

**CONDOMINIUM REVIEW COMMITTEE**  
Real Estate Commission  
Professional and Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii  
[www.state.hi.us/hirec](http://www.state.hi.us/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 10, 2002

Time: 11:00 a.m.

Place: Kapuaiwa Room  
HRH Princess Victoria Kamamalu Building  
1010 Richards Street, Second Floor  
Honolulu, Hawaii

Present: Mitchell Imanaka, Chair  
Louis Abrams, Member  
Marshall Chinen, Member  
Kathleen Kagawa, Member  
John Ohama, Member  
Iris Okawa, Member  
Vern Yamanaka, Member

Calvin Kimura, Supervising Executive Officer  
Alan Taniguchi, Executive Officer  
Cynthia Yee, Senior Condominium Specialist  
Cheryl Leong, Condominium Specialist  
Gordon Arakaki, Condominium Recodification Attorney  
Diane Choy Fujimura, Senior Real Estate Specialist  
Lorene Arata, Real Estate Specialist  
Shari Wong, Deputy Attorney General  
Tammy Norton, Recording Secretary

Others: Iwalani Mountcastle, Vial Fotheringham LLP

Excused: Peter Rice, Vice Chair  
Patricia Choi, Member

Call to Order: Chair Imanaka called the meeting to order at 11:00 a.m., at which time quorum was established.

Chair's Report: Chair Imanaka acknowledged and welcomed the new commission members, Commissioners Abrams, Kagawa, Yamanaka and Chinen.

Condominium  
Specialist's  
Report:

**Additional Distribution**

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

- 5.a.3) Hawaii County Planning Department
- 6.t. Program of Work, FY03

Minutes: Upon a motion by Commissioner Ohama, seconded by Commissioner Okawa, it was voted on and unanimously carried to accept the minutes of the June 14, 2002 Condominium Review Committee meeting as corrected on page 3, 4<sup>th</sup> paragraph, change from “to be modified to current laws” to “to conform to current laws.”

Condominium  
 Governance and  
 Management:

**AOAO / CMA / CHO Registrations**

Specialist Leong reported that as of June 30, 2002, 1,439 AOAOs have successfully registered. Specialist Leong further reported that 115 CMAs are also currently registered.

Upon a motion by Commissioner Okawa, seconded by Commissioner Ohama, it was voted on and unanimously carried to recommend approval to ratify issuance of an effective registration date for the following Association of Apartment Owners through June 30, 2002 for the 2001-2003 registration: Destiny at Mililani Mauka Phase 1, June 13, 2002.

**Case Law Review Program**

Article entitled “Association Had Continuing Lien for Late Fees on Unpaid Assessments, but Amount of Late Fees Was Unreasonable” from the June 2002 issue of *Community Association law reporter* was distributed for informational purposes.

**Education Calendar – 2002 Legislative Update, July 18, 2002, CAI Hawaii**

Commissioner Ohama noted that Condominium Recodification Attorney Arakaki will be a guest speaker at the seminar to be held on July 18<sup>th</sup> which the Commission is a co-sponsor of. Specialist Yee noted that she will inform CAI Hawaii that they included a wrong disclosure on the flyer announcing the seminar. The Commission no longer subsidizes the apartment owner’s registration fees, it provides subsidy for the scheduled seminar itself.

**Condominium Related Articles**

The following articles from the May/June 2002 issue of *Common Ground* were distributed for informational purposes: “Twelve Years In The Life,” “unlawful entry,” and “the paper less chase.”

Condominium  
 Project  
 Registration:

**Condominium Project Registration - Public Reports Issued**

Chair Imanaka recused himself from voting as his firm is the attorney for projects 4849 and 4869. Upon a motion by Commissioner Abrams, seconded by Commissioner Ohama, it was voted on and carried to recommend approval to ratify issuance of effective dates for public reports for the month of June 2002 as follows:

