

REAL ESTATE COMMISSION
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii
www.state.hi.us/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, March 22, 2002

Time: 9:00 a.m.

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

Present: John Ohama, Chair
Michael Ching, Vice Chair
Casey Choi, Member
Patricia Choi, Member
Alfredo Evangelista, Member
Iris Okawa, Member
Peter Rice, 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
Bernice Lu
Wayne Lu
Jennifer M. Thompson
Kathleen Kagawa

Excused: Charles Aki, Member
Mitchell Imanaka, Member

Call to Order: The Chair called the meeting to order at 9:08 a.m., at which time quorum was established.

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

Executive Officer's
Report:

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

Additions to the Agenda:

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

6. Licensing – Questionable Applications
 - e. Eric K. Yoshida
 - f. Roger E. Strong
 - g. Vincent D. Marcus
7. Chapter 91, Hawaii Revised Statutes, Adjudicatory Matters
 - f. In the Matter of the Real Estate Broker's License of Michael A. Givens, REC 2001-285-L, Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Commission's Final Order
 - g. In the Matter of the Real Estate Broker's License of Brenda K. Manaku, also known as Brenda K. Olayan, REC 2001-67-L, Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Commission's Final Order

Minutes of Previous Meetings

Upon a motion by Commissioner Ching, seconded by Commissioner Evangelista, it was voted on and unanimously carried to approve the minutes of the February 22, 2002 Real Estate Commission meeting as circulated.

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 March 13, 2002 Laws and Rules Review Committee meeting as follows:

1. Minutes of Previous Meetings – **Accept** the minutes of the February 13, 2002 meeting.
2. Program of Work, FY02
Neighbor Island Outreach – The next neighbor island outreach is scheduled to be held on the island of Kauai as follows:
Friday, June 14, 2002
9:00 a.m. - Condominium Review Committee
10:00 a.m. - Laws and Rules Review Committee
10:30 a.m. - Education Review Committee
The meetings will be held in Conference Rooms A, B & C, in the State Office Building, located at 3060 Eiwa Street, Second Floor, Lihue, Kauai.
3. Special Issues
Website and Internet Advertising – **Recommend** that the subcommittee's Draft 1 be accepted and forwarded to the Hawaii Association of REALTORS, RICO and other interested parties for their comments and recommendations. The parties will be

asked to submit their comments prior to the April 9, 2002 Committee meeting so that this matter may be discussed at this time.

4. Next Meeting: **Tuesday, April 9, 2002**
9:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Education Review Committee

Upon a motion by Commissioner P. Choi, seconded by Commissioner Ching, it was voted on and unanimously carried to accept the report of the March 13, 2002 Education Review Committee meeting as follows:

1. Minutes of February 13, 2002 – **Accept** with the addition of the word "teaching" in paragraph 5, page 3.
2. Continuing Education Administration, Curriculum, Courses, Providers, and Instructors – Applications
 - a) Course – "Understanding the Hawaii Foreclosure System," Author/Owner: Richard Daggett, Provider: Richard Daggett, Course Category: Real Estate Law, Course Clock Hours: 3 – **Recommend approval with following conditions:** Course Category to be changed to "Other." Remove all references to title "Commissioner" from forms, business cards, course materials so as not to confuse general public. Sample form on page 24 of course materials should be labeled "SAMPLE." Disclosures regarding experience as a court appointed commissioner may be included in any biographical material.
 - b) Course – "Disclosure," Author/Owner: Hawaii Association of REALTORS, Provider: Hawaii Association of REALTORS, Course Category: Risk Management, Course Clock Hours: 6 (requesting one (1) elective credit – **Recommend approval.**
 - c) Provider – Continuing-Ed-Online.org (Steve Myers – Administrator), **Recommend approval.**
 - d) Course – "Equity and Debt Considerations for the Real Estate Investor – I", Author/Owner: Lynn W. Carlson, Provider: Lynn W. Carlson, Course Categories: Investment and Finance, Course Clock Hours: 3 – **Recommend denial** as the course materials as presented do not appear to be focused on real estate but on investments. Denial is based on §16-99-101(1), HAR.
 - e) Course – "Fundamentals of Mortgages and Income Taxes for the Real Estate Agent – I", Author/Owner: Lynn W. Carlson, Provider: Lynn W. Carlson, Course Categories: Investment and Finance, Course Clock Hours: 3 – **Recommend denial** as the course materials as presented appear to focus on the real estate agent. Denial is based on §16-99-101(1), HAR.

