

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

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 14, 2002

Time: 9:00 a.m.

Place: State Office Building, 2nd Floor
Conference Rooms A, B and C
3060 Eiwa Street
Lihue, Kauai

Present: Mitchell Imanaka, Chair
Peter Rice, Vice Chair
Charles Aki, Member
Michael Ching, Member
John Ohama, Member
Alfredo Evangelista, Member
Iris Okawa, Member
Patricia Choi, Member

Calvin Kimura, Supervising Executive Officer
Alan Taniguchi, Executive Officer
Cynthia Yee, Senior Condominium Specialist
Gordon Arakaki, Condominium Recodification Attorney
Diane Choy Fujimura, Senior Real Estate Specialist
Shari Wong, Deputy Attorney General
Karyn Takahashi, Recording Secretary

Others: Lola A. Cruz
Mary D. Stanton
Kenneth J. Koehler
Donna Lee
Larry H. Martin, Esq.
Louis Abrams
Marsha Shimizu, Hawaii Association of REALTORS®
Nicki Thompson, Hawaii Association of REALTORS®

Call to Order: Chair Imanaka called the meeting to order at 9:10 a.m., at which time quorum was established.

Chair's Report: No report was presented.

At this time, Chair Imanaka thanked host Commissioner Ching and also welcomed incoming Commissioner Louis Abrams to the meeting.

Condominium Project Registration: **Request for Informal Non-Binding Opinion §514A-39.5, HRS, Developer's Contingent Final Public Report – Deferred from REC meeting of May 31, 2002**

Chair Imanaka recused himself from this matter.

Commissioner Ohama moved to recommend approval to issuing an informal non-binding opinion that §514A-39.5, HRS, does not prohibit the filing of a request that the Commission issue an effective date for a developer's subsequent contingent final public report prior to the expiration of the effective date for the developer's original contingent final public report for a particular project. There shall be a definite termination date to the developer's original contingent final public report. Pursuant to §514A-64.5, HRS, purchaser has the right to rescind and have refund of purchaser's deposit with all interest and reimbursement of fees. Purchaser also may waive the right to rescind.

Senior Specialist Yee reported that this issue was deferred from the May 31, 2002, Real Estate Commission meeting.

Deputy Attorney General Wong indicated her approval of the non-binding opinion with the inclusion of the refund and rescission provisions.

Chair Imanaka provided comments for informational purposes and not for purposes of advocacy that the non-binding opinion cannot be inconsistent with the statute and the buyer must be given the opportunity to rescind.

Commissioner Evangelista inquired if the report is going to expire in nine months will the buyer be given their money back. Chair Imanaka replied that the buyer will be given the opportunity to receive a refund. SEO Kimura added that they have a right to a refund with interest or continue with the contract.

Commissioner Okawa seconded the motion.

Commissioner Ching inquired if this would be inconsistent with State law. Deputy Attorney General Wong responded no, the second filing does not take effect until expiration and they have the right to rescind.

The motion was voted on and carried.

Condominium
Specialist's
Report:

Minutes

Upon a motion by Commissioner Choi, seconded by Commissioner Ohama, it was voted on and unanimously carried to accept the minutes of the May 8, 2002 Condominium Review Committee meeting as circulated.

Condominium
Governance and
Management:

AOAO / CMA / CHO Registrations

Upon a motion by Commissioner Evangelista, seconded by Commissioner Aki, it was voted on and unanimously carried to recommend approval to ratify issuance of effective registration dates for Association of Apartment Owners through May 31, 2002 for the 2001-2003 registration. The associations are as follows:

Halaulani Condominium	5/31/02	Kapalama Uka	5/31/02
Nani O Kalalea Ranch	5/31/02		

Senior Specialist Yee reported that as of May 31, 2002, 1,438 AOAOs have successfully registered. Senior Specialist Yee further reported that 114 CMAs are also currently registered.

Case Law Review Program

Chair Imanaka reported that the Committee likes to keep abreast on how other courts are responding to governance and registration related issues.

The following articles from the *Community Association Law Reporter* were distributed for informational purposes: "Mere 'Shunning' by Association Does Not Violate Owners' FHA Rights," May 2002 issue and "Special Assessment Is Valid for Repairing Parking Deck but Not for Installing New Windows and Doors," April 2002 issue.

Chair Imanaka indicated that associations consider moving cautiously when contemplating restrictions on children and pets.

At this time, Ms. Donna Lee inquired if association bylaws can state no children and pets. Chair Imanaka indicated that older documents might be quite restrictive and need to conform to current laws.

