

School Files

Hawaii Real Estate Commission

May 2006

<http://www.hawaii.gov/hirec>

PRELICENSING SCHOOL CANDIDATES WITH A QUESTIONABLE BACKGROUND ISSUE

The Commission requests the assistance and cooperation of all Prelicensing Schools and Instructors concerning prelicensing school candidates with a questionable background issue.

With the recent booming real estate market, the licensing applicants with questionable background issues have increased dramatically. Questionable background issues include criminal convictions (felony, misdemeanor, or court martial), or any civil/administrative/government actions, including DUIs, drug/alcohol issues, abuse situations, tax liens, unpaid tax obligations, judgments, unpaid judgments, disciplinary action (from another licensing jurisdiction or from another state or country), serving parole or probation, violations of administrative laws/court orders/government sanctions, etc. Although a majority have been granted licenses or conditional licenses, a rising number of these applicants have been **denied licenses**. The denied applicants have futilely spent monies for prelicensing school, exam, and application, in addition to expending time on attending classes, studying, and taking the exam.

With the exception of a few, most of these applicants did not know they could have secured a non-binding Preliminary Decision prior to any financial obligation for the prelicensing class. Some applicants stated that the prelicensing school alerted them about the possibility of license denial for their questionable background issue, the Request for Preliminary Decision application, distributed the Commission's memorandum, and/or to call the Real Estate Branch for assistance, while other prelicensing schools did not.

Over a decade ago, the Commission and the prelicensing schools agreed to disclose to candidates prior to enrollment in prelicensing courses that if they had any questionable background issue to contact the Real Estate Branch immediately for assistance before enrolling in the prelicensing course. In 1999, a new law gave authority to the Commission to provide a non-binding Preliminary Decision to an applicant with a questionable background issue prior to enrollment in a prelicensing school. The Hawaii Administrative Rules require the prelicensing school to assist the Commission in its efforts to regulate



the practices of brokers and salespersons. The Commission issued a Policy Memorandum on this issue for the prelicensing schools to distribute to candidates prior to enrollment.



Hawaii Revised Statutes (HRS) Section 467-8(b), states, “Prior to submitting to prelicensing education or examination requirements, an individual candidate may request that the commission consider a preliminary decision as to whether the individual candidate for a real estate license will be denied a real estate license pursuant to section 467-8(a)(3). The individual candidate shall submit a completed application, all information requested by the commission, and the nonrefundable application fee The preliminary decision shall provide advisory guidance, shall not be construed as binding, and shall not be subject to appeal. The individual candidate seeking a preliminary decision shall not be considered an applicant for licensure. A preliminary decision that is unfavorable to the individual shall not prevent the individual from submitting a complete license application and fees after successful completion of the prelicensing requirements.”

Upon receipt of an application for Request for Preliminary Decision, the application is reviewed on a case by case basis by the Commission at its monthly meeting. 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 the “yes” answer(s). The applicant is invited to appear before the Commission to answer questions the Commissioners may have, and/or to make a statement. The Commission then makes a decision on the application either favorably, unfavorably, or defers the application. Although a non-binding decision and subject to further review upon receipt of the license application, the preliminary decision should give the candidate a fair indication as to how the Commission may vote on the license application.

