

**MORTGAGE FORECLOSURE TASK FORCE**  
Department of Commerce and Consumer Affairs  
State of Hawaii

**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 ("HRS").

Date: September 14, 2011

Time: 9:30 a.m.

Place: Queen Liliuokalani Conference Room  
King Kalakaua Building, 1<sup>st</sup> Floor  
335 Merchant Street  
Honolulu, Hawaii 96813

Present: Everett S. Kaneshige, Chairperson  
Marvin S.C. Dang, Esq., Vice Chairperson  
Iris K.I. Catalani, Member  
Jeff Gilbreath, Member  
Steven Guttman, Esq., Member  
Lorrin Hirano, Member  
Francis P. Hogan, Esq., Member  
Gary Y. Kawamoto, Member  
Bruce B. Kim, Member  
John Morris, Member  
Kevin Oda, Member  
Jane Sugimura, Member  
Joan Takano, Member  
Steven Tam, Member  
Julia H. Verbrugge, Member  
Ryker J. Wada, Member  
James C. Paige, Deputy Attorney General  
Faith Nishimura, Secretary  
Napaporn Lam, Secretary

Excused: Colin A. Yost, Member  
George J. Zweibel, Member

Guests: Becky Gardner, Representative Robert N. Herkes's Office  
Gary Fujitani, Hawaii Bankers Association  
Kim Harmon, Faith Action for Community Equity ("FACE"),  
Hawaii  
Linda Nakamura, Mortgage Bankers Association of Hawaii  
Nanea Kalani, Civil Beat.com  
Peggy Mierzwa, Senator Rosalyn Bakers's Office  
Seth Corpuz-Lahne, Office of Administrative Hearings, DCCA  
Sheri A. Kagimoto, Mortgage Assistance & Mitigation Group  
Stefanie Sakamoto, Hawaii Credit Union League  
Terrence Lee, Legislative Reference Bureau ("LRB")

Call to Order: There being a quorum present, the meeting was called to order by Chairperson Kaneshige at 9:33 a.m.

Approval of the Minutes of the August 2, 2011 Meeting: It was moved by Mr. Dang, seconded by Ms. Takano, and unanimously carried to approve the meeting minutes of the August 2, 2011 meeting as circulated.

It was moved by Mr. Dang, seconded by Mr. Morris, and unanimously carried to approve the executive session minutes of the August 2, 2011 meeting as circulated.

Additions to the Agenda: None.

Report of Chairperson: None.

Informational Briefings for the Task Force: Chairperson Kaneshige stated that there will be three informational briefings for task force members.

Ms. Sugimura arrived at 9:40a.m.

The first informational briefing was presented by Ms. Verbrugge, task force member regarding the conversion process from non-judicial to judicial foreclosures and the statistics regarding the conversion.

A handout was distributed to members detailing the new court rules to convert non-judicial foreclosures to judicial foreclosures for their review. Ms. Verbrugge stated that all the information is available on the judiciary website.

Ms. Verbrugge reported that there were seven petitions filed from May 5, 2011 to September 12, 2011 to convert non-judicial foreclosures to judicial foreclosures.

Mr. Dang asked Ms. Verbrugge for the number of monthly filings of new judicial foreclosure cases to compare between last year and after the enactment of Act 48. Ms. Verbrugge stated that she can compare the number of the First Circuit Court filings from May 2011, reported as follows:

May 2010 = 57 filings compared with May 2011 = 55 filings  
June 2010 = 51 filings compared with June 2011 = 91 filings  
July 2010 = 57 filings compared with July 2011 = 80 filings  
August 2010 = 56 filings compared with August 2011 = 141 filings

In 2010, the number of judicial foreclosures from all circuit courts was 1,330 filings.

As of August 1, 2011, the number of total actions filed of active judicial foreclosures from all circuit courts was 1,266.

Mr. Hogan asked Ms. Verbrugge that according to the temporary rules for implementation of the conversion proceeding established by Act 48, why a party is not able to file a counterclaim against another party. Ms. Verbrugge will forward his question to the Supreme Court for advisement.

Ms. Nakamura asked Ms. Verbrugge whether the seven conversion petitions filed were under Part I. Chairperson Kaneshige asked Ms. Verbrugge to confirm Ms. Nakamura's request at the next task force meeting.

The second informational briefing was presented by Kim Harmon, Policy Director from FACE.

A handout was distributed to members detailing the news release from Federal Housing Finance Agency and the Attorney General.

FACE Hawaii is a statewide organization that helps families in finding solutions when working with lenders. FACE helps members figure out the patterns that have created a lot of the crisis that families are dealing with in Hawaii. There are over 300 families that FACE has been keeping track of and have conducted listening sessions and interviews to gather statements for the islands except Molokai on foreclosures.

Ms. Harmon indicated that from all 300 families interviewed; only 1 in 6 families that call FACE for assistance know about the HUD certified housing counselors. The average time a family spends in the loan modification process is 24-32 months.

There were major problems in 2009-2010 that the families were facing:

- The families never get a call back from the lender modification services provider.
- Return calls from the lenders normally are when the families are already in default.
- The families never get to talk with the same staff person.
- The lenders always tell the family that the loan modification packet never arrived.

