

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 27, 2000

Time: 9:00 a.m.

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

Present: John Ohama, Chair
Michael Ching, Vice Chair
Charles Aki, Member
Patricia Choi, Member
Alfredo Evangelista, Member
Mitchell Imanaka, Member
Iris Okawa, Member
Peter Rice, Member

Calvin Kimura, Supervising Executive Officer
Pamela Garrison, Senior Real Estate Specialist
Naomi Cole, Real Estate Specialist
Russell Wong, Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Lorene Arata, Condominium Specialist
Gina Watumull, Condominium Specialist
Jim Nagle, Deputy Attorney General
Irene Kotaka, Secretary

Casey Choi, Incoming Commissioner
Michael L. Peterson
Janet T. Olson
Stanley H. Young

Excused: None

Call to Order: The Chair called the meeting to order at 9:00 a.m., at which time quorum was established.

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

The SEO introduced Jim Nagle, the Deputy Attorney General who will be advising the Commission today.

Additions to the Agenda

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

6. Licensing – Questionable Applications
 - e. Janet T. Olson
 - f. Merlene McCullough

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 the June 30, 2000 Meeting

Minutes of Previous Meetings

Upon a motion by Commissioner Evangelista, seconded by Commissioner Choi, it was voted on and unanimously carried to approve the minutes of the June 30, 2000 Real Estate Commission meeting as circulated.

Chair's Report:

The Chair welcomed Commissioner Rice and Incoming Commissioner Choi to the Commission.

Committee Reports:

Laws and Rules Review Committee

Upon a motion by Commissioner Evangelista, seconded by Commissioner Okawa, it was voted on and unanimously carried to accept the amended report of the July 12, 2000 Laws and Rules Review Committee meeting as follows:

1. Real Estate Commission Chair Report – **Recommend acceptance** of the memorandum, dated July 1, 2000, from the REC Chair regarding the organization of the Real Estate Commission.
2. Minutes of Previous Meetings - **Accept** minutes of June 7, 2000.
3. Special Issues – Restoration Procedures and Equivalencies – **Recommend adoption** of Proposal A, facilitating the Commission's intention to institute a one-step restoration process and determining that each restoration option does include the equivalent to ten CE hours for the prior biennium, as follows:
 - Over one year and under four years:
 - 15 hours CE elective courses only (Any CE courses taken during the prior biennium also are acceptable.), or
 - appropriate prelicensing course, or
 - three "Essentials" courses, or
 - appropriate prelicensing examination
 - Over four years:
 - appropriate prelicensing examination

- CE courses submitted for restoration purposes shall not apply toward subsequent license renewal. Decision to be incorporated in the forthcoming rulemaking, as appropriate.
4. ARELLO, Other Organizations and Jurisdictions
 - a. National Land Council, Inc. – **Recommend** not to send a representative to the National Land Council, Inc.'s Seminar to be held on November 15 to 19, 2000, in Key Largo, Florida.
 - b. Council on Licensure, Enforcement and Regulation (CLEAR) – **Recommend** not to send a representative to the CLEAR 20th Annual Conference, to be held on September 14 to 16, 2000, in Miami, Florida.
 5. Next Meeting: Wednesday, August 9, 2000
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 Imanaka, it was voted on and unanimously carried to accept the report of the July 12, 2000 Education Review Committee meeting as follows:

1. Minutes of June 7, 2000 – **Accept.**
2. Continuing Education Administration, Curriculum, Courses, Providers, and Instructors
 - a) 1999-2000 Continuing Education Providers and Courses Ratification List **Recommend approval** of the following:

<u>Registration/Certification</u>	<u>Effective Date</u>
Provider Leeward Community College (Administrator: Lucy M. Gay)	06/20/00
 - b) Course Application – “Mediation, Arbitration, Litigation,” Author/Owner: Abraham Lee, (Provider: Abe Lee Seminars), Course Category: Risk Management, Course Clock Hours: 3 1/3 – **Recommend Approval** as a 3 1/3 hour continuing education course under the course category: *Dispute Resolution*
3. Program of Work, FY00 – Real Estate Seminars – **Recommend** working with ARELLO and HAR in sponsoring a Fair Housing course as an IDW requirement for this fiscal year and to determine the feasibility of using the same instructor(s) and materials for a course for real estate licensees and/or the condominium community. If part of the sponsoring includes the condominium community, then consultation should be made with the Condominium Review Committee and appropriate funding should be secured from the Condominium Education Fund. Subject to contract and budget requirements.

