

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: July 12, 2006

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: Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii

Present: Stanley Kuriyama, Chair, Broker / Honolulu Commissioner
Michele Sunahara Loudermilk, Vice Chair, Public / Honolulu Commissioner
Louis Abrams, Broker / Kauai Commissioner
Carol Mae Ball, Broker / Maui Commissioner
Trudy Nishihara, Broker / Honolulu Commissioner
Frances Gendrano, Salesperson / Honolulu Commissioner
Annette Aiona, Broker / Hilo Commissioner
Mark Suiso, Public / Honolulu Commissioner – late arrival

Calvin Kimura, Supervising Executive Officer
Neil Fujitani, Executive Officer
Cynthia Yee, Senior Condominium Specialist
Cheryl Leong, Condominium Specialist
David Grupen, Condominium Specialist
Diane Choy Fujimura, Senior Real Estate Specialist
Lorene Kimura, Real Estate Specialist
Shari Wong, Deputy Attorney General
Tammy Norton, Recording Secretary
Karyn Takahashi, Clerk Stenographer

Others: Esther Han, Case Lombardi & Pettit
Alicia Maluafiti, Hawaii Association of Realtors
Myong Oh, Hawaii Association of Realtors
Geoff Mukai, Carlsmith Ball
Bernice Littman, Attorney
Jeffrey Watts, Attorney
David Thomas, Condo Owner
Francis Mau, Condo Owner

Excused: William Chee, Broker / Honolulu Commissioner

Call to Order: Chair Kuriyama called the meeting to order at 9:15 a.m., at which time quorum was established.

Chair's Report: No report was presented.

Condominium Specialist's Report: **Additional Distribution Minutes**

Upon a motion by Commissioner Abrams, seconded by Commissioner Nishihara, it was voted on and unanimously carried to accept the minutes of the June 14, 2006 Condominium Review Committee meeting as circulated.

Condominium Governance and Management: **AOAO Registrations**

Specialist Grupen reported that as of June 30, 2006, 1,535 AOAOs have successfully registered.

Condominium Project Registration: **Informal Non-Binding Interpretation Requests – Case Lombardi & Petit**

Esther Han of Case Lombardi & Petit stated that based on the plain language of the statute and the omission of §514B-31, only unrecorded documents need to be submitted for the issuance of an effective date. The legislative history shows that the new statute was intended to relieve the burden on developers rather than impose burdens. By the use of the word "executed" the legislature intended to create a vehicle for what under Chapter 514A is a preliminary public report which is issued without recorded documents.

Deputy Attorney General Wong requested that Ms. Han clarify the relationship of "executed" with the preliminary and contingent final public reports.

Ms. Han responded that executed means signed by the fee owner at minimum but not recorded.

Executive Session: Upon a motion by Commissioner Nishihara, seconded by Commissioner Ball, 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 Suiso arrives at 9:22 a.m.

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

Bernice Littman

Ms. Littman reported that she was a member of the Commission's Blue Ribbon Recodification Advisory Committee which worked on the recodification of Chapter 514A. She noted that the committee intended the new statute to be a flexible instrument. The use of the term "executed" versus "recorded" causes some danger to the consumer, but the real danger is when the contract becomes binding which is when recorded documents are provided, prior to the 30 day notice that makes the consumer bound to the contract. She further noted in

reference to the definition of "project" that creation of a project is when the project is recorded and that the term "plan" should be used in all instances where there is a reference to "project."

Chair Kuriyama questioned who would sign the executed declaration and what the benefit to the consumer is.

Ms. Littman responded that the developer would sign and that at some point the developer is the fee owner. She further responded that when it becomes dangerous to the consumer, the documents need to be recorded.

Jeff Watts, Esq. was also present to present some information on the issue. Mr. Watts stated that it is exceedingly clear that the documents need not be recorded but only executed. At the initial development stage if the documents were required to be recorded there would be a multitude of recordations received at the bureau of conveyances. In almost all cases, the initial draft of the documents are changed or modified. If the documents were recorded early it would not serve a useful function.

Executive Session: Upon a motion by Commissioner Abrams, seconded by Commissioner Ball, 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 Nishihara, seconded by Commissioner Ball, it was voted on and unanimously carried to move out of executive session.

