

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, July 24, 1998

Time: 9:00 a.m.

Place: Kapuaiwa Room
HRH Princess Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Present: Alvin Imamura, Chair
Nora Nomura, Vice Chair
Charles Aki, Member
Michael Ching, Member
Mitchell Imanaka, Member
Helen Lindemann, Member
John Ohama, Member

Calvin Kimura, Supervising Executive Officer
Christine Rutkowski, Executive Officer
Pamela Garrison, Senior Real Estate Specialist
Russell Wong, Real Estate Specialist
Lee Ann Teshima, Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Camille Chun-Hoon, Condominium Specialist
Gina Watumull, Condominium Specialist
Shari Wong, Deputy Attorney General
Irene Kotaka, Secretary

Steve Gilbert, Hawaii Real Estate Research & Education Center
Nicki Thompson, Hawaii Association of REALTORS
Chris M. Yozamp
David D. Kenyon
Bonnie C. Opperman
Stephen D. Soares
Richard B. Emery

Excused: Alfredo Evangelista, Member

Call to Order: The Chair called the meeting to order at 9:07 a.m., at which time quorum was established.

Chair's Report: No report was presented.

Executive Officer's Report: **Announcements, Introductions, Correspondence and Additional Distributions**

A copy of the latest Real Estate Commission roster was distributed to the Commissioners for their information.

Additions to the Agenda

Upon a motion by Commissioner Aki, seconded by Commissioner Lindemann, it was voted on and unanimously carried to add the following items to the agenda:6. Questionable Applications

Stephen D. Soares
Hawaiian Condo Resorts, Inc.

Additional Distributions

The following material was distributed to the Commissioners prior to the start of the meeting:

5. Restoration of Forfeited Licenses
David C. Hoselton
6. Questionable Applications
Richard B. Emery

Minutes of Previous Meetings

The acceptance of the minutes of the June 26, 1998 Real Estate Commission meeting was deferred to later in the meeting.

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

Licensing and Registration - Ratification:

<u>Brokers - Corporations and Partnerships</u>	<u>Effective Date</u>
Compass Management and Leasing, Inc. Kirk K. Horiuchi, PB	05/27/98
Maui Vacations, Inc. Matthew J. Aki, PB	07/06/98
<u>Brokers - Sole Proprietor</u>	<u>Effective Date</u>
Michael J. Hannon	06/02/98
Jody L. Nako	06/19/98
Marco A. Rivera	06/19/98
Lynne Marie Trouchon	06/22/98
Edith L. Muench	06/25/98
Diane A. Smith	06/25/98
Donald Munro	06/24/98
<u>Tradename</u>	<u>Effective Date</u>
Mary Begier, Mary Begier Realty	06/10/98
Lawson Mikio Murakami, Realty 7	06/17/98
Diane E. Mather, Mather-Gemelli Real Estate Investments	07/13/98
<u>Site Office</u>	<u>Expiration Date</u>
Prudential Locations, LLC "5231 Kuaiwi Street" "949 Prospect"	01/07/99
<u>Education Waiver Certificate</u>	<u>Expiration Date</u>
Michele Maria Scheuermann	06/19/99
Robert Doane Wilkinson	06/22/99
Jerry Wayne McFarland	07/01/99
Bryan Patrick Gillam	07/08/99
<u>Real Estate Broker Experience Certificate</u>	<u>Expiration Date</u>
Gerardo N. Daguio	06/22/99
Beverly J. Hung-Nagata	06/23/99
Judy A. Stone	06/29/99
Ramona J. Biho	06/30/99
Fudge	07/01/99
Susana S. Concepcion	07/07/99

Tracy C. Butchart 07/07/99
Myron Freeman 07/14/99

<u>Real Estate Broker (upgrade)</u>	<u>Effective Date</u>
Sonia Ruth Franzel	05/27/98
Mathew C. Dauenhauer	05/12/98
Kirk K. Horiuchi	05/27/98
Anne Oliver	07/07/98

Restoration of Forfeited Broker's License Date
License will be restored upon successfully completing the real estate broker's precense course within six months.

David T. Ikegami 01/31/99

Restoration of Forfeited Salesperson's License Date
License will be restored upon successfully completing the real estate salesperson's precense course within six months.