- f) 2001-2002 Continuing Education Providers and Courses Ratification List **Recommend approval** of the following registrations/certifications:

<u>Course</u>	<u>Effective Date</u>
"CI 104: Investment Analysis for Commercial Investment Real Estate (Nationally Certified Course/Hawaii CCIM Chapter)	02/08/02
"Innovative Marketing Techniques for Buyer's Reps" (Nationally Certified Course/Hogan School of Real Estate)	02/19/02
"Real Estate Finance and Tax Issues" (Nationally Certified Course/Continuing-Ed-Online.org)	02/25/02
"Investment Property Practice & Management" (Nationally Certified Course/Continuing-Ed-Online.org)	02/25/02
"Buyer Representation in Real Estate" (Nationally Certified Course/Continuing-Ed-Online.org)	02/25/02
"Ethics and Real Estate" (Nationally Certified Course/Continuing-Ed-Online.org)	02/25/02
"Risk Management" (Nationally Certified Course/Continuing-Ed-Online.org)	02/25/02
"Fair Housing" (Nationally Certified Course/Continuing-Ed-Online.org)	02/25/02

3. Programs of Work, FY02 – Interactive Participation with Organizations – REEA Conference June 15 – 19, 2002 – **Recommend approval** for one staff member and one Commissioner to participate at the REEA Conference, to be held on June 15 – 19, 2002, at Albuquerque, New Mexico, subject to REEF budget and DCCA approval. The Chair of the Real Estate Commission and the Supervising Executive Officer shall determine the attendees.
4. Budget and Finance Report – Morgan Stanley Dean Witter investment presentation – Committee requested three (3) proposals on portfolio be presented: 60% stocks/40% bonds, 70% stocks/30% bonds, and 50% stocks/50% bonds. Proposals will be presented at the REC meeting on March 22, 2002.
5. Next Meeting: Tuesday, April 9, 2002
10:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
Honolulu Hawaii

Condominium Review Committee

Upon a motion by Commissioner Rice, seconded by Commissioner P. Choi, it was voted on and unanimously carried to accept the amended

report of the March 13, 2002 Condominium Review Committee meeting as follows:

1. Minutes of February 13, 2002 – **Accept.**
2. Condominium Governance and Management
 - a. AOA Registrations, 2001 – 2003 Biennium Registration, February 2002 – **Recommend approval** to ratify effective dates for AOA registrations received for the 2001-2003 biennium through February 28, 2002.
 - b. Request for Informal Non-Binding Opinion §514A-3, §514A-82(a)(12), HRS – Apartment Owner and Board of Directors – Frank D. Slocum – **Recommend issuance** of an informal non-binding opinion that §514A-82(a)(12) does not specifically prohibit a trustee for an apartment owner to serve on the board. Further, suggest the AOA's consideration to amending the bylaws to specifically allow or disallow for a trustee for an apartment owner to serve on the board and the AOA's consideration to seek the advice of a licensed attorney familiar with condominium law.
3. CPR Registration, Developer's Public Reports
 - a. February 2002 – **Recommend approval** to ratify issuance of effective dates of the developer's public reports and extensions issued for the month of February 2002.
 - b. Owner Occupant Affidavit – No Action Request Letter, Mr. & Mrs. Tejada – Based on their representation that they are not selling, renting or leasing their home, that they will be moving back to San Francisco to care for Mr. Tejada's father, and their letter of February 27, 2002; **recommend approval** to issue an informal non-binding opinion that the circumstances described by Mr. & Mrs. Tejada in their letter of February 27, 2002 appear to fall within §514A-107(b)(3), "Unforeseeable change in parental status", **and further recommend approval** to issue a no action letter subject to Mr. & Mrs. Tejada's submission to the Commission of a verification from a physician of the serious illness/medical condition of Mr. Tejada's father.
 - c. Condominium Property Regime Projects: Copies of Project Documents – County of Hawaii Planning Department Request – **Recommend approval** to reply to the Planning Director that his request places an undue burden on the personnel and resources of the Commission, and that the Commission has no capabilities to duplicate condominium maps, thus the Commission seeks his guidance as to how it could honor his request.
4. Interactive Participation with Organizations
 - a. CAI Conference, May 1-4, 2002 – **Recommend approval** to send one Commission and one staff person to participate to be determined by the Chair and the SEO and subject to budgetary considerations and departmental approval.

