

**CONDOMINIUM REVIEW COMMITTEE**  
Real Estate Commission  
Professional and Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii

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: September 15, 1997

Time: 1:30 p.m.

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

Present: Alfredo Evangelista, Chair  
Mitchell Imanaka, Vice Chair  
Alvin Imamura, Member  
Charles Aki, Member  
Helen Lindemann, Member  
Carol Mon Lee, Member  
John Ohama, Member - early departure

Calvin Kimura, Supervising Executive Officer  
Cynthia Yee, Senior Condominium Specialist  
Camille Chun-Hoon, Condominium Specialist  
Gina Watumull, Condominium Specialist  
Shari Wong, Deputy Attorney General  
Tammy Norton, Recording Secretary

Others: Steve Gilbert, Hawaii Real Estate Research and Education Center  
Hiroshi Sakai, Attorney for One Kalakaua Partners  
Karen Kido, One Kalakaua Senior Living  
Cynthia Thieland  
Scott Radovich, Case Bigelow & Lombardi  
Cynthia Ching, Attorney for Nuuanu Parkside  
Agnes Ringle, HCAAO  
Kenneth Chong, Condominium Consultant

Excused: Michael Ching, Member

Call to Order: Chair Evangelista called the meeting to order at 1:35 p.m., at which time quorum was established.

Chair's Report: No report presented.

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

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

3. Senior Condominium Specialist's Report

- b. Minutes of Previous Meetings
4. Hawaii Real Estate Research and Education Center Report
  - a. Director and Real Estate Chair Report
    - 2) Condominium Board of Director's Guide - Anti-Discrimination in Hawaii Condominiums (Draft #1)
6. Condominium Project Registration, Public Reports, and Limited-Equity Housing Cooperatives
  - a. CPR Registration - Public Reports, Extensions Issued - August 1997 (amended)
  - d. Public Report Changes and Disclosure Abstracts
7. Program of Work, FY98
  - j. Interactive Participation with Organizations - CAI's 42nd and 43rd National Conference

Hawaii Real  
  
and Education  
Center:

A copy of HREREC's report was included as part of the additional distribution material. Estate Research Steve Gilbert reported on the status of the projects follows:

Hawaii Condominium Bulletin - Third bulletin completed and being printed for distribution. Winter edition of bulletin to be worked on next.

Specialist Watumull reported that the Commission has had many problems getting the 1997 Fall issue of the Condominium Bulletin out. The branch staff provided HREREC with both a hard copy and diskette copy of the Bulletin. Four drafts, each with a minimum of about 25 errors have gone back and forth between the REB staff and the HREREC staff before the final product was produced. HREREC informed Specialist Watumull that HREREC staff does not proof the final product until the end and that due to the differences in the software of the Commission and HREREC, many errors occur.

Mr. Gilbert stated that HREREC has a Macintosh system which is incompatible with the IBM, and the conversion software they have cannot read higher than a WP5.1; presently the Commission is using WP6.0. HREREC is trying to purchase the best transition system between a Macintosh and IBM. They are also trying to get approvals to upgrade to the same level of WordPerfect as REB. HREREC hopes to have the software and equipment in place by the writing of the Winter Bulletin. This should eliminate the present problems.

Specialist Watumull stressed that when HREREC makes the conversion of documents REB provides them with via a diskette, it is HREREC staff's responsibility to proof and make corrections before sending the product back to REB.

Mr. Gilbert acknowledged Specialist Watumull's request and replied that he would inform his staff.

Board of Director's Guide - "Guide to Condominium Living" - HREREC received back comments from REB. Will move ahead on the second draft. "Fair Housing" - First draft submitted. Committee viewed only an outline of the suggested guide.

Specialist Yee noted that in the past, that HREREC runs drafts of proposed guides by a focus group of industry members. Specialist Yee questioned whether HREREC is continuing to run proposed guides through a focus group.

Mr. Gilbert replied that the guide has not been reviewed by any outside sources. Presently there is not enough time to have a focus group review the proposed guides in the beginning draft stages.

Mr. Gilbert stated that the second draft of the Guide to Condominium Living brochure will be submitted to the committee for review at its October CRC meeting. If HREREC is unable to meet the deadline, Mr. Gilbert will contact Specialist Yee to inform her.

