

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: Friday, March 31, 1989

Time: 9:00 a.m.

Place: Kuhina Nui Room, Second Floor
H.R.H. Princess Kamamalu Building
1010 Richards Street
Honolulu, Hawaii

Present: Gloria Damron, Chairman
Yoshiko Kano, Kauai Member
Michele Matsuo, Public Member, Late Arrival
Marcus Nishikawa, Member
Douglas Sodetani, Maui Member
Yukio Takeya, Hawaii Member

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

Sheryl Nagata, Special Hearings Officer
Lynn Minagawa, RICO Attorney
Owen Tamamoto, RICO Attorney
John Ramsey, Consultant

James Costa, Licensee
Steve Menezes, Attorney for Mr. Costa
Gordon Damon, Licensee
Philip Blackman, Licensee
Susan Schuh, Licensee

Absent: Larry Ordonez, Public Member
Constance Smales, Public Member
Peter Yanagawa, Member

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

Disciplinary Cases: DONALD M. SHEA, RE 87-90, et al.

Upon a motion by Commissioner Takeya, seconded by Commissioner Kano, it was voted on and unanimously carried to grant a six month extension to the course requirement to Mr. Shea, pursuant to his request.

Recovery Fund Reports: HAMILTON V. LAYSON, ET AL
ROBERT GADDIS

These matters were deferred to the April 26, 1989 Real Estate Commission meeting.

CLARENCE FUNG

The Assistant Information Officer reported that the Commission has received its first refund from the Tax Intercept Program from Clarence Fung. The amount received was \$118.09.

Committee Reports: EDUCATION COMMITTEE

Upon a motion by Commissioner Nishikawa, seconded by Commissioner Kano, it was voted on and unanimously carried to approve the recommendations of the March 30, 1989 Education Committee Meeting as follows:

1. Approve investment of a portion of the Education and Recovery Fund in the following manner:
 - a. \$600,000 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 60 days.
 - b. \$500,000 of the Recovery 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 60 days.

2. Approve payment of the Hawaii Association of Realtor's invoices for professional services rendered in administering the following seminars for the Commission:
 - a. "How the 1988 Legislature Affects You and the Real Estate Industry" - \$6,562.79 per invoice dated October 1988.
 - b. "The Ins and Outs of Handling Clients Money" - \$1,373.40 per invoice dated July 1988.
3. Refer to the Pertinent Facts Subcommittee the Center's proposed definition of "Material Facts" and make recommendations for such definition for Commission consideration.
4. The Commission to study the request from Arden Moore to schedule the licensing examinations held in Kona and Hilo in the afternoons.
5. Approve the issuance of a Certificate of Appreciation to Marion Oshiro for her outstanding contributions to the real estate profession.
6. Approve the following applications:
 - a. Prelicense Schools:
 - (1) Realty School 2000 - Upon submission of all necessary clearances
 - (2) La'akea Properties School of Real Estate - Upon submission of fire clearance
 - b. Continuing Education Providers:
 - (1) Maui Community College
 - (2) Honolulu Community College
 - (3) Kapiolani Community College

- (4) Norma Jones School of Real Estate - Upon submission of appropriate bond and names of certified teaching staff
- (5) M. Russ Goode, Jr. dba Professional Education and Consultants

c. Continuing Education Instructors:

- (1) Steven B. Dixon - Contracts, Laws/Ethics
- (2) David J. Deka - Approve Contracts and Laws/Ethics
- (3) Max L. Sherley - Approve Contracts and Finance
- (4) R. Donald Brough - Approve Finance
- (5) Sandra L. L. Young - Approve Finance
- (6) Gretchen B. Duplanty - Approve Contracts, Laws/Ethics
- (7) Robert E. Garrity - Approve Finance and Laws/Ethics
- (8) Mitchell Imanaka - Approve Finance
- (9) Ronald L. Peters - Approve Laws/Ethics
- (10) Joy Jeffus - Approve Contracts. Approve Laws/Ethics, upon payment of fees
- (11) Dorothy D. Read - Approve Laws/Ethics
- (12) Michael Pence - Approve Contracts and Laws/Ethics
- (13) A. Bernard Bays - Approve Laws/Ethics

