

CONDOMINIUM REVIEW COMMITTEE
Real Estate Commission
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii
www.state.hi.us/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: August 6, 2001

Time: 2:30 p.m.

Place: Outrigger Waikoloa Beach Hotel
Lehua Room
69-275 Waikoloa Beach Drive
Waikoloa, Hawaii

Present: Mitchell Imanaka, Chair
Peter Rice, Vice Chair
Charles Aki, Member
Michael Ching, Member
John Ohama, Member
Alfredo Evangelista, Member
Iris Okawa, Member
Patricia Choi, Member

Calvin Kimura, Supervising Executive Officer
Alan Taniguchi, Executive Officer
Cynthia Yee, Senior Condominium Specialist
Gordon Arakaki, Condominium Recodification Attorney
Shari Wong, Deputy Attorney General
Tammy Norton, Recording Secretary

Excused: Casey Choi, Member

Others: Andrew Bunn, Esq., Chun, Kerr, Dodd, Beaman & Wong
Brian Thomas, Continuing Education Instructor
Lisa Oroc, Shell Vacations
Emily T. Gail
Peter & Pam Dillingham, Condo Owners
Karl & Marguerite Krieg, Condo Owners
Nicki Ann Thompson, Hawaii Association of Realtors
Roy Takemoto, Hawaii County Department of Planning

Call to Order: Chair Imanaka called the meeting to order at 2:52 p.m., at which time quorum was established.

Chair's Report: Chair Imanaka welcomed all participants to the Condominium Review Committee meeting.

Condominium
Specialist's
Report:

Minutes

Upon a motion by Commissioner Okawa, seconded by Commissioner P. Choi, it was voted on and unanimously carried to accept the minutes of the July 11, 2001 Condominium Review Committee meeting as circulated.

Condominium
 Governance and
 Management:

Mediation and Arbitration – Quarterly Reports

Quarterly mediation reports received from the Mediation Center of the Pacific, Inc. and Mediation Services of Maui, Inc.

AOAO / CMA Registrations

Specialist Yee reported that as of July 31, 2001, 1,358 AOAOs have successfully registered. Specialist Yee further reported that 100 CMAs are also currently registered.

Upon a motion by Commissioner Aki, seconded by Commissioner Okawa, it was voted on and unanimously carried to recommend approval to ratify issuance of effective registration dates for Association of Apartment Owners through July 31, 2001 for the 2001-2003 registration. The associations are as follows:

1515 PELE STREET	07/06/2001	MAHANA AT KAA NAPALI THE	07/17/2001
1547 MILLER	07/23/2001	MAKAHA VILLAGE	07/26/2001
ACACIA PARK	07/12/2001	MAKANUI	07/06/2001
ALAELOA INC	07/17/2001	MAKIKI TOWERS	07/17/2001
ALOHA SURF HOTEL	07/26/2001	MAKIKI WEST	07/06/2001
ANAPUNI MANOR	07/06/2001	MAKIKIAN THE	07/02/2001
BAYSHORE TOWERS	07/01/2001	MANUALOHA I	07/06/2001
CANNERY ROW	07/02/2001	MASTERS AT KAA NAPALI HILLSIDE THE	07/17/2001
CARMEL APARTMENTS	07/19/2001	MENEHUNE SHORES	07/09/2001
CRESCENT PARK	07/10/2001	MILILANI POINT	07/18/2001
CROWN KINAU	07/06/2001	MOIILILI GARDENS	07/06/2001
DIAMOND HEAD BEACH HOTEL	07/09/2001	MOKULEIA BEACH APARTMENTS	07/23/2001
DORI APARTMENTS	07/16/2001	NA HALE KUMU	07/19/2001
EMERSON PLAZA	07/06/2001	NAMAHANA TERRACE	07/27/2001
GREENWAY THE	07/06/2001	NAPILI POINT	07/11/2001
HALE AWAPUHI	07/23/2001	NEWTOWN VILLA II	07/06/2001
HALE HOALOHA	07/06/2001	NIUMALU GARDENS	07/09/2001
HALE KAI	07/26/2001	OHANA KEWALO	07/03/2001
HALE MAHINA BEACH RESORT	07/26/2001	ORCHID MANOR	07/10/2001
HANA LEI COLONY RESORT	07/20/2001	PAE KO GARDENS	07/13/2001
HASSINGER GARDENS	07/06/2001	PALANI HALE	07/06/2001
HAUULA BEACH HOMES	07/09/2001	PANILOLO CLUB	07/02/2001
HAVENS OF 'I'I VISTAS	07/30/2001	PANILOLO HALE	07/11/2001
HAWAIIAN MONARCH	07/16/2001	PEARL KAI TERRACE	07/09/2001
HOALOHA IKE	07/06/2001	PIKAKE MANOR	07/09/2001
HONALO BUSINESS CENTER	07/17/2001	POIPU SANDS THE	07/06/2001
IAO PARKSIDE PHASE IV C	07/05/2001	PUHIAHI BUSINESS CENTER	07/24/2001
INDUSTRIAL PLAZA	07/06/2001	PUNAHOU PARK PLACE	07/06/2001
IOLANI THE	07/06/2001	RAINBOW SERIES KUOLA	07/02/2001
JASON APARTMENTS	07/06/2001	REGENCY AT POIPU KAI THE	07/06/2001
KAA NAPALI ROYAL	07/26/2001	RYCROFT MANOR	07/06/2001
KAHANA KAI THE	07/06/2001	SCENIC TOWERS	07/17/2001
KAHANA VILLA	07/26/2001	SEA VILLAGE THE	07/01/2001
KAHE KAI	07/06/2001	SHORES OF MAUI THE	07/23/2001
KAIHEE KAI	07/02/2001	SIXTEEN REGENTS	07/06/2001
KALAMA VILLA	07/06/2001	SPENCER COURT	07/02/2001
KAMALIE HALE	07/06/2001	SUMMIT AT KANEOHE BAY	07/06/2001
KAPIOLANI BANYAN	07/06/2001	SURFVIEW THE	07/06/2001
KAPIOLANI HOUSE	07/06/2001	UNION PLAZA	07/06/2001
KAUAI INN	07/09/2001	VALLEY ISLE RESORT CONDO	07/12/2001
KONA REEF	07/09/2001	VILLAGE GREEN THE	07/06/2001
KONA SHORES CONDOMINIUM	07/17/2001	WAIKIKI ROYAL THE	07/25/2001
KUAKINI MEDICAL PLAZA	07/06/2001	WALEA FAIRWAYS VILLAS	07/10/2001
KUKUI PLAZA	07/01/2001	WALEHUA APARTMENTS THE	07/27/2001
KULEANA INC. THE	07/17/2001	WAINAKU TERRACE	07/01/2001
KURTISTOWN VILLAGE	07/02/2001	WAIULU VILLAS	07/16/2001
LAKECREST THE	07/02/2001	WAVECREST RESORT INC	07/10/2001
LAKEVIEW GARDENS	07/06/2001	WELLS STREET PROF CENTER	07/05/2001
LIONA KONA	07/19/2001	WINDWARD HARBOUR	07/20/2001
LOFTS BY GENTRY PHASE A THE	07/06/2001	No. of projects: 100	
LUNALILO GARDENS	07/05/2001		

Condominium Seminars – CEF Subsidy “2001 Legislative Update” (CAI Hawaii)

Recodification Attorney Arakaki reported that both he and Specialist Yee attended the seminar. Mr. Arakaki was also a guest speaker at the seminar providing a power point presentation on the recodification of Chapter 514A. Other topics presented at the seminar were related to mandatory mediation, new proxy rules, and family childcare. There were approximately 100 participants in attendance.

