

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 25, 2015

Time: 9:00 a.m.

Place: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii

Present: Nikki Senter, Chair, Public/Honolulu Commissioner
Scott Sherley, Vice Chair, Broker/Hawaii Commissioner
Scott Arakaki, Broker, Honolulu Commissioner
Aleta Klein, Broker/Honolulu Commissioner
Aileen Wada, Broker/Honolulu Commissioner
Bruce Faulkner, Broker/Maui Commissioner
Rowena Cobb, Broker/Kauai Commissioner
Laurie A. Lee, Broker/Honolulu Commissioner
Michael Pang, Broker/Honolulu Commissioner (late arrival)

Neil K. Fujitani, Supervising Executive Officer
Miles Ino, Executive Officer
Diane Choy Fujimura, Senior Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Amy Endo, Real Estate Specialist
David J. Grupen, Real Estate Specialist
Benedyne Stone, Condominium Specialist
Dathan L. Choy, Condominium Specialist
Shari Wong, Deputy Attorney General
Marilyn Antolin, Secretary

Others: Lei Fukumura, Special Deputy Attorney General
Aron Espinueva, Hawaii Association of REALTORS®
Myong Oh, Hawaii Association of REALTORS®
Ronald T. Michioka, Esq., Ayabe Chong Nishimoto Sia & Nakamura
Nathan Aipa, General Counsel, Hawaii Association of REALTORS®
John R. Connelley, Locations
Kalama Kim, Coldwell Banker
Trudy Nishimura, Coldwell Banker
Sharon Baba, Honolulu Board of Realtors
Bruce Randall Clark

Call to Order: The Chair called the meeting to order at 9:00 a.m., at which time quorum was established.

Chair's Report: The Chair announced that the Commission may move into executive session to consider and evaluate personal information relating to individuals applying for licensure in accordance with section 92-5(a)(1), HRS, and/or to consult with the Commission's attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities in accordance with section 92-5(a)(4), HRS.

The Chair also announced that Senior Real Estate Specialist Diane Choy Fujimura was honored as the Spirit of Department of Commerce and Consumer Affairs (DCCA) award for her encouragement, remarkable service, and significant role as the department coordinator for the Blood Bank of Hawaii.

Executive Officers Report: The Executive Officer ("EO") informed the Commissioners that the original applications with any original associated documents to be considered at the meeting were available for review.

Commissioner Pang arrived at the meeting at 9:10 a.m.

Additional Distribution

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

4. Committees and Program of Work
 - a. Laws and Rules Review Committee
 2. Request for Non-Binding Interpretation – Draft Rules (Chapter 99)

Minutes of Previous Meeting

Upon a motion by Commissioner Lee, seconded by Commissioner Klein, it was voted on and unanimously carried to accept the minutes of the August 28, 2015, meeting as circulated.

Committees and Program of Work:

Laws and Rules Review Committee

Ron Michioka, Esq. was recently retained to represent the Contractors Board, as its recovery fund attorney. Attorney Michioka and his firm has been representing the Real Estate Recovery Fund (RERF) for several years; therefore, was able to acknowledge the similarities of the language in Chapters 444 and 467. Attorney Michioka was present and is making a recommendation for an Amicus Curiae Brief by the RERF for Appeal by Contractors License Board.

Plaintiff in a Contractors License Board matter filed a Motion for an Order Directing Payment from the Contractors Recovery Fund. Attorney Michioka filed a Memorandum in Opposition to Plaintiff's Motion to include provisions directing payment that, upon payment from Fund, the (Contractors) Board will be subrogated all of Plaintiff's rights and that the Plaintiff will assign to the Board all of his rights, title and interest in the Judgment.

In Plaintiff's Reply Memorandum, Plaintiff objected to assigning the entire judgment to the Board and argued that the statute did not address the situation where the amount of the Judgment exceeded the amount to be paid out of the Contractors Recovery Fund. Plaintiff offered to assign only up to \$12,500 of the Judgment to the Board. District Court Judge Fujino agreed and ordered that the Plaintiff only needs to assign up to \$12,500 to the Board.

Attorney Michioka reported that the Contractors Board Deputy Attorney General Rodney Tam and its Executive Officer Candace Ito both agreed to request for a reconsideration and appeal the Judge's decision. Attorney Michioka further reported that he is not aware of any history of a similar case/situation where the judgment exceeded the amount to be paid out of the recovery fund and the plaintiff only assigned a portion of the judgment to the board.