- (14) M. Russ Goode - Approve
Contracts, Finance, Laws/Ethics
- 7. Incomplete application submitted, request
further information from the following:
 - a. Continuing Education Instructors
 - (1) David J. Dekka - Finance
 - (2) Lewis B. Trusty - Contracts
 - (3) Pamela B. Wood - Contracts,
Laws/Ethics
 - (4) Rich Jackson - Contracts
 - (5) Michael Curtis - Finance
 - (6) Edwin D. Yost - Contracts,
Laws/Ethics
 - (7) Thomas C. Zelk - Contracts,
Finance
 - (8) Gretchen B. Duplanty - Finance
 - (9) Robert E. Garrity - Contracts
 - (10) Allison Loew - Finance
 - (11) Ronald L. Peters - Contracts and
Finance
 - (12) Joy Jeffus - Finance
 - (13) Michael Pence - Finance
- 8. Approve successful completion of two GRI
courses from a series of five courses
required for the GRI designation for
restoration of forfeited licenses,
whenever applicable.

Commissioner Nishikawa stated that the
Commission has received a copy of John Reilly's
continuing education packet. The Commission is
concerned about the name of Mr. Reilly's
company, Real Estate Continuing Education, John

Reilly, Director. The Commission is concerned that licensees may be under the impression that this company is a part of the Real Estate Commission, but it is not. Commissioner Nishikawa also stated that he noticed that two cases that the are supposed to be used in the module are not listed in the packet. Commissioner Nishikawa will speak with Mr. Reilly to notify him of the Commission's concerns.

Committee
Reports:

LAWS AND RULES REVIEW COMMITTEE

Upon a motion by Commissioner Takeya, seconded by Commissioner Nishikawa, it was voted on and unanimously carried to approve the recommendations of the March 30, 1989 Laws and Rules Review Committee Meeting as follows:

1. Approve the inclusion of real estate appraisers/appraisals into the Laws and Rules Review Committee's Program of Work for 1989-90 and that the Commissioner's submit any recommendations for the program of work to the Executive Secretary as soon as possible for inclusion into the Annual Symposium Agenda. Staff to review the past minutes to identify topics to be covered in the program of work.
2. Refer discussion/approval of the Graduate Realtors Institute courses for restoring forfeited real estate licenses to the Education Committee.

CONDOMINIUM AND COOPERATIVE REVIEW COMMITTEE

Upon a motion by Commissioner Kano, seconded by Commissioner Nishikawa, it was voted on and unanimously carried to approve the recommendations of the March 30, 1989 Condominium and Cooperative Review Committee Meeting as follows:

1. Accept the initial amended public report draft with the recommendations suggested by the commissioners and staff.
2. Accept the new policy per memorandum dated March 15, 1989 regarding the duplication of newly issued public reports by the developers for the Real Estate Commission.

3. Staff to determine the records management procedure for offering the commission's condominium documents to the condominium associations.
4. Defer discussion on the owner-occupant affidavit for further study.
5. Approve the Condominium Specialist's attendance to the 26th National Conference on Community Associations to be held on May 4 to 7, 1989 in Miami, Florida.
6. Approve Grant Tanimoto as a condominium consultant pending receipt of written verification from the Ethics Commission.

Commissioner Matsuo arrived at 9:36 a.m.

Additions to
the Agenda:

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

4. Disciplinary Cases
 - d. Donald and Suzanne Peak, RE 87-90 etal
 - e. Sebastiano Vani, RE 85-147 etal
6. Committee Reports
 - a. Education Committee
 - (1) Charlotte Kaminaga, Pre-license Salesperson Instructor Application
 - (2) Pence School of Real Estate - Continuing Education Provider Application
 - (3) Windward Community College - Continuing Education Provider Application
 - b. Condominium and Cooperative Review Committee
 - (1) Agricultural condominium advertisement - Rainbow Ridge
7. Licensing - Restoration of Forfeited License
 - a. James A. Costa - Reconsideration
8. Licensing - Questionable Applications
 - a. Century 21 Associated Realty, Inc. and Century 21 Kailua-Kona, Inc.
 - b. Daniels Management, Inc.

