

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, April 29, 2016

Time: 9:00 a.m.

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

Present: Scott A. Sherley, Vice Chair, Broker/Hawaii Island Commissioner
Rowena Cobb, Broker/Kauai Commissioner
Bruce Faulkner, Broker/Maui Commissioner
Aileen Wada, Broker/Honolulu Commissioner
Scott Arakaki, Public Member/Honolulu Commissioner
Laurie A. Lee, Broker/Honolulu Commissioner
Aleta Klein, Broker/Honolulu Commissioner

Neil K. Fujitani, Supervising Executive Officer
Miles Ino, Executive Officer
Diane Choy Fujimura, Senior Real Estate Specialist
Amy Endo, Real Estate Specialist
David J. Grupen, Real Estate Specialist
Dathan Choy, Condominium Specialist
Shari Wong, Deputy Attorney General

Others: Daymos Botelho
Esther Brown, Esq., Regulated Industries Complaints Office
John Hassler, Esq., Regulated Industries Complaints Office
Patrick Kelly, Esq., Regulated Industries Complaints Office
Lei Fukumura, Esq., Special Deputy Attorney General
Lei Ikeda Miller
Sasha Mason
Myoung Oh, Hawaii Association of REALTORS®

Absent: Nikki Senter, Chair, Public Member/Honolulu Commissioner
Michael Pang, Broker/Honolulu Commissioner

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

Vice Chair's Report: The Vice 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.

Commissioners Senter and Pang were excused from the meeting. Prior notification of their non-attendance was received.

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.

EO introduced and welcomed the Regulated Industries Complaints Office's attorneys John Hassler, Esq., Esther Brown, Esq., and Patrick Kelly, Esq.

Addition to Agenda

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

4. d. Laws and Rules Review Committee – Commissioner's Education Program

Minutes of Previous Meeting

Upon a motion by Commissioner Cobb, seconded by Commissioner Faulkner, it was voted on and unanimously carried to accept the minutes of the March 24, 2016, meeting as circulated.

Committees and
Program of Work:

Laws and Rules Review Committee – Rulemaking, Chapter 99, HAR, Real Estate Brokers and Salespersons

Myoung Oh representing the Hawaii Association of REALTORS® ("HAR") was present to discuss HAR's proposed rule amendment and thanked the Commission for accepting the letter and proposal. He understands that the rules will be discussed in more detail in the future and that this is a starting point. A letter to the Governor will be submitted after all the procedural issues are addressed. A copy of the letter was sent to the EO and the EO will circulate it to REC. The proposed rule amendment language was viewed by a few key HAR committee members and may need further review.

Commissioner Klein asked if the Board of Directors reviewed the language. Mr. Oh responded, "no" but the Executive Committee approved the letter.

Commissioner Arakaki thanked Mr. Oh for appearing, providing testimony, and answering questions. When asked if there were any problems with deleting "mail" from "electronic mail" in the proposed language, Mr. Oh responded that there would be no problem as it will broaden the definition.

Commissioner Klein wanted an explanation on the logic to exclude name badges from the license number requirement. Mr. Oh responded that it is the hope of HAR that the licensee would provide their business card to any public member and that the name tag in and of itself does not assume a solicitation. In their meetings, all committees have name tags for their members and many use pen and paper to identify themselves. Do these need the license number as well? When asked about a situation when a licensee goes out cold calling and knocking on doors, Mr. Oh responded that as a member of the public he would do his due diligence to discover more about the person wearing the name badge and would research for more information.

Vice Chair Sherley thanked Mr. Oh for appearing and answering questions.

Licensing – Ratification: Upon a motion by Commissioner Klein, seconded by Commissioner Cobb, it was voted on and unanimously carried to ratify the attached list as amended.

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.

Vice Chair Sherley announced he will be taking agenda items out of order to accommodate those applicants appearing before the REC.

Daymos K. Botelho

Mr. Botelho was present and was asked if he wished to have his application for real estate salesperson license considered in executive session. He declined the offer. He did not have anything further to provide but was available to answer any questions.

When asked about his debt, he responded he has just one payment on record and is currently driving for Uber. Also, he is receiving as much training as possible from Keller Williams.