Commissioners Klein and Arakaki both inquired if such judgment would be without prejudice and if consumers would be able to pursue its recovery claim. Attorney Michioka responded that consumers must exhaust all avenues of enforcing the judgment prior to pursuing the recovery fund. The recovery fund is usually the final resource for the consumer to recover. Deputy Attorney Wong added that the legislature structured the recovery fund in such a way that it generally pays out more than it recovers in restitution.

Attorney Michioka is recommending that the Real Estate Commission consider filing an Amicus Curiae Brief for Appeal, as the Contractors Recovery Fund's language in Chapter 444 is similar to the Real Estate Commission's language in Chapter 467. Attorney Michioka will continue to consult with Real Estate Commission Deputy Attorney General Wong regarding this matter.

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

Request for Non-Binding Interpretation – Draft Rules (Chapter 99):

Nathan Aipa, General Counsel for the Hawaii Association of REALTORS® was present. Attorney Aipa recognized that the draft rules are in its final stages; however, most of the raised concerns did not surface until practitioners initiated their re-branding effort, as a result of the proposed changes to the Hawaii Administrative Rules Chapter 99. Attorney Aipa is requesting guidance as to such proposed changes in a non-binding process.

Attorney Aipa inquired about the requirement of having a license number on shirts as shirts may represent public unity versus an advertisement. Attorney Aipa also asked for definition clarification of "in addition to", as noted in Section E of the proposed rules. Attorney Aipa suggested that branding should be limited to the first point of contact.

John Connelly, Principal Broker at Locations joined Attorney Aipa to provide an oral testimony on the matter. Chair Senter acknowledged receipt of Mr. Connelly's additional distribution of September 24, 2015 to the Real Estate Commission.

Mr. Connelly mentioned his experience with the internet and his material being accessed by a third-party, i.e. Zillow. Mr. Connelly supports the proposed changes but feels that the rules are too broad. Mr. Connelly further shared copies of the State of California, Bureau of Real Estate, License Disclosure Requirements for Advertising (Rev. 8/14). Mr. Connelly shared that a link including his name and license number attached seems to be acceptable by the National Association of Realtors (NAR) and applicable in social media where uploading space is limited. Commissioners agreed that that technology is moving faster than the State's statutes.

SEO Fujitani further inquired of the purpose a logo on items if it was not for advertisement and or promotion purposes. Commissioner Klein asked what the difference was between a team and an advertisement logo. Attorney Aipa responded that a team logo is to identify a team.

Chair Senter commented that there is a need to distinguish between a logo and an advertisement. Commissioner Arakaki asked whether a pen with a business card could be acceptable. Commissioner Klein shared the need for consumers to be able to identify and verify a real estate license, especially on the internet, and rules need to be established.

Kalama Kim of Coldwell Banker was also present and requested a transition time so that vendors providing such services can accommodate requested orders.

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

Education Review Committee

Specialist Endo reported that the annual Hawaii real estate test development committee meeting was held on July 30, 2015, at the Hawaii Prince Hotel Waikiki. New test items were created to include items on the proposed draft administrative rules.

Upon a motion by Commissioner Klein, seconded by Commissioner Faulkner, it was voted on and unanimously carried to revise the weighting of the State portion of the content outline per recommendations of the PSI Test Development Committee.

Licensing –
Ratification:

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

Licensing –
Applications:

The EO informed the Commissioners that the information provided to the Commissioners is related only to the issue that is before the Commission for consideration. The other materials submitted are available for the Commissioners review should they desire to review it. If the applicants have an issue, which is personal in nature, they have the right to request that their application be considered in executive session.

Bruce Randall Clark

Mr. Clark was present and asked if he wished to have his application for real estate salesperson license considered in executive session. He declined the offer.

Mr. Clark was present to answer any questions and provide further clarification if needed. Mr. Clark shared that he filed for Chapter 13 Bankruptcy upon the advice of his attorney and is under a payment plan for five (5) years.

Upon a motion by Commissioner Sherley, seconded by Commissioner Pang, 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 9:55 a.m., to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, HRS:

In the Matter of the Real Estate License of Jonie Lyn Williams, a.k.a. Jonie Lyn Lanosa, a Real Estate Salesperson: REC 2013-354-L

Commissioner Wada recused herself from discussion and voting on this matter.

