

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, May 26, 2000

Time: 9:00 a.m.

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

Present: Charles Aki, Chair Pro Tem
Michael Ching, Member
Alfredo Evangelista, Member
John Ohama, Member
Iris Okawa, Member

Calvin Kimura, Supervising Executive Officer
Christine Rutkowski, Executive Officer
Pamela Garrison, Senior Real Estate Specialist
Naomi Cole, Real Estate Specialist
Russell Wong, Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Gina Watumull, Condominium Specialist
Jay Paige, Deputy Attorney General
Irene Kotaka, Secretary

Wayne Muraoka, Esq.
Elizabeth H. Lee, Esq.
Sharlene Yamashita
Dean Sugimoto
Todd Sean White
Marsha Shimizu, Hawaii Association of REALTORS
Joseph Mottl, Esq.
Henry G. Zapata, Jr.

Excused: Alvin Imamura, Chair
Nora Nomura, Vice Chair
Patricia Choi, Member
Mitchell Imanaka, Member

Call to Order: The Chair Pro Tem called the meeting to order at 9:04 a.m., at which time quorum was established.

Chair's Report: The Chair Pro Tem announced that this was Christine Rutkowski's last meeting with the Real Estate Commission. He stated that the Commission will miss her, and they have enjoyed working with her. The Commission presented a lei to her.

Upon a motion by Commissioner Ching, seconded by Commissioner Ohama, it was voted on and unanimously carried to recognize Ms. Rutkowski's work with the Commission and to express their appreciation for her hard work and dedication.

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:

3. Executive Officer's Report
 - b. Minutes of Previous Meetings
6. Licensing – Questionable Applications
 - a. Todd S. White
 - b. Michael Murphy III
 - d. Kala J. Alexander
 - f. Armstrong Properties, Ltd.
7. Chapter 91, Hawaii Revised Statutes, Adjudicatory Matters
 - b. In the Matter of the Application for a Real Estate Salesperson's License of Henry G. Zapata, Jr., Certificate of Discharge Regarding Defendant Henry G. Zapata, aka Henry Garcia Zapata

Minutes of Previous Meetings

Upon a motion by Commissioner Evangelista, seconded by Commissioner Okawa, it was voted on and unanimously carried to approve the minutes of the April 28, 2000 Real Estate Commission meeting as circulated.

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 May 12, 2000 Laws and Rules Review Committee meeting as follows:

1. Minutes of Previous Meetings - **Accept** minutes of April 12, 2000.
2. Program of Work, FY01 – Comments due to the SEO or to the Committee Chair by June 7, 2000.
3. Special Issues
 - a. Goodwin, Proctor & Hoar LLP Request for Informal Interpretation – Staff to respond to Goodwin, Proctor & Hoar LLP's request that no real estate broker's license is needed, based upon the information provided.
 - b. Licensing Policy Issue from SWAT – Discussion at the May 26, 2000 Real Estate Commission Meeting.

4. RERF Budget and Finance Report – **Recommend acceptance** of the March 2000 report.
5. Next Meeting: Wednesday, June 7, 2000
9:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Licensing Policy Issue from SWAT – The Commission's rules requires that changes must be reported to the Commission within 10 days of the change. Based on the Commission's policy, change forms are being processed as follows: If the Change form is filed within ten days of the change, the dates on the form are recorded as noted. If the Change form is received after the ten days of the date of the change, the dates are recorded to be effective as of the date that the Licensing Branch received it. Commissioner Ching stated that the Commission is acting as a reporting agency. He felt that the Commission should be recognizing the dates on the Change form and if the changes are reported after the ten days, the matter should be referred to RICO for further handling.

Commissioner Ching moved that the changes be reported as of the dates noted on the Change form and that any changes reported after the ten days are subject to penalty. Commissioner Okawa seconded the motion.

