

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: Thursday, December 10, 1998

Time: 9:00 a.m.

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

Present

Alvin Imamura, Chair
Nora Nomura, Vice Chair
Charles Aki, Member
Michael Ching, Member
Alfredo Evangelista, Member
Mitchell Imanaka, Member
Helen Lindemann, Member
John Ohama, Member
Iris Okawa, Member (Late Arrival)

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

Yukio Takeya, Hawaii Association of REALTORS
Nicki Ann Thompson, Hawaii Association of REALTORS
Richard S. Bramwell
Cynthia L. Smith
India
Cindy-Lynn D. Rasmussen
Scott Settle, Esq.

Call to Order: The Chair called the meeting to order at 9:05 a.m., at which time quorum was established.

Chair's Report: No Chair's report was presented.

The Chair wished those present a "Happy Holidays".

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

Additional Distribution

The following materials were distributed prior to the start of the meeting:

- 6. Questionable Applications Richard Bramwell
- 9. Committee Reports

- a. Laws and Rules Review Committee
- b. Education Review Committee
- c. Condominium Review Committee

Licensing and
Registration -
Ratification:

Upon a motion by Commissioner Aki, seconded by Commissioner Evangelista, it was voted on and unanimously carried to ratify the attached list.

Licensing - Restoration
of Forfeited Licenses:

Cindy-Lynn D. Rasmussen

Ms. Rasmussen was asked if she wished to have her application for the restoration of her forfeited real estate salesperson's license considered in executive session. She declined the offer.

Ms. Rasmussen stated that she was not aware that her license had been forfeited until February 1998. She stated that her renewal fee check had bounced in 1996. She had made the check good and continued on as if she had her license. Fortunately during the time that her license had been forfeited, she did not participate in any transactions. She stated that to the best of her knowledge, her license was active and renewed.

Ms. Rasmussen was asked if her principal broker had been aware that her license was not renewed. She stated no.

Ms. Rasmussen stated that she had become aware of the forfeiture when she had submitted a change form to change her address. She also stated that she had received a pocket card.

Ms. Rasmussen stated that the check had been submitted for her renewal in 1996, subsequently, the check was returned. She had been notified by the bank that her check had been returned. Since she was worried about the lapse of her license, she contacted the Licensing Branch and asked them for advice as to what needed to be done. It was then explained to her that she would have to pay the bounced check fee and the renewal fee in cash. In February, she was notified that the Department had received notification that her check had bounced, but since she had already taken care of it, she did not follow up on the matter. She stated that she had received her pocket card after she had taken care of the bounced check. She had no reason to believe that she was not licensed.

Ms. Rasmussen stated that she had called the Licensing Branch to find out why the amount was different. She stated that she was told by someone at the Licensing Branch not to worry about it. Ms. Rasmussen stated that she had not asked for a receipt when she paid the fees in cash. She stated that in February she had gone to the Licensing Branch to file a Change form. She had been asked by her principal broker to get a receipt for the Change form. She believes that she did not ask for a receipt when she paid her renewal fees in cash. It was an oversight on her part.

The Senior Real Estate Specialist informed the Commissioners that the bounced check fee notice was dated February 24, 1997. The notice from Licensing Branch to Ms. Rasmussen, dated January 6, 1998, is stamped "No response." There is no record in the licensing record of the payment.

Ms. Rasmussen stated that by the time she had received notice of the bounced check, she had taken care of everything. She stated that she had received her pocket card in early February because she had made good on her payment. She stated that she had paid the fee in cash on the first floor. She does not recall going upstairs to the Cashier's Office on the third floor.

Ms. Rasmussen stated that the second time she had tried to pay cash at the Licensing Branch, they informed her that they don't have change and so they could not accept the payment. She was unaware until this year that she had to go to the Cashier's Office in

order to pay for fees if she was paying in cash.

Ms. Rasmussen was informed that when the renewals are processed, the computer records show when the pocket cards are ordered and issued to the licensee. The records reflect that the pocket card was ordered and issued prior to Licensing Branch's receipt of the bounced check notice.

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

Ms. Rasmussen asked what the next step would be. The Chair informed her that the Commission would deliberate on the application and then she will be notified by mail. She may also contact the Commission office tomorrow, should she wish to find out the Commission's decision.

