

**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 8, 2009

Time: Upon adjournment of the Laws and Rules Review Committee meeting scheduled to convene at 9:30 a.m.

Place: State Office Building  
Conference Rooms A, B, & C  
3060 Eiwa Street  
Lihue, Kauai

Present: Michele Sunahara Loudermilk, Chair, Public / Honolulu Commissioner  
Louis Abrams, Broker / Kauai Commissioner  
Trudy Nishihara, Broker / Honolulu Commissioner  
Carol Ball, Broker / Maui Commissioner  
Stanley Kuriyama, Broker / Honolulu Commissioner  
Annette Aiona, Broker / Hilo Commissioner  
Frances Gendrano, Broker / Honolulu Commissioner

Neil Fujitani, Supervising Executive Officer  
Cynthia Yee, Senior Condominium Specialist  
Diane Choy Fujimura, Senior Real Estate Specialist  
Shari Wong, Deputy Attorney General  
Tammy Norton, Recording Secretary

Others: Marsha Shimizu, Hawaii Association of REALTORS®  
Dimples Y. Kano, Kauai Board of REALTORS®  
Karen Ono, Kauai Board of REALTORS®  
Rowena Cobb, Kauai Board of REALTORS®  
John Connelley, Hawaii Institute of Real Estate  
Steven A. Hunt, County of Kauai Real Property Assessment

Absent: Mark Suiso, Vice Chair, Public / Honolulu Commissioner  
Walter Harvey, Broker / Honolulu Commissioner

Call to Order: Chair Loudermilk called the meeting to order at 9:44 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.

Commissioners Suiso and Harvey were excused from the meeting. Prior notification of their non-attendance was received.

Condominium  
Specialist's  
Report:

### **Minutes of Previous Meeting**

Upon a motion by Commissioner Abrams, seconded by Commissioner Gendrano, it was voted on and unanimously carried to accept the minutes of the June 10, 2009 Condominium Review Committee meeting as circulated.

Condominium  
Governance and  
Management:

### **Mediation and Arbitration**

Specialist Yee submitted a written report on her attendance of the "Neutral Evaluation; A Powerful Addition to the ADR Toolbox" seminar sponsored by the Judiciary's Center for Alternative Dispute Resolution (ADR) on May 29, 2009 in the Hawaii Supreme Court Conference Room. Robert K. Wrede, JD, LLM, a practicing commercial lawyer actively involved in ADR as a mediator and arbitrator, conducted the session.

Commissioner Nishihara questioned whether Neutral Evaluation Mediation and Evaluative Mediation were the same.

Specialist Yee responded in the negative and clarified that in neutral evaluation, the parties come to the table and lay out all of the evidence. Generally, in evaluative mediation, each party makes a presentation about their position without necessarily sharing any evidence.

### **AOUO Registrations**

Specialist Yee reported that as of June 30, 2009 1,461 projects have submitted their 2009-2011 AOUO biennial registration. Of the 1,461 project registrations received, 1,373 applications are complete and are thus registered for the 2009-2011 biennium.

### **Case Law Review Program**

The following articles from the June 2009 issue of *Community Association Management Insider* were distributed for informational purposes: 1) "Association Not Liable for Defamation"; 2) "Association Allowed to Hold Special Meeting"; and 3) "Association Not Liable for Discrimination".

### **Condominium Related Articles**

The following articles from the May/June 2009 issue of *Common Ground* were distributed for informational purposes: 1) "home front - Law Drywall Dilemma", 2) "home front - Law Dog Fight"; 3) "home front - Law Alpaca Feud"; 4) "Curiouser & Curiouser"; 5) "Good Medicine".

### **CDR Pilot Program**

The following CDR cases were distributed for informational purposes: 1) *In the Matter of Alice Clay, Petitioner vs. One Kalakaua Senior Living Association, Respondent*, CMDR 2008-2 Hearing's Officer's Findings of Fact, Conclusions of Law and Decision; and 2) *In the Matter of John K. Wong, Member, Board of Directors, AOA Waikiki Banyan, Petitioner, vs. Association of Apartment*

*Owners of Waikiki Banyan, Respondent, CMDR 0809-3 Hearing's Officer's Findings of Fact, Conclusions of Law and Decision; Appendices "A" and "B"*

Condominium  
 Project

**Condominium Project Registration - Public Reports Issued**

Registration: A list of those condominium projects issued effective dates during the month of June 2009 were distributed for informational purposes.

