

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, August 27, 1999

Time: 9:00 a.m.

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

Present: Alvin Imamura, Chair
Nora Nomura, Vice Chair (Late Arrival)
Charles Aki, Member
Michael Ching, Member
Patricia Choi, Member
Alfredo Evangelista, Member
Mitchell Imanaka, Member
John Ohama, Member
Iris Okawa, Member

Calvin Kimura, Supervising Executive Officer
Christine Rutkowski, Executive Officer
Pamela Garrison, Senior Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Morris Atta, Condominium Specialist
Gina Watumull, Condominium Specialist
Shari Wong, Deputy Attorney General
Irene Kotaka, Secretary

Steve Gilbert, Hawaii Real Estate Research and Education Center
Leolani Kini
Philip Birn

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

Chair's Report: No Chair's report was presented.

Vice Chair Nomura arrived.

Executive
Officer's
Report:

Additions to the Agenda

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

6. Licensing - Questionable Applications
 - h. Joshua K. Olson

Additional Distribution

The following material was distributed to the Commissioners prior to the start of the meeting:

4. Committee Reports
 - b. Education Review Committee - Revised Final Draft Core Course 1999-2000
 - c. Condominium Review Committee - Amended Report
6. Licensing - Questionable Applications
 - a. James W. Licke
 - b. Stuart S. Igarta

Minutes of Previous Meeting

Upon a motion by Commissioner Ching, seconded by Commissioner Evangelista, it was voted on and unanimously carried to accept the minutes of the July 29, 1999 Real Estate Commission meeting.

Chair's Report: The Chair presented Steven Gilbert, former Interim Chair of the Hawaii Real Estate Research and Education Center, with a plaque of appreciation for his contributions in real estate.

Committee Reports:

Laws and Rules Review Committee

Upon a motion by Commissioner Ching, seconded by Commissioner Ohama, it was voted on and unanimously carried to accept the amended report of the August 11, 1999 Laws and Rules Review Committee meeting, as follows:

1. Minutes of Previous Meetings - Accept minutes of July 8, 1999.
2. Commissioners Education Program - Request that Commissioners bring in their Commissioner's Reference Book to the August 27, 1999 Real Estate Commission meeting or earlier so that staff can incorporate the 1999 amendments.
3. Special Issues - Douglas R. Spencer Request for Informal Non-binding Opinion on Act 240:
Recommend approval of the following:
 - a. That pursuant to the previous §467-9.5(5) and the July 2, 1999 revised §467-9.5(4), HRS, (Act 240, 1999 Session Laws of Hawaii) no applicant would be able to sit directly for the real estate broker's examination without having met the salesperson's experience requirement.
 - b. That Mr. Spencer cannot take the real estate broker examination because he has not met the requirements.
 - c. That staff inform Mr. Spencer that the real estate broker exam is different from the real estate salesperson exam based on different curriculum.
 - d. That Mr. Spencer should submit a complete application for education equivalency for the real estate salesperson exam to determine if he qualifies. Staff to notify Mr. Spencer that he cannot use the same basis for education equivalency for the real estate salesperson and real estate broker.

- e. That based on consultation with the Deputy Attorney General, Act 240 supercedes the rules in effect on equivalency experience.
 - f. At its May 27, 1999 monthly meeting, the Real Estate Commission proposed its amendments to Chapter 99, Hawaii Administrative Rules.
4. Special Issues - Clear 1999 Conference - **Recommend approval** not to send or fund any participants due to budgetary constraints and keeping travel to a minimum.
5. Next Meeting: Wednesday, September 8, 1999
9:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Education Review Committee

Prelicense Education Administration, Curriculum, Schools, Instructors, and Equivalency - Applications - Instructor - Abraham "Abe" Lee, Prelicense Broker Curriculum

Senior Real Estate Specialist Garrison reported that Mr. Lee had submitted a request to become an approved instructor for the prelicensing broker and salesperson curriculum, however only the real estate salesperson's instructor application was recommended for approval at the August 11 1999 Education Review Committee meeting. Ms. Garrison requested that Mr. Lee's application as a prelicense broker instructor be considered at this time.

Upon a motion by Commissioner Ching, seconded by Commissioner Aki, it was voted on and unanimously carried to approve Abraham "Abe" Lee's application as an instructor of the prelicensing real estate broker curriculum, subject to receipt of a passing score report for the instructor examination.

