The Executive Secretary reported that
Peat Marwick Main and Co, CPA is
conducting an audit of all trust accounts
within the State government.

Additions to
the Agenda: Upon a motion by Commissioner Kano,
seconded by Commissioner Sodetani, it was
voted on and unanimously carried to add
the following items to the agenda:

4. Hearings Officers Report
 - d. Roy Zucconi
 - e. Ronald Bean

8. Licensing - Questionable Applications
 - e. Elmer Masa Shinsato
 - f. Syed Sarmad

Approval of
Minutes: Upon a motion by Commissioner Sodetani,
seconded by Commissioner Kano, it was
voted on and unanimously carried to
approve the minutes of the September 30,
1988 meeting and the October 28, 1988
meeting as circulated.

Hearings
Officers'
Report: NICKI C. BERG, RE 85-134

Sheryl Nagata, Special Hearings Officer,
presented the settlement agreement to the
Commission for acceptance or denial.

When questions arose as to the terms of
the settlement agreement, Sharon Leng,
RICO Attorney, was requested to be present
at the meeting to clarify some of the
terms of the settlement agreement.

Respondent is to voluntarily surrender broker license and not apply for a new broker's license for two years.

When questioned if Mr. Berg would be able to reapply for a license, Ms. Leng stated that should Mr. Berg apply for a license, the present case would be reinstated for disciplinary action. The application for brokers licensure would then have to come before the Commission.

Upon a motion by Commissioner Takeya, seconded by Commissioner Kano, it was voted on and unanimously carried to reject the settlement agreement.

Commissioner Smales arrived.

CHARLES B. MONSON, RE 87-239

Upon a motion by Commissioner Takeya, seconded by Commissioner Kano, it was voted on and unanimously carried to approve the Settlement Agreement After Petition.

REX M. BICKFORD, RE 87-239

Upon a motion by Commissioner Takeya, seconded by Commissioner Kano, it was voted on and unanimously carried to approve the Settlement Agreement After Petition.

ROY L. ZUCCONI, RE 87-90, ET AL

After a review of the information submitted by Mr. Zucconi, Commissioner Sodehani moved to accept evidence of successful completion of the "Essentials on Real Estate Practice" course as meeting the course requirement of the settlement agreement. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

RONALD E. BEAN, RE 87-90 ET AL

After a review of the information submitted by Mr. Zucconi, Commissioner Sodetani moved to accept evidence of successful completion of the "Essentials on Real Estate Practice" course as meeting the course requirement of the settlement agreement. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Committee Reports:

EDUCATION COMMITTEE

Upon a motion by Commissioner Nishikawa, seconded by Commissioner Sodetani, it was voted on and unanimously carried to adopt the following recommendations of the November 9, 1988 Education Committee Meeting as follows:

1. Approve the investment of a portion of the Education and Recovery Funds in the following manner:
 - a. \$100,000 of the Education Fund balance to be placed in a money market certificate of deposit in a federally insured institution located in the State of Hawaii or in another state for 30 days;
 - b. \$500,000 of the Recovery Fund balance be placed in a money market certificate of deposit in a federally insured institution located in the State of Hawaii or in another state for 60 days and an additional \$200,000 in a money market certificate for 30 days.
2. Approve the application of the Hawaii Association of Realtors for registration as a Prelicense Real Estate School for brokers and

salespersons license, subject to the association remedying the defects in its application summarized by the Assistant Information Officer.

Commissioner Matsuo arrived.

CURRICULUM/CONTINUING EDUCATION
SUBCOMMITTEE

Commissioner Nishikawa commended Commissioner Smales on her hard work in developing the continuing education program.

Commissioner Smales commended the Information Officer and the Assistant Information Officer for their assistance in developing the continuing education program.

Commissioner Smales reported on the progress of the continuing education program.

Commissioner Nishikawa reported that the Real Estate Research and Education Center is providing assistance to the Continuing Education Subcommittee.

Two meetings were held with the providers and a few items were brought up for discussion. Information on the procedures for applying for a provider license was distributed.