Upon a motion by Commissioner Cobb, seconded by Commissioner Wada, it was voted on and unanimously carried to take the matter under advisement.

Vice Chair Sherley thanked Mr. Botelho for appearing.

Lei M. Miller

Ms. Miller was present and was asked if she wished to have her application for real estate salesperson license considered in executive session. She declined the offer.

Without anything further to add, Vice Chair Sherley thanked Ms. Miller for appearing.

Upon a motion by Commissioner Cobb, seconded by Commissioner Klein, it was voted on and unanimously carried to take the matter under advisement.

Sasha Rose Mason

Ms. Mason was asked if she wished to have her application considered in executive session. She accepted the offer.

Executive Session: Upon a motion by Commissioner Cobb, seconded by Commissioner Faulkner, 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 Arakaki, seconded by Commissioner Cobb, it was voted on and unanimously carried to move out of executive session.

Committees and
Program of Work:

Laws and Rules Review Committee – Commissioner's Education Program

RICO attorneys John Hassler, Esq., Patrick Kelly, Esq., and Esther Brown, Esq. were present to provide a short presentation for the REC. Mr. Kelly announced that he is the newest attorney but has over ten years of RICO experience and will litigate a case all the way up to the Hawaii Supreme Court, if necessary. RICO has 10 staff attorneys looking over 47 license areas with between 6,000 and 8,000 consumer driven complaints a year. Many complaints are considered minor, technical violations and do not involve licensee competency or consumer harm. Other complaints may involve significant consumer harm. In one instance, there was a licensee who went out of her way to create a fake subdivision and sell imaginary pieces of land.

The sanctions range from no action being taken up to \$5,000 per violation, which is the maximum allowed per the statute. RICO looks at whether the sanction is appropriate and reasonable to fit the violation.

RICO looks at whether there is a risk to the public and whether there is an ongoing risk. If the licensee denies liability and fails to recognize the harm that was caused then, more than likely, that injury will reoccur. RICO also looks at aggravating and mitigating factors. If a licensee refuses to acknowledge any wrongdoing, this would be an aggravating factor. However, if the licensee took immediate corrective measures, then they would look at this as a mitigating factor.

An important part of the statute that is unique to the REC is that the licensee has the statutory duty to cooperate with an investigation. If the licensee fails to cooperate, RICO will ask to suspend the license to practice.

There is an old common law concept that carries to this day: no time runs against the king, which translates to there is no statute of limitation for the state to take action against a licensee.

RICO was asked about any trends in licensee and condominium complaints and what, if anything, could the REC do to help. In the condominium area, there are a number of complaints from unit owners gaining access to records. According to RICO, the number of complaints received are small in relation to the number of units out there. There are no real trends with regards to licensees.

Chapter 91, HRS,
Adjudicatory
Matters:

The Vice Chair called for a recess from the meeting at 11:05 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 Bruce Travis; REC 2008-228-L

Upon a motion by Commissioner Arakaki, seconded by Commissioner Faulkner, it was voted on and unanimously carried to approve the list of medical doctors.

In the Matter of the Real Estate Broker's License of Cynthia A. Krog: REC 2014-120-L

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

In the Matter of the Real Estate License of Leslie B. Vargas: REC 2009-316-L

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

In the Matter of the Real Estate License of Charlene Butchart, a.k.a. Charlene L. Butchart: REC 2014-43-L

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

In the Matter of the Real Estate Broker's License of Judith Ann Pryne, dba Keale Realty; REC 2012-267-L

Upon a motion by Commissioner Arakaki, seconded by Commissioner Wada, it was voted on and unanimously carried to approve the Commission's Final Order.

Following the Commission's review, deliberation, and decisions in these matters, pursuant to Chapter 91, HRS, the Vice Chair announced that the Commission was reconvening its scheduled meeting at 11:25 a.m.

Executive Session:

Upon a motion by Commissioner Lee, seconded by Commissioner Faulkner, 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 Arakaki, seconded by Commissioner Klein, it was voted on and unanimously carried to move out of executive session.

