REAL ESTATE COMMISSION

Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii
www.hawaii.gov/hirec

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, September 26, 2003

<u>Time:</u> 9:00 a.m.

Place: Kapuaiwa Room

HRH Princess Victoria Kamamalu Building

1010 Richards Street, Second Floor

Honolulu, Hawaii

Present: Mitchell Imanaka, Vice Chair

Louis Abrams, Member Iris Okawa, Member Peter Rice, Member Vern Yamanaka, Member

Alan Taniguchi, Executive Officer

Diane Choy Fujimura, Senior Real Estate Specialist Cynthia Yee, Senior Condominium Specialist Gordon Arakaki, Recodification Attorney Cheryl Leong, Condominium Specialist Lorene Kimura, Real Estate Specialist Shari Wong, Deputy Attorney General

Irene Kotaka, Secretary

Larry Kamakawiwo'ole, Special Deputy Attorney General Daria Loy Goto, Regulated Industries Complaints Office Nicki Ann Thompson, Hawaii Association of REALTORS

Excused: John Ohama, Chair

Marshall Chinen, Member

Kathleen Kagawa, Ph.D., Member Trudy I. Nishihara, Member

Call to Order: The Vice Chair called the meeting to order at 9:00 a.m., at which time guorum

was established.

<u>Chair's Report:</u> No report was presented.

Executive Officer's

Report:

Announcements, Introductions, Correspondence and Additional

Distribution

Additional Distribution

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

3. Executive Officer's Report

b. Minutes of Previous Meetings

7. Chapter 91, Hawaii Revised Statutes, Adjudicatory Matters

- In the Matter of the Real Estate Broker's License of Lily L. H. Kong, dba Diamond International Real Estate, REC 2000-128-L
- b. Other Adjudicatory Matters

Regulated Industries Complaints Office:

Daria Goto, Supervising Attorney for the Regulated Industries Complaints Office ("RICO") was present at the meeting to provide the Commissioners with an overview of the complaint process.

Vice Chair Imanaka thanked Ms. Goto for being present at the meeting and also for the information that was distributed relating to the Calvin Lau disciplinary case.

Ms. Goto informed the Commissioners that RICO receives complaints from the boards/commissions, consumers, and from anonymous tips. The majority of the complaints are referred by the various boards and commissions.

Ms. Goto explained the complaints process to the Commissioners from the time the complaint is received until closure. RICO receives approximately 50,000 complaints a year.

Ms. Goto stated that once a case is referred to the legal section, after reviewing the information contained in the complaint, the attorneys have round table discussions and offer their recommendations. The attorneys do not specialize in licensing areas but realize that there is a need for the attorneys to have some background knowledge, expertise, and experience. RICO regulates 46 different industries. Real estate, medicine, and nursing are areas in which specialized knowledge and experience is critical. RICO is thankful for industry members who offer their guidance and who serve on the advisory committees.

Ms. Goto also stated that having someone who possesses specialized knowledge helps them to be aware of the trends in that profession/vocation. She stated that some of the attorneys are currently carrying caseloads in excess of 100 to 200 cases. They are hoping that this situation will improve once the newly-hired attorneys are on board.

Ms. Goto stated that the attorneys hold round table discussions to promote uniformity. Attorneys have the authority to offer a settlement or to close cases. If the cases proceed, they are heard before the Office of Administrative Hearings, who will then prepare the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order.

Ms. Goto stated that RICO needs to keep in touch with what is happening in the industries that it regulates. She invited the Commissioners to call her if they have any additional questions or issues which need to be addressed.

Commissioner Yamanaka asked if there was a statistical breakdown of the real estate-related cases. Ms. Goto stated that REB staff has the statistics. However, the codes for the violations were established in 1979 and have not been updated, so the categories are broad.

Senior Specialist Fujimura stated that the statistics are listed in the Commission's Annual Report; however, the information is broad because it all falls under general brokerage. The complaints are not broken down specifically to agency-related complaints.

Ms. Goto added that internet advertising is a growing concern. No one ever envisioned that real estate transactions could take place via email.

Commissioner Yamanaka stated that he does a lot of internet advertising, and he sees a lot of advertising on the internet by parties who do not have listing brokers located in Hawaii.

Ms. Goto stated that RICO will react if there are specific industry concerns and if they have the resources.

Commissioner Abrams raised concerns that the Commission only receives a limited amount of information when it considers settlement agreements. Ms. Goto informed the Commissioners that the Respondent is entitled to having the information considered by a fair and impartial tribunal. The settlement agreement contains only limited information because the Commission will be the one to consider the facts if the settlement agreement is rejected and the parties go to hearing. The Commission may become biased by seeing portions of the facts in a settlement agreement and then having to rule on a Hearing Officer's Recommended Order. It may be inappropriate for RICO to draft a settlement agreement containing more information.