Donald M. S. Jay 12/31/98
Baron T. Mizusawa 01/31/99

<u>Condominium Hotel Operator</u>	<u>Effective Date</u>
Deborah D. Harkins Debbie Harkins & Associates	06/12/98

Upon a motion by Commissioner Lindemann, seconded by Commissioner Ohama, it was voted on and unanimously carried that Patrick M. Aigner be deleted from the agenda under the "Licensing - Restoration of Forfeited Licenses" portion and that his name be added to the ratification list as follows:

Restoration of Forfeited Salesperson's License Date
License will be restored upon successfully completing the real estate salesperson's precense course within six months.

Patrick M. Aigner 12/31/98

Licensing -
Questionable
Applications:

Chris M. Yozamp

Commissioner Lindemann recused herself from the meeting.

Chris M. Yozamp was asked if she wished to have her application considered in executive session. She declined the offer.

Chris M. Yozamp was present to request that the Commission approve her application for a real estate broker's license.

Ms. Yozamp stated that she had tried to make her written letter to the Commission complete and has provided written documentation to support her application. She was present to answer any questions the Commission may have had regarding her application.

Upon a motion by
Commissioner Nomura,

seconded by
Commissioner Imanaka,
it was voted on and
unanimously carried to
take this matter under
advisement.

Commissioner Lindemann returned to the meeting.

David D. Kenyon

David D. Kenyon was asked if he wished to have his application considered in executive session. Mr. Kenyon answered in the affirmative.

Executive Session:

Upon a motion by Commissioner Nomura, seconded by Commissioner Ohama, it was voted on and unanimously carried to enter into executive session, pursuant to Section 92-5(a)(1), HRS, "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 Ohama, seconded by Commissioner Ching, it was voted on and unanimously carried to move out of executive session and to take this matter under advisement.

Bonnie C. Opperman

Bonnie C. Opperman was asked if she wished to have her application considered in executive session. She declined the offer.

Ms. Opperman was present to request an equivalency to the two years full-time real estate salesperson experience in the State of Hawaii within the last five years prior to the license examination date and to the ten (10) Hawaii written real estate transaction requirement, of which three are sales contracts or commercial or industrial leases closed escrow and three are listing contracts or commercial or industrial listings closed escrow.

Ms. Opperman stated that she had contacted her former brokers in Maryland to verify her Maryland real estate experience. However, she reported that Town and Country Properties is no longer in business. She provided a summary, according to her records, of the transactions she participated in while she was associated with them.

Ms. Opperman also stated that she had requested that Remax Realty Services provide information verifying her experience, however, she has not heard from them as yet. She also brought with her a written summary of the transactions she participated in while associated with them.

A copy of the summaries were circulated among the Commissioners for their review.

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

Stephen D. Soares

Stephen D. Soares was asked if he wished to have his application considered in executive session. He declined the offer.

Mr. Soares was present to answer any questions the Commission may have regarding his application for a real estate salesperson's license.

Mr. Soares was asked about the complaint that had been filed against him with the Colorado Real Estate Commission. Mr. Soares stated that the complaint did not proceed any further. The Colorado Real Estate Commission had come to his office and inspected his books and records. Mr. Soares was asked to explain the basis of the complaint. He stated that it happened in 1992 and the whole thing came and went very quickly. He stated that rental funds were held in an account by the employer. The employer had a payment dispute with the owner of a condo. Mr. Soares stated that he was a salaried employee at that time.

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

Richard B. Emery

Richard B. Emery was asked if he wished to have his application considered in executive session. He declined the offer.

Mr. Emery was present to request that the Commission reconsider its previous decision regarding his request for an equivalency to the two years full-time real estate salesperson experience in the State of Hawaii within the last five years and two years full-time experience as a property manager for one or more condominium association and management or co-management of 240 units or 10 condominium associations.

Mr. Emery submitted ten condominium management contracts negotiated and executed by himself and a copy of his Reserve Specialist designation from the Community Associations Institute ("CAI").

When asked who negotiated the management contracts, Mr. Emery informed the Commissioners that he had negotiated the contracts. His company does have a principal broker who is responsible for the disbursement of funds. Mr. Emery stated that condominium management is not regulated. He has been in business for six years. He stated that he goes to his clients, attends meetings and negotiates the terms. His principal broker pays all of the bills and handles the financial matters.

Mr. Emery stated that he is only one out of ten people nationally who is designated a Reserve Specialist. He has been working full-time managing condominiums for the past six years. He stated that the law does not require him to have a real estate license. Mr. Emery stated that he had helped to co-author Chapter 514A, HRS, with John Morris. Mr. Emery stated that when they look at his qualifications, they will see that he exceeds the requirements.

