

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, May 26, 1989

Time: 9:00 a.m.

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

Present: Gloria Damron, Chairman
Yoshiko Kano, Kauai Member
Michele Matsuo, Public Member
Marcus Nishikawa, Member
Constance Smales, Public 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
Rodney Maile, Hearings Officer
Irene Kotaka, Secretary

Gary Au Young, Esq., Recovery Fund Counsel

Eileen Luko, Hawaii Association of Realtors
Melvin Kaneshige, Attorney for the Developer
Matt Yee, Developer
Larry Clapp, President, INV Corporation
Bruce Yanagihara, Sales Director, Locations

Absent: Larry Ordonez, Public Member
Peter Yanagawa, Member

Call to Order: Chairman Damron called the meeting to order at 9:25 a.m., at which time quorum was established.

Chairman's
Report:

No report was presented.

Executive
Secretary's
Report:

No report was presented.

Disciplinary
Cases:

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

Mr. Yamane, Mr. Clark's attorney, had requested that the matter be deferred to a later date, with RICO attorney's conference.

Upon a motion by Commissioner Sodehani, seconded by Commissioner Kano, it was voted on and unanimously carried to approve an extension to June 30, 1989, with no further extensions being granted.

BRENDA SUE (ALTMAN) UNO, RE 87-371

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

JOSEPH P. SOARES, RE 87-495

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.

LOCATIONS INCORPORATED, RE 88-171

Commissioner Takeya was excused from the meeting due to a conflict of interest.

This matter was deferred to a later date when both parties could be present.

Commissioner Takeya returned to the meeting.

THOMAS E. HAGEN, RE 85-235

Upon a motion by Commissioner Takeya, seconded by Commissioner Nishikawa, it was voted on and

unanimously carried to approve the Settlement Agreement After Filing of a Petition for Disciplinary Action and the Commission's Final Order.

DAVID L. HORNSHUB, RE 87-474

Upon a motion by Commissioner Sodetani, seconded by Commissioner Kano, it was voted on and unanimously carried to approve the Settlement Agreement After Filing of a Petition for Disciplinary Action and the Commission's Final Order.

HAROLD L. REILLY AND HAWAIIAN-PACIFIC REALTY, LTD., RE 88-248

Commissioner Smales was excused from the meeting due to a conflict of interest.

Upon a motion by Commissioner Takeya, seconded by Commissioner Kano, it was voted on and unanimously carried to approve the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order.

Commissioner Smales returned to the meeting.

YOSHIYUKI SUENISHI DBA YOSHI SUENISHI REALTY, RE 87-442

Chairman Damron pointed out that page 5 of the Settlement Agreement stated: "If the Contractors License Board does not approve this Settlement Agreement for any reason whatsoever, this Settlement Agreement shall be deemed null and void." The statement referred to the Contractor's License Board in error, it should have been the Real Estate Commission.

Mr. Maile stated that the Settlement Agreement shall be corrected to read "Real Estate Commission."

Upon a motion by Commissioner Sodetani, seconded by Commissioner Takeya, it was voted on and unanimously carried to approve the Settlement Agreement After Filing of a Petition for Disciplinary Action and the Commission's Final Order, with the correction stated above.

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

Mr. Shea, through his wife, requested the Commission's approval to take the GRI 101 course, which is offered by the Hawaii Association of Realtors, as meeting the terms of the Commission's Final Order.

Upon a motion by Commissioner Takeya, seconded by Commissioner Kano, it was voted on and unanimously carried to approve the GRI 101 course as meeting the terms of the Commission's Final Order.

Additions to
the Agenda:

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

7. Licensing - Restoration

- a. Mae S. Kimura
- b. Shannon Spencer
- c. James D. McInnes, Reconsideration
- d. Gordon Damon, Reconsideration

8. Licensing - Questionable Application

- a. D & J Associates, Ltd.
- b. Dave's Realty of Hawaii, Inc.
- c. Robert A. Hoffman

Committee
Reports:

EDUCATION REVIEW COMMITTEE

Upon a motion by Commissioner Nishikawa, seconded by Commissioner Smales, it was voted on and unanimously carried to approve the recommendations of the May 10, 1989 Education Committee Meeting as follows:

- 1. Approve the Education Fund and the Hawaii Real Estate Research and Education Center budgets for fiscal year 1990.