Licensing
Applications:

Aurora Andres

After review of the information presented by the applicant, Commissioner Klein moved to approve a conditional real estate broker's license for Aurora Andres subject to the following conditions:

1. That during the term of this conditional license, any violation of the terms of the payment plan with the United States Bankruptcy Court, District of Hawaii by the Applicant, shall be grounds for revocation of license.
2. That failure to provide written notice within 30 days to the licensing authority of any judgment, award, disciplinary sanctions, order, or other determination, which adjudges or finds that the licensee is civilly, criminally or otherwise liable for any personal injury, property damage or loss caused by the licensee's conduct in the practice of the licensee's profession or vocation shall be grounds for revocation of license.

3. That the Applicant shall at all times be associated with and under the direct supervision of a principal broker ("PB") or one or more brokers in charge ("BIC"), for all real estate transactions.
4. That the Applicant shall inform the PB, sole proprietor real estate broker, or BIC of a real estate branch office with whom the Applicant associates that the Applicant holds a conditional real estate broker license and may only practice pursuant to certain terms of the conditional license. The Applicant shall present to the Applicant's PB, sole proprietor real estate broker, or BIC of a real estate branch office a copy of the Commission-issued conditional letter. The Applicant shall ensure that the PB, sole proprietor real estate broker, or BIC of a real estate branch office acknowledges the terms of the Applicant's conditional license by signing and returning a signed copy of the conditional letter to the Commission.
5. That **ALL** changes of association and/or employment by Applicant to another real estate broker shall be submitted in writing to the Commission. The new PB, sole proprietor real estate broker, or BIC of a real estate branch office shall acknowledge the terms of the Applicant's conditional license within ten (10) days of the change by submitting a completed Change Form along with a copy of the conditional letter signed by the new PB. Failure to attach the signed conditional letter by the new PB may result in disciplinary action.
6. That the satisfaction of the Applicant from said payment plan(s) shall not change any terms of the conditional license.
7. That upon completion of payment plan(s) with the United States Bankruptcy Court, District of Hawaii, the Applicant must submit a written request to the Commission if the Applicant desires to have the conditions removed.

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

Christian Eugene Ponsar

Upon a motion by Commissioner Cobb, seconded by Commissioner Wada, it was voted on and unanimously carried to deny Christian Eugene Ponsar's request for a prelicense education equivalency based on real estate appraiser qualifications.

Arthur Lee Ong

Commissioner Arakaki recused himself from discussion and voting on this matter.

Upon a motion by Commissioner Cobb, seconded by Commissioner Klein, it was voted on and carried to defer decision making on Arthur Lee Ong's application and to request his appearance at the May 27, 2016, REC meeting.

Rocco J. Fusco

Upon a motion by Commissioner Lee, seconded by Commissioner Cobb, it was voted on and unanimously carried to most likely approve a conditional salesperson's license for Rocco J. Fusco.

Daymos K. Botelho

After review of the information presented by the applicant, Commissioner Cobb moved to approve the real estate salesperson's license of Daymos K. Botelho. Commissioner Arakaki seconded the motion. The motion was voted on and unanimously carried.

James L. Jewett

After review of the information presented by the applicant, Commissioner Klein moved to deny the real estate salesperson's license of James L. Jewett. Commissioner Lee seconded the motion. The motion was voted on and Commissioners Klein, Lee, and Wada voted in favor of the motion. The motion died.

Lei M. Miller

After review of the information presented by the applicant, Commissioner Lee moved to approve the real estate salesperson's license of Lei M. Miller. Commissioner Wada seconded the motion. The motion was voted on and unanimously carried.

Sasha Rose Mason

After review of the information presented by the applicant, Commissioner Arakaki moved to approve the real estate salesperson's license of Sasha Rose Mason. Commissioner Klein seconded the motion. The motion was voted on and unanimously carried.

Executive Session:

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

Commissioner Arakaki moved to defer decision making on the real estate salesperson's license of James L. Jewett and request his appearance at the May 27, 2016, REC meeting. Commissioner Faulkner seconded the motion. The motion was voted on and unanimously carried.

Next Meeting:

Friday, May 27, 2016
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 Vice Chair adjourned the meeting at
12:22 p.m.

