



DEPT. OF COMMERCE
AND CONSUMER AFFAIRS

2009 MAR 16 P 2: 25

HEARINGS OFFICE

OFFICE OF ADMINISTRATIVE HEARINGS
CONDOMINIUM DISPUTE RESOLUTION PROGRAM
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
STATE OF HAWAII

In the Matter of)	CMDR-0809-2
)	
PAME ROMANO and JOHN DEW,)	HEARINGS OFFICER'S FINDINGS
)	OF FACT, CONCLUSIONS OF LAW,
Petitioners,)	AND ORDER GRANTING
)	RESPONDENTS' MOTION TO
vs.)	DISMISS PETITIONERS' REQUEST
)	FOR HEARING
KUHIO VILLAGE II, AOA BOARD, C.O.)	
FURUYA, HAWAIIANA MANAGEMENT,)	
and AGENT CRAIG RICHTER,)	
)	
Respondents.)	
)	

HEARINGS OFFICER'S FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND ORDER GRANTING
RESPONDENTS' MOTION TO DISMISS PETITIONERS' REQUEST FOR HEARING

I. INTRODUCTION

On December 30, 2008, Pame Romano and John Dew (Petitioners"), filed a request for hearing with the Office of Administrative Hearings, Department of Commerce and Consumer Affairs. The matter was thereafter set for hearing and the Notice of Hearing and Pre-Hearing Conference was duly served on the parties.

On February 24, 2009, Respondents herein filed a motion to dismiss Petitioners' request for hearing.

On March 11, 2009, Respondents' motion came on for hearing before the undersigned Hearings Officer. Pame Romano and John Dew were present and appeared pro se. Respondents were represented by Kapono F.H. Kiakona, Esq.

The Hearings Officer, having heard the arguments of the parties and having reviewed and considered the memoranda, declaration, records and files herein, hereby renders the following findings of fact, conclusions of law and order.

II. FINDINGS OF FACT

1. Petitioners reside in and are the owners of apartment units in Kuhio Village II in Honolulu, Hawaii.

2. On December 4, 2008, Petitioners and Respondents participated in a mediation session administered by The Mediation Center of the Pacific.

3. The purpose of the mediation session was to address 14 issues raised by Petitioners.

4. At the conclusion of the session, the parties executed an Agreement on the 14 issues and represented as follows:

We, the undersigned, having participated in mediation session(s) on December 4, 2008 and being satisfied that the provisions of the resolution of our dispute are fair and reasonable, hereby agree to abide by and fulfill the following:

* * * *

The Agreement went on to list the understandings between the parties as to each of the 14 issues, including the action(s), if any, to be undertaken by Petitioners or Respondents.

5. In their request for hearing, Petitioners raise (1) some of the same issues that had already been addressed in the Agreement and (2) new issues related to the original issues.

6. To date, no request to mediate Petitioners' latest issues has been made.

III. CONCLUSIONS OF LAW

On this record, the Hearings Officer concludes that the original 14 issues were resolved by the Agreement. Any other conclusion would render the mediation meaningless and discourage parties from participating in mediation. As to any new issues raised by Petitioners, Petitioners must first request that those matters be mediated as required by Hawaii Revised Statutes §514A-121.5. Until such a request is made and refused, or the parties are unable to resolve their dispute by mediation, the Hearings Officer lacks jurisdiction over those matters.

IV. ORDER

Based on the foregoing considerations, the Hearings Officer orders that Respondents' motion to dismiss Petitioners' request for hearing is granted and that the request for hearing be and is hereby dismissed without prejudice.

Dated at Honolulu, Hawaii: _____ ^{MAR 16 2009} _____.

/s/ CRAIG H. UYEHARA

CRAIG H. UYEHARA
Administrative Hearings Officer
Department of Commerce
and Consumer Affairs