

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, January 25, 2008

Time: 9:00 a.m.

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

Present: Trudy Nishihara, Chair, Broker/Honolulu Commissioner
Stanley Kuriyama, Vice Chair, Broker/Honolulu Commissioner
Louis Abrams, Broker/Kauai Commissioner
Annette Aiona, Broker/Hawaii Island Commissioner
Carol Ball, Broker/Maui Commissioner
William S. Chee, Broker/Honolulu Commissioner
Frances Gendrano, Broker/Honolulu Commissioner
Michele Sunahara Loudermilk, Public/Honolulu Commissioner
Mark Suiso, Public/Honolulu Commissioner

Neil Fujitani, Acting Supervising Executive Officer
Diane Choy Fujimura, Senior Real Estate Specialist
Amy Endo, Real Estate Specialist
David Grupen, Real Estate Specialist
Cynthia Yee, Senior Condominium Specialist
Cheryl Leong, Condominium Specialist
Benedyne Stone, Condominium Specialist
Shari Wong, Deputy Attorney General (Late Arrival)
Lei Fukumura, Special Deputy Attorney General
Irene Kotaka, Secretary

Ashley D. Smith

Absent: None

Call to Order: The Chair called the meeting to order at 9:05 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's report was deferred to the end of the meeting.

Executive Officer's Report:

The Executive Officer informed the Commissioners that the original applications with any original associated documents to be considered at the meeting were available for review.

Announcements, Introductions, Correspondence and Additional Distribution

The Executive Officer reminded the Commissioners to turn in their non-availability schedules for the months of January to June 2008 to REB staff as soon as possible.

Additional Distribution

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

6. Licensing – Applications
 - a. Ashley D. Smith
 - d. Garth P. H. Yamanaka

Minutes of Previous Meeting

Upon a motion by Commissioner Abrams, seconded by Commissioner Kuriyama, it was voted on and unanimously carried to accept the minutes of the December 21, 2007 meeting.

The Deputy Attorney General arrived.

Licensing – Ratification:

Upon a motion by Commissioner Abrams, seconded by Commissioner Chee, 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.

Ashley D. Smith

Ashley D. Smith was asked if he wished to have his application for a real estate salesperson's license considered in executive session. He declined the offer.

Mr. Smith thanked the Commission for allowing him to provide testimony.

Mr. Smith said that he had made a mistake in having the judgment issued because he was behind in the rent.

Mr. Smith is aware that the Commission is concerned about an applicant's record of financial integrity, honesty, and competency. He entered into a payment plan with the owner's daughter.

Mr. Smith said that he has been licensed with DCCA since 1997 in the automobile industry. He realizes that the islands are small and that a person's reputation precedes them. He recognizes the need to be fair and up front with people. Mr. Smith said that in the last six months, he ran a report of his transactions and he has had 573 transactions and has done millions of millions of dollars of business. He has never had a complaint and is in good standing. He has taught his staff not to mislead people. If they do not know the answer, they should admit that they do not know and then try to find out the answer for their customer. He would not have been able to get as far as he has if he had issues with his character.

Mr. Smith said that he has an opportunity to join Marriott and sell time shares. Marriott performed a background check. He would like to move over into real estate. He will be under the strict guidance of his principal broker.

Mr. Smith said that if the Commission did not want to grant him his license, he would be willing to have a conditional license.

Mr. Smith explained the circumstances, which caused the judgment to be filed. He said that he had been living there for 1-1/2 years. He got behind in his rent for four months in late 2001. He entered into an agreement with Mr. Sarad that if he did not make the payments, the amount he owed would increase. In February 2005, his application was denied because of the outstanding judgment. The Commission questioned Mr. Smith as to why he did not take any action to enter into a payment plan prior to his applying for his real estate license. Mr. Smith said that he did not have any justifiable reason but that he made a mistake and has learned from it.

When asked about the payment of his taxes, Mr. Smith replied that he had received bad advice that the payment of taxes was not constitutional. When he received a letter to the contrary, he filed his taxes and he is up to date with his taxes.

Mr. Smith said that Mr. Sarad is in an assisted living facility and his daughter is the trustee of the estate. He has contacted the daughter by telephone. If the Commission wished, he could give the Commission the daughter's phone number and address.