Case Law Review Program

The following articles from the June 2001 issue of Community Association Law Reporter were distributed for informational purposes: “Association Violates Fair Housing Act in Not Accommodating Disability;” “Trustees’ Failure To Establish Reserve Account Is Not Reason To Enjoin Repairs To Common Area;” and “Late Charge for Unpaid Assessments Is Unenforceable Penalty.”

Hawaii Community Associations (May 2001) – “National Community Associations of the Year Awards”

Specialist Yee reported that the National Community Association Institute Association of the Year Award is a national award program recognizing well-run associations. To her knowledge, Hawaii has never entered. She further encouraged getting the word out to associations since Hawaii has many well-run associations.

Hawaii Community Associations (May 2001) – “Major Changes to Robert’s Rules of Order Newly Revised”

Staff to request from Management Information Consultants permission to reprint the article in the Hawaii Condominium Bulletin and at the Real Estate Commission’s website.

Condominium
 Project
 Registration:

Condominium Project Registration - Public Reports Issued

Upon a motion by Commissioner Evangelista, seconded by Commissioner Rice, it was voted on and unanimously carried to recommend approval to ratify issuance of effective dates for public reports for the month of July 2001 as follows:

Proj No	Project Name	Project Address	TMK #	Report	Date
4649	2260 SOUTH KIHEI ROAD CONDO	2260 S KIHEI RD KIHEI HI 96753	(2)3-09-005:025	Final	07/19/01
4651	604 & 606 NORTH KUAKINI STREET	604 & 606 N KUAKINI ST HONOLULU HI 96817	(1)1-07-036:004	Final	07/13/01
4512	751 OLOKELE AVENUE	751 OLOKELE AVE HONOLULU HI 96816	(1)2-07-035:033	Final	07/30/01
4686	943 AND 943-A 12TH AVENUE	943 12TH AVE HONOLULU HI 96816	(1)3-02-019:005	Final	07/27/01
4655	AWAPUHI CONDOMINIUM	LOT 14 NAMAHANA FARMS SUBDIV HANAIE HI	(4)5-02-024:014	Final	07/23/01
4673	CAMARA ESTATES	2503 POOHIWI RD KALEHEO HI 96741	(4)2-04-004:006	Final	07/24/01
4622	ELLIOTT VALLEY PROJ CONDO THE	LOT 116-S-1 KAPAA HMSTDS KAPAA HI	(4)4-04-014:017	Final	07/30/01
4683	GOLDEN POND ESTATES LOT #6	LOT 6 GOLEN POND ESTATES KAPAA HI	(4)4-04-003:157	Final	07/19/01
4640	HALE KEE KEE CONDOMINIUM	LOT A-3 KEE KEE ST CAPTAIN COOK HI	(3)8-01-020:019	Final	07/27/01
4658	HAU CONDOMINIUM	LOT 9 NAMAHANA FARMS SUBDIV HANAIE HI	(4)5-02-024:009	Final	07/12/01
4572	HU'ELANI PHASE 7B	91-215 & 91-217 LUKINI PL EWA BEACH HI 96706	(1)9-01-069:008	Final	07/27/01

