



GUAM REAL ESTATE COMMISSION MEETING

Monday, January 31, 2022 at 2:00pm

ZOOM Virtual Conference (Meeting ID: 831 2502 8183; Passcode: 9wqa0D)

& FACEBOOK Live Streaming (facebook.com/drt.isbre)

Commission Members Present:

Christopher Murphy, Chairman
Frank Pangelinan, Vice-Chairman
Attorney Ryan Marsil Johnson, Member
Richard Gutierrez, Member

Ramon Puangco, Member
Clare Delgado, Member
Alice Sebastian-Cruz, Secretary

Department of Revenue and Taxation (DRT) Representatives Present:

Michele Marie R. Rabago – Regulatory Examiner Monica Franquez – Acting Business License Supervisor

General Public (Zoom Display Names) Present:

Ralanda Crisostomo	Peggy Llagas	Melany Balauro	Ellen Wilkinson
Kandit News Group	Tonya Charfauros	D.	Kandit News Group
Mary	Philip Flores	Edu Manuel	Liz Duenas
Dagan Torres	Debbie Sharp	Christina Siskin	Tim Roberts
A.B.	Jeremy Lobby	Dru Sadhwani	Momoto Hill
Tim Roberts	Billy's iPhone		

- 1. Call Meeting to Order** – Chairman called the meeting to order on Monday, January 31, 2022 at 2:02pm. Roll call of Commission Members was taken by the Chairman. All were present except Member Puangco who later joined the meeting.
- 2. Approval of Minutes of Previous Meeting (October 28, 2021)** – In regards to the Chairman's approval of today's agenda, Member Gutierrez made a motion to amend and switch 3a. Real Estate Complaint: Thomas Payne vs. James Strickland and 3b. Business Licenses of James Strickland, to discuss the issue of the business licenses first before the complaint. The Secretary seconded the motion and the meeting agenda with amendment was passed. A motion was made by Member Johnson to approve the minutes of the previous meeting held on October 28, 2021, seconded by the Secretary, and passed by the Commission.
- 3. New Business**
 - a) Business Licenses of James Strickland** – The Chairman provided a summary of the issue regarding Mr. Strickland's business license: "On January 3rd, 2022, Monica Franquez, the Acting Business License Supervisor of DRT, received an email from Maureen San Nicolas, the Military Housing Referral Assistant, questioning the validity of two business licenses received by the Military Housing Office in connection with a lease agreement submitted by a military member seeking off-base housing. Some background information on this, a few years back, the military amended its off-base housing policy to include the submission of a current and valid business license by the respective landlord for any property being rented by a military member. The military will not approve any lease without a current or valid business license and the process

for obtaining a business license for a typical residential property includes obtaining clearances from Land Management, Revenue and Tax, DPW, the Guam Fire Department, and the Guam Real Property Division. Business licenses are good for one year and need to be updated annually.” The Chairman referred to the first business license received by Ms. San Nicolas, in the name of James Strickland, for a one-unit house rental for property 335B Dero Road in Ordot. The Chairman reported that upon Ms. Franquez’s review, she confirmed that the business license name, legal description of property, and physical address of property were altered in white out and in different fonts. It was confirmed that the property is registered/owned by Mr. Strickland; however, the Business License Branch confirmed that the GRT number and the serial number of the business license are not registered to Mr. Strickland but to someone else. The Chairman reported the Military Housing Office made many efforts to obtain the lease agreement of the property but were unsuccessful.

The Chairman referred to the second business license received by Ms. San Nicolas which was in the name of Tropic Life Investments, LLC. for a 4-unit apartment rental. The Chairman reported Ms. Franquez confirmed that alterations to the business license were made using different fonts, that Tropic Life Investments, LLC. was not registered with the Business License Branch, that the GRT number belongs to someone else other than Mr. Strickland or Tropic Life Investments, LLC., and that the serial number belongs to another business licensee. The Chairman reported that on January 4, 2022, Mr. Strickland tried to apply for a business license at the Business License Branch under Tropic Life Investments, LLC., however, no action was taken by licensee as of today. The Chairman reported that research was made online regarding Tropic Life Investments, LLC. and it was discovered that it is a Florida based LLC formed by Mr. and Mrs. James Strickland on December 31, 2019, engaging in the buying and selling of properties across the United States primarily in Florida, Georgia, and Indiana. The Chairman reported that Ms. Franquez told Ms. San Nicolas not to accept the two business licenses and that Ms. Franquez submitted the two business licenses to DRT’s Criminal Investigation Bureau (CIB) for further investigation. The Chairman reported that no action has been taken by CIB as of this meeting. The Chairman opened the floor for discussion for the Commission Members.

