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TO: All Interested Developers and/or their Attorneys

FROM: Cynthia M.L. Yee, Senior Condominium Specialist
Cheryl Leong, Condominium Specialist

SUBJECT: Spatial Units

DATE: February 20, 2009

The Real Estate Commission (Commission) at its December 15, 2006 regular monthly meeting issued an informal non-binding interpretation that "spatial units" shall be described in accordance with the following statutes:

- §514B – 3, HRS "Unit"
 - designated for separate ownership or occupancy;
 - boundaries indicated in accordance with §514B-35;
 - has access to a public road or to a common element leading to a public road;
- §514B-32(a)(7), HRS
 - indicate a location
 - have dimensions – horizontal and vertical boundaries
 - include spatial coordinates – a beginning and an end point;
- §514B-32(a)(13), HRS
 - spatial unit must comply with county requirements – spatial coordinates and dimensions must comply with all zoning and building ordinance and codes, and all other permitting requirement pursuant to section 514B-5, HRS;
 - dimensions of the spatial unit should not exceed the dimensions, heights, set backs, and other requirements mandated by the county;
 - and that developers include in the developer's public report appropriate disclosures of applicable county requirements.

Pursuant to section 16-201-92, Hawaii Administrative Rules, and to further the Commission's informal non-binding interpretation, the following are examples of "spatial portions/units" of a

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condominium that may be submitted as part of the developer's condominium project registration application. The examples are not an exhaustive list.

- ✓ Building envelope meeting the requirements of §514B-3, §514B-32(a)(7), and §514B-32(a)(13), HRS **or**
- ✓ Fictional tool shed substitution/replacement meeting the requirements of §514B-3, §514B-32(a)(7), and §514B-32(a)(13), HRS; **and**
- ✓ The land as a "common element".

This information is being provided pursuant to section 16-201-92, Hawaii Administrative Rules, for information and educational purposes and is informal and non-binding on the Commission or the Department of Commerce and Consumer Affairs. Should other Commission informal non binding interpretations be desired, the request for such may be made in writing to the Real Estate Commission. Should a formal binding interpretation be desired, pursuant to subchapter 3, section 16-201-48, Hawaii Administrative Rules, a petition for declaratory relief request may be made. Please contact any condominium specialist at the Real Estate Commission's office for the declaratory petition forms at 586-2643.