The instructors workshop and the test module will be held in November and December. Participants would receive credit for the module even though they attended the course in 1988.

Eileen Luko asked if the bond submitted for the real estate prelicense school could be used for the continuing education providers license.

The Information Officer reported that the rules relating to continuing education are in the process of being reviewed.

Some of the questions which still need to be cleared up are:

1. A licensee has the right to retake one test. If the person passes the test in the next period, in which period would it be credited?
2. How do you handle inactive licensees?

The Executive Secretary reported that the Commission is trying to purchase computer hardware and software to facilitate the recording of continuing education credits. The Commission has received four proposals for the software program.

REAL ESTATE RESEARCH AND EDUCATION CENTER

Commissioner Nishikawa reported on the status of the funding procedure to the Center.

Commissioner Nishikawa has asked the Center to provide a monthly flow chart of the approved projects to the Education Committee. The flow chart shall show the projected budget, the moneys expended, and the work the Chair has been doing. Commissioner Nishikawa has cleared this request with the Advisory Council.

Recovery Fund
Report:

MICHAEL J. OWENS AND PHYLLIS OWENS VS. KERRY K. BARKER, AKA K. KAY BARKER, DBA K. KAY BARKER AND ASSOCIATES, ET AL., CIVIL NO. W87-1553, DISTRICT COURT, SECOND CIRCUIT

Gary Au Young, Attorney for the Recovery Fund, stated that Judge Romanchak ordered payment out of the Real Estate Recovery Fund in the above-mentioned case. Mr. Au

Young requested that a decision be made on whether or not an appeal should be filed as the order is based on the real estate licensee, Kerry Barker, acting as a principal in the transaction.

Upon a motion by Commissioner Matsuo, seconded by Commissioner Takeya, it was voted on and unanimously carried to appeal the Order Directing Payment Out of the Real Estate Recovery Fund.

The Executive Secretary requested that Mr. Au Young work with Commission staff on the issue of file retention for recovery fund cases.

Committee Reports:
(Continued)

CONDOMINIUM AND COOPERATIVE REVIEW
COMMITTEE

The Commission met with employees of the City and County of Honolulu Planning Department, the County of Kauai's Planning Department, developers, real estate licensees, neighborhood board members, attorneys, and interested parties regarding the issue of ohana dwelling, on November 29, 1988.

Many felt that the creation of ohana zoning is like creating apartment zoning. It was the general consensus that ohana dwelling was a zoning issue and not a regulatory or Commission-related issue.

Upon a motion by Commissioner Nishikawa, seconded by Commissioner Takeya, it was voted on and unanimously carried to adopt the following recommendations of the November 29, 1988 Condominium and Cooperative Review Committee Meeting as follows:

1. The Condominium Specialist shall forward a copy of the proposed legislation relating to condominium

managing agents, management contracts, condominium association registration and bonding, and association records and funds (CCA-14 (89)) to the larger insurance companies who provide these types of fidelity bonds for their input and/or feedback.

2. The Real Estate Commission shall request a written statement from the Attorney General's Office that the Commission has the authority to refer possible owner-occupant violations of Section 514A-104(1) against the public to the Regulated Industries Complaints Office for investigation. To the extent proper, the Condominium Specialist shall assist in providing RICO with a draft of the letter which will be sent to the alleged violators.
3. A letter shall be sent to the developers when the notice of intention is filed to advise them of the law on the owner-occupant requirements and reporting to the Commission any violations.
4. Commissioners Matsuo, Ordonez and Kano shall be appointed to a subcommittee to work with staff in developing a long-term strategy to address the owner-occupant affidavit problem.
5. The Commission shall not allow the situation as described in Roger Meeker's letter, dated November 22, 1988, to be permitted for registration because the lots cannot be consolidated.
6. The issue on fidelity bonding for condominium managing agents and self-management associations shall be

deferred until further information is obtained regarding the naming of the condominium managing agent as additionally insured on the condominium's policy.

