

CONDOMINIUM REVIEW COMMITTEE
REAL ESTATE COMMISSION
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii
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: July 14, 2010

Time: Upon adjournment of 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: Michele Sunahara Loudermilk, Chair, Public / Honolulu Commissioner
Mark Suiso, Vice Chair, Public / Honolulu Commissioner
Carol Ball, Broker / Maui Commissioner
Stanley Kuriyama, Broker / Honolulu Commissioner
Scott Sherley, Broker / Hilo Commissioner
Frances Gendrano, Broker / Honolulu Commissioner
Walt Harvey, Broker / Honolulu Commissioner

Neil Fujitani, Supervising Executive Officer
Jon Ellis Pangilinan, Executive Officer
Cynthia Yee, Senior Condominium Specialist
Cheryl Leong, Condominium Specialist
Benedyne Stone, Condominium Specialist
Diane Choy Fujimura, Senior Real Estate Specialist
Amy Endo, Real Estate Specialist
David Grupen, Real Estate Specialist
Shari Wong, Deputy Attorney General
Tammy Norton, Recording Secretary

Others: Aron Espinueva, Hawaii Association of REALTORS®
Milton Motooka, Community Associations Institute Hawaii Chapter

Absent: Trudy Nishihara, Broker / Honolulu Commissioner

Call to Order: Chair Loudermilk called the meeting to order at 9:21 a.m., at which time quorum was established.

Chair's Report: No report was presented.

The Chair announced that the Commission may move into executive session to consider and evaluate personal information relating to individuals applying for licensure in accordance with Section 92-5(a)(1), HRS, and/or to consult with the Commission's attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities in accordance with Section 92-5(a)(4), HRS.

Commissioner Nishihara was excused from the meeting. Prior notification of her non-attendance was received.

Condominium
Specialist's
Report:

Additional Distribution

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

4. Condominium Governance and Management
 - d. Condominium Seminars and Symposium

Minutes:

Upon a motion by Commissioner Harvey, seconded by Commissioner Suiso, it was voted on and unanimously carried to accept the minutes of the June 9, 2010 Condominium Review Committee meeting as circulated.

Condominium
Governance and
Management:

AOUO Registrations

Specialist Stone reported that as of June 30, 2010, 1,634 AOUOs have successfully registered.

Condominium Seminars and Symposium

CAI Hawaii Chapter Request for Participation of Condominium Specialist at CAI Hawaii Chapter Program September 15, 2010 (Maui) and September 16, 2010

Mr. Motooka noted for the committee that earlier in the year Condominium Specialist Yee had requested that CAI Hawaii include more information for condominium owners in the seminars they present. In response, CAI Hawaii would like to request the Condominium Specialists participation in their programs scheduled for September 15 on Maui and September 16 on Oahu. The Specialists would address the role of the condominium specialist and the 10 most frequent complaints they receive from owners on how their associations are being run or managed. CAI Hawaii opined that this is a way to tell owners what is available for them.

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

2010 CAI Hawaii Seminars

Mr. Motooka informed the committee that this is CAI Hawaii's 25th anniversary year. CAI Hawaii Chapter will be bringing in the best nationally renown speakers from the past for their upcoming seminars. The speakers do not charge for their time, their services are provided on a gratis basis.

Specialist Yee noted that an estimate on the expenses must be presented to the Commission beforehand and the existing contract provides that reimbursements follow the State guidelines on reimbursements.

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

"The Effective One Hour Board Meeting" June 17, 2010 CAI Hawaii Chapter - Evaluation

Staff's evaluation was distributed for informational purposes. Specialist Leong noted that Larry Pothast was an expert speaker, but he did not reference, nor did the handouts reference its relation to Hawaii Laws. Specialist Leong also noted that there was not enough time for questions at the end of the program.

It was suggested that staff inform CAI Hawaii that the Commission notes that the circulated handout material could be improved by the inclusion of the applicable Hawaii Condominium Law, Chapter 514B, HRS. In particular reference to §514B-106 (a) and Chapter 414D, HRS, relating to the boards "fiduciary duty" would have been helpful to the audience.

