

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: May 11, 2004

Time: Upon adjournment of the Education Review Committee meeting which follows the Laws and Rules Review Committee meeting scheduled to convene at 9:00 a.m.

Place: Conference Rooms A, B & C
State Office Building
75 Aupuni Street
Hilo, Hawaii

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

Calvin Kimura, Supervising Executive Officer
Cynthia Yee, Senior Condominium Specialist
Diane Choy Fujimura, Senior Real Estate Specialist
Shari Wong, Deputy Attorney General
Irene Kotaka, Recording Secretary

Others: Marsha Shimizu, Hawaii Association of REALTORS

Excused: Trudy Nishihara, Member

Call to Order: Chair Imanaka called the meeting to order at 10:00 a.m., at which time quorum was established.

Chair's Report: Chair Imanaka thanked the host, Big Island Commissioner Yamanaka.

Condominium Specialist's Report: **Minutes**
Upon a motion by Commissioner Rice, seconded by Commissioner Yamanaka, it was voted on and unanimously carried to accept the minutes of the April 14, 2004 Condominium Review Committee meeting as circulated.

Condominium
Governance and
Management:

Mediation & Arbitration – Contract Renewals

Upon a motion by Commissioner Rice, seconded by Commissioner Yamanaka, it was voted on and unanimously carried to recommend approval to automatically renew the Commission's Agreement for Consultant Service, for the period of July 1, 2004 through June 30, 2005, subject to the same terms and conditions of the existing Agreement, and subject to the availability of the Condominium Management Education Funds for the following consultants:

1. The Mediation Center of the Pacific
2. Mediation Services of Maui
3. Big Island Mediation, West Hawaii Mediation Center
4. The Island of Hawaii YMCA, Ku'ikahi Mediation Center
5. Kauai Economic Opportunity

Arbitration Program

Discussion on this was deferred to later in the meeting.

AOAO Registrations

Specialist Yee reported that as of April 30, 2004, 1,461 AOAOs have successfully registered.

Upon a motion by Commissioner Rice, seconded by Commissioner Yamanaka, it was voted on and unanimously carried to recommend approval to ratify issuance of effective registration dates for Association of Apartment Owners through April 30, 2004 for the 2003-2005 registration. The associations are as follows:

Nawiliwili Estates	4/19/2004	Rosalei The	4/1/2004
Varsity House	4/20/2004	Waikiki Royal The	4/6/2004

Hale Kai O Hualalai Condominium – Exemption Bond Requirement

Executive Session:

Upon a motion by Commissioner Ohama, seconded by Commissioner Okawa, 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 Abrams, seconded by Commissioner Ohama, it was voted on and unanimously carried to move out of executive session.

Hale Kai O Hualalai Condominium – Exemption Bond Requirement

The AOAO reported that its current common expenses for Hale Kai O Hualalai Condominium are only \$150 (as stated in the request for non-binding opinion); the current system of payments for those expenses work for the AOAO, the AOAO has the authority to assess; and that the AOAO is able to obtain a fidelity bond. Specialist Yee noted that an exemption from the bond requirement requires that the AOAO is unable to obtain a bond.

Upon a motion by Commissioner Abrams, seconded by Commissioner Yamanaka, it was voted on and unanimously carried to recommend approval to issue an informal non-binding interpretation that §514A-95.1(a)(1), HRS, requires the AOAO to register and obtain a fidelity bond irrespective that the only common element expense reported is an insurance policy premium of \$150 for a common driveway, which expense is paid annually by the president of the AOAO and later reimbursed directly from the owners for such.

Condominium Seminars and Symposium – Community Association Institute – Hawaii Chapter

Upon a motion by Commissioner Yamanaka, seconded by Commissioner Okawa, it was voted on and unanimously carried to recommend approval to automatically renew the Commission's Agreement for Consultant Service with the Community Association Institute – Hawaii Chapter, for the period of July 1, 2004 through June 30, 2005, subject to the same terms and conditions of the existing Agreement, and subject to the availability of the Condominium Management Education Funds.