Proj No	Project Name	Project Address	TMK #	Report	Date
4847	66-138/66-140 WALIKANAHELE ROAD	66-138& 66-140 WALIKANAHELE RD	()--:	Final	06/07/02
4848	8663 KAUMUALII HIGHWAY CONDO	8663 KAUMUALII HWY KEKAHA HI 96752	(4)1-03-010:004	Final	06/25/02
4845	AWANEI ESTATES	94-832-A,B&C AWANEI ST WAIPAHA HI 96797	(1)9-04-020:037	Final	06/18/02
4861	C.T.C. CONDOMINIUM	802 CEDAR ST&1266/1268 RYCROFT HONOLULU HI 96814	(1)2-03-013:044	Final	06/07/02

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4865	CHRISTIAN PROJECT CONDO	LOT 6 BOWLES HALF ACRES SUBDIV	(4)2-04-005:173	Final	06/25/02
4866	CORTEBELLA PHASE 15	KALAHEO HI 91-1841 LUAHOANA ST	(1)9-01-010:048	Prelim	06/13/02
4762	EXPRESSION III AT ROYAL KUNIA PH I	EWA BEACH HI 96706 POLINA PL	(1)9-04-146:005	Final	06/10/02
4735	HALEMALU AT PUHI	WAIPAHAU HI 96797 HANALIMA ST	(4)3-03-003:038	Final	06/24/02
4853	KALAHEO MACADAMIA PRESERVATION	PUNA HI IHU RD	(4)2-03-007:002	Final	06/05/02
4851	KAUHOLA INDUSTRIAL BUILDING	KALAHEO HI 96741 73-5600 KAUHOLA ST	(3)7-03-051:086	Final	06/18/02
4644	KUKIO BEACH CLUB AND COTTAGES	KAILUA-KONA HI 96740 MILE MARKER 87 QUEEN KAAHUMANU	(3)7-02-004:005	Final	06/27/02
4838	MALIKO ESTATE CONDOMINIUM	KAILUA-KONA HI 1390 KOKOMO RD	(2)2-07-033:002	Final	06/27/02
4850	MALULANI AGRICULTURAL CONDO	HAIKU HI 96708 LOT 4 KALIHAIWAI RIDGE PHASE II	(4)5-02-022:004	Final	06/25/02
4685	MARINERS PLACE TOWNHOMES, INCR 4	KILAUEA HI 91-1031 B & D KAIMALIE ST	(1)9-01-115:007	Final	06/25/02
4867	NAHAKU ESTATES	EWA BEACH HI 96706 2603,2623,2633 NAHAKU PL	(1)2-07-023:029	Final	06/18/02
4877	NANEA KAI	HONOLULU HI 96826 HAWAII KAI DR	(1)3-09-08:063	Cont	06/27/02
4849	PENINSULA AT HAWAII KAI THE- PROJ III	HONOLULU HI 96825 520 LUNALILO HOME ROAD	(1)3-09-008:016	Final Prelim	06/04/02
4869	PENINSULA AT HAWAII KAI-PROJ I	HONOLULU HI 96825 520 LUNALILO HOME RD	(1)3-09-008:016	Cont	06/25/02
4860	RANCHO ROSA	HONOLULU HI 96825 LOT 111-D KAPAA HMSTDS 2D SERI	(4)4-04-003:064	Final	06/12/02
4855	VILLA PRICILLA CONDOMINIUM	KAPAA HI 3650 ANINI BEACH RD	(4)5-03-04:033	Final	06/25/02
4547	VILLAGES AT MAUNA LANI THE	HANALEI HI 96714 LOT 4 N KANIKU DR	(3)6-08-022:004	Suppl 3	06/13/02
		KOHALA HI			

Preliminary Reports: 2  
 Contingent Final Reports: 2  
 Final Reports: 16  
 Supplementary Reports: 1

Total: 21

**Hawaii County Planning Department**

Chair Imanaka informed the new commissioners that the committee is having ongoing discussions with the Hawaii County Planning Department on agricultural condominiums. The committee recently received a letter from the Hawaii County Planning Department questioning the Commission's issuance of an effective date of a developer's public report.

Upon a motion by Commissioner Ohama, seconded by Commissioner Abrams, it was voted on and unanimously carried to enter into executive session pursuant to Section 92-5(a)(4), "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 Chinen, seconded by Commissioner Okawa, it was voted on and unanimously carried to move out of executive session.