Condominium Review Committee Minutes
 Meeting of August 6, 2001
 Page 4

4659	IE'IE CONDOMINIUM	LOT 5 NAMAHANA FARMS SUBDIV HANAIEI HI	(4)5-02-024:005	Final	07/09/01
4680	KIHEI COMMERCIAL CONDO II	300 OHUKAI RD KIHEI HI 96753	(2)3-09-045:014	Final	07/30/01
2816	KUAKINI PHYSICIANS TOWER	347 N KUAKINI ST HONOLULU HI 96817	(1)1-07-017:002	Suppl 4	07/12/01
4633	LA PALOMA CONDOMINIUM	LOT 20-A SEACLIFF PLNTN SUBDIV KILAUEA HI	(4)5-02-004:093	Final	07/23/01
4516	MAHAMOKU CONDOMINIUM	LOT 1 PUKALANI SUBDIV KAWAIIHAU HI	(4)4-04-02:091	Final	07/26/01
4662	MOA CONDOMINIUM	LOT 7 NAMAHANA FARMS SUBDIV HANAIEI HI	(4)5-02-024:007	Final	07/12/01
4663	NEKE CONDOMINIUM	LOT 4 NAMAHANA FARMS SUBDIV HANAIEI HI	(4)5-02-024:004	Final	07/09/01
4664	OHI'A CONDOMINIUM	LOT 10 NAMAHANA FARMS SUBDIV HANAIEI HI	(4)5-02-024:010	inal	07/23/01
4666	PALA'A CONDOMINIUM	LOT NAMAHANA FARMS SUBDIV HANAIEI HI	(4)5-02-024:00	Final	07/12/01
4668	PI'OI CONDOMINIUM	LOT 8 NAMAHANA FARMS SUBDIV HANAIEI HI	(4)5-02-024:008	Final	07/12/01
4654	PUUWAI ESTATES LOT 33-C CONDO	LOT 33-C KALAHEO HOMESTEADS KALAHEO HI	(4)2-04-005:059	Final	07/31/01
4653	PUUWAI ESTATES LOT 33-D CONDO	LOT 33-D KALAHEO HOMESTEADS KALAHEO HI	(4)2-04-005:163	Final	07/19/01
1247	ROYAL SEA-CLIFF CLUB THE	75-6040 ALII DR KAILUA-KONA HI 96740	(3)7-05-020:014	Suppl 1	07/13/01
4695	SUMMIT AT KAA NAPALI - PHASE II	KUALAPA LOOP KAA NAPALI HI 96761	(2)4-04-006:054	Prelim	07/27/01
4443	SUMMIT AT KAA NAPALI-PHASE I	KUALAPA LP KAA NAPALI HI 96761	(2)4-04-006:054	Final	07/09/01
3275	TERRACES AT LAUNANI VALLEY	95-920 WIKAO ST MILILANI HI 96789	(1)9-05-002:023	Suppl 2	07/23/01
4674	TERRAZZA PHASE 9	91-1042 KOMO'AINA ST EWA BEACH HI 96706	(1)9-01-010:049	Prelim	07/09/01
4589	TERRAZZA PHASE 8	MAKALEA ST EWA BEACH HI 96706	(1)9-01-010:048	Final	07/19/01
4689	THE VILLAS AT KENOLIO	KAONOULU ST KIHEI HI 96753	(2)3-09-001:160	Prelim	07/30/01
4410	UP-COUNTRY KONA	74-4933 MAMALAHOA HWY KAILUA KONA HI 96740	(3)7-04-006:009	Suppl 1	07/10/01
4681	WAIALAE VILLA	3810 & 3812 WAIALAE AVE HONOLULU HI 96816	(1)3-03-010:030	Final	07/27/01
4637	WORLD MARK CLUB AT KIHEI MAUI	2295 S KIHEI RD KIHEI HI 96753	(2)3-09-018:017	Final	07/18/01

Preliminary Reports: 3
 Contingent Final Reports: 0
 Final Reports: 26
 Supplementary Reports: 4

Total: 33

Request for Informal Non-Binding Opinion – Andrew K. Bunn, Esq.

Chair Imanaka recused himself due to exparte communications with Mr. Bunn.

Mr. Bunn informed the committee that his firm represents an owner of a building built in the 1970's. Their client wants to convert the building to a condominium but has encountered issues relating to parking.

Mr. Bunn requested an informal non-binding opinion as to whether Section 514A-14.5, HRS, would permit the conversion of a building constructed prior to April 29, 1986 to a condominium property regime where there is less than one parking stall for each condominium apartment.

Mr. Bunn reported that Section 514A-14.5(a) calls for the right to own or have designated parking stalls to be appurtenant to their respective apartments, but does not call for a specific ratio. Section 514A-14.5(b) states in part that the selling of apartments in a newly constructed building constructed after April 29, 1986, shall

include ownership of a parking stall or designate a stall to be appurtenant to the apartment, providing a one to one ratio. Thereby, buildings built prior to 1986 need not have a one to one parking ratio. Mr. Bunn reported that he has researched the legislative history but that it does not provide clarification for conversion projects.

