

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: November 7, 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, Broker / 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

Neil Fujitani, Supervising Executive Officer
Miles Ino, Executive Officer
Cynthia Yee, Senior 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: None.

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:

Minutes

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Cobb, it was voted on and unanimously carried to accept the minutes of the October 10, 2012 Condominium Review Committee meeting.

Condominium
Governance and
Management:

AOUO Registrations

Specialist Stone reported that as of October 31, 2012, 1,656 AOUOs have successfully registered.

Condominium Seminars and Symposium - CAI Hawaii's request for approval of 2013 CAI Hawaii Seminars for Condominium Education Trust Fund Subsidies

The committee acknowledged receipt of CAI Hawaii's request for approval of CETF subsidized seminars.

Specialist Yee informed the committee that the approval process for this type of request where the topic or subject matter of the seminar had been previously approved by the Commission, such had been delegated to staff. Staff is thus reporting that the requested seminars fall within the delegation and staff is approving the requested seminars being offered through June 30, 2013 for CETF subsidies subject to the terms and conditions of the existing contract and the availability of the CETF monies.

Case Law Review Program

The following cases were distributed for informational purposes: *Michael Peters and Linda Peters, Plaintiffs v. Lexington Insurance Company et. al , Defendants* 836 F.Supp.2d 1117 (D. Hawai'i) Dec. 27, 2011; and *Association of Apartment Owners of Liliuokalani Gardens at Waikiki, Plaintiffs v. Joel Lee Taylor, Defendant* 2012 WL 3800340 (D.Hawai'i) August 31, 2012.

Condominium Related Articles

The following articles were distributed for informational purposes: "How-and How Not-to Suspend Member's Use Privileges" - *Community Association Management Insider* (Special Issue: Manager's Review); *Wai Halana, Hawaii Flood News*, Department of Land and Natural Resources Engineering Division (October 2012) - "National Flood Insurance Program is Reauthorized" and "Frequently Asked 'Floodplain Management' Questions."

Condominium
Project
Registration:

Condominium Project Registration - Public Reports Issued

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

PROJ #	PROJECT NAME	PROJECT ADDRESS	TMK #	UNIT	REPORT	DATE
7251	2123 & 2125 DATE STREET CONDOMINIUM	2123 & 2125 DATE ST HONOLULU HI 96826	127002043	2	B AMD	10/15/2012
7289	3238 & 3246 KAOHINANI DRIVE	3238 & 3246 KAOHINANI DRIVE HONOLULU HI 96817	122050011	2	B REPT	10/25/2012
7219	3820 AND 3820-A NOEAU STREET	3820 & 3820-A NOEAU ST HONOLULU HI 96816	113015002	2	B AMD 2	10/26/2012

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7287	4308 SIERRA DRIVE CONDOMINIUM	4308 4308A & 4308B SIERRA DR HONOLULU HI 96816	133031007	3	B REPT	10/17/2012
7295	55-491 AND 55-491A PALEKANA STREET	55-491 & 55-491A PALEKANA ST LAIE HI 96762	155013070	2	B REPT	10/18/2012
7276	670 AND 670A HUNALEWA STREET	670 & 670A HUNALEWA ST HONOLULU HI 96816	132064009	2	B REPT	10/3/2012
7303	67-273 AND 67-275 KIAPOKO STREET	67-273 AND 67-275 KIAPOKO ST WAIALUA HI 96791	167015015	2	FINAL	10/26/2012
7293	ALOHA`AINA CONDOMINIUM	450 FRONT ST LAHAINA HI 96761	246006005	2	B REPT	10/16/2012
7274	COMMODORE WAIKIKI	1868 & 1880 KAHAKAI DR HONOLULU HI 96814	123036016	56	B REPT	10/1/2012
7243	FARIAS O`HANA ESTATES CONDOMINIUM	3291 LAUOHO RD KALAHEO HI 96741	423001049	2	FINAL	10/12/2012
7226	FUJIMOTO CONDOMINIUM	WAHA RD KOLOA HI	423009005	3	B REPT	10/29/2012
5199	HALI`A HALE AT KAUNA`OA	LOT 12 AT OULI WAIMEA HI	362002018	14	SUPPL 2	10/23/2012
6903	HO`OLE`A TERRACE AT KEHALANI	KEHALANI MAUKA PKWY WAILUKU HI 96793	235001067	174	B AMD 6	10/25/2012
7163	KALA KEA ESTATES	6226 KALA KEA PL KAPAA HI 96746	444010038	2	B AMD	10/30/2012
7256	KAWELA MAUKA RANCHES I	57-546 KAMEHAMEHA HWY KAHUKU HI 96731	157001042	4	B REPT	10/4/2012
7261	KAWELA MAUKA RANCHES II	57-548 KAMEHAMEHA HWY KAHUKU HI 96731	157001041	5	B REPT	10/4/2012
7268	KEALAKAI AT KAPOLEI - PHASE VI	KAI AU AVE KAPOLEI HI 96707	191016201	27	B AMD	10/23/2012
7271	LANAI CITY APARTMENTS	615 GAY ST LANAI HI 96763	249006010	24	B REPT	10/3/2012
7267	LANIPO CONDOMINIUM RESIDENCE	215 & 217 LANIPO DR KAILUA HI 96734	143003020	2	B REPT	10/17/2012
7302	LAULANI XVIII PHASE 26	91-1001 KEAUNUI DR EWA BEACH HI 96706	191149031	9	B REPT	10/15/2012
7260	NEHOA STREET CONDOMINIUM	1563, 1565, 1567, & 1569 NEHOA ST HONOLULU HI 96822	124023011	4	B REPT	10/9/2012
7299	NOHONA III AT KAPOLEI - PHASE I	KAMA`AHA LP KAPOLEI HI 96707	191016170	12	B REPT	10/12/2012
7284	OLA MAKAI CONDOMINIUM	LOT 23-A MAHANALUA NUI SUBDIV LAHAINA HI 96761	247009024	2	B REPT	10/16/2012
7277	PAUMALU MAUKA RANCHES	58-248 KAMEHAMEHA HWY HALEIWA HI 96712	158002004	5	B REPT	10/2/2012
6746	VILLAS OF HALEILIO	4825 HALEILIO RD KAPAA HI 96746	441008003	2	B REPT	10/25/2012
0	Preliminary Reports					
0	Contingent Final Reports					
2	Final Reports					
1	Supplementary Reports					
17	B Reports					
5	B Amendment Reports					
25	TOTAL REPORTS					