The EO informed the Commissioners that without setting any limitations, the Commission would begin to allow backdating of records. The Licensing Branch has reported that Change forms containing dates outside of the ten days are received with some Change forms containing requests to backdate records for year's prior. If a request was submitted today to backdate the record to January 1999, the requested change would be recorded under the new proposal.

Commissioner Ching withdrew his motion. Commissioner Okawa withdrew her second.

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

Education Review Committee

Upon a motion by Commissioner Ohama, seconded by Commissioner Ching, it was voted on and unanimously carried to accept the amended report of the May 12, 2000 Education Review Committee meeting as follows:

1. Minutes of April 12, 2000 – **Accept.**
2. Continuing Education Administration, Curriculum, Courses, Providers, and Instructors

- a. "1031 Tax Deferred Exchanges," Author/Owner: Dower School of Real Estate, (Provider: Dower School of Real Estate), Course Category: Other – Tax Deferred – **Recommend approval.**
 - b. "HUD, VA and (Non) Judicial Foreclosures," Author/Owner: Abe Lee, (Provider: Abe Lee Seminars), Course Category: Property Ownership and Development – **Recommend approval.**
 - c. "The Roots of Discrimination . . . the History of Fair Housing," Author/Owner: Kathleen M. O. Howe, (Provider: Kona Board of REALTORS), Course Category: Other – Fair Housing – **Recommend approval.**
3. Program of Work, FY01 – Comments due to SEO or to the Committee Chair by June 7, 2000.
 4. REEF Budget and Finance Report – **Recommend acceptance** of the March 2000 report.
 5. Next Meeting: Wednesday, June 7, 2000
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 Ching, it was voted on and unanimously carried to accept the report of the May 12, 2000 Condominium Review Committee meeting as follows:

1. Minutes of April 12, 2000 - **Accept** minutes.
2. Condominium Governance and Management
 - a. Hawaii Condominium Bulletin - Printing Contract - Subject to the review and advice of the deputy attorney general, **recommend approval to accept** the proposal of Fisher & Pioneer Printers dated April 11 and 25, 2000 and to enter into a contract with Fisher & Pioneer Printers for the printing of 4 issues of the Hawaii Condominium for FY01, per the compensation amount as proposed and the terms and conditions as set forth in the Scope of Services distributed to prospective printing vendors; with the Commission's option to automatically renew for another one year term.
 - b. AOA Registrations - **Recommend approval** to ratify effective dates for AOA registrations for 1999 - 2001 registrations through April 30, 2000.
 - c. Start-up Kit for New AOAs and CMAs - **Recommend approval to purchase** from the National Association of Parliamentarians the "Student Leadership Notebook

- 1992" for inclusion in the start-up kits of new AOAOs and CMAAs effective FY01, subject to budget approval.
3. Developer's Public Reports, Extensions Issued - **Recommend approval** to ratify issuance of effective dates of the developer's public reports and extensions issued for the month of April 2000.
 4. Program of Work; FY01 - Comments due to the SEO or Committee Chair by June 7, 2000.
 5. CEF Budget and Finance Report - **Recommend acceptance** of the March 2000 report.
 6. Next Meeting: Wednesday, June 7, 2000
1:00 p.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Licensing and
Registration -
Ratification:

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

Licensing -
Questionable
Applications:

Todd S. White

Todd S. White was present to answer any questions the Commission may have regarding his application for a real estate salesperson's license. Mr. White was asked if he wished to have his application considered in executive session. He declined the offer.

Commissioner Evangelista questioned Mr. White as to when the letter to Lynne McKnight was written. Mr. White stated that it was written shortly after the incident. He stated he spoke with an attorney that was recommended by his friend and was told that if he had grabbed the man, it would be considered assault. Mr. White stated that he did not strike the man. He recognizes that what he did was wrong.

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

Armstrong Properties, Ltd.

Wayne Muraoka, Esq., and Elizabeth Lee, Esq., legal counsel for Armstrong Properties, Ltd., were present at the meeting. Also present were Sharlene Yamashita, proposed Principal Broker, and Dean Sugimoto, Chief Financial Officer of Armstrong Builders, Ltd.