Upon a motion by Commissioner Faulkner, seconded by Commissioner Sherley, it was voted on and unanimously carried to accept the settlement agreement.

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 meeting at 10:00 a.m.

Executive Session: Upon a motion by Commissioner Cobb, seconded by Commissioner Klein, 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;" and pursuant to section 92-5(a)(4), HRS, "To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities."

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

Licensing
Applications:

Bruce Randall Clark

After review of the information presented by the applicant, Commissioner Arakaki moved to approve a conditional real estate salesperson license to Bruce Randall Clark, pursuant to Section 436B-19, Hawaii Revised Statutes. Commissioner Sherley seconded the motion. The motion was voted on and unanimously carried.

Ben Errez

After review of the information presented by the applicant, Commissioner Cobb moved to deny the real estate salesperson license of Ben Errez, unless within sixty (60) calendar days, Mr. Errez submits a written proof of payment, written proof of discharge, or an approved written payment plan with the IRS for all outstanding tax obligations.

The denial of his application is based on the following:

"§467-8 **Prerequisites for license, registration, or certificate.** (a) No license, registration, or certificate under this chapter shall be issued to:

(3) Any person who does not possess a reputation for or record of competency, honesty, truthfulness, financial integrity, and fair dealing;. . .;" and

"§436B-19 **Grounds for refusal to renew, reinstate or restore and for revocation, suspension, denial, or condition of licenses.** In addition to any other acts or conditions provided by law, the licensing authority may refuse to renew, reinstate or restore or may deny, revoke, suspend, or condition in any manner, any license for any one or more of the following acts or conditions on the part of the licensee or the applicant thereof:

(1) Failure to meet or maintain the conditions and requirements necessary to qualify for the granting of a license;. . .

(8) Failure to maintain a record or history of competency, trustworthiness, fair dealing, and financial integrity;. . .

(12) Failure to comply, observe, or adhere to any law in a manner such that the licensing authority deems the application or holder to be an unfit or improper person to hold a license;. . ."

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

Brian A. Holmes

After review of the information presented by the applicant, Commissioner Sherley moved to defer the decision-making of the real estate salesperson license of Brian A. Holmes and asked Mr. Holmes to submit additional documentation supporting his application. Commissioner Faulkner seconded the motion. The motion was voted on and unanimously carried.

Frankie Lee Allen Rippee

After review of the information presented by the applicant, Commissioner Pang moved to deny the real estate salesperson license of Frankie Lee Allen Rippee

The denial of his application is based on the following:

HRS § 467-8 **Prerequisites for license, registration, or certificate.**
(a) No license, registration, or certificate under this chapter shall be issued to:

HRS § 467-8(3) Any person who does not possess a reputation for or record of competency, honesty, truthfulness, financial integrity, and fair dealing; and

HRS § 436B-19 **Grounds for refusal to renew, reinstate or restore and for revocation, suspension, denial, or condition of licenses.** In addition to any other acts or conditions provided by law, the licensing authority may refuse to renew, reinstate or restore or may deny, revoke, suspend, or condition in any manner, any license for any one or more of the following acts or conditions on the part of the licensee or the applicant thereof:

HRS § 436B-19(8) Failure to maintain a record or history of competency, trustworthiness, fair dealing, and financial integrity;...

Commissioner Lee seconded the motion. The motion was voted on. Commissioners Senter, Lee, Pang, Sherley, Cobb and Klein voted aye, and Commissioners Arakaki, Faulkner and Wada voted nay. The motion carried.

Devlin K. Yukimura

After review of the information presented by the applicant, Commissioner Arakaki moved to approve the real estate salesperson license of Devlin K. Yukimura. Commissioner Sherley seconded the motion. The motion was voted on and unanimously carried.

John Westley Rowe

After review of the information presented by the applicant, Commissioner Faulkner moved to Deny the Application for Prelicensing Education Equivalency – Real Estate of John Westley Rowe, based on Section 467-9.5 Hawaii Revised Statutes (“HRS”) and Section 16-99-37, Hawaii Administrative Rules (“HAR”).

Section 467-9.5, HRS, states:

"Prerequisites for examination. (a) No individual shall be eligible for the licensing examination unless the individual is:

(2) Applying for:

(A) The real estate salesperson examination and has satisfactorily completed a commission-approved prelicensing course for real estate salesperson candidates, which includes real estate principles, or its equivalent as determined by the commission."