4. Next Meeting: Wednesday, August 9, 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 Imanaka, seconded by Commissioner Choi, it was voted on and unanimously carried to accept the amended report of the July 12, 2000 Condominium Review Committee meeting as follows:

1. Minutes of June 7, 2000 – **Accept** minutes.
2. AOA Registrations – **Recommend approval** to ratify effective dates for AOA registrations for 1999 – 2001 registrations through June 30, 2000.
3. Developer's Public Reports
June 2000 – **Recommend approval** to ratify issuance of effective dates of the developer's public reports and extensions issued for the month of June 2000.
4. Condominium Governance and Management
Mediation & Arbitration – **Recommend approval** to accept the "Workshop Proposal" ("Proposal") submitted for the July 12, 2000 CRC meeting by The Mediation Center of the Pacific, Inc. ("MCP"). Under the Proposal, the MCP shall conduct four (4) two-hour long workshops on Oahu during August and September 2000 where all owners, directors, managers and condominium managing agents of registered condominium associations have been invited to participate in the four workshops. The total cost to be paid to the MCP for successfully conducting the four (4) workshops, including materials but excluding costs to secure workshop sites, shall be \$1,000.00. The four (4) workshops shall be conducted in accordance with the terms and conditions outlined in the Proposal. The MCP, through Executive Director Tracy Wiltgen, also agreed to provide the Real Estate Commission ("Commission"), prior to payment by the Commission, with written reports describing the outcome of each of the four (4) workshops, including attendance information and copies of all participant evaluation sheets.
5. Next Meeting: Wednesday, August 9, 2000
11:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

SWAT

The SEO reported that REB staff is currently working on the language in Chapter 99, HAR. The goal is to have the draft completed by the end of August 2000.

Licensing and Registration - Ratification:

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

Licensing – Questionable Applications:

Michael L. Peterson

Michael L. Peterson was asked if he wished to have his application for a real broker's experience certificate considered in executive session. Mr. Peterson declined the offer.

Mr. Peterson stated that he had moved with his wife to Hawaii on October 10, 1996. He was licensed with Swenson Real Estate from September 26, 1997 to September 25, 1998. He left voluntarily to work at Papohaku Ranchlands. He left Swenson Real Estate because there was no activity.

He was encouraged by Andy Jones of Intersource Realty, Inc. to work there. He worked there until he was terminated. Mr. Peterson then went to work for Joel Liu at Libra Resort Properties, Inc. On November 12, 1999, he left there to work for Jean Behrens and had a disagreement with her. He learned that she had lied to him. She had said that she had an exclusive listing on a property but that was not true. He was inactive until July 10, 2000. Mr. Peterson stated that he was waiting for Bill Gresham on Maui. Mr. Peterson stated that he is requesting a waiver to take the real estate broker's examination once his course is completed.

The Vice Chair informed Mr. Peterson that a real estate salesperson is considered to be employed full time if they work 40 hours per week. He also noted that there were two statements from his former principal brokers stating that he worked less than 40 hours per week.

Mr. Peterson stated that his former principal brokers were adhering to the strict "in office" interpretation of the laws and rules. It does not include the time spent in his home office.

Mr. Peterson was reminded that Ms. Swenson had submitted a letter stating that she could in no way certify that he spent more than 24 hours per week in real estate activity. Mr. Peterson stated that he disagreed with that.

Commissioner Evangelista asked Mr. Peterson if there were any individuals who could certify that he spent at least 40 hours per week in real estate activity? Mr. Peterson stated that his wife could attest to that.

Mr. Peterson was asked how many transactions he entered into while he was associated with Swenson Real Estate. He stated that there were only three or four transactions. His first Papohaku Ranchland sale was there. He preferred selling land.

Mr. Peterson was asked if the three or four sales produced \$3-4,000 in commission. He answered in the affirmative. Mr. Peterson stated that he went from \$3,600 in commissions to +\$40,000 with Intersource Realty, Inc.

