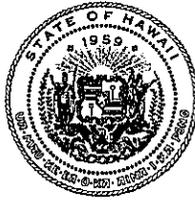


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MEMORANDUM – 2009 - 1

TO: Interested Developers, Attorneys, Others

FROM: Real Estate Commission

SUBJECT: Clarification of Spatial Units Memorandum originally dated April 26, 2007 and Redistributed February 20, 2009 by Commission Staff

DATE: March 23, 2009

The Real Estate Commission's (Commission) Condominium Review Committee at its March 11, 2009 regular monthly meeting clarified a February 20, 2009 memorandum regarding "Spatial Units" issued by Commission staff as follows:

- Commission is accepting for review copies of executed declaration, bylaws, and condominium maps with "spatial units" described as set forth in its informal non-binding interpretation issued at its December 15, 2006 Condominium Review Committee meeting. See copy of page 4 of the December 15, 2006 minutes attached.
- The developer may elect to describe the spatial units in any manner that complies with HRS Chapter 514B. The description of the spatial units is not limited to "fictional tool shed" substitution/replacements which comply with HRS Chapter 514B.
- Developers using spatial units should make appropriate disclosures so that prospective buyers are informed of what structures or improvements will or might be constructed within the spatial units.

Further guidance on the description of "spatial units" and any related disclosures will be part of efforts to prepare administrative rules to supplement HRS Chapter 514B.

Enclosure: Page 4 of the December 15, 2006 Real Estate Commission meeting minutes

Author/Owner/Provider: The Seminar Group; Course Category: Real Estate Law; Clock Hours: 6 – Upon a motion by Commissioner Abrams, seconded by Commissioner Gendrano, it was voted on and unanimously carried to approve “Hawaii Land Use Law” as a six-hour continuing education elective course under the category – Real Estate Law.

Test Development – Upon a motion by Commissioner Abrams, seconded by Commissioner Loudermilk, it was voted on and unanimously carried to approve the real estate salesperson’s and broker’s content outline.

Condominium Review Committee

Upon a motion by Commissioner Chee, seconded by Commissioner Loudermilk, it was moved to accept the amended report of the December 6, 2006 Condominium Review Committee as follows:



1. Minutes of November 8, 2006 Meeting – **Accept**
2. CPR Registration and Developer’s Public Reports – CPR Project – Informal Non Binding Interpretation Request “Spatial Units/Airspace Condominium” 66-419 Paalaa Road, DeFreitas, Developer; Jeffrey S. Grad, Esq., attorney for developer; §§514B-3 definitions “condominium,” “unit,” 514B-32(a)(7), 514B-32(13), 514B-33(a)(3), 514B-5 and 514B-32(a)(13), 514B-51, 514B-54, HRS – **Recommend approval** to issue 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 further **recommend approval** that developers include in the developer’s public report appropriate disclosures of applicable county requirements.
3. Program of Work, FY07
 - a. Condominium Recodification and Education – Proposed Chapter 514B,HRS, amendments – **Recommend approval** to support in principle, legislation as proposed in the December 6, 2006 CRC