

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, January 25, 2002

Time: 9:00 a.m.

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

Present: Michael Ching, Vice Chair
Charles Aki, Member
Casey Choi, Member
Patricia Choi, Member
Alfredo Evangelista, Member
Iris Okawa, Member

Calvin Kimura, Supervising Executive Officer
Alan Taniguchi, Executive Officer
Diane Choy Fujimura, Senior Real Estate Specialist
Lorene Arata, Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Gina Watumull, Condominium Specialist
Cheryl Leong, Condominium Specialist
Shari Wong, Deputy Attorney General
Irene Kotaka, Secretary

Lawrence Kamakawiwo'ole, Special Deputy Attorney General
Rodney Maile, Senior Hearings Officer
Stephen Whittaker, Esq.
John B. Buie
Kimberly Buie
Dawn Marie

Excused: John Ohama, Chair
Mitchell Imanaka, Member
Peter Rice, Member

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

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

REB Staff will be meeting with representatives from the Hawaii Association of REALTORS and their legal counsel at 1 p.m. today to discuss internet advertising and other pending issues.

Additions to the Agenda

Upon a motion by Commissioner P. Choi, seconded by Commissioner Okawa, it was voted on and unanimously carried to add the following items to the agenda:

6. Licensing – Questionable Applications
 - b. Dawn Marie
8. Chapter 91, Hawaii Revised Statutes, Adjudicatory Matters
 - b. In the Matter of the Real Estate Broker's and Salesperson's Licenses of Rex R. Pelfrey dba Pelfrey Properties, and Karan K. Pelfrey, REC-1999-17-L, et al.
 - c. In the Matter of the Real Estate Broker's License of William G. Weimer, REC 1999-113-L
 - d. In the Matter of the Real Estate Salesperson's License of Joseph M. Fukumoto and Real Estate Brokers' Licenses of Tamio W. Iwado, Prudential Iwado Realty, Inc., and Mark F. Gilliland, REC-2001-30-L
 - e. In the Matter of the Application for a Real Estate Salesperson's License of Richard M. Shively, REC-LIC-2001-3
 - f. In the Matter of the Real Estate Salesperson's License of Hugh M. Howell, REC 2000-136-L

Minutes of Previous Meetings

Upon a motion by Commissioner Evangelista, seconded by Commissioner P. Choi, it was voted on and unanimously carried to approve the minutes of the December 14, 2001 Real Estate Commission meeting as circulated.

Real Estate Commission Roster

The updated Commission Roster was distributed to the Commissioners for their information.

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 report of the January 4, 2002 Laws and Rules Review Committee meeting as follows:

1. Minutes of December 13, 2001 – **Accept.**
2. ARELLO MidYear Meeting 2002 – **Recommend approval** to send one Commission member and one staff member to the ARELLO MidYear Meeting, to be held in Fort Worth, Texas, on April 11 to 13, 2002, subject to the Governor's fiscal policy and budgetary approval.

3. Next Meeting: Wednesday, February 13, 2002
9:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
Honolulu, Hawaii

Education Review Committee

Upon a motion by Commissioner P. Choi, seconded by Commissioner Aki, it was voted on and unanimously carried to accept the report of the January 4, 2002 Education Review Committee meeting as follows:

1. Minutes of December 13, 2002 – **Accept** with amendment to page 4 to include "proposed" (Commission's Proposed Final Order).
2. Continuing Education Administration, Curriculum, Courses, Providers, and Instructors – Applications
 - a) Course – "Ethics and Real Estate," Author/Owner: Dearborn Real Estate Education, Provider: Dower School of Real Estate, Course Category: Other, Course Clock Hours: 3 – **Recommend approval.**
 - b) Course – "Buyer Representation in Real Estate," Author/Owner: Dearborn Real Estate Education, Provider: Dower School of Real Estate, Course Category: Law, Course Clock Hours: 3 – **Recommend approval.**
3. Educator's Forum – **Recommend approval** to include as a program of work item for fiscal year 2003, a summit to work with the local boards.
4. Next Meeting: Wednesday, February 13, 2002
10:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
Honolulu, Hawaii

Condominium Review Committee

Upon a motion by Commissioner Aki, seconded by Commissioner Okawa, it was voted on and unanimously carried to accept the report of the January 4, 2002 Condominium Review Committee meeting as follows:

1. Minutes of December 13, 2001 – **Accept.**
2. Condominium Governance and Management
AOAO Registrations, 2001 – 2003 Biennium Registration, December 2001 – **Recommend approval** to ratify effective dates for AOAO registrations received for the 2001-2003 biennium through December 31, 2001.
3. CPR Registration, Developer's Public Reports
December 2001 – **Recommend approval** to ratify issuance of effective dates of the developer's public reports and extensions issued for the month of December 2001.