Condominium
Governance and
Management:

Condominium Seminars and Symposium – CAI Hawaii Chapter

Upon a motion by Commissioner Nishihara, seconded by Commissioner Ball, it was voted on and unanimously carried to recommend approval as CEF subsidized seminars, "Legislative Update" on July 6, 2006 subject to fiscal procedures and approval; "Reserves / Budgets / Insurance" on August 26, 2006; and "Owner and Board Disputes" on October 12, 2006 provided that if CAI Hawaii is awarded a new contract to provide these services for fiscal year 2007, these seminars are subject to the new contract's provisions.

Condominium
Project
Registration:

**Informal Non-Binding Interpretation Requests - §514A-107(b), HRS
David W. Thomas; Phillip G. Thayer; Kaki Tam and Lyn Huynh**

David W. Thomas was present and was asked if he wished to have his request for an informal non-binding interpretation considered in executive session. He declined the offer. Mr. Thomas reported that he signed an owner-occupant affidavit in August 2005. He has some medical issues, has lost his job and holding a mortgage at this time would be a burden to his family. If he is released from the owner-occupant requirement, Mr. Thomas will be in a better financial situation and be able to continue his medical care.

Upon a motion by Commissioner Ball, seconded by Commissioner Nishihara, it was voted on and unanimously carried to recommend approval of delegation to

have staff process ministerial requests, pursuant to HRS §436B-8(b), if any of the statutory extenuating circumstances exist based on satisfactory evidence from the requestor. If any of the statutory extenuating circumstances exist, staff to issue a "no action" letter on behalf of the Commission. All other requests requiring the discretion of the Commission shall be placed on the Condominium Review Committee agenda.

Informal Non-Binding Interpretation Requests – Declaration of Condominium Property Regime Recordation and Execution Requirements for Commission's Issuance of an Effective Date for a Developer's Public Report – Dennis M. Lombardi, Esq.; Edward R. Brooks, Esq., for listed member s of the former Blue Ribbon Condominium Law Recodification Committee

Upon a motion by Commissioner Nishihara, seconded by Commissioner Loudermilk, it was voted on and unanimously carried that pending and subject to staff conducting further research on the definition of "Project" as defined in §514B-3, HRS, recommend approval to issue an informal non-binding interpretation of §514B-54, HRS, that if and where a condominium project registration application is submitted with an executed declaration pursuant to §514B-54(a)(4), HRS, signed by the developer and/or fee owner, staff is instructed to accept the executed declaration. Recommend further to defer the request for non-binding interpretation of "Building Permit" to the August Condominium Review Committee meeting.

Informal Non-Binding Interpretation Requests – Act 93 (2005) sections 8, 9; §514A-37, 62, HB 3225, HD1, SD1, CD1, section 2 Staff provided – Richard Keifer, Esq.

Upon a motion by Commissioner Nishihara, seconded by Commissioner Ball, it was voted on and unanimously carried to recommend approval to defer the issue to the full Commission meeting.

Consultants

It was reported that a condominium consultant forum was held to go over the new law and forms with the consultants. The condominium consultants will be meeting more frequently in light of the new law.

Condominium
Governance and
Management:

Informal Non-Binding Interpretation Request - §514A-97, HRS; Francis Mau

Mr. Mau informed the Commission that he is requesting an informal non-binding interpretation on whether the Association can invest the association's funds in real estate. The law states investing only in government bonds and bank accounts, it does not state real estate.

The issue was discussed and the committee members were informed that Mr. Mau was previously provided information by staff that pursuant to the current condominium law, there does not appear anything in the law that specifically addressed the subject of an association purchasing an apartment other than that such purchase may be an addition to the common elements of the condominium

project. Nor does a plain general reading of the current law, §514A-97(c), HRS, indicate the legislature's intent to apply to the AOA's purchase of an apartment as a common element for the use by its resident managers. The plain general reading of the statute indicates an application of the statute to just "funds" of the association and where such "funds" may be invested. Further, §514B-149, HRS, mirrors language included in §514A-97, HRS. Section 514B-104, HRS, allows for the purchase of a residential unit by board approval.

Upon a motion by Commissioner Abrams, seconded by Commissioner Nishihara, it was voted on and unanimously carried to recommend approval to have staff reiterate its April 25, 2006 response to Mr. Mau and inform him that he may file a petition for declaratory ruling pursuant to Chapter 16-201, Hawaii Administrative Rules.

A list of those condominium projects issued effective dates during the month of June 2006 were distributed for informational purposes.