Ms. Goto was asked about the number of real estate-related complaints. She answered that she did not know the number of real estate-related complaints. Senior Specialist Fujimura reported that the number of real estate-related complaints has been going down steadily over the past five years.

Commissioner Okawa stated that the Civil Rights Commission may receive many inquiries and complaints. At least fifty percent of the complaints filed are dismissed after the initial investigation. This does not mean that there is bad conduct. It may be because there is a lack of information.

Ms. Goto stated that some of the Commission's concerns should be addressed to the Complaints Enforcement Officer as she deals only with the legal section. She does not have a broad overview of the investigation section or other areas outside of the legal section.

Commissioner Okawa thanked Ms. Goto for attending the meeting.

Ms. Goto was asked to explain why the sanctions in the settlement agreements do not appear to be consistent. Ms. Goto informed the Commissioners that RICO would like to hire someone who has the expertise in the real estate area to review the cases and train the other staff attorneys. Their goal is to address this problem and to minimize the differences in the sanctions imposed in the settlement agreements.

Ms. Goto was asked if RICO tracked and monitored the resolution of the cases to determine how long it takes them to resolve matters. Ms. Goto stated that they have goal guidelines, but because they are short-staffed, they have not been able to obtain those goals.

Ms. Goto was also asked why the boilerplate language found in the settlement agreements were not the same across the board. Ms. Goto stated that they have been going through the forms in an effort to improve them and in order to standardize the language.

Commissioner Abrams asked if there were a need for more attorneys. Ms. Goto stated that the cases that they are seeing now are more difficult and complex than before. They have to be ready to deal with internet issues and unlicensed issues across all of the licensing boards. Commissioner Abrams asked if RICO's concerns could be forwarded to the Commission. Ms. Goto stated that it would be another issue for RICO's Complaints Enforcement Officer to address.

Ms. Goto was asked how many of the settlement agreements that are rejected by the Commission return with an amended settlement agreement, proceeds to a hearing, or is dropped. Ms. Goto stated that they did not track that type of information. She stated that since she also carries a caseload, it is difficult for her to do the "big picture" type of work.

<u>Chapter 91, HRS,</u> Adjudicatory Matters:

The Chair called for a recess from the meeting at 9:30 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 and Salesperson's Licenses of Hawaii Management Group, Joel D. Johnson, and David Bischoff; REC 2001-270-L and REC 2002-176-L

A copy of the Commission's Final Order in <u>In the Matter of the Real Estate</u> Broker's License of Calvin C. F. Lau, RE 81-215, was distributed to the Commission's for their information.

In the Matter of the Real Estate Broker's License of Lily L. H. Kong, dba Diamond International Real Estate; REC 2000-128-L

Upon a motion by Commissioner Okawa, seconded by Commissioner Rice, it was voted on the unanimously carried to accept the Settlement Agreement and to require that the respondent successfully complete the real estate broker's prelicensing course and submit evidence of successful completion by January 31, 2004.

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 9:34 a.m.

Executive Officer's Report:

Announcements, Introductions, Correspondence and Additional Distribution

Minutes of Previous Meetings

Upon a motion by Commissioner Okawa, seconded by Commissioner Abrams, it was voted on and unanimously carried to approve the minutes of the August 29, 2003 Real Estate Commission meeting as circulated.

Committee Reports:

Laws and Rules Review Committee

LRRC Chair Okawa thanked Commissioner Abrams for setting up the meetings on Kauai.

Upon a motion by Commissioner Okawa, seconded by Commissioner Rice, it was voted on and unanimously carried to accept the report of the September 10, 2003 Laws and Rules Review Committee meeting as follows:

1. Minutes of August 13, 2003 - Accept

2. Next Meeting: Wednesday, October 8, 2003

9:00 a.m.

Kapuaiwa Room

HRH Princess Victoria Kamamalu Building

1010 Richards Street, Second Floor

Honolulu, Hawaii

Education Review Committee

ERC Chair thanked Commissioner Abrams for a well-hosted meeting.