2. Approve the extension of the contract between the University of Hawaii Foundation, College of Business Administration, and the Commission for one year.
3. Refer the Center's proposed definition of "material facts" to the Pertinent Facts Subcommittee for study and recommendations.
4. Approve the following continuing education instructors for the courses indicated:
 - a. Kenneth D. H. Chong - Finance
 - b. Gretchen Duplanty - Finance
 - c. Ronald Lloyd Peters - Contracts and Finance
 - d. Michael Curtis - Finance
5. Approve the expenditure of \$690 from the Education Fund to pay for a newspaper advertisement requested by the Honolulu Community Housing Resource Board. The advertisement will publicize a presentation on the Fair Housing Amendments Act of 1988.

LAWS AND RULES REVIEW COMMITTEE

Upon a motion by Commissioner Takeya, seconded by Commissioner Nishikawa, it was voted on and unanimously carried to adopt the recommendations of the May 25, 1989 Laws and Rules Review Committee as follows:

1. Commission staff to draft a brief description of the Acts signed into law by the Governor and that a copy of the executed acts be distributed to the Commissioners.
2. Commission staff to write a letter to the Georgia Real Estate Commission explaining Hawaii's statutes regarding payment of commissions to real estate licensees from another state and deny Georgia's request

that Georgia licensees be allowed to conduct business in Hawaii for isolated transactions.

3. Incorporate the 1989 amendments to the Federal and State Fair Housing Laws into the Hawaii Real Estate Reference Manual and the Real Estate Commission's publications.
4. Commission staff to distribute copies of Senate Bill No. 1413 relating to civil rights and distribute to the Commissioners for their information and action should they so desire.
5. Commission staff to contact the Kentucky Real Estate Commission to request that a representative from their staff come to Hawaii at their own expense to discuss the errors and omissions insurance requirement for the State of Kentucky.
6. Commissioner Sodekani to provide informational updates on the progress of the appraisal issue and legislation. That Commission staff provide assistance in the appraiser issue.
7. Commission staff to coordinate with Noe Noe Tom a meeting on June 29, 1989 with representatives from the real estate appraisal organizations to discuss the best ways to implement the regulation/certification of real estate appraisers/appraisals.
8. Commissioners Damron and Nishikawa, with Commission staff, review the travel program for the upcoming fiscal year to determine the best representation at future meetings.

CONDOMINIUM AND COOPERATIVE REVIEW COMMITTEE

Upon a motion by Commissioner Takeya, seconded by Commissioner Kano, it was voted on and unanimously carried to approve the recommendations of the May 25, 1989 Condominium and Cooperative Review Committee Meeting, as follows:

1. Request by Melvin Kaneshige for the developer, I.N.V. Corporation, for the Aiea Ridge condominium project not be approved.
2. Refer the matter of the requirements of non-surety performance bonds (material house/material man bonds) to the Laws and Rules Review Committee for further study and possible revisions.
3. Appoint Commissioners Matsuo, Nishikawa, Smales, and Yanagawa to a subcommittee to examine the various options of records management technology for the Real Estate Commission records and that Commissioner Matsuo chair the subcommittee.
4. Appoint commissioner Sodehara, Smales, and incoming Commissioner Kuriyama to a subcommittee to work with Sheryl Nagata, Time Share Administrator, on the issue of time share disclosure and public report disclosure and solicit input from Red Morris and Mitchell Imanaka.
5. Defer decision making on the fidelity bond deductible and its requirements to the Commission meeting on May 26, 1989.
6. Finalize the Attorney General opinion request, "Rights of a Condominium Project Developer to Rescind or Modify a Contract for the Sale of a Condominium Apartment in the Project", decision making to be done at the May 26, 1989 Real Estate Commission Meeting.
7. Appoint Commissioner Ordonez to a subcommittee to review the matter on allowing condominium association reserve funds to be deposited in trust companies.
8. Defer the matter on the investment of condominium association funds in certificates of deposits which are federally insured until the legislative outcome of Senate Bill No. 1874 is determined.

Upon a motion by Commissioner Matsuo, seconded by Commissioner Takeya, it was voted on and unanimously carried to amend the first recommendation to reflect that no action was taken by the Committee on the matter of the Aiea Ridge condominium project.