Ms. Lee inquired on how to get a copy of the law and if there were any guidelines. SEO Kimura responded that they should contact the Hawaii Civil Rights Commission Office.

Condominium Seminars and Symposium – Neighborhood Condominium Owners' Forum – CMEF Funding Proposal

Senior Specialist Yee reported that at the previous meeting Ms. Lois Janis was asked to provide more specific information on her proposal. Ms. Janis did provide more information; however, the submission was late and appears incomplete.

SEO Kimura stated that Staff will work with Ms. Janis and gather information for discussion and decision making at the next Committee meeting. Consensus reached to defer decision and have Staff work with Ms. Janis for additional information.

CMA Registrations

SEO Kimura reported that Act 129 will take effect on July 1, 2002. CMA registration will no longer be required if the CMA is a real estate broker. The registration of Limited Equity Housing Cooperatives will no longer be under the jurisdiction of the Real Estate Commission. Thus, such will have to register with the Business Registration Division as well as with any other applicable Department.

Condominium Related Articles

Article entitled "Survival Tips and Lessons Learned From Serving on the Board" from the April 2002 issue of *Hawaii Community Associations, CAI Hawaii Chapter* was distributed for informational purposes.

One of the participants indicated her distribution of the article to other owners.

Commissioner Rice arrives.

Condominium
Project
Registration:

Condominium Project Registration - Public Reports Issued

Chair Imanaka recused himself from voting. Upon a motion by Commissioner Ching, seconded by Commissioner Aki, it was voted on and carried to recommend approval

to ratify issuance of effective dates for public reports for the month of May 2002 as follows:

Proj No	Project Name	Project Address	TMK #	Report	Date
4799	1607 MAKIKI STREET CONDO	1607 MAKIKI ST HONOLULU HI	(1)2-04-023:081 96822	Suppl 1	05/22/02
4854	1800 LANILOA PLACE	1800 LANILOA PLACE WAHIAWA HI	(1)7-05-008:017 96786	Final	05/31/02
4843	3457 MAUNALOA	3457 & 3457-A MAUNALOA AVE HONOLULU HI	(1)3-02-024:060 96816	Final	05/28/02
4846	3637 CRATER ROAD CONDO	3637 CRATER RD HONOLULU HI	(1)3-02-035:024 96816	Final	05/23/02
2358	4133/4137/4149/4155 SIERRA DR	4133/37/49/55 SIERRA DR HONOLULU HI	(1)3-03-018:024 96816	Suppl 1	05/09/02
4831	53-036 POKIWAI PLACE	53-036 POKIWAI PL HAUULA HI	(1)5-03-014:032 96717	Final	05/08/02
4826	CABRINHA CONDOMINIUM	799 HAMANA PLACE HAIKU HI	(2)2-07-009:081 96708	Final	05/16/02
4841	CORTEBELLA PHASE 14	91-1836 LUAHOANA ST EWA BEACH HI	(1)9-01-010:048 96706	Prelim	05/01/02
2883	CROZIER DRIVE BEACH AND FARM LOTS	68-770 CROZIER DRIVE MOKULEIA HI	(1)6-08-013:066 96791	Suppl 1	05/21/02
4856	DESTINY II AT MILILANI MAUKA PH II	KEKAHI ST,PU'UANU ST & PUUKA'A MILILANI HI	(1)9-05-02:034 96789	Prelim	05/30/02
4558	HANAPAI CONDOMINIUM	LOT 6 ANINI VISTA SUBDIV KALIHIWAI HI	(4)5-03-009:006	Suppl 1	05/13/02
4810	HU'ELANI PHASE 3	91-231 LUKINI PLACE EWA BEACH HI	(1)9-01-116:008 96796	Final	05/13/02
4837	KUPONO PLACE	99-014 & 99-014A KUPONO PL AIEA HI	(1)9-09-018:014 96701	Final	05/09/02
4852	MARINERS PLACE TOWNHOMES INCR 3	91-1031 KAIMALIE ST EWA BEACH HI	(1)9-01-115:007 96706	Final	05/23/02
4196	MAUI OCEAN CLUB	100 NOHEA KAI DR LAHAINA HI	(2)4-04-013:001 96761	Suppl 2	05/30/02
4836	N JUDD TOWN HOME	531 & 533 N JUDD ST HONOLULU HI	(1)1-07-038:026 96817	Final	05/15/02
4652	OCEAN RESORT VILLAS	SIX KAI ALA DR LAHAINA HI	(2)4-04-014:003 96791	Final	05/28/02
4722	PENINSULA AT HAWAII KAI THE - PROJECT	520 LUNALILO HOME ROAD HONOLULU HI	(1)3-09-008:016 96825	Final	05/13/02
4763	PUANANI CONDOMIUM	3168A & B KALIHIWAI RD HANAIE HI	(4)5-03-003:008 96714	Final	05/28/02
4842	TERRAZZA PHASE 15	91-216 MAKALE'A ST EWA BEACH HI	(1)9-01-010:049 96706	Prelim	05/08/02
4750	VILLAS AT KE ALAULA THE	KE 'ALAULA PL KAUPULEHU-KONA HI	(3)7-02-010:008 96740	Final	05/23/02
4723	VILLAS OF KAMALI'I	4171 LEI O PAPA RD PRINCEVILLE HI	(4)5-04-006:001 96722	Final	05/31/02
4840	WATERCOLORS AT MAKAKILO	MAKAKILO DR KAPOLEI HI	(1)9-02-019:040 96707	Cont. Final	05/01/02

