

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: June 13, 2012

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
Nikki Senter, Vice Chair, Public / 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
Rowena Cobb, Broker / Kauai Commissioner
Aileen Wada, Broker / Honolulu Commissioner

Neil Fujitani, Supervising Executive Officer
Miles Ino, Executive Officer
Cynthia Yee, Senior 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: Mark Howard, Hawaiiiana Americana Realty
Aron Espinueva, Hawaii Association of REALTORS®
Marsha Shimizu, Hawaii Association of REALTORS®
Thomas Douma, Hawaii Inspection Group
David Catanzaro, REMI School

Absent: None

Call to Order: Chair Loudermilk called the meeting to order at 10:09 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.

Condominium

Specialist Yee thanked Chair Loudermilk for her continued guidance and leadership as Chair of the Condominium Review Committee and presented her with a lei. Chair Loudermilk's term ends June 30, 2012.

Minutes:

Upon a motion by Commissioner Sherley, seconded by Commissioner Harvey, it was voted on and unanimously carried to accept the minutes of the May 9, 2012 Condominium Review Committee meeting as circulated.

Condominium
Governance and
Management:

AOUO Registrations

Specialist Stone reported that as of May 31, 2012, 1,649 AOUOs have successfully registered. There were no new associations registered in the month of May.

Condominium Seminars and Symposium - CAI Hawaii May 22, 2012 Request for Approval of 2012 CAI Seminars – Amended Program Descriptions

A request for approval of CAI Hawaii's remaining 2012 Seminars for CETF subsidy was received on May 22, 2012.

Specialist Yee informed the committee that the approval process for this type of request where the topic or subject matter of the seminar had been previously approved by the Commission, such had been delegated to staff. Staff is thus reporting that the requested seminars fall within the delegation and staff is approving the requested seminars for CETF subsidies subject to the terms and conditions of the existing contract and the availability of the CETF monies.

Condominium Seminars and Symposium - "Insurance-How Much is Enough" May 24, 2012, CAI Hawaii - Evaluation

Staff's written evaluation of the seminar was submitted for the committee information.

Case Law Review Program

The following was distributed for informational purposes: *Falin v. Condominium Association of La Mer Estates, Inc.* March 2012 Community Association Management Insider (May 2012).

Condominium Related Articles

The following article was distributed for informational purposes: "Avoid Liability for Member Hazards in Age-Restricted Community" - Community Association Management Insider (May 2012).

Condominium Project Registration - Public Reports Issued

Project Registration: A list of those condominium projects issued effective dates during the month of May 2012 were distributed for informational purposes.

PROJ#	PROJECT NAME	PROJECT ADDRESS	TMK #	UNIT	REPORT	DATE
4116	123/123-A POPOIA ROAD	123 & 123-A POPOIA RD KAILUA HI 96734	143010080	2	SUPPL	5/1/2012
7215	4516 AND 4518 SIERRA DRIVE	4516 & 4518 SIERRA DR HONOLULU HI 96816	133024072	2	B REPT	5/29/2012
7212	45-533 & 45-533-A KEAAHALA RD.	45-553 & 45-553-A KEAAHALA RD. KANEHOE HI 96744	145021004	2	B REPT	5/14/2012
7203	739 AND 739-A HOOPUNI DRIVE	739 & 739-A HOOPUNI DR KAILUA HI 96734	143065083	2	B REPT	5/3/2012
7222	84-923 & 84-925 LAHAINA STREET	84-923 & 84-925 LAHAINA ST WAIANA E HI 96792	184015031	2	B REPT	5/29/2012
7205	85-745 LIHUE STREET	85-745 LIHUE ST WAIANA E HI 96792	185012037	3	B REPT	5/2/2012
6185	ALLURE WAIKIKI	1837 KALAKAUA AVE HONOLULU HI 96815	126013001	292	B AMD 8	5/9/2012
6993	AULANI, A DISNEY RESORT & SPA, KO OLINA, HAWAII	92-1185 ALI'I NUI DR KAPOLEI HI 96707	191057034	12	B AMEND	5/23/2012
6941	AULANI, DISNEY VACATION CLUB VILLAS, KO OLINA HAWAII	92-1185 ALII NUI DR KAPOLEI HI 96707	191057035	215	B AMEND	5/24/2012
7125	GREEN HOMES AT LUALUALEI	87-1720 FARRINGTON HWY WAIANA E HI 96792	187033011	25	B REPT	5/10/2012
7197	HALE ALUA CONDOMINIUM	64 PAIA POHAKU ST LAHAINA HI 96761	247009018	2	B REPT	5/9/2012
22	ILIKAI APARTMENT BUILDING	1777 ALA MOANA BLVD HONOLULU HI 96815	126010007	1025	SUPPL 6	5/21/2012
7198	KAWAIHAU ESTATES	5293, 5293A & 5287 KAWAIHAU RD KAPAA HI 96746	446023020	2	B REPT	5/14/2012
7221	KEALA KAI AT KAPOLEI - PHASE VII	KAIAU AVE KAPOLEI HI 96707	191016202	27	B REPT	5/2/2012
7224	LAULANI XIII, PHASE 21	91-1001 KEAUNUI DR EWA BEACH HI 96706	191149031	10	B REPT	5/18/2012
7023	LIHAU ESTATES CONDOMINIUM	188 LIHAU ST KAPAA HI 96746	442011002	2	B REPT	5/22/2012
6767	OLOWALU MAUKA 14 CONDOMIUM	255 LUAWAI ST LAHAINA HI 96761	248003097	2	B AMD	5/18/2012
7209	PAIALANI CONDOMINIUM	118 & 120 ULUMAU PL PAIA HI 96779	226006060	2	B REPT	5/30/2012
7202	SOMEWHERE ESTATES	566 PUUOPAE RD KAPAA HI 96746	442021013	2	B REPT	5/15/2012
4221	WAILANI RANCH CONDOMINIUMS	LOT A HOLUALOA 1 & 2 N KONA HI	376002020	3	SUPPL	5/24/2012
0	Preliminary Reports					
0	Contingent Final Reports					
0	Final Reports					
3	Supplementary Reports					
13	B Reports					
4	B Amendment Reports					
20	TOTAL REPORTS					

Revisions to Commission Approved "Developer's Annual Report" Form dated 7/10/2008

Specialist Yee informed the committee that the proposed revisions relate to the issues surrounding developers' use of purchaser's funds construction of new condominium projects and conversion projects.

