

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, August 25, 1995

Time: 9:00 a.m.

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

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

Christine Rutkowski, Executive Officer
Russell Wong, Real Estate Specialist
Lee Ann Teshima, Real Estate Specialist
Shari Wong, Deputy Attorney General
Marlene Young, Special Deputy Attorney General
Irene Kotaka, Secretary

Jan Yamane, Program Specialist
Rodney Maile, Senior Hearings Officer
Steve Gilbert, Hawaii Real Estate Research & Education Center
John Reilly, Real Estate Continuing Education Co.
Nicki Thompson, Hawaii Association of Realtors

Excused: Theo Butuyan, Public Member
Helen Lindemann, Oahu Member

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

Chair's Report: No report was presented.

Executive Officer's Report: **Additions to the Agenda**

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

6. Committee Reports
 - a. Condominium Review Committee
Community Associations Institute Annual Conference
 - c. Education Review Committee
Continuing Education Core Course
9. Licensing - Questionable Applications
 - j. Monte David Fitts, Monte D. Fitts, Realtors
 - k. James W. Tharpe
 - l. Chandler Realty, Inc., Maui Condominium Specialists

Additional Distribution

The following additional distribution was made prior to the meeting:

2. Chapter 91, Hawaii Revised Statutes, Adjudicatory Matters
 - c. The Vacation Store, Inc., et al., REC 92-233-L+
4. Executive Officer's Report
 - b. Minutes of the April 1995 Meeting
9. Licensing - Questionable Applications
 - b. Karin R. Beals
 - d. Vivian H. Lee
 - e. Mid Pacific Property Management, Ltd.
 - h. Gigi M. Smith

Announcements

The Special Deputy Attorney General and the Deputy Attorney General will be late.

Committee Reports:

Condominium Review Committee

Upon a motion by Commissioner Ching, seconded by Commissioner Aki, it was voted on and unanimously carried to approve the report of the August 9, 1995 Condominium Review Committee Meeting, as follows:

1. Minutes of June 16 and July 12, 1995 Meetings: **Recommend acceptance.**
2. Hawaii Real Estate Research and Education Center Report
Vice Chair Ching requested to Acting Director that all HREREC reports for each committee meeting be completed and appropriate number of copies be delivered to REB office prior to mailing of agenda package for its inclusion.
 - a) Five Year Education and Research Plan-Rollover Year: The CRC Chair, Commissioners, and Staff have no further comments on the last draft, recommended that it be finalized and appropriate distribution be completed.
 - b) Condominium Seminars: **Recommend approval** of proposal by CAI Hawaii Chapter for the Neighborhood Seminar Series, subject to a ceiling of \$2,960 of REC funds with an equal split of any net income, based on the August 9, 1995 budget proposal.
3. Condominium Project Registration, Public Reports, and Sales to Owner-

Occupants

- a) Condominium Project Registration - Public Reports Issued:
Recommend approval to ratify issuance of effective dates during July 1995.
 - b) Condominium Consultants and Procurement Law: DAGS and the Procurement Office are inquiring about the Condominium Consultants contracts and cumulative payments of more than \$10,000 over any 12 consecutive months. It has been brought to their attention that the law (§514A-38) requires that the cost of any review by consultants be borne by the developer, DCCA-PVL is just acting as a conduit in collecting the funds from the developer and upon completion of the review remitted the submitted funds to the consultant, the State does not keep a cent. PVL Licensing Administrator is handling this matter and is attempting to find an equitable interpretation and solution. In the worst scenario, the Condominium Consultants would be prohibited from receiving any more payments, the matter would have to go through a formal bid procedure and a contract approval procedure upon selections of consultants (which would take months and maybe a year), it may result in a number of new consultants which would require workshops and training, it would take about a year for any new consultant to be at a competent level, which would mean that condominium housing development in Hawaii would stop as we have no resources to take on such a task.
4. Program of Work
- a) Rulemaking, Chapter 107: This program is deferred as staff is attempting to re-evaluate the rules to recommend amendments to deregulate where by it does not reduce consumer protection and requires less State resources.
 - b) Legislative Acts and Resolutions, Act 185-Recodification Plan: This program has to be attended to as a report will have to be completed and submitted by December 31, 1995 and the recommendation on using the CMEF to fund this project is the big question.
 - c) Neighbor Islands Outreach - October 4, 1995 CRC Meeting, 2:30 pm, Queen's 5 Room, Hilton Waikoloa Village Hotel, Hawaii.
 - d) Condominium Specialists Office for the Day - August 16, 1995, 7:45 am to 4:30 pm, RICO Office, 3060 Eiwa Street, Room 204, Lihue, Kauai.
5. Next meeting: Wednesday, September 13, 1995
10:30 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Community Associations Institute's Annual Conference - Upon a motion by Commissioner Lee, seconded by Commissioner Aki, it was voted on and unanimously carried to approve one Commissioner/staff to attend the CAI Annual Conference, to be held on October 17 to 22, 1995, in Baltimore, Maryland.

