

CONDOMINIUM REVIEW COMMITTEE
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: December 8, 2010

Time: Upon adjournment of the Laws and Rules Review Committee meeting scheduled to convene at 9:00 a.m.

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

Present: Michele Sunahara Loudermilk, Chair, Public / Honolulu Commissioner
Mark Suiso, Vice Chair, Public / Honolulu Commissioner
Trudy Nishihara, Broker / Honolulu Commissioner
Carol Ball, Broker / Maui Commissioner
Scott Sherley, Broker / Hilo Commissioner
Frances Gendrano, Broker / Honolulu Commissioner
Walt Harvey, Broker / Honolulu Commissioner
Donna Apisa, Broker / Kauai Commissioner

Neil Fujitani, Supervising Executive Officer
Jon Ellis Pangilinan, Executive Officer
Cynthia Yee, Senior Condominium Specialist
Cheryl Leong, Condominium Specialist
Benedyne Stone, Condominium Specialist
Diane Choy Fujimura, Senior Real Estate Specialist
Amy Endo, Real Estate Specialist
David Grupen, Real Estate Specialist
Shari Wong, Deputy Attorney General
Tammy Norton, Recording Secretary

Others: Marsha Shimizu, Hawaii Association of REALTORS®
Mark D. Clement, Hawaii Financial Literacy Educators

Absent: Stanley Kuriyama, Broker / Honolulu Commissioner

Call to Order: Chair Loudermilk called the meeting to order at 9:28 a.m., at which time quorum was established.

Chair's Report: No report was presented.

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.

Commissioner Kuriyama was excused from the meeting. Prior notification of his non-attendance was received.

Condominium
Specialist's
Report:

Additional Distribution

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

4. Condominium Governance and Management
 - b. AOOU Registrations – Certificates of Insurance – Request of Nadine K. Cui SVP Atlas Insurance Agency email dated 11/18/10
6. Program of Work, FY11
 - e. Rulemaking, Chapter 107

Minutes:

Upon a motion by Commissioner Apisa, seconded by Commissioner Sherley, it was voted on and unanimously carried to accept the minutes of the November 10, 2010 Condominium Review Committee meeting as circulated.

Condominium
Governance and
Management:

AOOU Registrations

It was reported that as of November 30, 2010, 1,665 AOUs have successfully registered.

Certificate of Insurance (CHOs, CMAs, and AOUs)

The committee reviewed an email request received on November 18, 2010 from Nadine K. Cui, Senior Vice President of Atlas Insurance Agency regarding Certificates of Insurance.

Ms. Cui's email notes that the Real Estate Branch has been rejecting those certificates issued on behalf of their condominium clients. The email notes that in many cases, their clients elect to carry higher limits than what the statute requires to protect the organization. She further states in her email that since certificates of insurance must reflect the policy terms and conditions, Atlas' policy shows the full limits carried by its clients.

On another related issue, Atlas reports that it will no longer include the 30 days notice as required by the Commission's CSI pursuant to the Insurance Commissioner's Memorandum 2009-3A, which requires that the Certificate of Insurance reflect the provisions of the insurance contract, namely that notice of termination/cancellation be delivered in accordance with the policy provisions..

Specialist Yee informed the committee that the Commission's Certification Statement of Insurance (CSI) form has a provision to include notification of the Commission within 30 days of cancellation. The form was developed years ago with input from the insurance industry which at that time was okay with the 30 day cancellation notification language. The Commission's CSI is used for AOUs, CHOs, and CMAs. There are currently no law or rule requiring AOOU fidelity bonds provide the 30 day cancellation notification, but there is a rule for CHOs regarding the 30 day cancellation notification.

Executive Session:

Upon a motion by Commissioner Gendrano, seconded by Commissioner Ball, it was voted on and unanimously carried to move into executive session 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 Gendrano, it was voted on and unanimously carried to move out of executive session.

