

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: March 14, 2007

Time: Upon adjournment of the Education Review Committee meeting which follows 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: William Chee, Chair, Broker / Honolulu Commissioner
Louis Abrams, Broker / Kauai Commissioner
Trudy Nishihara, Broker / Honolulu Commissioner
Carol Ball, Broker / Maui Commissioner
Stanley Kuriyama, Broker / Honolulu Commissioner
Michele Sunahara Loudermilk, Public / Honolulu Commissioner
Annette Aiona, Broker / Hilo Commissioner
Frances Gendrano, Salesperson / Honolulu Commissioner

Calvin Kimura, Supervising Executive Officer
Neil Fujitani, Executive Officer
Cynthia Yee, Senior Condominium Specialist
David Grupen, Condominium Specialist
Diane Choy Fujimura, Senior Real Estate Specialist
Lorene Kimura, Real Estate Specialist
Shari Wong, Deputy Attorney General
Tammy Norton, Recording Secretary

Others: Galen Leong, Ashford & Wriston
Todd Dickie, Developer

Absent: Mark Suiso, Vice Chair, Public / Honolulu Commissioner

Call to Order: Chair Chee called the meeting to order at 11:32 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
 - j. Informal Non-Binding Interpretation Request – Pacific Rim Bank – Request for Non-Binding Opinion Concerning Deposits of Funds of Hawaii Owners Associations, Pursuant to Sections 514A-97(c)(1) and 514B-149(c)(1), Hawaii Revised Statutes – Deferred from February REC Meeting, Decision Making
5. CPR Registration and Developer's Public Reports
 - a. Condominium Projects and Developer's Public Reports
 - 3) CPR Project – Chapter 514A, HRS, registration questionnaire - Deferred from February REC Meeting, Decision Making
 - e. Informal Non-Binding Interpretation Requests §514B-23, HRS, Amendments to governing instruments, §514A-1.5, HRS, Act 93 §9 (SLH 2005) "Iolani Regent" - Galen C.K. Leong, Esq. – Deferred from February REC Meeting, Decision Making
 - f. Informal Non-Binding Interpretation Requests §514A-40(b), §514A-4, §514A-20, §514A-31, 514A-105, HRS "Iolani Regent" - Galen C.K. Leong, Esq. - Deferred from February REC Meeting, Decision Making

Minutes:

Upon a motion by Commissioner Loudermilk, seconded by Commissioner Nishihara, it was voted on and unanimously carried to accept the minutes of the February 14, 2007 Condominium Review Committee meeting.

Condominium
Governance and
Management:

AOAO Registrations

Specialist Gruppen reported that as of February 28, 2007, 1,555 AOAOs have successfully registered.

Case Law Review Program

The following articles from the February 2007 issue of *Community Association Management Insider* were distributed for informational purposes: "Association Didn't Discriminate Under FHA," "Age Discrimination Lawsuit Can Proceed," and "Assigning Handicap Parking Based on Seniority is Reasonable Accommodation."

CDR Pilot Program

The Notice of Request for Hearing and Order Staying Further Proceedings for the following were distributed for informational purposes: *In the Matter of GARY K. KAWAKAMI, Petitioner vs. BOARD OF DIRECTORS, KULIOUOU KAI AOAO, Respondent* – CDR–2006-11; *In the Matter of LAURA BROWN and JEAN PATTERSON, Petitioners, vs. BOARD OF DIRECTORS, AOAO SPRUCE RIDGE VILLAS, Respondent* – CDR-2007-1.

Specialist Yee noted that a footnote on the Notice summarizes the DCR Pilot Program and the Acts which created the program.

Informal Non-Binding Interpretation Request – Pacific Rim Bank – Request for Non-Binding Opinion Concerning Deposits of Funds of Hawaii Owners Associations, Pursuant to Sections 514A-7(c)(1) and 514B-149(c)(1), Hawaii Revised Statutes – Deferred from February REC Meeting, Decision Making

Upon a motion by Commissioner Loudermilk, seconded by Commissioner Nishihara, it was voted on and unanimously carried to forward the Committee's recommendation from its meeting of February 14, 2007 to the full Commission for decision making at its March 30, 2007 meeting. Recommend approval to decline to issue an informal non-binding interpretation and recommend that Pacific Rim consult with the DCCA's Division of Financial Institutions and or revisit and resubmit its written request to address the language of section 514B-149(c)(1)(A), Hawaii Revised Statutes.