Upon a motion by Commissioner Yamanaka, seconded by Commissioner Abrams, it was voted on and unanimously carried to accept the report of the September 10, 2003 Education Review Committee meeting as follows:

- 1. Minutes of August 13, 2003 **Accept**
- 2. Continuing Education Administration, Curriculum, Courses, Providers, and Instructors
 - a. Applications
 - 2003-2004 Continuing Education Providers and Courses Ratification List – Recommend approval of the following registrations/certifications:

Registration/Certification

Effective Date

Course

"Comprehensive 1031 Exchange" August 5, 2003 (Eddie Flores, Jr./Eddie Flores Real Estate Continuing Education)

- 2) Course "Disposition Strategies and Current Tax Laws," Author/Owner: Eugene Trowbridge, Provider: Hawaii CCIM Chapter, Course Categories: Investment, Property Ownership and Development, Other, Course Clock Hours: 3 – Recommend approval
- 3) Course "Group Ownership of Commercial and Investment Real Estate," Author/Owner: Eugene Trowbridge, Provider: Hawaii CCIM Chapter, Course Categories: Investment, Real Estate Law, Property Ownership and Development, Other, Course Clock Hours: 3 Recommend approval
- 4) Core Course "Fair Housing, Disclosure & Agency laws," Author/Owner: Eddie Flores, Jr., Provider: Eddie Flores Real Estate Continuing Education, Course Categories: Fair Housing, Disclosure and Agency, Course Clock Hours: 4 **Recommend approval**
- 5) Course "How to Invest in Real Estate," Author/Owner: Eddie Flores, Jr., Provider: Eddie Flores Real Estate Continuing Education, Course Category: Investment, Course Clock Hours: 3 **Recommend approval**
- 6) Course "1031 Exchange & Other Tax Issues,"
 Author/Owner: Abe Lee, Provider: Abe Lee Seminars,

Course Category: Investment, Course Clock Hours: 3 – **Recommend deferral** subject to amendment of the course content based on comments received from REC CE review panel member and other comments received from counsel of Old Republic Exchange Facilitator Company (OREXCO).

- 3. Prelicensing Education Administration, Curriculum, Schools, Instructors, and Equivalency
 - a. Applications
 - 2003-2004 Continuing Education Providers and Courses Ratification List – Recommend approval of the following registrations/certifications:

Registration/Certification

Effective Date

Instructor

Kenneth D.H. Chong August 14, 2003 (Salesperson/Broker curriculum)

- 2) Guest Lecturer John R. Connelley, Subject Matter: Agency, Contracts, Code of Ethics, Property Management, Landlord Tenant Code, Appraisals, Foreclosures, Coldwell Banker Real Estate School, Barbara Dew Principal **Recommend approval**
- Substitute Instructor J. Robert Lightbourn, Hawaii Institute of Real Estate, John Stapleton – Principal – Recommend approval
- 4) Instructor William J. Vanmanen, Premier Realty 2000, Susan Yoshioka – Principal – **Recommend approval**
- 4 Next meeting: Wednesday, October 8, 2003 Upon adjournment of the Laws and Rules Review Committee Meeting, which convenes at 9:00 a.m. Kapuaiwa Room HRH Princess Victoria Kamamalu Building

HRH Princess Victoria Kamamalu Building 1010 Richards Street, 2nd Floor Honolulu, Hawaii

Condominium Review Committee

Upon a motion by Commissioner Rice, seconded by Commissioner Okawa, it was voted on and unanimously carried to accept the amended report of the September 10, 2003 Condominium Review Committee meeting as follows:

- 1. Minutes of August 13, 2003 Meeting Accept
- 2. Condominium Governance and Management
 - a) AOAO Registrations 2003-2005 Biennium Registration –
 Recommend approval to ratify effective dates for the AOAO 2003-2005 biennium registrations received through August 31, 2003.
 - b) Condominium Seminars and Symposium -- Aging in Condos Seminar October 25, 2003 (CAI and HCAAO co-sponsors) Recommend approval to have staff proceed with processing the request in accordance with the small purchase procurement procedures, not to exceed a CMEF subsidy of \$3000, subject to the sponsors agreeing to give REC all copyrights to any materials produced including any videos made and further to provide in all promotional, advertising, announcements, flyers and distributed publications and materials, an acknowledgment

of REC's CMEF full funding/subsidy of the seminar. Staff is also directed to negotiate a provision requiring the sponsors to distribute any produced video to various neighbor island public access television stations and Board of Realtors; subject to the REC's prior approval of the quality and content of any produced video.

