

**REAL ESTATE COMMISSION**  
Professional and Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii  
[www.hawaii.gov/hirec](http://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, April 25, 2003

Time: 9:00 a.m.

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

Present: John Ohama, Chair (Late Arrival)  
Mitchell Imanaka, Vice Chair  
Iris Okawa, Chair Pro Tem  
Patricia Choi, Member  
Kathleen Kagawa, Member  
Vern Yamanaka, Member

Calvin Kimura, Supervising Executive Officer  
Alan Taniguchi, Executive Officer  
Diane Choy Fujimura, Senior Real Estate Specialist  
Lorene Arata, Real Estate Specialist  
Russell Wong, Real Estate Specialist  
David Grupen, Condominium Specialist  
Cheryl Leong, Condominium Specialist  
Gordon Arakaki, Condominium Recodification Attorney  
Shari Wong, Deputy Attorney General  
Irene Kotaka, Secretary

Lawrence Kamakawiwo'ole, Special Deputy Attorney General  
Nicki Ann Thompson, Hawaii Association of REALTORS®  
Glenn Nakamura, Tentacles LLC  
John Marshall, Attorney for Tentacles LLC  
George Hoffberg

Excused: Louis Abrams, Member  
Marshall Chinen, Member  
Peter Rice, Member

Call to Order: The Chair Pro Tem called the meeting to order at 9:01 a.m., at which time quorum was established.

Chair's Report: The Chair Pro Tem announced that the Chair was meeting with the Director and is expected to arrive shortly. No report was presented.

### Minutes of Previous Meetings

Upon a motion by Commissioner Choi, seconded by Commissioner Yamanaka, it was voted on and unanimously carried to approve the minutes of the March 28, 2003 Real Estate Commission meeting as circulated.

### Committee Reports:

#### Laws and Rules Review Committee

Upon a motion by Commissioner Okawa, seconded by Commissioner Yamanaka, it was voted on and unanimously carried to accept the report of the April 7, 2003 Laws and Rules Review Committee meeting as follows:

1. Minutes of March 12, 2003 – **Accept**
2. Program of Work, FY03
  - a. Program of Work, FY 04 – **Recommend** that the Commissioners review the current program of work and propose revisions.
  - b. Neighbor Island Outreach – The next neighbor island outreach is scheduled to be held in the Conference Room of the Kona Board of REALTORS' offices, located at 75-240 Nani Kailua Drive, Suite 157, Kailua-Kona, Hawaii, on Thursday, May 8, 2003.
  - c. Committee meetings – **Reaffirm** Commission's decision to hold the Committee meetings, effective June 10, 2003, as follows:  
Laws and Rules Review Committee Meeting – 9 a.m.  
Education Review Committee Meeting – Upon adjournment of the Laws and Rules Review Committee Meeting  
Condominium Review Committee Meeting – Upon adjournment of the Education Review Committee Meeting
  - d. Legislative and Government Participation - **Recommend** that the Commissioners consult with the REC Chair to determine proposed legislation and that the Hawaii Association of REALTORS be included in the discussion.
3. Special Issues
  - a. NAR Proposed Policy on VOWs – **Recommend** that the Committee wait until after the ARELLO Midyear Meetings to determine its position on VOWs.
  - b. Salvation Army Request – **Recommend** that this issue be deferred pending receipt of further information from the Salvation Army.
4. Next Meeting: **Thursday, May 8, 2003**  
**10:30 a.m.**  
**Conference Room**  
**Kona Board of REALTORS**  
**75-240 Nani Kailua Drive, Suite 157**  
**Kailua-Kona, Hawaii**

#### Education Review Committee

Upon a motion by Commissioner Choi, seconded by Commissioner Yamanaka, it was voted on and unanimously carried to accept the report of the April 7, 2003 Education Review Committee meeting as follows:

1. Minutes of March 12, 2003 – **Accept**

2. Prelicensing Education Administration, Curriculum, Schools, Instructors, and Equivalency
  - a. Broker Curriculum and Resources – Draft Request for Proposal for revision of broker’s curriculum – including amending of section XI.U. to include instruction and review of an actual closing statement, stages of closing, identification of closing costs, practical, hands-on instruction to be emphasized and amending section IX to include instruction and discussion on commission distribution when dealing with an out-of-state broker, including discussion of splitting fees, referral fees – **Recommend approval**
  - b. Vitousek Real Estate Schools, Inc. and M. Russell Goode, Jr. – failing to include expiration date on school completion certificate by Mr. Goode, and engaging in conduct not suited to a certified prelicense instructor – Commission acknowledges these “infractions” and if such actions occur in the future, a complaint will be referred to the Regulated Industries Complaints Office for further review and action
3. ARELLO, REEA, and Other Organizations – REEA – “Development of Simulation Exercises for Real Estate Practitioners” – Staff to forward letter to Applied Measurement Professionals (AMP) indicating interest in their simulation exam.
4. Next meeting: **Thursday, May 8, 2003**  
**11:00 a.m.**  
**Kona Board of REALTORS®**  
**75-240 Nani Kailua Drive, Suite 157**  
**Kailua-Kona, 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 April 7, 2003 Condominium Review Committee meeting as follows:

1. Minutes of March 12, 2003 Meeting – **Accept**
2. Condominium Governance and Management
  - a. Mediation & Arbitration -- Contract Renewals -- Pursuant to the automatic renewal for successive one year term provisions of the following respective existing contract agreements with the Commission, respectively **recommend approval** to automatically renew the Commission’s Agreement for Consultant Service, for July 1, 2003 through June 30, 2004 subject to the same terms and conditions of the existing Agreements, and subject to the availability of the Condominium Management Education Fund for the following entities:
    - 1) Mediation Center of the Pacific, Inc.
    - 2) Big Island Mediation, Inc.
    - 3) The Island of Hawaii YMCA – Ku’ikahi Mediation Center
    - 4) Kauai Economic Opportunity, Inc.
    - 5) Mediation Services of Maui, Inc.
  - b. Condominium Seminars and Symposium -- Contract Renewals -- Pursuant to the automatic renewal for successive one year term provision of the following respective existing contract agreements

with the Commission, respectively **recommend approval** to automatically renew the Commission's Agreement for Consultant Service, for July 1, 2003 through June 30, 2004 subject to the same terms and conditions of the existing Agreements, and subject to the availability of the Condominium Management Education Fund for the following entities:

- 1) CAI Hawaii
- 2) Hawaii Association of Realtors
3. CPR Registration, Developer's Public Reports
  - a. March 2003 - **Recommend approval** to ratify issuance of effective dates of the developer's public reports and extensions issued for the month of March 2003.
  - b. Informal Non-Binding Interpretation - §514A-40(b)(1), HRS, Request from Jeffrey S. Grad, Esq. - **Recommend approval** to issue an informal non-binding opinion that §514A-40(b)(1), HRS, restricts the Real Estate Commission from issuing an effective date for a developer's public report for a converted condominium project when the developer, among other requirements, has not submitted a statement signed by an appropriate county official that the project is in compliance with all zoning and building ordinances and codes applicable to the project. The Real Estate Commission cannot exceed its authority as specifically set forth in §514A-40(b), HRS.
4. Program of Work, FY03
  - a. Hawaii Condominium Bulletin - Pioneer Ventures, Inc. - **Recommend approval** to informally solicit quotations from interested vendors for printing and mailing of the Hawaii Condominium Bulletin.
  - b) Neighbor Island Outreach – Kailua-Kona, Thursday, May 8, 2003.
5. Next Meeting: **Thursday, May 8, 2003**, 9:30 a.m.  
Kona Board of REALTORS, Conference Room  
75-240 Nani Kailua Drive, Suite 157  
Kailua, Kona, Hawaii

Licensing and  
Registration -  
Ratification:

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

Chair Ohama arrived and presided over the meeting.

Executive Officer's  
Report:

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

**Additions to the Agenda**

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

4. Committee Reports
  - b. Education Review Committee – Mandatory CE Course, 2003-2004 Biennium

- c. Condominium Review Committee – Request to subsidize CAI-Hawaii Chapter Seminar
- e. Program of Work and Budget, FY 04
- 6. Applications
  - f. KFG Properties, Inc.
  - g. Syed Sarmad

#### **Additional Distribution**

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

- 6. Licensing – Applications
  - d. Tentacle, LLC

#### Committee Reports:

#### **Education Review Committee**

The Commission received letters from the Hawaii Association of REALTORS<sup>®</sup>, and its local boards requesting that the Commission use funds from the Real Estate Education Fund to create a core course for the current biennium. The purpose of the REEF is to provide education and research and developing a core course would benefit the real estate licensees professionally.