Licensing -
Questionable
Applications:

Richard S. Bramwell

Mr. Bramwell was asked if he wished to have his application for a real estate salesperson's license considered in executive session. Mr. Bramwell declined the offer.

Mr. Bramwell stated that he has been working with one of the largest time share companies on Kauai for three years as a marketing OPC. He is extremely loyal to the company. He is doing everything possible to become a time share agent with them, which is why he did not apply for an inactive license. He was told that he would be hired by the company, but he had to wait until the approvals were received in order for him to be officially hired by them.

Mr. Bramwell stated that he had called the sales manager to tell him that it was getting close to the end of his 90 day deadline. He stated the delay was due to the bureaucratic procedures which were involved in getting his time share license. Mr. Bramwell stated that his proposed principal broker had done everything on her part, but the time share company was slow in approving his hiring.

Mr. Bramwell stated that on October 16, 1998, he had called to see if his application needed to be received in the office by the 90th day or if a postmark was sufficient. Mr. Bramwell stated that it had taken most of October 16 to make sure that everything was done on time. He said that he had told the proposed principal broker that he had to get his application mailed by the 16th.

Mr. Bramwell stated that he did not know what caused his application to be postmarked on October 19 and he is extremely upset about it. He stated that he has submitted letters from the Director of Sales and the Marketing Administrator on his behalf. He also submitted a letter from the Postmaster from the Lawai Post Office clarifying the mailing deadlines for neighbor island post offices.

Mr. Bramwell stated that he knows that if he was on Oahu, his application would have been on time. Mr. Bramwell also stated that he is very sincere and that he has been working hard to get on the sales floor.

Mr. Bramwell stated that he had gone to Australia for a month on vacation. When he returned, he expected to receive his license. However, upon his return, he was dismayed to receive a letter stating that his application had not been received within the 90 days. Mr. Bramwell was asked if the mail had been deposited after the post office had closed. Mr. Bramwell stated that his principal broker was saying that it was given to the post office prior to closing. Mr. Bramwell stated that he was later informed that the only way that it could have been guaranteed to be postmarked that day was if it were sent by certified mail. Or a note could have been affixed to the mail, specifying that the envelope needed to be postmarked on that date.

Mr. Bramwell was informed that his letter states that he had left his application with his proposed principal broker on October 18th. Mr. Bramwell stated that when he received the letter from REB staff, he had assumed that his principal broker had mailed it after October 16th. Mr. Bramwell stated that he did not know why the envelope was not postmarked on Saturday, October 17th.

Mr. Bramwell was informed that his proposed principal broker's transmittal to the Commission is dated October 18, 1998. Mr. Bramwell stated that he was unaware of the October 18, 1998 letter and that the facts should be verified with his proposed principal broker. Mr. Bramwell stated that he would request a copy of the letter, through an attorney, if that is the case. It was a complete surprise to him.

Commissioner Ching read the last line of the statement from the post office which states: "Regular mail deposited at this post office is routed to Honolulu, postmarked there and forwarded to the recipient, including destinations on Kauai." If the envelope had been forwarded to Honolulu, it would have a Honolulu postmark. The envelope containing Mr. Bramwell's application had a Koloa postmark, which was dated October 19.

Mr. Bramwell stated that they do have problems with delivery of their mail in the rural areas. He stated that his father was an accountant and it not uncommon for him to mail a letter to a location that is ten minutes away and it would take a few days for the party to receive the mail.

The SEO stated that the staff had returned the check and his certificate of completion to Mr. Bramwell. Mr. Bramwell was asked if he had brought his application and the supporting documents to the meeting with him today. Mr. Bramwell stated that he did and presented them to staff when requested.

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

CRP Sales, LLC, Island Pacific Homes

Cynthia L. Smith, proposed principal broker of CRP Sales, LLC, Island Pacific Homes, and Scott Settle, Esq., attorney for Coastal Rim Properties, Inc., were present at the meeting. When asked if they wished to have the application considered in executive session, Mr. Settle answered in the affirmative.

Executive Session:

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

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

Licensing - Questionable Applications:

India

India was asked if she wished to have her request considered in executive session. She answered in the affirmative.