Upon a motion by Commissioner Nishihara, seconded by Commissioner Gendrano, it was voted on and unanimously carried that Fidelity bonding for Condominium Hotel Operators, pursuant to Hawaii Administrative Rule §16-99-148(b)2, a Condominium Hotel Operator shall continue to provide the Department of Commerce and Consumer Affairs with written notification at least thirty calendar days prior to its cancellation or termination. This does not require that the notification come from the insurer. The obligation is on the Condominium Hotel Operator to comply. Further, as to fidelity bonding for an Association of Unit Owners (AOUO), the Commission will not be rejecting an AOOU registration application based solely on the AOOU's failure to provide the Commission with a Certificate of Insurance with a provision requiring written notification at least thirty calendar days prior to its cancellation or termination. The amount of the fidelity bond required by statute (§514B-143(a)(A), HRS, shall not be greater than \$200,000. A bond submitted with an AOOU's registration and re-registration application for any higher amounts shall be rejected. However, the Commission requests that Atlas Insurance provide the Commission with information as to the practicalities and challenges of an AOOU requesting the insurance company issue two separate bonds – one for the statutory amount; and another bond for any excess coverage the AOOU decides to carry beyond the statutory amount.

Staff to request Atlas to provide the requested information at their earliest convenience. Additionally staff is requested to send the insurance industry, including Atlas, any preliminary draft proposed rules relating to the required insurance and bond coverage and request comments from the industry.

Condominium Seminars and Symposium

A request for approval of CAI Hawaii's 2011 Seminars for CETF subsidy was received on November 22, 2010.

Due to a prior committee delegation, staff has approved the following seminars for CETF subsidies subject to the terms and conditions of the existing contract and the availability of the CETF monies: The Good, the Bad, and the Ugly - January 27, 2011; Ask the Experts – Condominium Specialists, Construction Defects & Foreclosures – March 10, 2011; ABCs, A One-Day Workshop for Board Members & Homeowners – April 30, 2011; and Condo Wars, How to Bring Peace to the Promised Land – June 2, 2011.

The remaining portion of CAI Hawaii's request falls within FY 2012 and cannot be approved under the existing contract which terminates on June 30, 2011.

Condominium Related Articles

The following articles from the October 2010 issue of *CAI Hawaii* were distributed for informational purposes: "Tips on Successfully Fulfilling Your Fiduciary Obligations" and "Act 186-Electric Vehicles: The Good, The Bad and The Ugly."

Condominium
 Project
 Registration:

Condominium Project Registration - Public Reports Issued

A list of those condominium projects issued effective dates during the month of November 2010 were distributed for informational purposes.

