



HAWAIIAN BUSINESS COMPASS

by Yamaguchi & Yamaguchi, Inc.

Yamaguchi &
Yamaguchi, Inc.

Real Estate
Appraisers &
Consultants

Since 1967

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REAL ESTATE APPRAISAL OR REAL ESTATE CONSULTING--WHAT'S THE DIFFERENCE?

Let's examine a typical call to an appraiser: Caller: "I would like to order an appraisal." Appraiser: "May I ask what the purpose of the appraisal is?" Caller: "To find out the value of my property." A common assumption is that all appraisals and all appraisers are the same. At this point the appraiser could say, "Sure, I will be happy to do it for you, (this) is what it will cost and you will receive it on (this) specified date." Is the appraiser really doing the client justice and fulfilling his/her fiduciary duty? **Appraisers need to go one step further and find out what the actual intended use of the appraisal is and determine if an appraisal is really needed.**

Here's why: an appraisal may be needed for various reasons such as for sale/purchase, loan origination, proposed construction, date of death, estate planning, partial interest, fractional interest, leased fee, leasehold, tax appeal, divorce, condemnation or collateral review. Each type of appraisal has its own specific requirements. But does the client really need an appraisal for compliance or documentation purposes or is the problem more complex requiring specific consulting? *It's like a doctor trying to diagnose the patient's symptoms; he needs to determine how to treat the patient for a cure. If the symptom is common, it can be cured with a prescription. However, if the problem is complex a counseling program would be necessary and a specialist consulted.*

A good real estate appraiser and/or consultant will diagnose the problem and guide the client to fulfill their needs. Let's look at the difference between Real Estate Appraisal and Real Estate Consulting.

Real Estate Appraisal is a specific discipline of appraising realty with a defined body of knowledge. In most cases the appraiser is asked *to determine a market value as of a specific date, for a defined purpose* according to the agreed upon job scope with the client. Identifying a defined intended use and user for independent third party appraisal reports is also required. Prior to hiring an appraiser, a thorough investigation of the appraiser's ability, experience and area of specialty should be conducted. Real estate appraisals are normally done for *compliance and/or documentation purposes*.

Real Estate Consulting is a process that requires technical competency and thorough analysis that is directed toward

achieving the best result for the client. The consultant's job is to define the problem, then guide the client through the process and develop a solution. Many clients require consulting services for more complex projects or issues to identify the problem and need before proceeding. Examples include, but are not limited to: negotiation services, research, feasibility analysis, highest and best use analysis, tax appeal strategy analysis, most probable sales price ranges, due diligence review, communication between parties and overall project management. A real estate consultant's job is *to solve complex real estate problems through good communication and the execution of a well designed strategic plan.*

Here's an example of a request for an appraisal that evolved into a lease renegotiation consulting job. Imagine two property owners that have been fighting for generations, similar to the famed Hatfields and the McCoys. The dispute was over the land rent renegotiation of a large commercially zoned site. Both lessor and lessee represented multi-generational families who only knew of their fathers' or forefathers' feud and decided to carry it on with no desire to reconcile. Two years had gone by and all communication had been handled solely between the lawyers via letter correspondence only. Needless to say costs were mounting.

The lessee contacted me to do an appraisal to help settle the dispute. I asked for an informational meeting to determine if an appraisal was necessary since many were previously completed and the differences, in my opinion, were not far apart. I suggested rather than completing another appraisal, that they hire me as a consultant to contact the landowner (lessor) and handle the renegotiation. They said, "Go ahead; good luck!" I made a phone call, spoke to their family representative and asked if I could meet with their consultant to discuss a fair settlement and I was granted permission. Their consultant was very professional and after moderate deliberation we came to a meeting of the minds and we settled the 2-year dispute in two weeks. There was no need for an appraisal, arbitration or litigation.

In summary, real estate consulting solves complex real estate problems and is normally needed in the front end of the process. Appraisals are usually required at the back end for finite compliance and documentation purposes.