Specialist Watumull informed the Commissioners and staff to review the Fair Housing guide and to provide comments back to Specialist Watumull by Monday, September 22, 1997, Commissioners may either provide written comments or verbal comments to Specialist Watumull who will in turn collate all comments and provide them to HREREC. Mr. Gilbert agreed that he will then have another draft ready for the Committee's review by the November CRC meeting.

Commissioner Lee commented that the title "An Introduction to and Reference Guide for Hawaii Condominium Living" should be amended to "Hawaii Condominium Living: An Introduction and Reference Guide."

Condominium  
Governance and  
Management:

#### **AOAO Registrations**

Upon a motion by Commissioner Lee, seconded by Commissioner Aki, it was voted on and unanimously carried to recommend approval to ratify issuance of effective registration dates for Associations of Apartment Owners through September 3, 1997 for the 1997 Interim Registration. The associations are as follows:

<u>Project Name</u>	<u>Reg Date</u>	<u>Project Name</u>	<u>Reg Date</u>
Esplanade, The	06/27/97	Hanalei Bay Resort	05/29/97
Honalo Plaza	05/23/97	Hoyochi Nikko	06/20/97
Inn on the Park	05/16/97	Kahana Villa	06/25/97
Kuhio Village	06/18/97	Kumelawai Gardens	05/30/97
Mahinahina Beach	06/02/97	Maui Kai	06/30/97
Napua Point	05/30/97	Valley View Terrace	06/25/97

Upon a motion by Commissioner Imanaka, seconded by Commissioner Aki, it was voted on and unanimously carried to recommend approval to ratify issuance of effective registration dates for Associations of Apartment Owners through September 3, 1997 for the 1997-1999 Registration. The associations are as follows:

<u>Project Name</u>	<u>Reg Date</u>	<u>Project Name</u>	<u>Reg Date</u>
1015 Wilder	06/26/97	1041 Kahuamoku	08/05/97
1073 Kinau	08/18/97	1112 Kinau	07/31/97
1134 Kinau	08/28/97	1220 Matlock	08/11/97
1251 Heulu	06/02/97	1350 Ala Moana	06/30/97

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	1412 Kewalo	05/28/97	1616 Liholiho	08/12/97
	1718 Anapuni	06/02/97	1814 Poki	08/25/97
2040 Nuuanu	07/30/97	222 Kaiulani Apts	08/12/97	
2341 Date Street	06/02/97	3019 Kalakaua Ave	05/28/97	
33 Hualalai	05/30/97	3458 Kalihi	08/18/97	
465 Kapahulu	08/26/97	75 Kihapai	07/29/97	
855 Olokele, The	08/13/97	999 Wilder	07/24/97	
A'eloia Terrace	08/12/97	Acacia Park	08/18/97	
Academy Tower	09/02/97	Ahuimanu Gardens	08/13/97	
Aiea Medical Bldg.	08/11/97	Aina Ku'ai Kai	07/03/97	
Ala Wai Manor	06/02/97	Ala Wai Plaza Skyrise	08/18/97	
Ala Wai Plaza, Inc.	07/30/97	Ala Wailani	06/26/97	
Alaeloa, Inc.	08/18/97	Alewa Lani Estates	07/23/97	
Alii Kai At Hanalei	08/21/97	Alii Plantation, Ph. 1	07/25/97	
Alii Villas	08/11/97	Alika, The	06/02/97	
Aloha Lani	05/27/97	Anga-Roa Condo	08/29/97	
Atkinson Plaza	08/19/97	Awihi Townhouse	05/28/97	
Banyan Tree Plaza	07/28/97	Bay Villas	08/05/97	
Bellevue Tower	06/18/97	Big Surf	07/01/97	
CMDC Bldg.	09/02/97	Cal-Cam Centre	06/02/97	
Camelot	08/18/97	Cannery Row	06/18/97	
Canterbury Place	07/23/97	Capt Cook Ocean Vw	06/02/97	
Capt Cook Village I	06/02/97	Carmel Apts	07/29/97	
Carter Professional Ctr	06/04/97	Cassandra	05/28/97	
Castle Surf Apts	05/28/97	Chateau Waikiki	08/22/97	
Club View Gardens II	08/11/97	College Gardens	06/18/97	
Colonnade on the Greens	07/31/97	Colony I	09/02/97	
Continental Apts, The	08/26/97	Continental Plaza, The	07/30/97	
Coral Terrace Apts	08/21/97	Country Club Hawaii	05/28/97	
Craigside	08/12/97	Crescent Park	06/02/97	
Ctrl/Halawa Ind. Bldg	08/11/97	Diamond Head Bch Hotel	08/25/97	
Diamond Head Gardens	08/18/97	Dominis West Condo	05/30/97	
Dori Apts	08/06/97	Dowsett Point	06/02/97	
Emmalani Court Ph I	7/25/97	Esplanade, The	06/27/97	
EPA Villa Estates	08/27/97	Ewalani Village	06/02/97	
Fairway Manor	08/18/97	Fern Garden	05/30/97	
Fountains at Makiki	08/29/97	Four Forty Four Nahua	08/25/97	
Franklin Towers	08/25/97	Gardenia Manor	06/30/97	
Gardens @ Launani Valley	06/18/97	Golf Villas, The	07/02/97	
Gregg Apts, The	08/19/97	Haiku Hale	08/29/97	
Haiku Point	06/30/97	Halawa Industrial Plaza	08/21/97	
Hale Anaole Apts	06/30/97	Hale Kaanapali	08/19/97	
Hale Kaheka	06/30/97	Hale Kai	07/08/97	
Hale Kaloapau	07/31/97	Hale Kamaole	05/29/97	
Hale Kulanui	08/25/97	Hale Maile Condo	08/25/97	
Hale Napili Apts	05/27/97	Hale Pau Hana	08/29/97	
Hale Pohaku	08/14/97	Hale Pua Lei	06/18/97	
Haleakala Shores	08/25/97	Hanalei Bay Resort	07/30/97	
Harbor Lights	08/11/97	Harbor Square	08/12/97	
Harbor Terrace	06/02/97	Hassinger Gardens	08/27/97	
Hawaiian Monarch	08/25/97	Heulu Gardens	08/29/97	
Hi-Sierra	08/20/97	Hillside Terrace IV	07/25/97	
Hokolani In Kailua	06/30/97	Holiday Apts, The	07/25/97	
Hololani	08/04/97	Honalo Plaza	07/23/97	
Hono Kai	06/02/97	Hoyochi Nikko	06/20/97	
Huali Vista	07/24/97	Industrial Plaza	08/28/97	