Member Delgado reported, based on the Guam Multiple Listing Service (MLS), there was a listing on January 12, 2022 for the 4-plex fully leased incoming producing property identified on the business license which Mr. Strickland owned and sold for \$1,050,000. Member Delgado brought up two concerns: (1) Did the military know the 4 leases on the property were approved based on the altered business license and (2) using the altered business license, was there an intention to pay GRTs. Member Gutierrez brought up Title 21 GCA Section 104302 (a) and (i) making substantial misrepresentation any other conduct whether same or different character and specifying the section that constitutes fraud or dishonesty and also section 104303 (f) and (g) it appears he conducted and acted himself in a manner which would have warranted a denial for his application for a real estate license or demonstrating negligence and incompetence performing in an act which is required to hold a license. Member Gutierrez asked Member Johnson if there was enough basis for temporarily suspending his license until possible hearing. Member Johnson responded based on the evidence provided under the sections Member Gutierrez cited should include section 104302 (b) as it is indicative of making false promises and character like influence to persuade or induce. Member Johnson further added that the Commission cannot immediately suspend or revoke a license without having a hearing first and affording Mr. Strickland due process; however, the Commission can vote on a motion to investigate and then move forth with the procedures required under the Administrative Adjudication Act to hold a hearing, have an accusation filed and notice of hearing filed, and hold a hearing to take in evidence to answer questions like Member Delgado brought up. Vice Chairman made a motion based on what Member Johnson suggested to have the Real Estate Commissioner investigate and hold a hearing, and all that is necessary as follows, to which Member Johnson seconded the motion and to which the motion was unanimously passed. Member Johnson mentioned that the Commission would need to consult with the Attorney General’s (AG) Office to get representation as Member Johnson is a member of the Commission and not an attorney of the Commission.

- b) **Real Estate Complaint: Thomas Payne vs. James Strickland** - The Chairman reported on December 23, 2021, Thomas Payne filed a complaint against Mr. Strickland with DRT Real Estate Branch regarding Mr. and Mrs. Payne entering into a sells agreement on August 08, 2021 to purchase a single-family home in Talofofu for \$600,000. The Chairman reported Mr. Strickland had an ownership interest in the property which was disclosed on the MLS listing sheet and also verified through public records with Land Management. The

Chairman reported Mr. Strickland also served as a dual agent representing himself as the seller and the Paynes as the buyer which was documented and signed by all parties of the transaction. The Chairman reported the complaint focuses on the ethical issues as spelled out in the Realtor Code of Ethics as they apply to the real estate transactions:

Article 1 - Mr. Strickland did not maintain his fiduciary responsibilities to the buyer by not protecting or promoting their best interest in the transaction; Mr. Strickland did not honestly market the property by failing to disclose that the property was semi-concrete and not fully concrete; Mr. Strickland did not accommodate to schedule the appraiser and home inspector at convenient times for all parties;

Article 2 - The Paynes requested an extension on the physical contingency clause on the contract due to the house renovation not being completed, however, Mr. Strickland refused to sign and threatened to keep their earnest money deposit for not keeping their contingency deadlines; Mr. Strickland failed to mention he was the listing agent and the property owner;

Article 3 - Mr. Strickland misrepresented the availability of access to show or inspect the property;

Article 6 - Mr. Strickland failed to honor an agreement to make payments for a closet system, house supplies, and a pest inspection report.

The Chairman stated Mr. Strickland failed to disclose a material fact that the property was semi-concrete and not fully concrete, which as a seasoned broker, you would know that semi-concrete structures are difficult to insure and difficult to get bank financing on. The Chairman mentioned these are the certain kinds of issues that can arise as a result of being a dual agency; however, Guam does not have a dual agency law in place although Mr. Strickland did disclose the fact that he was a dual agent in this transaction. The Chairman stated this seems to be a situation in which the parties were initially friends and eventually deteriorated as a result of Mr. Strickland's alleged unprofessional and informal handling of the purchase agreement and the problems of being a dual agent. The Chairman mentioned that in the end, the Paynes were able to cancel their contract and get their earnest money deposit less \$100 for their pest inspection. Member Delgado mentioned the Guam Association of Realtors (GAR) should be the conduit to which the Articles 2, 3, and 6 should be addressed which the Chairman agreed with Member Delgado.