- b. Report on the CAI Community Leadership Forum –
Recommend acknowledging receipt of report.
5. Neighbor Island Outreach – Kauai, June 14, 2002, subject to room availability and Commissioner Ching.
6. Next Meeting: **Tuesday**, April 9, 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 provided an oral update of the bills affecting the Commission.

The SEO reported that Representative Isa had concerns on the Commission's SWAT bill. She does not support reciprocity and feels that it is the Commission's duty to protect business. Mary Begier of the Hawaii Association of REALTORS had reported that the local boards do not oppose the SWAT bill. They felt that reciprocity would be good for the industry and for the consumers. REB staff had tried to stress that the Commission would not be entering into any reciprocity agreements with any State whose requirements are less than ours. Eighty percent of the States have higher standards. Sixteen States have mandatory errors and omissions insurance requirements. Forty plus States require their licensees to be bonded. Nine States have post-licensing requirements in which licensees must complete additional courses within two years of obtaining their license. Hawaii is on the bottom of the list for continuing education requirements.

Today, licensees are advertising sales through the internet, the newspapers, and through telemarketing. Hawaii has agreements with other States for researching disciplinary actions. Hawaii could obtain more assistance from the other States if needed.

The SEO reported that he has discussed Representative Isa's concerns with the Chair of the Commission and Administration and they are willing to delete the reciprocity section.

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.

Licensing - Questionable Applications:

Maui Real Estate Group, LLC

Bernice Lu, proposed officer and principal broker for Maui Real Estate Group, LLC, was present at the meeting to answer any questions the Commission may have regarding the application of Maui Real Estate Group, LLC.

Ms. Lu was asked if she wished to have the application considered in executive session. She declined the offer.

Ms. Lu stated that the lawsuit does not have anything to do with her real estate career and it does not reflect on her license. The action was taken on behalf of the church under advisement of their legal counsel.

Commissioner Ching moved to take this matter under advisement. Commissioner Okawa seconded the motion.

Commissioner Ching moved to withdraw his motion. Commissioner Okawa withdrew her second.

Commissioner Evangelista moved to approve the limited liability corporation application of Maui Real Estate Group, LLC. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

Chapter 91, HRS,
Adjudicatory
Matters:

The Chair called for a recess from the meeting at 9:29 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 Michael K. Perius dba Lighthouse Realty; REC 2000-1

Commissioner Ching stated that he had discussed other matters with the Respondent and stated that he could be objective.

Upon a motion by Commissioner Ching, seconded by Commissioner P. Choi, it was voted on and unanimously carried to accept the Settlement Agreement After Filing of Petition for Disciplinary Action and Commission's Final Order.

In the Matter of the Real Estate Broker's License of Diana E. Bienenfeld; REC 1996-64-L

The Commission noted a correction to page 3, paragraph 4 of the Settlement Agreement. The last line should read "reinstate her license." instead of "reactivate her license."

Upon a motion by Commissioner Rice, seconded by Commissioner Ching, it was voted on and unanimously carried to accept the Settlement Agreement After Filing of Petition for Disciplinary Action and Commission's Final Order.

In the Matter of the Real Estate Broker's License of Thomas F. Schmidt dba Tom Schmidt Realtors; REC 1998-121-L

Upon a motion by Commissioner Ching, seconded by Commissioner Rice, it was voted on and unanimously carried that due to the ambiguity of the language on page 3, item 5 of the Settlement Agreement, and subject to page 4, item 9, the Real Estate Commission accepted the Settlement Agreement with the understanding that the license suspension is effective immediately as it protects the interest of the consuming public.

In the Matter of the Real Estate Salesperson's License of William J. Aronson; REC 1999-127-L

Upon a motion by Commissioner Ching, seconded by Commissioner P. Choi, it was voted on and unanimously carried to accept the Settlement Agreement After Filing of Second Amended Petition for Disciplinary Action and Commission's Final Order.

In the Matter of the Real Estate Broker's License of Michael A. Givens, REC 2001-285-L

Upon a motion by Commissioner Okawa, seconded by Commissioner Ching, 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.