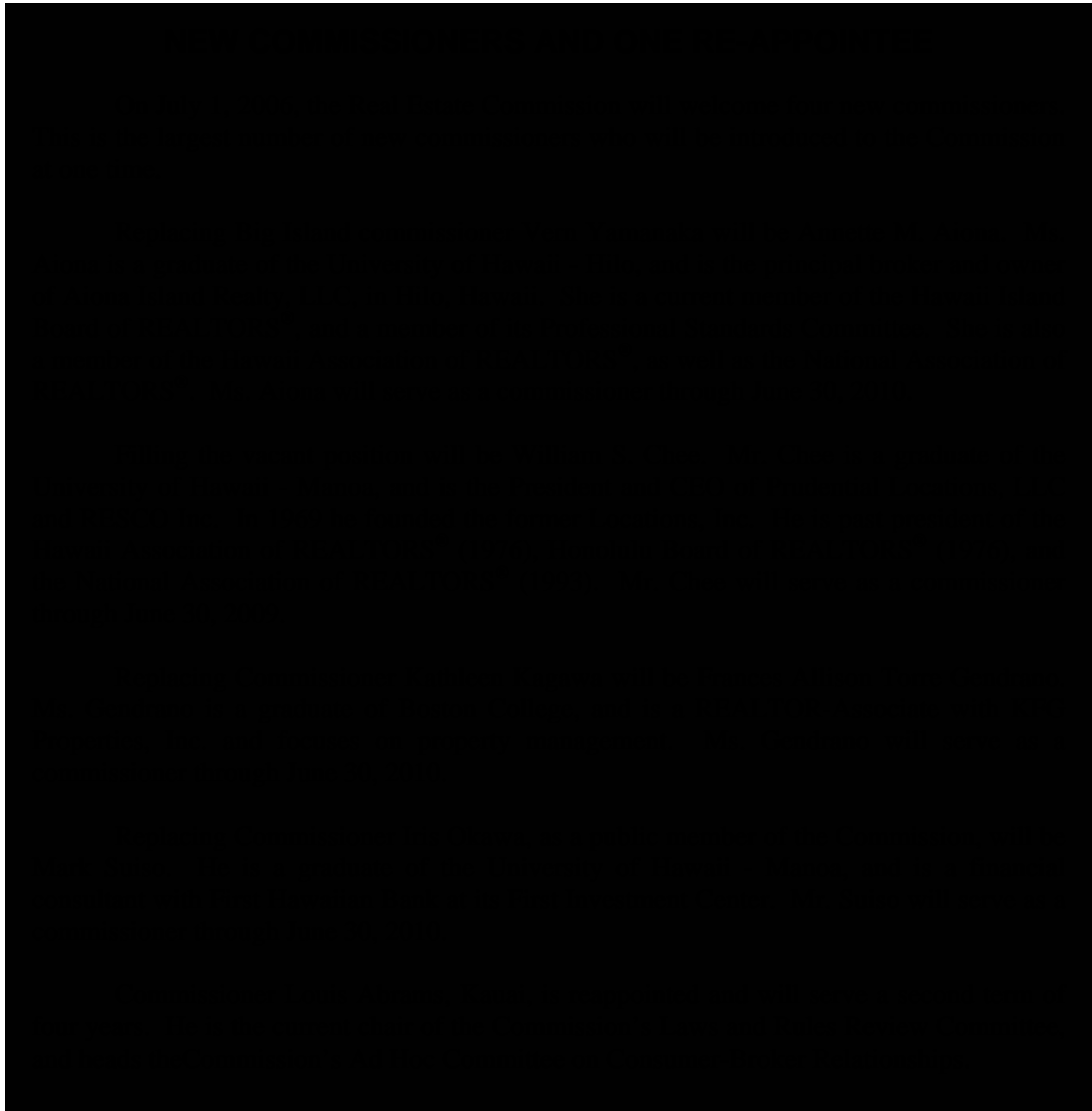
If an applicant for licensure answers the questions in the application falsely or, basically, lies, Section 467-20, HRS, states that any false statement would be subject to administrative sanctions and constitute a misdemeanor. With the electronic age of the internet, open records laws by federal, state, and county governments, the various private services, and the government agencies sharing information, the access to background information on individuals and entities is easier to obtain. The Commission also participates in the ARELLO National Databank.

Enclosed is a copy the latest Commission’s Memorandum and application for the Request for Preliminary Decision, which you can photocopy for distribution to your prelicensing school candidates. Please distribute these materials to all candidates prior to enrollment or prior to any financial commitment to the prelicensing school.

CE CREDIT FOR CE INSTRUCTORS

Based on Hawaii Administrative Rules Section 16-99-96, “An instructor who is a licensee. In satisfying the continuing education hours of a license period, an instructor who is a real estate licensee, may use once in any biennium, the clock hours for each course taught. The one time use applies even when the instructor has taught the course more than once.”

If you are a CE instructor and would like CE credit for any of the courses you taught this biennium, please submit a written request for credit and identify the course(s) you taught, and the date the course was taught.



PRELICENSE INSTRUCTORS AND INSTRUCTOR'S EXAM



Every three (3) years, every prelicense instructor must take and pass an instructor's exam administered by the Commission's test administrator, Promissor. (See Section 16-99-58(g), Hawaii Administrative Rules)

The instructor's exam includes only the uniform portion of real estate knowledge and does not include the Hawaii law portion. Instructors need to score 85 or better to pass the exam.

If you don't know when you last took and passed the instructor's exam, call Toa, Education Clerk, Real Estate Branch, (808)586-2643. She'll give you the good news.