Mr. Emery was informed that the purpose of the experience requirement was to find out if the applicant possesses enough knowledge to go to the next step, which is a real estate broker's license. The Commission will take into consideration what is on the record and also what is presented by the applicant to determine if the applicant is qualified to be granted a real estate broker's license.

In response to Mr. Emery's statement that CMAs are not regulated by the Commission, Mr. Emery was informed that a condominium managing agent must have a real estate broker's license. If violations are found under Chapters 467 and 514A, HRS, the case may proceed to disciplinary action. If the account executive errs, then the CMA will be held responsible.

Mr. Emery was also informed that there is case law established which determined that the transactions handled by the CMA are considered real estate transactions.

Mr. Emery stated that he is the owner of his company and he would like to get ahead with his company.

Mr. Emery stated that he has testified before the Legislature as a member of CAI on condominium-related issues. He recognizes the legal requirements. He is very active in the industry. He is a small business owner who put together his own program. The worst thing that could happen is that his principal broker could get into an accident. His CPA has told him that he has great accounting standards.

Mr. Emery was informed that the Commission has always had a difficult time analyzing or recognizing condominium experience based on the existing laws and rules. The Commission has tried to be consistent in its interpretation. There have been applicants who have taught real estate courses at the college level whose requests for an equivalency have been denied.

Mr. Emery stated that all of his experience is in Hawaii with condominiums. He stated that when the reserve laws were first drafted, he testified on behalf of the Commission as an expert witness.

Mr. Emery stated that it didn't make any sense to him that he could meet the experience requirement but could not meet the transaction requirement. He has a reasonably-known business in the State. He wants to take full responsibility for his company. He wants to be able to protect himself in case anything goes wrong.

Mr. Emery was asked who negotiated the agreements that he had submitted. He stated that he did. He stated that the principal broker reviews and approves every deposit, invoice and payment. They do their banking online with First Hawaiian Bank.

Mr. Emery was asked if the principal broker reviewed the contracts. He stated that the principal broker receives copies of the contract.

Mr. Emery was informed that pursuant to Chapter 99, HAR, all financial obligations and commitments of the real estate transaction must be reviewed by the principal broker. The corporate resolution on file with the Licensing Branch requires that the principal broker be responsible for all real estate contracts and activities of the brokerage firm.

Mr. Emery stated that the principal broker works full-time and they meet daily. Mr. Emery likened himself to the real estate salesperson who knows every aspect of the deal. His principal broker gets a copy of the transactions. All financial obligations are reviewed and approved by the principal broker.

Mr. Emery stated that, while he disagrees with the Commission's previous decision, in his dealings with staff, he has found staff to be very helpful and courteous, especially Real Estate Specialist Teshima.

Mr. Emery was asked about the status of the petition which was filed to appeal the Commission's previous decision. Mr. Emery stated that he had filed the petition for appeal and also requested reconsideration of his application upon the recommendation of staff. If the Commission grants reconsideration of his application and approves his request for an equivalency, he will inform the Office of Administrative Hearings that he will withdraw his appeal.

Upon a motion by Commissioner Aki, seconded by Commissioner Nomura, it was

voted on and unanimously carried to take this matter under advisement.

Committee Reports:

Laws and Rules Review Committee

Upon a motion by Commissioner Ching, seconded by Commissioner Nomura, it was voted on and unanimously carried to accept the report of the July 8, 1998 Laws and Rules Review Committee meeting, as follows:

1. Accept the minutes of the June 10, 1998 meeting.
2. REC Chair's Organization Report. Accept the memorandum, dated July 1, 1998, from the REC Chair regarding the organization of the Real Estate Commission.
3. Licensing, Registration and Certification Administration. Recommend that the Memorandum of Understanding ("MOU") between the Department of Taxation and the Real Estate Commission be terminated and if termination is not possible, that the terms of the MOU be deferred for the upcoming biennial renewal.
4. Neighbor Island Outreach. Recommend that REB staff proceed with the planning, approval and publicizing of the next neighbor island outreach which is scheduled for Friday, September 18, 1998, at the Kauai Marriott Resort and Beach Club, in Lihue, Kauai.
5. Interactive Participation with Organizations. Recommend approval to send up to three staff members to attend and participate and speak at the Hawaii Association of REALTORS Annual Convention on September 16 to 18, 1998, at the Kauai Marriott Resort and Beach Club, in Lihue, Kauai.
6. Next meeting: Wednesday, August 12, 1998
9:00 a.m.
Kapuaiwa Room
1010 Richards Street, Second Floor
Honolulu, Hawaii