6010	1644 AND 1646 KAIKUAHINE STREET	1644 KAIKUAHINE ST HONOLULU HI 96817	(1)1-06-027:069	Final	06/23/06
6013	415 KAHA STREET	415 KAHA ST KAILUA HI 96734	(1)4-03-007:069	Final	06/29/06
6017	94-1260 AND 94-1260A PELE PLACE	94-1260 PEKE PL WAIPAHU HI 96797	(1)9-04-009:126	Final	06/13/06
5909	ANINI MUA LOA	3500 ANINI ROAD KILAUEA HI 96754	(4)5-03-005:019	Final	06/23/06
5998	BROOKLYN'S HILLSIDE PHASE I	45-553 KEAAHALA RD KANEHOE HI 96744	(1)4-05-021:004	Final	06/21/06
5999	BROOKLYN'S HILLSIDE PHASE II	45-555 KEAAHALA RD KANEHOE HI 96744	(1)4-05-021:004	Final	06/21/06
5599	CAPITOL PLACE	1200 QUEEN EMMA ST HONOLULU HI 96814	(1)2-1-009:011	Cont. Final	06/07/06
6009	CARVALHO ESTATES	6296 OPAEKAA RD KAPAA HI 96746	(4)4-02-021:022	Final	06/30/06
4531	DEAL'S CONDOMINIUM	4685 KULI RD KALAHEO HI 96756	(4)2-04-001:064	Suppl 1	06/27/06
5378	EWA OCEANSIDE	91-069 FORT WEAVER RD EWA BEACH HI 96706	(1)9-01-005:011	Final	06/21/06
5905	HALE MALUHIA CONDOMINIUM	98 LAHAOLE PL WAILUKU HI 96793	(2)3-01-007:038	Final	06/19/06
5869	HALE PUA ESTATES	6820 KAWAIHAU RD KAPAA HI 96746	(4)4-06-005:017	Final	06/16/06
5724	HALI'I KAI (PHASE IIB)	69-1029 NAWAHINE PL WAIKOLOA HI 96738	(3)6-09-010:001	Final	06/13/06
5671	HALI'I KAI (PHASE V)	69-1029 NAWAHINE PL WAIKOLOA HI 96738	(3)6-09-010:001	Final	06/22/06
5917	HAWAII AINA HUI - HAWI	55-581 HAWI RD HAWI HI 96719	(3)5-05-015:003	Final	06/06/06
5916	HAWAII AINA HUI - KAPA'AU	53-4230 AKONI PULE HWY KAPAAU HI 96755	(3)5-03-010:021	Final	06/06/06
5947	HAWAIIAN SUNRISE CONDOMINIUM PROJECT	69-1727 PUAKO BEACH DR KAMUELA HI 96743	(3)6-09-004:025	Final	06/02/06
4435	HONALO MAKAI	79-7165 ST PAUL ST KEALAKEKUA HI 96750	(3)7-09-015:020	Suppl 1	06/30/06
5781	HUALALAI VILLAGE (PH 1B & 1C)	75-346 HUALALAI RD KAILUA KONA HI 96740	(3)7-05-010:086	Final	06/13/06
6012	HULA HUAPALA	100 E HUAPALA PL LAHAINA HI 96761	(2)4-07-010:056	Final	06/21/06
5863	ISLAND CLASSICS II @ MILILANI MAUKA PHASE 3	UKUWAI ST MILILANI HI 96789	(1)9-05-049:027	Final	06/21/06
5694	KAAMOOLOA ESTATES	66-341 KAAMOOLOA RD WAIALUA HI 96791	(1)6-06-019:022	Suppl 2	06/27/06
5616	KAI MALU AT WAILEA (PHASE IV)	OKOLANI DRIVE KIHEI HI 96753	(2)2-01-008:117	Final	06/16/06
6006	KALANIPU'U	KALAPAKI LIHUE HI	(4)3-05-001:027	Prelim	06/07/06
6011	KAUHI COMMERCIAL CENTER	91-266 KAUHI ST	(1)9-01-032:057	Prelim	06/13/06

