

**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, July 29, 1999

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  
Patricia Choi, Member  
Alfredo Evangelista, Member  
Mitchell Imanaka, Member (Early Departure)  
John Ohama, Member  
Iris Okawa, Member

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

Erica Piccolo, Special Deputy Attorney General  
Cay Singleton  
Christopher B. Singleton  
Alan Tuhy, Esq.  
Melanie Crowell

Call to Order: The Chair called the meeting to order at 9:06 a.m., at which time quorum was established.

Chair's Report: The Chair welcomed Patricia Choi as the incoming member of the Commission.

The Chair announced that Sharon On Leng, former Complaints Enforcement Officer at RICO, had given cookies to the Commissioners to say thank you for the Certificate of Appreciation that was presented to her by the Commission.

The Chair also recognized Real Estate Specialist Teshima and stated that she has been a great asset to the Commission. Ms. Teshima is moving on to another position and will be in charge of the

Physical Therapy and Occupational Therapist programs. The Chair presented her with a plaque of recognition on behalf of the Real Estate Commission. Commissioner Ching also presented Ms. Teshima with a lei from the Commissioners and the Deputy Attorney General also presented a lei to her.

Executive Officer's  
Report:

**Announcements, Introductions, Correspondence and Additional Distribution**

**Additional Distribution**

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

5. Licensing and Registration – Ratification
6. Licensing – Questionable Applications
  - a. Cay Singleton
  - b. Christopher B. Singleton
  - j. Noriko Hayashi
  - k. Franklyn E. De Foe
7. Chapter 91, Hawaii Revised Statutes, Adjudicatory Matters
  - c. In the Matter of the Real Estate Broker's License of Crystal Joy Acohido, REC 97-128-L

**Additions to the Agenda**

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

4. Committee Reports
  - d. Real Estate Education Fund and Condominium Management Education Fund Budget Report

**Minutes of Previous Meetings**

Upon a motion by Commissioner Ching, seconded by Commissioner Aki, it was voted on and unanimously carried to accept the minutes of the June 25, 1999 Real Estate Commission meeting as circulated.

Committee Reports:

**Laws and Rules Review Committee**

Upon a motion by Commissioner Ching, seconded by Commissioner Aki, it was voted on and unanimously carried to accept the report of the July 8, 1999 Laws and Rules Review Committee meeting as follows:

1. Minutes of Previous Meetings - Accept minutes of May 14, 1999 and June 9, 1999, subject to staff making appropriate changes reflecting Commissioner Okawa's arrival.
2. Program of Work, FY00 - Licensing, Registration, and Certification Administration - effective July 1, 1999, TAX will not be provided with a list of licensing applicants and applicants will **not** be subject to TAX review.
3. ARELLO, Other Organizations and Jurisdiction - **Recommend approval** for one staff member and no more than two commissioners to participate at the ARELLO Annual Conference, October 22-25, 1999 in Savannah, Georgia, subject to REEF budget and DCCA approval.

4. Next Meeting: Wednesday, August 11 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 Ching, it was voted on and unanimously carried to accept the report of the July 8, 1999 Education Review Committee meeting as follows:

1. Minutes of June 9, 1999 Meeting - Accept.
2. Continuing Education, Administration, Curriculum, Courses, Providers, and Instructors
  - a. Applications - 1999-2000 Continuing Education Providers, Instructors, and Courses Ratification List - **Recommend approval** of the following 1999-2000 Continuing Education elective course:

<u>Course</u>	<u>Effective Date</u>
“Commercial Real Estate Sales and Leasing” (Author/Owner: Gino L. Gabrio)	06/18/99
  - b. Continuing Education 99-00 Core Course - Core Course committee to meet to review latest draft and present a report at the August 11, 1999 ERC meeting.
  - c. Evaluation and Education Systems for CE and Prelicense Instructors - Instructor evaluations will be done only when the instructor/course are being monitored by the Commission or a representative of the Commission.
3. Next Meeting: Wednesday, August 11, 1999  
10:00 a.m.  
Kapuaiwa Room  
HRH Princess Victoria Kamamalu Building  
1010 Richards Street, Second Floor  
Honolulu, Hawaii

#### **Condominium Review Committee**

Upon a motion by Commissioner Evangelista, seconded by Commissioner Imanaka, it was voted on and unanimously carried to accept the report of the July 8, 1999 Condominium Review Committee meeting as follows:

1. **Minutes of June 9, 1999** - Accept minutes.
2. **AOAO Registrations - Recommend approval** to ratify effective dates for registrations for:
  - a. 1997 - 1999 Registrations through June 30, 1999.
  - b. 1999 - 2001 Registrations through June 30, 1999.
3. **CPR Registration, Public Reports, Extensions Issued - Recommend approval** to ratify issuance of effective dates for public reports and extensions for the month of June 1999.
4. **Program of Work, FY99**
  - a. **Rulemaking, Chapter 107 - Recommend** deferring decision making on draft rulemaking of Chapter 107 to the July 29, 1999 Real Estate Commission meeting.