AIEA RIDGE CONDOMINIUM PROJECT

Melvin Kaneshige, attorney for the developer, Larry Clapp, President of I.N.V. Corporation, Matt Yee, developer, and Bruce Yanagihara, Sales Director at Locations for the Aiea Ridge condominium project were present.

Mr. Kaneshige stated that the Aiea Ridge condominium project is a 21 unit development consisting of detached single-family homes in Aiea Heights. They are requesting that the Commission release them from the requirement which states that they are not allowed to close until all units are completed. He stated that they currently have four homes which are nearing completion in which the buyers are anxious to move in.

Mr. Kaneshige distributed a summary of the arguments that were presented at previous Condominium and Cooperative Review Committee Meetings.

Mr. Kaneshige stated that they would like to ensure that the buyers receive their homes lien free. The developer has obtained a performance bond. In the past, the Commission has been concerned about the strength of the material house bonds and therefore required that additional requirements be met if material house bonds were used. In the case of Aiea Ridge, the Commission required that the funds not be released until the entire project is released. However, they are so far along in the construction of the project that the houses are being completed at one a week. It would cause hardship for the buyers to have to wait until the project is completed because their loan commitments will be expiring shortly.

The developer has been able to obtain title insurance policy from Title Guaranty of Hawaii which would guarantee that the homes are lien free. They have also submitted a statement from the lender, GECC, stating that there are enough funds to complete the project. Since the project is nearing completion, they are requesting that they be released from the earlier requirement that no funds be released until the end of the project. Mr. Kaneshige is requesting that the requirement be kept in effect for homes that are not yet completed and that the buyers be allowed to move in as the projects are completed.

The Commissioners questioned the developer's request for an exception, stating that they must have been aware of the requirement when they decided on the use of a non-surety bond.

Mr. Kaneshige stated that the waiving of the requirement is up to the discretion of the Commission.

Chairman Damron asked what would happen to a buyer if they did not desire to close until the project is fully completed.

Mr. Kaneshige stated that if a buyer did not wish to move in until completion of the project, they would allow them to wait until the project is completed.

Commissioner Sodehara asked if the developers would be willing to waive the collection of the maintenance fees until the project is fully completed.

Mr. Clapp stated that in the past they have paid the maintenance fees for three months past project completion.

The Information Officer asked what would happen if, given the bonds that the developer has, the developer files bankruptcy.

Mr. Clapp stated that the site work bond will complete the site work. The performance bond will help to finish the houses. GECC, who is a

beneficiary of the bonds, will probably ensure that the project is completed. The on site/off site bond is bonded through a surety bond. The house construction bond is through a material house bond through HONSADOR.

Mr. Kaneshige stated that the developer would not be taking any money out until the project is 100% complete and that the developer will agree to pay all maintenance fees until the buyers move in.

The Deputy Attorney General asked the developer to state what percentage of the cost of construction would be covered by the material house bond.

Mr. Kaneshige stated that 100% would be covered.

The Information Officer asked which purchaser's funds would be used. Mr. Clapp stated that they would use the funds only after the buyers close escrow.

Commissioner Smales asked if all the buyers had indicated that they were ready to move in. Mr. Clapp said that all four buyers are ready to move in.

Mr. Kaneshige stated that he would draft a motion which would set out the unique circumstances of the project.

Upon a motion by Commissioner Sodetani, seconded by Commissioner Matsuo, it was voted on and unanimously carried to take this matter under advisement.

Approval of
Minutes:

Upon a motion by Commissioner Sodetani, seconded by Commissioner Smales, it was voted on and unanimously carried to approve the minutes of the January 27, 1989, February 24, 1989 and April 28, 1989 meeting as circulated.

The Executive Secretary requested that the Commission amend a decision that it made at the April 28, 1989 Real Estate Commission meeting regarding a restoration of forfeited real estate license for Gordon Damon. At the April

28, 1989 Real Estate Commission Meeting, the Commission had delegated the authority to the Executive Secretary for decision-making in Mr. Damon's application. The matter should be remanded back to the Commission for final decision making.

Upon a motion by Commissioner Sodehani, seconded by Commissioner Kano, it was voted on and unanimously carried that decision-making on Mr. Damon's application for restoration be remanded back to the Commission.