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5944	KINAU ESTATES	KAPOLEI HI 96707 1059 KINAU ST HONOLULU HI 96814	(1)2-04-013:014	Final	06/30/06
5589	KULALANI AT MAUNA LANI	68-1118 N KANIKU DR KOHALA HI	(3)6-08-022:007	Final	06/30/06
6008	MAKA' ALOHILOHI CONDOMINIUM	5691 HAUAALA RD KAPAA HI 96746	(4)4-06-009:061	Final	06/01/06
6015	MAKANA KAI AT WEHILANI PHASE 1, INCR 1-C	WAIKOLOA RD KOHALA HI	(3)6-08-002:027	Prelim	06/13/06
5991	MALIE WAI	4-1579 KUHIO HWY KAPAA HI 96746	(4)5-01-005:025	Final	06/22/06
5870	MURPHY STREET ESTATES	1617-2636 NIHI STREET HONOLULU HI 96819	(1)1-04-004:010	Final	06/30/06
6029	NOHONA II AT MILILANI MAUKA-PH I	UKUWAI ST MILILANI HI 96789	(1)9-05-049:027	Prelim	06/30/06
5996	PALMS AT WAIKIKI	1850 ALA MOANA BLVD HONOLULU HI 96815	(1)2-06-012:003	Cont. Final	06/26/06
6023	PEARLRIDGE SUNSET	98-080 UAO PL AIEA HI 96701	(1)9-08-039:008	Final	06/30/06
5951	PILI MAI AT PO'IPU	2611 KIAHUNA PLANTATION DR KOLOA HI 96756	(4)2-08-014:033	Suppl 1	06/05/06
5906	PIO OCEAN VILLAS APARTMENTS	509 PIO PL WAILUKU HI 96793	(2)3-08-037:043	Final	06/30/06
6022	PLANTATION TOWN APARTMENTS	94-979 KAU'OLU PL WAIPAHU HI 96797	(1)9-04-017:058	Prelim	06/15/06
6030	PUPUKEA SUNSET	59-564 PUPUKEA HOMESTEAD RD HALEIWA HI 96712	(1)5-09-28:012	Final	06/30/06
5992	RNR CONDOMINIUMS	329 OLIVE AVE WAHIAWA HI 96786	(1)7-03-002:010	Final	06/09/06
6005	ROYAL PALMS POIPU BEACH KAUAI	2393 KIAHUNA PLANTATION DR KOLOA HI 96756	(4)2-08-014:008	Cont. Final	06/26/06
5698	SUMMERS ESTATES	OPAEEKAA RD WAILUA HI 96756	(4)4-02-006:131	Final	06/27/06
6025	THE MIRANDA	3488 LWR HONOAPIILANI RD LAHAINA HI 96761	(2)4-04-001:074	Final	06/19/06
5993	VENTURA CONDOMINIUM	568 KAMALU RD KAPAA HI 96746	(4)4-02-003:015	Final	06/09/06
6018	VILLAS AT PUALI (PHASE III-B) THE	4261 PUHI RD LIHUE HI 96766	(4)3-03-003:039	Final	06/13/06
6000	VILLAS AT PUALI - PHASE III-A THE	4261 PUHI RD LIHUE HI 96766	(4)3-03-003:039	Final	06/01/06
5989	WAINIHA PLAIN VIEW CONDO	5-6684 KUHIO HWY WAINIHA HI 96714	(4)5-08-006:017	Final	06/13/06
5672	WATERMARK THE	1551 ALA WAI BLVD HONOLULU HI 96815	(1)2-06-011:001	Final	06/05/06

Preliminary Reports: 5
 Contingent Final Reports: 3
 Final Reports: 35
 Supplementary Reports: 4

Total: 47

Program of Work FY07: Condominium Recodification and Education

It was reported that the Oahu New Condominium Law Seminar provided by the Commission was held at the Hawaii State Capitol with an overwhelming attendance. Due to the large number of attendees, staff ran the seminar in two separate locations at the State Capitol simultaneously. Comments received from the seminar were distributed for informational purposes.

Government and Legislative Participation & Report

SEO Kimura reported that a summary of all Acts affecting real estate will be provided at the full Commission meeting. He further reported that Act 237 (HB 3225, CD1) was signed into law on July 6, 2006.

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: No discussion presented.

CEF Budget & Finance Report: No report presented.

Next Meeting: August 9, 2006
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

Adjournment: With no further business to discuss, Chair Kuriyama adjourned the meeting at 11:03 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

Cynthia M. L. Yee
Senior Condominium Specialist

August 9, 2006

Date

Minutes approved as is.

Minutes approved with changes; see minutes of _____