Reviewed and approved by:

/s/ Neil Fujitani for

Miles I. Ino
Executive Officer

May 5, 2016

Date

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

MI:nf

APPROVED APPLICATIONS FOR REAL ESTATE
REAL ESTATE COMMISSION MEETING ON APRIL 29, 2016

<u>Brokers – Individual</u>	<u>Effective Date</u>
Grace M. Jung	02/17/2016
Andrew Ming Fat Lai	02/29/2016
Yan Yan Scherman	03/08/2016
Jodi Lee Mews	03/10/2016
Jennifer Baldiwelli Holmes	03/14/2016
Michael Lam	03/15/2016
Yun Hong Zheng	03/16/2016
Sherry Jean Daniels	03/17/2016
Sisi M. Takaki	03/19/2016
Neena Khosla	03/21/2016
Bernadette Marie Pillar	03/24/2016
Saeid Pourjalali	04/08/2016
Yasuko Hata	04/08/2016
Mark W. Rowley	04/11/2016
Melvin D. Leon Guerrero	04/11/2016
Sarah McClendon	04/13/2016
Ryan Mitsuru Okamura	04/13/2016
Michael McDermott Okamoto	04/13/2016
James M. Brown	04/18/2016
Cannie Ho ki Chum	04/18/2016
<u>Brokers – Corporations and Partnerships</u>	<u>Effective Date</u>
Cheers Hawaii Properties, Inc. Johnson S. Chen, PB	02/29/2016
Maui Rental Connection, Inc. Jennifer M. Begley, PB	04/08/2016
Marriott Hotel Services, Inc. dba Quality Properties Steven M. Shishido, PB	04/12/2016
<u>Brokers – Limited Liability Company</u>	<u>Effective Date</u>
Pacific Core Properties Hawaii LLC Kelly E. Lee, PB	02/17/2016
IVIII LLC dba KW Kauai Wayne Richardson III, PB	03/15/2016
The GHT Group, LLC Glenn Hisashi Takeuchi, PB	03/10/2016
McMahon Real Estate, LLC Michael McMahon, PB	04/08/2016
Westview Real Estate Services, LLC Mark W. Rowley, PB	04/08/2016
Plumeria Hawaii Real Estate, LLC Yasuko Hata, PB	04/08/2016
Live Love Hawaii Realty LLC Naoko Miura, PB	04/12/2016
Asset & Management International LLC T. Paul Okamoto, PB	04/20/2016

<u>Brokers – Sole Proprietor</u>	<u>Effective Date</u>
Brian D. Kennelly	02/01/2016
Gary L. Hooser	02/02/2016
Michael A. Polley	03/14/2016
Linda K. Goy dba Maui Nui Properties	04/12/2016

<u>Branch Office</u>	<u>Effective Date</u>
Hawaii Life Real Estate Services LLC dba Hawaii Life Real Estate Brokers Matt Beal, PB	02/01/2016

<u>Trade Name</u>	<u>Effective Date</u>
Auction.com, Inc. dba Ten-X	03/17/2016
Candi Vernone Hill dba Candi V. Hill fka Golden Hill Real Estate Services	03/22/2016
Clark Realty Corporation dba SVN Clark Commercial Group fka Sperry Van Ness@/Clark Commercial Group	03/10/2016
Hawaii Sands Professional Services LLC fka Hawaii Sands Realty LLC	04/11/2016

<u>Educational Equivalency Certificate</u>	<u>Expiration Date</u>
Bambi Gloria Tomiko Ornelas	03/15/2018
Jo Ann Abella Israel	03/15/2018
John Collins Kolander	03/15/2018
Gary Charles Zamber	03/15/2018
Mehrdad B. Solati	03/15/2018
Ivy Charlene LoGerfo	03/16/2018
Jesus Trejo	03/17/2018
Keith Ward Hansen	03/17/2018
Michael A. Fine	03/21/2018
Kenneth Joseph Alumbaugh	03/21/2018
Rebecca Helen Colvin	03/21/2018
Elizabeth Anna May Sweet Burgess	03/21/2018
David Benjamin Burdette	03/22/2018
Kaitlyn Gail Gonet	03/22/2018
Philip Keppel	03/22/2018
Paul George Schofield	03/22/2018
Jacqueline Marie Phillips	03/22/2018
Matthew L. McCarthy	03/23/2018
Natassja Tiare Arakaki	03/23/2018
Juliana Hey Jeong Park	04/04/2018
James Arthur Giroux	04/04/2018
Donna Marie Hochstetler	04/04/2018
Randy Allen Ripley	04/05/2018
Sergio Giannoni Rodriguez	04/05/2018
Ana Maria Contis	04/05/2018
Crystal Marie Heatherly	04/08/2018
Takuya Murakami	04/08/2018
Theresa M. Fasciana	04/08/2018
Lisa Karen Cea	04/08/2018
Stephanie Grant	04/11/2018
Jesse Nainoa Watson	04/11/2018

