

**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: October 10, 2012

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: Scott Sherley, Chair, Broker / Hilo Commissioner  
Bruce Faulkner, Vice Chair / Maui Commissioner  
Nikki Senter, Public / Honolulu Commissioner  
Stanley Kuriyama, Broker / Honolulu Commissioner  
Frances Gendrano, Broker / Honolulu Commissioner  
Walt Harvey, Broker / Honolulu Commissioner  
Rowena Cobb, Broker / Kauai Commissioner  
Aileen Wada, Broker / Honolulu Commissioner  
Scott Arakaki, Public / Honolulu Commissioner

Miles Ino, 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  
Shari Wong, Deputy Attorney General  
Tammy Norton, Recording Secretary

Others: Aron Espinueva, Hawaii Association of REALTORS®  
Myoung Oh, Hawaii Association of REALTORS®  
Marsha Shimizu, Hawaii Association of REALTORS®

Absent: None.

Call to Order: Chair Sherley called the meeting to order at 9:10 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.

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 Cobb, seconded by Commissioner Wada, it was voted on and unanimously carried to accept the minutes of the September 12, 2012 Condominium Review Committee meeting as circulated.

Condominium  
Governance and  
Management:

**AOUO Registrations**

Specialist Stone reported that no additional associations were registered during the month of September.

**Condominium Seminars and Symposium**

Specialist Yee and Commissioner Cobb reported the results of their monitoring of the CETF subsidized seminar offered by CAI Hawaii entitled "Nuts and Bolts of Construction Contracts and Financing" on September 27, 2012. Commissioner Cobb reported that the seminar was very informative. Selected excerpts of the materials were distributed.

**Case Law Review Program**

The following articles from the October 2012 issue of *Community Association Management Insider* were distributed for informational purposes: "Dwindling Amenities Didn't Abrogate Member's Obligation to Pay Dues" and "Petition for Swimming Pool Amendment Didn't Change Declaration."

**Condominium Related Articles**

The following article from the October 2012 issue of *Community Association Management Insider* was distributed for informational purposes: "Does Your D&O Insurance Offer Enough Protection."

Condominium  
Project  
Registration:

**Condominium Project Registration - Public Reports Issued**

A list of those condominium projects issued effective dates during the month of September 2012 were distributed for informational purposes.

PROJ #	PROJECT NAME	PROJECT ADDRESS	TMK #	UNITS	REPORT DATE
7257	2232 PANE ROAD	LOT 4 BACLE TRACT BLOCK C KOLOA HI 96756	428018005	2	B REPT 9/6/2012
7281	2295 B LILIHA STREET	2295 B LILIHA ST HONOLULU HI 96817	118004023	2	B REPT 9/28/2012
7140	45-120 MOAMAHI WAY	45-120 MOAMAHI WAY KANEHOE HI 96744	145101027	2	B AMD 9/20/2012
7259	66-158 & 66-158A HALEIWA ROAD	66-158 & 66-158A HALEIWA RD	166003045	2	B REPT 9/17/2012

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7254	HANEHOI	HALEIWA HI 96712 664 HOELO RD HAIKU HI 96708	229007081	2	B REPT	9/20/2012
7270	KA MILO AT MAUNA LANI PHASE 7	68-1122 N KANIKU DR KOHANA COAST HI 96743	368022041	5	B REPT	9/14/2012
7238	KAUIKEOLANI I	LOT 131 WEKE RD HANALEI HI 96714	455001043	2	B REPT	9/14/2012
7250	KEAAHALA (PHASE II)	45-567F & G KEAAHALA KANEHOE HI 96744	145021008	2	FINAL	9/18/2012
7279	KREIS HOMES 1	94-031 NAWAAKOA PL WAIPAHA HI 96797	194011022	2	B REPT	9/18/2012
7280	KREIS HOMES 2	94-027 NAWAAKOA PL WAIPAHA HI 96797	194011063	2	B REPT	9/18/2012
7283	KULALANI AT MAUNA LANI (PHASE 3)	68-1118 N KANIKU DR KAMUELA HI 96743	368022007	12	B REPT	9/24/2012
7278	LAULANI XVII, PHASE 25	91-1001 KEAUNUI DR EWA BEACH HI 96706	191149031	16	B REPT	9/5/2012
7235	LOT 2 MAKILA PLANTATION PHASE III CONDOMINIUM	LOT 2 MAKILA PLANTATION SUBDIV LAHAINA HI 96761	247001041	2	B REPT	9/6/2012
7263	LUKELA PLACE	1912 & 1912-A LUKELA PL HONOLULU HI 96819	113004046	2	B REPT	9/5/2012
7285	MAKALI'I II AT KAPOLEI	WA'AKEA PL KAPOLEI HI 96707	191079001	35	B REPT	9/18/2012
7132	MAKONA AND LILIANA STREET CONDOMINIUM PHASE II	87-153 MAKONA ST & 87-154 WAIANAE HI 96792	187001003	4	B REPT	9/12/2012
7078	MALIKO BAY LOT 6 CONDOMINIUM	ULUA PL HAIKU HI 96708	227036037	2	B REPT	9/19/2012
7272	MARY SAVIO MEDICAL PLAZA AT NEWTOWN	98-1247 KAAHUMANU ST AIEA HI 96701	198008026	62	B REPT	9/27/2012
6186	SEASCAPE CONDOMINIUM PHASE I	KAKAHIKA ST KAILUA KONA HI 96740	373010051	40	B AMD 2	9/13/2012
6354	SEASCAPE CONDOMINIUM PHASE II, III, IV	NUUANU ST KAILUA KONA HI 96740	373010051	68	B AMD 2	9/13/2012
5525	SUMMER BREAK	4901 HANALEI PLANTATION RD PRINCEVILLE HI 96722	454004045	2	SUPPL 2	9/18/2012
7123	VILLAS AT POIPU KAI THE	2373 HOOHU RD KOLOA HI 96756	428027034	28	B AMD	9/28/2012
0	<b>Preliminary Reports</b>					
0	<b>Contingent Final Reports</b>					
1	<b>Final Reports</b>					
1	<b>Supplementary Reports</b>					
16	<b>B Reports</b>					
4	<b>B Amendment Reports</b>					
22	<b>TOTAL REPORTS</b>					