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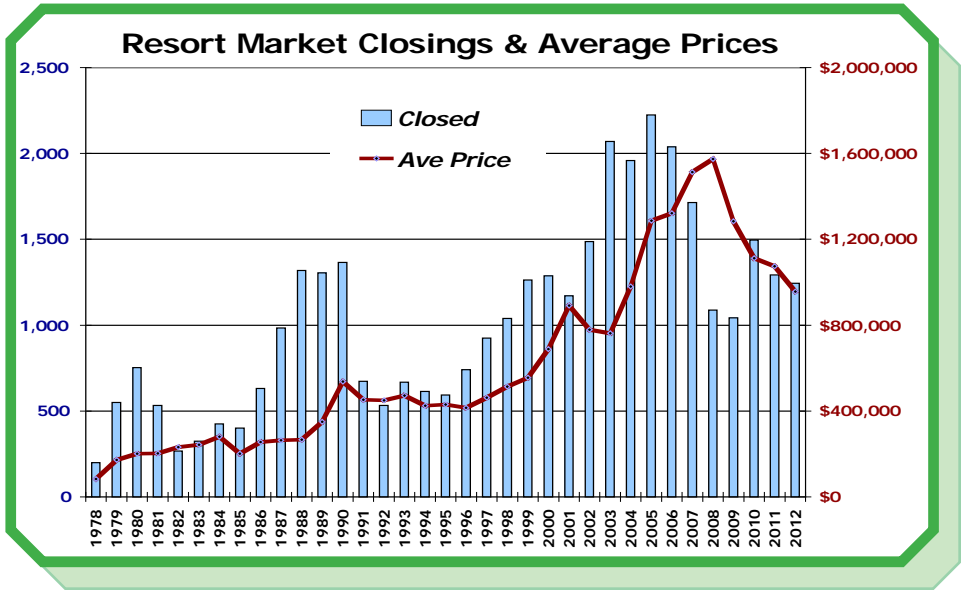
MARKET CYCLES OF HAWAII'S RESORT MARKET

by P. Ricky Cassidy

Arguably the most interesting market segment in real estate is the high-end luxury market because it includes high-net worth investors, individuals and wealthy families. Included in the buying group are also high profile commentators and media types. The evidence is all around, from magazines like Forbes 400, the Robb Report, Conde Naste Traveler, to books and movies (Rich Dad, Poor Dad, Greed Is Good, Wall Street, Lifestyles of the Rich and Famous).

Relative to Hawaii, this market is more than entertaining--it is one of the mainstays of the property market, thanks to our real estate being so universally desired. What underlies this is that homes here are located in one of the cleanest, safest, prettiest places in the world (and also THE most isolated island in the world; which has a lot to do with the fact Hawaii is so desirable). Indeed, I once calculated the number of all residential real estate transactions in the state that qualified as ones to high net worth families, or the rich. To do this, I looked at the property transactions that occurred on resorts, in other words - resort zoned land. I then compared that number to the total number of all transactions regardless of zoning. That then allowed me to take a percentage that resulted in an average of 7% over the last 30 years. This broke down to about one sale in 14 was on a resort, and thus made to someone relatively affluent.

But above and beyond this 7% average from 1980-2012, what was interesting, and instructive was the trend: it started at 4%, but rose to 11% in 2011, or almost three times in terms of the size of sales. This is not a



small deal, indicating just how popular this property market segment is and how important it is to those who work in the field.

More interesting than the comparison with unit counts is one made using the generated revenue at retail level. The percent of the total gross revenue that resort residential sales constitutes is 15% on average over the last 30+ years. It started around 7% in the early 1980s and topped out two years ago at 28%. Thus, this trend shows a four-fold growth. Again, this is not a small deal.

The chart above shows the annual sales and average prices for all resort zoned property in the state over the last 34+ years, and it not only illustrates this growth, but the volatility in the market.