- b. **Condominium Seminars - CAI's "Hidden Treasures in your Annual Budget" - Recommend** approval of CAI's seminar "Hidden Treasures in your Annual Budget" as a CMEF subsidized seminar, subject to the terms and conditions of the current contract.
5. **Open Forum**

There were no comments, recommendations, or concerns received from the following: Community Association Institute Hawaii Chapter, Alakahi Foundation, Hawaii Council of Association of Apartment Owners, Hawaii Independent Condominium and Cooperative Owners, Hawaii State Bar Association / Real Property & Financial Services Section, Land Use Research Foundation, Hawaii Association of Realtors / Institute of Real Estate Management Hawaii Chapter / Oahu Arm Committee, others.

Condominium Council of Maui - comments received from Robert Miskae in regards to increasing the relationship between the Real Estate Commission and the Condominium Council of Maui
6. **Next Meeting:** Wednesday, August 11, 1999  
1:30 p.m.  
Kapuaiwa Room  
Princess Kamamalu Building  
1010 Richards Street, Second Floor  
Honolulu, Hawaii 96813

#### **Laws and Rules Review Committee**

Program of Work, FY00 – Licensing, Registration, and Certification Administration – The SEO provided an updated report that DCCA is not providing the Department of Taxation ("TAX") with a list of licensing applicants and this is pending review by the Department. Those withheld would be in the cases that applicants submit outstanding tax obligation information about themselves.

DCCA and TAX are discussing TAX's request and will keep the Commission informed of the status. TAX would also like to continue or to reserve its rights to request that information be disseminated to the licensees through the Real Estate Bulletin.

#### **Rulemaking, Chapter 107**

The SEO reported that REB staff had met with Commissioner Imanaka to discuss the proposed changes to Chapter 107, HAR. Major changes have been made to the draft. They are hoping to come up with the next draft by this Friday. The draft will be distributed to the Commissioners and will be placed on the agenda of the August 11, 1999 Real Estate Commission meeting for discussion. The SEO reported that there is less government intervention in both governance and development issues.

Commissioner Imanaka stated that the next draft will reflect streamlined rules to be considered by the Commission.

#### **Real Estate Education Fund and Condominium Management Education Fund Budget Report**

The SEO reported that the Department's goal is to share the costs of the Real Estate Education Fund ("REEF") and the Condominium Management Education Fund ("CMEF"). The Department has given the Division a green light to perform equity balancing. The three Real Estate Specialists are currently paid out of the REEF. The three Condominium Specialists are

funded by the PVL Special Fund. The SEO is seeking approval for a supplemental budget request to equalize the funding of the Specialists' positions. He is proposing that the REEF fund two of the three Real Estate Specialists' positions and that the CMEF fund two of the three Condominium Specialists' positions. The PVL Special Fund would fund one Real Estate Specialist and one Condominium Specialist.

Upon a motion by Commissioner Nomura, seconded by Commissioner Ohama, it was voted on and unanimously carried to request that the REEF fund two Real Estate Specialists' positions, with the third position being funded by the PVL Special fund and that the CMEF fund two Condominium Specialists' positions, with the third position being funded by the PVL Special fund.

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 –  
Questionable  
Applications:

**Melanie K. Crowell**

Ms. Crowell was asked if she wished to have her application considered in executive session. Ms. Crowell answered in the affirmative.

Executive Session:

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

Licensing –  
Questionable  
Applications:

**Cay Singleton  
Christopher B. Singleton**

Ms. Singleton and Mr. Singleton, who were present with their attorney Alan Tuhy, were asked if they wished to have their application considered in executive session. They both stated that they would like their application to be considered in executive session.

Executive Session:

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

**Cay Singleton  
Christopher B. Singleton**

Commissioner Ching stated that the applicants should be required to take the exam and be allowed to restore their licenses to their respective status. Commissioner Aki and Imanaka agreed with Commissioner Ching.

Commissioner Nomura stated that she was bothered by the fact that the violations occurred in the 1970's. Commissioners Evangelista and Ohama agreed with Commissioner Nomura.

Commissioner Ching stated that he felt that Cay Singleton should be ordered to complete the preclicensing course for real estate salespersons and then be required to pass the real estate salesperson's licensing examination within six months. He also stated that Christopher B. Singleton should be required to complete the real estate broker's preclicensing course and pass the real estate broker's licensing examination within six months.

Commissioner Aki added that if the requirements are not met within the six-month period, they will have to start over as a new applicant.