### Consultants

Staff announced that the Condominium Consultant's Forum/Information Session will be held on November 1, 2012. The meeting of the consultants will among other things provide continuity between consultants, reviews of new legislation, new forms, and discuss recent committee decisions. Staff requested that Commissioners inform staff of any issues or questions they want raised at the consultant's forum.

### Vernon T. Tashima, Esq., Request for Informal Non-Binding Interpretation of Section 514B-58(b) HRS, (letter dated September 19, 2012)

The committee noted that Mr. Vernon Tashima's request for an informal non-binding interpretation sought to relieve the developer from the application of §514B-58(b), HRS (annual filing requirement to update the material contained in the developer's public report) in the following three situations: 1) owner/developer establishes a CPR of two units, retains one and sells the other; 2) after the sale to a third party, owner/developer executes a deed of the retained

unit to himself; and 3) two co-owners of a property, after establishing a two-unit CPR execute partition deeds, whereby each owner acquires ownership of a unit.

The discussion that followed included the following; the Commission's informal non-binding interpretation reported on page 4 of the Commission minutes of March 25, 2004, on a somewhat related request relating to Chapter 514A, HRS, which appeared to lend some guidance in defining "initial sales" as excluding conveyances made to the developer and co-developers, the language of §514B-58(b), HRS, relieving the developer from filing the annual report only when initial sales have been completed, the absence of any expressed exceptions from the filing, the absence of a definition for "initial sales," and the language of §514B-51(a) (3), HRS ". . . The registration requirements of this section and the developer's amended developer's public report requirements of section 514B-56 shall apply to any sale of units to the public following a sale of units in bulk."

Further discussion of the request included whether a family member is considered "public", exception for "gratuitous disposition of a unit" of §514B-81, HRS, bonafide sales and situations that could be construed as evasion of the disclosure laws; examination of the legislative history for the annual report requirement, and suggestions for the scope of an informal non-binding interpretation.

The committee went on to discuss further deferring the agenda item, additional research of the matter, answering Mr. Tashima's specific questions as raised, and not interpreting the law.

Deputy Attorney General Wong then discussed the Committee's role as including interpreting the law for which they have authority over.

Upon a motion by Commissioner Arakaki, seconded by Commissioner Senter, it was voted on and unanimously carried to defer Mr. Tashima's request.

Program of Work: **Condominium Laws and Education**

Specialist Stone reported that staff will be updating the Board of Director Guides to reflect the changes in the law relating only to Chapter 514B.

**Hawaii Condominium Bulletin**

The September 2012 issue of the Hawaii Condominium Bulletin has been posted to the Commission's website, [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec).

**Rulemaking, Chapter 53, Fees**

Staff reported that the public hearing was held on September 14, 2012. No testimony was presented. Staff is currently working on requesting the clean and ramseyer copies of the rules from its Administrative Service Office and subsequent approval as to form from the Attorney General's Office. The approved as to form copies will then be attached to a memo to the Governor requesting his final approval to adopt the rules.

Condominium No comments, recommendations or concerns were received from the following:

Organizations Forum: 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: No report presented.

Next Meeting: November 7, 2012  
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 Sherley adjourned the meeting at 9:40 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

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Cynthia M. L. Yee  
Senior Condominium Specialist

October 19, 2012

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Date

Minutes approved as is.

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