Preliminary Reports: 3
 Contingent Final Reports: 1
 Final Reports: 14
 Supplementary Reports: 5

Total: 23

At this time, Deputy Attorney General Wong reported that she spoke with Deputy Attorney General Izu and at this time, Ms. Izu indicated that she will not be submitting more information and thanked the Committee.

Program of Work: Recodification of Chapter 514A

Recodification Attorney Arakaki reported that the first draft is online and the working committee is continuing to gather information. A second draft should be completed by August 2002.

Legislative Acts and Resolutions

SEO Kimura reported that beside what was reported earlier, there are no other bills pending.

Program of Work FY03 – Request for comments and recommendations

SEO Kimura stated that comments and recommendations are still welcome.

CMEF Budget &
Finance Report:

No report presented.

Condominium
Organizations Forum:

There were no comments, recommendations or concerns 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. Lola Cruz of Waiaka Village – Ms. Cruz reported that she has volunteered to be on the board of Waiaka Village and that the association is running into problems because they are not educated enough on what they can do.

Ms. Cruz indicated that their village is a plantation, she just bought her property and that is why she has decided to get involved. She noted that the village has one master water meter and some residents are reluctant to pay for their water. She noted that they no longer have a CMA and now the board collects for bond, insurance, water, etc.

Ms. Cruz inquired what is she supposed to do if residents do not pay? Does she need to retain a lawyer?

Chair Imanaka inquired if this was a condominium. Ms. Cruz responded no, they are detached homes.

Chair Imanaka inquired how many units were there. Ms. Cruz responded 29.

Chair Imanaka inquired if they have a declaration. Ms Cruz responded yes. Chair Imanaka inquired as to how they have addressed the non-payment situation in the past. Ms. Cruz responded that the former CMA threatened to put a lien on the homes.

Chair Imanaka inquired if there was an association. Ms. Cruz responded yes.

Chair Imanaka inquired if they have an attorney. Ms. Cruz responded no and asked if getting an attorney would be better than Small Claims Court.

Commissioner Okawa reported that individuals purchase units with the knowledge that they will have to abide by certain rules and that the board has the power to enforce the rules.

Commissioner Aki inquired why the board released the CMA. Ms. Cruz responded that the costs were going up. Commissioner Aki stated that sometimes it is easier to have an outside party manage the association as it is hard to go after your neighbors.

Chair Imanaka indicated that the Bar Association has a referral service if Ms. Cruz and the board is interested in seeking an attorney.

Senior Specialist Yee inquired how Ms. Cruz was made aware of the meeting today since letters were sent to the contact persons for each registered association of apartment owners. Ms. Cruz indicated she received a letter about the meeting.

Donna Lee – Waimea by the Sea – Ms. Lee inquired as to what sort of protection an association has when hiring someone to do a contracted job. She stated that they hired landscapers and wondered if they are injured how is the association protected?

Commissioner Evangelista inquired whether when they hired the landscaper did the board stipulate that the landscaper have worker's compensation insurance. Ms. Lee responded that she does not know. Commissioner Evangelista indicated that they should have worker's compensation insurance.

SEO Kimura indicated that they should also be properly licensed for the specialty area that they are handling—unlicensed individuals don't have liability insurance. He recommended that Ms. Lee contact DCCA and check on the individual's license.

Commissioner Rice inquired if they have a written contract. Ms. Lee responded yes. Commissioner Rice further inquired if the contract required that they have insurance. Ms. Lee responded no. Commissioner Rice recommended that they amend the contract and preset the amount of insurance that you want them to carry. Chair Imanaka stated that the board can have them provide a Certificate of Insurance.

Next Meeting: July 10, 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 10:00 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

Cynthia M. L. Yee
Senior Condominium Specialist

July 10, 2002

Date

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