Mr. Smith said that does not have his motor vehicle salesperson's license any more. He voluntarily left the company and is in training with Marriott. Mr. Smith said that he has done a lot of business, has a good reputation and does not have any complaints.

Mr. Smith explained that in 2005, when he first submitted his application, he had wanted to appear before the Commission, but he had to work and his loyalty to the company got the best of him. His license was denied because he did not provide documentation. He did not reapply because his prelicensing education certificate had expired.

Mr. Smith said he was a Senior Sales Manager at Tony Honda. It was his long-term hope to go into real estate. He took the exam and passed. He knew that

the issue of the judgment would come up again. During 2005 to 2008, he was focusing on doing his best in the automobile industry. One of the assistant managers that he worked with got accepted at Marriott and that made him think of going back in to real estate. Mr. Smith said that he was an assistant instructor for Betty Dower for a few months.

When asked why he did not take care of the outstanding judgment earlier, Mr. Smith said that he was aware that he was behind four months in rent but he was scared.

Upon a motion by Commissioner Chee, seconded by Commissioner Abrams, 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 9:26 a.m., to discuss and deliberate on the following adjudicatory matters, pursuant to Chapter 91, HRS:

In the Matter of the Application for a Real Estate Salesperson's License of Robert C. Caires, REC-LIC-2007-1

Upon a motion by Commissioner Chee, seconded by Commissioner Aiona, it was voted on and unanimously carried to approve the Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order Granting Respondent's Motion to Dismiss.

In the Matter of the Real Estate Broker's Licenses of James E. McKellar and Certified Management, Inc.; REC 2007-60-L

Upon a motion by Commissioner Abrams, seconded by Commissioner Chee, it was voted on and carried to accept the Settlement Agreement Prior to Filing of Petition for Disciplinary Action and Commission's Final Order. Commissioner Loudermilk voted against the motion.

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 9:30 a.m.

Executive Session:

Upon a motion by Commissioner Abrams, seconded by Commissioner Chee, 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 Suiso, seconded by Commissioner Aiona, it was voted on and unanimously carried to move out of executive session.

Licensing –
Applications:

Ashley D. Smith

After a review of the information presented by applicant, Commissioner Loudermilk moved to deny Ashley D. Smith's application for a real estate salesperson's license unless within 60 calendar days Mr. Smith submits written proof of payment, written proof of discharge, or an approved written payment plan in regards to the Judgment in Civil No. 1RC 02-06. The Commission expressed their concerns that Mr. Smith did not act upon the judgment until he applied for his license, did not provide information from his employer in support of his license being granted and did not provide written documentation of the payment plan from Mr. Sarad or his representative(s). Commissioner Chee seconded the motion. The motion was voted on and unanimously carried.

Ettatani L. Slot

Commissioner Ball recused herself from the discussion and voting.

After a review of the information submitted by the applicant, Commissioner Kuriyama moved to most likely approve the real estate salesperson's license application of Ettatani L. Slot. Commissioner Abrams seconded the motion. The motion was voted on and carried. Commissioners Suiso and Chee voted against the motion.

Commissioner Ball returned to the meeting.

Michael Jong Oh

After a review of the information submitted by the applicant, Commissioner Kuriyama moved to most likely approve the real estate salesperson's license application of Michael Jong Oh. Commissioner Chee seconded the motion. The motion was voted on and unanimously carried.

Garth P. H. Yamanaka

After a review of the information submitted by the applicant, Commissioner Ball moved to deny Garth P. H. Yamanaka's application for a prelicensing education equivalency, pursuant to §467-9.5(a)(2)(A), HRS.

The Education Evaluation Task Force is in the process of recommending that the only equivalency to be recognized for the prelicensing licensing education requirement is if the applicant is licensed in another state, has a law degree or has a B.A. in real estate.

The Commission does not consider an appraisal designation to be equivalent to the real estate prelicensing education requirement and Mr. Yamanaka does not qualify for any of the other categories for an equivalency.

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

Jon Silver

Mr. Silver withdrew his request for an extension of his temporary principal broker appointment.

Chair's Report:

Chair Nishihara distributed a copy of letter that she had drafted regarding the rule changes being proposed by the Hawaii Supreme Court, State of Hawaii, regarding the "unauthorized practice of law." The deadline for submitting comments to the Supreme Court on the proposed rule changes is today.