COURSE AND INSTRUCTOR MONITORING

At its March 24, 2006 monthly meeting, the Real Estate Commission approved a revised policy regarding course and instructor monitoring. Funds from the Real Estate Education Fund will be used to cover registration fees and the cost of course materials for course monitors. There will be no payment of travel costs or per diem fees, unless specifically approved by the Commission, and subject to an approved travel request prior to travel. The course monitor will continue to receive continuing education credit for the course monitored.



Previously, the Real Estate Branch staff sent a letter to the instructor announcing the monitor's attendance. The monitor also received a letter to present to the instructor on the day of the class. The instructor is told to treat the monitor as a regular student; however, the CE provider does not issue a course completion certificate to the monitor. The Real Estate Branch issued the course completion certificate to the monitor and credits the monitor for the course. The monitor is not guaranteed a seat or course materials.

The revision to the above procedure was prompted by a letter of concern received from one of the Commission's CE instructors/providers expressing concern that the provider faced losing student space and out-of-pocket expenses for the registration fee and cost of course materials for the monitor.

The Real Estate Branch staff will have the continued discretion to disclose the monitoring of a course to the instructor and/or provider based on Hawaii Administrative Rules Section 16-99-119, ". . . With or without the giving of any prior notice, the commission may conduct a review, evaluation, or investigation of a course offering or a registered continuing education provider's operations and performance. A review, evaluation, or investigation may be conducted by any means including but not limited to surveys, observations, physical inspections, and on-site monitoring, as well as interviews with providers, owners, administrators, instructors, and students. . . ."



CURRENT PRELICENSE SCHOOLS

Abe Lee Seminars
Akahi Real Estate Network LLC
All Islands Real Estate School
Coldwell Banker Pacific Properties
Real Estate School
Dower School of Real Estate
Dower School of Real Estate Windward
Fahrni School of Real Estate
Hawaii Academy of Real Estate LLC
Hudson Real Estate School

Leeward Community College - OCEW
Maui Community College – VITEC
Premier Realty 2000 Inc.
ProSchools, Inc.
Ralph Foulger's School of Real Estate
REEF Inc., Hawaii Institute of Real Estate
Seiler School of Real Estate
University of Hawaii at Manoa
Vitousek Real Estate Schools, Inc.



CURRENT CONTINUING EDUCATION PROVIDERS

Abe Lee Seminars	Hawaii Island Board of REALTORS
Akahi Real Estate Network LLC	Hogan School of Real Estate
Americas Best	Honolulu Board of REALTORS
BOMA-Hawaii	John Reilly
Brian R. Thomas dba Edventures	Kauai Board of REALTORS
Career Webschool	Kingman Winslow First American School
Charles Barnes School of Real Estate	Kona Board of REALTORS
CLE International	Lorman Education Services
Coldwell Banker Pacific Properties Real Estate School	Lynn W. Carlson
Continuing-Ed-Online.org	Pacific Real Estate Institute
Dower School of Real Estate	Premier Realty 2000, Inc.
Dower School of Real Estate Windward	ProSchools, Inc.
Duplanty School of Real Estate	Ralph Foulger's School of Real Estate
Eddie Flores Real Estate	REALTORS Association of Maui Inc.
ERA School of Real Estate	Russ Goode Seminars
Fahrni School of Real Estate	Seiler School of Real Estate
Hawaii Association of REALTORS	ServPro Industries, Inc.
Hawaii CCIM Chapter	Terabiz
Hayloft Climbers, LLC	University of Hawaii at Manoa
	Vitousek Real Estate Schools, Inc.



REEA OFFERS INSTRUCTOR DEVELOPMENT WORKSHOP

The Real Estate Educators Association (REEA) is having its annual conference, "Everyone Wins with REEA!", June 19-14, Las Vegas, NV. The REEA conference offers excellent opportunities to network with other people from across the country who are involved in real estate education. This year's conference promises to provide tools to incorporate into your education business, and also enhance relationship building opportunities.

There will be an Instructor Development Workshop (IDW) offered on Saturday, June 10, 2006, from 8:00 a.m. – 5:00 p.m. The IDW is considered a pre-conference event and the cost to REEA members is \$150.00 or \$250.00 for non-members. The instructor is Roger Turcotte, DREI, Roger Turcotte & Co LLC, Contoocook, NH.