- 3. CPR Registration, Developer's Public Reports Condominium Projects and Developer's Public Reports August 2003 **Recommend approval** to ratify issuance of effective dates of the developer's public reports and extensions issued for the month of August 2003.
- Recodification of Chapter 514A Public hearings are scheduled for September 16, 2003 (Lihue, Kauai), September 23, 2003 (Kihei, Maui), September 29, 2003 (Captain Cook, Hawaii), September 30, 2003 (Hilo, Hawaii), and October 7, 2003 (Honolulu, Hawaii). For more specifics see public hearing notice posted at REC's website (www.hawaii.gov/hirec).
- 5. Next Meeting: **Wednesday, October 8, 2003**Upon adjournment of the Education Review Committee meeting which follows the Laws and Rules Review Committee meeting scheduled to convene at 9:00 a.m.

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

Legislative Report

No report was presented.

Program of Work and Budget FY04

No report was presented.

<u>Licensing and</u> <u>Registration -</u> Ratification:

Upon a motion by Commissioner Rice, seconded by Commissioner Okawa, it was voted on and carried to ratify the attached list, with the exception of the following, which will be deferred to the October 31, 2003 REC Meeting:

Trade Name – Charlee & Associates, Ltd., Garden Island Rentals, effective date. 8/13/03

Branch Office - Yamanaka Enterprises, Inc., Vern M. Yamanaka, PB, effective Date 8/28/03

Executive Officer's Report:

Announcements, Introductions, Correspondence and Additional Distribution

Ms. Thompson informed the Commissioners that the Hawaii Association of REALTORS has never felt as great a sense of collaboration with the Real Estate Commission as it has in the past few years.

Ms. Thompson informed the Commissioners of the need to be aware of the agency statutes. The Hawaii Association of REALTORS has a task force that is looking into agency statutes. They will be asking members of the Hawaii Association of REALTORS at the Outreach program for their opinions. Ms. Thompson also recommended that the Commissioners and REB staff attend the Outreach programs if they have an opportunity to do so.

Ms. Thompson reported that they are surveying their members on license recognition and as of this morning, they have received 225 responses to the ten questions that they had posed to their members. They will forward the results to the Commission when it becomes available.

Executive Session:

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

<u>Licensing</u> – Applications:

Kyle C. Scharnhorst

After a review of the information submitted by the applicant, Commissioner Okawa moved to deny the real estate salesperson's license application of Kyle C. Sharnhorst, pursuant to Sections 467-8(a)(3), HRS, 436B-19(1), (8), (12), and (14), HRS. Commissioner Yamanaka seconded the motion. The motion was voted on and unanimously carried.

Daniel G. Holt

After a review of the information submitted by the applicant, Commissioner Yamanaka moved to deny Daniel G. Holt's application for a real estate salesperson's license, unless within 60 days the applicant submits proof of payment or any approved written payment plan with the Internal Revenue Service for all outstanding tax obligations. Commissioner Abrams seconded the motion. The motion was voted on and unanimously carried.

Simplicio I. Acosta

After a review of the information submitted by the applicant, Commissioner Abrams moved to approve the real estate broker's license application of Simplicio I. Acosta. Commissioner Rice seconded the motion. The motion was voted on and unanimously carried.

Executive Officer's Report:

Announcements, Introductions, Correspondence and Additional Distribution

The EO reported that the P&VLD will be moving out of this building on November 24 and 25, 2003. REB staff is currently trying to determine if the November 26, 2003 REC meeting will be rescheduled.

Senior Specialist Yee reported that the Commission is working with the Department of Health on the assisted living bill. Information on the informational briefing that will be held on October 14, 2003, was distributed to the Commissioners for their information.

Recodification Attorney Arakaki gave a progress report of the recodification hearings. There were 23 persons who attended the Maui hearing.

Commissioner Imanaka stated that the recodification project is a work in process. The documents will keep changing until the bill is passed. He thanked Recodification Attorney Arakaki and Senior Condominium Specialist Yee and

others involved in the project for their contributions. After the hearings are completed, the Blue Ribbon Committee will reconvene and hopes to wrap up the project by November so that it can be given to the Commission for approval.

Next Meeting: Friday, October 31, 2003

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

9:58 a.m.