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Inn on the Park	06/04/97	International Colony Club	06/02/97
Interstate Building	08/18/97	Iolani Court Plaza, The	08/20/97
Ironwoods, The	08/19/97	Island Colony	07/22/97
Isles @ Diamond Head	07/31/97	Iwilei Business Ctr	08/29/97
Ka Hale Mo'i	06/18/97	Ka Waena Lapa'au	05/30/97
Ka'eo Kai Phase II	07/30/97	Ka'eo Kai Phase III	07/30/97
Kaanapali Plantation	08/19/97	Kaanapali Shores	08/19/97
Kahala Pacifica	06/18/97	Kahala Towers	08/18/97
Kahala View Estate	07/23/97	Kahaluu Bay Villas	06/02/97
Kahaluu Hillside	07/31/97	Kahaluu Reef	08/08/97
Kahana Falls	05/19/97	Kahana Kai, The	08/27/97
Kahana Villa	06/25/97	Kahului Ikena	08/04/97
Kaihee Kai	08/26/97	Kailani, The	08/19/97
Kailua Village	06/25/97	Kaimuki Prof. Bldg.	07/10/97
Kainui Estates	06/30/97	Kaioo Terrace	08/18/97
Kala Kai Marina	05/28/97	Kalakaua Sands	08/19/97
Kalakauan, The	07/30/97	Kalama Townhouse	08/18/97
Kalokohana Bus. Ctr.	08/18/97	Kamaaina Hale	06/26/97
Kamaaina, The	05/30/97	Kamani Trees I	07/25/97
Kamaole Nalu Condo	08/25/97	Kamehameha Towers	08/18/97
Kanaloa @ Kona	08/27/97	Kanoe Palms	09/02/97
Kapiolani Bel-Aire	05/30/97	Kapiolani House	06/25/97
Kapiolani Villa	05/30/97	Kauhale Condominium	07/30/97
Kauhale Makai	08/19/97	Kaumualii Park Condo	06/18/97
Kawili Regency	05/30/97	Kealani	08/28/97
Kealoha Arms	07/25/97	Keauhou Akahi	06/02/97
Keauhou Palena	06/03/97	Keawakapu	08/22/97
Keonekai Villages	06/02/97	Kiahuna Plantation	08/18/97
Kihei Beach	06/26/97	Kihei Cove	05/29/97
Kihei Holiday	05/23/97	Kihei Villages	08/18/97
Kinau Lanais	07/30/97	Kinau Regent	08/26/97
Kinau Villa	09/02/97	King Manor	08/04/97
Kings Gate	08/14/97	Koa Kai Condo	05/28/97
Koa Lagoon	08/20/97	Kona Alii, The	07/17/97
Kona Coffee Villas	06/02/97	Kona Eastwind	08/22/97
Kona Islander Inn	06/25/97	Kona Isle	06/05/97
Kona Mansions V	08/18/97	Kona Polynesia, The	08/22/97
Kona Westwind	08/26/97	Koolau Vista	06/30/97
Kuhio Village	06/18/97	Kuilima Estates East	06/27/97
Kukuau Plaza	05/30/97	Kukui Mountain Park	06/24/97
Kulanui Hale	08/12/97	Kulioou Valley Vista II	06/25/97
Kulioou Valley Vistas	08/18/97	Kumelawai Gardens	09/02/97
Kunia Palms	08/18/97	La Casa	08/25/97
La Pietra	08/18/97	Lakecrest, The	06/02/97
Lakeshore Tower Condo	05/29/97	Lakeside Coronet	08/21/97
Lakeside Holiday	08/29/97	Lakeview Gardens	08/26/97
Lakeview Plaza	06/02/97	Lakeview Terrace	06/18/97
Lanikai	07/17/97	Leilehua, The	08/25/97
Leinaala	07/17/97	Leinani Apartments	05/16/97
Leisure Heritage Apts	08/08/97	Leolua Gardens	07/31/97
Leolua Regent	07/21/97	Lihue Townhouse	08/12/97
Likini West	08/29/97	Lime Tree	07/22/97
Lokelani	08/12/97	Lukepane Court, The	07/09/97
Luna-liho Towers	06/26/97	Lunalilo Gardens	06/02/97
Lusitana Hale	08/29/97	Lynwyd	08/14/97
Magellan, The	08/19/97	Mahana at Kaanapali	06/02/97