4. Next Meeting: **Wednesday**, February 13, 2002
11:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Legislative Bills and SWAT

The SEO reported that the first hearing was held recently to discuss the Department's budget. The Legislature will have to find money to meet the short fall. The trust funds may be impacted. Currently, the Condominium Management Education Fund appears to be a possibility.

Representative Espero's bills were heard yesterday in the House Consumer Protection and Commerce Committee. The Senate bills have not been scheduled for hearing as yet.

The SEO reported that he had spoken with the CRC Chair and the REC Chair on the Commission's position on the condominium bills that were introduced by Representative Espero. The Commission is requesting a moratorium on the bills and is requesting that these bills be deferred due to the pending recodification project, although it generally supports these bills. Decision making on House Bill Nos. 1713, 1715 and 1716 will be made today. A more detailed report will be provided at the next CRC meeting.

The SEO also reported that there were bills relating to telecommunications devices in condominium projects and the out-of-state investment of funds.

The Commission's SWAT bill was introduced and is awaiting a hearing.

Chapter 91, HRS, Adjudicatory Matters:

The Vice Chair called for a recess from the meeting at 9:23 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 William G. Weimer, REC 1999-131-L

Commissioner P. Choi recused herself from the meeting.

Commissioner Aki moved to accept the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Commission's Final Order. Commissioner Okawa seconded the motion. Commissioners Aki, Evangelista, Okawa and Ching voted in favor of the motion. Commissioner C. Choi abstained from voting. The motion died due to a lack of quorum.

Commissioner P. Choi returned to the meeting.

Commissioner P. Choi stated that upon further consideration, she would be able to remain unbiased and impartial in this matter.

Commissioner Evangelista moved to accept the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Commission's Final Order. Commissioner Aki seconded the motion. Commissioners Ching, Okawa, Evangelista, Aki and P. Choi voted in favor of the motion. Commissioner C. Choi refrained from voting. The motion was carried.

In the Matter of the Real Estate Salesperson's License of Joseph M. Fukumoto and the Real Estate Broker's Licenses of Tamio W. Iwado, Prudential Iwado Realty, Inc., and Mark F. Gilliland, REC-2001-30-L

Upon a motion by Commissioner Aki, seconded by Commissioner P. Choi, 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 as to Joseph M. Fukumoto.

In the Matter of the Application for a Real Estate Broker's License of Emily T. Gail, REC-LIC-2001-6

Upon a motion by Commissioner Evangelista, seconded by Commissioner P. Choi, it was voted on and unanimously carried to approve the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order.

In the Matter of the Real Estate Broker's and Salesperson's Licenses of Rex R. Pelfrey dba Pelfrey Properties and Karan K. Pelfrey, REC-1999-17-L

Upon a motion by Commissioner Okawa, seconded by Commissioner P. Choi, it was voted on and unanimously carried to approve the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order.

In the Matter of the Application for a Real Estate Salesperson's License of Richard M. Shively, REC-LIC-2001-3

Decision making on this matter was deferred to later in the meeting.

In the Matter of the Real Estate Salesperson's License of Hugh M. Howell, REC 2000-136-L

Discussion on this matter was deferred to later in the meeting.

Following the Commission's review, deliberation and decisions in these matters, pursuant to Chapter 91, HRS, the Vice Chair announced that the Commission was reconvening its scheduled Commission meeting at 9:53 a.m.

Executive Session:

Upon a motion by Commissioner Evangelista, seconded by Commissioner Okawa, 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;".

Recess:

The Vice Chair recessed the meeting at 10:15 a.m.

Reconvene:

The Vice Chair reconvened the meeting at 10:21 a.m.

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

Licensing -
Questionable
Applications:

John B. Buie

Consideration of this matter was deferred to later in the meeting.

Dawn Marie

Dawn Marie was asked if she wished to have her application for a real estate salesperson's license considered in executive session. She declined the offer.

Ms. Marie stated that she did not have anything else to add but she would be happy to answer any questions the Commissioners may have. The Commissioners did not have any questions for Ms. Marie.

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

After a review of the information submitted by the applicant, Commissioner Evangelista moved to approve the real estate salesperson's license application of Dawn Marie. Commissioner Okawa seconded the motion. The motion was voted on and unanimously carried.

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.