1999-2000 Mandatory Continuing Education Core Course - Commissioner Ohama reported that the Committee had met to discuss the core course and the final draft has been prepared and was distributed at the meeting for review and approval.

Commissioner Ohama recommended that the Commission approve the draft based on its substance, with the condition that it be reviewed by staff and himself. The SEO stated that if there were no substantive changes, he would recommend that the Commission approve the draft and proceed to finalization. It is hoped that the final core course would be ready for distribution sometime between now and next Friday.

Upon a motion by Commissioner Ohama, seconded by Commissioner Nomura, it was voted on and unanimously carried to approve the substance contained in the draft of the core course, Real Estate Law Update and Ethics 1999-2000, and to delegate to staff to perform non-substantive, structuring, and organizational revisions, in consultation with Commissioner Ohama, with the goal of making the course available to providers as soon as possible.

Commissioner Ohama mentioned that he had attended a meeting yesterday, which discussed the continuing education courses, and the credits received. Questions were raised as to how many hours the HAR course would be certified for since it is a four-hour

course. If the Commission can certify the core course as a four-hour course, it will do so. Certifying the HAR course for four hours may even be more advantageous as the licensee will only have to take two, three-hour elective courses. In the future, there may also be a six-hour elective course, which the Commission may consider to be equivalent to six-hours of continuing education courses.

Commissioner Ching requested that this matter be referred back to the Laws and Rules Review Committee for further consideration.

Commissioner Ohama stated that he had raised this issue because it is necessary for the Commission to consider the next core course. In the past, the HREREC completed the core course in the first year of the biennium and then provided updates for the second year of the biennium. Commissioner Ohama asked that the Commissioners inform him of any suggestions that they may have.

Commissioner Ching thanked Commissioner Ohama for taking the lead in the core course.

Upon a motion by Commissioner Aki, seconded by Commissioner Ohama, it was voted on and unanimously carried to approve the amended report of the August 11, 1999 Education Review Committee meeting, as follows:

1. Minutes of July 8, 1999 meeting - **Accept.**
2. Continuing Education Administration, Curriculum, Courses, Providers, and Instructors
 - a. Applications
 - 1) Provider: Richard Daggett - **Recommend approval.**
 - 2) Course: "§1031 Exchanges - An Investors Dream" (Provider: Abe Lee Seminars), Instructor: Michael J. Yesk, Course category: Real Estate Tax Law - **Recommend approval.**
 - 3) Course: "Listing and Selling Business Opportunities" (Provider: Richard Daggett), Instructor: Richard Daggett, Course category: Investment, Commercial Real Estate - **Recommend approval** subject to course being offered for 3 1/3 hours and course curriculum being amended to such hours.
 - 4) Course: "Contracts/Business Opportunities" (Provider: Richard Daggett), Instructor: Richard Daggett, Course category: Contracts - **Recommend approval** subject to course being offered for 3 1/3 hours and course curriculum being amended to state such hours.
 - 5) Recommend to invite Mr. Richard Daggett to attend the Real Estate Commission's August 27, 1999 meeting to discuss any concerns and suggestions concerning the real estate laws, rules and program of work issues.
 - b. Continuing Education 99-00 Core Course
 - 1) **Recommend approval** to allow a licensee to receive CE credit for all core courses taken. If a licensee takes multiple courses, additional core courses to be deemed equivalent to elective course credits.
 - 2) **Recommend delegation of 2 or more Commissioners** to attend the 99-00 Core Course workshops and submit report to the Commission at its August 27, 1999 meeting on status of core course.

- c. Request for Equivalency to CE Elective Course - **Recommend denial** of request for equivalency to the continuing education elective course by licensee Jane F. Abramo as the requested course does not meet the requirements of §16-99-100, Criteria for approving and certifying continuing education courses.
3. Prelicense Education Administration, Curriculum, Schools, Instructors, and Equivalency
 - a. Applications
 - 1) School: "Premier Realty 2000, Inc." (Salesperson Curriculum) - **Recommend approval.**
 - 2) Instructor: Abraham "Abe" Lee, Prelicense Salesperson Curriculum - **Recommend approval** subject to receipt of passing score report for the instructor examination.
4. Next Meeting: Wednesday, September 8, 1999
10:00 a.m.
Kapuaiwa Room
1010 Richards Street, Second Floor
Honolulu, HI 96813

ARELLO Committee Sign-Up Forms – The Commissioners were asked to return their ARELLO Committee Sign-up sheets for compiling. The SEO will present a compiled listing of the committee assignments to the Commissioners at the September Laws and Rules Review Committee meeting.

