

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: Wednesday, November 30, 1994

Time: 9:00 a.m.

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

Present: Marcus Nishikawa, Chair, Oahy Member
Barbara Dew, Vice Chair, Oahu Member
Charles Aki, Hawaii Member
Michael Ching, Kauai Member
Alvin Imamura, Maui Member
Stanley Kuriyama, Oahu Member
Carol Mon Lee, Public Member
Nora Nomura, Public Member

Calvin Kimura, Supervising Executive Officer
Christine Rutkowski, Executive Officer
Jan Yamane, Real Estate Specialist
Russell Wong, Real Estate Specialist
Benedyne Stone, Condominium Specialist
Stephen Okumura, Condominium Specialist
Shari Wong, Deputy Attorney General
Marlene Young, Special Deputy Attorney General
Irene Kotaka, Secretary

Dr. Nicholas Ordway, Hawaii Real Estate Research & Education Center
Nicki Thompson, Hawaii Association of Realtors
Christine O'Brien, Hawaii Association of Realtors
Barry Fong, McCormack Real Estate Inc. dba Coldwell Banker McCormack
Real Estate
Ron Aronson, Bradley Properties
Carlton Au, Applicant
E. May Brillhantes-Improta, Applicant
Carolyn Boyd, Applicant
Ann Davidson,
Scott Bradley, Bradley Properties
Patricia L. Tiner, Applicant

Excused: Theo Butuyan, Public Member

Call to Order: Chair Nishikawa called the meeting to order at 9:02 a.m., at which time a quorum was established.

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

6. Committee Reports
 - c. Education Review Committee
Program of Work and Budget FY95 - Mandatory Continuing Education Legislation and Auditor's Report - Executive Summary of the Real Estate Commission's Comment, Dated November 10, 1994.
8. Licensing - Restoration of Forfeited Licenses
Under Two Years - Salesperson
01/01/93 - Norma P. Olson
9. Licensing - Questionable Applications
 - j. Patricia L. Tiner

Additional Distributions: The following materials were additional distributions:

9. Licensing - Questionable Applications
 - c. Brad-Clark, Ltd., dba Bradley-Clark

Chair's Report: Chair Nishikawa thanked Vice Chair Dew for presiding over the past meetings in his absence.

Executive Officer's Report: The Executive Officer welcomed Chair Nishikawa back to the Commission meeting. She also reported that Commissioner Butuyan was excused from the meeting.

The 1995 Real Estate Commission Meeting schedule was distributed to the Commissioners for their information. The Commissioners were advised to notify the Commission in the event that they would be unable to attend the meetings.

Adjudicatory Matters: The Chair called for a recess from the Commission meeting at __ a.m., to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, Hawaii Revised Statutes:

Marlene's Realty, Inc. and Marlene I. Lindsey, REC 93-147-L

Upon a motion by Commissioner ___, seconded by Commissioner ___, it was voted on and unanimously carried to accept the Settlement Agreement After Filing of Petition for Disciplinary Action and Commission's Final Order and REB staff shall notify Respondent that she is to take and successfully complete the real estate broker's prelicensing course.

Brenda S. Kuamoo, REC-TAX-94-1

Upon a motion by Commissioner ___, seconded by Commissioner ___, it was voted on and unanimously carried to accept the Hearings Officer's Recommended

Order and Commission's Final Order.

Leticia Artienda, REC 93-92-L

Upon a motion by Commissioner ____, seconded by Commissioner ____, it was voted on and unanimously carried to suspend Leticia Artienda's real estate salesperson's license for one year, effective September 30, 1994, based on her non-compliance with the Settlement Agreement approved on July 29, 1994. REB staff to notify respondent of the license suspension.

Hawaiian Properties, Ltd., Ronald D. Silverman, and Warren M. Sweet, REC 91-480 and 92-280

Upon a motion by Commissioner ____, seconded by Commissioner ____, it was voted on and unanimously carried that Respondents Silverman and Sweet be directed to take and successfully complete the real estate broker's prelicensing course. REB staff to notify respondents of the course requirement.