The proposed rule changes may seriously affect the performance of a real estate licensee's duties and more importantly, may have a negative impact on consumers, such as increased costs and delay in the processing of transactions.

The Commission has grave concerns regarding the proposed rule changes and its impact on the consumers. This matter will be discussed further at the February 13, 2008 Laws and Rules Review Committee meeting.

A copy of the existing Supreme Court rules, the proposed rules, responses from the Hawaii Association of REALTORS and the Honolulu Board of REALTORS will be distributed to the Commissioners for their review and discussion. A copy of the Washington State Bar Association's adopted rules and information from the State of Massachusetts will be distributed for their review. Staff was asked to draft a response from the Commission regarding the proposed rule changes for discussion at the meeting.

Recovery Fund Report:

No report was presented.

Next Meeting:

Friday, February 29, 2008
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, Chair Nishihara adjourned the meeting at 10:31 a.m.

Reviewed and approved by:

/s/ Neil Fujitani
Neil Fujitani, Executive Officer

February 4, 2008
Date

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

APPROVED APPLICATIONS FOR REAL ESTATE
REAL ESTATE COMMISSION MEETING ON JANUARY 25, 2008

<u>Brokers – Limited Liability Companies and Partnerships</u>	<u>Effective Date</u>
Steve Masui Realty, LLC Steven N. Masui, PB	12/07/07
Greenview Realty Group LLC Rolando I. Fernandez, PB	12/07/07
Horizons LLC Sandra Parmley, PB	12/18/07

<u>Brokers – Corporations and Partnerships</u>	<u>Effective Date</u>
Pure Kauai Health & Fitness, Inc., Pure Kauai Lauren B. Angulo, PB	12/24/07

<u>Brokers – Corporations and Partnerships Name</u>	<u>Effective Date</u>
Tiki Realty Inc. (fka Anini Aloha Properties Inc.)	12/11/07

<u>Trade Name</u>	<u>Effective Date</u>
Elizabeth T. Merk, Elizabeth Merk/Real Estate	12/02/07
Activity Information Center, Inc., Expedia Local Expert	12/20/07

<u>Brokers – Sole Proprietor</u>	<u>Effective Date</u>
Jacob M. Manegdeg	12/03/07
Helen Paiva Riley, Westside Realty	12/07/07
Cheryl L. Lee	12/10/07
Don Broadston	12/14/07
Bruce Butler	12/24/07
Stephanie C. Stucky, SCS Realty	12/24/07
John R. Dodds, Dodds Realty Hawaii	01/01/08
Alice W. Lyles	01/04/08

<u>Equivalency to Uniform Section of Examination Certificate</u>	<u>Expiration Date</u>
Edward Donald Boyt	12/11/09
Robin D. Woo	12/12/09
Brian Patrick Kelly	12/12/09
Arthur William Sullivan	12/12/09
David G. Ford	12/13/09
Mahogany Monique Armstead	12/18/09
Michael J. Eckroat	12/18/09
Ernest Barry Tsitouris	12/19/09
Larry Daniel Jeffery	12/19/09
Frank L. Critelli	12/19/09
Kenny Wayne Flinn	12/20/09
Pamela Miller	12/20/09
Janice E. Leidenberger-Yarush	12/20/09
Brigitte L. Olivier	12/20/09
William Cittadino	12/21/09
Charles Sheng-Yao Huang	12/28/09
Michael James Lingenfelter	01/02/10
Jennie Lorine Bianchi	01/07/10

<u>Equivalency to Uniform Section of Examination Certificate</u>	<u>Expiration Date</u>
Susan M. Kimmelman	01/07/10
Hoda Samuel	01/08/10
Tammy Elizabeth Marston	01/08/10
Camilo Arturo Landinez	01/08/10
Carmen Hernandez	01/08/10
William Adrianus De Riddre	01/08/10
David Robert Hill	01/08/10
Anna Marie Ameen	01/08/10
Brandi Reiko Castonguay	01/09/10
Steven Douglas Gran	01/09/10
Jimmy Fullbright	01/14/10
Don Anthony Currie	01/15/10
Joao Manuel De Figueiredo	01/15/10
Marcus Hester	01/15/10
Jean B. Ocon	01/15/10
David B. Ocon	01/15/10
Robert William Newstead	01/15/10