Commissioner Aki asked the SEO if he was asked to chair some of the committees. The SEO informed the Commissioners that he has been asked, but he is uncertain whether or not he could commit the time to chairing the committees.

Condominium Review Committee

Upon a motion by Commissioner Evangelista, seconded by Commissioner Imanaka, it was voted on and unanimously carried to accept the amended report of the August 11, 1999 Condominium Review Committee meeting as follows:

1. Minutes of July 8, 1999 - **Accept** minutes.
2. Condominium Education Fund - **Recommend approval** that the common usage of Condominium Management Education Fund (CMEF) be changed to "Condominium Education Fund" (CEF) to more accurately reflect the intent of the original legislation. Commission to change its references in all education materials and its verbal usage to CEF. When opportune time arises, Commission to attempt to statutorily change CMEF to CEF.
3. AOA Registrations - **Recommend approval** to ratify effective dates for AOA registrations for:
 - a. 1997 - 1999 Registrations through July 31, 1999.
 - b. 1999 - 2001 Registrations through July 31, 1999.
4. AOA / CMA / CHO Registrations - **Recommend approval** to waive HAR §16-99-148(b)(1) and render a decision that the Real Estate Commission shall no longer be the certificate holder of AOA, CMA and CHO fidelity bonds, such that the registrant will become the certificate holder. The commission, however, shall continue to require proof of continuous fidelity bond coverage for CHO broker-exempt registrants due to the non-applicability of the real estate recovery fund.
5. CPR Registration, Developer's Public Reports, Extensions Issued
 - a. July 1999 - **Recommend approval** to ratify issuance of effective dates for public reports and extensions for month of July 1999.

- b. Waiver of Owner-Occupant Notice Ad - Mariah Hakalau Condominium Project - Roger V. Meeker, Esq. - **Recommend to deny** request as the Real Estate Commission does not have the authority to waive Part VI of Chapter 514A, HRS, (relating to Sales to Owner-Occupants) and issue an informal, non-binding opinion that Mariah Hakalau Condominium Project is not subject to Part VI, Chapter 514A, HRS, based on the specific facts as represented by the developer:
 - 1) The project is agriculturally zoned. Two of the three apartments are greenhouses and one is a residential apartment.
 - 2) The developer does not plan to offer to sell any of the apartments at this time and is merely transferring ownership from the registered partnership of the CPR project to each individual partner of the partnership;
 - 3) The intent of Part VI includes application to residential apartments; definition includes residential apartments only. The intent and language specify that 50% of residential apartments have to be offered, §514A-108 excludes CPRs of two or fewer apartments (intent was two or fewer residential apartments);
 - 4) Therefore, being that there is only one residential apartment that cannot be divided in half, it falls within the intent and spirit of the exclusion of two or fewer residential apartments.
 - c. Kluane Hillside Estate Condominium - Hiroshi Sakai, Esq. **Recommend to defer** decision making on the issuance of an effective date for the developer's final public report to the September 8, 1999 CRC meeting and recommend that Mr. Sakai submit a written statement as to why Hawaii Revised Statutes §514A-40(b)(1) does not apply.
6. Program of Work, FY99
- a. Rulemaking, Chapter 107 - **Recommend approval** for incorporation into the current proposed rules a rule requiring the developer to designate at the time of registration, a contact person for each individual or entity listed as "persons connected with the project" on page 5 of the developer's public report form and to require the inclusion of the contact person's name, address, including e-mail, and telephone number where the contact person may be directly contacted for more information, questions, and complaints about the condominium project.
 - b. Condominium Seminars - CAI's "Legislative Update, Collections, Foreclosures and Bankruptcy", September 16, 1999 (Honolulu); September 18, 1999 (Maui) - **Recommend approval** of CAI's seminars "Legislative Update, Collections, Foreclosures and Bankruptcy," September 16, 1999 (Honolulu) and September 18, 1999 (Maui) as CMEF subsidized seminars, subject to the terms and conditions of the current contract.
 - c. Interactive Participation with Organizations - CAI's 47th National Conference - **Recommend approval** to send up to two participants to CAI's 47th National Conference to be held in Atlanta, Georgia, October 28 - 30, 1999, subject to budget and departmental approval. Commission Chair and Supervising Executive Officer to decide on participants.
7. Open Forum
- There were no comments, recommendations, or concerns received from the following: Community Association Institute Hawaii Chapter, Alakahi Foundation, Hawaii Council of Association of Apartment Owners, Hawaii

Independent Condominium and Cooperative Owners, Hawaii State Bar Association / Real Property & Financial Services Section, Land Use Research Foundation, Condominium Council of Maui, Hawaii Association of Realtors / Institute of Real Estate Management Hawaii Chapter / Oahu Arm Committee, others.