Recovery
Fund
Report

MARY C. P. OOKA AND JERI J. OOKA VS. VERNON FUNN, JR., CIVIL NO. 84-1728, FIRST CIRCUIT

Mr. Au Young stated that the Plaintiffs had purchased a piece of real property from the sellers who were represented by Vernon Funn Jr. and First American Realty and Management Corp. The Plaintiffs had alleged that the licensees represented that the Plaintiffs would be able to take possession of the premises by April 1, 1984. The Plaintiffs were unable to take possession of the premises until May 1, 1984 and the licensees represented that they would pay for any costs incurred by the Plaintiffs in the delayed occupancy. Despite these representations, the licensees failed to pay to for Plaintiff's costs that were incurred in taking possession of the premises on May 1, 1984.

Mr. Au Young recommended that the Commission approve the payment of \$1,364.15 from the Real Estate Recovery Fund against Vernon Funn, Jr. and First American Management and Realty Corp.

Upon a motion by Commissioner Takeya, seconded by Commissioner Kano, it was voted on and unanimously carried to approve the payment of \$1,364.15 from the Real Estate Recovery Fund against Vernon Funn, Jr. and First American Management and Realty Corp.

Executive
Session

Upon a motion by Commissioner Smales, seconded by Commissioner Matsuo, it was voted on and unanimously carried to enter into executive session at 10:45 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 Sodekani, seconded by Commissioner Kano, it was voted on and unanimously carried to move out of executive session at 12:10 p.m.

Committee
Reports:

EDUCATION COMMITTEE

Upon a motion by Commissioner Nishikawa, seconded by Commissioner Takeya, it was voted on and unanimously carried to approve the advance payment for fiscal year 1989-90 of \$60,000 to the Hawaii Real Estate Research and Education Center.

Upon a motion by Commissioner Nishikawa, seconded by Commissioner Takeya, it was voted on and unanimously carried to approve payment of mileage fees for any Commissioner having to travel on Commission business, subject to the Department's guidelines.

CONDOMINIUM AND COOPERATIVE REVIEW COMMITTEE

AIEA RIDGE CONDOMINIUM PROJECT

Upon a motion by Commissioner Sodekani, seconded by Commissioner Takeya, it was voted on and unanimously carried to approve the motion submitted by the applicant, subject to stylistic changes by Commission staff. The developer has assured the Commission that the buyers of the Aiea Ridge Condominium project are protected. The motion ordered deletion of the requirements set out in the letter dated September 23, 1988 from Title Guaranty Escrow Services, Inc. to the Commission with respect to Aiea Ridge, Registration No. 1943, subject to the following conditions.

1. I.N.V. Corporation shall not receive any purchasers' funds for its own account until the project is 100% complete.

2. No buyer shall be required to close the purchase of his condominium unit until the completion of the of the project.
3. I.N.V. Corporation shall pay all actual common expenses of the project until the project is 100% complete and I.N.V. Corp. files an amended disclosure abstract as required by Section 514A-15(b), HRS.

LAWS AND RULES REVIEW COMMITTEE

The Commission considered the State Ethics Commission's request of what constitutes a "contingent compensation".

Upon a motion by Commissioner Takeya, seconded by Commissioner Sodetani, it was voted on and unanimously carried to inform the State Ethics Commission that the Real Estate Commission has no authority to make determinations for terms not defined in the Statutes.

Licensing:

RESTORATIONS

Gates, H. Myron	Broker
Atha, Gloria	Broker
Kimura, Mae S.	Broker

After a review of the information submitted by the applicants, Commissioner Sodetani 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 and experience requirements. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

Stevens, Lydia M.	Broker
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Chairman Damron was excused from the meeting due to a conflict of interest. Vice Chairman Takeya presided over the meeting.

After a review of the information submitted by the applicant, Commissioner Sodetani 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 educational and experience requirements.

Chairman Damron returned to the meeting.

Davis, Donna F.	Salesperson
Campbell, Christine A.	Salesperson
Duran, Francis	Salesperson
Kam, Robert I. O.	Salesperson
Ko, Marvin M.	Salesperson
Overstreet, Dorothy J.	Salesperson
Toyozaki, Waylene U.	Salesperson
Spencer, Shannon	Salesperson

After a review of the information submitted by the applicants, Commissioner Sodetani 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 Takeya seconded the motion. The motion was voted on and unanimously carried.