The parties were asked if they wished to have the application considered in executive session. They declined the offer.

Mr. Muraoka stated that although his name does not appear on the letters submitted by the attorneys, he has been asked to speak on behalf of the Armstrong companies. He stated that the Commission is authorized by the statute to approve the use of a portion of a person's

name in the name in a real estate company, even though the individual is not licensed. He stated that approval had been given in the past to Castle and Cooke, Schuler Homes, and Gentry Realty, all of whom are not licensed. Mr. Muraoka stated that Armstrong Builders, Ltd. is a well-recognized and well-respected construction company. Armstrong Design, Ltd. is their architectural entity. Building is done by Armstrong Homes, Ltd. They are asking that they be granted a license so that they may sell and market their own homes, alongside Armstrong Builders, Ltd., Armstrong Design, Ltd., and Armstrong Homes, Ltd. Mr. Muraoka stated that concerns were raised as to the possibility of the public thinking that the Armstrongs were real estate brokers. They have submitted documents which shows that Armstrong Builders, Ltd. has developed a good reputation. Documents of Armstrong Builders, Ltd.'s internet advertising was submitted to the Commissioners for their information. The information that appears on their website focuses on their being a one-stop business.

Sharlene Yamashita has been a real estate broker in Hawaii for the past eight years. She is the proposed principal broker for Armstrong Properties, Ltd. It is not their desire to promote Robert H. Armstrong as a real estate broker but that a consumer can purchase a home developed by Armstrong Homes, Ltd., designed by Armstrong Design, Ltd. and marketed by Armstrong Properties, Ltd. They would be able to provide a full line of services to the consumer.

Mr. Muraoka thanked the Commission for their time and consideration.

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

Chapter 91, HRS,
Adjudicatory
Matters:

The Chair called for a recess from the meeting at 9:34 a.m., to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, HRS:

In the Matter of the Application for a Real Estate Salesperson's License of Henry G. Zapata, Jr.

Henry G. Zapata, Jr., and his attorney, Joseph Mottl, were present to provide oral testimony.

The parties provided oral testimony.

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

Recess:

The Chair Pro Tem recessed the meeting at 10:20 a.m.

Reconvene:

The Chair Pro Tem reconvened the meeting at 10:40 a.m.

Chapter 91, HRS,

The Chair called for a recess from the meeting at 10:40 a.m., to discuss

Adjudicatory
Matters:

and deliberate on the following adjudicatory matters, pursuant to Chapter 91, HRS:

In the Matter of the Real Estate Broker's License of Paul T. Shiraki, REC 99-53-L

Upon a motion by Commissioner Ching, seconded by Commissioner Evangelista, it was voted on and unanimously carried to adopt the Hearings Officer's Findings of Fact, to accept the Hearings Officer's finding in his Conclusions of Law section that "no evidence was introduced to establish that either the Respondent's conviction...when the Respondent held a real estate license." The Commission determines that it has jurisdiction in this matter since the Respondent submitted an application for restoration on December 1, 1998. The Commission found that RICO had not met its burden by the preponderance of the evidence and therefore dismisses the case.

In the Matter of the application for a Real Estate Salesperson's License of Henry G. Zapata, Jr.

Upon a motion by Commissioner Ching, seconded by Commissioner Ohama, it was voted on and unanimously carried to accept the Petitioner's request for reconsideration of and/or objection to the Commission's Proposed Final Order, dated December 9, 1999. The Commission accepts the new/additional information submitted by the Respondent. Subject to the Respondent's submission, no later than November 30, 2000, of a newly completed application form and current fees, proof of completion of ten hours of continuing education (which will also satisfy the renewal requirement for the November 30, 2000 license renewal), the Commission will most likely approve the license application, provided that no other questionable matters concerning the Respondent's reputation for or record of competency, honesty, truthfulness, financial integrity, and fair dealing are revealed.