In the Matter of the Real Estate Broker's License of Brenda K. Manaku, also known as Brenda K. Olayan, REC 2001-67-L

Upon a motion by Commissioner P. Choi, seconded by Commissioner Rice, it was voted on and unanimously carried to accept the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Commission's Final Order.

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 Ching, it was voted on and unanimously carried to accept the Real Estate Commission's Final Order.

Following the Commission's review, deliberation and decision in these matters, pursuant to Chapter 91, HRS, the Chair announced that the Commission was reconvening its scheduled Commission meeting at 10:05 a.m.

Recess:

The Chair recessed the meeting at 10:05 a.m.

Reconvene:

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

Commissioner Ching stated that some Settlement Agreements have had multiple client trust account irregularities and he considers those to be revocable acts. The Commission's role is to protect the consumer. One of the best ways to protect the consumer is to impose harsher sanctions for client trust account violations.

The Commission would like to seriously encourage RICO to consider revocation as a sanction when there are client trust account violations.

Upon a motion by Commissioner Ching, seconded by Commissioner Rice, it was voted on and unanimously carried to request that RICO's Complaints Enforcement Officer and the Supervising Attorney be invited to attend the May Committee meetings to discuss questions/concerns that the Commissioners have regarding the sanctions imposed in disciplinary proceedings.

Licensing – Questionable
Applications:

Rent.com Hawaii LLC

After a review of the information submitted by the applicant, Commissioner Okawa moved to approve the limited liability company application of Rent.com Hawaii LLC. Commissioner Evangelista seconded the motion. The motion was voted on and unanimously carried.

Hartwell H. K. Blake

Commissioner Ching recused himself from the meeting.

After a review of the information submitted by the applicant, Commissioner Rice moved to approve Hartwell H. K. Blake's application for a real estate salesperson's license. Commissioner Okawa seconded the motion. The motion was voted on and carried.

Commissioner Ching returned to the meeting.

Dane E. Musick

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

Eric K. Yoshida

After a review of the information submitted by the applicant, Commissioner P. Choi moved to approve Eric K. Yoshida's application for a real estate broker's license. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

Roger E. Strong

After a review of the information submitted by the applicant, Commissioner Evangelista moved to approve Roger E. Strong's experience certificate and to allow staff to continue processing his application for a real estate broker's license. Commissioner Ching seconded the motion. The motion was voted on and unanimously carried.

Vincent D. Marcus

After a review of the information submitted by the applicant, Commissioner P. Choi moved to approve the real estate salesperson license application of Vincent D. Marcus. Commissioner Ching seconded the motion.

Commissioner P. Choi withdrew her motion. Commissioner Ching withdrew his second.

After a review of the information submitted by the applicant, Commissioner Okawa moved to defer this matter to the April 26, 2002

Real Estate Commission meeting, with a request that additional information be submitted regarding the applicant's reputation for truthfulness, honesty and fair dealing. Commissioner P. Choi seconded the motion. Commissioners Evangelista, Okawa, P. Choi, Rice, C. Choi and Ohama voted in favor of the motion. Commissioner Ching voted against the motion. The motion was carried.

Next Meeting:

Friday, April 26, 2002
8:30 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Adjournment:

With no further business to discuss, the Chair adjourned the meeting at 10:46 a.m.

Reviewed and approved by:

/s/ Alan Taniguchi
Alan Taniguchi
Executive Officer

April 26, 2002
Date

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

APPROVED APPLICATIONS FOR REAL ESTATE
 REAL ESTATE COMMISSION MEETING ON MARCH 22, 2002

<u>Brokers – Corporations and Partnerships</u>	<u>Effective Date</u>
GIC Hawaii, Inc. Yuki Kajiwara, PB	02/14/02
Holualoa Management Corporation Lynn Taube, PB	03/06/02
Pacific Basin Resorts, Inc. Alan K. Haida, PB	02/26/02
The CBM Group, Inc. Inez Corevensky, PB	03/04/02

<u>Brokers – Limited Liability Companies and Partnerships</u>	<u>Effective Date</u>
Little Grass Shack Realty, LLC Gladys B. Williams, PB	02/13/02
Realty Executives Waikiki, LLC Dorothy M. Smith, PB	02/28/02
SVC – Hawaii L.P. Gretchen I. Watson-Kabei, PB	03/07/02
Hanalei Land Company, LLC Michael Keola Sheehan, PB	02/19/02