Condominium Seminars and Symposium – Hawaii Association of REALTORS

Upon a motion by Commissioner Abrams, seconded by Commissioner Rice, it was voted on and unanimously carried to recommend approval to automatically renew the Commission's Agreement for Consultant Service with the Hawaii Association of REALTORS, for the period of July 1, 2004 through June 30, 2005, subject to the same terms and conditions of the existing Agreement and subject to the availability of the Condominium Management Education Funds.

Case Law Review Program

Article entitled "Landowner Liability Under Hawaii Law" from the April 2004 issue of *Hawaii Bar Journal* was distributed for informational purposes.

Condominium Related Articles

The article entitled "Insurance Costs: Terrorism" from the April-May 2004 issue of *Building Management Hawaii* was distributed for informational purposes.

Commissioner Yamanaka was excused from the meeting.

Mediation and Arbitration – Arbitration Program

Senior Specialist Yee reported that there were no filing fees involved in filing for arbitration but the charges were dependent upon the amount of time involved. Staff will continue to work on this program of work item to study the feasibility of subsidizing arbitration with CMEF funds.

Condominium Project Registration - Public Reports Issued

Registration: Upon a motion by Commissioner Abrams, seconded by Commissioner Kagawa, it was voted on and carried to recommend approval to ratify issuance of effective dates for public reports for the month of April 2004 as follows:

Proj No	Project Name	Project Address	TMK #	Report	Date
5336	1007 & 1007A ALEWA DRIVE	1007 & 1007A ALEWA DRIVE HONOLULU HI 96817	(1)1-08-034:062	Final	04/26/04
5244	17TH FAIRWAY VILLAS AT WAIKOLOA	68-3888 LUA KULA ST WAIKOLOA HI 96738	(3)6-08-003:009	Suppl 2	04/19/04
5335	2408 & 2408-A WAIOMAO ROAD	2408 WAIOMAO RD HONOLULU HI 96816	(1)3-04-028:007	Final	04/26/04
5318	2789 BOOTH ROAD CONDOMINIUM	2789 & 2789-A BOOTH ROAD HONOLULU HI 96813	(1)2-02-027:009	Final	04/22/04
5320	2823 J & K WINAM AVENUE CONDO	2823 WINAM AVE HONOLULU HI 96816	(1)2-07-035:007	Final	04/01/04
5292	33 AND 35 PILIPU PLACE	33 PILIPU PL KAILUA HI 96734	(1)4-03-018:045	Final	04/08/04
5308	47-045 AND 47-047 OKANA PLACE	47-045 & 47-047 OKANA PLACE KANEHOE HI 96744	(1)4-07-038:006	Final	04/07/04
5327	645 AND 647 KAHA STREET	645 KAHA ST KAILUA HI 96734	(1)4-03-081:046	Final	04/20/04
5205	909 KAPIOLANI	909 KAPIOLANI BLVD HONOLULU HI 96814	(1)2-03-003:073	Suppl 2	04/23/04
5117	AWAPUHI	LOT 7 MAKALEHA FALLS ESTATES KAPAA HI	(4)4-06-006:085	Suppl 1	04/20/04
142	BAMBOO (FKA KUHIOLANI APTS)	2425 KUHIO AVENUE HONOLULU HI 96815	(1)2-06-023:067	Suppl 1	04/12/04
5068	BATES ESTATES CONDOMINIUM	2221 KUAI ROAD KOLOA HI 97656	(4)2-08-018:035	Final	04/01/04
5191	CLARK HUI CONDOMINIUM PROJECT	LOT 14 KEOHOLE SUBDIV N KONA HI	(3)7-03-003:056	Final	04/15/04
5330	DESTINY III AT MILILANI MAUKA PH I	MOEA ST MILILANI HI 96789	(1)9-05-049:029	Prelim	04/02/04
5323	EMERLD PLAZA CENTER CONDO	LAHAINA BUSINESS PARK LAHAINA HI 96761	(2)4-05-010:024	Final	04/07/04
5290	HALE KANANI	40 KANANI RD KIHEI HI 96753	(2)3-09-016:002	Cont. Final	04/28/04
5334	HU'ELANI PHASE 19	91-766 & 91-768 LAUNAHELE ST EWA BEACH HI 96706	(1)9-01-116:000	Prelim	04/12/04
5345	ISLAND CLASSICS AT KAPANOE - PH II	HALEPAKUI & MAHEA ST MILILANI HI 96789	(1)9-05-002:001	Prelim	04/27/04
5326	KAIOLU SUNRISE	430 KAIOLU STREET HONOLULU HI 96815	(1)2-06-017:060	Final	04/13/04
5304	KALOKO BUSINESS CENTER IV	73-5620 KAUHOLA ST KAILUA KONA HI 96740	(3)7-03-051:094	Final	04/08/04
5227	KEA HONU	82-1064 KILOA ROAD CAPT COOKE HI 96704	(3)8-02-001:076	Final	04/06/04
5321	KOYAMA/HARUMI	1651 AINAOLA DRIVE HILO HI 96720	(3)2-04-007:091	Final	04/06/04
5119	LAUWA'E	LOT 8 MAKALEHA FALLS ESTATES KAPAA HI	(4)4-06-006:086	Suppl 1	04/20/04
5332	LEHUULA MAKAI	LEHUUULA KONA HI	(3)7-09-007:054	Final	04/26/04
5339	LOLOPUA	45-306 LOLOPUA ST KANEHOE HI 96744	(1)4-05-058:049	Final	04/26/04
5309	MAUNA IKENA CONDOMINIUM	6386 KAWAIHAU RD KAPAA HI 96746	(4)4-06-033:030	Final	04/30/04
5129	OCEAN RESORT VILLAS (PH 2&3)	SIX KAI ALA DRIVE LAHAINA HI 96761	(2)4-04-014:003	Final	04/16/04
5325	ORTAL ESTATES	3144 UNAHE ST LIHUE HI 96766	(4)3-06-019:053	Final	04/12/04
5168	PENINSULA AT HAWAII KAI-PROJ II	580 LUNALILO HOME ROAD HONOLULU HI 96825	(1)3-09-008:036	Final	04/06/04
5127	PUA KENI KENI	LOT 6 MAKALEHA FALLS KAPAA HI	(4)4-06-006:084	Suppl 1	04/20/04
4860	RANCHO ROSA	LOT 111-D KAPAA HMSTDS 2D SERI KAPAA HI	(4)4-04-003:064	Suppl 1	04/26/04