Case Law Review Program

The following articles from the May 2010 issue of *Community Association Management Insider* were distributed for informational purposes: "Permission for Unit Addition Can Be Granted Without Amending Governing Documents" and "Association Must Process Foreclosures Through the Courts."

Condominium Related Articles

The following condominium related articles were distributed for informational purposes: *Community Association Management Insider* (May 2010) - "N.Y. Bank Required to Maintain Foreclosed Home," "New EPA Requires More Care Around Lead Paint," "Federal Agencies Recommend Gutting of Homes with Tainted Drywall;" *Community Association Management Insider* (June 2010) – "Using Power of Attorney to Run for the Board;" CAI Hawaii (April 2010) - "Check Fraud - It Could Happen to You;" *Commonground* (May June 2010) - "homefront news/trends/ideas," "Shades of Gray," and "On the Board Sound Off."

Condominium
 Project
 Registration:

Condominium Project Registration - Public Reports Issued

A list of those condominium projects issued effective dates during the month of June 2010 were distributed for informational purposes.

PROJ #	PROJECT NAME	PROJECT ADDRESS	TMK #	TTL	REPORT	DATE
6652	1510 LIHOLIHO	1510 LIHOLIHO ST HONOLULU HI 96822	124020044	27	B AMD	6/14/2010
6652	1510 LIHOLIHO	1510 LIHOLIHO ST HONOLULU HI 96822	124020044	27	B AMD 2	6/24/2010
6989	2836 & 2838 KAIMUKI AVE.	2836 & 2838 KAIMUKI AVE HONOLULU HI 96816	127030028	2	B REPT	6/21/2010
5564	3261 & 3261A KILIHUNE PLACE	3261 KILIHUNE PL HONOLULU HI 96816	133047073	2	SUPPL	6/22/2010
6970	3369 & 3369A KILAUEA AVENUE	3369 & 3369A KILAUEA AVE HONOLULU HI 96816	132026020	2	B REPT	6/7/2010
6185	ALLURE WAIKIKI	1837 KALAKAUA AVE HONOLULU HI 96815	126013001	292	B AMD 5	6/3/2010
6972	BRANCO ESTATES CONDOMINIUM PROJ	5966 PUKA ST KAPAA HI 96746	446025046	2	B REPT	6/15/2010
6984	CASA DEL DAVID CONDOMINIUM	468 and 470 KANANI PL HONOLULU HI 96817	118002016	2	B REPT	6/21/2010
6296	EGGERKING ESTATES	337 EGGERKING RD KAPAA HI 96746	441016072	2	B AMD	6/8/2010
6870	GEORGE A FERN CONDOMINIUM	7190 KAHUNA RD KAPAA HI 96746	446004040	2	B REPT	6/30/2010
6551	HALI'IPUA VILLAS	HALIIPUA PL KONA HI 96740	372029028	12	B AMD 3	6/16/2010

