

**CONDOMINIUM REVIEW COMMITTEE**  
Real Estate Commission  
Professional and Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii  
[www.hawaii.gov/hirec](http://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: June 14, 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  
Kathleen Kagawa, Broker / Honolulu Commissioner  
Trudy Nishihara, Broker / Honolulu Commissioner  
Iris Okawa, Public / Honolulu Commissioner

Neil Fujitani, Executive Officer  
Cynthia Yee, Senior Condominium Specialist  
Cheryl Leong, Condominium Specialist  
David Grupen, Condominium Specialist  
Lorene Kimura, Real Estate Specialist  
Ryan Yamashiro, Real Estate Specialist  
Shari Wong, Deputy Attorney General  
Tammy Norton, Recording Secretary

Others: Esther Han, Case Lombardi & Pettit

Excused: Carol Mae Ball, Broker / Maui Commissioner  
Vern Yamanaka, Broker / Hilo Commissioner

Call to Order: Chair Kuriyama called the meeting to order at 9:40 a.m., at which time quorum was established.

Chair's Report: No report was presented.

Condominium Specialist's Report: **Additional Distribution**  
The following materials were distributed prior to the start of the meeting:

- 5. CPR Registration and Developer's Public Reports
  - a. Condominium Projects and Developer's Public Reports
    - 4) Informal Non-Binding Interpretation Requests
      - a) §514A-107(b) HRS, "no action letter"

- i) David W. Thomas
- 6. Program of Work, FY06
  - a. Recodification of Chapter 514A and Education Advice, Education, and Referral

### **Additions to the Agenda**

Upon a motion by Commissioner Okawa, seconded by Commissioner Abrams, it was voted on and unanimously carried to recommend accepting the additions to the agenda as follows:

- 5. CPR Registration and Developer's Public Reports
  - a. Condominium Projects and Developer's Public Reports
    - 4) Informal Non-Binding Interpretation Requests
      - a) §514A-107(b) HRS, "no action letter"
      - iii) Tam Minh Tran - resubmittal

It was reported that the Notice to Providers of Professional Services – Condominium Education and Training was posted to the procurement website on June 7, 2006 with a deadline date to submit proposals of June 19, 2006.

Minutes:

Upon a motion by Commissioner Abrams, seconded by Commissioner Nishihara, it was voted on and unanimously carried to accept the minutes of the May 10, 2006 Condominium Review Committee meeting subject to non substantive corrections.

Condominium  
Governance and  
Management:

### **AOAO Registrations**

Specialist Gruppen reported that as of May 31, 2006, 1,529 AOAOs have successfully registered.

### **Condominium Related Articles**

The following articles from the November/December 2005 issue of *Common Ground* were distributed for informational purposes: "Cold Hard Cash" and "Double Indemnity."

### **CDR Pilot Program**

The following were received from the Office of Administrative Hearings and distributed for informational purposes:

- 1) Daniel Deigert vs. AOAO of International Colony Club – Hearings Officer's Findings of Fact, Conclusions of Law, and Order Granting Respondent's Motion to Dismiss Petition
- 2) Shirley King, Laura Sparks, John Wong and Jeannie S. Phillips vs. Board of Directors of AOAO Waikiki Banyan, Shraga Dachner and Rosemarie Marshall – Notice of Hearing and Pre-Hearing Conference
- 3) Henry S. Anderson and Louise Brewer vs. Board of Directors, Mauna Luan AOAO and Randall R. Weikert, General Manager, Mauna Luan AOAO – Notice of Hearing and Pre-Hearing Conference

Commissioner Okawa questioned whether the Office of Administrative Hearings has procedures in place for the cases heard and whether or not decisions are done independently by each Hearings Officer.

Deputy Attorney General Wong informally reported it was her understanding that the Office of Administrative Hearings has its own procedures in place and that cases are heard and decided upon by each Hearings Officer assigned the case.