Chair's Report:

The Vice Chair informed the Commissioners that Commissioner Okawa's appointment to the Commission expires on June 30, 2002. The Vice Chair requested that a motion be entertained to request and support the reappointment of Commissioner Okawa to the Commission.

Upon a motion by Commissioner P. Choi, seconded by Commissioner Evangelista, it was voted on and carried that the Commission send a letter to the Governor requesting the reappointment of Commissioner Okawa to the Commission as her experience and active participation contributes greatly to the Commission's program of work. Commissioner Okawa abstained from voting.

Licensing -
Questionable
Applications:

John B. Buie

Stephen Whittaker, Esq., was asked if his client wished to have this matter considered in executive session. Mr. Whittaker stated that they would like to have this matter 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 Okawa, seconded by Commissioner Evangelista, it was voted on and unanimously carried to move out of executive session.

Licensing -
Questionable
Applications:

John B. Buie

After a review of the information presented by the applicant, Commissioner Evangelista moved to refer this matter to the Office of Administrative Hearings and that this matter be handled expeditiously. The Commission also requested that Mr. Buie's attorney be notified by the Office of Administrative Hearings on the status of this matter. Commissioner Okawa seconded the motion. The motion was voted on and unanimously carried.

Committee
Reports:

2001 Annual Report – Real Estate Commission

The Real Estate Commission's 2001 Annual Report was distributed to the Commissioners for their information and reference. Commissioner Evangelista noted that he should be listed as a public member. Also, there was a correction to page 32, there should have been a 29% decrease instead of an increase.

Progress Report to the Legislature – Recodification of Chapter 514A, Hawaii Revised Statutes (Condominium Property Regimes) in Response to Act 213, Section 4 (SLH 2000) – December 27, 2001

The report was distributed to the Commissioners for their information and reference.

Chapter 91, HRS,
Adjudicatory
Matters:

The Vice Chair called for a recess from the meeting at 10:50 a.m., to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, HRS:

Reaffirm delegation to staff:

Upon a motion by Commissioner Evangelista, seconded by Commissioner Aki, it was voted on and unanimously carried to reaffirm the delegation to staff that the Commission has the authority to grant extensions of time to file written exceptions or to file a statement in support of the recommended decision pursuant to §16-201-17, HAR, and has exercised its power to delegate the granting of extensions to the Executive Officer and continues to exercise its authority by allowing the Executive Officer to grant extensions.

In the Matter of the Application for a Real Estate Salesperson's License of Richard M. Shively, REC-LIC-2001-3

Upon a motion by Commissioner Okawa, seconded by Commissioner P. Choi, it was voted on and unanimously carried to defer this matter to the February 22, 2002 Real Estate Commission meeting.

Following the Commission's review, deliberation and decisions in these matters, pursuant to Chapter 91, HRS, the Vice Chair announced that the Commission was reconvening its scheduled Commission meeting at 10:52 a.m.

In the Matter of
the Petition of
Manuel G. DeCosta
Declaratory Relief:

Upon a review of the facts as submitted by Mr. DeCosta, the Commission determined that it does not have the authority to grant the request and the Commission also feels that real estate broker candidates should have sufficient experience prior to obtaining a real estate broker's license.

Upon a motion by Commissioner Evangelista, seconded by Commissioner P. Choi, it was voted on and unanimously carried to deny Manuel G. DeCosta's Petition for Declaratory Relief.

Chapter 91, HRS,
Adjudicatory
Matters:

The Vice Chair called for a recess from the meeting at 10:53 a.m., to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, HRS:

In the Matter of the Real Estate Salesperson's License of Hugh M. Howell, REC 2000-136-L

Upon a motion by Commissioner P. Choi, seconded by Commissioner Okawa, it was voted on and unanimously carried that the Commission determined that according to the standards of practice, all offers and counteroffers must be in writing. The Commission also determined that the seller is not obligated, under the normal customary procedures, to disclose the number of offers received.

Following the Commission's review, deliberation and decisions in these matters, pursuant to Chapter 91, HRS, the Vice Chair announced that the Commission was reconvening its scheduled Commission meeting at 10:56 a.m.

Next Meeting:

Friday, February 22, 2002
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 Vice Chair adjourned the meeting at 10:56 a.m.