Condominium Project Registration:

Condominium Project Registration - Public Reports Issued

A list of those condominium projects issued effective dates during the month of February 2007 were distributed for informational purposes.

Proj.	Project Name	Project Address	TMK #	Report	Date
6204	2205 & 2209 LILIHA STREET	2205 LILIHA ST HONOLULU HI 96817	(1)1-08-002:096	B rpt	02/06/07
6206	901 PROSPECT	901 PROSPECT ST HONOLULU HI 96822	(1)2-04-015:022	B Rpt	02/14/07
6235	92-775 & 92-775 A MAALILI PLACE	92-775 & 92-775A MAALILI PL KAPOLEI HI 96707	(1)9-02-006:079	B Rpt	02/23/07
6246	ALEWA REGENCY	1270 ALEWA DR HONOLULU HI 96817	(1)1-08-033:005	B Rpt	02/28/07
6185	ALLURE WAIKIKI	1837 KALAKAUA AVE HONOLULU HI 96815	(1)2-06-013:001	B Rpt	02/23/07
6227	B & B CONDOMINIUM PROJECT	59-790 KANALANI PL HALEIWA HI 96712	(1)5-09-031:014	B Rpt	02/20/07
5447	BROOKS CONDOMINIUM	102 KUMU NIU PL LAHAINA HI 96761	(2)4-07-010:003	Suppl 1	02/05/07
5599	CAPITOL PLACE	1200 QUEEN EMMA ST HONOLULU HI 96814	(1)2-1-009:011	Final	02/09/07
6179	CEDAR STREET CONDOMINIUM	908 CEDAR ST HONOLULU HI 96814	(1)2-03-013:022	B Rpt	02/20/07
6202	CRONSHAW ESTATES CONDO	7947 A KAUMUALII HWY KEKAHA HI 96752	(4)1-03-001:085	Final	02/27/07
6234	ISLAND CRTYARDS AT MILILANI MAUKA INCR B	UKUWAI ST MILILANI HI 96789	(1)9-05-049:078	B Rpt	02/20/07
5499	KAI OLINO	OFF WAIALO RD ELEEE KOLOA HI 96756	(4)2-01-003:005	Cont. Final	02/20/07
5910	KAPOLEI SPECTRUM BUSINESS PARK	2106 LAUWILIWILI ST KAPOLEI HI 96707	(1)9-01-075:003	Suppl 1	02/21/07
6201	KELLY CONDOMINIUM	44 LAU WAY LAHAINA HI 96761	(2)4-07-010:083	Final	02/12/07
6181	KOHANAIIKI LOT 27 CONDO PROJ.	LOT 27 KONA HI 96740	(3)7-03-058:052	Final	02/14/07
6174	KOLOA LANDING AT POIPU BEACH	2641 POIPU RD KOLOA HI 96756	(4)2-08-015:025	B Rpt	02/20/07
4888	KULANA	OLOHENA,HAUAIKI & KAAPUNI RDS KAPAA HI 96746	(4)4-03-003:005	Suppl 2	02/20/07
5837	KULANA	OLOHENA RD KAPAA HI 96746	(4)4-03-011:001	Suppl 1	02/20/07
6128	LOT 172 ESTATES	4127 PUAOLE ST LIHUE HI 96766	(4)3-06-019:008	Final	02/27/07
6212	MONTECITO/TUSCANY III (TUSCANY 2 PHASE 4)	91-200 KEAUNUI DR EWA BEACH HI 96706	(1)9-01-010:007	B Rpt	02/07/07
6213	MONTECITO/TUSCANY III (TUSCANY 2 PHASE 5)	91-200 KEAUNUI DR EWA BEACH HI 96706	(1)9-01-010:007	B Rpt	02/07/07
6214	MONTECITO/TUSCANY III (TUSCANY 2 PHASE 6)	91-200 KEAUNUI DR EWA BEACH HI 96706	(1)9-01-010:007	B Rpt	02/07/07
6215	MONTECITO/TUSCANY III	91-200 KEAUNUI DR	(1)9-1-010:007	B Rpt	02/07/07