8. Next Meeting: Wednesday, September 8, 1999
1:30 p.m.
Kapuaiwa Room
1010 Richards Street, Second Floor
Honolulu, HI 96813

Licensing –
Ratification:

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

Licensing –
Questionable
Applications:

Philip Birn

Philip Birn was present to discuss his application for a real estate broker's license. He was asked if he wished to have his application considered in executive session. Mr. Birn declined the offer.

Mr. Birn stated that he believes he submitted a summary of the events that transpired to the best of his knowledge.

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

Leolani F. Kini

Leolani F. Kini was present to request an equivalency to the experience requirement of experience as a full-time state-licensed real estate salesperson associated with a Hawaii real estate broker for the three year period immediately prior to the licensing examination, based on twenty years experience in commercial real estate in Waikiki and an active real estate salesperson's license since March 16, 1998. Ms. Kini was asked if she wished to have her application considered in executive session. She declined the offer.

Ms. Kini stated that Senior Real Estate Specialist Garrison had informed her of the current laws and rules relating to obtaining a real estate broker's license. She also stated that Ms. Garrison had suggested that she submit written testimony on her behalf. Ms. Kini stated that she would like the Commissioners to consider what is on the table. Ms. Kini stated that during the past twenty years, she was not required to activate her license but she has been licensed since 1978.

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

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

Licensing –
Questionable
Applications:

James W. Licke

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

Stuart S. Igarta

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

Dawn Erin Wandasan

After a review of the information submitted by the applicant, Commissioner Evangelista moved to approve the real estate salesperson's license application of Dawn Erin Wandasan, despite its submission after the 90-calendar day deadline based on the evidence provided by the applicant. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

Philip Birn

After a review of the information presented by the applicant, Commissioner Evangelista moved to approve the real estate broker's license application of Philip Birn. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

Leolani F. Kini

After a review of the information presented by the applicant and upon the advice and counsel of the Deputy Attorney General, Commissioner Nomura moved to deny Leolani F. Kini's request for an equivalency to experience as a full-time state-licensed real estate salesperson associated with a Hawaii-licensed real estate broker for the three-year period immediately prior to the licensing examination, based on Hawaii Revised Statutes, §467-9.5(a)(3)(C) (as revised by Act 240, 1999 Session Laws Hawaii). Commissioner Ohama seconded the motion. The motion was voted on and unanimously carried.

Phoebe Chrisman, Phoebe Lau, Realtor

After a review of the information submitted by the applicant, Commissioner Evangelista moved to approve Ms. Chrisman's request to continue to use the tradename, Phoebe Lau, Realtor, despite the change of her legal name to Phoebe Chrisman. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

Melanie K. Crowell

After a review of the information submitted by the applicant, Commissioner Evangelista moved to approve Melanie K. Crowell's request for reconsideration. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

After a review of the information submitted by the applicant, Commissioner Ching moved to approve the real estate salesperson's license of Melanie K. Crowell, without any conditions, based on documents submitted that her probation was satisfied and

discharged. Commissioner Evangelista seconded the motion. The motion was voted on and unanimously carried.

Joshua K. Olson

After a review of the information submitted by the applicant, Commissioner Evangelista moved to approve the real estate salesperson's license of Joshua K. Olson. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

Instructions to Staff – Real Estate Broker Experience Applications:

Upon a motion by Commissioner Ching, seconded by Commissioner Evangelista, it was voted on and unanimously carried to instruct staff not to place on the agenda any requests for equivalency for broker experience from any applicant who does not have at least three years total experience as a full-time state-licensed real estate salesperson associated with a Hawaii-licensed real estate broker for the three year period immediately prior to the licensing examination (except requests for equivalencies based on real estate license experience in another state).

Next Meeting: Friday, September 24, 1999
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 10:12 a.m.

Reviewed and approved by:

Christine Rutkowski
Executive Officer

Date

[] Approved as is.

[] Approved with corrections. See minutes of _____ meeting.