Also, Section 16-99-37, HAR, states:

"Education equivalency. (a) The commission may grant an equivalency to the respective education requirements for applicants for the salesperson and broker license examinations for:

(3) Bachelor of arts or bachelor of science degree graduates of accredited colleges and universities who have majored in real estate or business;

(4) Those who have successfully completed at least six semester credits in real estate, business, business law, real estate development, or finance courses at an accredited college or university."

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

Committees and
Program of Work:

Laws and Rules

Recommendation for Amicus Curiae Brief for Appeal by Contractors Board
Upon a motion by Commissioner Sherley, seconded by Commissioner Pang, it was voted on and unanimously carried to file an Amicus Curiae Brief for Appeal by Contractors Board.

Request for Non-Binding Interpretation – Draft Rules (Chapter 99)
Upon a motion by Commissioner Arakaki, seconded by Commissioner Cobb, it was voted on and unanimously carried to answer item 3 as “yes”, and move to table items 1, 2, and 4 to the next applicable meeting. The motion was voted on and unanimously carried.

The Real Estate Commission appreciated receiving information regarding the State of California law relating to the issues raised in Hawaii Association of REALTORS® requested and the Commission respectfully requests the Hawaii Association of REALTORS® to provide the Commission with information regarding how other jurisdictions are addressing these specific issues.

Next Meeting: Friday, October 23, 2015
9:00 a.m.
Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii

Adjournment: With no further business to discuss, the Chair adjourned the meeting at 11:15 a.m.

Reviewed and approved by:

/s/ Miles I. Ino

Miles I. Ino
Executive Officer

October 2, 2015

Date

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

MI:ma

**APPROVED APPLICATIONS FOR REAL ESTATE
REAL ESTATE COMMISSION MEETING ON SEPTEMBER 25, 2015**

<u>Brokers – Limited Liability Companies and Partnerships</u>	<u>Effective Date</u>
HFS.com Real Estate, LLC dba HomesForSale.com Jenni K. Santos, PB	08/26/2015
Hawaii Realty Professionals, LLC Joni Shiraishi, PB	08/28/2015
EXP Realty, LLC dba EXP Realty Randy L. Prothero, PB	08/20/2015
Garden Island Realty, LLC Michael T. Miyake, PB	08/28/2015
Althea G. Paik Realty, LLC Althea G. Paik, PB	08/31/2015

<u>Brokers – Corporations and Partnerships</u>	<u>Effective Date</u>
Maui Life Homes, Inc dba Maui Life Homes Sylvia Burton, PB	08/25/2015

<u>Brokers – Sole Proprietor</u>	<u>Effective Date</u>
Charles E. Henderson	08/05/2015
Judy Tawab	08/10/2015
Scott A. Deyoung	08/10/2015
Linda J. Mathews dba Aloha Real Estate Services	08/17/2015
Robert Neuman dba No Ka Oi Island Management	08/28/2015

<u>Real Estate Broker</u>	<u>Effective Date</u>
Mark Warren Frees	08/10/2015
Terri Brauher	08/12/2015
Travis Dean Farris	08/27/2015
Robert Neuman	08/28/2015
Steven B. Streng	08/31/2015
Hideki Jack Saida	09/08/2015

<u>Educational Equivalency Certificate</u>	<u>Expiration Date</u>
Scott Edwin Harrell	08/19/2017
Dalia Rowlett	08/19/2017
Myron M. Kamihara	08/19/2017
Elizabeth C. F. Ramos	08/19/2017
Thomas Richard Ryan	08/24/2017
William French Smith	08/24/2017
Catherine Scott Clark	08/25/2017
Lori Ann Jones	08/26/2017
Marilyn Clare Cunningham	08/26/2017
Scott Settle	08/26/2017
Soo-Lin Rae Lee	08/26/2017
Linda L. Work	08/26/2017

Jane Kathleen Stites	08/26/2017
Toni Wilson Killeen	08/26/2017
Jeffrey Jessup	08/26/2017
Romina Vardeleon	08/27/2017
Robert James Copeland Jr.	08/28/2017
Ashely Keola Colter	08/31/2017
James L. Jewett	09/01/2017
Joanna Cheng Norris	09/01/2017
Richard Quentin McClean	09/01/2017
Ryan Kyle Dawson	09/03/2017
Michael Steven Hedges	09/03/2017
Christopher Gene Tsou	09/03/2017
Jarret Mattison Haley	09/04/2017
Christine Denise Lujan	09/04/2017
Rebecca Rae Vetter	09/04/2017
Melissa Anne Harold	09/08/2017
Jenny M. Tolentino	09/10/2017