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Mahinahina Beach	06/02/97	Maile Tower, The	07/25/97
Makakilo Gardens I	06/02/97	Makakilo Gardens II	06/25/97
Makani A Kai	08/29/97	Makani Kai Marina	06/26/97
Makena Surf	07/28/97	Makiki Crescent	08/29/97
Makiki Regent	08/29/97	Makiki Winds Apts	07/25/97
Malia Kai	08/25/97	Manoa Hillside Estates	06/02/97
Marine Surf Waikiki	06/02/97	Mariner's Village	08/11/97
Mariner's Village II	07/24/97	Maui Eldorado	08/25/97
Maui Hill	08/14/97	Maui Isana Resort	08/28/97
Maui Kai	06/30/97	Maui Kamaole	08/14/97
Maui Park	05/14/97	Maui Sands	06/02/97
Maui Vista	06/30/97	Mauna Loa Village	05/29/97
Mauna Luan	08/13/97	Maunaihi Terrace	07/30/97
McCully Villa	07/25/97	Meheula Hale Patio Hms	08/29/97
Meridian East	08/25/97	Mililani Manor	07/31/97
Mililani Town Houses	06/24/97	Millyard Executive Suite	05/30/97
MJJ Apartments	06/20/97	Moilili Gardens	08/26/97
Mokulani Apartments	07/18/97	Mokuleia Beach Colony	06/02/97
Mokuleia Sands	08/22/97	Molokai Shores	08/29/97
Mt. Terrace	06/30/97	Na Hale Kumu	06/13/97
Nauru Tower	08/26/97	Newtown Villa II	05/30/97
Northpointe	07/28/97	Nuuanu Brookside	08/29/97
Oahu Surf I	08/27/97	Ohana Kewalo	06/02/97
Ohualani	08/21/97	Opua Hale Patio Hms	08/20/97
Pacific Grand	08/12/97	Pacific Heights Townhouse	05/30/97
Pacific Islander Hotel	08/26/97	Paki Maui	08/25/97
Palani Vista	06/02/97	Palehua Gardens	07/09/97
Palehua Hale	08/26/97	Palehua Villas	06/09/97
Palolo Garden	06/02/97	Paniolo Club	08/25/97
Parkside, The	07/18/97	Parkview Inc., The	07/16/97
Pat's at Punaluu	06/30/97	Pavillion at Waikiki, The	07/25/97
Pawaa Gardens	07/25/97	Pearl Kai Terrace	08/26/97
Pearl Manor Apts	06/02/97	Pearl Regency	05/29/97
Pearlridge Square	05/30/97	Pele Apartments	07/03/97
Pensacola Gardens Condo	06/03/97	Pines @ Kailua-Kona II	08/25/97
Plantation Hale	09/02/97	Plaza at Century Court	08/18/97
Plaza Hawaii Kai, The	06/30/97	Poipu Makai	08/19/97
Poipu Palms	05/23/97	Poipu Shores	08/27/97
Polo Beach Club, The	08/25/97	Princess Leilani	07/30/97
Prospect Estates, The	08/28/97	Pua Leahi Apts	05/29/97
Puako Beach Apts	06/03/97	Pumehana, The	08/14/97
Punahala Apts	08/07/97	Punahou Gardens Apt	08/06/97
Punahou Regency, The	05/30/97	Punahou Tower	08/18/97
Punchbowl Plaza	07/31/97	Puu Iki	06/02/97
Queen Victoria Residence	06/27/97	Rainbow Series Kauhale	05/15/97
Regency Ala Wai	08/28/97	Regency Tower	07/25/97
Ridge at Launani Valley	07/30/97	Ridgeway-Unit B-I	06/27/97
Royal Aloha	07/23/97	Royal Capitol Plaza	07/30/97
Royal Court	07/23/97	Royal Kahana	08/25/97
Salt Lake Manor	08/21/97	Sealodge II	08/21/97
Seashore, The	07/24/97	Seaside Towers	08/29/97
Seventeen Seventeen Ala Wai	06/18/97	Six Twenty Sheridan	05/30/97
Sleepy Hollow	08/26/97	Spinnaker, The	06/02/97
Su Casa	07/23/97	Sun Village-Kauai	08/06/97
Sunset Paradise	08/11/97	Sunset Shores	08/21/97
Sunset Villa	05/15/97	Tamarack Pines	07/03/97