PROJ #	PROJECT NAME	PROJECT ADDRESS	TMK #	UNITS	REPORT DATE
6788	1518 AULD LANE	1518 AULD LN HONOLULU HI 96817	116006150	2	B REPT 6/1/2009
6809	1735 ALA AMOAMO STREET	1735 ALA AMOAMO ST HONOLULU HI 96819	111032002	3	B REPT 6/9/2009
5948	2735 HENRY STREET (FKA 2739 HENRY STREET)	2739 HENRY ST HONOLULU HI 96817	122036004	2	SUPPL 6/24/2009
6797	432, 434 AND 436 KALAMA STREET	432, 434 & 436 KALAMA ST KAILUA HI 96734	143039016	3	B REPT 6/1/2009
6816	47-410 AHUIMANU PLACE	47-410 AHUIMANU PL KANEHOE HI 96744	147003007	4	B REPT 6/12/2009
6827	51-429 HA' AHA' A STREET AND 51-430 HIWAHIWA STREET	51-429 HAAHAA ST & 51-430 KAAAWA HI 96730	151014028	2	B REPT 6/9/2009
6823	59-744 KAMEHAMEHA HIGHWAY	59-744 KAMEHAMEHA HWY HALEIWA HI 96712	159004004	2	B REPT 6/22/2009
6782	CANDYLAND RANCH	67-290 FARRINGTON HWY WAIALUA HI 96791	167002034	2	B REPT 6/16/2009
6796	CUSTINO ESTATES	45-590/592/592A/592B/592C PALEKA RD KANEHOE HI 96744	145068054	6	B REPT 6/1/2009
6755	FREEDOM ACRES CONDOMINIUM	715 KAUIHIOA RD HAIKU HI 96708	227008035	2	B REPT 6/1/2009
6743	HALE COOK CONDOMINIUM	5-7313 KUHIOWA HWY HAENA HI 96714	458009008	2	B REPT 6/16/2009
6784	HALEAKALOA	42-100 KOOKU PL KAILUA HI 96734	142098018	2	FINAL 6/8/2009
6751	HOLOMUA	1315 KALAKAUA AVE HONOLULU HI 96826	124006017	176	B AMD 6/16/2009
6836	HONU KAI CONDOMINIUM (RESTAURANT CONDOMINIUM)	130 KAI MALINA PKWY LAHAINA HI 96761	244014006	1	B REPT 6/26/2009
2100	KAHUNA CONDOMINIUM	05-785 KUHIOWA HWY KILAUEA HI 96754	451004006	3	SUPPL 6/9/2009
5979	KALAHEO CONDOMINIUM	25 HANIU ST LAHAINA HI 96761	247001028	2	SUPPL 6/9/2009
6702	KALAPAKI 2	4538 HOOMANA RD LIHUE HI 96766	438004001	2	B REPT 6/24/2009
3070	KALIHIWAI RIDGE MAKAI CONDOMINIUM	LOT 16 KALIHIWAI RDGE II KALIHIWAI HI	452022016	5	SUPPL 6/4/2009
6814	KANEKO ESTATES	4081-4111 WAHA RD KALAHEO HI 96741	423002098	6	B REPT 6/24/2009
6443	KAPOLEI KAI	2176 LAUWILIWILI ST KAPOLEI HI 96707	191075008	11	B AMD 2 6/22/2009
6787	KAPOLEI VISTAS	91-245 WAHANE PL KAPOLEI HI 96707	191112124	13	B REPT 6/5/2009
6597	KAULANA CONDOMINIUMS	99-012 A/B/C/E/D/F KAUAHALE ST AIEA HI 96701	199041046	6	B AMD 6/16/2009
6826	KOKO HEAD SFERS CONDOMINIUM	1012 KOKO HEAD AVE HONOLULU HI 96816	132014042	2	B REPT 6/30/2009
6830	LAULANI PHASE 3	91-1001 KEAUNUI DR EWA BEACH HI 96707	191149003	17	B REPT 6/25/2009
6800	LOKOE PL. CONDOMINIUM RESIDENCE	62-145 & 62-147 LOKOE PL HALEIWA HI 96712	162003005	2	B REPT 6/9/2009
6824	LOT 1 OLOWALU CONDOMINIUM PROJ.	256 LUAWAI ST LAHAINA HI 96761	248003010	2	B REPT 6/25/2009
6799	MAKAI RIDGE	44-646/652/656 KANEHOE BAY DR KANEHOE HI 96744	144013024	6	B REPT 6/23/2009
6795	MALAIHI CONDOMINIUM	770 MALAIHI ST WAILUKU HI 96793	232013041	3	B REPT 6/22/2009
6765	MANU MELE	1244 & 1246 MANU MELE ST KAILUA HI 96734	142051073	2	B AMD 6/4/2009
6774	NASCIMENTO CONDOMINIUM	24 AND 26 KULU LN PUKALANI HI 96788	223043002	2	B REPT 6/5/2009
6767	OLOWALU MAUKA 14 CONDOMINIUM	255 LUAWAI ST LAHAINA HI 96761	248003097	2	B REPT 6/5/2009
6831	PAIA HALE CONDOMINIUM	207 & 211 BALDWIN AVE PAIA HI 96779	226007011	2	B REPT 6/22/2009
5898	PARK PLAZA	590 LIPOA PKWY KIHEI HI 96753	222024008	26	SUPPL 6/22/2009