Upon a motion by Commissioner Harvey, seconded by Commissioner Gendrano, it was voted on and unanimously carried to take the matter under advisement.

Consultants – Procurement for Professional Services – Condominium Consultants

Specialist Yee reported that the procurement for professional services for private contractors to review the condominium project registration application, and the documents and information submitted to the Commission in support of the registration has closed.

The Director has appointed a review and a selection committee whose tasks respectively include a review of the applicants qualifications, compilation of a list of qualified applicants, and the selection committee's evaluation of the submissions of persons on the list against the selection criteria of §103D-304 (e), HRS, and subsequent ranking of the qualified applicants. Staff reported for this procurement that lists of qualified applicants have been compiled, the selection committee has ranked the applicants, and the ranked lists will shortly be sent to the Director. The Director will then after a review and approval authorize the Supervising Executive Officer or his designate to negotiate a contract with each of the applicants in the order of the ranking.

Case Law

The following was distributed for informational purposes: *Robert Grinpas and Esther Grinpas, Plaintiffs-Appellants, v. Kapaa 382, LLC, A Hawaii Limited Liability Company, Kulana Partners, LLC, a Hawaii Limited Liability Company, William R. Hancock, and Does 1-10, Defendants-Appellees. Kulana Partners, LLC, Defendant/Third-Party Plaintiff-Appellee, v. William R. Hancock, Trustee of the Hancock and Company, Inc., Profit Sharing Trust, under trust instrument dated 4/3/03, Third-Party Defendant.* No. 30139 Intermediate Court of Appeals (Hawaii February 15, 2012).

Other Condominium Related Articles

The following was distributed for informational purposes: "Photovoltaic Installations in High Risk Flood Zones" – *Wai Halana*, Department of Land and Natural Resources Engineering Division (April 2012).

Program of Work:

Hawaii Condominium Bulletin – HEPs Graphics Layout Editor Contract

The committee reviewed the 5 HePS bids received for the writing, editing, and layout of the Hawaii Condominium Bulletin and Real Estate Commission Bulletin.

Upon a motion by Commissioner Gendrano, seconded by Commissioner Sherley, it was voted on and unanimously carried to approve the award for the writing, editing, and layout of the Hawaii Condominium and Real Estate Commission Bulletins to the lowest bidder, Terrance Lum for \$3800 for each year of the two year period for a total of \$7,600 plus applicable sales tax, subject to the terms and conditions of the solicitation.

Rulemaking, Chapter 53, Fees

Specialist Yee reported that staff has submitted a memo to the Governor requesting approval to move forward with a public hearing on the changes to the Chapter 53 Fees. The Department of Budget and Finance has requested additional information relating to the Commission's request which information will shortly be submitted.

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:

Upon a motion by Commissioner Sherley, seconded by Commissioner Kuriyama, it was voted on and unanimously carried to accept the Condominium Education Trust Fund Financial Report for the period ending March 31, 2012.

Condominium
Project Registration:

Revisions to Commission Approved "Developer's Annual Report" Form dated 7/10/2008

Chair Loudermilk reported that subject to satisfying the requirements of §514B-92, HRS, §514B-92, HRS, allows a developer to use purchaser's deposits held in escrow pursuant to a binding sales contract to be disbursed prior to closing to pay for project construction costs. One of the requirements include a submission to the Commission of a project budget showing all costs that are required to be paid to complete the project and satisfactory evidence of security for completion of construction which may be evidenced by a completion or performance bond issued by a Hawaii licensed surety, material house bond, irrevocable letter of credit or any other alternatives approved by the Commission for one hundred percent of the cost of construction.

Over the past year and a half, staff has discovered that issues are arising in connection with developers amending their project budget for completion of construction without increasing the required completion or performance bond, irrevocable letter of credit or other alternative for 100% of the construction or for the increase in the budget.

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Harvey, it was voted on and unanimously carried to require the developer to report on the required "Annual Report" form the status of construction, changes to the project construction budget, and where there are increases to the construction budget

previously submitted to the Commission, the developers are to increase the amount of evidence of security to cover the increases in the construction budget to complete the project. Reporting such changes on the "Annual Report" form does not relieve the developer of the obligation to file amendments to the developer's public report in accordance with §514B-56, HRS. It was also voted on and unanimously carried to revise the "Annual Report" form accordingly as recommended by staff.

Following a discussion on another amendment to the "Annual Report" form, which amendments have been reported on such form, upon a motion by Commissioner Kuriyama, seconded by Commissioner Gendrano, it was voted on and unanimously carried to have "minor" changes relating to page 9 of the Chapter 514B, HRS, DPR reporting on the names of "persons connected with the project", be administratively handled in the same manner as "minor" changes to the disclosure abstract submitted pursuant to 514A-61, HRS, without charging any amendment fees. There shall be no administrative changes to handling substantive changes to the DPR.

Next Meeting: July 11, 2012
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 10:23 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

Cynthia M. L. Yee
Senior Condominium Specialist

June 13, 2012

Date

Minutes approved as is.
 Minutes approved with changes; see minutes of _____