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Tantalus Vista Apt	08/12/97	The Marco Polo Apt	08/14/97
The Royal Sea Cliff Club	08/19/97	Thomas Square Centre	08/28/97
Town House, The	06/02/97	Tropic Gardens I	06/02/97
Tropicana Village-Makai	06/02/97	Twenty One Hundred	05/17/97
Union Plaza	05/17/97	Uraku Tower, Hawaii	07/13/97
Valley Estates	06/27/97	Valley Isle Resort Condo	08/01/97
Valley Park Place	08/27/97	Valley View Terrace	08/28/97
Victoria Plaza Condo	06/02/97	Villages at Waipio	08/21/97
Villas at Koele - PH 1	07/21/97	Wahiawa Medical Bldg	07/23/97
Waiau Garden Villa PHI	07/09/97	Waiau Gardens Kai E	06/04/97
Waiau Gardens Kai Unit D	08/25/97	Waiau Gardens Kai Unit G	06/02/97
Waiau Gardens Kai, Unit B	07/30/97	Waikiki Banyan	08/28/97
Waikiki Grand Hotel	08/27/97	Waikiki Landmark	07/31/97
Waikiki Park Heights	06/24/97	Waikiki Parkway Apt	05/27/97
Waikiki Sunset	07/22/97	Waikoloa Hills Condo	08/06/97
Waikoloa Villas	08/25/97	Wailana at Waikiki	07/22/97
Wailana Sands	07/25/97	Wailea Ekahi	08/18/97
Wailea Ekolu	06/01/97	Wailea Elua I, Ph IA	07/15/97
Waiimea by the Sea	08/26/97	Waipehe Apts	08/26/97
Waipuilani Condo	08/13/97	Walina Apts	08/11/97
Ward Kinau	08/19/97	Westbury, The	06/02/97
Whalers Cove at Poipu	06/02/97	Wilder at Piikoi	08/21/97
Wilder Regent	08/18/97	Wilder Tower	07/23/97
Wiliwili Vista	08/05/97	Windward Cove	05/28/97
Windward Harbour	06/30/97	Woodrose, The	07/12/97

Specialist Chun-Hoon reported that to date 1318 Association applications have been received of which 913 have submitted complete applications and are registered.

**Revised Memo to Commercial Association of Apartment Owner-Fidelity Bond Exemptions** - This was distributed for the committee's information. Non-substantive revisions were made to the September 25, 1992 memo.

**Education Calendar - "Return of the Termite Seminar", September 18, 1997, 12:00 p.m., Hale Koa Hotel** - seminar information distributed.