Delinquent Parcels Being Condominiumized - Master Parcel and Tax Clearance Certificate – Request to provide certificate from Scott K. Teruya, Real Property Tax Division Administrator dated September 28, 2012

Specialist Yee noted that the County of Maui's Real Property Tax Division Administrator is requesting that the committee consider adding a requirement that mandates developer's to provide a tax clearance certificate to acknowledge that the master parcel has paid its taxes. The certificate indicates a date that the parcel will be in compliance up until and will only need to be required at the final level.

Specialist Yee also reported a discussion on this topic and the request was also discussed at the recent condominium consultant forum. The consensus expressed was that the State should not interfere with the County's business. It was also noted that not all title companies investigate tax issues in the same manner. Consultants did note that most escrow companies will check tax issues on both the master parcel and individual units. If a tax delinquency is red flagged

in the developer's public report submission for consultant review, the consultant will follow up on the issue with the developer's attorney.

Commissioner Kuriyama suggested including as a question in the questionnaire, "are county property taxes current?" Committee members discussed the suggestion.

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Cobb, it was voted on and unanimously carried to address the Maui Real Property Tax Division's request as follows: The Commission will amend its forms as follows:

- Condominium Information / Instructions to include a request that the developer also send the County of Maui's Real Property Tax Division a copy of the developer's Notice of Intention and Questionnaire, condominium map, and copy of the proposed draft public report; and
- Condominium registration application questionnaire to include a request that the developer provide an answer as to whether all county real property taxes relating to the master parcel (where applicable) and individual CPR unit are current; and if the taxes haven't been paid, the type and amount of the outstanding real property taxes.

Condominium Consultants' Forum/Information Session November 1, 2012 -- Report

Specialist Yee reported that the Condominium Consultants' Forum was held on November 1, 2012. All consultants were present with 2 neighbor island consultants participating via video conference. Discussed during the forum included new legislation, rulemaking updates, objectives of the Developer's Public Report, use of forms, disclosures in conversions, delinquent taxes, non conforming uses, phased CPRs, and more. A written report will be presented at the next CRC meeting.

Both the CRC Chair and Vice Chair reported participating in the forum and found it very educational. Both noted that the consultants seemed concerned that the current condominium laws and rules in effect are based on large buildings, versus the small unit projects which we have more of today.

Vernon T. Tashima, Esq., Request for Informal Non-Binding Interpretation of Section 514B-58(b) HRS, (letter dated September 19, 2012) – Deferred from October 10, 2012 CRC meeting

Specialist Yee noted that this issue was deferred from the October 10, 2012 CRC meeting for further research on the matter. Mr. Tashima's request of September 19, 2012 requested an interpretation regarding the application of §514B-58 (b), HRS, in the following situations: 1) Owner/Developer establishes a CPR of two (2) units, owner retains one unit, and sells the other; 2) Variation of the foregoing: After the sale to a third party, owner/developer executes a deed of the retained unit to himself; and 3) Two (2) co-owners of a property, after establishing a two (2) unit CPR, execute partition deeds, whereby each owner acquire ownership of a unit.

The issue was discussed at the Condominium Consultants' Forum. After much discussion, consultants agreed that there are no exceptions to the filing requirements of the Annual Report and that the statute should be adhered to.

The committee discussed the consultants' recommendation and staff's reported research. Commissioner Senter noted that for this specific request, there appears to be a bad fact pattern to make specific determinations.

Upon a motion by Commissioner Arakaki, seconded by Commissioner Cobb, it was voted on and unanimously carried to issue an informal non-binding interpretation that there are no exceptions to the Annual Report filing requirement of §514B-58(b), HRS, for the situations outlined in Mr. Tashima's request of September 19, 2012.

Program of Work: No program of work items discussed.

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: No report presented.

Next Meeting: December 12, 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

Cynthia M. L. Yee
Senior Condominium Specialist

November 9, 2012

Date

Minutes approved as is.

Minutes approved with changes; see minutes of _____