

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: March 9, 2011

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
Trudy Nishihara, Broker / Honolulu Commissioner
Carol Ball, Broker / Maui Commissioner
Stanley Kuriyama, Broker / Honolulu 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®
Suzanne King, Honolulu Board of REALTORS®
Aron Espinueva, Hawaii Association of REALTORS®
Phil Nerney, Community Associations Institute Hawaii Chapter
Trace Wiltgen, The Mediation Center of the Pacific – via teleconference

Absent: Mark Suiso, Vice Chair, Public / Honolulu Commissioner

Call to Order: Chair Loudermilk called the meeting to order at 10:11 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 Suiso was excused from the meeting. Prior notification of his non-attendance was received.

Condominium
Specialist's
Report:

Minutes

Upon a motion by Commissioner Apisa, seconded by Commissioner Harvey, it was voted on and unanimously carried to accept the minutes of the February 9, 2011 Condominium Review Committee meeting as circulated.

Condominium
Governance and
Management:

AOUO Registrations

Specialist Stone reported that as of February 28, 2011, 1,666 AOUOs have successfully registered.

Condominium Seminars and Symposium - "The Good, the Bad and the Ugly about Employment" - CAI Hawaii January 27, 2011 - Evaluation

Staff's written evaluation was distributed for informational purposes.

Case Law Review Program

The following articles from the January 2011 issue of *Community Association Management Insider* were distributed for informational purposes: "Member Allowed to Keep Pet Bird;" "Association Responsible for Leaky Sewer Pipe;" and "Annual Index."

Condominium Related Articles

The following articles were distributed for informational purposes: "New ADA Requirements May Affect Association Pools" - *Community Association Management Insider* (January 2011); and "Risk Management: Minimizing a Director's Personal Liability" - CAI Hawaii (February 2011).

Condominium
Project
Registration:

Condominium Project Registration - Public Reports Issued

A list of those condominium projects issued effective dates during the month of February 2011 were distributed for informational purposes.

PROJ #	PROJECT NAME	PROJECT ADDRESS	TMK #	UNIT	REPORT	DATE
7045	HANAMALIA CONDOMINIUM	342-344 KULIKE RD HAIKU HI 96708	228004082	2	B REPT	2/8/2011
7031	HOOLIKE CONDOMINIUM	LOT 61-A-1-A LAWAI HMSTDS LAWAI HI 96765	425006008	5	B REPT	2/16/2011
6677	KA HALE ANUHEA CONDOMINIUM	KAUKINI LOOP KAHAKULOA HI	231001062	2	B AMD	2/16/2011

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6980	KEALAKAI AT KAPOLEI - PHASE I	KAIU AVE KAPOLEI HI 96707	191016166	16	B AMD	2/28/2011
7022	KEALAKAI AT KAPOLEI - PHASE II	KAIU AVE KAPOLEI HI 96707	191016166	38	B AMD	2/28/2011
7027	KEALAKAI AT KAPOLEI - PHASE III	KAIU AVENUE KAPOLEI HI 96707	191016166	16	B AMD	2/28/2011
7067	KEENAN/MARTIN CONDOMINIUM	550 & 554 PUNAKEA LP LAHAINA HI 96761	247001045	2	B REPT	2/16/2011
7044	LANA'I OCEANVIEW ESTATES CONDOMINIUM	11 PUA NIU WAY LAHAINA HI 96761	247009069	2	B AMD	2/9/2011
7060	MANGO CONDOMINIUM	1011 & 1015 UPPER ULUMALU RD HAIKU HI 96708	228009008	2	B REPT	2/17/2011
7059	MEA PA'ANI	4240 HARDY ST LIHUE HI 96766	436018009	2	B REPT	2/25/2011
6987	NOHONA II AT KAPOLEI - PHASE I	KAMA'AHA LOOP KAPOLEI HI 96707	191016174	13	B AMD	2/28/2011
7024	NOHONA II AT KAPOLEI - PHASE II	KAMA'AHA LP KAPOLEI HI 96707	191016174	20	B AMD	2/28/2011
7040	NOHONA II AT KAPOLEI - PHASE III	KAMA'AHA LP KAPOLEI HI 96707	191016174	21	B AMD	2/28/2011
7068	PROJECT PUEO	7120 ALAMIHI RD HANALEI HI 96714	458011018	3	B REPT	2/17/2011
6620	THE CABANA AT WAIKIKI	2551 CARTWRIGHT RD HONOLULU HI 96815	126027027	16	B AMD 2	2/15/2011
0	Preliminary Reports					
0	Contingent Final Reports					
0	Final Reports					
0	Supplementary Reports					
6	B Reports					
9	B Amendment Reports					
15	TOTAL REPORTS					