Condominium Review Committee
 Minutes of the July 14, 2010 Meeting
 Page 4

6842	KAHAKAPAO HOMESTEADS MAKAI CONDOMINIUM	67 EHU RD MAKAWAO HI 96768	224013226	2	B AMD	6/3/2010
6843	KAHAKAPAO HOMESTEADS MAUKA CONDOMINIUM	75 EHU RD MAKAWAO HI 96768	224013218	2	B AMD	6/3/2010
5900	KAPALUA BAY CONDOMINIUM	1 BAY DR KAPALUA HI 96761	242004028	151	SUPPL 3	6/21/2010
6980	KEALAKAI AT KAPOLEI - PHASE I	KAPOLEI HI 96707 KAIAU AVE	191016166	16	B REPT	6/7/2010
4374	KULA CONDOMINIUM PROJECT	KAAPAHU HAMAKUA HI	344011024	2	SUPPL	6/1/2010
4297	KUMULANI AT THE UPLANDS AT MAUNA KEA THE	LOT C UPLANDS @ MAUNA KEA KAMUELA HI 96743	362013022	40	SUPPL 2	6/7/2010
6901	MAKANI NUI ESTATES	3161 WAWAE PL KALAHEO HI 96741	424002020	2	B REPT	6/10/2010
6987	NOHONA II AT KAPOLEI - PHASE I	KAMA' AHA LOOP KAPOLEI HI 96707	191016174	13	B REPT	6/15/2010
4772	PUKA KA MUA	KOOLAU RD MOLOAA HI	449011034	2	SUPPL	6/10/2010
6986	ROYAL GARDEN AT WAIKIKI	440 OLOHANA ST HONOLULU HI 96815	126016039	30	FINAL	6/17/2010
6948	ROYAL GARDEN AT WAIKIKI	440 OLOHANA ST HONOLULU HI 96815	126016039	140	FINAL	6/15/2010
6966	SIXTY PARKSIDE (PHASE 1)	95-060 WAIKALANI DR MILILANI HI 96789	195012020	18	B REPT	6/24/2010
6967	SIXTY PARKSIDE (PHASE 2)	95-060 WAIKALANI DR MILILANI HI 96789	195012020	30	B REPT	6/24/2010
0	Preliminary Reports					
0	Contingent Final Reports					
2	Final Reports					
5	Supplementary Reports					
10	B Reports					
7	B Amendment Reports					
24	TOTAL REPORTS					

Program of Work: **Hawaii Condominium Bulletin**

Specialist Stone informed the committee that last month the committee approved the award for the writing, editing and layout of the Real Estate and Hawaii Condominium Bulletins to Hagadone Printing. It appeared that Hagadone was subcontracting to Terrance Lum, but decided that it was in its best interest to not subcontract and therefore Hagadone is unable to provide the writing, editing and layout services. Staff again solicited for the same service through HePS and Terrance Lum came in with the identical bid, which also was the lowest bid received at \$6,400.

Upon a motion by Commissioner Suiso, seconded by Commissioner Sherley, it was voted on and unanimously carried to approve the award for the writing, editing and layout of the Hawaii Condominium Bulletin and Real Estate Bulletin to Terrance Lum for \$6,400 subject to terms and conditions of the solicitation.

Rulemaking, Chapter 107 – Preliminary Rough Draft 1 of Proposed Rules

Chair Loudermilk informed the committee that Specialist Yee has provided a rough draft 1 of the proposed rules and requests that comments, changes, revisions, etc. be provided to Specialist Yee by the last working day of each month.

Specialist Yee reported that rough draft 1 of the proposed rules relate to the following: Objective, Definitions, Commission Forms, Filing of Other Documents and Information, Abandonment of Incomplete Registration Application, Unit Sale and Project Registration, Bulk Sale, Filing of Parking Plan, Lost or Destroyed Plans, Method in Computing Floor Area, Use of Purchaser Deposits to Pay Project Costs – Evidence of Developer's Availability of Sufficient Funds,

Reduction of Completion, Performance Bond, Letter of Credit, Other Alternative Security, Filing of Other Documents, Signature of Application for Registration, Proposed Developer's Public Report, Final Developer's Public Report and all other Documents, Amendments to Developer's Public Report, Annual Report, Spatial Units, and Copies of Developer's Public Reports. Specialist Yee also reported that the preliminary draft of the proposed rules will be provided to the Committee in parts for their review, comments, and changes. However, final rewrite will occur at the end of the drafting process. Staff will await the Chair's instructions as to which stakeholders should receive copies of the preliminary rough drafts of these proposed rules for review and comment.

Legislative Acts and Resolutions – SR 113, HR 128 (2009) – Electronic Survey Results

Specialist Leong submitted a narrative portion of the survey for the committee's information. She noted that based on the reported experiences of other state agencies surveyed and the responses of condominium developers/attorneys, and real estate companies involved with project sales, staff suggests at the option of the contracted consultants, the implementation of an E-filing/paperless format registration process. The suggestion is further subject to the following:

1. The advice and counsel of the deputy attorney general including but not limited to advice as to whether any additional legislation and any hearings for additional fees may be required;
2. Any departmental and division review and or approvals;
3. Security concerns;
4. Costs, if any; and
5. A study of the impact and practicalities of maintaining a "pilot program" hard copy system and a paperless system; for how long, and what should the criteria be for deciding to continue or discontinue the pilot program.