Laws and Rules Review Committee

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Imamura, it was voted on and unanimously carried to approve the report of the August 9, 1995 Laws and Rules Review Committee Meeting, as follows:

1. Minutes of July 12, 1995: **Recommend acceptance.**
2. HREREC Report (distributed at meeting)
 - a) PB and BIC Brochure: working on the third draft, will be used in the PB/BIC CE elective course, and/or made part of broker curriculum.
 - b) Advertising Brochure: REC specifications call for distribution to all PB/BICs (2,600) versus HREREC printing of 1,000 copies, Acting Director to work with RE Specialist Wong and EO Rutkowski on settling this issue.
3. Program of Work
 - a) Program of Work and Budget FY96: Commissioners to turn in pink final copy for insertion of amended pages.
 - b) Rule Making, Chapter 99: Commenced exchange on Draft B-1 and written recommendations, to be continued at ERC meeting and all future LRRC meetings.
 - c) Neighbor Island Outreach - October 4, 1995 LRRC Meeting, 1 pm, Queen's 5 Room, Hilton Waikoloa Village Hotel, Hawaii
 - d) Commissioners Education Program
 - 1) Workshop - 1pm, September 22, 1995
 - 2) Real Estate Commission Reference Book: Commissioners to turn in for insertion of amended pages.
4. Special Issues
 - a) The Prudential Locations Request Display Carts: **Recommend approval** that the push cart, as described, does not fall within the definition of place of business, branch office or site office and provided that no real estate activity/business as defined in the laws and rules is conducted at the push cart. Further that staff study the matter further to determine if any further requests may fall within the definition of a site office.
 - b) Hawaii Supreme Court Decision on Workers Compensation Laws: Bill Cuseo, PB of Prudential Locations will provide copy of decision.
5. ARELLO and Other Organizations: Per existing REC policy, REC to decline participation in these two programs due to the State budget situation.

- a) Rural Community Assistance Corporation Conference, April 22-24, 1996, Lake Tahoe, Nevada
 - b) Federation of Associations of Regulatory Boards, Attorney Certification Course in Professional Regulatory Law, November 2-5, 1995, Philadelphia, PA
6. Next Meeting: Wednesday, September 13, 1995
9:00 a.m.
Kapuaiwa Room
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Advertising Brochure - Steve Gilbert reported that he had additional information which would be added to the advertising brochure and that the final draft would be sent to REB staff for one final review.

EDUCATION REVIEW COMMITTEE REPORT

Upon a motion by Commissioner Imamura, seconded by Commissioner Aki, it was voted on and unanimously carried to approve the report of the August 9, 1995 Education Review Committee Meeting, as follows:

1. Chair's Report - None.
2. Announcements, Introduction, Correspondence, and Additional Distribution - Minutes of June 16, 1995 and July 12, 1995 meetings - **Recommend approval** of minutes.
3. Hawaii Real Estate Research and Education Center Report (distributed at meeting)
 - a. Continuing Education Core Course - Is one week from completion, Dr. Ordway reviewing Hawaii Supreme Court Case which was ruled on July 28, 1995.
 - b. Examination (Item Writing, Laws & Rules Report, Curriculum) - **Recommend** that the Commission approve the 1995 Hawaii Test Development Committee's revised content outline. **Recommend** that the Commission approve the 1995 Hawaii Test Development Committee's recommendation to remove from the state-specific portion of the examination any settlement questions with hard copy handouts.
4. Continuing Education Administration, Curriculum, Courses, Providers, and Instructors
 - a. **Recommend approval** of the following 1995 Reregistered and Recertified Continuing Education Providers, Courses and Instructors:
Instructor - Jay J. Spadinger (Real Estate Law Update & Ethics 95-96, Finance - Basic RE Investment Analysis 95-96 and Fair Housing).
Courses - Duplanty School of Real Estate ("Hot Spots in Real Estate Contracts", "How to List and Sell Business Opportunities", "Foreclosure and the Role of the Commissioner", "Zoning/Development: Laws and Issues" (fka "How to Develop Real Estate in Hawaii") and "Pitfalls in DROA and Addenda").