Education Review Committee

Upon a motion by Commissioner Aki, seconded by Commissioner Ohama, it was voted on and unanimously carried to approve the report of the July 8, 1998 Education Review Committee meeting, as follows:

1. Minutes of June 10, 1998 Meeting - **Accept**
2. Hawaii Real Estate Research and Education Center Report and Chair Report
 - a. Evaluation and Education System for CE and Prelicensing Instructors - **Accept** status report on the evaluation/monitoring program continuing education phase for the period of May 1 through June 30, 1998, submitted by Interim Director Steven Gilbert.
 - b. Interactive Program - **Recommend Approval** to amend the Program of Work, FY99, Interactive Program to include the HREREC Director or HREREC Interim Director and one Staff member.
3. Continuing Education Administration, Curriculum, Courses, Providers and Instructors - Applications
 - a. One-time offering: Course: "Internet Commerce," Provider: Hawaii Association of REALTORS (HAR), Instructor: Michael Dulligan, Elective course: "Internet Commerce" - **Recommend**

- approval** subject to including Hawaii rules on advertising. Also, course to be monitored.
- b. Provider - Listing Link, LLC (Administrators: Dana Keith/ Mitch Lambert) - **Recommend approval** subject to receipt of proof of surety bond, not less than \$2,000 pursuant to §16-99-99 (15), HAR.
 - c. Instructor - Dana Keith for Elective course(s): "Real Estate and the Internet, Understanding a Changing Market" - **Recommend approval.**
 - d. Course - "Real Estate and the Internet, Understanding a Changing Market" (Provider: Listing Link, LLC/Instructor: Dana Keith) - **Recommend approval of first course** subject to including Hawaii rules on advertising and monitoring of course. Future course offerings subject to report of monitor. Course Category: General Brokerage.
4. Prelicensing Education Administration, Curriculum, Schools, Instructors, and Equivalency - Administrative Issues
- a. Letter from M. Russell Goode, Jr., President of the Hawaii Association of Real Estate Schools (HARES) - **Recommend** consulting with ASI to consider replacement or updating the current instructor examination. Staff also to reply to Mr. Goode that the general portion of the examination will not include specific questions on the government survey system. **Recommend** eliminating the examination requirement for certification and re-certification of prelicense instructors during the next rulemaking.
 - b. Letter from Madge Walls - Staff to respond.
5. ARELLO, REEA and Other Organizations - ARELLO Education and Research Fund Report for April 1998 - **Accept.**
6. Next Meeting: Wednesday, August 12, 1998, 10:00 a. m.
Kapuaiwa Room
HRH Princess Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Condominium Review Committee

Upon a motion by Commissioner Imanaka, seconded by Commissioner Ohama, it was voted on and unanimously carried to approve the report of the July 8, 1998 Condominium Review Committee meeting, as follows:

1. Minutes of June 10, 1998 -- **Accept** minutes.
2. HREREC Report
 - a. Hawaii Condominium Bulletin - Next scheduled bulletin for FY99, Number 1, awaiting text.
 - b. Board of Director's Guide - Introduction to Condominium Living and Preventing Housing Discrimination in Hawaii Condominiums have been printed and distributed.
 - c. Condominium Seminars - Fair Housing for Hawaii Condominiums was telecast live on June 13, 1998. Copies of tape now available.
3. Condominium Governance and Management
 - a. AOA Registrations -- 1997-1999 Registration Issued Effective Dates through June 30, 1998 - **Recommend approval** for ratification.
 - b. Education calendar -- **Recommend approval**, subject to funding and departmental approval that the Chair of CRC and the Supervising Executive Officer may designate one or more committee members to attend educational sessions.

4. CPR Registration, Public Reports, Extensions Issued -- **Recommend approval** to ratify issuance of effective dates for public reports and extensions for the month of June 1998.

5. Next Meeting: Wednesday, August 12, 1998
1:30 p.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Recovery Fund Report:

Stephen Kaya v. Tri Investments, Ltd.; Roy Matsumoto, et al., Civil No. 97-2992-07, Circuit Court of the First Circuit

Pursuant to a request by the Real Estate Recovery Fund attorney, the request to discuss this case was withdrawn.

Chapter 91, HRS, Adjudicatory Matters:

The Chair called a recess from the meeting at 9:47 a.m., to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, HRS :

In the Matter of the Real Estate Salesperson's License of Cecelia L. Bulkley, REC 97-133-L

Upon a motion by Commissioner Nomura, seconded by Commissioner Ohama, it was voted on and unanimously carried to accept the Settlement Agreement Prior to Filing Petition for Disciplinary Action and Commission's Final Order.