Member Johnson brought up the concern about what is considered a substantial misrepresentation as he is not familiar with real estate practices. Member Johnson also added the Commissioner may move forward with an investigation on the condition that there has been a verified complaint. Member Johnson suggested revising the DRT complaint forms to include a verification section whereby the complainant swears the complaint facts and information provided are true. The Chairman mentioned, from his experience as a broker, marketing a home as fully concrete when actually semi-concrete does constitute a substantial misrepresentation as it is difficult to obtain insurance and bank financing. The Chairman added that had Mr. Strickland disclosed from the beginning to the Paynes that the house was semi-concrete, the Paynes may have not proceeded with the transaction and this complaint could have been avoided. Vice Chairman suggested to combine this complaint case and the previous complaint cases against Mr. Strickland to be sent to the AG's Office as the Commission does not know what the investigative process entails although Member Johnson suggested it be sent separately; however, the Commission could vote on moving it forward to the AG's Office. Vice Chairman made a motion to proceed with having the Commissioner proceed with an investigation, to which Member Johnson seconded, to which the motion was unanimously passed by the Commission.

Vice Chairman mentioned that Member Puangco joined the Zoom meeting.

The Chairman mentioned that the Paynes may have felt influenced to proceed with the transaction based on Mr. Strickland's Navy rank being higher than Mrs. Payne's rank and that maybe this complaint should be forwarded to the appropriate military officials to investigate and determine if this has any validity. Member Gutierrez suggested the Commission should have a more open communication with GAR in the future

pertaining to complaint cases brought to them and to the Commission to determine immediately how to proceed forward with action. The Chairman mentioned that GAR has two cases against Mr. Strickland and Modern Realty being reviewed by their Grievance Committee and two forthcoming cases. The Chairman mentioned that out of the two cases, one is being forwarded to the professional standards for ethics hearing and the other case has been dismissed for no merit.

4. **Old Business - Update on Seller's Disclosure** – The Chairman mentioned this is appropriate as some of the issues in the complaints were late to disclose and may have been avoided if we had the appropriate law in place. The Chairman mentioned that Senator Sabina Perez's legal department has reviewed it and needs to make substantive changes to the proposed draft. The Chairman suggested that Member Johnson and their legal department get together in a working session to go over the law and come to a mutual agreeable format as many in the real estate industry are eager to have this law implemented.
5. **Open Discussion** – The Chairman opened the floor for discussion. The Vice Chairman had three items he wanted to address: (1) in regards to the Seller's Disclosure form, the Vice Chairman suggested to add a section where the property owner must disclose if they are a licensed real estate person, (2) is there a way for the Commission to be proactive in these complaints as it is the Commission's mission to protect the general public in addition to the licensed real estate people; and (3) according to Title 21 GCA Chapter 102 Article [2] with regard to the Real Estate Commission, the DRT Director and the DRT Deputy Director cannot be licensed or a part owner of any real estate company and does this apply to other Government of Guam agency commissioners, directors, and deputies that may have influence in the housing market or linkage to housing. In addressing the items brought up by the Vice Chairman, Member Johnson: (1) agrees with adding the disclosure of the property owner being a licensed real estate person; (2) recommends, if it is possible, to get an investigator for the Real Estate Commission to ensure complaints are addressed timely, as the CLB (Contracting Licensing Board) and Appeals Board have investigators; and (3) agrees this is a good idea we should look further into in identifying what agencies would apply and if there will be a senator willing to draft a bill to expand the prohibition to these identified agency commissioners, directors, and deputies. The Chairman stated these items can be addressed in a working session.

Member Gutierrez brought up that the business licenses, being official government documents, have been confirmed to be altered by Mr. Strickland by the Business License Branch. Member Gutierrez asked should this be enough evidence for DRT to temporarily suspend his real estate license while we continue to do investigations. Member Gutierrez stated that altering government documents is a substantial misrepresentation and waiting for a hearing to take place could take two weeks, three weeks, four weeks, or longer. Member Johnson reiterated that no matter how convincing the evidence shows, the Commission has to afford Mr. Strickland due process and abide by the laws set forth in Administrative Adjudication Act, to ensure that both parties gather evidence and information to determine whether or not the accusations are true. Member Gutierrez mentioned he had to bring this up as he felt this may have been a concern the general public may have had. The Chairman emphasized it is important that complaints be in black and white and submitted in writing as the Commission cannot act on verbal hearsay; the Commission is here to maintain the high standards within the real estate profession and to protect the public; and we need the general public's help in bringing these concerns to our attention in writing so that the Commission and GAR can work on it in the proper manner to help improve the real estate profession and industry. Member Johnson wanted to clarify Member Gutierrez's concern, under 21 GCA 102207 Injunctions Against Violations, the Commissioner does have the authority to file a civil action if it is known that a real estate broker or salesperson is engaged in any activity which will cause harm to somebody and that an act is eminent to occur.

6. **Meeting Adjournment** – Vice Chairman motioned to adjourn the meeting to which Member Johnson seconded and the Chairman adjourned the meeting at 2:50pm.

Prepared and Submitted By:



Michele Marie R. Rabago
Regulatory Examiner

Confirmed By:



Alice Sebastian-Cruz
Regulatory Programs Administrator, Acting