LAWS AND RULES REVIEW COMMITTEE

Upon a motion by Commissioner Takeya, seconded by Commissioner Sodehani, it was voted on and unanimously carried to approve the recommendations of the November 29, 1988 Laws and Rules Review Committee Meeting as follows:

1. The Commission shall notify the Oklahoma Real Estate Commission of the reaffirmation of the Commission's previous decision not to enter into reciprocal agreements with any other state.
2. Commission staff shall look into the possibility of providing the various County Planning Departments with the names and addresses of licensed real estate brokers in order to determine if a business is currently zoned in an area appropriated for home occupation.
3. The Commissioners shall submit the resumes of candidates for the expiring Advisory Council positions to Commissioner Nishikawa on/or before December 12, 1988.
4. The Commission shall permit the Idaho Real Estate Commission to use the agency disclosure videotape as a training aid.
5. Those attending the first module of the continuing education program on Saturday, December 17, 1988, shall be

credited with 3-1/3 hours for their participation and critiquing of the module after completion.

6. Commission staff shall draft a letter to Hawaii's Congressional delegates requesting that no immediate action to regulate real estate appraisers and appraisals be initiated on a federal level. Chairman Damron will sign the letter on behalf of the Commission.

REAL ESTATE APPRAISER/APPRAISAL TASK FORCE

Commissioner Kano presented a report on the meeting held on November 29, 1988 with representatives from the appraisal societies, the Hawaii Association of Realtors, the Department of Housing and Urban Development, and Commission members.

Commissioner Kano stated that a smaller task force will be formed to develop recommendations. The next meeting will be on December 15, 1988 at 3 p.m.

Eileen Luko conveyed the apologies for the delay in submitting comments on the proposed rules. She asked the Commission to set a deadline for submission of HAR's comments. HAR's comments are to be submitted at the December 15, 1988 Education Committee Meeting.

Condominium Hotel Operator Study, the Executive Secretary reported that the Center was to have submitted a preliminary report to the Commission at the November 1988 meeting, for review, comments, and amendments. However, since the submission is delayed, it may be necessary to call a special meeting in the first week of January to finalize the Condominium Hotel Operators Report and recommended legislation.

The Laws and Rules Committee shall prioritize the projects to be completed at the January 1989 meeting. Some of the topics to be prioritized include: exemptions granted to Legislators, inactive licensees, and consistency with suspension and revocation matters.

Executive Session:

Upon a motion by Commissioner Nishikawa, seconded by Commissioner Sodetani, 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 10:40 a.m.

Commissioners Nishikawa and Sodetani were excused from the meeting at 10:55 a.m

Commissioners Nishikawa and Sodetani returned to the meeting at 11:05 a.m.

Upon a motion by Commissioner Takeya, seconded by Commissioner Smales, it was voted on and unanimously carried to move out of Executive Session at 11:44 a.m.

Licensing:

RESTORATIONS

Eccles, Michael D.	Broker
Israel, Robert K.	Broker

After a review of the information submitted by the applicants, Commissioner Nishikawa moved that restoration be approved upon submitting evidence of successfully passing the real estate broker's licensing examination, with a one-time waiver of the education requirement and experience requirement. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Gillette, Gregory C. Salesperson
Dean, Rodney C. Salesperson

After a review of the information submitted by the applicant, Commissioner Nishikawa moved that restoration be approved upon submitting evidence of successfully passing the real estate salesperson's licensing examination, with a one-time waiver of the education requirement. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Stone, Lorrie T. Lee Salesperson

Ms. Stone appeared before the Commission to answer any questions the Commission might have.

Ms. Stone stated that she has attended law school and is currently taking a salesperson's prelicensing course and will complete the course in January 1989.