For instance, annual sales went from around 200 units in the late 1970s to 2,200

units sold in 2005, the middle of this decade. And the average price went from \$150,000 per unit to \$1,500,000 per unit sold in the same time frame. This stands in contrast with the overall market, which was described in the last issue. The volatility of the per annum sales counts in that market was less than the tenfold shown here – it was a little less than fivefold. As for the average annual price, the volatility there was a little more than fivefold, again quite a bit under that of the resort residential market.

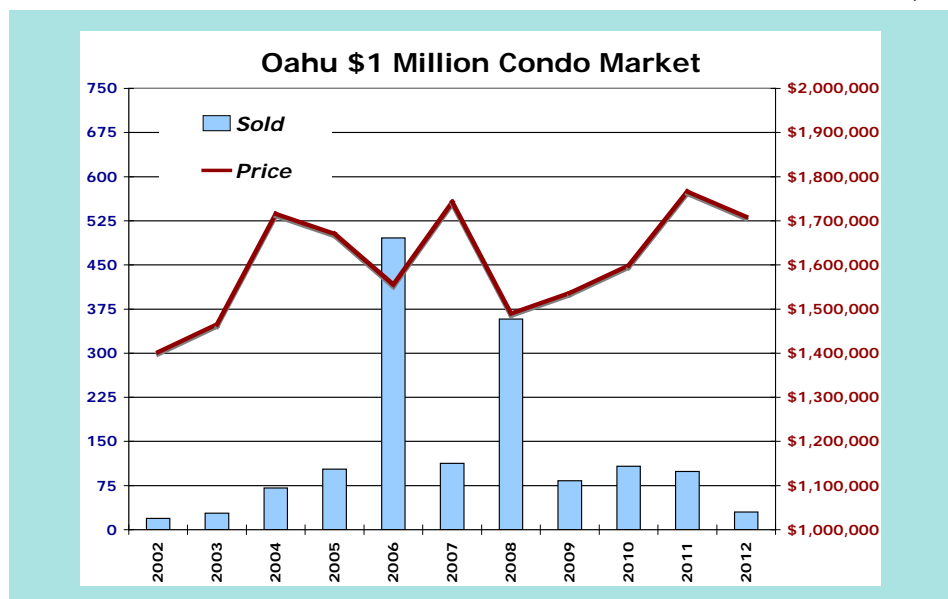
In summary, this market is one that has enjoyed good growth over time. Along the way, it shows that it also has enjoyed, if I can use that word loosely, dramatic swings as well. As is well known, this thus offers buyers of resort residential property some very good chances to make money, and lose it as well.

It is interesting in that it shows how volatile sales are, and how steady prices are. The two peak years were years in which some high-end condos projects were completed.

But we are a very small market, and a little variation in a little number makes a big swing in the results. That's why I like a deeper market, which is not so prone to sales swinging from one end of the spectrum to the other. One such market is Manhattan, and the sales here are by a very good appraisal firm there, Miller Samuel.

Interestingly, they show some slight similarities: volatile sales, theirs coming in 2007, and steady (steadier than Oahu) pricing. But Manhattan's price appreciation started lower and ran higher than Oahu's.

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MEDIATION: A ROAD TO “THE QUIET ENJOYMENT OF LIFE”

Special Guest Author- Clyde Matsui

For most people, the largest transaction, in which they will likely be involved, is the purchase, sale and financing relating to a real estate deal. Anyone who has functioned as a service professional in this realm will tell you that – quite unfortunately and all too frequently – many promising deals eventually result in disappointment and frustration. And then, someone’s mind turns to “righting a wrong,” and the parties end up in a lawsuit.

Real estate trial law is fertile ground. The cast of characters usually involves myriad people, all with varying involvement. Of course, there is the seller and the buyer. But as the search for potentially responsible individuals broadens, enter the agents, brokers, appraisers, lenders, escrow agents – perhaps, even the provider of the termite inspection report.