Executive Session:

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

Upon a motion by Commissioner Ohama, seconded by Commissioner Evangelista, it was voted on and unanimously carried to enter into executive session, pursuant to Section 92-5(a)(4), HRS, "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 Ohama, it was voted on and unanimously carried to move out of executive session.

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

After a review of the information presented by the applicant, Commissioner Nomura moved to defer decision making on this matter pending further research. Commissioner Ohama seconded the motion. The motion was voted on and unanimously carried.

India stated that it was in relation to the Senior Real Estate Specialist's helpfulness that she was present at today's meeting. She thanked the Commission for allowing her to come before them today.

Committee Reports:

Laws and Rules Review Committee

Upon a motion by Commissioner Ching, seconded by Commissioner Ohama, it was voted on and unanimously carried to accept the report of the December 9, 1998 Laws and Rules Review Committee meeting, as follows:

1. **Accept** the minutes of the November 10, 1998 meeting.
2. **Recommend** that REB staff draft proposed legislation for a Commission requested bill on amendments to Chapter 467, as follows:
 - a. Real estate recovery fund amendment on bankruptcy issue to withstand constitutional scrutiny (approved at the 12/11/97 Commission meeting);
 - b. Deregulating and streamlining branch office licensing to registration with principal office and repeal site office registration (discussed previously starting 10/97);
 - c. Provide current out of state licensees with equivalency to the uniform section of Hawaii exam and provide Commission authority to provide only the Hawaii specific section to applicants/licensees for various requirements, including but not limited to current out of state licensees prelicensing, continuing education, restoration of forfeited licenses, disciplinary sanction, reinstatement of suspended license) (previously discussed and approved);
 - d. Streamlining and updating the experience requirement for broker candidates to the present brokerage industry especially specialization areas of 3 years full time Hawaii salesperson experience immediately prior to applications, repealing transaction requirements, and repealing all exemptions/equivalencies except the current out of state licensees category (previously discussed and approved);
 - e. Streamlining and deregulating the process for restoration of forfeited license applicants (previously discussed and approved as a possible rule amendment);
 - f. Providing the Commission with authority to provide preliminary decision on license applicants concerning a reputation for or record of competency,

honesty, truthfulness, financial integrity, and fair dealing prior to prelicensing education or exam, including application fee and expiration date;

- g. Streamlining condominium hotel operators registration process, especially the fidelity bond requirement; and
- h. Streamlining and deregulating CE instructors certification and placing more responsibility on the provider.

Recommend also that the drafted bill be forwarded to the Commissioners for their review and comment. Should there be concerns regarding the proposed legislation, the Chair of the Commission and the Chairs of the standing committees will consult with REB staff to reach a consensus decision on behalf of the Commission. REB staff will then circulate the proposed legislation to P&VLD and the Deputy Attorney General for their comments and then prepare a final draft which will be presented to the Legislature.

- 3. Next Meeting: Wednesday, January 13, 1999
 9:00 a.m.
 Kapuaiwa Room
 HRH Princess Victoria Kamamalu Building
 1010 Richards Street, Second Floor
 Honolulu, Hawaii

Education Review Committee

Upon a motion by Commissioner Aki, seconded by Commissioner Nomura, it was voted on and unanimously carried to accept the report of the December 9, 1998 Education Review Committee meeting, as follows:

- 1. Minutes of October 14 and November 10, 1998 Meetings - **Accept**
- 2. Continuing Education Administration, Curriculum, Courses, Providers and Instructors - Applications
 - a. 1997-1998 Continuing Education Providers, Instructors, and Courses Ratification List - **Recommend Approval** of the following:

<u>Registration/Certification</u>	<u>Effective Date</u>
Instructor	
Gino L. Gabrio	12/02/98
Elective Course: "Commercial Real Estate Sales & Leasing"	
 - b. 1999-2000 Continuing Education Providers, Instructors, and Courses Ratification List - **Recommend Approval** of the following:

<u>Registration/Certification</u>	<u>Effective Date</u>
Provider(s)	
Abe Lee Seminars	01/01/99
Duplanty School of Real Estate	01/01/99
Instructor	
Jeffrey S. Grad	01/01/99
Course Categories:	Contracts Real Estate Law
Abraham W. H. Lee	01/01/99
Elective Course: "Disclosure in Hawaii Residential Transactions"	
Course Categories:	Investment Fair Housing Real Estate Law Update and Ethics Property Ownership & Development
Gretchen B. Duplanty	01/01/99
Elective Courses:	"Condominiums: Laws & Issues" "Disclosures in Hawaii Residential"

Course Categories: Transactions"
 Contracts
 Investment
 Fair Housing
 Property Management
 Real Estate Law Update and Ethics
 Property Ownership & Development

Course(s)

Developing Small Properties (A. Lee) 01/01/99
 Zoning - Issues, Problems, Questions, Answers (A. Lee) 01/01/99
 Sticks, Bricks & Steel Understanding Plans &
 Construction Methods (A. Lee)

01/01/99

Registration/Certification Effective Date

Course(s)

CRATS, CRUTS & FLPS: An Alternative Way to Own
 & Sell Real Estate" (A. Lee) 01/01/99
 Wills, Trusts and Real Estate (A. Lee) 01/01/99
 Condominium Development Process (A. Lee) 01/01/99
 Understanding the Land Use Ordinance: C&C
 of Honolulu (A. Lee) 01/01/99
 Residential Landlord-Tenant Code (A. Lee) 01/01/99

3. Prelicensing Education Administration, Curriculum, Schools, Instructors, and
 Equivalency - Applications

a. 1999-2000 Prelicensing Education Schools and Instructors
 Reregistration/Recertification Ratification List - **Recommend Approval** of
 the following:

Registration/Certification Effective Date

School(s)

Maui Community College -VITEC 01/01/99
 (Salesperson/Broker)
 Seiler School of Real Estate 01/01/99
 (Salesperson/Broker)
 Vitousek Real Estate School 01/01/99
 (Salesperson/Broker)
 Dower School of Real Estate 01/01/99
 (Salesperson/Broker)

Instructor(s)

Ricardo D. Seiler 01/01/99
 (Salesperson/Broker)
 Paige B. Vitousek 01/01/99
 (Salesperson/Broker)
 Frederick J. Luning 01/01/99
 (Math Guest Lecturer - Salesperson)

b. Instructor - Jay J. Spadinger - Prelicense Instructor Recertification
 Application - **Recommend Approval** and delegate to staff to continue
 processing to completion the Continuing Education Instructor
 Recertification Application of Jay J. Spadinger, containing the same
 information presented in his Prelicense Instructor Recertification
 Application.

c. School - Akahi Real Estate Network LLC (Principal J. Jay Spadinger)-
 Prelicense School Reregistration Application - **Recommend Approval**
 and delegate to staff to continue processing to completion the Continuing
 Education Provider Recertification Application of Akahi Real Estate
 Network LLC, containing the same information presented in his Prelicense
 School Recertification Application.

d. Instructor - Frederick J. Luning - Prelicense Instructor Recertification
 Application - Math Guest Lecturer Broker Curriculum - **Recommend**

Approval.

4. Administration of Examinations - ASI Test Development sessions on February 22 and 23, 1999 and industry day is February 24, 1999. Request that Commissioners, especially those who have not participated previously in Test Development (aka Item Writing), be available for participation on those days. Commissioner Lindemann and Staff will be working on the curriculum outlines with ASI for possible amendments and requests that Commissioners submit any recommendations immediately.
5. Program of Work, FY99 - Neighbor Island Outreach, Interactive Participation with Organizations, Real Estate Specialist Office for the Day. Staff to provide recommendations on the feasibility of participating with HAR and local boards on their education sessions on 7/2/99 (Kauai), 7/9/99 (Maui), 7/23/99 (Waikoloa), 7/30/99 (Honolulu), and the leadership session on 10/29/99. To include Real Estate Specialist Office for the Day for each date, REC Committee meetings on 7/8/99 on Maui, rescheduling REC meeting to 7/29/99.
6. Program of Work, FY99 - Legislative Participation, Research, and Report. **Recommend approval** to include in proposed Commission sponsored bill deregulation of continuing education instructor certification. The Commission will no longer certify instructors and it will be the continuing education provider's responsibility to certify that all instructors meet the required standards for command knowledge of subject matter, teaching experience and completion of Instructor Development Workshops.
7. ARELLO, REEA and Other Organizations - ARELLO Education Fund Report for September 1998 - **Recommend Acceptance**
8. Next Meeting: Wednesday, January 13, 1999
10:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
250 South King Street
Honolulu, Hawaii