Reviewed and approved by:

/s/ Alan Taniguchi Alan Taniguchi Executive Officer

October 31, 2003

Date

[Χ]	Approved as circulated.	
[]	Approved with corrections; see minutes of	meeting

AT/isk 10/13/03

APPROVED APPLICATIONS FOR REAL ESTATE REAL ESTATE COMMISSION MEETING ON SEPTEMBER 26, 2003

Brokers – Corporations and Partnerships Centex Homes, Centex Destination Properties D. Kimiko White, PB	Effective Date 09/01/03
Brokers – Limited Liability Companies and Partnerships Hawaiibroker.net Realty, LLC M. Nalani Finsand, PB	Effective Date 08/19/03
NHPMN Management, LLC Geroge Loomis, PB	09/11/03
Brokers – Sole Proprietor Masanao Murai Linda A. Lawhead, Realestate with Aloha Harriet A. Klark, Klark Properties Kenneth Haff Juanita M. Charkas, Olowalu Village Realty	Effective Date 08/12/03 08/11/03 08/18/03 08/19/03 08/22/03
Corporation Name Towne Island Homes, Ltd.	Effective Date 08/28/03
Equivalency to Uniform Section of Examination Certificate Chasmin A. Sokoloski William K. Sweeney Christine Lorraine Chan Leroy L. Stone Frida R. Adams Lawrence D. Boggan Jeongwon Shin Robert Folting Vincent Michael Vitalich Steven D. Ludwig Keith Eugene Hertz Patrick A. Meyer Lesley S. Gregory Geoffrey A. Gregory Susan F. Lancaster Wesley Keith Sides Keryl L. Whetstone Joel Kurosaki	Expiration Date 08/22/05 08/22/05 08/22/05 08/25/05 08/26/05 08/26/05 08/28/05 08/28/05 08/28/05 09/02/05 09/02/05 09/02/05 09/05/05 09/08/05 09/08/05 09/09/05 09/09/05
Equivalency to Uniform Section of Examination Certificate Michael A. Greggo Dunn Voyer	Expiration Date 09/10/05 09/10/05

Bertram J. Sugimoto Robert B. Marple Patrick A. Meyer

Rodney C. Imming

Educational Equivalency Certificate	Expiration Date
Chasmin A. Sokoloski	08/22/05
Dylan Robert King Jones	08/22/05
Christine Lorraine Chan	08/25/05
Leroy L. Stone	08/26/05
Frida R. Adams	08/26/05
Teresa Jean Dunlop	08/26/05
Lawrence D. Boggan	08/28/05
Jeongwon Shin	08/28/05
Robert Folting	08/28/05
Frank Eichler	08/28/05
Vincent Michael Vitalich	09/02/05
Steven D. Ludwig	09/02/05
Keith Eugene Hertz	
<u> </u>	09/02/05
Robert Tidwell	09/02/05
Lori Kaizawa	09/02/05
Henry Walter Putek, Jr.	09/02/05
Keiichi Kenny Furuki	09/02/05
Patrick A. Meyer	09/05/05
Lesley S. Gregory	09/05/05
Geoffrey A. Gregory	09/08/05
Susan F. Lancaster	09/08/05
Wesley Keith Sides	09/09/05
Keryl L. Whetstone	09/09/05
Naomi Cole	09/10/05
Joel Kurosaki	09/10/05
Michael A. Greggo	09/10/05
Dunn Voyer	09/10/05
Real Estate Broker Experience Certificate	Expiration Date
Chasmin A. Sokoloski	08/22/05
Debra H. Balfour	08/22/05
Tiffany N. Kling	08/22/05
Austin M. Hirayama	08/25/05
James E. Buchmiller	08/25/05
George Yanai	08/25/05
Asaina Tamaki	08/25/05
Leroy L. Stone	08/26/05
Lawrence D. Boggan	08/28/05
Carrie K. S. Naihe	08/28/05
Sally Hoepfl	08/28/05
Karen V. Lee Jimenez	09/02/05
Steven D. Ludwig	09/02/05
Michael C. Schnack	09/02/05
Portram I Sugimoto	09/02/05

09/02/05 09/04/05 09/05/05

09/05/05

Condominium Hotel Operator Regency Resorts, LLC

Real Estate Broker Experience Certificate Mineko E. Szkotak Keryl L. Whetstone Jimmie L. Bush, Jr. Nolie T. Mercado Joel Kurosaki Dunn Voyer	Expiration Date 09/05/05 09/09/05 09/10/05 09/10/05 09/10/05
Real Estate Broker (upgrade) Diana Sande Thomas R. Tripler	Effective Date 08/14/03 08/14/03
Linda L. Sauer	08/11/03
Fran Villarmia-Kahawai	08/12/03
Masanao Murai	08/12/03
Linda A. Lawhead	08/11/03
Kirk B. Drake	08/19/03
Kenneth Haff	08/19/03
Bob R. Newton, Jr.	08/20/03
Linda L. Harrison	08/25/03
Kenneth Dresner	09/08/03
Restoration – Real Estate Salesperson Jacklyn Delight Andrew F. Bouthillier Ken R. Nakasone	Effective Date 08/18/03 08/27/03 08/28/03

Effective Date 08/11/03