PROJ#	PROJECT NAME	PROJECT ADDRESS	TMK #	UNITS	REPORT DATE
6997	3247 KALAPAKI CIRCLE	3247 KALAPAKI CIRCLE LIHUE HI 96766	435002030	2	B REPT 11/29/2010
7043	45-521 HALEKOU ROAD	45-521 & 45-521A HALEKOU RD KANEHOE HI 96744	145036003	2	B REPT 11/5/2010
7018	59-730 KANALANI PLACE	59-730 KANALANI PL HALEIWA HI 96712	159031024	2	B REPT 11/3/2010
7036	648 - 650 12TH AVENUE	648 & 650 12TH AVE HONOLULU HI 96816	132028015	2	B REPT 11/12/2010
7038	732 & 736 22ND AVENUE	732 & 736 22ND AVE HONOLULU HI 96816	132057056	2	B REPT 11/8/2010
6331	COTTAGES AT KULAMALU THE	KU'INEHE PLACE KULA HI 96790	223008044	40	B AMD 3 11/1/2010
7042	HAIKULEA CONDOMINIUM	105 AND 107 HOHANI PL HAIKU HI 96708	227013196	2	B REPT 11/22/2010
6736	HANA HANAI	229 ULANA ST MAKAWAO HI 96768	224035092	2	B AMD 11/1/2010
7041	HD MILILANI	100 KAHELU AVE MILILANI HI 96789	195046043	2	B REPT 11/30/2010
6903	HO'OLE'A TERRACE AT KEHALANI	KEHALANI MAUKA PKWY WAILUKU HI 96793	235001067	174	B AMD 2 11/8/2010
5968	KALAMAKU	59-756 KAMEHAMEHA HWY HALEIWA HI 96712	159004007	2	SUPPL 11/23/2010
7015	KUHIO KAI O KALANI	7230 KUHIO HWY HANALEI HI 96714	458008049	2	B REPT 11/4/2010
7050	LAULANI IV PHASE 1	91-1001 KEAUNUI DR EWA BEACH HI 96706	191149001	17	B REPT 11/23/2010
7019	MANINI GARDEN ESTATES	3365B WAIKOMO RD KOLOA HI 96756	428009018	2	B REPT 11/18/2010
7035	MENEHUNE VILLA	704 & 712 MENEHUNE LN HONOLULU HI 96826	127023013	2	B REPT 11/12/2010
6964	MURRAY	HALALU ST KOLOA HI 96756	428031184	2	B REPT 11/23/2010
3247	NANEA KALIHIIWAI	LOT 1 KALIHIIWAI RDG II KILAUUEA HI 96754	452022001	5	SUPPL 11/18/2010
7040	NOHONA II AT KAPOLEI - PHASE III	KAMAHA LP KAPOLEI HI 96707	191016174	21	B REPT 11/16/2010
5316	OCEAN VILLAS AT TURTLE BAY RESORT	TURLTLE BAY RESORT KAHUKU HI 96731	157001013	57	SUPPL 11/15/2010
7025	PHAM MOKULELE ESTATES	45-539 & 45-539A MOKULELE DR KANEHOE HI 96744	145038015	3	B REPT 11/12/2010
6674	S & F DOMINGO CONDOMINIUM	1412 B, C, D & E GULICK AVE HONOLULU HI 96819	113015019	4	B AMD 2 11/3/2010
6955	TWO RIVERS	5121 WAINIHA POWERHOUSE RD HANALEI HI	458004024	2	B REPT 11/24/2010
7028	WAIKOLIA CONDOMINIUM	260 WAIKOLIA ST KAPAA HI 96746	442014011	2	B REPT 11/23/2010
0	Preliminary Reports				
0	Contingent Final Reports				
0	Final Reports				
3	Supplementary Reports				
15	B Reports				
4	B Amendment Reports				
23	TOTAL REPORTS				

CPR Registration Related Articles

The following articles were distributed for informational purposes:

- 1) "Condos possible for Kalaeloa" *Star Advertiser* November 1, 2010
- 2) "Maui County Receive New Flood Maps - Significant Changes Expected" – *Wai Halana Hawaii Flood News* (October 2010)
- 3) "Hawaii Coastal Study Update" - *Wai Halana Hawaii Flood News* (October 2010).

Program of Work: **Rulemaking, Chapter 107**

Preliminary rough draft of the proposed rules for Chapter 514B, HRS, Part VII Availability of Association Records and Condominium Owners' Request to Examine were circulated for review and comments. All comments to be provided to Specialist Yee prior to the end of the month.

It was noted that staff receives a lot of calls and RICO receives a lot of complaints relating to records availability.

Commissioner Sherley noted that for those properties which he manages, all of the association documents are made available online. All the owner needs is their password to access the information.

Chair Loudermilk noted that the law is silent on the format and that the information can be provided electronically.

Vice Chair Suiso noted that documents should be made available to owners in the least expensive manner.

Condominium Organizations Forum: No comments, recommendations or concerns were received from the following: Community Associations Institute Hawaii Chapter, Alakahi Foundation, Hawaii Council of Association of Apartment Owners, Hawaii Independent Condominium and Cooperative Owners, Hawaii State Bar Association/Real Property & Financial Services Section, Land Use Research Foundation, Condominium Council of Maui, Hawaii Association of Realtors/Institute of Real Estate Management Hawaii Chapter/ Oahu Arm Committee, others.

CETF Budget & Finance Report: No report presented.

Next Meeting: January 12, 2011
Upon adjournment of the Laws and Rules Review Committee meeting scheduled to convene at 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 Loudermilk adjourned the meeting at 10:13 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

Cynthia M. L. Yee
Senior Condominium Specialist

December 20, 2010

Date

Minutes approved as is.

Minutes approved with changes; see minutes of _____