Condominium Review Committee

Upon a motion by Commissioner Imanaka, seconded by Commissioner Nomura, it was voted on and unanimously carried to accept the amended report of the December 9, 1998 Condominium Review Committee meeting, as follows:

1. **Minutes of November 10, 1998 -- Accept** minutes.
2. **HREREC Report** -- Hawaii Condominium Bulletin - FY99 Vol. 7, Number 2, will be based on REB schedule for layout and target distribution.
3. **AOAO Registrations 1997-1999 Registration (November 30, 1998) -- Recommend approval** for ratification.
4. **CPR Registration, Public Reports, Extensions Issued -- Recommend approval** to ratify issuance of effective dates for public reports and extensions for the month of November 1998.
5. **Program of Work, FY99 -- Recodification of Chapter 514A -- Recommend approval** to sponsor a bill to: (1) provide authority to the Commission to establish a temporary position and hire an attorney Condominium Specialist for the biennium to be dedicated to the recodification program, (2) request an appropriation to increase the CMEF budget to provide for compensation including benefits, equipment, computer, etc. for the temporary position, subject to Administration consent.
6. **Program of Work, FY99 -- Condominium Seminars** -- Staff to review letters of interest from CAI-Hawaii and HCAAO, REC criteria for condominium seminars, CMEF budget and provide recommendations at next CRC meeting how to proceed with a working relationship and guidelines for the proposals.
7. Next Meeting: Wednesday, January 13, 1999
1:30 p.m.
Kapuaiwa Room

HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

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;".

Commissioner Okawa arrived.
Commissioner Imanaka recused himself relating to CRP Sales, LLC, Island Pacific Homes prior to decision making.

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

Licensing - Restoration
of Forfeited Licenses:

Linda A. Fong
Philip S. Nerney

Salesperson
Salesperson

After a review of the information submitted by the applicant, Commissioner Evangelista moved that restoration be approved upon submitting evidence of successfully completing one of the two options of Commission-approved real estate courses. Commissioner Ohama seconded the motion. The motion was voted on and unanimously carried.

Cindy-Lynn D. Rasmussen

Salesperson

After a review of the information presented by the applicant, Commissioner Evangelista moved that restoration be approved upon submitting evidence of successfully completing one of the two options of Commission-approved real estate courses. Commissioner Ohama seconded the motion. The motion was voted on and unanimously carried.

Doreen T. German

After a review of the information submitted by the applicant, Commissioner Evangelista moved that restoration be approved upon submitting evidence of successfully completing one of the two options of Commission-approved real estate courses. Commissioner Ohama seconded the motion. The motion was voted on and unanimously carried.

Licensing -
Questionable
Applications:

Richard S. Bramwell

After a review of the information presented by the applicant, Commissioner Evangelista moved that the application was not timely submitted as required by §16-99-29(f), HAR, therefore the applicant is deemed an unsuccessful applicant and subject to reexamination. Commissioner Ohama seconded the motion. The motion was voted on and unanimously carried.

CRP Sales, LLC, Island Pacific Homes

Commissioner Imanaka recused himself from the meeting.

After a review of the information presented by the applicant, Commissioner Ching moved to approve the limited liability corporation application of CRP Sales, LLC, Island Pacific Homes. Commissioner Ohama seconded the motion. The motion was voted on and unanimously carried.

Commissioner Imanaka returned to the meeting.

Jonathan Y. S. Kwon

After a review of the information submitted by the applicant, Commissioner Aki moved to approve Jonathan Y. S. Kwon's request for an equivalency to the ten (10) Hawaii written real estate transactions, 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. 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 Evangelista, seconded by Commissioner Nomura, it was voted on and unanimously carried to approve the minutes of the November 25, 1998 Real Estate Commission meeting, as amended.

Next Meeting:

Friday, January 29, 1999
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 a.m.

Reviewed and approved by:

Christine Rutkowski
Executive Officer

Date

[] Approved as circulated.

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