

**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: July 11, 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: Scott Sherley, Chair, Broker / Hilo Commissioner  
Bruce Faulkner / Vice Chair, Maui Commissioner  
Nikki Senter, Public / Honolulu Commissioner  
Stanley Kuriyama, Broker / Honolulu 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  
Cheryl Leong, Condominium Specialist  
Benedyne Stone, Condominium Specialist  
Diane Choy Fujimura, Senior Real Estate Specialist  
David Grupen, Real Estate Specialist  
Shari Wong, Deputy Attorney General  
Tammy Norton, Recording Secretary

Others: Aron Espinueva, Hawaii Association of REALTORS®  
Marsha Shimizu, Hawaii Association of REALTORS®  
Beth Holiday, Hawaii Association of REALTORS®  
Wayne Mau, Mutual of Omaha Bank  
Ed Pei, Hawaii Bankers Association  
Philip H. Wilia, Dower Realty  
Robin Sagadraca, Abe Lee Seminars  
Scott Arakaki, Badger Arakaki  
Iris Ikeda Catalani, Commissioner, Division of Financial Institutions  
Deborah Takeuchi-Au, Examiner, Division of Financial Institutions

Absent: None

Call to Order: Chair Sherley called the meeting to order at 9:45 a.m., at which time quorum was established.

Chair's Report: 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's  
Report:

#### **Additional Distribution**

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

4. Condominium Governance and Management
  - j. Division of Financial Institutions, DCCA, State of Hawaii's March 13, 2012 Request for an Informal Non Binding Interpretation of §514A-97(c)(1), HRS, Association of Apartment Owners funds; Handling and Disbursement, and §514B-149(c)(1)(A), HRS Association Fiscal matters; Handling and Disbursement of Funds and any related HRS sections - Deferred from the April 27, 2012 Real Estate Commission Meeting

Specialist Yee welcomed Commissioners Scott Sherley and Bruce Faulkner as the new Chair and Vice Chair of the Condominium Review Committee, respectively.

Minutes: Upon a motion by Commissioner Harvey, seconded by Commissioner Gendrano, it was voted on and unanimously carried to accept the minutes of the June 13, 2012 Condominium Review Committee meeting as circulated.

Condominium  
Governance and  
Management:

#### **AOUO Registrations**

Specialist Stone reported that there have been no new registrations for the month of June 2012.

#### **Case Law Review Program**

The following articles from the July 2012 issue of Community Association Management Insider were distributed for informational purposes:

- 1) *Williams v. Leisure Knoll Association, Inc.*, (May 2012)
- 2) *Dutton v. Board of Directors of Nancy Lane Home Owners Association*, (May 2012).

#### **Condominium Related Articles**

The following articles from the July 2012 issue of Community Association Management Insider were distributed for informational purposes:

- 1) "Connecticut Condo Owner Protection Bill Passes"
- 2) "Prepare Community for Electric Vehicle Installations".

Condominium  
 Project  
 Registration:

**Condominium Project Registration - Public Reports Issued**

A list of those condominium projects issued effective dates during the month of June 2012 were distributed for informational purposes.

PROJ #	PROJECT NAME	PROJECT ADDRESS	TMK #	UNITS	REPORT DATE
7245	1478 & 1480 MAHIQLE STREET	1478 & 1480 MAHIQLE ST HONOLULU HI 96819	111033017	2	B REPT 6/15/2012
7225	2338 AND 2340 MAKANANI DRIVE CONDOMINIUM	2338 & 2340 MAKANANI DR HONOLULU HI 96817	116018096	2	B REPT 6/26/2012
7228	4582 NANA PALI PLACE	4582 NANA PALI PL WAIMEA HI 96796	412013010	2	B REPT 6/26/2012
7227	91-163 EWA BEACH ROAD	91-163 & 91-163A EWA BEACH RD EWA BEACH HI 96706	191023008	2	B REPT 6/5/2012
7230	923 HIKINA LANE	923 HIKINA LN HONOLULU HI 96817	115005010	2	FINAL 6/7/2012
7236	DIAMOND HEAD HALE	3131 PUALEI CIR HONOLULU HI 96815	131026045	16	B REPT 6/18/2012
6903	HO'OLE'A TERRACE AT KEHALANI	KEHALANI MAUKA PKWY WAILUKU HI 96793	235001067	174	B AMD 5 6/12/2012
7246	KA MILO AT MAUNA LANI PHASE 6	68-1122 N KANIKU DR KOHALA COAST HI 96743	368022041	4	B REPT 6/29/2012
7223	KA MILO AT MAUNA LANI, PH 5	68-1122 N KANIKU DR KOHALA HI 96743	368022041	5	B REPT 6/4/2012
7220	LANIPO AT MAUNALANI CIRCLE	4967 MAUNALANI CIR HONOLULU HI 96816	133028056	3	B REPT 6/21/2012
7130	LAULANI VII PHASE 14	91-1001 KEAUNUI DR EWA BEACH HI 96706	191069037	21	B AMD 6/5/2012
7244	LAULANI XIV PHASE 22	91-1001 KEAUNUI DR EWA BEACH HI 96706	191149031	9	B REPT 6/5/2012
7247	LAULANI XV, PHASE 23	91-1001 KEAUNUI DR EWA BEACH HI 96706	191149031	15	B REPT 6/18/2012
7204	LOT F ESTATES	3362 KALUA MOA RD LAWAI HI 96765	426009070	2	B REPT 6/14/2012
7248	MAKAHA OCEANVIEW ESTATES	84-575 KILI DR WAIANAHE HI 96792	184002064	16	B REPT 6/29/2012
7241	MILO COURT AT KEHALANI (PH 5)	OFF HONOAPIILANI HWY MAUKA WAILUKU HI 96793	235001081	10	FINAL 6/29/2012
7232	MO'OMO'OIKI	5452 HANA HWY HANA HI 96713	214003049	2	B REPT 6/18/2012
7190	PALALAY ESTATES	4466 ANONUI ST LIHUE HI 96766	433007003	3	B REPT 6/8/2012
7242	PUAAE ROAD	45-252 A - E / 45-270 A - G PUAAE KANEHOE HI 96744	145084046	12	B REPT 6/12/2012
6392	THE BREAKERS	3702 LWR HONOAPIILANI RD LAHAINA HI 96761	243006002	60	SUPPL 3 6/4/2012
7168	THE COVE WAIKIKI	1800 & 1820 KAIOO DR HONOLULU HI 96815	126012037	117	B AMD 6/29/2012
0	<b>Preliminary Reports</b>				
0	<b>Contingent Final Reports</b>				
2	<b>Final Reports</b>				
1	<b>Supplementary Reports</b>				
15	<b>B Reports</b>				
3	<b>B Amendment Reports</b>				
21	<b>TOTAL REPORTS</b>				