5. Program of Work and Budget
 - a. Program of Work and Budget FY96 - final/revised printed copy distributed.
 - b. Neighbor Island Outreach - October 4, 1995, ERC Meeting, 9:30 a.m., at Hilton Waikoloa Village Hotel.
 - c. Real Estate Specialist Office for the Day - August 16, 1995, 7:45 a.m. -4:30 p.m., with the Condominium Specialist of the Day, RICO Office, Lihue, Kauai.
6. ARELLO, REEA and Other Organizations Report
 - a. ARELLO Research and Education Fund Report - **Recommend acceptance** of the July 12, 1995 and July 25, 1995 Reports.
 - b. **Recommend** that, due to fiscal austerity and budget constraints, the Real Estate Commission decline participation at the IREM Asbestos Compliance Management Seminar, August 18, 1995, in Honolulu, Hawaii.
 - c. ARELLO Committee Assignments - Commission and Staff requested to submit committee preferences to the Supervising Executive Officer by August 14, 1995 (deadline August 18, 1995).
7. Next Meeting: Wednesday, September 13, 1995, 1:30 p.m.
 Ka Lanakila Room
 HRH Princess Victoria Kamamalu Building
 250 South King Street, Penthouse
 Honolulu, Hawaii

Continuing Education Core Course

Dr. Ordway stated that he believes that the core course is ready to teach. He would like to request that John Reilly be given approval to teach the continuing education core course tomorrow. They would like to get approval to have a field test done to see how the material works. They have tried to keep the student outline to 20 pages. The content will be used, subject to modifications. Dr. Ordway summarized the seven sections which will be covered in the core course. He also stated that the sections were developed by individuals with expertise in those specific areas. He stated that additional material has been provided in the event that the instructor has some time remaining. Dr. Ordway stated that he will be teaching the course in two weeks to students at the University of Hawaii.

When asked what would happen if the course was shorter than three and one-third hours, Dr. Ordway stated that the instructors will be given additional material to teach in the event the course did not meet the time requirement.

Mr. Reilly stated that the experts who developed and contributed to the core course recognized that all of the information could not be covered within the time allowed. This is the reason why other elective courses could be offered in specific areas in which the licensee may want to obtain further information. If the licensee wants to make more courses, then they may do so.

The Special Deputy Attorney General arrived.

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

Adjudicatory
Matters:

The Chair called for a recess from the meeting at 9:41 a.m., to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, Hawaii Revised Statutes:

Ruth M. F. Lin and Empress Realty Corporation, REC 91-203 and 92-208

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

Charles S. Portwood, III dba A Aloha Real Estate and Management Company, REC 93-223-L

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

The Deputy Attorney General arrived.

The Vacation Store, Inc., et. al., REC 92-233-L+

Upon a motion by Commissioner Lee, seconded by Commissioner Ching, it was voted on and unanimously carried to accept the filing of the written exceptions filed by Respondent James Stanley Kraft.

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

Commissioner Imamura was excused from the meeting.

Upon a motion by Commissioner Ching, seconded by Commissioner Aki, it was voted on and unanimously carried to accept the course enrollment and certificate of completion submitted by Marlene I. Lindsey.

Commissioner Imamura returned to the meeting.

Following the Commission's review, deliberation and decisions in these matter, pursuant to Chapter 91, HRS, the Chair announced that the Commission was reconvening its scheduled meeting at 10:28 a.m., pursuant to Chapter 92, HRS.

Licensing and
Registration:

Ratification

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

Brokers

East-West Real Estate Company, Inc.

Jack Law, Ltd.
James E. Fleming dba James E. Fleming Company
Sylvia B. Dobry dba Fiji Islands Property
Shih-Fong Choi
Barclay E. MacDonald
Jeannine Poling
Kapolei Realty, Inc.
Koll Asia Pacific-Hawaii, Inc.
Lorraine S. Takara
Properties Express, Inc.