Condominium  
 Project  
 Registration:

**Condominium Project Registration - Public Reports Issued**

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

5981	1185 & 1185-A KUKILA STREET	1185 KUKILA ST HONOLULU HI 96818	(1)9-09-046:016	Final	05/31/06
6001	1347 9TH AVENUE	1347 9TH AVE HONOLULU HI 96816	(1)3-03-005:070	Final	05/19/06
5965	2163 & 2165 MAKANANI DRIVE	2163 MAKANANI DR HONOLULU HI 96817	(1)1-06-019:099	Final	05/08/06
5987	2547-A LA`I ROAD	2547-A LA`I ROAD HONOLULU HI 96816	(1)3-04-012:007	Final	05/15/06
6004	51-418 KEKIO ROAD	51-418 KEKIO RD KAAAWA HI 96730	(1)5-01-011:029	Final	05/25/06
5955	66-148 NIUULA ROAD	66-148 NIUULA RD HALEIWA HI 96712	(1)6-06-003:010	Final	05/17/06
5978	85-065 KAULAWAHA	85-065 KAULAWAHA RD WAIANAE HI 96792	(1)8-04-019:021	Final	05/15/06
5959	ALAMIHI CONDOMINIUM	LOT 132-A-6 ALAMIHI RD WAINIHA HI 96714	(4)5-08-012:024	Final	05/08/06
5988	ALI`I RANCH ESTATE II	LOT 9-A POO RD WAILUA HI	(4)4-02-022:029	Final	05/11/06
5962	ANANALU	6519 ANAHULU RD HANAIEI HI 96714	(4)5-08-006:054	Final	05/12/06
5985	BEGIN ESTATES	3895 KOLOA RD LAWAI HI 96765	(4)2-05-008:014	Final	05/30/06
5967	GBH CONDOMINIUM	70 WAILAU PL LAHAINA HI 96761	(2)4-07-010:008	Final	05/03/06
5976	HALE NANEA CONDOMINIUMS	LOT 1A HIENALOLI 6TH/AUHAEUKEAE KONA HI 96740	(3)7-05-009:067	Cont. Final	05/23/06
5977	HALI`A HALE AT KAUNA`OA - PH II	PENDING	(3)6-02-019:029	Final	05/04/06
5986	HAU BUSH ESTATES CONDO	LOT 227 HANAIEI HI 96714	(4)5-08-005:035	Final	05/05/06
6002	HONUAKAI CONDO (LE TH-1)	LOT 4 KAANAPALI HI	(2)4-04-014:006	Prelim	05/25/06
6003	HONUAKAI CONDO (LE TH-2)	LOT 4 KAANAPALI HI	(2)4-04-014:006	Prelim	05/25/06
5960	ILENOI CONDOMINIUM	4840 PELEHU RD KAPAA HI 96746	(4)4-06-015:113	Final	05/08/06
5834	ISLAND CLASSICS AT MILILANI MAUKA PH II	UKUWAI ST MILILANI HI 96789	(1)9-05-049:027	Final	05/26/06
4239	KAHILI MAKAI ESTATES	KAHILI MAKAI RD KILAUEA HI	(4)5-02-021:007	Suppl 1	05/05/06
5983	KAHOA ESTATES	739 KAHOA DR KAILUA HI 96734	(1)4-03-064:081	Final	05/02/06
5979	KALAEHO CONDOMINIUM	25 HANIU ST LAHAINA HI 96761	(2)4-07-001:028	Final	05/01/06
5968	KALAMAKU	59-756 KAMEHAMEHA HWY HALEIWA HI 96712	(1)5-09-004:007	Final	05/12/06
5900	KAPALUA BAY CONDOMINIUM	1 BAY DR KAPALUA HI 96761	(2)4-02-004:028	Cont. Final	05/11/06
5984	KAUHALE O KANEALII	2118 KANEALII AVE HONOLULU HI 96813	(1)2-02-011:017	Final	05/05/06
5971	KIKIKINA I CONDOMINIUM	45-918 ANOI RD KANEOME HI 96744	(1)4-05-022:050	Final	05/09/06
4240	KILAUEA GARDENS FARMS	LOT 1-B-2 KILAUEA GARDENS KILAUEA HI	(4)5-02-004:102	Suppl 1	05/10/06