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5311	SPINNAKER PLACE TOWNHOMES INCR 1	OFF KEONE'ULA BLVD & KAPOLEI P EWA BEACH HI 96706	(1)9-01-012:040	Final	04/23/04
5329	THE FAIRWAYS AT MAUNA LANI	KALAHUIPUAA WAIKOLOA HI 96738	(3)6-08-002:005	Prelim	04/13/04
5188	TIBURON PHASE 11	91-686 TO 91-704 MAKALE'A ST EWA BEACH HI 96706	(1)9-01-010:082	Final	04/06/04
5341	TROPICAL BREEZE CONDOMINIUM	LOT 101-A KAPAA HMSTDS WAIPOULI HI	(4)4-04-003:177	Final	04/30/04
4547	VILLAGES AT MAUNA LANI THE	68-1025 NORTH KANIKU DR KOHALA HI 96743	(3)6-08-022:004	Suppl 9	04/06/04
5278	WAINIHA DELTA	ALAEKE RD HANAIE HI 96714	(4)5-08-005:018	Final	04/14/04
5029	WAIPIO RIDGE CONDOMINIUM PROJ	LOT 4 LALAKEA HAMAKUA HI	(3)4-08-004:015	Final	04/26/04
5331	WAKANAKA TERRACE	3656 WAKANAKA ST HONOLULU HI 96817	(1)1-09-002:006	Final	04/22/04
4969	WOOSLEY PLACE	3025 WOOSLEY PLACE HONOLULU HI 96822	(1)2-09-058:005	Final	04/02/04

Preliminary Reports: 4
 Contingent Final Reports: 1
 Final Reports: 27
 Supplementary Reports: 8

Total: 40

Chair Imanaka recused himself from voting on Project No. 142, Bamboo (fka Kuhlolani Apartments). Commissioner Rice recused himself from voting on Project No. 5329, The Fairways at Mauna Lani.