In the Matter of the Real Estate Salesperson's License of Eric K. Yoshida, REC 99-100-L

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

In the Matter of the Real Estate Broker's License of Vergel N. Adonis, REC 98-137-L

Commissioner Evangelista recused himself from the meeting.

Decision making on this matter was deferred to the June 30, 2000 Real Estate Commission meeting due to a lack of quorum.

Commissioner 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 10:58 a.m.

Executive
Session:

Upon a motion by Commissioner Ching, seconded by Commissioner Ohama, it was voted on and unanimously carried to enter into executive session, pursuant to Section 92-59(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 Ohama, it was voted on and unanimously carried to move out of executive session.

Licensing -
Questionable
Applications:

Todd S. White

After a review of the information provided by the applicant, Commissioner Ching moved to approve the real estate salesperson's license application of Todd S. White. Commissioner Evangelista seconded the motion. The motion was voted on and unanimously carried.

Michael M. Murphy III

After a review of the information submitted by the applicant, Commissioner Evangelista moved to deny Michael M. Muphy III's application for a real estate salesperson's license unless, within 60 days, he submits proof of payment, an approved written payment plan, or discharge of the obligation with the Internal Revenue Service for all outstanding tax obligations.

Yonola Sophia Jeursen

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

Kala J. Alexander

Commissioner Ching recused himself from the meeting.

Due to a lack of quorum, decision making was deferred to the June 30, 2000 Real Estate Commission meeting,

Commissioner Ching returned to the meeting.

Donald G. Baxter

After a review of the information submitted by the applicant, Commissioner Evangelista moved to approve the real estate broker's experience certificate of Donald G. Baxter. Commissioner Okawa seconded the motion. The motion was voted on and unanimously carried.

Armstrong Properties, Ltd.

After a review of the information presented by the applicant, Commissioner Evangelista moved to approve the real estate corporation application of Armstrong Properties, Ltd., pursuant to §467-9(b), HRS. The Commission disagreed with Counsel's interpretation that Armstrong Properties, Ltd., alone or by affiliation with the Armstrong entities established a national or international presence. However, the Commission approved the corporate name based on all other factors provided before the Commission. Commissioner Ohama seconded the motion. The motion was voted on and unanimously carried.

Linda Kuualoha Frias

After a review of the information submitted by the applicant, Commissioner Ohama moved to deny the Linda Kuualoha Frias' request that her license be restored without having to fulfill the continuing education and the course (exam option) requirement. The Commission recognized the special circumstances and expressed its sincerest empathy, however, upon the advice and counsel of its advising Deputy Attorney General, the Commission does not have the authority to waive or otherwise grant an exception to the license restoration requirements as set forth in HRS §467-11. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

Committee Reports:

Laws and Rules Review Committee

Licensing Policy Issues from SWAT – Hawaii Administrative Rules, §16-99-5(h) - Upon a motion by Commissioner Ching, seconded by Commissioner Ohama, it was voted on and unanimously carried to approve the following:

“All changes submitted to the Commission pursuant to §16-99-5(h), HAR, shall be effective when the changes, made on a form provided by the Commission, are approved by the Commission. The Commission approves a new policy in implementing this section as it pertains to submission of Change Forms for changes of individual salesperson broker affiliation. Licensees are still required to comply with the reporting period, specifically, that changes must be reported within ten (10) days of the date of the change and the Change Form must be used. Should the Change Form not be received by the Licensing Branch within ten (10) days of the change, the dates as designated by the broker signing on the licensee and the dates as designated by the broker releasing the licensee's association will be accepted. However, enforcement action

will be adopted and failure to comply with the ten-day reporting requirement may result in disciplinary action taken against the involved licenses.”

Executive Officer's Report:

Announcements, Introductions, Correspondence and Additional Distribution

Upon a motion by Commissioner Ohama, seconded by Commissioner Evangelista, it was voted on and unanimously carried to reschedule the next Real Estate Commission meeting to Thursday, July 27, 2000, in order to encourage participation at the Hawaii Association of REALTORS' Outreach program.