Senior Real Estate Specialist Fujimura stated that staff had met with representatives of the Hawaii Association of REALTORS<sup>®</sup> and its local boards. They discussed creating a request for a proposal. REB staff will draft a letter of solicitation to request proposals for the development of the mandatory CE course. Senior Real Estate Specialist Fujimura informed the Commissioners that there was a correction to the Request for Proposals that was drafted. Under the Terms and Conditions, item 4)a), should read: "The deadline for law updates for 2003 is July 1, 2003." The deadline for the solicitation of the proposals is May 30, 2003.

Neighbor island licensees had raised concerns about the availability of the core courses.

There is a bill that is currently being considered that, if passed, will take \$150,000 from the Real Estate Education Fund and millions from the Compliance Resolution Fund.

If a contract is negotiated with a vendor to develop the core course, the Attorney General's Office will need to review and approve the contract. Currently, the Commission has one contract that has been pending with the Attorney General's Office since December 2002.

Ms. Thompson stated that the Hawaii Association of REALTORS<sup>®</sup> is requesting that the Commission develop the mandatory continuing education core course. She suggested that the course also focus on RICO complaints, to determine what licensees are doing wrong and how they can lessen these problems. She would also like to see a course that addresses agency disclosure issues. The Hawaii Association of REALTORS<sup>®</sup> would like the Commission to use the moneys in the Real Estate Education Fund to educate its licensees by the development of a course.

Chair Ohama suggested that the interested parties meet to work on the core course together as it was done in the past.

Ms. Thompson stated that the Hawaii Association of REALTORS® was looking at using the moneys in the Real Estate Education Fund to hire someone to develop the course. The development of the course would benefit the licensees and the consumers.

Chair Ohama asked for assistance from the Hawaii Association of REALTORS® in trying to find someone who could put together a highly professional course. The Hawaii Real Estate Research and Education Center is no longer in existence.

Ms. Thompson stated that the Commission needs to determine where licensees are experiencing problems and they need to address these areas. The Hawaii Association of REALTORS® does not have the funding available and this is the only source of funding that they can see.

The SEO stated that a subcommittee would be appointed to look at the issues and the consultant that is selected would receive guidance from the subcommittee. The complaints filed with RICO involved property management and landlord tenant issues. The Commission had asked RICO for information on the types of complaints filed, but the information was not received in a timely manner.

Ms. Thompson stated that she was bringing the issue forward now because of the budget and manpower issues involved.

Chair Ohama suggested deferring this matter to the subcommittee.

Ms. Thompson asked if there would be sufficient time to defer this matter.

Commissioner Yamanaka stated that there is a real need for these courses and the funds should be used to develop these courses. The funds should be utilized for the purpose of education. Commissioner Yamanaka also stated that he is concerned about the timing issues.

The SEO stated that the Commission had already planned to develop the mandatory continuing education course. The neighbor island licensees had expressed that the number of courses reaching the neighbor islands are slim.

Upon a motion by Commissioner Imanaka, seconded by Commissioner Choi, it was voted on and unanimously carried to proceed with the issuance of the request for proposal subject to funding and subject to any input that the lead Commissioner for that program of work may have.

The proposal says that the Commission has the right not to accept the final product. The Commission also has the right to not accept the bids.

Licensing -  
Applications:

**Tentacle, LLC**

Glenn Nakamura, owner and principal broker of Tentacle, LLC and his attorney, John Marshall, were present at the meeting to answer any questions the Commissioners may have regarding Tentacle, LLC's application for a limited

liability company and their request to use the trade name, BRYCL Property Management.

Mr. Nakamura and Mr. Marshall were asked if they wished to have their application considered in executive session. They declined the offer.

Mr. Marshall stated that their application for the use of the trade name, BRYCL Property Management, was on the agenda this morning because staff was doing their job and because of Mr. Nakamura's honesty. Mr. Marshall also stated that it was clear that the Commission is empowered by the statute to make exceptions. Mr. Marshall stated that there is good cause for allowing the use of the trade name. No one will know who "BRYCL" is. Mr. Marshall stated that the Commission has discretionary powers and it should be exercised consistently. Mr. Marshall stated that they have provided examples of some who have done similar things in the past.

Mr. Nakamura was the principal broker for Aston for ten years and he also worked at Marc Resorts. Both companies are named after non-licensees.

Mr. Nakamura stated that they felt that the name "BRYCL" is catchy and marketable. They are using the name for hotel projects in Asia. Her son is going to school. Both his son and his wife are not active in real estate.

The SEO reported that Aston and Marc might have been grandfathered in because they were licensed prior to the changes in the law.

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

#### **George W. Hoffberg**

George W. Hoffberg was asked if he wished to have his application for a real estate salesperson's license considered in executive session. Mr. Hoffberg declined the offer.