Condominium Consultants

Executive Session: Upon a motion by Commissioner Okawa, seconded by Commissioner Abrams, 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".

Commissioner Yamanaka returned to the meeting.

Upon a motion by Commissioner Ohama, seconded by Commissioner Okawa, it was voted on and unanimously carried to move out of executive session.

Upon a motion by Commissioner Ohama, seconded by Commissioner Okawa, it was voted on and unanimously carried to recommend approval to terminate the existing contracts between the Commission and the current condominium review project consultants effective upon the completion of the procurement of and the execution of new contracts for the review of the developers' condominium project filings.

Program of Work: **Recodification of Chapter 514A**

Chair Imanaka thanked the Commissioners and staff who participated in the effort to pass the Recodification bill. The bill allows a year to pursue further discussions, to study the issues involved and to draft proposed legislation to address the concerns. Chair Imanaka thanked the Recodification Attorney for his efforts and also thanked REC Chair Ohama for his support.

The Condo Court pilot project was included in the recodification bill. There will be a maximum of 30 cases that will be heard by the Office of Administrative Hearings. The Condominium Management Education will be providing \$25,000 in funding for FY2005 only. The Department will need to submit a report to the legislature on its findings.

Commissioner Okawa expressed strong feelings that those hearing the cases should be reminded that they are only hearing isolated issues and that those issues do not represent all condominiums. She also expressed that the Commission has concerns that policy not be set in the condo court forum.

Upon a motion by Commissioner Okawa, seconded by Commissioner Kagawa, it was voted on and unanimously carried to recommend that the Commission express its concerns to the Office of Administrative Hearings that the cases submitted for resolution through the condo court forum is not representative of the majority of condo disputes and may be isolated incidents and that policy should not be set within this forum.

Senior Specialist Yee reminded the Commissioners that the matter must be sent to mediation prior to being heard in condo court.

Government and Legislative Participation Report

The SEO reported that the supplemental budget request of \$100,000 from the Condominium Management Education Fund, based on recommendations from the Condominium Educational Advisory Committee, was rejected. The Recodification Attorney is currently having his first presentation of the recodification law since it was passed by the Conference Committees.

Hawaii Condominium Bulletin –Renewal of Printing Contract – Pioneer Ventures, Inc., dba Fisher & Pioneer Printers

Upon a motion by Commissioner Abrams, seconded by Commissioner Ohama, it was voted on and unanimously carried to recommend approval to automatically renew the Commission's Agreement for Consultant Service with Pioneer Ventures, Inc., dba Fisher & Pioneer Printers, for the period of July 1, 2004 through June 30, 2005, subject to the same terms and conditions of the existing Agreement, and subject to the availability of the Condominium Management Education Funds.

Program of Work, FY05

Upon a motion by Commissioner Abrams, seconded by Commissioner Rice, it was voted on and unanimously carried to recommend approval to adopt the proposed program of work and budget for fiscal year 2005, dated May 5, 2004, subject to technical, non-substantive changes.

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: None.

CMEF Budget & Finance Report: Information on the financial overview of the Condominium Management Education Fund for fiscal years 2004 to 2008 were distributed to the Commissioners for their information.

Chair Imanaka expressed his concerns about the projections and asked staff to address the potential shortfall.

The SEO reported that in the past, the Commission has delayed implementation of programs and has looked for ways to creatively address its needs.

Upon a motion by Commissioner Rice, seconded by Commissioner Kagawa, it was voted on and unanimously carried to request more detailed information, including information to address the projected shortfalls.

Next Meeting: Monday, June 7, 2004
Upon adjournment of the Education Review Committee meeting which follows 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

Program of Work: **Specialists' Office for the Day**

The next Specialists' Office for the Day will be on Friday, May 21, 2004, from 10 a.m. to 1 p.m., on the island of Kauai. The Specialists' Office for the Day will be held at the Kauai Board of REALTORS' offices, located at 4359 Kukui Grove, #103, Lihue, Kauai.

Adjournment: With no further business to discuss, Chair Imanaka adjourned the meeting at 10:48 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

Cynthia M. L. Yee
Senior Condominium Specialist

July 14, 2004
Date

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