Joan T. Arakaki	04/12/2018
Andrew D. Bahn	04/12/2018
Aaron S. Mandich	04/12/2018
Davin Eugene Amory	04/12/2018
Robert Albert Long III	04/12/2018
Steven Lambert	04/12/2018
YanSoo Jo	04/12/2018
Mutsumi Taki-Powell	04/12/2018
Seewing Yee	04/12/2018
Joseph Clyde Mobbley	04/13/2018
Joselito V Tubinansa	04/13/2018
Elaine Mae Vincent	04/13/2018
Jenna Rae Kuhns	04/18/2018
Douglas C. Herkes	04/18/2018
Nicola Wilson Anderson	04/18/2018
Kamana Mathur	04/18/2018
Dianne L. Moore	04/18/2018

Equivalency to Uniform Section of Examination Certificate

Expiration Date

Bambi Gloria Tomiko Ornelas	03/15/2018
Jo Ann Abella Israel	03/15/2018
John Collins Kolander	03/15/2018
Ivy Charlene LoGerfo	03/16/2018
Jesus Trejo	03/17/2018
Michael A. Fine	03/21/2018
Kenneth Joseph Alumbaugh	03/21/2018
Elizabeth Anna May Sweet Burgess	03/21/2018
David Benjamin Burdette	03/22/2018
Philip Keppel	03/22/2018
Paul George Schofield	03/22/2018
Matthew L. McCarthy	03/23/2018
Juliana Hey Jeong Park	04/04/2018
Donna Marie Hochstetler	04/04/2018
Randy Allan Ripley	04/05/2018
Ana Maria Contis	04/05/2018
Crystal Marie Heatherly	04/08/2018
Stephanie Grant	04/11/2018
Andrew D. Bahn	04/12/2018
Robert Albert Long III	04/12/2018
Steven Lambert	04/12/2018
Seewing Yee	04/12/2018
Nicola Wilson Anderson	04/18/2018
Dianne L. Moore	04/18/2018
Mitchel Hosan Mahdavi	04/20/2018

Real Estate Broker Experience Certificate

	<u>Expiration Date</u>
Jane D LE Wright	03/15/2018
Steven Wayne Sullivan	03/15/2018
Eric Masao Nariyoshi	03/15/2018
Chieh-Chieh Chyan	03/16/2018
Adam B. Brooks	03/17/2018
Michael A. Fine	03/21/2018
Leanna Jean Roberts	03/21/2018
Gregory Bradford Kostanoski	03/22/2018
Jacqueline Marie Phillips	03/22/2018
Rebeca Rodriguez Roman	03/23/2018
Phillip Scott Hasha	03/28/2018
Scherry L. Wedd	03/31/2018
Johnathan Tzu Liang Pang	04/04/2018
Ana Maria Contis	04/05/2018
Sandra J. Brown	04/08/2018
Valerie Joy Plaskett	04/11/2018
Kathleen Terv Coleman	04/12/2018
Robert Albert Long III	04/12/2018
Steven Lambert	04/12/2018
Seewing Yee	04/12/2018
Jason Rivera	04/18/2018
Nicola Wilson Anderson	04/18/2018
Elaine Yan Yung	04/18/2018

Restoration – Real Estate Salesperson

	<u>Effective Date</u>
Akin O. Jones	03/29/2016
Karen McGinnis	04/20/2016

Restoration – Real Estate Broker

	<u>Effective Date</u>
Anthea Lee Adair	03/21/2016

Condominium Hotel Operator

	<u>Effective Date</u>
Hale Kamaole Homeowner's Rentals LLC	04/01/2016