Mr. Hoffberg stated that he was licensed in the early 1980's in California. He has been licensed over twenty years without a complaint. He was previously living in New York City and opened an employment agency there. He was licensed until 1978 and did not have any complaints. Mr. Hoffberg also stated that he was here to answer any questions that the Commissioners may have regarding his license application.

Commissioner Okawa thanked Mr. Hoffberg for appearing before the Commission. She asked him if all the statements submitted by his attorney were accurate and truthful. He answered yes and stated that the all other statements by his attorneys are accurate and truthful to the best of his knowledge.

Mr. Hoffberg added that he has purchased land on Kauai and plans to build his house on it.

Upon a motion by Commissioner Imanaka, seconded by Commissioner Kagawa, 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 9:37 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 Licenses of Timeshare Liquidators of Hawaii, LLC and Jeanne M. Childs, and In the Matter of the Real Estate Salesperson's License of Benjamin H. Bregman; REC 2002-38-L**

Upon a motion by Commissioner Okawa, seconded by Commissioner 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.

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 9:40 a.m.

Committee Reports:

**Condominium Review Committee**

Request to subsidize CAI-Hawaii Chapter Seminar – Upon a motion by Commissioner Imanaka, seconded by Commissioner Kagawa, it was voted on and unanimously carried to recommend approval of CAI-Hawaii Chapter's seminar, "ABC Basic Course," to be held on June 7, 2003, as a CEF subsidized seminar, subject to the terms and conditions of the current contract.

**Legislative Report**

A copy of Legislative Report No. 6 was emailed to the Commissioners for their information.

The SEO reported that hearings on the proposed recodification amendments will be held in every county as set forth in House Bill No. 75, H.D.2, S.D.1. It has always been the intent of the Commission to hold hearings in each of the counties.

**Program of Work and Budget, FY04**

The Commissioners were asked to submit their recommendations for amendments to the program of work as soon as possible. The mandatory continuing education course will be included in the program of work for fiscal year 2004.

Executive Session:

Upon a motion by Commissioner Okawa, 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;"

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

Licensing –  
Applications:

**George W. Hoffberg**

After a review of the information presented by the applicant, Commissioner Okawa moved to approve the real estate salesperson's license application of George W.

Hoffberg. Commissioner Choi seconded the motion. The motion was voted on and unanimously carried.

**Keith Mowinski**

After a review of the information submitted by the applicant, Commissioner Choi moved to approve the real estate salesperson's license application of Keith Mowinski. Commissioner Imanaka seconded the motion. The motion was voted on and carried. Commissioner Ohama voted against the motion.

**Craig E. Cohen**

After a review of the information submitted by the applicant, Commissioner Choi moved to approve the real estate salesperson's license application of Craig E. Cohen. Commissioner Imanaka seconded the motion. The motion was voted on and unanimously carried.

**Tentacle, LLC**

After a review of the information presented by the applicant, Commissioner Imanaka moved to approve Tentacle, LLC's application for a limited liability company and their request to use the trade name, BRYCL Property Management. Commissioner Choi seconded the motion. The motion was voted on and unanimously carried.

**Diana E. Bienenfeld**

After a review of the information submitted by the applicant, Commissioner Yamanaka moved to approve the reinstatement of Diana E. Bienenfeld's real estate broker's license. Commissioner Kagawa seconded the motion. The motion was voted on and unanimously carried.

**KFG Properties, Inc.**

After a review of the information submitted by the applicant, Commissioner Imanaka moved to approve the real estate corporation application of KFG Properties, Inc. Commissioner Kagawa seconded the motion. The motion was voted on and unanimously carried.

**Syed Sarmad**

After a review of the information submitted by the applicant, Commissioner Okawa moved to approve the real estate salesperson's license of Syed Sarmad, based on the additional information that he had submitted. Commissioner Kagawa seconded the motion. The motion was voted on and unanimously carried.

Next Meeting:

Friday, May 23, 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 Vice Chair adjourned the meeting at 9:52 a.m.