6087	(TUSCANY 2 PHASE 7) NANA PARADAIISO CONDOMINIUM	EWA BEACH HI 96706 ALLOTMENT 3 KUAPUNA HUI KAWAIHAU HI	(4)4-09-003:012	Final	02/05/07
6168	ORCHID POINT CONDOMINIUM	3720 KAMEHAMEHA RD PRINCEVILLE HI 96722	(4)5-04-005:052	B Rpt	02/14/07
5373	PALMS AT WAIKIKI	1850 ALA MOANA BLVD HONOLULU HI 96815	(1)2-06-012:003	Suppl 1	02/05/07
6229	PALOS VERDES CONDOMINIUM	87-1320 FARRINGTON HWY WAIANAE HI 96792	(1)8-07-006:012	B Rpt	02/14/07
6244	PARKSIDE AT KILANI THE	1124 KILANI AVE WAHIAWA HI 96786	(1)7-04-009:002	Final	02/21/07
6222	PARKWAY VISTA	605 LIPOA PKWY KIHEI HI 96753	(2)2-02-024:005	B Rpt	02/07/07
6023	PEARLRIDGE SUNSET	98-080 UAO PL AIEA HI 96701	(1)9-08-039:008	Suppl 2	02/26/07
6158	PLANTATION LTD.	4544 KULI RD KALAHEO HI 96741	(4)2-04-001:091	Final	02/06/07
6103	PLANTATION TOWN APARTMENTS	94-979 KAUOLU PL WAIPAHU HI 96797	(1)9-04-017:058	B Amd 1	02/12/07
6084	SARGENT/TARPEY CONDOMINIUM	25 LAU NIU WAY LAHAINA HI 96761	(2)4-07-010:078	Final	02/28/07
6210	SUPER FINE PROJECT	6137 KOLO PUA RD KAPAA HI 96746	(4)4-02-010:020	B Rpt	02/23/07
6238	TOWN HOMES AT FAIRWAY'S EDGE INCR 6 THE	KEONEULA BLVD EWA BEACH HI 96706	(1)9-01-012:070	B Rpt	02/16/07
6223	WILSON ESTATES	4437 IONA ST HANAPEPE HI 96716	(4)1-09-007:047	B Rpt	02/12/07

Preliminary Reports:	0
Contingent Final Reports:	1
Final Reports:	9
Supplementary Reports:	6
B Reports	19
B Amendment Reports	1

Total: 36

Case Law

The following was distributed for informational purposes: *Ka Nu Hou* (February 2007) "Government Liability in Hawaii: An Overview with an Application to Building Permits"

CPR Project – Chapter 514A, HRS, registration questionnaire - Deferred from February REC Meeting

Upon a motion by Commissioner Loudermilk, seconded by Commissioner Nishihara, it was voted on and unanimously carried to forward the Committee's recommendation from its meeting of February 14, 2007 to the full Commission for decision making at its March 30, 2007 meeting. Recommend approval to include a "Questionnaire" as part of the Chapter 514B, HRS, condominium project registration application. The questionnaire shall include those items currently requested in the Chapter 514A, HRS, condominium project registration application, and shall exclude any items, areas, or information that are already included as part of the Chapter 514B, HRS, developer's public report form.

Informal Non-Binding Interpretation Requests §514B-23, HRS, Amendments to governing instruments, §514A-1.5, HRS, Act 93 §9 (SLH 2005) "Iolani Regent" - Galen C.K. Leong, Esq. – Deferred from February REC Meeting

Upon a motion by Commissioner Loudermilk, seconded by Commissioner Nishihara, it was voted on and unanimously carried to forward the Committee's recommendation from its meeting of February 14, 2007 to the full Commission for decision making at its March 30, 2007 meeting. With concerns about the age of the condominium itself (Iolani Regent) and with concerns about consumer

protection, recommend approval to issue an informal non-binding interpretation that a condominium created in 1990 where the declaration, bylaws, and condominium map were recorded in 1990 and where the project was never registered with the Commission and the developer remains the owner of all of the units in the condominium project, allow the developer the option to register the condominium project and sell in accordance with Chapter 514B, HRS, provided the developer pursuant to section 514B-84(a) (3), HRS, does the following:

- 1) Disclose in the developer's public report that the developer has not received a letter from the appropriate county officer verifying the structures are in compliance with all zoning and building ordinances and codes applicable to the project at the time it was built; and update the developer's public report should the letter later be received;
- 2) Secure a verified statement signed by a licensed architect and or engineer that the structures are in compliance with all zoning and building ordinances and codes applicable to the project at the time it was built and specifically disclosing the information in the developer's public report including the disclosure of any violations and non-compliance with a date certain as to when the violations and non-compliance shall be cured as provided in §514B-32 (a) (13), HRS, and §514B-89, HRS. The verified statement shall provide the same level of assurances and information as a county officer's verification required by §514B-84(a) (2), HRS.
- 3) Specifically amend the condominium project's 514A, HRS declaration to include provisions that the condominium project shall be govern by Chapter 514B, HRS including the requirements relating to registration and sale of the condominium apartments/units and protection of condominium purchasers.
- 4) Restate the declarations, bylaws, condominium map and other constituent documents as a Chapter 514B, HRS condominium property regime.