**Common Ground (July/Aug 1997) - "The Good Book"** - The concept and terminology used in this article is similar to that introduced by the Commission's publication and seminar "Sense of Community".

**Building Management Hawaii (June 1997) - "Measuring Reserves Adequacy"** - article distributed for informational purposes.

Condominium  
 Project  
 Registration:

**Condominium Project Registration - Public Reports Issued**

Upon a motion by Commissioner Imamura, seconded by Commissioner Lee, it was voted on and unanimously carried to recommend approval to ratify issuance of effective dates for public reports for the month of August, 1997 as distributed in the additional distribution materials as follows:

County/	Type of	Effective
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<u>Reg. No.</u>	<u>Project Name</u>	<u>TMK</u>	<u>Report</u>	<u>Date</u>
3589	<b>5592 &amp; 5584 Poola Street</b>	Honolulu (1)3-5-73:04 & 05	Final	
3753	<b>68-052 Akule Street</b>	Honolulu (1)6-8-11:17	Final	8/1/97
3754	<b>L.A.T. Condominium Project</b>	Hawaii (3)3-4-03:02	Final	8/6/97
3770	<b>949 Maluniu Avenue</b>	Honolulu (1)4-3-79:11	Final	8/6/97
3776	<b>Hoaloha Ike - Phase I</b>	Honolulu (1)9-5-02:01 (por)	Preliminary	8/8/97
3778	<b>Alii Cove, Phase 7</b>	Honolulu (1)9-1-102:06 & 07 (por)	Preliminary	8/8/97
3654	<b>1450 Young St</b>	Honolulu (1)2-4-05:21 (por)	Final	8/11/97
3739	<b>Keala Plantation Estates</b>	Hawaii (3)8-1-25:01 02,03,04,05, 06 & 07	Final	8/11/97
3737	<b>Ohana Orchards for TMK:(3)1-7-3:5</b>	Hawaii (3)1-7-03:05	Final	8/19/97
3765	<b>Iao Parkside Phase IVC</b>	Maui (2)3-4-30:18	Final	8/19/97
2991	<b>Upolu Ranch Condominium Project</b>	Hawaii (3)5-6-01:34	Supplementary	8/21/97
3283	<b>Ili Pali Nui Agricultural Condominium</b>	Kauai (4)2-5-03:11	Supplementary	8/21/97
3783	<b>The Terraces, Manele Bay - Phase III</b>	Maui (2)4-9- 17:02(por)	Final	8/21/97
3782	<b>Suncrest, Phase A</b>	Honolulu (1)9-1-102:12	Preliminary	8/22/97
3760	<b>Kihei Regency</b>	Maui (2)3-9-20:09	Final	8/25/97



3773	<b>Paiste Condominium</b>	Kauai (4)1-3-10:86	Final	8/25/97
3280	<b>Longs Drugs Kihei Center</b>	Maui (2)3-9-02:109	Final	8/26/97
3725	<b>Namahana Farm</b>	Kauai (4)5-2-19:06	Final	8/26/97
3726	<b>Punahele Professional Building</b>	Hawaii (3)2-3-35:16	Final	8/27/97
3774	<b>Kalopa Makai Estates Condominium Project</b>	Hawaii (3)4-4-10:15	Final	8/27/97

Preliminary Reports: 3  
Final Reports: 16  
Supplementary Reports: 2

TOTAL: 21

#### **Public Report Changes and Disclosure Abstracts**

Specialist Yee reported that according to 514A-41(a), HRS, if after the effective date has been issued by the commission for a public report, any changes made that would render the public report misleading as to purchasers in any material respect, the developers are required to stop all offers of sale and sales and immediately submit to the commission a supplementary public report.

Specialist Yee further stated that the committee has before them today, two requests for a second extension of the final report one for One Kalakaua Senior Living condominium project and another for Nuuanu Parkside.

#### One Kalakaua Senior Living, Reg. No. 2881

Mr. Hiroshi Sakai, attorney for One Kalakaua Partners, developer of One Kalakaua Senior Living, was present to discuss his request. Mr. Sakai also provided additional documents which were distributed to committee members prior to discussion of the issue.

Mr. Sakai stated the following:

Section 514A-41, HRS, states that a supplementary public report should issue after the effective date of any public report if any circumstance occurs which would render the public report misleading as to purchasers in any material respect.