Reviewed and approved by:

/s/ Alan Taniguchi  
Alan Taniguchi  
Executive Officer

May 23, 2003  
Date

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

AT/isk/05122003

APPROVED APPLICATIONS FOR REAL ESTATE  
REAL ESTATE COMMISSION MEETING ON APRIL 25, 2003

<u>Brokers – Corporations and Partnerships</u>	<u>Effective Date</u>
Topa Management Company Curt Nakamura, PB	03/24/03
<u>Brokers – Limited Liability Companies and Partnerships</u>	<u>Effective Date</u>
Pauoa Bay Realty LLC Robert G. Rediske, PB	03/14/03
Paradise Development LLP James S. Kawaoka, PB	03/25/03
Advantage Vacation LLC James L. Helton, LLC	03/25/03
<u>Brokers – Sole Proprietor</u>	<u>Effective Date</u>
Peter D. Larsen	03/07/03
Sylvia S. Y. L. Tenn	03/10/03
Randall Y. M. Zane	03/20/03
Janet L. Schiller	03/21/03
Brooks T. Bowman, Hawaii Discount Realty	03/24/03
Joanna Roskowick	03/25/03
Paul J. Schow	03/27/03
Wendall David Karr	03/28/03
Sandy Bobay, Sandy Bobay Realty	04/01/03
<u>Trade Name</u>	<u>Effective Date</u>
Regency Pacific Realty, LLC, Regency Pacific Realty	03/12/03
<u>Equivalency to Uniform Section of Examination Certificate</u>	<u>Expiration Date</u>
Lucian Gago	03/19/05
John William Zimmer	03/19/05
Gayle A. Robertson	03/19/05
Michael W. Schrieber	03/21/05
Elizabeth Cherry Stallings	03/21/05
William Harold Sours, Jr.	03/21/05
Sandra Abshire	03/21/05
Eric Carl Maher	04/03/05
Teri L. Finch	04/03/05
Randall S. Gray	04/08/05
Alan J. Pyenson	04/08/05
Mark Andrew Alagna	04/08/05
Sherrill MacNaughton	04/08/05
Jeffrey Brisbane Perkins	04/10/05
Kevin J. Elliott	04/14/05
<u>Educational Equivalency Certificate</u>	<u>Expiration Date</u>
Lucian Gago	03/19/05
David Bryan Jackson	03/19/05
John William Zimmer	03/19/05
Michael W. Schrieber	03/21/05
Elizabeth Cherry Stallings	03/21/05
William Harold Sours, Jr.	03/21/05

Educational Equivalency Certificate

	<u>Expiration Date</u>
Moon Sun Kang	03/27/05
Eric Carl Maher	04/03/05
Teri L. Finch	04/03/05
Scott A. Worner	04/08/05
Randall S. Gray	04/08/05
Alan J. Pyenson	04/08/05
Mark Andrew Alagna	04/08/05
Paul M. Honkavaara	04/08/05
Warren Alexander Smith	04/08/05
Katherine Anne Runyon	04/08/05
Wallace Lamar Campbell	04/08/05
Jeffrey Brisbane Perkins	04/10/05
Kevin J. Elliott	04/14/05
Heidi Malik Rodgers	04/14/05

Real Estate Broker Experience Certificate

	<u>Expiration Date</u>
Delfin D. L. C. Medina	03/19/05
Ronald Y. K. Lee	03/19/05
J. Rex Pippin	03/19/05
Joseph Acohido	03/19/05
John William Zimmer	03/19/05
Faye R. Kurk	03/19/05
Debra Malia	03/21/05
Sharon M. Madsen	03/21/05
Aloha K. K. Fontes	03/21/05
Alison M. Vasconcellos	03/21/05
Carlton P. Yim	03/21/05
John S. Assaturian	03/31/05
Dessel R. Fyffe	04/03/05
Teri L. Finch	04/03/05
Veronica Anaya	04/07/05
Scott A. Worner	04/08/05
Deborah L. Castro	04/08/05
Peter Happi	04/08/05
Jane W. Ishii	04/08/05
Alan J. Pyenson	04/08/05
Paul M. Honkavaara	04/08/05
Gregory M. Kerner	04/14/05
Kevin J. Elliott	04/14/05
Byron J. Yap	04/14/05

Real Estate Broker (upgrade)

	<u>Effective Date</u>
Jennifer J. Powell	03/14/03
Paul R. Gienger	03/24/03
Lisa Hamman	04/01/03

Restoration – Real Estate Broker

	<u>Effective Date</u>
Marsha A. Smith	03/24/03
Sky M. Landis	03/28/03

Restoration – Real Estate Salesperson

	<u>Effective Date</u>
Skye K. Griep	03/27/03

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Condominium Hotel Operator w/ Real Estate Broker Exemption  
Association of Apartment Owners of Leilani Kai  
Kamaole Nalu Resort Owners LLC

Effective Date  
03/19/03  
04/07/03