The Vice Chair asked Mr. Peterson that it was his belief that the certification statements signed by his principal brokers was inaccurate and if he felt the Commission should take action against the principal brokers. Mr. Peterson stated that he will not disagree with the principal brokers using their criteria of "in office" hours. Mr. Peterson stated that he spent more time outside of the office networking.

The Vice Chair stated that according to the letter written by Ms. Swenson, Mr. Peterson had spent nine hours out of the office. Mr. Peterson did not have a registered home office. Mr. Peterson stated that he worked out of his home office, but it was not registered. Mr. Peterson also informed the Commissioners that there was a little hostility between himself and Ms. Swenson.

Commissioner Rice asked Mr. Peterson if he had any other sources of income. Mr. Peterson stated that he did not. He just has investments.

The Vice Chair stated that Mr. Peterson's license has been inactive since December 17, 2000. Mr. Peterson stated that his license was reactivated on July 10, 2000, with Bill Gresham. Mr. Peterson stated that he was hoping that the sale of the hotel would close escrow and that he could work with Mr. Gresham at the hotel.

Mr. Peterson stated that he could provide character references if the Commissioners wished him to do so.

Commissioner Evangelista asked Mr. Peterson if he was requesting that the Commission defer taking action on his application until he could provide the references. Mr. Peterson answered, "No." Mr. Peterson stated that he has given the Commission all of the information that he could.

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

Scot J. Voronaeff

Scot J. Voronaeff was asked if he wished to have his application for a real estate broker's experience certificate considered in executive session. Mr. Voronaeff declined the offer.

Mr. Voronaeff informed the Commissioners that he had suffered from a hernia in the last week of January. He underwent surgery for this condition in February. As a result of this, he was confined to working from a home office. He was limited to desk type activities. He was not able to follow up on the situation, as he would have liked to because of his inability to get around.

The Commission had received conflicting information on whether or not Mr. Voronaeff had been able to conduct real estate activity during the time of his recuperation.

Mr. Voronaeff stated that he was not meeting with clients. Mr. Voronaeff stated that he is an appraiser, a member of MAI and holds a CCIM designation in real estate investment analysis. He also works at KPMG as a consultant. He assists Mr. Young on statistical work.

He has not earned any commissions in the 12 months prior to his application. He has high sales goals. He puts deals together so that he can perform the appraisal work. If he received commissions from his appraisal work, there would be a procuring cause. If he is paid commissions, there would be a conflict of interest. He has to choose either appraisal work or real estate work and he generally picks the appraisal work. Mr. Voronaeff stated that he does marketing and works with Japanese clients who want to do off-market transactions. The major part of his marketing responsibilities is to put together large transactions for hotels or golf courses. Mr. Young handles the brokerage portion and he handles the appraisals. Mr. Voronaeff stated that he is still affiliated with the office. Mr. Voronaeff stated that he would like to obtain his real estate broker's license so that the disclosure issue could be resolved. If Mr. Voronaeff is conducting an appraisal, he discloses his license status.

Commissioner Evangelista questioned Mr. Voronaeff if the real estate appraisal work that he performs is considered real estate activity. Mr. Voronaeff answered, "No." He stated that he spends 40 hours a week assisting buyers and sellers. He puts in 75 to 85 hours a week.

Commissioner Evangelista informed Mr. Voronaeff that the Commission was concerned with the time period during his hospitalization. Mr. Voronaeff stated that he was able to do telephone work. Mr. Voronaeff was asked how many hours he spent in real estate work and in appraisal work during the six-month period in question. Mr. Voronaeff stated that he spent 40 hours a week in real estate work and probably 20 hours a week in appraisal work. Commissioner Evangelista asked Mr. Voronaeff if he was working 60 hours a week with the medical problem. Mr. Voronaeff stated that he spent one week flat on his back and he was working the rest of the time in pain. It was not his choice. He had client commitments. Mr. Voronaeff stated that he had \$100,000 of work on his plate and deals that he could not walk away from.

The Vice Chair asked Mr. Young if he felt confident that Mr. Voronaeff had spent 40 hours per week in real estate activity. Mr. Young answered in the affirmative and stated that he would testify to that.