Having been a civil trial lawyer for the entirety of my career, I can tell you, with certainty, that a trial, and the process that leads up to it, are very nasty things. Any lawyer who tells you that he or she enjoys going to trial is either lying to you . . . or is just plain nuts.

The whole proceeding is characteristically adversarial. It is a stressful process from start to finish, and is often attended by hostility, acrimony, accusations, petty name-calling, and worse. And, because most who are significantly involved in the process are represented by legal counsel, the procedure is costly, oftentimes absurdly so.

Just ask anyone who has been involved in the ugly process – either as a party, or even as a principal witness – and none among them will report anything but distaste for the entire ordeal. As long as the lawsuit is pending, it hangs over you. It occupies your thoughts, either on a troubling, conscious level or it dwells somewhere in the otherwise dormant recesses of your mind. And once a trial date is set, that particular date triggers your countdown and dread. You interpret your mental calendar with that event as your point of reference.

You say, “There must be a better way.” Fortunately, there is,

and it is a method of alternative dispute resolution called mediation.

There is nothing new about the concept underlying mediation. From the earliest of times in mankind’s existence, there have been interveners, peacemakers, go-betweens and the like. Mediators serve the same function. It is to bring peace and compromise to a dispute and to end discord among the parties.

In Hawaii, at least since the 1990s, mediation has proliferated as lawmakers, judges and lawyers have sought -- and found -- a quicker and “gentler” way to resolve differences, without having to endure the waste of resources and contention of the civil trial process. Mediations are now commonplace. The process is an integral part of American jurisprudence, and its popularity continues to grow in our state. The effect it has had on our court system is dramatic. (Most find it surprising that, over the past few years, we have experienced fewer than a dozen civil jury trials per year, and that is statewide, state and federal. But this does not mean that the judiciary has nothing to do. The void is amply filled by the criminal and family trial calendars.)

There is no question but that mediation is effective and efficient. In my experience, the success rate of case resolution is a good stretch above ninety percent. Also, because successful mediation requires that the parties agree to the terms of settlement, there is no need to even consider an appeal. The process ends with the agreement of the parties and a memorializing of the details. (If there is already a lawsuit in place, some judges will ask that the agreement be placed on the record, an easy process that involves just a few minutes.)

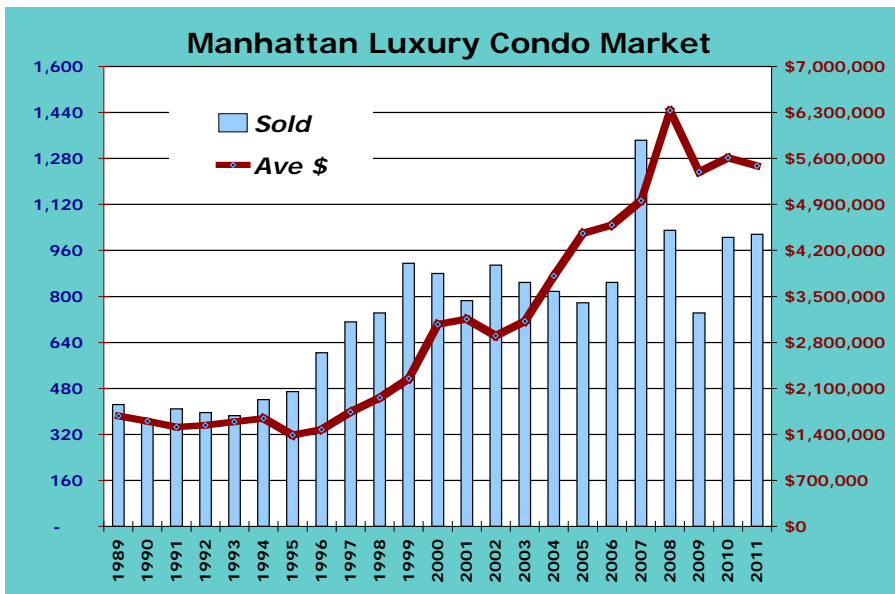
So, why is mediation so successful? Having functioned in my practice almost exclusively as a mediator, since 1999, here are my thoughts:

I really believe that humans have an innate imperative

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MARKET CYCLES OF HAWAII’S RESORT MARKET *Continued from Page 2*

Ricky Cassidy of Data@Work has developed the most functional database of real estate transactions for analyzing the residential market across the state of Hawaii. The data draws upon both public and private data sources and goes back to 1985, covering 2 major market cycles. It includes all islands and all



resort and residential property types, including leasehold. He has produced numerous types of studies (project feasibility, pricing programs, absorption projections, marketing strategy, product development, market entry and positioning) as well as long-term demand forecasts and models for specific markets and master planned developments. His work has helped

to inform every major Hawaiian developer, financing institution, residential design firms, most landowners and construction companies. He has been a featured public speaker at the Hawaii Developer’s Council, the ULI Hawaii Chapter, the Society of Corporate Planners, Hawaii State Association of Counties, the Hawaii Association of Mortgage Brokers, the BIA Hawaii chapter, Association of Realtors for all the islands, numerous private groups, and the MBA Income Property, Investment Committee. He has been quoted in the Wall Street Journal, New York Times, San Francisco Chronicle, and Inman News.

MEDIATION: A ROAD TO “THE QUIET ENJOYMENT OF LIFE” *Continued from Page 3*

to compromise in avoidance of dispute. (I think that is why, when we are cut-off in traffic, we will honk our horn, but not look for a weapon. We prefer to leave it with our expression of disapproval – but, in the spirit of compromise – not take it to the next level.) And we often see that even the most strident of proponents, political or otherwise, will consider reasonable compromise as an alternative to needless battle.

The goal of an effective mediator is not to seek compromise where clearly none is appropriate. Rather, the search should be for reasonable compromise without undue capitulation. In this process, the guiding light should be fairness to all who are involved, along with a result that is justifiable and soundly reasoned.

So how does a case get to mediation? What should I expect in the process?

Cases are brought to mediation either by order of a presiding judge or by agreement of the parties. In certain “modern” contracts, there is a clause requiring mediation as a condition precedent to the filing of a lawsuit. Of course, such a filing will only occur if the mediation is not successful, which, as I mentioned above, is not likely.

Whether by court order or agreement, the process starts with the selection of a mediator. If the parties agree to a particular individual, that’s it. If they cannot agree, there are a number of ways to accomplish this initial step. If a judge is involved, that judge might simply appoint someone. Or, the judge may request a list of names from both sides and select one of commonality.

Once a mediator is selected, there is usually a pre-mediation conference. This is mainly to acquaint the mediator with the case and to set a date, time and place for the actual mediation session.

Participants in the session are the parties, their counsel and the mediator. Usually, there are no witnesses presented, unless there is some forensic need separate from reports already sub-

mitted. There is no court reporter, and no other record is kept.

In certain cases, the mediator might want to meet one or more of the parties, but that is rarely required, unless to assess a particular injury or to observe a party’s questioned demeanor or behavior. The session mainly consists of meetings between counsel and the mediator, either in joint or separate discussions. Naturally, the parties need to be available to authorize any proposed settlement, but this is usually accomplished by phone.

And that – as they say – is about all there is to it. It is a relatively simple and painless procedure.

If you are ever given the option of mediating a dispute, or “having your day in court,” I hope you rid yourself of feelings of “a need for revenge,” or a need “to send a message to the other side.” I have heard these sentiments from so many litigants. To me, all of it is foolhardy and shortsighted.

Trust me. Your “day in court” just may be the worst consummation of a wish that you will ever experience.

As for “revenge” and “sending a message,” these are just ego-driven things that only sound good – and perhaps even feel good – when you say them, but it is transient. I have never seen the word “revenge” on a jury verdict form, and the only message you send will likely be self-addressed.