After a review of the information submitted by the applicant, Commissioner Nishikawa moved that restoration be approved upon submitting evidence of successfully passing the real estate salesperson's licensing examination, with a one-time waiver of the educational requirement. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Rauh, Eleanor J. Salesperson

After a review of the information submitted by the applicant, Commissioner Nishikawa moved that restoration be approved upon submitting evidence of successful completion of a Commission-approved real estate course or successfully passing the real estate salesperson's licensing examination, with

a one-time waiver of the educational requirement. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Vannoy, Judson G.	Broker
Calleon, Evelyn E.	Salesperson
Landrum, Paul R.	Salesperson
Lee, Seung Ji	Salesperson
Nakao, John W.	Salesperson
Ottoson, Michael S.	Salesperson
Rumley, James C.	Salesperson

After a review of the information submitted by the applicants, Commissioner Nishikawa 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.

Nakasato, Dennis W. Salesperson

After a review of the information submitted by the applicant, Commissioner Nishikawa moved that restoration be granted. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

QUESTIONABLE APPLICATIONS

JFB Realty and Management, Inc.

After a review of the information submitted by the applicant, Commissioner Takeya moved to deny the real estate broker's license of JFB REALTY AND MANAGEMENT, INC. as the name includes the initials of non-brokers. Commissioner Sodetani seconded the motion. The motion was voted on and unanimously carried.

S. M. F. Inc.

After a review of the information submitted by the applicant, Commissioner Takeya moved to deny the real estate broker's license of S. M. F. INC. as the name includes the initials of non-brokers. Commissioner Sodetani seconded the motion. The motion was voted on and unanimously carried.

Imperial Properties, Inc.

Upon a motion by Commissioner Takeya, seconded by Commissioner Sodetani, it was voted on and unanimously carried to defer discussion on this matter until Calvin C. F. Lau, principal broker designee, could be present.

Management Consultants of Hawaii, Inc.

After a review of the information submitted by the applicant, Commissioner Takeya moved to deny the preliminary request for use of the multiple tradenames, Nohonani and Kaanapali Plantation. Commissioner Sodetani seconded the motion. The motion was voted on and unanimously carried.

Lowson and Associates, Ltd.

After a review of the information submitted by the applicant, Commissioner Takeya moved to preliminarily approve the tradename, Kaanapali Vacations, subject to Business Registration approval and submission of the application. Commissioner Sodetani seconded the motion. The motion was voted on and unanimously carried.

L. N. Hooker dba Hooker and Company

Upon a motion by Commissioner Takeya, seconded by Commissioner Sodetani, it was voted on and unanimously carried to refer this matter back to Commission staff.

Mottale, Machid

After a review of the information submitted by the applicant, Commissioner Takeya moved to deny the real estate salesperson's application of Machid Mottale as Ms. Mottale failed to submit her completed application within the 90 day filing deadline. Commissioner Sodetani seconded the motion. The motion was voted on and unanimously carried.

Han, Nancy

Ms. Han submitted a request for reconsideration of the Commission's previous decision.

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

After a review of the information submitted by the applicant, Upon a motion by Commissioner Takeya, seconded by Commissioner Sodetani, it was voted on and unanimously carried to approve Ms. Han's application for license.

Sohn, Julia Y. G.

Upon a motion by Commissioner Takeya, seconded by Commissioner Sodetani, it was voted on and unanimously carried to defer discussion on this matter to a later date.

Shinsato, Elmer Masa

After a review of the information submitted by the applicant, Commissioner Takeya moved to approve Mr. Shinsato's real estate broker's license. Commissioner Sodetani seconded the motion. The motion was voted on and unanimously carried.

Syed, Sarmad

After a review of the information submitted by the applicant, Commissioner Takeya moved to defer discussion on the matter to a later date. Commissioner Sodetani seconded the motion. The motion was voted on and unanimously carried.

Next Meeting:

Friday, December 16, 1988
Kuhina Nui Room (fka Board Room)
Second Floor, Kamamalu Building
1010 Richards Street
Honolulu, Hawaii

Adjournment:

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

Taken and recorded by:

Irene S. Kotaka

Irene S. Kotaka, Secretary

Reviewed and approved by:

Calvin Kimura

Calvin Kimura
Executive Secretary

December 15, 1988

Date