<u>Educational Equivalency Certificate</u>	<u>Expiration Date</u>
Robin D. Woo	12/12/09
Christine Louise Donnelly	12/12/09
Brian Patrick Kelly	12/12/09
Arthur William Sullivan	12/12/09
Maile Ann Cluney	12/12/09
Stephen Taylor Flanagan	12/12/09
Richard Hendrickson	12/12/09
David G. Ford	12/13/09
George Michael Khozam	12/14/09
Tatyana Elizabeth Cerullo	12/14/09
Mahogany Monique Armstead	12/18/09
Michael J. Eckroat	12/18/09
Ernest Barry Tsitouris	12/19/09
Larry Daniel Jeffery	12/19/09
Richard Leo Omalley	12/19/09
Wayne Schaut	12/19/09
Kenny Wayne Flinn	12/20/09
Pamela Miller	12/20/09
Janice E. Leidenberger-Yarush	12/20/09
Brigitte L. Olivier	12/20/09
Matthew K. Gambetta	12/20/09
William Cittadino	12/21/09
Charles Sheng-Yao Huang	12/28/09
Michael James Lingenfelter	01/02/10
Mae S. Yoshino	01/07/10
Angela Leigh Daly	01/07/10
Jennie Lorine Bianchi	01/07/10
Susan M. Kimmelman	01/07/10
Matthew C. Larson	01/07/10
Hoda Samuel	01/08/10
Tammy Elizabeth Marston	01/08/10
Camilo Arturo Landinez	01/08/10

Educational Equivalency Certificate

	<u>Expiration Date</u>
Carmen Hernandez	01/08/10
Christine Marie McClarin	01/08/10
William Adrianus De Riddre	01/08/10
David Robert Hill	01/08/10
Anna Marie Ameen	01/08/10
Brandi Reiko Castonguay	01/09/10
Aurora Serrano Agas	01/09/10
Jimmy Fullbright	01/14/10
Nami Okamura Barden	01/15/10
Don Anthony Currie	01/15/10
Joao Manuel De Figueiredo	01/15/10
Howard Daniel Dinits	01/15/10
Marcus Hester	01/15/10
Robert William Newstead	01/15/10
Danny Chia Chang	01/16/10

Real Estate Broker Experience Certificate

	<u>Expiration Date</u>
Robin D. Woo	12/12/09
Brian Patrick Kelly	12/12/09
Clifford S. L. Woo	12/13/09
Edward Sangbok Suh	12/13/09
David G. Ford	12/13/09
Reiko Ichikawa Gamble	12/14/09
Adrienne Weatherly Lally	12/17/09
Gilbert Leon Barden	12/18/09
Janice E. Leidenberger-Yarush	12/20/09
Rex Kriekenbeek	12/20/09
Velma Lynn Arkangel	12/20/09
Jennie Lorine Bianchi	0/07/10
Kelimia Mednick	01/07/10
Hoda Samuel	01/08/10
William Adrianus De Riddre	01/08/10
David Robert Hill	01/08/10
Don Anthony Currie	01/15/10
Joao Manuel De Figueiredo	01/15/10
Marcus Hester	01/15/10
Larry Eugene Oldfield	01/15/10
Robert William Newstead	01/15/10

Real Estate Broker (upgrade)

	<u>Effective Date</u>
Gary L. Pierce	12/01/07
Monica Fassoth-Kelly	12/01/07
Patty Sadler	12/07/07
Marina Batham	12/07/07
Frank Cash	12/10/07
Jeff Olson	12/11/07
Keiko H. Hurst	12/12/07
Cory A. Beall	12/13/07
George M. Benavente	12/19/07
Renie Kelly	12/21/07
Michael T. Suter	12/21/07

Real Estate Broker (upgrade)

	<u>Effective Date</u>
Elena Roud	01/01/08
Duke M. Kimhan	01/02/08
Dwayne M. Morris	01/03/08
Patrick Core	01/03/08
Alice W. Lyles	01/04/08
Lulu Williams	01/04/08
Mark A. Harbison	01/04/08
Heather Singleton	01/09/08
Duane B. Wrobel	01/09/08
Joseph G. Blackburn, II	01/09/08

Condominium Hotel Operator

	<u>Effective Date</u>
Pacific Island Hotels, LLC	12/20/07