- c. W. L. Rumsey, Inc.
- d. JUKO U.S.A., Inc.
- e. Herbert B. Moore dba Advantage Land Company
- f. Judith Cantil
- g. Harry E. Shimp
- h. Colleen K. Taniguchi

Committee
Reports:

EDUCATION COMMITTEE

Upon a motion by Commissioner Nishikawa, seconded by Commissioner Kano, it was voted on and unanimously carried to approve the following applications:

- 1. Charlotte Kaminaga - Real Estate Pre-license Salesperson Instructor
- 2. Pence School of Real Estate - Continuing Education Provider; upon submission of bond
- 3. Windward Community College - Continuing Education Provider

CONDOMINIUM AND COOPERATIVE REVIEW COMMITTEE

Agricultural Condominium Advertisement - Rainbow Ridge

The Executive Secretary reported that Commission staff has received an ad for the Rainbow Ridge agricultural condominium project. The ad states: "Five, fee simple condominium unit interests, from three to seven acres in size (plenty of room for horses, pets and gardening), are being offered for sale." Commission staff is concerned that consumers may be under the impression that they are purchasing subdivided lands instead of limited common interests.

Staff recommends that a letter be sent to the developer stating that the ad is misleading and additional disclosures should be made to the public.

Upon a motion by Commissioner Sodehara, seconded by Commissioner Kano, it was voted on and unanimously carried that Commission staff notify the developer that the ad is misleading and should be corrected.

Disciplinary
Cases:

WALTER N. CLARK AND WALTER CLARK REALTY
RE 87-24

Lynn Minagawa, RICO Attorney, informed the Commission that Mr. Clark's attorney had wished to be present at the meeting but was not notified of the meeting date.

Upon a motion by Commissioner Sodetani, seconded by Commissioner Kano, it was voted on and unanimously carried to defer the matter to a future Real Estate Commission meeting.

LOCATIONS, INC., RE 88-171

Commissioner Takeya was excused due to a conflict of interest.

Owen Tamamoto, RICO Attorney, was present on behalf of the State.

Chairman Damron asked if the record reflects any losses by consumers and if restitution had been made to the seller. The Commissioners were reminded that they would have to base their decisions on the facts presented in the settlement agreement.

Mr. Tamamoto suggested that the Commissioners invite both parties to the next Commission meeting to answer any questions they may have about the settlement agreement that was presented.

Upon a motion by Commissioner Nishikawa, seconded by Commissioner Kano, it was voted on and unanimously carried to request that the parties involved appear at a future Real Estate Commission meeting.

Commissioner Takeya returned to the meeting.

ROBERT BROOKS, RE 86-93

Upon a motion by Commissioner Sodetani, seconded by Commissioner Kano, it was voted on and unanimously carried to accept the Settlement Agreement of Robert Brooks.

FELIPE G. POMAR AND HAWAII AMERICAN INVESTMENT
PROPERTIES, INC., RE 86-93

Upon a motion by Commissioner Sodetani,
seconded by Commissioner Matsuo, it was voted
on and unanimously carried to approve the
Settlement Agreement of Felipe G. Pomar and
Hawaii American Investment Properties, Inc.

ALLISON M. HEISE, RE 87-90, ET AL

Upon a motion by Commissioner Sodetani,
seconded by Commissioner Kano, it was voted on
and unanimously carried to accept the
Settlement Agreement of Allison Heise.

DONALD M. SHEA, RE 87-90, ET AL

Upon a motion by Commissioner Takeya, seconded
by Commissioner Kano, it was voted on and
unanimously carried to grant a six month
extension to Mr. Shea's real estate course
requirement.

DONALD PEAK AND SUZANNE PEAK, RE 87-90, ET AL

Upon a motion by Commissioner Sodetani,
seconded by Commissioner Kano, it was voted on
and unanimously carried to approve Donald and
Suzanne Peak's request to be allowed to take
the appropriate pre-licensing course together.

SEBASTIANO VANI, RE 85-147, ET AL

Upon a motion by Commissioner Nishikawa,
seconded by Commissioner Takeya, it was voted
on and unanimously carried to accept the
Stipulation for Correction of Clerical Error in
the First Amended Settlement Agreement after
Petition and Board's Final Order.

Executive
Session:

Upon a motion by Commissioner Kano, seconded by
Commissioner Takeya, it was voted on and
unanimously carried to enter into executive
session, at 10:51 a.m., 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;"

Upon a motion by Commissioner Takeya, seconded by Commissioner Kano, it was voted on and unanimously carried to move out of executive session at 12:13 p.m.

Licensing:

RESTORATION OF FORFEITED LICENSE

Gordon H. Damon

Broker

Mr. Damon was present at the meeting to provide testimony and answer any questions the Commission may have.