Save yourself the agony. Mediate, and get on with your quiet enjoyment of life.

If you have any questions or comments, please feel free to contact Mr. Matsui: matsui@mediationshawaii.com

Star Bulletin interview: <http://archives.starbulletin.com/2008/05/05/news/story02.html>



Clyde Matsui was awarded his law degree with honors from the University of California, Hastings College of Law (Juris Doctor 1973) and has been a civil trial lawyer for 39 years. Today, he continues to be recognized as one of Hawaii’s top mediators and arbitrators. Mr. Matsui is called upon frequently for his expertise and continues his thriving practice today.

Career:

Jenks Kidwell Goodsill & Anderson (1973-1974),
Kobayashi Watanabe Sugita & Kawashima (1974-1980),
Law Offices of Clyde Matsui (1981-1982),
Matsui Chung (1982-2011),
Clyde Wm. Matsui AAL LLC (2011 to present)

Major Cases Mediated Successfully:

- 2000- Bishop Estate Trustees. \$25 million
- 2002- Gasoline Antitrust. \$20 million
- 2006- Waimea Valley. \$14 million
- 2006- Drug Pricing Case. 2010 settlement \$82 million

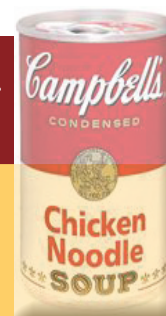
*Chef Alan Wong tested this recipe . . .
and gave it a thumbs up!*

Clyde Matsui’s CHICKEN NOODLE OMELET

1 can Campbell’s Chicken Noodle Soup
4 to 7 eggs
Chopped green onions

1. In a suitable bowl, empty the can of soup. Do not add water!
2. Mix in the green onions. (Use as much or little as you like, or omit it altogether. I use a modest handful.)
3. Add the eggs and mix. (4 eggs will keep the omelet “wet” and soft, and the taste will be more intense. Each additional egg will stiffen and keep the omelet drier.)
4. Cook in a lightly-oiled, large frying pan over medium to medium-high heat.
5. Serve over hot rice. (Much as you would serve an oyako donburi.)

That’s it! Start to finish in ten minutes or less.



That's my philosophy of the balance in life; my yin yang, so to speak. In reality though, the fulcrum is rarely centered and the scale repeatedly slants away from play. So I have decided for my column to focus only on fun things . . .

Chef Alan Wong... Just a Regular Guy...

**He was not born into a life of privilege... He was raised in a rural community...
He attended public schools... He worked summers and part-time to pay for his college tuition...**

Today, with his numerous accomplishments and accolades in the culinary world, it is safe to say that local boy Chef Alan Wong has reached “rock star” status. But the outwardly quiet and soft-spoken Wong wasn't interested in talking about any of that. After flashing his warm, photogenic smile he said, **“If you want to tell your readers anything about me, I would like them to know that I am just a regular guy.”** Simply said... he really is...



Childhood

- ❖ Born in Tokyo, Japan to his Japanese mother and Hawaiian-Chinese father.
- ❖ Being a Japanese restaurant cook, his mom's dishes would later inspire some of his culinary creations.
- ❖ By the 4th grade he attended 6 different elementary schools--*no, he did not flunk out or repeat any grades!* Santa Maria Garden School in Tokyo, then Maemae, Lanakila, Royal, Pauoa and Kipapa on Oahu. He would go on to Wahiawa Intermediate School and graduate from Leilehua High School.
- ❖ He only liked peas, corn and tomatoes and told his 4th grade teacher that he was “allergic to pickled beets”. He would hide the beets, as well as creamed spinach, cole slaw, broccoli, etc. in his empty milk carton. When she caught on to that trick, his alternative was to hide them in his pant pockets... yuck! Can you imagine that mess? Remember, in 1965 we only had aluminum

foil, saran wrap, wax paper sandwich bags and paper bags... no Ziploc bags!