Following the Commission's review, deliberation and decisions in these matters, pursuant to Chapter 91, HRS, the Vice Chair announced that the Commission was reconvening its scheduled Commission meeting at 9:49 a.m., pursuant to Chapter 92, HRS.

Recovery Fund

Report: No report was presented.

Licensing: **Questionable Applications**

Committee Reports: **Condominium and Cooperative Review Committee**

Upon a motion by Commissioner Lee, seconded by Commissioner Ching, it was voted on and unanimously carried to accept the report of the November 16, 1994 Condominium and Cooperative Review meeting, with the amendment to item 2.a., as follows:

1. **Accept** the minutes of the October 12, 1994 meeting with amendments.
2. HREREC Report (distributed written report)
 - a. Condominium Bulletin - Fall 1994 issue - anticipate distribution at end of November. Supervising Executive Officer **recommended** that articles regarding insurance will be included on a regular basis in the Condominium Bulletin.
3. Condominium Governance and Management
 - a. Board of Directors Education - Mrs. Mary Ananian requests that the Commission consider introducing legislation to require board members, especially officers, to attend an education function annually. Staff to respond that the August 1994 cut-off for an administration bill, that the Commission had failed three times to pass MCE legislation for real estate licensees, that it may be more appropriate for the condominium community to sponsor such legislation, that the Commission stands ready to discuss this issue with the condominium community, and to thank her for the suggestion.
 - b. Association Registration - Kawili Regency - Nancy Cabral and Margaret Mallen addressed the committee regarding their frustration over the fidelity bond requirement for AOAOS. They feel the requirement is prohibitive and that there should be clear bond requirements, including requirements for a fidelity bond exemption. Supervising Executive Officer and Chair Nishikawa explained that the Commission's role is regulatory and its job is to ensure statutory compliance. Staff to send letter of thanks for participation and recommendation on the Condo Bulletin.
 - c. ABC's, A Basic Course for Association Leaders - is being offered by the CAI in Honolulu on December 3, 1994.
 - d. Validity of Pet Restriction - CAI - Handout on California Supreme Court case pertaining to pet restrictions in a condominium association. Court said that the rule from now on is that the validity of pet restrictions will be considered on the basis of the community as a whole, not on the situation of a single owner.
 - e. Rules Passed by Board With No Rational Basis Declared Invalid - CAI - Maryland case where it was held that rules must have a rational basis and be specifically allowed by the project documents before they will be upheld.
4. Project Registration, Public Reports, and Sales to Owner-Occupants
 - a. The Effect of a CC&R on Condominium Project Registration -

- Recommend** to continue present policy to disclose the existence of a CC&R affecting a condominium project, in the public report for determination by a prospective purchaser. Further consideration may be required if a CC&R clearly prohibits the creation of a condominium.
- b. Kuau Shoreview - Request for Extension - Supplementary Public Report Required? **Recommend** that a supplementary is not required to disclose the change of a shed apartment to a residential dwelling where the public report discloses such change is permitted. The Commission will grant an extension to the effective date for the Final Public Report for Kuau Shoreview and require developer to provide prospective purchasers with a copy of all amendments to the declaration of condominium property regime and condominium map to disclose the change to the project.
5. Program of Work
- a. 1994 Legislative Acts and Resolutions - CAI sponsored legislation regarding condominium owners who have filed bankruptcy. The final bill as passed by Congress says that where a condominium owner has filed bankruptcy, an association is entitled to collect maintenance fees on the unit as long as the unit is occupied, i.e., where the owner (debtor) or a tenant is occupying the apartment, the association can continue to collect maintenance fees. Where the apartment remains vacant, the association cannot collect maintenance fees.
 - b. Condominium Association Registration - All applications for 1995 registration went out the last week of October.
 - c. Condominium Managing Agents Registration - All applications for 1995 registration were mailed out the first week of November.
 - d. Condominium Project and Public Reports - Condominium Specialist Shiroma discussed a memorandum which included all Commission decisions relating to condominium project registration from March of 1993 through October, 1994.
6. Next Meeting: Tuesday, December 20, 1994
9:00 a.m.
Kuhina Nui Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Laws and Rules Review Committee

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Nomura, it was voted on and unanimously carried to accept the report of the November 16, 1994 Laws and Rules Review Committee meeting, as follows:

1. HREREC Report (distributed report)
 - a. Advertising Brochure - 4th draft completed incorporating Commission comments and on hold as REC staff requests further review.