Branch Office

Resort Marketing International-Hawaii, Inc. (3600 Lower Honoapiilani
Highway, #B, Lahaina, Hawaii)
Monroe & Friedlander Management, Inc. (2200 Main Street, Suite 500,
Wailuku, Hawaii)

Site Office

McCormack Real Estate dba Coldwell Banker McCormack Real Estate - Nauru
Tower
The Makai Club - Makai Club Cottages/Makai Club at Princeville
Gamrex, Inc. - Kona Vistas Subdivision
Towne Realty Brokerage Services, Inc. - Streamside at Launani Valley,
Phases I & II/The Gardens at Launani Valley, Phases I, II & III/The Terraces at
Launani Valley
Schuler Realty/Oahu, Inc. - The Signatures at Waikele (Parcel 18)/Highland
View at Waikele (Parcel 10A)/ Royal Pines at Waikele (Parcel 16)/Champions
at Waikele (Parcel 11)
McCormack Real Estate dba Coldwell Banker McCormack Real Estate -
Windward Acres

Condominium Managing Agent

Hawaiian Asset Management And Investment Corp.
Life Care Services Corporation of Hawaii, Inc.

Executive Session:

Upon a motion by Commissioner Lee, seconded by Commissioner Kuriyama, 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;" and Section 92-5(a)(4), "To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities;"

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

Committee Reports: **Education Review Committee**

Continuing Education Core Course - Upon a motion by Commissioner Ching, seconded by Commissioner Lee, it was voted on and unanimously carried to approve the continuing education core course, subject to staff's review, including any amendments or corrections to be done by HREREC and staff's final approval. If the course cannot be completed timely to allow for instruction tomorrow, Mr. Reilly's class will have to be postponed.

Licensing: **Restoration of Forfeited License**

Michael L. Norton Salesperson

After a review of the information submitted by the applicant, Commissioner Imamura moved that restoration be approved upon submitting evidence of successfully passing the real estate salesperson's licensing examination. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

Questionable Applications

George Pararas-Carayannis

After a review of the information submitted by the applicant, Commissioner Nomura moved to deny the renewal of George Pararas-Carayannis's real estate salesperson's license, based on Sections 467-8(3), 436B-19(1), (8), (12), (14), Hawaii Revised Statutes. Commissioner Imamura seconded the motion. The motion was voted on and unanimously carried.

Karin R. Beals

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

Robert M. Ambo

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

Vivian H. Lee

After a review of the information submitted by the applicant, Commissioner Nomura moved to approve the real estate broker's license application of Vivian H. Lee. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

Mid Pacific Property Management Ltd.

After a review of the information submitted by the applicant, Commissioner Lee moved to approve the real estate corporation application and condominium managing agent registration of Mid Pacific Property Management Ltd. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

Inoue*Hawaii Realty Corporation

After a review of the information submitted by the applicant, Commissioner Kuriyama moved to approve the condominium managing agent registration of Inoue*Hawaii Realty Corporation. Commissioner Imamura seconded the motion. The motion was voted on and unanimously carried.

Ginoza Realty, Inc.

After a review of the information submitted by the applicant, Commissioner Lee moved to approve the condominium managing agent registration of Ginoza Realty, Inc. Commissioner Nomura seconded the motion. The motion was voted on and unanimously carried.

Gigi M. Smith

After a review of the information submitted by the applicant, Commissioner Ching moved to deny Gigi M. Smith's request for an equivalency to ten written transactions, three of which are listings which have closed escrow and three of which are sales that have closed escrow (three closed listings and three closed sales). Commissioner Imamura seconded the motion. The motion was voted on and unanimously carried.

Matt B. Buckman

After a review of the information submitted by the applicant, Commissioner Kuriyama moved to defer this matter for further information. The Commission is questioning the propriety of the license issued to Mr. Buckman and in order to solidify the validity of the request, the Commission is directing Mr. Buckman to provide more information. Commissioner Lee seconded the motion. The motion was voted on and unanimously carried.

Monte David Fitts, Monte D. Fitts, Realtors

After a review of the information submitted by the applicant, Commissioner Ching moved to approve the real estate sole proprietor application of Monte David Fitts, Monte D. Fitts, Realtors. Commissioner Nomura seconded the motion. The motion was voted on and unanimously carried.

James W. Tharp

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

Chandler Realty, Inc., Maui Condominium Specialists

After a review of the information submitted by the applicant, Commissioner Aki moved to approve the condominium hotel operator registration and fidelity bond exemption for Chandler Realty, Inc., Maui Condominium Specialists. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

Executive Officer's
Report:

Minutes of Previous Meetings

Upon a motion by Commissioner Lee, seconded by Commissioner Aki, it was voted on and unanimously carried to approve the minutes of the April 28, 1995 Real Estate Commission meeting as circulated.

Next Meeting:

Friday, September 22, 1995
9:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Adjournment:

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

Respectfully submitted by:

Christine Rutkowski
Executive Officer

Date