

**CONDOMINIUM REVIEW COMMITTEE**  
REAL ESTATE COMMISSION  
Professional and Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii  
[www.hawaii.gov/hirec](http://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: April 13, 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  
Scott Sherley, Broker / Hilo Commissioner  
Carol Ball, Broker / Maui Commissioner  
Stanley Kuriyama, Broker / Honolulu Commissioner  
Walt Harvey, Broker / Honolulu Commissioner  
Frances Gendrano, 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: Aron Espinueva, Hawaii Association of REALTORS®  
Alex Sugai, Dept. of Planning and Permitting – Commercial & Multi-Family Code Enforcement Branch  
Art Challacombe, Dept. of Planning and Permitting – Customer Service Office  
Jeff Grad, Esq.

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

Call to Order: Chair Loudermilk called the meeting to order at 9:08 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:

#### **Additional Distribution**

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

5. CPR Registration and Developer's Public Reports
  - a. Condominium Projects and Developer's Public Reports
    - 3) CPR Project
      - a) Letter from Jeffrey Grad, Esq. March 25, 2011  
Delays in Condominium "Conversion" Projects

Minutes:

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

Chair Loudermilk noted that although not discussed in the minutes of the previous meeting, she wanted to clarify that mediation agreements are exempt from the procurement process; and as to evaluative mediation staff will contact the Mediation Center of the Pacific to request that if they want to submit a proposal on the costs it would take to start up an evaluative mediation process, the committee would be willing to consider the proposal subject to any budgetary constraints.

Condominium  
Governance and  
Management:

#### **Mediation and Arbitration – Request for Approval to Extend Mediation Agreements – Exempt Procurement**

Specialist Stone reported that the current mediation agreement will be expiring at the end of this fiscal year. The Commission's approval is required to extend all agreements for mediation services for an additional fiscal year, from July 1, 2011 through June 30, 2012.

As mentioned by Chair Loudermilk, mediator services, pursuant to HAR §3-120-4, has been determined to be exempt from the procurement procedures of HRS Chapter 103D by the procurement policy board effective July 17, 2008. Mediator services fall under exemption number 12.

It was reported that the providers of mediation play an essential role in their communities, resolving condominium disputes in an expeditious and economical manner. Mediation is often the first choice of owners in a dispute because of its convenience and affordability. Without the option of mediation, condominium owners must rely primarily on the more costly and time-consuming methods of arbitration and civil litigation to resolve their condominium disputes.

Upon a motion by Commissioner Apisa, seconded by Commissioner Shirley, it was voted on and unanimously carried to extend for one fiscal year all current Mediation Agreements, subject to the same terms and conditions of the current agreements.

**AOUO Registrations**

Specialist Stone reported that as of March 31, 2011, 1,669 AOUOs have successfully registered.

It was also reported that the AOUO Online Reregistration site went live April 4, 2011.

**Condominium Seminars and Symposium – CAI Hawaii "Ask the Experts" March 10, 2011 - Evaluation**

Commissioner Sherley and Specialist Yee reported that the seminar was well attended; the topic was of great interest to the participants; however the seminar was not long enough for all of the questions asked.

**Condominium Related Articles**

The following articles from the March April 2011 issue of *Common Ground* were distributed for informational purposes: "homefront": 'Foreclosures - Rocky Road,' 'Legislation - Flag Radio,' and 'Five Questions;' "Paper Jam," and "InCommon Government Affairs – Big Year Ahead."

Condominium  
 Project  
 Registration:

**Condominium Project Registration - Public Reports Issued**

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

PROJ #	PROJECT NAME	PROJECT ADDRESS	TMK #	TTL	REPORT DATE
7070	2928 KALAWAO	2928 KALAWAO PL HONOLULU HI 96822	129060022	2	B REPT 3/15/2011
7062	5442 & 5442-A POOLA STREET	5442 & 5442-A POOLA ST HONOLULU HI 96821	135073119	2	B REPT 3/9/2011
2947	ANNAPURNA	LOT 14 WAIPAKE SBDV II HANALEI HI 96714	451006028	4	SUPPL2 3/4/2011
5573	ARAKAKI FAMILY CONDOMINIUM	524 KAI HELE KU ST LAHAINA HI 96761	247009031	2	SUPPL 2 3/21/2011
7071	BERKO FAMILY CONDOMINIUM	50 & 54 E HUAPALA PL LAHAINA HI 96761	247010060	2	B REPT 3/15/2011
6751	HOLOMUA	1315 KALAKAUA AVE HONOLULU HI 96826	124006017	176	B AMD 2 3/24/2011
7072	KAHANA GATEWAY RESIDENCES	HONOAPIILANI HWY LAHAINA HI 96761	243005082	73	B REPT 3/3/2011
3728	KALALEA AGRICULTURAL ESTATES	LOT 43-C & 55-B ALIOMANU KAWAIHAU HI	449002001	9	SUPPL 3/30/2011
7069	KANEWAI VISTA	1333 & 1335 KANEWAI ST HONOLULU HI 96816	128030011	2	B REPT 3/15/2011
5900	KAPALUA BAY CONDOMINIUM	1 BAY DR LAHAINA HI 96761	242004028	151	SUPPL 4 3/3/2011
7058	KAUAI CLIFF HOUSE COTTAGE 23	3211 KALAPAKI CIRCLE LIHUE HI 96766	435002037	2	B REPT 3/23/2011
7074	KEALAKAI AT KAPOLEI - PHASE IV	KAIKAI AVE KAPOLEI HI 96707	191016197	24	B REPT 3/10/2011
7085	LOT 1 AKULIKULI SPRINGS	LOT 1 KAHUNA RD	446004001	2	B REPT 3/17/2011