- b. Fair Housing Brochure - will provide to Commission copy master during January 1995.
 - c. PB and BIC Brochure - 3rd draft to incorporate Commission comments with completion for February/March 1995.
 - d. Real Estate Summit I - Molokai summit, December 13, 1994. Distributed summary on Honolulu summit. **Recommended** that all reports on the Honolulu summit by HREREC and Commission, included distributed summary, be presented to and discussed at the December 20, 1994 meeting.
 - e. Broker Experience Certification - Distributed draft previously. **Recommended** that HREREC not expand the scope of this study, that the present title of the draft be corrected to "Broker Experience Certification Study" and defer discussion on subject draft to the December 20, 1994 meeting.
2. HUD Symposia - Fair Housing Planning in America
Consumer Federation of America Conference
Federation of Association of Regulatory Boards Annual Forum
Recommend approval that Commission will **not** participate, nor send anyone to any of the three conferences, due to budgetary constraints.
3. Open Forum
- a. Dorothy Hirowatari - **Recommend** that staff examine the concerns of non-receipt of Final Order of REC 90-243, 90-287, and 91-168, report to respondent and Commission.
 - b. Masa Onuma, County of Hawaii Planning Department - **Recommend** that staff examine the home-occupation brokerage office issue and report to Mr. Onuma.
4. Next Meeting: Tuesday, December 20, 1994
10:00 a.m.
Kuhina Nui Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Education Review Committee

Upon a motion by Commissioner Imamura, seconded by Commissioner Aki, it was voted on and unanimously carried to accept the report of the November 17, 1994 Education Review Committee meeting, as follows:

Executive Session: Upon a motion by Commissioner Nomura, seconded by Commissioner Imamura, it was voted on and unanimously carried to enter into executive session pursuant to Section 92-5(a)(1), "To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section 26-9 or both;"

Commissioner Ching was excused from the deliberation on Nancy A. Hefner's request for an equivalency to two closed sales and three closed listings due to a conflict of interest.

Commissioner Ching returned to the meeting after the deliberation was over.

Upon a motion by Commissioner Nomura, seconded by Commissioner Aki, it was voted on and unanimously carried to move out of executive session.

Licensing:

Restoration of Forfeited License

Stanley R. Alapa	Broker
Paul Nadao Carson	Salesperson
Evelyn Y. L. Cheng	Salesperson
William Fischer	Salesperson
Linda S. K. Fong	Salesperson
Ross A. Ichikawa	Salesperson
William W. Monahan	Salesperson
Ginny R. Rosen	Salesperson
Steven Silver	Salesperson
Young Sun Suh	Salesperson
Jack D. Thompson	Salesperson

After a review of the information submitted by the applicants, Commissioner Aki moved that restoration be approved upon submitting evidence of successfully completing a Commission-approved real estate course. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

Questionable Applications

Richard D. McDougal

After a review of the information submitted by the applicant, Commissioner Ching moved to deny Richard D. McDougal's request for an equivalency to three listings closed escrow and three sales closed escrow. Commissioner Imamura seconded the motion. The motion was voted on and unanimously carried.

John D. Herrington

After a review of the information submitted by the applicant, Commissioner Kuriyama moved to deny John D. Herrington's request for an equivalency to ten written transactions, three of which are listings closed escrow and three are sales closed escrow. Commissioner Aki seconded the motion. The motion was voted on and unanimously carried.

Hidejiro L. Eustace

After a review of the information submitted by the applicant, Commissioner Nomura moved to approve Hidejiro Eustace's real estate salesperson's license application. Commissioner Aki seconded the motion. The motion was voted on and unanimously carried.