In 2011, the families were facing different problems:

- The major problem is the family got the loan modified by the lender, that even though was a bad loan modification because it created the balloon payment and big penalty.
- The families were told by the lenders that they could be in the trial modification program but the families have to pay a lump sum payment to qualify to be in the program. However they could still be denied.
- There was confusion between the payment amount, the bank statement and the new loan modification.

- The counselors have two different client sets of the trial modification, temporary and permanent.

Ms. Harmon referred to the news on the handouts.

Mr. Gilbreath asked Ms. Harmon if there are any different problems between the families in Oahu and neighbor islands in term of the loan modification. Ms. Harmon stated that all the islands pretty much have the same problems.

Mr. Wada indicated that in some instances, there is only a \$25 difference between the trial loan modification and the permanent loan modification in which some homeowners are still not able to afford.

Mr. Kim commented to the members about national lawsuits. There are five servicers that are involved in discussions with the Hawaii Office of Consumer Protection and the Attorney General Offices in the other states.

Mr. Kawamoto indicated that the federal law requires banks to notify the borrower of counseling services in writing.

Chairperson Kaneshige invited Ms. Harmon to be a part of the Counseling & Dispute Resolution Subcommittee group.

Chairperson Kaneshige invited Sheri Kagimoto, Director of Mortgage Assistance & Mitigation Group to speak before the members.

Ms. Kagimoto indicated that the lenders do hire representatives like her to reach out directly to the homeowner. When she arrives at the home to see the homeowner, the person will not answer the doors. She would then leave a letter for the homeowner to contact her company but the homeowner does not respond. The lender has sent the letter beforehand to inform the homeowner that an authorized representative will be coming to their home to meet with them.

Ms. Kagimoto stated that the blame should not be only on the lender but the homeowner will need to have an advocate.

Mr. Dang indicated that Section 2 (e) of Act 162 which created the task force requires the task force to "comment on the feasibility of establishing a state entity or administrator to focus on addressing the concerns of mortgagors, disseminating information, and otherwise engaging in consumer education." Mr. Dang said that this should be included on the agenda for the next meeting.

The third information briefing was presented by Seth Corpuz-Lahne, Program Specialist from the Mortgage Foreclosure Dispute Resolution (MFDR) Program, DCCA.

Mr. Corpuz-Lahne demonstrated the test site of the electronic system for the MFDR program from the perspective of the lender and the owner-occupant.

Mr. Morris asked if the MFDR program system is limited to participants. Mr. Corpuz-Lahne answered in the affirmative.

Chairperson Kaneshige will check with the Attorney General Office and DCCA whether the information can be available to the public.

Investigative  
Groups Reports  
to the Task Force:

Chairperson Kaneshige introduced the three investigative subcommittee groups that were created at the last meeting to focus on the different issues. The first group is investigating Act 48, the second group is investigating condominium and planned unit development, and the third group is investigating dispute resolution and counseling.

Mr. Guttman addressed members on behalf of the investigative group 1. He distributed a handout with comments on different sections of Act 48 and gave an overview. Mr. Guttman stated that there is a need for a common set of definitions.

Mr. Hirano and Mr. Kawamoto left the meeting at 11:00 a.m.

Chairperson Kaneshige suggested that each investigative group have a summarized handout to distribute at the next task force meeting for the group to review.

Mr. Morris addressed members on behalf of the investigative group 2 and indicated that the group is working on revisions to HRS Chapters 667 and 421 J for foreclosures by condominium associations and planned community associations.

Mr. Hirano returned to the meeting at 11:15 a.m.

Mr. Gilbreath addressed members on behalf of the investigative group 3 and distributed a handout. He gave an overview.

Chairperson Kaneshige suggested that all investigative groups draft a summary that members can finalize and submit to the LRB.

Terrence Lee of the LRB, appeared before the task force to answer any questions the members may have.

Chairperson Kaneshige asked Mr. Lee whether the task force can submit an outline to the LRB at the next meeting.

Mr. Lee indicated that the process will be faster if the language could be more specific. The LRB then can send the draft back to the task force to review. Mr. Lee will consult with his supervisor.

Scheduling of                    October 5, 2011  
Next Meeting(s):            Queen Liliuokalani Conference Room  
King Kalakaua Building, 1<sup>st</sup> Floor  
335 Merchant Street  
Honolulu, Hawaii 96813

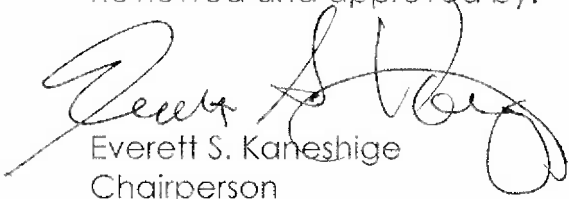
Adjournment: There being no further business to discuss, it was moved by Mr. Kaneshige, seconded by Mr. Dang, and unanimously carried to adjourn the meeting at 11:46 a.m.

Taken and recorded by:



Napaporn Lam  
Secretary

Reviewed and approved by:



Everett S. Kaneshige  
Chairperson

10/03/11

Minutes approved as is.  
 Minutes approved with changes. See Minutes of \_\_\_\_\_.