Next Meeting:

Friday, June 30, 2000
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 Pro Tem adjourned the meeting at 11:31 a.m.

Reviewed and approved by:

Christine Rutkowski
Executive Secretary

Date

[] Approved as circulated.

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

APPROVED APPLICATIONS FOR REAL ESTATE
REAL ESTATE COMMISSION MEETING ON MAY 26, 2000

<u>Brokers - Corporations and Partnerships</u>	<u>Effective Date</u>
Castle & Cooke Realty, Inc. Mark-Allen H. DeCastro, PB	04/26/00
USA Realty, LLC Kimiko Nakamura, PB	04/17/00

<u>Brokers – Limited Liability Companies and Partnerships</u>	<u>Effective Date</u>
Avalon Development Company, LLC, Avalon Development & Consulting Andrea G. Lehman, PB	04/27/00

<u>Brokers - Sole Proprietor</u>	<u>Effective Date</u>
Russell Todd, Maui Todd Realty	03/30/00
Paul T. Rufo, Equity Investments	04/04/00
Rodrigo A. Ulep	04/05/00
Mark Sperry	04/06/00
Daniel P. Cohen	04/13/00

<u>Corporation Name</u>	<u>Effective Date</u>
Coldwell Banker Bali Hai Realty, Inc. (fka Bali Hai Realty, Inc.)	04/14/00

<u>Branch Office</u>	<u>Effective Date</u>
All Islands Inc., Century 21 All Islands James W. Wright, pb James A. Cole, bic	03/31/00
Bill Ramsey Inc. William B. Ramsey, pb Diane A. Ferreira, bic	04/18/00

<u>Equivalency to Uniform Section of Examination Certificate</u>	<u>Expiration Date</u>
Tiffany Yu Ling Zhu	04/20/01
Charles F. Ellis	04/24/01
Lawrence L. Hill	04/25/01
Geoffrey Gordon Leech	04/25/01
Young Bouk Kang	04/26/01
Nancy Ann Marsh	05/12/01
De Ann Marie Story	05/15/01

<u>Education Waiver Certificate</u>	<u>Expiration Date</u>
Tiffany Yu Ling Zhu	04/20/01
Geoffrey Gordon Leech	04/25/01
Scott William Settle	04/26/01
Young Bouk Kang	04/26/01
Bruce J. Aguinaldo	04/26/01
Connie Marie Cox	04/26/01
Charles F. Ellis	05/01/01
Glen Mathew Looman	05/01/01
Lawrence L. Hill	05/01/01
Laurel A. Muelhausen	05/01/01
Alan Michael Littman	05/04/01

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Chester Lee Young	05/05/01
Nancy Ann Marsh	05/12/01
Gerardo Matawaran Tech	05/16/01

<u>Real Estate Broker Experience Certificate</u>	<u>Expiration Date</u>
Karen K. Mottas	04/26/01
Rodrigo Valverde	04/26/01
Faith E. Naluai	05/02/01
Anne Shirley Gibbs	05/09/01
James F. Allison	05/10/01

<u>Real Estate Broker (upgrade)</u>	<u>Effective Date</u>
Joan Gilbert	04/10/00
Joanna Roskowick	04/11/00
Ronald A. Hedemark	04/17/00
Jennifer O. Borge	04/12/00
William T. Black	04/24/00
Vivian K. Fujimoto	04/24/00
Ralph M. Hornstine	04/27/00
Lynn B. Uyenco	04/28/00
Lee T. Funai	04/28/00

<u>Restoration – Real Estate Salesperson</u>	<u>Effective Date</u>
Rachel M. Nack	04/17/00
Gayla L. Evora	04/19/00
Zhiyuan Tang	04/19/00

<u>Condominium Hotel Operator</u>	<u>Effective Date</u>
American Resort Marketing, Inc.	04/17/00