Section 514A-63, HRS, states that a purchaser shall have the right to rescind a sale made if there is a material change in the project which directly, substantially, and adversely affects the use or value of the apartment, appurtenant limited common element (parking stall) or amenities of the project available for such purchaser's use.

Mr. Sakai further stated that there is a definition of "material respect" in Section 16-107-2 which states that as used in Section 514A-63, HRS, means any change in the use, site, construction materials or location of an apartment or limited common element; any addition, deletion or change in common elements; any change in the percentage of common interest; and any other change as determined by the commission.

Further, the definition by rule is not consistent with the law and should not defeat the spirit and purpose of the statute it is intended to carry into effect.

Mr. Sakai further stated that there are seven matters that One Kalakaua Partners proposes to have the Real Estate Commission allow the disclosure through the issuance of a disclosure abstract or disclosure statement which would disclose non adverse, non material changes without having the issuance of a supplementary public report:

1. The Declaration of Condominium Property Regime be amended to correct the calculation of the percentage of common interests in the Project by the computer to the fifth decimal point to total 100%.
2. The Declaration of Condominium Property Regime be amended to allow the change in parking stall assignments which are permitted by Section 514A-14, HRS.
3. To correct references in the By Laws of One Kalakaua Senior Living association as to chapter 407 to 412, to correct section reference to 26-9(o), to correct reference to a corporation from Chapter 406 to 412 and to have the occupancy requirements to conform to federal, state and local ordinances, rules and regulations.
4. The House Rules dated May 31, 1995 be amended in the following respects:
  - a. To clarify the use of "seeing eye dogs" in the project to as may be permitted by any federal and state law or local ordinances and their rules and regulations.
  - b. To clarify the wording of the House Rules so as not to discriminate against children under the age of 10 years by wording it so that a non-swimmer shall be accompanied by a person who can swim. This is a request made by the lender.
5. To change the management agreement for the project to allow the direct hiring of personnel for the project by the management agent instead of the Association being the employer.
6. To change the legal description of the project to round of two corners as required by the City and County of Honolulu and to have such rounded off portion conveyed to the City.

In closing, Mr. Sakai stated that a copy of the disclosure abstract will be provided to each buyer and made a part of the closing packet.

Mr. Kenneth Chong, condominium consultant was asked to provide his comments on the issue.

Mr. Chong stated that there is a need for clarification and that there is some misconception between the regulations and statutes. Mr. Chong further stated that he believes that a change in parking stall assignments is a material change. The proximity of the parking stall to the elevator, location of stall, proximity to egress and ingress, pillar next to a stall, etc. would all constitute a material change. Mr. Chong has seen deals fall through due to a change in parking stall assignments.

Also, limitations of occupants per bedroom may also constitute a material change. Some individuals choose and purchase a unit with the knowledge that there is a limitation on the number of individuals that may reside in units surrounding their unit.

Mr. Chong stated that he sees no problem with the issue of change in the calculation of the percentage of common interests in the Project. This change would not be seen as a material change.

Mr. Chong further stated that many developers run into problems with the assignment of parking stalls therefore have begun to assign the parking stalls to 1 or 2 units within the project. Once the units have been sold and parking stalls assigned, a clean up of the parking stall assignments is then done in the declaration.

Mr. Sakai stated that another change requested is the use of a 2 tier maintenance fee which came about due to the lenders request. He restated that there is a need for clarification of disclosure abstract and material items.

Deputy Attorney General Wong stated that clarification to the confusion may be addressed in section 514A-41(c).

Upon a motion by Commissioner Imamura, seconded by Commissioner Lee, it was voted on and unanimously carried to take the matter under advisement.

Commissioner Ohama excused at 2:30 p.m.

#### Nuuanu Parkside

Attorney, Cynthia Ching representing the developers of Nuuanu Parkside was present to present to request an informal interpretation for review and approval of the use of the Disclosure Abstract for Nuuanu Parkside.

Ms. Ching stated that her client, Nuuanu Parkside Partners Limited Partnership, the developer, bought out the general partners interest. Ms. Ching reported that unlike One Kalakaua, Nuuanu does not have a recession problem. Nuuanu has no sales in escrow. There are only two units remaining for sale. Information at that time was updated through the use of a disclosure abstract. The September 5, 1997 letter addressed to Cynthia Yee states three changes: 1) increase in maintenance fees; 2) change in broker; and 3) litigation filed by the Association of Apartment Owners of Nuuanu Parkside regarding air conditioning. The developer requests that the Commission allow the changes to be noted in a disclosure abstract.