Mr. Voronaeff stated that he had filed an appeal with the Office of Administrative Hearings and he was informed by the Hearings Officer that it would not be the first time that someone's paperwork had gotten lost. Mr. Voronaeff stated that he did not see certain evidence introduced into his appeal case that he had wanted. He says the issue is the non-receipt of the Change Form by the Licensing Branch. The Hearings Officer helped him to focus in on what he should have been focusing on in the beginning.

In February 1999, Trans-Pacific Realty lost their principal broker. On February 1, 1999, a Change form was submitted changing from Trans-Pacific Realty to Marie Hansen Properties. Mr. Young was asked if he had submitted the Change form. Mr. Young stated that he could not recollect how the Change form was submitted. He stated that the secretary had probably mailed the Change form in. Mr. Young stated that he comes down often, but he does not remember if the Change form was dropped off. There is a greater likelihood that the Change form was mailed by the secretary.

In August 1999, they discovered that the Change form had not been received. On August 23, 1999, the Change form was resubmitted. Mr. Young stated that they had tried to do everything in a timely fashion. When they discovered that Mr. Voronaeff's license was involuntarily placed on inactive status, they filed the Change form and paid whatever was necessary to reactivate his license. They were unaware that the break in service would cause Mr. Voronaeff to have to wait another three years.

The SEO informed Mr. Voronaeff and Mr. Young that the Change form was one issue. The other issue involved the written statement by Mr. Voronaeff that the surgery rendered him physically incapacitated on February 3, 1999. Mr. Voronaeff stated that he was retracting that statement and stated that there were several people who would back him up that he worked 75 to 80 hours a week during that time.

Commissioner Imanaka asked Mr. Voronaeff if he would be able to provide statements to the Commission verifying what was said. Mr. Voronaeff answered that he could definitely do that.

Mr. Voronaeff stated that he was trying to show that he was not able to stay on top of things, as he would have liked to. He was unable to give the matter the attention that it deserved.

Mr. Voronaeff was asked if he had made any other changes with other organizations, such as the Hawaii Association of REALTORS or the Honolulu Board of REALTORS, at approximately the same time that the Change form was submitted. Mr. Voronaeff stated that upon receiving his CCIM designation, he joined the Board. He has been enjoying that benefit ever since. He did not obtain his Board membership through Trans-Pacific Realty or Marie Hansen Properties.

Mr. Voronaeff was asked if he was acting in the capacity as a real estate broker at this time with KPMG. He answered, "No." He stated that he is very sensitive to that. He conducts all of his real estate work through Mr. Young.

Mr. Voronaeff was asked if he would be able to provide a letter from KPMG verifying his activities during the time period following his surgery. Mr. Voronaeff stated that he would obtain a letter from KPMG.

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

Janet T. Olson

Ms. Olson was asked if she wished to have her application for a real estate salesperson's license considered in executive session. Ms. Olson requested that her application be considered in executive session.

The Chair was excused from the meeting. The Vice Chair presided over the meeting.

Executive
Session:

Upon a motion by Commissioner Aki, seconded by Commissioner Choi, 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;".

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

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

Licensing -
Questionable
Applications:

Janet T. Olson

Upon a motion by Commissioner Ching, seconded by Commissioner Aki, 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 9:55 a.m., to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, HRS:

In the Matter of the Real Estate Broker's License of James B. Dempsey, dba Dempsey West Realty; REC 99-27-L

Upon a motion by Commissioner Ching, seconded by Commissioner Rice, it was voted on and unanimously carried to accept the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Commission's Final Order. The Commission further orders that the Respondent successfully complete either the "Introduction to Broker Management" course or the "Residential Property Management" course within four months of this decision and that the course shall not be utilized for CE requirements for the upcoming license renewal.

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 10:00 a.m.

Executive
Session:

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

Licensing -
Questionable
Applications:

Michael M. Murphy III

After a review of the information submitted by the applicant, Commissioner Ching moved to approve the real estate salesperson's license application of Michael M. Murphy III. Commissioner Imanaka seconded the motion. The motion was voted on and unanimously carried.

