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REAL ESTATE BRANCH
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
KING KALAKAUA BUILDING
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HONOLULU, HAWAII 96813
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hirec@dcca.hawaii.gov

May 1, 2006

MEMORANDUM

TO: Candidates for Prelicensing Schools or Anyone Considering a Real Estate License

FROM: Real Estate Commission

SUBJECT: Persons with a Questionable Background Issue(s)

Do you have a questionable background issue? Questionable background issues include, but is not limited to, criminal convictions (felony, misdemeanor, or court martial), or any civil/administrative/government action, against you, including DUIs, drug/alcohol issues, abuse situations, tax liens, unpaid tax obligations, judgments, unpaid judgments, disciplinary action (for another licensing area or from another state or country), applicants currently serving parole or probation, violations of administrative laws/court orders/government sanctions, etc. If you have a questionable background issue, the Commission highly recommends you review the attached application. If your answer to any of the questions from **1.b) through 5 will be "yes", immediately contact the Real Estate Branch at the above address or at (808) 586-2643. Do not enroll in any Prelicensing Real Estate course until you secured advice on how to proceed and/or, if applicable, submit the attached "Request for Preliminary Decision" application.**

Although a good number of applicants with questionable background issues have been granted licenses or conditional licenses, a good number of applicants with questionable background issues have been **denied licenses**. Denied applicants have spent monies for the prelicensing school, taking and passing the examination, and submitting an application, as well as expending a lot of time studying, attending classes, and taking the examination. Therefore, prior to expending monies and time on the process to eventually submit an application for a real estate license that may be denied, the applicant should submit a Request for Preliminary Decision Application to the Commission.

Upon receipt of a Request for Preliminary Decision application and prior to inclusion on the Commission's meeting agenda, the Real Estate Branch staff gathers all pertinent documentation from the applicant to support and explain any and all "yes" answer(s). The Commission then reviews each application on a case by case basis at its monthly meeting. The applicant is invited to appear at the Commission's meeting to answer questions the Commissioners may have, and/or to provide oral testimony. The Commission then decides whether they would most likely approve or most likely deny a real estate license application with the affected background issues. Although the Preliminary Decision is a non-binding decision and subject to further review upon receipt of the license application, the decision should provide the candidate with a fair indication as to how the Commission may vote on the actual license application.

Lastly, Hawaii Revised Statutes Section 467-20 states that any false statement provided by the applicant to the Commission is an unlawful act subject to administrative sanctions and constitutes a misdemeanor criminally punishable under the laws of the State of Hawaii. In the electronic age of the internet, open records law by federal, state, and county governments, various private services, and with governmental agencies sharing information, access to background information on individuals and entities are easier to obtain. Therefore, the worst act by an applicant for licensure would be to answer the questions in the application falsely or basically lie.

Please contact the Real Estate Branch at the above address or telephone (808) 586-2643, between 7:45 a.m. to 4:30 p.m. HST, Monday to Friday.

**REQUEST FOR PRELIMINARY DECISION:
REAL ESTATE SALESPERSON OR BROKER**

Access this form via website at: www.hawaii.gov/hirec

STATE OF HAWAII
DEPARTMENT OF COMMERCE & CONSUMER AFFAIRS
PROFESSIONAL & VOCATIONAL LICENSING DIVISION

| | | | |
|---|---|-----------------------|--|
| Legal Name of Applicant (First, Middle): | (LAST) | For Official Use Only | |
| Residence Address (Include street address, apt. no., city, state & zip code): | | | |
| Mailing Address, if different from above (Include apt. no., city, state & zip code): | | | |
| Email Address: | | | |
| Type of License Preparing for (check one): <input type="checkbox"/> Salesperson <input type="checkbox"/> Broker | Social Security Number: <hr/> Daytime Telephone No.: | | |

Answer All Questions Below

| | | YES | NO |
|-----|--|--|--|
| 1a) | Have you ever applied for, been granted, or held a real estate license in Hawaii or any other state? If yes, what state, license type, and license number? _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| b) | Has an application for license or a real estate license ever been denied, suspended, fined, involuntarily terminated, revoked, or otherwise subject to disciplinary action? | <input type="checkbox"/> | <input type="checkbox"/> |
| c) | Have any complaints or charges ever been filed against you, regardless of outcome, with the licensing agency of any state? | <input type="checkbox"/> | <input type="checkbox"/> |
| d) | Have any charges of unlicensed activity ever been filed against you, regardless of outcome, with the licensing agency of any state? | <input type="checkbox"/> | <input type="checkbox"/> |
| e) | Are there any pending disciplinary actions against you? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. | During the past 20 years have you ever been convicted of any misdemeanors and/or felonies where there has not been an order annulling or expunging the conviction? <ul style="list-style-type: none"> • If you answered "YES" and are licensed in another jurisdiction, were you required to report this conviction to that jurisdiction? • Was disclosure made to that jurisdiction? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 3. | Are there any pending lawsuits, unpaid judgments, <u>outstanding tax obligations</u> , or any other type of involuntary liens against you? <ul style="list-style-type: none"> • If you answered "YES" and are licensed in another jurisdiction, were you required to report the pending lawsuit, unpaid judgment, outstanding tax obligation, or other involuntary lien to that jurisdiction? • Was disclosure made to that jurisdiction? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 4. | Are you an alien WITHOUT authorization to work in the United States? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. | Are you at least 18 years of age? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. | Do you have a high school diploma, or its equivalent? | <input type="checkbox"/> | <input type="checkbox"/> |

Explain all "Yes" responses on a separate sheet with detailed information and supporting documents as described in the instructions.