6778      UNCLE ED'S                                  5-7383 KUHIO HWY                                  458009004      2      B REPT      6/1/2009  
 WAINIHA HI 96714

1            **Final Reports**  
 5            **Supplementary Reports**  
 24          **B Reports**  
 4            **B Amendment Reports**  
 34          **TOTAL REPORTS**

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

Chair Loudermilk announced that both she and Commissioner Abrams met with staff and Condominium Consultant Lloyd Sodetani via teleconference regarding the drafting of proposed rules. A letter will be sent out next week to stakeholders requesting comments. Information will also be posted on the Commission's website regarding the rulemaking project. The group is looking to provide a draft by October or November, with a more polished version in December or January 2010.

**Legislative Acts and Resolutions**

The following condominium related Acts were distributed for informational purposes: Act 009 (SLH 2009) extends the CDR pilot program to June 30, 2011; Act 010 (SLH 2009) increases the amount that condominium associations may recover in maintenance fees from the foreclosure of a condominium unit from \$1,800 to \$3,600; Act 128 (SLH 2009) expands limitations on association's liability for elderly unit owners or residents aging in place to include disabled persons; and Act 129 (SLH 2009) merges the condominium management education fund into the condominium education trust fund.

**Consumer Education**

The Commission is currently working with its consultant to update the brochures, "Condominium Owners Rights and Responsibilities" and "Condominium Board Members Powers and Duties." The current draft required more work thus staff did not post this draft to the Commission's website as originally targeted. A final draft is due to the Commission in approximately one month to allow the consultant time to incorporate the new laws.

**Rulemaking, Chapter 53, Fees**

It was reported that currently AOUIOs of five or more units are required to register with the Commission and biennially pay into the condominium education trust fund \$4 per unit. The Commission currently expends more than the \$4 per unit on education. The Commission previously approved an increase from \$4 to \$7 per unit for the AOUIOs and an increase to developer's from \$5 to \$10 per unit. The Department is moving ahead with the rulemaking process and will be going through public hearings in the near future.

Condominium                                  No comments, recommendations or concerns were received from the following:  
 Organizations Forum:      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.

Open Forum: Steven Hunt of the County of Kauai Property Tax Assessment Office was present. Mr. Hunt requested that the Commission require developers to submit to the Kauai Real Property Assessment office a letter sized copy of the map during initial registration and for any supplemental amendments updating the map.

Chair Loudermilk responded that the official record keeper of the maps is the Bureau of Conveyances and noted that not all projects are registered with the Commission.

Mr. Hunt noted that the Assessment office does not have any authority to require a map be submitted to their office and would appreciate the Commission's assistance.

Specialist Yee responded that the Commission cannot require a developer to provide the Real Property Assessment Office with a letter sized copy of the map, but it can make the suggestion. Specialist Yee noted that she believed this issue was addressed previously and that our REC instructions do suggest that the developer provide a copy to the Kauai Planning Department, Kauai Real Property Assessment Division, and the Kauai Department of Water.

Mr. Hunt noted that in some cases, his office receives a copy from the Planning Department, but would like to receive the copy in a reduced size. He noted that the Real Property Assessment Office is also able to receive this information in electronic format.

Chair Loudermilk thanked Mr. Hunt for attending the meeting and informed him that staff will look in to the matter to see how we can be of assistance.

CETF Budget & Finance Report: No report presented.

Next Meeting: August 12, 2009  
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 10:12 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

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Cynthia M. L. Yee  
Senior Condominium Specialist

July 14, 2009

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Date

Minutes approved as is.  
 Minutes approved with changes; see minutes of \_\_\_\_\_