**Consultants – Procurement for Professional Services**

The Director has approved entering into contracts with 11 condominium consultants.

Deputy Attorney General Wong noted that there has been a fee cap increase and an additional hourly pay for certain services rendered.

Program of Work: **Neighbor Island Outreach and Condominium Specialist Office for the Day**

Chair Sherley announced that the Neighbor Island Outreach Committee meetings and the Condominium Specialist Office of the Day will be held on September 12, 2012 at the Hawaii Innovation Center, U.H. Hilo.

**Rulemaking, Chapter 53, Fees**

It was reported that the Governor's approval has been received to hold public hearings.

Condominium  
Governance and  
Management:

**Division of Financial Institutions, DCCA, State of Hawaii's March 13, 2012 Request for an Informal Non Binding Interpretation of §514A-97(c)(1), HRS, Association of Apartment Owners funds; Handling and Disbursement, and §514B-149(c)(1)(A), HRS Association Fiscal matters; Handling and Disbursement of Funds and any related HRS sections - Deferred from the April 27, 2012 Real Estate Commission Meeting**

Specialist Yee recounted for the committee the history of the request.

Commissioner Ikeda Catalani then reported that DFI is continuing to receive consumer complaints that condominium owners are being directed to pay their monthly assessments to Mutual in Arizona as opposed to making deposits at the branch located in Hawaii. Consumer coupon books are continuing to instruct condominium owners to send payments to Arizona. Mutual of Omaha has since opened its branch office in Hawaii. It has sent a notice to the federal regulator and DFI. DFI understands from Mutual's reports that the branch office is a full service branch. DFI assumes that the full service bank would accept deposits at its branch. However, consumers are still been told that they are unable to make payments at the branch and that they could make payments online. Thus, DFI is still questioning whether Mutual of Omaha Bank is in compliance with §514A-97(c) (1), HRS, and §514B-149(c) (1) (A), HRS.

Chair Sherley questioned whether it was just one consumer complaint received.

Commissioner Ikeda Catalani responded in the affirmative and noted that the complaint was received on July 2 or 3, 2012.

Commissioner Kuriyama questioned whether there are any laws that prohibit unlicensed activity of banks and if so, will DFI take action.

Commissioner Ikeda Catalani responded in the affirmative and noted that Mutual of Omaha Bank is currently licensed in Hawaii as of June 18, 2012. The issue at hand is that Mutual of Omaha Bank is still not accepting deposits from condominium owners in Hawaii.

Mr. Wayne Mau, local counsel for Mutual of Omaha Bank then presented the following information. Mutual of Omaha is a full service bank in Hawaii. The branch opened on June 18, 2012. They are properly licensed to conduct banking activities in Hawaii. HRS Chapters 514A and 514B do not regulate Mutual of Omaha Bank, those laws regulate associations and where they can make their

deposits. Mr. Mau stated that he is unaware of any customer being unable to make a deposit at the branch office and does not know the circumstances surrounding the incident, but will look into it. He further noted that in order to maintain business in Hawaii, Mutual of Omaha Bank opened a branch in Hawaii which does accept deposits.

Commissioner Kuriyama requested clarification whether an association could open an account and make deposits at the Mutual of Omaha Bank Branch office.

Mr. Mau responded in the affirmative. Mr. Mau also noted that depending on the relationship of the account and for record keeping purposes; deposits are usually made by the association or the management company. He also noted that as a full service branch, Mutual of Omaha Bank also provides mortgage loans, consumer accounts, etc.

Mr. Mau also noted that Mutual of Omaha Bank was previously with the Community Association Bank, which became Mutual a few years ago.

Deposits have been based on the Commission's previously issued informal non-binding interpretation.

Commissioner Kuriyama moved to take the matter under advisement. Commissioner Gendrano seconded the motion.

DFI Examiner, Deborah Takeuchi-Au, stated that the deposits continue to go to Arizona. She noted that the statute states that deposits be made in a bank who has a presence in Hawaii.

The motion was voted on and unanimously carried.

Executive Session:

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

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Cobb, it was voted on and unanimously carried to issue an informal non-binding interpretation that: If an association or managing agent deposits all funds collected for an association in a financial institution located in the State in accordance with of §514A-97(c)(1), HRS, or §514B-149(c)(1)(A), HRS, the association or managing agent is in compliance with the referenced statutes.

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:

August 8, 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 Sherley adjourned the meeting at  
10:32 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

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Cynthia M. L. Yee  
Senior Condominium Specialist

July 16, 2012

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Date

Minutes approved as is.

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

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