6236	MALUAKA	KAPAA HI 96746 KEONEOIO RD	221006037	14	B AMD 3	3/8/2011
7063	MANOA HALE	MAKENA HI 96753 3156 OAHU AVE	129035023	2	B REPT	3/30/2011
7053	NANI PUUWAI	HONOLULU HI 96822 5094 PUUWAI RD	424003034	2	FINAL	3/24/2011
7075	NOHONA II AT KAPOLEI - PHASE IV	KALAHEO HI 96741 KAMA`AHA AVE	191016194	18	B REPT	3/3/2011
7061	OMAO PARCEL 44 ESTATES	KAPOLEI HI 96707 4429 PUNEE RD	427006044	2	B REPT	3/21/2011
6472	VANGUARD LOFTS THE	OMAO, KOLOA HI 96756 720 KAPIOLANI BLVD	121044035	37	B AMD 6	3/1/2011
0	<b>Preliminary Reports</b>					
0	<b>Contingent Final Reports</b>					
1	<b>Final Reports</b>					
4	<b>Supplementary Reports</b>					
11	<b>B Reports</b>					
3	<b>B Amendment Reports</b>					
19	<b>TOTAL REPORTS</b>					

### **Letter from Jeffrey Grad, Esq. March 25, 2011 Delays in Condominium "Conversion" Projects**

Mr. Grad indicated that his firm represents owners and developers of smaller 2 to 5 unit residential condominium projects in Honolulu. He has been encountering serious problems relating to delays in the issuance of effective dates for public reports for conversion projects. The major problem has been getting the Enforcement Branch of Honolulu's Department of Planning and Permitting (DPP) to issue the required county verification letter. What use to take approximately 45 to 60 days now takes approximately 6 months or longer. Also noted was the presence of Mr. Art Challacombe, Chief of the Customer Services Office of the DPP, and Mr. Alex Sugai of the Enforcement Branch of the DPP. Mr. Grad had requested their presence.

Commissioner Ball noted that the requirements for issuance of an effective date for a developer's public report was mandated by law and not just a procedure that the Commission can change.

Mr. Grad responded that it is procedural for the Commission to receive the county verification letter with the filing. He noted that if the developer is unable to get a county verification letter within one year, the administrative procedures should change.

Chair Loudermilk questioned if Mr. Grad is requesting that the Commission accept the public report filing for processing but not issue an effective date until receipt of the county verification letter.

Mr. Grad responded that at minimum that is what he is requesting. Request at minimum to revise the Commission's policy to allow for filing, referral to a consultant and issuance of an effective date for a developer's public report without the county verification letter if more than sixty days has elapsed since the county verification letter was requested and a written response has not been received. If and when the County comes back with noted violations, then the developer would need to go back and address those issues in the developer's public report. He also noted that if the developer hasn't received a county verification letter in a substantial amount of time, it should be deemed that the

City and County could not make a determination of verification. The Commission should also allow smaller projects to rely on third party verification statements like those provided by architects and engineers.

Mr. Art Challacombe, Chief of Customer Services of the Department of Planning and Permitting informed the committee that the department is currently short staffed and faced with furloughs and a hiring freeze. The same amount of work in 2009 and 2010 continue, but with less staff. The proposed 2011 budget projects DPP will either lose more staff or will be unable to fill vacancies. The department foresees no improvement in the near future. He noted that from a conceptual standpoint he would like to see streamlining of the process and is willing to work with the Commission to accomplish a streamlining procedure.

Specialist Yee noted for the Committee that some other counties, like Kauai County, rely on third party reviews for verifying compliance with county codes and ordinances. Honolulu County does not. Mr. Challacombe noted that Honolulu uses the third party review process for building, and electrical, but not for the zoning component. It was suggested that Specialist Yee work with Mr. Challacombe and Mr. Grad to see if there is a way to streamline the process within the bounds of the statute.

Mr. Challacombe questioned the liability if the Commission issued an effective date for a developer's public report without a county verification letter, then receives a county letter informing of zoning problems.

Chair Loudermilk reported that unless there is a change to the statutes, the Commissions hands are tied. Staff could work with the County to streamline the procedure, but the Commission is still held to the requirements of the law.

Mr. Challacombe replied that the DPP could work with the Commission in proposing legislation next session to streamline the procedures.

#### **CPR Related Articles**

The following articles were distributed for informational purposes: "Electronic Filing in the Federal Courts: Past, Present, and Future" *Hawaii Bar Journal* (March 2011) and "Electronic Filing in the State Courts" *Hawaii Bar Journal* (March 2011).

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

The committee acknowledged receipt of comments from by Mr. John Morris regarding the proposed rule changes relating to governance.

#### **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:           None presented.

Next Meeting:                May 11, 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 9:36 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

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Cynthia M. L. Yee  
Senior Condominium Specialist

April 14, 2011

\_\_\_\_\_  
Date

Minutes approved as is.

Minutes approved with changes; see minutes of \_\_\_\_\_