Loo, Michael Y. M.

After a review of the information submitted by the applicant, Commissioner Sodetani moved to deny Mr. Loo's request for reconsideration of the Commission's previous decision dated February 24, 1989 because no additional information was submitted. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

McInnes, James

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

After a review of the information submitted by the applicant and in view of Mr. McInnes's expertise in the area of time sharing, Commissioner Sodetani moved to approve that Mr. McInnes license be restored immediately and that he provide 32 hours of service to the Real

Estate Research and Education Center and the Real Estate Commission. commissioner Nishikawa seconded the motion. The motion was voted on and unanimously carried.

Damon, Gordon

Upon a motion by Commissioner Takeya, seconded by Commissioner Sodehara, it was voted on and unanimously carried to refer this matter back to the Commission for decision making and to defer decision making to the June 30, 1989 Real Estate Commission meeting.

QUESTIONABLE APPLICATIONS

SHELL REALTY HAWAII, INC.

After a review of the information submitted by the applicant, Commissioner Takeya moved to approve the extension of site office application for Keahou Gardens. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

TONI K. HICKS

Commissioner Nishikawa was excused from the meeting due to a conflict of interest.

After a review of the information provided by the applicant, Commissioner Takeya moved to approve Ms. Hick's request for an equivalency to the three listing and three sales contracts that have closed escrow requirement. Commissioner Sodehara seconded the motion. The motion was voted on and unanimously carried.

Commissioner Nishikawa returned to the meeting.

KATHERINE CADIENTE

After a review of the information submitted by the applicant, Commissioner Kano moved to approve Ms. Cadiente's request for an equivalency to the three listings and three sales that have closed escrow requirement. Commissioner Takeya seconded the motion. The motion was voted on and unanimously carried.

VICTOR B. PALMER

After a review of the information submitted by the applicant, Commissioner Takeya moved to approve the real estate salesperson's application of Victor B. Palmer. Commissioner Matsuo seconded the motion. The motion was voted on and unanimously carried.

DAY-LUM, INC.

After a review of the information submitted by the applicant, Commissioner Takeya moved to approve Nancy Day-Lum Cabral's request to retain the use of the corporate name, Day-Lum, Inc. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

ASSOCIATED KAILUA-KONA PARTNERSHIP

After a review of the information submitted by the applicant, Commissioner Sodetani moved to deny the real estate partnership application of Associated Kailua-Kona Partnership. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

D & J ASSOCIATES, LTD.

After a review of the information submitted by the applicant, Commissioner Sodetani moved to deny the application for real estate corporation of D & J Associates, Ltd. as the name includes non-licensees. Commissioner Kano seconded the motion. The motion was voted on and unanimously carried.

DAVE'S REALTY OF HAWAII, INC.

After a review of the information submitted by the applicant, Commissioner Kano moved to deny the application for real estate corporation of Dave's Realty of Hawaii, Inc. as the name includes a non-broker. Commissioner Smales seconded the motion. The motion was voted on and unanimously carried.

ROBERT A. HOFFMAN

After a review of the information submitted by the applicant, Commissioner Kano moved to approve Mr. Hoffman's request for a one-year equivalency to the broker's experience requirement and to deny Mr. Hoffman's request for an equivalency to the 10 transactions requirement. Commissioner Smales seconded the motion. The motion was voted on and unanimously carried.

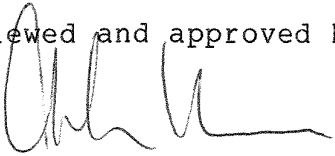
Next Meeting: Friday, June 30, 1989
Kuhina Nui Room, Second Floor
HRH Princess Victoria Kamamalu Building
1010 Richards Street
Honolulu, Hawaii

Adjournment: With no further business to discuss, Chairman Damron adjourned the meeting at 12:45 p.m.

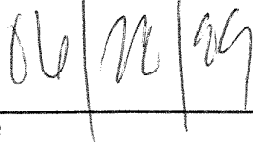
Taken and recorded by:


Irene S. Kotaka, Secretary

Reviewed and approved by:



Calvin Kimura
Executive Secretary



Date