Reviewed and approved by:

/s/ Alan Taniguchi
Alan Taniguchi
Executive Officer

February 22, 2002
Date

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

APPROVED APPLICATIONS FOR REAL ESTATE
 REAL ESTATE COMMISSION MEETING ON JANUARY 25, 2002

<u>Brokers – Corporations and Partnerships</u>	<u>Effective Date</u>
Island Pacific Properties, Inc., Island Pacific Properties, Inc. Stephanie L. Bauman, PB	01/01/02
Marriott Vacation Club Resorts, Inc., Marriott Vacation Club International Mary Lou Mendes, PB	01/01/02
Kihei Realty, Inc. Angelo G. Pelosi, PB	01/01/02

<u>Brokers – Limited Liability Companies and Partnerships</u>	<u>Effective Date</u>
Investment Realty, LLC Norman S. Hom, PB	11/30/01
Realty Group Properties, LLC Leslie M. Goya, PB	11/30/01
Avalon Realty, LLC Kenneth Chong, PB	12/13/01
Caldwell Properties, LLC Samuel A. Caldwell III, PB	01/01/02
Caron Broederdorf Company, LLC, Caron B. Realty Caron Broederdorf, PB	01/02/02

<u>Brokers - Sole Proprietor</u>	<u>Effective Date</u>
Krisann K. Seiler-Tagay	12/06/01
William C. Lum	12/18/01
Gordon W. Crabtree	12/19/01
Gary W. Klever	12/20/01
Karl Heyer, III	12/21/01
Suzanne Patterson, Kona Resort Properties	12/24/01
Patricia M. Kam, IBF Realty	01/03/02
Lynn B. Uyenco, LBU Properties	01/10/02
Gail Lee, Gail Lee Properties	12/28/01
James R. Buckley, Princeville Real Estate & Vacation Rentals	01/04/02

<u>Branch Office</u>	<u>Effective Date</u>
Marriott Ownership Resorts, Inc., Marriott Vacation Club International Mary Lou Mendes, PB	01/01/02
Marriott Ownership Resorts, Inc., Marriott Vacation Club International Mary Lou Mendes, PB	01/01/02

<u>Equivalency to Uniform Section of Examination Certificate</u>	<u>Expiration Date</u>
Carolyn L. White	12/04/03
James A. Gerspacher	12/04/03
Mary Lee Plunkett	12/07/03
Paul R. Harthcock	12/07/03
Mary Katherine Gaede	12/11/03
Carla Jean Young	12/14/03
Nicholas P. Benza	12/17/03
Ronald L. Haisting	12/18/03
Thomas James Spellman	12/19/03
Craig J. Sperling	12/28/03
Christopher Blair Forrey	12/31/03
Tony Bartos	12/31/03
Aili Y. Takebayashi	12/31/03

Equivalency to Uniform Section of Examination Certificate

Daniel J. Smith
Joni L. Myers

Expiration Date

01/07/04
01/16/04

Educational Equivalency Certificate

Rodney C. Imming
Mary Lee Plunkett
Paul R. Harthcock
Mary Katherine Gaede
Piper Leigh Laird
Meredith S. Murphy
Nicholas P. Benza
Kelly Clayton Moyer
Wendie Michelle KinKade
Carolyn L. White
Christopher Blair Forrey
Tony Bartos
Aili Y. Takebayashi
Daniel J. Smith
William Paul Matchak
Teri Sherrow

Expiration Date

12/04/03
12/07/03
12/07/03
12/11/03
12/13/03
12/13/03
12/17/03
12/17/03
12/18/03
12/26/03
12/31/03
12/31/03
12/31/03
01/07/04
01/09/04
01/09/04

Real Estate Broker Experience Certificate

Catherine K. L. Wong
Mergo Brower
Lura F. Beebe
Lynn Taube
Wendy Z. Pang
Ruth S. Marvin
Matthew G. Beall
Edmund H. Au
Teri Sherrow
Joni L. Myers

Expiration Date

12/04/03
12/07/03
12/07/03
12/24/03
12/24/03
12/31/03
01/02/04
01/09/04
01/09/04
01/16/04

Real Estate Broker (upgrade)

Aaron J. Scherman
Ceci Chang Freeman
B. J. Allen
Jeffrey N. Samuels
Jeffrey T. Evans
Melisa G. Preus
Harris T. Zane
Leolani Fern Kini
Donald G. Baxter
Gail Lee
Ginger A. Kolonick
Diane Sagucio

Effective Date

11/28/01
01/01/02
12/05/01
01/01/02
12/07/01
12/07/01
12/07/01
12/17/01
01/01/02
12/17/01
12/17/01
01/01/02

Restoration – Real Estate Broker

Krisann K. Seiler-Tagay
Gordon W. Crabtree

Effective Date

12/06/01
12/19/01