Vice Chair Rice reported that section (b) states "The sales contract for any apartment, intended for use for dwelling purposes and newly constructed after April 29, 1986, shall include ownership of a parking stall or designate a stall to be appurtenant to the apartment as a limited common element" and questioned Mr. Bunn if he is interpreting the section that it is strictly meant for projects built after April 29, 1986.

Mr. Bunn answered in the affirmative.

Vice Chair Rice questioned staff if there are any precedents?

Specialist Yee responded that on March 19, 1992 the Real Estate Commission accepted the recommendations of the Condominium Review Committee about an issue relating to Section 514A-14.5, HRS, as it applied to hotel units. The Commission decided that the requirement did not apply to hotel units only residential apartments.

Vice Chair Rice informed Mr. Bunn that the committee would need to consult with the deputy attorney general in executive session later in the meeting.

Chair Imanaka introduced Roy Takemoto, Deputy Director of the Hawaii County Planning Department. Mr. Takemoto did not present any testimony.

Program of Work:

Recodification of Chapter 514A

Recodification Project Attorney Arakaki distributed an informational memorandum on the status of the recodification project. He further reported that as of July 1, 2001, the actual redrafting of article one has begun. A completion date for draft one is targeted for the end of this year. Mr. Arakaki and Chair Imanaka have been meeting with interested groups and providing a power point presentation on the recodification project.

CMEF Budget &
Finance Report:

No report presented.

Condominium
Organizations Forum:

There were no comments, recommendations or concerns 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:

Ms. Pam Dillingham reported that she moved to the Big Island 1-1/2 years ago and bought a 20 acre Ag lot. At that time she said she would only purchase the property if she would be able to CPR or subdivide. She was in the middle of the CPR process and then put on hold because of the county. She stated that she is very interested to see what is going to happen and that if she is unable to CPR she will need to subdivide the property.

Chair Imanaka stated that the Commission has been looking into this issue and noted that Mr. Takemoto of the County Planning Department is present at today's meeting. Chair Imanaka further reported that the Real Estate Commission will continue to process proposed newly constructed condominiums and converted condominiums pursuant to Chapter 514A, HRS. There are different laws and rules that apply to each. The Commission is already engaged in dialogue with the County of Hawaii about its concerns and the CPR process.

Specialist Yee introduced Mr. and Mrs. Krieg of the Krieg Condominium Project, who submitted a petition for declaratory ruling in 1993. The declaratory ruling concluded that HRS Chapter 514A does not allow for the creation of "zero-unit" condominiums or "airspace" condominiums.

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

Request for Informal Non-Binding Opinion – Andrew K. Bunn, Esq.

Chair Imanaka recused himself from voting. Upon a motion by Commissioner Ching, seconded by Commissioner Rice, it was voted on and carried to recommend approval to issue an informal non-binding opinion that for the proposed condominium conversion situation where the apartments were constructed prior to April 29, 1986, as outlined in Mr. Bunn's letter dated July 26, 2001, the Commission interprets HRS § 514A-14.5 to require that all existing parking stalls of the proposed converted condominium project be appurtenant to all apartments intended for dwelling/residential purposes; provided that a developer is not required to provide one parking stall per unit where there is an insufficient number of stalls to meet this requirement so long as the parking plan satisfies county requirement.

Next Meeting: September 12, 2001; 11:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Bldg.
1010 Richards Street, Second Floor
Honolulu, Hawaii 96813

Adjournment: With no further business to discuss, Chair Imanaka adjourned the meeting at 3:33 p.m.

Respectfully submitted:

\s\ Cynthia M. L. Yee
Cynthia M. L. Yee
Senior Condominium Specialist

October 10, 2001
Date

[x] Minutes approved as is.
[] Minutes approved with changes; see minutes of _____