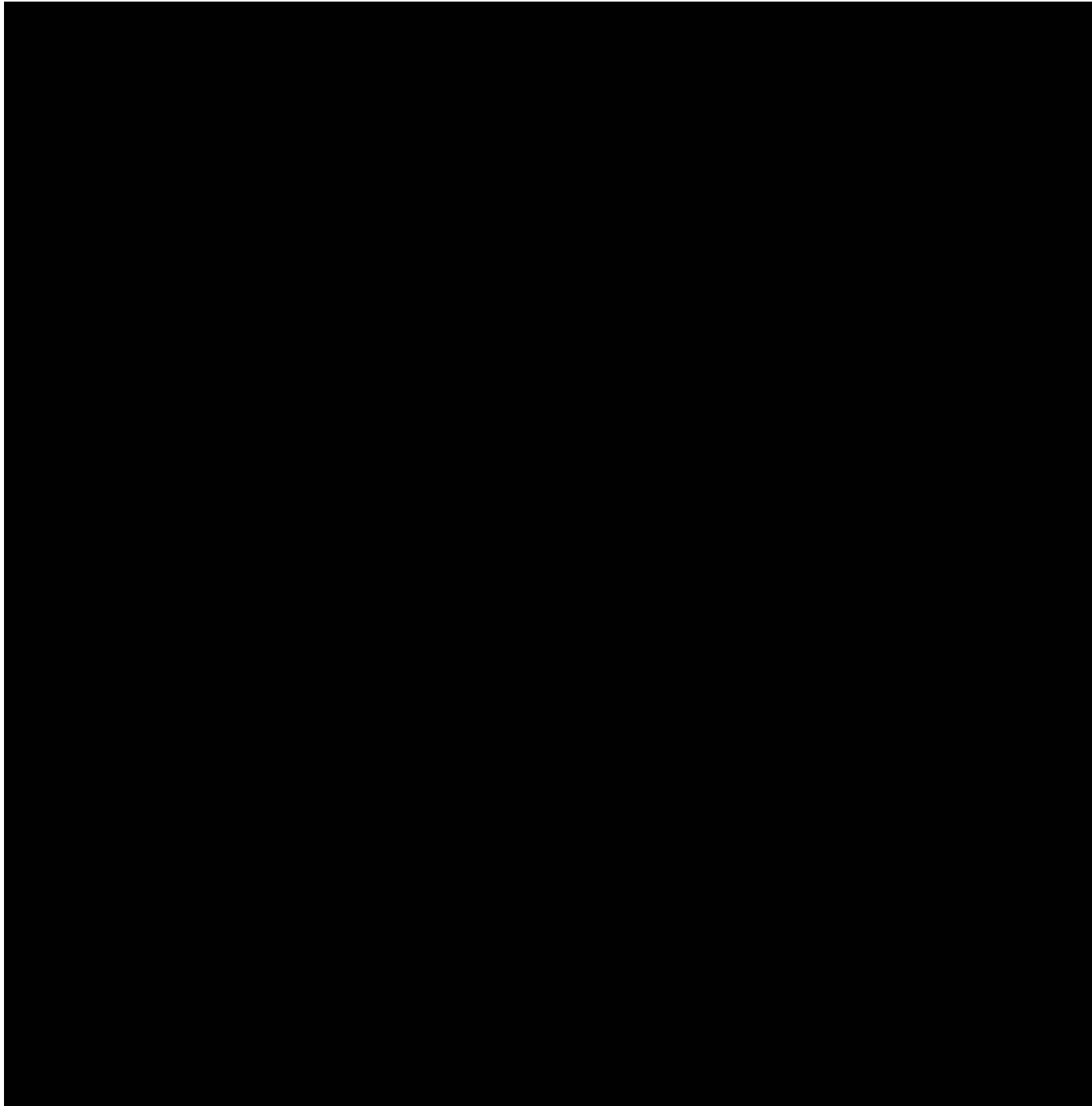
"The Real Estate Educators Association (REEA) is critically concerned with the quality of real estate education in all forms. Though distance education is a viable option using today's technology, there is popular agreement that the most effective delivery of that education is provided by the classroom instructor. Therefore, this workshop was designed to assist both beginning and seasoned real estate instructors become more proficient when presenting live instruction in a classroom format.

The workshop will be presented in a manner that will familiarize the participants with the GAPE (Generally Accepted Principles of Education) adopted by REEA in 1990. Mastery of these GAPE principles are a critical element for the candidates intending to earn the DREI (Distinguished Real Estate Instructor) designation and for instructors who desire to demonstrate distinction in real estate education."

- REEA Program and Registration Information

At its May 10, 2006 Education Review Committee meeting the REEA IDW was recommended for approval as a Commission-approved IDW for the current, 2005-2006 biennium. All prelicense instructors who wish to be recertified for the 2007-2008 biennium, must “. . .complete a commission sponsored or approved instructor’s workshop, . . .” (Hawaii Administrative Rules, Section 16-99-58).