READ AND SIGN THE CERTIFICATION ON THE REVERSE SIDE

CERTIFICATION

I have read and understand §467-8, HRS. I understand that no license will be issued to any person who does not possess a reputation for or record of competency, honesty, truthfulness, financial integrity, and fair dealing.

I understand that this is NOT an application for license, this is a request for a preliminary decision to provide advisory guidance only and is not binding or subject to appeal. I understand that even if a preliminary decision is unfavorable to me, I may submit a complete license application and fees following successful completion of the prelicensing requirements. I understand that if a preliminary decision is favorable to me, I must still successfully complete the prelicensing requirements before applying for a license.

I understand that it is my responsibility to read the instructions thoroughly and to file a complete application, including required documents and fees. I hereby certify that the statements and answers on this application and accompanying documents are true and correct. I understand that any false or untrue statement or material misstatement of fact shall constitute grounds for refusal or subsequent revocation of license and is a misdemeanor under Hawaii law. (Sections 710-1017, 436B-19 and 467-20, HRS).

Applicants Signature

Date

INSTRUCTIONS

This is **NOT** an application for license. This is a request for a preliminary decision to provide advisory guidance only and is not binding or subject to appeal. You are **NOT** considered an applicant for licensure. A preliminary decision that is unfavorable to you does not prevent you from submitting a complete license application and fees following successful completion of the precicensing requirements. If a preliminary decision is favorable to you, you must still successfully complete the precicensing requirements before applying for a license. If your application for license is received within six months of the preliminary decision, the preliminary decision will be considered together with your application for license.

1. Read the information below.
2. Complete the application form, being sure to answer ALL questions.
3. **Attach** supporting documents, as described below.
4. Submit the application form, supporting documents, and a \$25 nonrefundable fee to:

Mail Address: DCCA, PVL, Licensing Branch
P. O. Box 3469
Honolulu, HI 96801

or

Deliver to office location at:
335 Merchant St., Room 301
Honolulu, HI 96813

NOTE: One of the numerous legal requirements that you must meet in order for your new license to be issued is the payment of fees as set forth in this application. You may be sent a license certificate before the payment you sent us for your required fees is honored by your bank. If your payment is dishonored, you will have failed to pay the required licensing fee and your license will not be valid, and you **may not** do business under that license. Also, a \$25.00 service charge shall be assessed for payments that are dishonored for any reason.

5. All applications must be reviewed and decided upon by the Real Estate Commission. The Commission meets once each month. The Commission will not review incomplete applications. Therefore, submitting a request without all applicable information and documents as described below will delay processing. If you wish to present oral testimony at the meeting, submit a written request. A courtesy notice with information on the date, time, and location of the meeting will be sent to you.

Instructions for "Yes" Answers

- A. The following documentation must be provided with your application. The application will not be considered without this material.
 - 1a) If you have applied for, been granted, or held a real estate license in Hawaii or any other jurisdiction, **list** the jurisdiction, license type, and license number in the space provided. Attach a separate page if more space is required.
 - 1b), 1c), 1d), or 1e) These questions refer to complaints, charges of unlicensed activity, or pending disciplinary actions for any profession, occupation, or license, both real estate and those other than real estate. If your answer is "yes" to one or more of these questions, you must **submit** the following:
 - i. A statement signed by you explaining the circumstances;
 - ii. Copies of any documents from the agency, including final orders, petitions, complaints, findings of fact and conclusions of law, and any other relevant documents;
 - iii. A resume of any employment, business activities, and education since the date of the action; and
 - iv. You may also include statements from employers, business associates, clients, and others who can attest to your reputation for or record of competency, honesty, truthfulness, financial integrity, and fair dealing.
 - 2) If your application indicates a criminal conviction, you must **submit** the following:
 - i. A statement signed by you explaining the circumstances leading to the conviction and detailing all activities since the conviction, including employment and business involvements. Include job title, period of employment, employer's name, description of duties, training attended, and educational courses attended;
 - ii. A copy of the court order, verdict, and terms of sentence; written proof of completion and/or compliance with applicable terms of sentence, e.g., payment of fine(s) or restitution;

- iii. If applicable, a copy of the terms of probation and/or parole and a statement from your probation or parole officer as to your reputation for or record of competency, honesty, truthfulness, financial integrity, and fair dealing; and
 - iv. Signed statements from employers, business associates, clients, and others who can attest to your business dealings since the conviction, including a statement as to your reputation for or record of competency, honesty, truthfulness, financial integrity, and fair dealing.
- 3) If you have any pending lawsuits, unpaid judgments, outstanding tax obligations, or any other type of involuntary liens against you, **submit** the following:
- i. A statement signed by you explaining the circumstances and current status, and if no payment or payment arrangement has been made, the reason;
 - ii. A resume of employment and business activities; and
 - iii. Copies of the court complaint, judgment, documentation of payment arrangements, lien documents, records of any payments, and other relevant documents.