- ❖ Growing up in the rural district of Waipio in central Oahu, his favorite sport was playing little league baseball. When he was 10 years old, their little league community built a makeshift baseball park in Kipapa, clearing the land, pulling the weeds by hand (“ho hana”) and erecting chicken wire fencing.

Teen and Young Adult

- ❖ His love for baseball never wavered and he had dreams of becoming a professional baseball player.
- ❖ He loved going to the beach with friends-- bodysurfing, taking the leap off the famous massive rock in Waimea Bay and cooking on the hibachi (grill).
- ❖ Like many local teens, his summer job was hand picking pineapples in the fields of Wahiawa for \$1.60 an hour.

- ❖ At 15, he earned \$2.00 an hour in the summer as a dishwasher at the Waikiki Beachcomber Hotel. He would later be promoted to busboy, waiter, host, cashier, front desk clerk, front desk cashier and then restaurant manager by age 20.
- ❖ At age 21 he decided that his career would be in restaurant management and saw no need to continue his education at the University of Hawaii. So he quit. The allure of working in Waikiki and the night life with its fine restaurants and nightclubs was very appealing.
- ❖ In an attempt to get Alan to return to college and complete his formal education, Henry Kalani, then the provost at Kapiolani Community College (KCC) convinced him to attend KCC's culinary program under the guise of “becoming a better restaurant manager”. Alan reluctantly agreed to give it a try, ended up discovering his true passion

... and a Chef is Born ...

“It does not matter how you were raised or how much money your family had. What matters most is a combination of how big your dreams are, what dedication you have, what sacrifices you're willing to make, and the commitment and perseverance you have to accomplish what you dream.

My thing is to inspire local people to achieve things they never thought possible because they think they're local.

In actuality, they're just as good as anybody else, if not better. Most are better, they just don't believe it.

If I can, anyone can.”

~~ Chef Alan Wong

Years later, Chef Alan Wong would be approached by Kapiolani Community College to head their culinary training program and for a short time the former student would become a teacher and mentor for many young aspiring chefs. But his training and experiences at such renowned restaurants like Lutèce in New York, The Greenbrier Hotel in West Virginia and the CanoeHouse Restaurant at the Mauna Lani Bay Hotel and Bungalows on the Kohala Coast of the Big Island had prepared him to take a huge leap of faith... the first Alan Wong's Restaurant opens in April 1995.

Alan is an advocate of supporting local youth, businesses and communities and works tirelessly to giving back in so many different ways.

He still loves hanging out with family and friends and backyard barbecues. Schedule permitting, on his only day off, he enjoys playing a round of golf with his regular buddies.

For more on Alan Wong's restaurants, events, blogs and news, go to: www.alanwongs.com

Alan's favorite local style recipes while residing in the dormitory at the University of Hawaii

AW's College Survival Cuisine

- 1 can cream of mushroom soup
- 1 can cream of potato soup
- 1 can niblet corn
- 2 hot dogs sliced

Combine all ingredients and heat.

Hilo Girls' Grinds

Spread tuna salad on Portuguese sweet bread and grind (chow down).

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*“Coming together is a beginning;
keeping together is progress;
working together is success.”*

~~ Henry Ford

ABOUT HAWAIIAN BUSINESS COMPASS

Real estate appraisals are used for a variety of purposes throughout the real estate industry. We have highlighted a few unique uses of this tool and its importance to the protection of your assets.

Our newsletter has been designed to provide clients and affiliated professional associates with pertinent market related information to increase their knowledge and to raise awareness. Future articles will include topics such as residential and commercial market updates, trade articles written by people from our network of professionals and human interest stories.

Jon and Stephanie Yamaguchi, Managing Partners

Yamaguchi & Yamaguchi, Inc.
Residential and Commercial
Real Estate Appraisal and Consulting

Hawaiian Capital Partners Group
Real Estate and Business Investments