Staff to issue a response letter to Mr. Yuen.

**Owner-Occupant Request for Waiver, HRS 514A-107**

Specialist Yee reported that the committee is in receipt of a request for an owner-occupant waiver from Mr. Marvin M. Ganoot. Mr. Ganoot's request states that a sale of the property is necessary as they can no longer carry on the mortgage obligation

due to a tragic death in the family coupled with a family member's loss of a job because of September 11. Specialist Yee further informed the committee that the Commission, in the past, has issued no action letters for similar requests falling under §514A-107(b).

Commissioner Okawa questioned whether, in this specific case, the tragic death was that of an owner-occupant. Deputy Attorney General Wong responded that the letter is not specific as to whom the deceased is, but that due to the nature of the request, it can fall under section 514A-107(b) (1) or (4).

Upon a motion by Commissioner Ohama, seconded by Commissioner Okawa, it was voted on and unanimously carried to recommend approval to issue an informal non-binding opinion that the circumstances described by Marvin Ganoot in his letter of June 28, 2002 appear to fall within §514A-107(b)(1) or (4), "Serious illness of any of the owner-occupants who executed the affidavit or any other person who was to or has occupied the residential apartment" or "Any unforeseeable occurrence subsequent to the execution of the [owner-occupant] affidavit," and further recommend approval to issue a no action letter.

#### **Project Statistics**

The circulated report statistics provide the average, maximum and minimum days for review of projects per consultant. The statistics distributed covers the period April 1, 2002 through June 28, 2002. Chair Imanaka reported that overall the consultants are doing a timely job of project review.

#### **Condominium Related Articles**

The following articles from the June 2002 issue of *Community Association Law Reporter* were distributed for informational purposes: "Extension of Covenants Is Valid" and "Successor to Original Declarant Found Liable for Failing to Provide Public-Offering Statement to Purchasers of Condominium Units."

#### **Program of Work:**

##### **Legislative Acts and Resolutions**

The following acts relating to condominium legislation were distributed for informational purposes: Act 137 – Telecommunication equipment, Act 140 – Notice on cost of providing information, Act 141 – 365 days for bylaw amendments, Act 142 – Mediation cost responsibility, and Act 204 – Timeshare.

##### **Interactive Participation with Organizations**

Vice Chair Rice and Condominium Recodification Attorney Arakaki submitted their written report on their attendance and participation at the Community Association Institute's 51<sup>st</sup> National Conference and Exposition held in May 2002. Mr. Arakaki further stressed the value of attending these conferences.

Chair Imanaka informed Mr. Arakaki that the recommendations discussed under "travel plans" has been duly noted.

CAI's Community Leadership Forum, October 24 – 26, 2002, Orlando, Florida

Upon a motion by Commissioner Ohama, seconded by Commissioner Okawa, it was voted on and unanimously carried to recommend approval to send one staff and one commissioner to this conference, subject to the availability of Condominium Education Funds, department approval, FY 03 budget, and as designated by the Chair of the Real Estate Commission and the Supervising Executive Officer.

**Program of Work, FY 03**

Upon a motion by Commissioner Abrams, seconded by Commissioner Okawa, it was voted on and unanimously carried to recommend approval of the Real Estate Commission's Fiscal Year 2003 Program of Work and Budget.

CMEF Budget &  
Finance Report:

No report presented.

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.

Open Forum:

Ms. Iwalani Mountcastle of Vial Fotheringham LLP questioned with the new laws taking effect, what will become of PUCs and Coops?

Chair Imanaka responded that Planned Unit Communities act is still in effect. The Commission will no longer regulate Limited Equity Housing Cooperatives and they will fall back to the Commissioner of Securities.

Next Meeting:

August 14, 2002; 11:00 a.m.  
Kapuaiwa Room  
HRH Princess Victoria Kamamalu Bldg.  
1010 Richards Street, Second Floor  
Honolulu, Hawaii 96813

Adjournment:

With no further business to discuss, Chair Imanaka adjourned the meeting at 11:38 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

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Cynthia M. L. Yee  
Senior Condominium Specialist

August 14, 2002

\_\_\_\_\_  
Date

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

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