<u>Brokers - Sole Proprietor</u>	<u>Effective Date</u>
Clare Ventura	01/31/02
William L. Goo	02/05/02
Mark T. Shklov	02/05/02
G. Jae Webster	02/08/02
Edward S. Llacuna	02/11/02
Russell L. Todd, Maui Todd Realty	02/15/02

<u>Trade Name</u>	<u>Effective Date</u>
Peter N. Taylor, Sunshine Realty (Kauai)	03/08/02

<u>Equivalency to Uniform Section of Examination Certificate</u>	<u>Expiration Date</u>
Donald Justin Donner	02/15/04
Valre F. Hull	02/15/04
Bikram Sahdev	02/15/04
LaRalle Richard Smith	02/15/04
Scott R. Pennington	02/15/04
Bert F. Zumtobel	02/20/04
Lyle Dunham	02/21/04
Sharyn E. Cappello	02/22/04
Sue Ginsburg Kaufmann	02/22/04
Stephen D. Soares	02/25/04
Mark Joseph Conley	03/01/04
Susan B. Conley	03/01/04
Keith Brian Sincock	03/05/04
David E. Hulbert	03/07/04
Richard J. Reed	03/07/04
Thomas Charles Hafer	03/07/04
Earl J. Spenard, Jr.	03/07/04
Barbara Frances Roark	03/12/04
Frank D. Inman, Jr.	03/12/04
Lezlie K. Schmitt	03/12/04

Educational Equivalency Certificate

	<u>Expiration Date</u>
Donald Justin Donner	02/15/04
Valre F. Hull	02/15/04
Reagan Kazuo Yamamoto	02/15/04
Bikram Sahdev	02/15/04
LaRalle Richard Smith	02/15/04
Nathan Choi	02/15/04
Scott R. Pennington	02/15/04
Bert F. Zumtobel	02/20/04
Jason Douglas Brockie	02/20/04
Lyle Dunham	02/21/04
Gordon Bruce Cameron	02/22/04
Sharyn E. Cappello	02/22/04
Sue Ginsburg Kaufmann	02/22/04
Steven John Macvitie	02/22/04
William R. Dodge	02/27/04
James Martindale	02/27/04
Mark Joseph Conley	03/01/04
Susan B. Conley	03/01/04
Terry Boulton	03/05/04
Keith Brian Sincock	03/05/04
Robert Ray DeBorde	03/05/04
David E. Hulbert	03/07/04
Richard J. Reed	03/07/04
David Arthur Mortz	03/07/04
James Adams Mathewson	03/07/04
Yng Juang Lin	03/07/04
Thomas Charles Hafer	03/07/04
Earl J. Spenard, Jr.	03/07/04
Barbara Frances Roark	03/12/04
Frank D. Inman, Jr.	03/12/04
Lezlie K. Schmitt	03/12/04

Real Estate Broker Experience Certificate

	<u>Expiration Date</u>
Roberto P. Lopes	02/15/04
Kristi K. Tanaka	02/15/04
Connie Miller	02/21/04
Donald S. Rullo	02/25/04
Edmund Wong	02/25/04
Roger B. Lyons	02/27/04
Edith Ransom	02/27/04
Charles D. Lupton	02/27/04
Brian C. Benton	03/04/04
Juanita M. Charkas	03/05/04
Michael K. S. Lyum	03/06/04
Nancy K. Lyum	03/06/04
Matthew K. S. Lyum	03/06/04
Cecilio R. Riodil	03/06/04
Shelly M. Freitas	03/07/04
Lorraine M. Landry	03/07/04
Elizabeth G. Garcia	03/11/04
F. Kevin Aucello	03/12/04
James S. S. Huang	03/12/04
Maria E. Miller	03/12/04

Real Estate Broker (upgrade)

Keiko U. Choi	<u>Effective Date</u> 02/07/02
Ruth S. Marvin	02/07/02
Karen Lynn Rumball	02/08/02
Matthew G. Beall	02/19/02
Kathy Howe	02/22/02
Lynn M. Taube	03/06/02
Guida S. Anderson	02/28/02

Restoration – Real Estate Salesperson

Catherine M. Fujisaki	<u>Effective Date</u> 02/04/02
Anita L. White	02/11/02
Kris U. Tabisola	02/06/02
Erdworth S. Ventula Jr.	02/14/02