Ms. Ching further stated that the developer would prefer not to do a supplementary or short form public report, the submission of a disclosure abstract is requested.

Upon a motion by Commissioner Imamura, seconded by Commissioner Lee, it was voted on and unanimously carried to take the matter under advisement.

Executive Session:

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

**Public Report Changes and Disclosure Abstracts**

Upon a motion by Commissioner Imamura, seconded by Commissioner Imanaka, it was voted on and unanimously carried that pursuant to Subchapter 5 of Title 16, Hawaii Administrative Rules, recommend approval of the following informal, non-binding interpretation for informational and explanatory purposes only:

- 1) §514A-41, HRS, require that when circumstances occur which would render the information contained in the public report misleading to purchasers in any material respect, the developer shall stop all offers of sales and sales, include the updated information in a supplementary public report and comply with all other requirements of §514A-41, HRS.
- 2) Pursuant to §514A-61, HRS, and §16-107-10, HAR, information required to be included in a disclosure abstract and in any amendments to the disclosure is limited to the nature and type of information specifically enumerated in §514A-61, HRS, and §16-107-10, HAR.
- 3) Pursuant to §514A-41, HRS, require the developer of **One Kalakaua Senior Living, Registration No. 2881** to include the proposed changes to the public report, specifically the reassignment of the parking stalls (a limited common element), and the special use restriction regarding number of occupants through a supplementary public report pursuant to §514A-41, HRS. Failure to include the proposed changes renders the information contained in the current public report misleading to purchasers in material respects.
- 4) Pursuant to §514A-41, HRS, require the developer of **Nuuanu Parkside, Registration No. 2267** with only two remaining apartments for sale, to include the information regarding the Association's lawsuit filed against the developer et. al in Civil No. 97-2218-05 be included in an amended disclosure abstract. The information about the alleged building's defective air conditioning system may be included under the enumerated information about warranties pursuant to §514A-61(a)(3), HRS.

- Program of Work:                   **Rulemaking, Chapter 107** - secretarial support cleaning up latest draft of rules. Upon completion, rules will be transmitted to PVL's Program Specialist and Licensing Administrator.
- Neighbor Island Outreach - October 8, 1997, Wailea, Maui** - next committee meeting to be held on the island of Maui to give the Maui licensees and consumers an opportunity to attend the committee meeting. October 8, 1997, 1:30 p.m., Aston Wailea Resort, Wailea, Maui.
- Interactive Participation with Organizations - CAI 43rd National Conference** - Commissioner Carol Mon Lee is unable to attend CAI's 43rd National Conference.
- Upon a motion by Commissioner Lee, seconded by Commissioner Aki, it was voted on and unanimously carried to recommend deferring participation in the CAI's 43rd National Conference. Further recommend sending two representatives to the next CAI Conference in Spring '98 subject to the availability of funds and departmental approval.
- Commissioner Lee submitted a written report on her attendance of CAI's 42nd National Conference held in May 1997.
- Condominium Specialist Office for the Day** - Specialist Watumull submitted a written report on the Condominium Specialist Office for the Day, held in Hilo, Thursday, August 21, 1997 and Kona, Friday, August 22, 1997. Specialist Watumull further stated that the Hilo participants were concerned that not all condominium consultants were familiar with the Hawaii County building codes, especially relating to tool sheds. Some participants expressed the need for a condominium consultant from the big island.
- The next condominium specialist office for the day will be held on November 7, 1997 on the island of Maui.
- Open Forum:                        No discussion presented.
- CMEF Budget &  
Finance Report:                    Upon a motion by Commissioner Aki, seconded by Commissioner Lee, it was voted on and unanimously carried to recommend acceptance of the Condominium Management Education Fund Budget and Finance Report covering the period ending June 30, 1997.
- Minutes:                            Upon a motion by Commissioner Aki, seconded by Commissioner Lee, it was voted on and unanimously carried to accept the minutes of the June 17, 1997 and the July 9, 1997 Condominium Review Committee meeting as circulated.
- Next Meeting:                      October 8, 1997; 1:30 p.m.  
  Aston Wailea Resort  
  3700 Wailea Alanui  
  Wailea, Maui

Adjournment:                               With no further business to discuss, Chair Evangelista adjourned the meeting at 3:10 p.m.

Respectfully submitted:

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Cynthia M. L. Yee  
Senior Condominium Specialist

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Date

- Minutes approved as is.
- Minutes approved with changes; see meeting of