Equivalency to Uniform Section of Examination Certificate

Expiration Date

Scott Edwin Harrell	08/19/2017
Dalia Rowlett	08/19/2017
Thomas Richard Ryan	08/24/2017
William French Smith	08/24/2017
Lisa Michelle Wagner	08/26/2017
Lori Ann Jones	08/26/2017
Marilyn Clare Cunningham	08/26/2017
Linda L. Work	08/26/2017
Toni Wilson Killeen	08/26/2017
Jeffrey Jessup	08/26/2017
Robert James Copeland Jr.	08/28/2017
Benjamin West Massie	08/31/2017
James L. Jewett	09/01/2017
Joanna Cheng Norris	09/01/2017
Richard Quentin McClean	09/01/2017
Ryan Kyle Dawson	09/03/2017
Michael Steven Hedges	09/03/2017
Jarret Mattison Haley	09/04/2017
Christine Denise Lujan	09/04/2017
Melissa Anne Harold	09/08/2017
Jenny M. Tolentino	09/10/2017
Dennilee Feliciano	09/10/2017

Real Estate Broker Experience Certificate

Expiration Date

Eleanor Yu Lin	08/20/2017
William French Smith	08/24/2017
Marilyn Clare Cunningham	08/26/2017
Linda L. Work	08/26/2017
Romina Vardeleon	08/27/2017
Robert James Copeland Jr.	08/28/2017
Manson Wang-Kin Lee	08/28/2017

Ryan Kyle Dawson	09/03/2017
Evelyn Demavivas Basnillo	09/03/2017
Christopher Ryan Gross	09/03/2017
Melissa Anne Harold	09/08/2017
Aliko Ban	09/08/2017
Wendell G. M. Wong	09/10/2017

<u>Trade Name – (Add/Change)</u>	<u>Effective Date</u>
Gail Petagno Realty fka Gail Petagno Realtor	07/28/2015
Hawaii Sands Realty, LLC dba Hawaii Sands Realty	08/04/2015
Flo Matsuura Realty fka Florence Matsuura	08/17/2015
Neal Fineman & Associates fka Neal Fineman Property Management	08/28/2015
BD Properties Hawaii, LLC dba Exclusive Villa Retreats	09/02/2015

<u>Name of Entity (Change)</u>	<u>Effective Date</u>
Hiromi Urasaki Realty, LLC fka Hiromi Urasaki, Realtor, L.L.C	08/11/2015
Judy Wu Realty, LLC fka Judy Wu Realtor, LLC	09/02/2015

<u>Licensee Name (Change, Add, Delete - Individual)</u>	<u>Effective Date</u>
Lauren Y. Miyahara aka Lauren Y. I. Miyahara	06/25/2015
Mickey O'Connell aka Marceline E. O'Connell	07/14/2015
Rick Emens aka Richard Walter Emens	07/16/2015
Stella Bumacod aka Stella Bumacod Fujita	07/22/2015
Matt Daniells Matthew C. Daniells	07/24/2015
Gail Petagno	07/28/2015
Debbie Jow Ito	07/28/2015
Stephana McClaran Jacobson aka Steph McClaran Jacobson	07/31/2015
Leonie Lam	08/03/2015
Kevin Inn	08/03/2015
Karin Moody Tsutsui	08/04/2015
Charles E. Henderson aka Chuck Henderson	08/05/2015
Kimberleigh Villasenor	08/07/2015
Myron Kiri	08/24/2015
Baron Graham fka Baron Scott Graham	08/25/2015

Ali Ban fka Aliko Ban	08/25/2015
Tracy Nakagawa-Perez aka Tracy N. Perez	08/25/2015
Ashley Daza fka Ashley Miller	08/26/2015
Cherie Tsukamoto fka Cherie L. Tsukamoto	08/31/2015
Thomas Foster Mills aka Tom Mills	08/31/2015

Restoration – Real Estate Salesperson
Janice L. Dalziel

Effective Date
08/26/2015

Restoration – Real Estate Broker
Judith Ann Okumura
Julie Rae Archambeau

Effective Date
08/17/2015
08/24/2015