Commissioner Ching stated that pursuant to §92-17, HRS, a license is considered to be forfeited because they did not apply timely for reinstatement. Under §436B-14, the Commission is given the authority to require that they start all over again as a new licensee.

Commissioner Evangelista stated that he would be against that motion because pursuant to §436B-14, HRS, the licensee is to restore their license up to one year after their license is forfeited. He stated that the option is two-fold. Either they cannot restore or they can only restore if they reapply as a new applicant. He does not read it that if they fail to restore within one year, the Commission cannot give him options. It would set a bad precedent because they would be expanding the interpretation of the rules on what the limitations are.

Commissioner Imanaka requested that the Deputy Attorney General respond to their questions.

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 Imanaka, it was voted on and unanimously carried to move out of executive session.

Licensing –  
Questionable  
Applications:

**Cay Singleton  
Christopher B. Singleton**

After a review of the information presented by the applicants, Commissioner Ching moved that Cay Singleton be required to complete the real estate salesperson's preclicensing course and to pass the real estate salesperson's licensing examination and that Christopher B. Singleton be required to complete the real estate broker's preclicensing course and to pass the real estate broker's licensing examination. Commissioner Imanaka seconded the motion. The motion was voted on. Commissioners Nomura, Evangelista, Ohama, Okawa and Choi opposed the motion. The motion died.

After a review of the information presented by the applicants, Commissioner Evangelista moved to deny Cay Singleton's application for reinstatement and Christopher Singleton's application for reinstatement. Both Cay Singleton and Christopher B. Singleton shall reapply as real estate salespersons. Commissioner Ohama seconded the motion. Pursuant to the applicants failure to comply with §92-17(c)(3), HRS, Cay Singleton and Christopher B. Singleton's license is deemed to be forfeited and pursuant to §436B-14, HRS, which states "A license which has been forfeited may be restored by the licensing authority within one year after the date of forfeiture upon

compliance with the licensing renewal requirements provided by law and upon written application and payment of all applicable renewal fees, penalty fees, compliance resolution fund fees and, if applicable, recovery fund assessments. Any person who fails to have the person's license restored within one year from the date of forfeiture may be required by the licensing authority to reapply for licensure as a new applicant." The applicants did not file for restoration within one year and so they may be required to be licensed as a new applicant, the applicants shall be required to reapply for licensure as a new applicant. The motion was voted on and carried. Commissioner Aki opposed the motion.

Recess: The Chair recessed the meeting at 10:27 a.m.

Reconvene: The Chair reconvened the meeting at 10:35 a.m.

Chapter 91, HRS. Adjudicatory Matters: The Chair called for a recess from the meeting at 10:35 a.m., to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, HRS:

**In the Matter of the Real Estate Brokers' Licenses of Sullivan Properties, Inc., Patrick T. Sullivan, and Michael J. Sullivan, REC 96-194-L**

Upon a motion by Commissioner Nomura, seconded by Commissioner Ohama, it was voted on and unanimously carried to approve the First Amended Settlement Agreement Prior to Filing of Petition for Disciplinary Action and the Commission's Final Order, and to satisfy paragraph 9, the Commission approves any continuing education elective course, not to be used as duplicate to satisfy license renewal on active status. If the parties prefer to take another course, they must submit a written request, and information on the course, course syllabus, the provider and other pertinent information within 60 days of the course offering date for Commission approval. The Commission delegated to staff approval of the course and its content.

**In the Matter of the Real Estate Salesperson's License of Steven H. Burke, REC 98-16-L**

Commissioner Imanaka was excused from the meeting.

Upon a motion by Commissioner Nomura, seconded by Commissioner Ohama, it was voted on and carried to reject the Stipulation for Summary Suspension of Respondent's Real Estate Salesperson's License and Order and the Commission requests that the Special Deputy Attorney General convey to RICO that the parties enter into an agreement that Steven H. Burke not engage in real estate activity.

**In the Matter of the Real Estate Broker's License of Crystal Joy Acohido, REC 97-128-L**

Upon a motion by Commissioner Ching, seconded by Commissioner Aki, it was voted on and carried to accept the withdrawal of the affidavit submitted by Cynthia Nakamura of RICO. Commissioner Nomura opposed the motion.

Commissioner Nomura stated that she has concerns with RICO when they automatically grant extensions without notifying the Commission. She requested that the Commission meet with RICO to discuss their concerns.

The Commissioners were informed that the new Complaints Enforcement Officer of RICO, Jo Ann Uchida, intends to meet with the Commission.

Commissioner Evangelista moved that staff be granted the authority, upon consultation with the Chair or Vice Chair, to decide whether or not to invite both parties to the meeting in future situations. The motion died due to the lack of a second.