The assigned condominium consultant shall monitor the developer's compliance with the stated conditions and disclosures as set forth above and verify to the Commission, the developer's compliance with the stated conditions and disclosures.

Informal Non-Binding Interpretation Requests §514A-40(b), §514A-4, §514A-20, §514A-31, 514A-105, HRS "Iolani Regent" - Galen C.K. Leong, Esq. - Deferred from February REC Meeting

Upon a motion by Commissioner Loudermilk, seconded by Commissioner Nishihara, it was voted on and unanimously carried to forward the Committee's recommendation from its meeting of February 14, 2007 to the full Commission for decision making at its March 30, 2007 meeting. Recommend approval to decline to issue an informal non binding interpretation since the issue has been made moot by the recommendation noted above.

Galen Leong informed the committee that his client has an empty building ready to go to market upon issuance of an effective date by the Commission. The condominium consultant has the filing for review.

Specialist Yee informed Mr. Leong that the committee will be making its recommendation to the full Commission for decision making. The committees and Commission are currently going through a transitioning period of making decisions at the full Commission meeting to the Committee meetings.

Mr. Leong noted that he is proceeding with his project submittal as a 514A filing and has volunteered to provide a letter from an architect.

Commissioner Loudermilk informed Mr. Leong that the committee made a recommendation on his informal non-binding interpretation requests of §514B-23, HRS, amendments to governing instruments, §514A-1.5, HRS, Act 93 §9 (SLH 2005) and did not make a recommendation regarding his request for an informal non-binding interpretation of §514A-40(b), §514A-4, §514A-20, §514A-31, 514A-105, HRS, as the previous decision made this request moot.

Mr. Leong noted that he can change his forms and resubmit the project under Chapter 514B.

Specialist Yee further informed the committee that she had notified Mr. Leong of the Commission's proposed recommendations from the February 14, 2007 CRC meeting. She further noted that County letters include a visual inspection, not just an inspection of records. The architect's letter provided by Mr. Leong does not indicate that a visual inspection was done.

Mr. Leong replied that the statute does not require that a visual inspection be made, but the building department does do an inspection. Mr. Leong noted that he could provide a letter of verification stating that such inspection was done.

Program of Work:

Government and Legislative Participation & Report

SEO Kimura provided a written legislative report and summarized the status of the following bills as follows:

House Bill No. 1627 – Commission's bill, makes technical and conforming amendments that relate to the recodified condominium law; 6 technical errors noted.

Senate Bill No. 1704 – SD 1 incorporated the Commission amendments; 30 technical errors noted.

The Commission prefers the House Bill over the Senate companion bill.
Senate Bill No. 920 – heard.

SEO Kimura further reported that the Condominium Education Fund is under questioning by the Committee on Ways and Means. Staff responded to the Committee's questions.

Condominium Recodification and Education and Chapter 514A, HRS

Upon a motion by Commissioner Nishihara, seconded by Commissioner Aiona, it was voted on and unanimously carried to forward the Committee's recommendation from its meeting of February 14, 2007 to the full Commission for decision making at its March 30, 2007 meeting. Recommend that staff research the possibility of the reenactment of Parts I, V, and VII of Chapter 514A, HRS.

Condominium Speakership Program – Hawaii Realty Association

Specialist Yee reported that she provided a recodification presentation to the Hawaii Realty Association on January 20, 2007. She noted that the real estate sector needs additional condominium recodification education on how Chapter 514B impacts the practice of real estate.

Chair Chee noted that additional education on the recodification should be geared towards real estate licensees.

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.

Open Forum: No discussion presented.

CEF Budget & Finance Report: No report presented.

Next Meeting: April 11, 2007
Upon adjournment of the Education Review Committee meeting which follows 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 Chee adjourned the meeting at 11:53 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

Cynthia M. L. Yee
Senior Condominium Specialist

April 11, 2007

Date

Minutes approved as is.

Minutes approved with changes; see minutes of _____