Stephen L. Grill

After a review of the information submitted by the applicant, Commissioner Kuriyama moved to approve Stephen L. Grill's application for a real estate salesperson's license. Commissioner Butuyan seconded the motion. The motion was voted on and unanimously carried.

Michael S. Turner

After a review of the information submitted by the applicant, Commissioner Butuyan moved to approve Michael S. Turner's application for a real estate salesperson's license. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

Leslie Walter Brown

After a review of the information submitted by the applicant, Commissioner Nomura moved to approve Leslie Walter Brown's application for a real estate broker's license. Commissioner Butuyan seconded the motion. The motion was voted on and unanimously carried.

Kenneth David Josephson

After a review of the information presented by the applicant, Commissioner Ching moved to deny Kenneth David Josephson's application for a real estate broker's license, based on §467-8(3), HRS, and §436B-11(3) and §436B-19(1)(8), HRS. Commissioner Imamura seconded the motion. The motion was voted on and unanimously carried.

Poipu Ocean View Resorts, Inc.

After a review of the information submitted by the applicant, Commissioner Kuriyama moved to approve a conditional real estate broker's license and condominium hotel operator registration of Poipu Ocean View Resorts, Inc. Commissioner Aki seconded the motion. The motion was voted on and unanimously carried.

Deborah "Debbie" D. Harkins dba Debbie Harkins and Associates

After a review of the information presented by the applicant, Commissioner Imamura moved to approve the real estate sole proprietor application and trade name application of Deborah "Debbie" D. Harkins dba Debbie Harkins and Associates. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

Roger M. Caires

After a review of the information submitted by the applicant, Commissioner Aki moved to approve the real estate sole proprietor application of Roger M. Caires. Commissioner Imamura seconded the motion. The motion was voted on and unanimously carried.

Nancy A. Hefner

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

After a review of the information submitted by the applicant, Commissioner Imamura moved to deny Nancy A. Hefner's request for an equivalency to two closed sales and three closed listings. Commissioner Nomura seconded the motion. The motion was voted on and unanimously carried.

Commissioner Ching returned to the meeting.

Lorraine G. Wilkinson-Sedello

After a review of the information submitted by the applicant, Commissioner Ching moved to approve Lorraine G. Wilkinson-Sedello's request for an equivalency to one closed sale. Commissioner Butuyan seconded the motion. The motion was voted on and unanimously carried.

James M. Lightner

After a review of the information submitted by the applicant, Commissioner Butuyan moved to approve James M. Lightner's request for an equivalency to one closed listing. Commissioner Aki seconded the motion. The motion was voted on and unanimously carried.

Glenn Mitsuyasu & Associates, Inc.

After a review of the information submitted by the applicant, Commissioner Kuriyama moved to deny Mabel Y. Mitsuyasu's request to retain Glenn Mitsuyasu & Associates, Inc. Commissioner Nomura seconded the motion. The motion was voted on and unanimously carried.

Clark Realty Corporation

After a review of the information presented by the applicant, Commissioner Butuyan moved to approve the real estate corporation application of Clark Realty Corporation. Commissioner Nomura seconded the motion. The motion was voted on and unanimously carried.

Ratification

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Imamura, it was voted on and unanimously carried to ratify the following:

Real Estate Brokers

Colony Acquisition Corporation

William B. Moffett, Jr. dba Moffett Properties

Branch Office

Touchstone Properties, Ltd. (Honolulu, Hawaii)

Site Office

Schuler Homes/Oahu, Inc. - Highland View at Waikele

Gentry Realty, Inc. - Coronado, Phases A-g

McCormack Real Estate dba Coldwell Banker McCormack Real Estate - One
Keahole Place, #3110