**In the Matter of the Real Estate Broker's License of Douglas Correa, REC 97-113-L**

Upon a motion by Commissioner Ching, seconded by Commissioner Ohama, it was voted on and unanimously carried to accept the Hearings Officer's Findings of Fact, Conclusions of Law Recommended Order and Commission's Final Order.

**In the Matter of the Real Estate Broker's License of Robert H. Middleton, dba Kauai Isle Real Estate, REC 97-150-L**

Commissioners Ching and Evangelista recused themselves from the meeting.

Upon a motion by Commissioner Nomura, seconded by Commissioner Ohama, it was voted on and carried to accept the Hearings Officer's Findings of Fact, Conclusions of Law and that the Commission issue a Commission's Proposed Final Order that:

1. The Respondent is to pay a \$2,000.00 fine within 60 days of the date of the Commission's Final Order;
2. The Respondent complete one of the three "Real Estate Essentials" courses within four months of the date of the Commission's Final Order;
3. Upon receipt of an Affidavit from the Petitioner attesting that the Respondent has failed to comply with any provisions of the Commission's Final Order, the license will be automatically suspended for three months and if the non-compliance continues during the three months, upon an Affidavit from the Petitioner, the Respondent's license shall be revoked.

Commissioners Ching and Evangelista returned to the meeting.

Following the Commission's review, deliberation and decisions in these matters, pursuant to Chapter 91, HRS, the Chair announced that the Commission was reconvening its scheduled Commission meeting at 11:33 a.m.

Executive Session:

Upon a motion by Commissioner Evangelista, seconded by Commissioner Nomura, it was voted on and unanimously carried to enter into executive session, pursuant to §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 Ching, seconded by Commissioner Aki, it was voted on and unanimously carried to move out of executive session.

Licensing -  
Questionable  
Applications:

**Dale S. Winters**

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

**Randy R. Rasmussen**



The Chair recused himself from the meeting. The Vice Chair presided over the meeting.

After a review of the information submitted by the applicant, Commissioner Ching moved to approve the real estate salesperson's application of Randy R. Rasmussen. Commissioner Ohama seconded the motion. The motion was voted on and unanimously carried.

The Chair returned to the meeting and resumed presiding over the meeting.

**Clarence M. Gentry**

After a review of the information submitted by the applicant, Commissioner Ching moved to deny Clarence M. Gentry's application for a real estate salesperson's license, unless within 60 days he submits written verification from the Internal Revenue Service ("IRS") clarifying his statement that the IRS tax obligation has been deferred until the year 2002, or he submits proof of payment or an approved written payment plan with the IRS for all outstanding tax obligations. Commissioner Aki seconded the motion. The motion was voted on and unanimously carried.

**Melanie K. Crowell**

After a review of the information presented by the applicant, Commissioner Ching moved to approve the issuance of a conditional real estate salesperson's license to Melanie K. Crowell on the basis of §436B-19, HRS, that during the term of probation any violation of the terms of probation shall be grounds for revocation of license, that applicant shall advise her probation officer, any principal broker or broker-in-charge with whom she is associated that such a conditional real estate license has been issued and the terms of the conditions. Commissioner Aki seconded the motion. The motion was voted on and unanimously carried.

**David K. Futch**

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

**Robert F. K. Peterson**

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

**Kauai Shores Realty Inc.**

After a review of the information submitted by the applicant, Commissioner Aki moved to approve the real estate broker corporation application of Kauai Shores Realty Inc. Commissioner Okawa seconded the motion. The motion was voted on and unanimously carried.

**Noriko Hayashi**

The Chair recused himself from the meeting. The Vice Chair presided over the meeting.

After a review of the information submitted by the applicant, Commissioner Ching moved to accept the withdrawal of Noriko Hayashi's application for a real estate broker's experience certificate. Commissioner Ohama seconded the motion. The motion was voted on and carried.

The Chair returned to the meeting and resumed presiding over the meeting.

**Franklyn E. De Foe**

After a review of the information presented by the applicant, Commissioner Evangelista moved to deny Franklyn E. De Foe's request for a second reconsideration. The Commission's earlier decision was proper and only one motion for reconsideration will be considered. Commissioner Ohama seconded the motion. The motion was voted on and unanimously carried. The Commission's February 26, 1999 decision is the decision of record.

Next Meeting: Friday, August 27, 1999  
9:00 a.m.  
Kapuaiwa Room  
HRH Princess Victoria Kamamalu Building  
250 South King Street, Second Floor  
Honolulu, Hawaii

Adjournment: With no further business to discuss, the Chair adjourned the meeting at 11:47 a.m.

Reviewed and approved by:

\_\_\_\_\_  
Christine Rutkowski  
Executive Officer

\_\_\_\_\_  
Date

[        ]        Approved as is.

[        ]        Approved with corrections; see minutes of \_\_\_\_\_ meeting.