Commissioner Kuriyama questioned the survey results from the Condominium Consultants reviewing the documents.

Specialist Leong responded that most consultants did not want the E-filing due to the voluminous submission and the difficulty they would have reviewing/handling the documents.

Commissioner Kuriyama noted that the Condominium Consultants are ultimately the individuals who will be reviewing the documents. If they are not comfortable reviewing the documents in this format this may impact the review. The Commission and staff need to consider whose "option" it is. It should ultimately be the Consultant's option.

Chair Loudermilk suggested more research be done on this issue.

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.

CETF Budget & Finance Report: Upon a motion by Commissioner Kuriyama, seconded by Commissioner Ball, it was voted on and unanimously carried to accept the Condominium Education Trust Fund Financial Report for the period ending March 31, 2010

Executive Session: Upon a motion by Commissioner Kuriyama, seconded by Commissioner Suiso, it was voted on and unanimously carried to move 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 Suiso, seconded by Commissioner Gendrano, it was voted on and unanimously carried to move out of executive session.

CAI Hawaii Chapter Request for Participation of Condominium Specialist at CAI Hawaii Chapter Program September 15, 2010 (Maui) and September 16, 2010 (Oahu)

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Sherley, it was voted on and unanimously carried to decline participation in the particular seminar "Maximizing Your Dollars."

Commission members noted that the subject matter was not appropriate for Condominium Specialist participation, but encourages CAI Hawaii to submit similar requests for staff participation in future seminars where the subject matter or topic would be more in line with the role of the condominium specialist and the information they provide.

2010 CAI Hawaii Seminars

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Suiso, it was voted on and unanimously carried to: 1) approve reimbursement of expenditures incurred in connection with the nationally recognized experts (George Nowack – Boards Do's and Don'ts, May 20, 2010 and Larry Pothast – One Hour Board Meeting, June 17, 2010) for an amount allowed by the existing contract up to the amount requested, subject to CAI Hawaii's submission of receipts for actual costs incurred; 2) approve the additional costs for the Kona Seminar (Legislative Update – July 30, 2010) and Mike Packard (Maximizing Your Dollars - September 15, 2010 Maui and September 16, 2010 Oahu) in accordance with the terms of the existing contract. The approval is for an amount allowed by the existing contract up to the amount requested subject to CAI Hawaii's submittal of receipts for actual costs incurred; and 3) not approve the seminar "CAI 25th Anniversary Annual Meeting" for Condominium Education Trust Fund (CETF) subsidy and the request for costs in connection with the presentation by Wayne Hyatt, Esq. (October 29, 2010) at that seminar. The proposed seminar appears to violate paragraphs 2 and 7 of Attachment S1 of the existing contract between CAI Hawaii and the Commission. CAI Hawaii may resubmit a request for approval of a seminar more in line with the guidelines for seminar approval as specified in Attachment S1 of the existing contract.

The committee noted that paragraph 1 of Attachment S1 of the existing contract requires CAI Hawaii to submit a short description and summary of the seminar's objectives with its request for approval of any proposed seminar for CETF subsidy

and requested that these items be referenced be submitted to the Commission office.

It was further noted that Attachment S2 of the existing contract requires that the expenditures be submitted in advance to the Commission for pre-approval; and advises CAI Hawaii that the Commission, by approving the request for the reimbursement for George Nowack (Boards Do's and Don'ts, May 20, 2010) and Larry Pothast (One Hour Board Meeting, June 17, 2010), is not waiving requirements of Attachment S2 and expects that all future requests of this nature be submitted to the Commission for pre-approval prior to CAI Hawaii incurring such expenditures for reimbursement.

It was noted that current developments in its program of work item, Interactive Participation with Organizations, require staff to report to the committee the practicalities of continuing its membership.

Next Meeting: August 11, 2010
Upon adjournment of 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 Loudermilk adjourned the meeting at 10:20 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

Cynthia M. L. Yee
Senior Condominium Specialist

July 26, 2010

Date

Minutes approved as is.

Minutes approved with changes; see minutes of _____