The Prudential Locations, Inc. - Green View Villas

Schuler Realty/Oahu, Inc. - Royal Pines at Waikele

SHC Properties, Inc. - Executive Centre

Pahio Vacation Ownership, Inc. - Pahio at Kauai Beach Villas

C. Brewer Homes, Inc. - Halelani at Leiali'i (Phase I-A)
Bob Keown dba Makai Properties - The Pointe at Poipu
Concepts Unlimited, Inc. - The Crowne at Wailuna, Phases I, II & III
Schuler Realty/Oahu, Inc. - Westview at Makakilo Heights, Phases I & II
Towne Realty Brokerage Services, Inc. - Streamside at Launani Valley and
The Gardens at Launani Valley, Phases I, II & III
Z & M Ltd. dba Turtle Cove Realty - The Pointe at Poipu
Schuler Realty/Maui, Inc. - Iao Parkside, Phases I, II and III
West Oahu Realty, Inc. - Olaloa, Projects II and III
Watt Hawaii, Inc. - Malanai, Villages of Kapolei/Village III
Malanai Iki, Villages of Kapolei/Village III
Aelo, Villages of Kapolei/ Village II

Castle & Cooke Homes Hawaii, Inc. - Mililani Mauka, Unit 107/108
Malama Realty Corp. - Piilani Village
Malama Realty Corp. - Kua'Aina Ridge
Castle & Cooke Homes Hawaii, Inc. - Hillsdale, Phases I, II, III & IV
Residential Resources - Windward Acres
McCormack Real Estate dba Coldwell Banker McCormack Real Estate - The
Palms at Wailea, Phase 2

Trade Name

Nathan S. Morita dba NSM Realty
Wayne Satoshi Masuda dba Wayne Masuda Realtor
Kendor Realty, Inc. dba Las Vegas No Ka Oi Realty

Condominium Managing Agents

Colony Acquisition Corporation
The Landmark Property Corporation

Condominium Hotel Operator

Colony Acquisition Corporation

Condominium Project Registration, Public Reports Issued for August 1994

Country Club Village (Building 1), Honolulu (Final)
Kilauea Plantation Center, Kauai (Final)
Crescent Lane - Phase III, Honolulu (Final)
Pomaika'i Business Center, Hawaii (Supplementary)
707 Palani, Honolulu (Final)
R. J. Taylor Condominium, Kauai (Final)
7075 Kaholalele Place, Kauai (Final)
Lot 8 Kalihiwai Ridge, Kauai (Preliminary)
Lot 9 Kalihiwai Ridge, Kauai (Preliminary)
Lot 12 Kalihiwai Ridge, Kauai (Preliminary)
Egret Park, Kauai (Final)
Sunset Shores, Honolulu (4th Supplementary)
Uke'e Industrial Court, Honolulu (Supplementary)
Waialua Homes, Honolulu (Supplementary)
Akaka Falls Condominium Project, Hawaii (Final)

Banyan Meadows I Condominium, Kauai (Final)
The Fair Ladies, Honolulu (Final)
54-128 and 54-128A Hauula Park Place, Honolulu (Final)
Lot 40 Kalaheo Makai, Kauai (Final)
Moanalua Village, Honolulu (7th Supplementary)
Harbor Court, Honolulu (Final)
Kaiaakea Cottages, Hawaii (Final)
Lukepane Gardens, Honolulu (Preliminary)
Waikaaalulu Condominium Project, Hawaii (Final)
Iao Parkside Phase III, Maui (Preliminary)
Heliconia, Hawaii (Final)
C. W. Orchard, Hawaii (Final)
Olu Gardens One, Hawaii (Final)
Kamalii Aina, Kauai (Final)
Lai Moana, Kauai (Final)
Kulana Knolls - Phase I, Honolulu (Final)
Kulana Knolls - Phase II, Honolulu (Final)
Hale Umi, Honolulu (Final)
Highlands at Waikele, Honolulu (Preliminary)

Acceptance of
Minutes:

Upon a motion by Commissioner Imamura, seconded by Commissioner Butuyan, it was voted on and unanimously carried to accept the minutes of the August 26, 1994 Real Estate Commission meeting, as circulated.

Next Meeting:

Friday, October 28, 1994
9:00 a.m.
Ka Lanakila Room
HRH Princess Victoria Kamamalu Building
250 South King Street, Penthouse
Honolulu, Hawaii

Adjournment:

With no further business to discuss, Vice Chair Dew adjourned the meeting at 11:28 a.m.

Respectfully submitted by:

Christine Rutkowski
Executive Officer

Date