All continuing education instructors may be required “. . .to complete an instructor’s workshop approved by the commission or complete viewing a commission approved audio videotape of such workshop within the biennium.” (Hawaii Administrative Rules, Section 16-99-104(e))

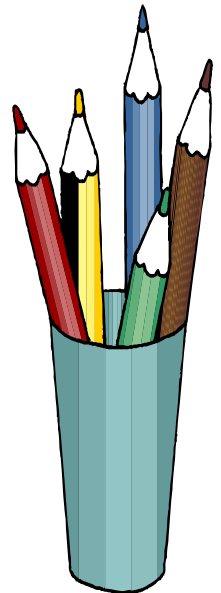
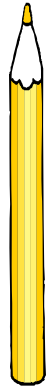
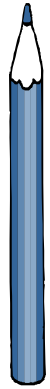
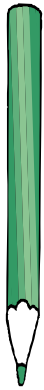
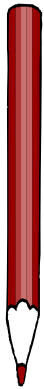
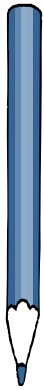


**2006
REAL ESTATE COMMISSION
MEETING SCHEDULE**

Laws & Rules Review Committee – 9:00 a.m. Education Review Committee – Upon adjournment of the Laws & Rules Review Committee Meeting Condominium Review Committee – Upon adjournment of the Education Review Committee Meeting, which is upon the adjournment of the Laws & Rules Review Committee Meeting, which convenes at 9:00 a.m.	Real Estate Commission 9:00 a.m.
Wednesday, May 10, 2006	Friday, May 26, 2006
Wednesday, June 14, 2006	Friday, June 23, 2006
Wednesday, July 12, 2006	Friday, July 28, 2006
Wednesday, August 9, 2006	Friday, August 25, 2006
Wednesday, September 13, 2006	Friday, September 22, 2006
Wednesday, October 11, 2006	Friday, October 27, 2006
Wednesday, November 8, 2006	Wednesday, November 22, 2006
Wednesday, December 6, 2006	Friday, December 15, 2006

All meetings will be held in the Queen Liliuokalani Conference Room of the King Kalakaua Building, 335 Merchant Street, First Floor **except the May 10, 2006 Committee meetings**, which will be held in the Campus Center Conference Rooms 306/307, University of Hawaii – Hilo, located at 200 West Kawili Street, Hilo, Hawaii. The meeting will begin at 9:30 a.m. for the May 10, 2006 Committee meetings only.

Meeting dates, locations and times are subject to change without notice. Please visit the Commission's website at www.hawaii.gov/hirec or call the Real Estate Commission Office at 586-2643 to confirm the dates, times and locations of the meetings. This material can be made available to individuals with special needs. Please contact the Executive Officer at 586-2643 to submit your request.



SCHOOL FILES

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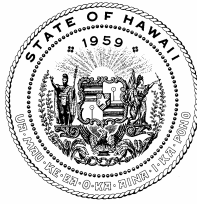


State of Hawaii
Real Estate Commission
SCHOOL FILES

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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):		
Type of License Preparing for (check one): _____ Salesperson _____ Broker	Social Security No.: 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? _____		
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?		
c) Have any complaints or charges ever been filed against you, regardless of outcome, with the licensing agency of any state?		
d) Have any charges of unlicensed activity ever been filed against you, regardless of outcome, with the licensing agency of any state?		
e) Are there any pending disciplinary actions against you?		
2. During the past 20 years have you ever been convicted of a crime where there has not been an order annulling or expunging the conviction?		
3. Are there any pending lawsuits, unpaid judgments, outstanding tax obligations, or any other type of involuntary liens against you?		
4. Are you LESS than 18 years of age?		
5. Are you an alien WITHOUT authorization to work in the United States?		

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

Appl 580 \$25
Service Fee BCF \$15

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 precensing requirements. I understand that if a preliminary decision is favorable to me, I must still successfully complete the precensing 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. (§§467-20 and 710-1017, HRS).

Applicant's 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:

Mailing Address:	DCCA, PVL, Licensing Branch	or	Deliver to office location at:
	P.O. Box 3469		335 Merchant St., Room 301
	Honolulu, HI 96801		Honolulu, HI 96813

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;

(CONTINUED ON REVERSE SIDE)

- 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.

This material can be made available for individuals with special needs. Please call the Licensing Branch Manager at (808) 586-3000 to submit your request.