CPR Project

Specialist Yee informed the committee that staff is looking into including a caveat on its Developer's Public Report site informing consumers to contact the Timeshare Administrator for more information for those projects which include Timeshare.

Program of Work: Rulemaking, Chapter 107

Staff is putting together a list of blue ribbon panel members to assist with the review of the rules. Commissioners to forward any suggested names to the Senior Condominium Specialist.

Government and Legislative Participation & Report – SB 92 SD 1 Relating to Condominium Dispute Resolution

Phil Nerney of CAI Hawaii Legislative Action Committee was present. Ms. Tracey Wiltgen of The Mediation Center of the Pacific was present via teleconference.

Specialist Yee noted that she had agendized this item before the legislative status report was issued. The bill has since died, but may be resurrected next session.

Phil Nerney, Chair of CAI Hawaii's Legislative Action Committee informed the committee that Senate Bill No. 92 initially addressed the sunset date for condo court. He noted that the Condo Court Pilot Program was not regarded by industry in a good light. He stated that quality commercial mediation is the answer. There are complex problems that require commercial quality mediation, not the currently

utilized facilitative mediation. He noted that there should be an increase in the CETF subsidy to allow for commercial mediators. He opined that facilitative mediators are not necessarily subject matter experts in what the law is and what the project documents provide. There is a need for subject matter expertise.

Specialist Yee noted that approximately 1-1/2 years ago the Commission amended the mediation contracts to include subsidy up to \$500 for evaluative mediation. To date the Commission has not received any invoices for evaluative mediation.

Via teleconference Ms. Tracey Wiltgen of The Mediation Center of the Pacific (MCP) provided some background information about the current status of the evaluative mediation program. Ms. Wiltgen indicated that there was a joint proposal to the Commission to develop an evaluative mediation program. The Commission approved providing subsidy for evaluative mediation, but it was also noted that the Commission would not be increasing the total budget for mediation for the fiscal year. At the end of 2009 the economy went bad and MCP reduced its staff and hours of operations. They did not have the capacity to offer such a program at that time. Most commercial mediators will start at approximately \$600 an hour. MCP attempted and took some initial steps to implement the evaluative mediation by training and improving mediators' knowledge in regards to condominium issues, but it continued to remain at the facilitative level. There is a need for experienced mediators with subject matter expertise who are willing to work at a reduced rate. Currently the only evaluative mediator available is Phil Nerney.

Ms. Wiltgen also noted that private mediators may not be willing to mediate for a nominal cost through MCP. Technical disputes go to Dispute Prevention Resolution (DPR) and utilize commercial mediators.

Mr. Nerney indicated that the Legislators are always saying that their phones are always ringing off the hook during the session with constituents telling them that the condo court pilot program is not helping the consumer. He opined that there needs to be an increase in the amount subsidized by the CETF and suggested increasing a per unit fee to make up the cost. If the Commission were to increase its per unit fee by 10¢ it would generate a decent amount of money for commercial mediation, although not like DPR which is \$350/hour, but the amount would allow for up to \$1,000 for a day long Commercial mediation. The cost could be borne between the association, the owner, and the CETF subsidy.

The Commissioners discussed and determined to continue the current subsidy amounts when entering into new contracts upon the expiration of the current contracts. The current subsidy amount for evaluative mediation is up to \$500.

Specialist Yee noted that the Division is currently working on Chapter 53 Fees which is currently with the Department of the Attorney General for review. There is a fee increase proposal for condominium units, but the 10¢ increase for evaluative mediation was not contemplated.

It was suggested that the next RFP proposals to include shared costs to start up a feasible evaluative mediation program.

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: April 13, 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 10:43 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

Cynthia M. L. Yee
Senior Condominium Specialist

March 16, 2011

Date

Minutes approved as is.

Minutes approved with changes; see minutes of _____