Mr. Damon stated that he has been licensed since 1964 and stated that his failure to renew his license may have been caused by his moving offices. He stated that he has been involved in commercial transactions on his own behalf.

After a review of the information presented by the applicant, Commissioner Sodehara 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 certificate. Commissioner Nishikawa seconded the motion. The motion was voted on and unanimously carried.

Susan K. Schuh

Broker

Ms. Schuh was present to provide testimony and answer any questions the Commission may have.

Ms. Schuh stated that she was away from the islands recovering from an illness for a short period of time and that she had written a check for what was owed. She is her sole means of support.

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

James D. McInnes Broker

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

| | |
|-----------------------|-------------|
| Virginia J. Akers | Salesperson |
| Marc Wasserman | Salesperson |
| Diana C. Sablan | Salesperson |
| John A. Borsa Jr. | Salesperson |
| Robert I. Burrows | Salesperson |
| Laura K. L. Ing-Baker | Salesperson |
| Leonard L. Labang | Salesperson |
| Joelinda B. Riborozo | Salesperson |
| Dexter Sonomura | Salesperson |
| Michael C. Walker | Salesperson |

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

Philip S. Blackman

Mr. Blackman was present to answer any questions the Commission may have.

Mr. Blackman stated that he was in the military during the time his license became forfeited. He stated that he had filled out the renewal form, however, it was never received at the Licensing Branch. Mr. Blackman submitted a copy of his military orders to the Commission for review.

After a review of the information presented by the applicant, Commissioner Sodehara moved that restoration be approved upon submitting evidence of completing a Commission-approved real estate course. Commissioner Nishikawa seconded the motion. The motion was voted on and unanimously carried.

Charles Riley

Mr. Riley has requested that the Commission grant him an extension to fulfill the Commission's order to complete a Commission-approved real estate course by the end of December 1988.

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

James A. Costa

Mr. Costa and his attorney, Stephen Menezes were present to provide testimony before the Commission.

Mr. Menezes had submitted a Memorandum in Support of Request for Reconsideration with the Real Estate Commission.

Upon a motion by Commissioner Kano, seconded by Commissioner Nishikawa, it was voted on and unanimously approved to grant reconsideration of the Commission's Final Order, dated February 2, 1989.

Mr. Menezes stated that Mr. Costa's license is forfeited because he failed to pay his renewal fees. At the January 27, 1989 meeting, the Real Estate Commission ordered that Mr. Costa pay the fees due and retake the broker's examination prior

to restoration of his license. Mr. Costa is requesting that the Commission reconsider its previous decision. He stated that Mr. Costa would be willing to volunteer his services to the University of Hawaii at Hilo. He has had previous experience as a real property tax appraiser with the State and would be willing to provide research assistance. Mr. Menezes also stated that the Commission has discretionary powers to require alternatives to the examination requirement.

Mr. Menezes stated that upon Mr. Costa's learning that his license was forfeited, took immediate steps to rectify the problem and submitted his application for restoration to the Licensing Branch in December 1988. However, since the notarized statement was not attached to his application, his application was not considered complete until January 1989.

Commissioner Matsuo asked if there would be a problem with Mr. Costa being required to take a course. Mr. Menezes replied, "No."

Commissioner Sodehara informed Mr. Menezes that the Commission has received serious criticism from the Legislative Auditor for being too discretionary in making their decisions and is therefore trying to be more consistent in their decisions.

After a review of the information presented by the applicant, Commissioner Sodehara 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.

QUESTIONABLE APPLICATIONS

Quality Properties Inc. and Steven Shishido dba
Quality Properties

Commissioner Nishikawa was excused due to a conflict of interest.

After a review of the information submitted by the applicants, Commissioner Kano moved to defer decision making until a decision on the petition filed by Mr. Shishido is rendered. Commissioner Sodehani seconded the motion. The motion was voted on and carried.

Commissioner Nishikawa returned to the meeting.

Stephen F. Parker dba Steve Parker and Company

After a review of the information provided by the applicant, Commissioner Kano moved to approve a six month extension of the site office located at 2777 South Kihei Road (Maui Kamaole). Commissioner Sodehani seconded the motion. The motion was voted on and unanimously carried.

Lea Properties, Ltd.