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3119	KILAUEA PLANTATION CENTER	4244M KILAUEA RD KILAUEA HI 96754	(4)5-02-004:062	Suppl 2	05/15/06
5974	MAKAHA VALLEY ESTATES I	84-801 ALAHELE ST WAIANAE HI 96792	(1)8-04-029:138	Final	05/12/06
5902	MAKANA KAI ESTATES CONDO	LOT 6 PUU RD KALAHEO HI 96741	(4)2-03-005:017	Suppl 1	05/22/06
5975	MAUI PALMS TOWNHOMES	30 WALAKA ST KIHEI HI 96753	(2)3-09-016:017	Final	05/03/06
5982	NALEI CONDOMINIUM	155 ALA HOKU PL LAHAINA HI 96761	(2)4-03-010:022	Final	05/10/06
5980	OMAO LOT 1-B ESTATES	3815 OMAO RD KOLOA HI 96756	(4)2-07-004:049	Final	05/05/06
5990	PIILANI MAHINA CONDOMINIUM	LOT 14 HANAIEI HI 96714	(4)5-04-004:053	Final	05/08/06
4112	PINNACLE HONOLULU THE	1199 BISHOP ST HONOLULU HI 96813	(1)2-01-010:026	Cont. Final	05/05/06
5972	PUKELE AVENUE CONDOMINIUM	1550 PUKELE AVE HONOLULU HI 96816	(1)3-03-042:072	Final	05/26/06
5995	RILEY CONDOMINIUM	1633 WANAAO RD KAPAA HI 96746	(4)4-06-007:025	Final	05/15/06

Preliminary Reports: 2  
 Contingent Final Reports: 3  
 Final Reports: 28  
 Supplementary Reports: 4

Total: 37

**Informal Non-Binding Interpretation Requests - §514A-107(b), HRS, "no action letter"**

Commissioner Okawa noted her concerns for the increase in requests from owner-occupants and suggested that the Commission initiate discussions with the legislative policy makers regarding owner occupant affidavits in the up market.

Chair Kuriyama noted that there may just be a growing awareness of the law.

Upon a motion by Commissioner Okawa, seconded by Commissioner Abrams, it was voted on and unanimously carried to recommend approval to appoint a Commission member to work with staff and the legislative policy makers to discuss and review the legislative directives and guidelines of the statute and amend as necessary

**Informal Non-Binding Interpretation Requests - §514A-107(b), HRS, "no action letter" - David W. Thomas**

Upon a motion by Commissioner Okawa, seconded by Commissioner Abrams, it was voted on and unanimously carried to recommend deferral pending further review.

**Informal Non-Binding Interpretation Requests - §514A-107(b), HRS, "no action letter" – John and Kimberly Mallon**

Upon a motion by Commissioner Okawa, seconded by Commissioner Nishihara it was voted on and carried that based on §514A-107(b)(3), "Unforeseeable change in marital status, or change in parental status;" recommend approval to issue an informal non-binding interpretation and issue a "no action letter". Commissioner Kagawa opposed.

**Informal Non-Binding Interpretation Requests - §514A-107(b), HRS, "no action letter" – Tam Minh Tran - resubmittal**

Staff noted that Mr. Tran's request was previously deferred and that the committee had requested the Mr. Tran resubmit his request and include a response as to how his request meets the definition of "serious illness." Mr. Tran has resubmitted his request including a verification letter from his physician.

Upon a motion by Commissioner Okawa, seconded by Commissioner Loudermilk, it was voted on and unanimously carried that based on §514A-107(b)(1) and the receipt of the physician's verification letter of serious illness recommend approval to issue an informal non-binding interpretation and issue a "no action letter."

**Informal Non-Binding Interpretation Requests - §467-30(a)(f), HRS, Condominium Hotel Operations – Hali'i Kai CPR**

Edmund Haitzuka, Carlsmith Ball, LLP, on behalf of Hali'i Kai CPR requested an informal non-binding interpretation as to whether the language used in the declaration of condominium property regime of Hali'i Kai is sufficient to allow property management companies to manage transient rentals at Hali'i Kai.