In the Matter of the Real Estate Broker's License of Robert H. Klaesson and the Real Estate Salesperson's License of Donna S. Klaesson, REC 96-3-L, et. al.

Upon a motion by Commissioner Ching, seconded by Commissioner Ohama, it was voted on and unanimously carried to approve the Commission's Final Order.

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

Executive Session:

Upon a motion by Commissioner Nomura, seconded by Commissioner Ohama, it was voted on and unanimously carried to enter into executive session, pursuant to Section 92-5(a)(1), HRS, "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 Nomura, seconded by Commissioner Ohama, it was voted on and unanimously carried to move out of executive session.

Licensing - Restoration of Forfeited Licenses:

**Lloyd W. King
Toko Kobayashi
Michael A. Lanfear**

**Salesperson
Salesperson
Salesperson**

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

Patrick L. Roherty

Salesperson

After a review of the information submitted by the applicant, Commissioner Nomura 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.

David C. Hoselton

Broker

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

Questionable
Applications:

Chris M. Yozamp

Commissioner Lindemann recused herself from the meeting.

After a review of the information presented by the applicant, Commissioner Ohama moved to accept the real estate salesperson's license application of Chris M. Yozamp despite its submission after the 90-calendar day deadline based on the evidence provided by the applicant that appears to substantiate receiving misinformation on the deadline date. Further, delegate to staff to continue processing the application. Commissioner Aki seconded the motion. The motion was voted on and unanimously carried.

Commissioner Lindemann returned to the meeting.

C. Keoki Cortez

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

David D. Kenyon

After a review of the information presented by the applicant, Commissioner Aki moved to approve the real estate salesperson's license application of David D. Kenyon. Commissioner Ohama seconded the motion. The motion was voted on and unanimously carried.

Bonnie C. Opperman

After a review of the information presented by the applicant, Commissioner Aki moved to approve Bonnie C. Opperman's request for an equivalency to the ten Hawaii real estate transactions requirement and part of the two-years full-time salesperson experience subject to receipt of a completed experience certification statement by the applicant's Maryland broker of record. Commissioner Imanaka seconded the motion. The motion was voted on and unanimously carried.

Jack S. Fisher

After a review of the information submitted by the applicant, Commissioner Imanaka moved to approve Jack S. Fisher's request for an equivalency to the ten Hawaii real estate transactions requirement, of which three are sales contracts or commercial or industrial leases closed escrow and three are listing contracts or commercial or industrial leases closed escrow. Commissioner Ohama seconded the motion. The motion was voted on and unanimously carried.

After a review of the information submitted by the applicant, Commissioner Imanaka moved to deny Jack S. Fisher's request to amend or backdate the licensing records of his association with Home & Business Realty Inc. since the completed Change Form was not submitted within ten (10) days after the date of

the change as per §16-99-5, Hawaii Administrative Rules. Commissioner Ohama seconded the motion. The motion was voted on and unanimously carried.

Richard B. Emery

After a review of the information presented by the applicant, Commissioner Ching moved to grant Richard B. Emery's request for reconsideration and further moved to approve Richard B. Emery's request for an equivalency to the ten Hawaii real estate transactions requirement, of which three are sales contracts or commercial or industrial leases closed escrow and three are listing contracts or commercial or industrial leases closed escrow. Commissioner Ohama seconded the motion. The motion was voted on and unanimously carried.

Stephen D. Soares

After a review of the information presented by the applicant, Commissioner Imanaka moved to approve the real estate salesperson's license application of Stephen D. Soares. Commissioner Nomura seconded the motion. The motion was voted on and unanimously carried.

Hawaiian Condo Resorts, Inc.

After a review of the information submitted by the applicant, Commissioner Ching moved to approve the real estate corporation application of Hawaiian Condo Resorts, Inc. Commissioner Aki seconded the motion. The motion was voted on and unanimously carried.

Executive Officer's Report:

Minutes of Previous Meetings

Upon a motion by Commissioner Aki, seconded by Commissioner Lindemann, it was voted on and unanimously carried to approve the minutes of the June 26, 1998 Real Estate Commission meeting as circulated.

Next Meeting:

Friday, August 28, 1998
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 10:45 a.m.

Reviewed and approved by:

/s/ Christine Rutkowski
Christine Rutkowski, Executive Officer

August 28, 1998
Date

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[X] Approved as is.

[] Approved with corrections; see the minutes of the _____ meeting.