After a review of the information submitted by the applicant, Commissioner Kano moved to approve a six month extension of the site office located at 2881 South Kihei Road, #65 (Maui Hill). Commissioner Sodehani seconded the motion. The motion was voted on and unanimously carried.

Patricia L. Beck dba Patricia Beck Realty Center

After a review of the information submitted by the applicant, Commissioner Matsuo moved to deny the application because the place of business does not conform to the City and County of Honolulu's zoning requirements. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

ERA Chaney Brooks Realtors, Inc.

After a review of the information provided by the applicant, Commissioner Kano moved to approve a conditional license, allowing the use of the tradename Alliance Realty and Management, which shall expire on July 1, 1989. Commissioner Sodehani seconded the motion. The motion was voted on and unanimously carried.

Derrick Lining

After a review of the information submitted by the applicant, Commissioner Matsuo moved to deny Mr. Lining's request for an educational waiver. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Romeo Folvarko

After a review of the information submitted by the applicant, Commissioner Matsuo moved to deny Mr. Folvarko's request for an educational waiver. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

David Burgoin

After a review of the information submitted by the applicant, Commissioner Matsuo moved to deny Mr. Bourgoins request for an equivalency to the transaction requirement for the broker's experience certificate. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Hiroshi Kato

After a review of the information submitted by the applicant, Commissioner Kano moved to approve Mr. Kato's request for an equivalency to the three listing contract requirement for the broker's experience certificate. Commissioner Sodehani seconded the motion. The motion was voted on and unanimously carried.

Brendan Cravalho

After a review of the information submitted by the applicant, Commissioner Matsuo moved to deny Mr. Cravalho's application for licensure as he failed to submit it within 90 days after the date of the examination. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Kathleen D'Anjou

After a review of the information submitted by the applicant, Commissioner Matsuo moved to deny Ms. D'Anjou's application for licensure as she failed to submit it within 90 days after the date of the examination. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Century 21 Associated Realty, Inc. and Century 21 Kailua-Kona, Inc. dba Century 21 Associated Kailua-Kona Partnership

After a review of the information submitted by the applicant, Commissioner Sodehara moved to deny the application for partnership. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Daniels Management, Inc.

After a review of the information submitted by the applicant, Commissioner Sodehara moved to deny the real estate broker's license of Daniels Management, Inc. as the name includes non-licensees. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

W. L. Rumsey, Inc.

After a review of the information submitted by the applicant, Commissioner Sodehara moved to deny the real estate broker's application of W. L. Rumsey, Inc. as the name includes non-licensees. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

JUKO U.S.A. Inc.

After a review of the information submitted by the applicant, Commissioner Sodehara moved to approve the real estate broker's license of JUKO U.S.A. Inc. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Herbert B. Moore dba Advantage Land Company

After a review of the information submitted by the applicant, Commissioner Sodetani moved to deny the application for home occupation as it does not comply with the county's zoning requirements. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Judith Cantil

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

Harry E. Shimp

After a review of the information submitted by the applicant, Commissioner Sodetani moved to deny Mr. Shimp's application for licensure as he failed to submit his application within 90 days after the date of the examination. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Colleen K. Taniguchi

After a review of the information submitted by the applicant, Commissioner Sodetani moved to deny Ms. Taniguchi's application for licensure as she did not submit her application within 90 days after the date of the examination. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

Correction
to the
Minutes:

Upon a motion by Commissioner Sodetani, seconded by Commissioner Kano, it was voted on and unanimously carried to amend the December 16, 1988 Real Estate Commission Meeting minutes as follows:

Page 10, Licensing - Restorations

Pacarro, Franklin, Jr. [Broker] Salesperson

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Real Estate Commission Meeting
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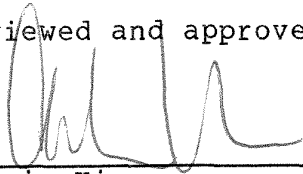
Next Meeting: Friday, April 28, 1989
Pacific Ballroom
Ilikai Hotel
1777 Ala Moana Boulevard
Honolulu, Hawaii

Adjournment: With no further business to discuss, Chairman
Damron adjourned the meeting at 12:18 p.m.

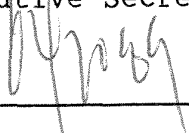
Taken and recorded by:


Irene S. Kotaka, Secretary

Reviewed and approved by:



Calvin Kimura
Executive Secretary



Date