Specialist Grupen reported that the obvious purpose of the change in the declaration is to allow short term transient rentals of less than 30 days. The change to the declaration does not meet the requirement of §467-30(f) that the condominium project's declaration specifically permit transient lodgings for a period of less than thirty days.

Chair Kuriyama reported that the purpose of the legislation was to note specific uses, not "county code permissible." The declaration and bylaws should state its specific permissible uses.

Upon a motion by Commissioner Okawa, seconded by Commissioner Loudermilk, it was voted on and unanimously carried that based on the documents submitted, recommend issuance of an informal non-binding interpretation that the submitted provisions in the Hali'i Kai declaration does not comply with the requirements of §467-30(a)(f), HRS.

**County of Kauai – Building Ordinance and Code Compliance Verification**

Upon a motion by Commissioner Okawa, seconded by Commissioner Loudermilk, it was voted on and unanimously carried that based on the County of Kauai's Department of Public Works letter dated May 3, 2006 signed by the Building Division Chief, County Engineer, and Director of Finance and the representations contained therein, recommend approval to accept their request that developers who submit building permits reports obtained from the internet at "Click2Gov Building Permits" be accepted as an alternative to the signed county compliance letter "as verification of compliance, or lack of available information to verify such compliance with building ordinances and codes as applicable to specific projects" by the developer.

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

A summary of the surveys from the May 10, 2006 New Condominium Law Seminar held in Hilo was distributed for informational purposes. The Oahu seminar is scheduled for June 16, 2006 from 9:00 a.m. to 12:00 noon at the State Capitol Auditorium.

Staff reported on an overwhelming attendance at the Commission's New Condominium Law Seminars held in Maui and Kona.

**Recodification of Chapter 514A and Education – Certificates of Appreciation for volunteer faculty**

Upon a motion by Commissioner Loudermilk, seconded by Commissioner Abrams, it was voted on and unanimously carried to recommend approval to issue certificates of appreciation to John Morris, Esq., Joyce Neeley, Esq., Rick Kiefer, Esq., Mitchell Imanaka, Esq., Galen Leong, Esq., and Kenneth Chong

Chair Kuriyama initiated discussion on a question asked by members of the practicing bar whether an executed and recorded declaration, etc. are conditions to Commission issuance of an effective date for a developer's public report. Under the current law, Chapter 514A, developer's are able to have a preliminary public report issued prior to recording the declaration and bylaws. Chair Kuriyama further reported that §514B-54(4) requires that prior to issuance of an effective date for a developer's public report, the commission shall have received copies of the executed declaration, bylaws, and condominium map that meet the requirements of section 514B-32, 514B-33, and 514B-108. The committee may want to take into consideration adopting a policy to clarify or amending the statute.

**Program of Work and Budget, FY07**

Upon a motion by Commissioner Abrams, seconded by Commissioner Loudermilk, it was voted on and unanimously carried to recommend approval of the Fiscal Year 2007 Program of Work and Budget subject to non substantive amendments.

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.

**Department of Lane & Natural Resources – Hawaii Flood Management News, June 2006**

The June 2006 issue of Hawaii Flood Management News was distributed for informational purposes.

Open Forum: Ms. Esther Han of Case Lombardi & Pettit was present and reported that she had submitted a late submittal to the Real Estate Branch's office regarding Chapter 514B-54(a)(4). Ms. Han provided 10 copies of her submittal and reported that the intent of the new law was not to be more onerous and that the preferred interpretation of 514B-54(a)(4) does not require a developer to record the applicable condominium documents as a condition to receiving an effective date for a developer's public report.

Ms. Han was thanked for bringing her issue to the attention of the committee and that the issue will be looked into.

CEF Budget & Finance Report: No report presented.

Next Meeting: July 12, 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 10:43 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

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Cynthia M. L. Yee  
Senior Condominium Specialist

July 12, 2006

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Date

Minutes approved as is.

Minutes approved with changes; see minutes of \_\_\_\_\_