Brian W. O'Connor

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

Michael L. Peterson

After a review of the information presented by the applicant, Commissioner Ching moved to deny Michael L. Peterson's application for a real estate broker's experience certificate, pursuant to §467-9.5(3)(c), HRS. Commissioner Rice seconded the motion. The motion was voted on and unanimously carried.

Scot J. Voronaeff

After a review of the information presented by the applicant, Commissioner Ching moved to defer decision making to the August 25, 2000 Real Estate Commission meeting. Commissioner Rice seconded the motion. The motion was voted on and unanimously carried.

Janet T. Olson

After a review of the information presented by the applicant, Commissioner Okawa moved to approve the real estate salesperson's license application of Janet T. Olson. Commissioner Aki seconded the motion. The motion was voted on and unanimously carried.

Merlene McCullough

After a review of the information submitted by the applicant, Commissioner Evangelista moved to deny Merlene McCullough's application for a real estate broker's experience certificate, pursuant to §467-9.5, HRS. Commissioner Imanaka seconded the motion. The motion was voted on and unanimously carried.

Next Meeting:

Friday, August 25, 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 adjourned the meeting at 10:46 a.m.

Reviewed and approved by:

/s/ Calvin Kimura
Calvin Kimura
Supervising Executive Secretary

August 25, 2000
Date

- [X] Approved as circulated.
[] Approved with corrections; see minutes of _____ meeting.

APPROVED APPLICATIONS FOR REAL ESTATE
 REAL ESTATE COMMISSION MEETING ON JULY 27, 2000

<u>Brokers - Corporations and Partnerships</u>	<u>Effective Date</u>
Hawaii Kai Realty, Inc. Sandra K. Loando, PB	06/15/00
Homeseller Advisors, Inc. Joseph Y. Sotomura, PB	06/20/00
Santiago B. Blanco, Ltd. Santiago B. Blanco, PB	06/21/00
AM Realty, Inc. Roger L. Vosika, PB	07/14/00

<u>Brokers – Limited Liability Companies and Partnerships</u>	<u>Effective Date</u>
Heyer & Associates LLC Hisako Frohlich, PB	06/15/00

<u>Brokers - Sole Proprietor</u>	<u>Effective Date</u>
Scott E. Carter, Emerald Properties	06/01/00
Mike J. Prohoroff	06/09/00
Emmanuel W. T. Chen	06/14/00
Clayton K. M. Tom	06/14/00
Jason P. Lum	06/27/00

<u>Corporation Name</u>	<u>Effective Date</u>
Adventure Resorts Realty, Inc., RE/MAX Resort Properties (fka Mauna Loa Village Resort Inc., RE/MAX Resort Properties)	07/05/00

<u>Equivalency to Uniform Section of Examination Certificate</u>	<u>Expiration Date</u>
Tasha Lani Huber	06/21/01
Jodi Aurely	07/03/01
Paige E. Robinson	07/06/01
Thomas G. Tezak	07/10/01
Linda Ann Lowe	07/11/01
Reginald O. Lawson	07/17/01
Kenneth Mullinix	07/17/01
Jeffrey Glenn Manson	07/17/01

<u>Education Waiver Certificate</u>	<u>Expiration Date</u>
Kenneth Paul Mullinix	06/23/01
Herbert M. Lee	06/27/01
Jeffrey Glenn Manson	06/29/01
Kristina Rae Vaughn-Hazard	07/06/01
Robert O. Lindow	07/06/01

<u>Real Estate Broker Experience Certificate</u>	<u>Expiration Date</u>
Lorraine S. Kohn	06/21/01
Kimberly A. Wright	07/03/01
Cynthia L. Nash	07/03/01
Monjiuan Debby Ide	07/06/01
Cheryl L. Nickles	07/06/01
Rebecca L. Inouye	07/07/01
Noriko Nakamura	07/12/01

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Real Estate Broker (upgrade)
Jeffrey S. Engel

Effective Date
06/08/00

Restoration – Real Estate Salesperson
Roger K. Chuy
Kazue Nii

Effective Date
06/05/00
06/23/00

Restoration – Real Estate Broker
Stanley M. Yoshioka

Effective Date
05/30/00