

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: December 7, 2005

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: Michele Sunahara Loudermilk, Vice Chair, Public / Honolulu Commissioner
Louis Abrams, Broker / Kauai Commissioner
Kathleen Kagawa, Broker / Honolulu Commissioner
Carol Mae Ball, Broker / Maui Commissioner
Trudy Nishihara, Broker / Honolulu Commissioner
Iris Okawa, Public / Honolulu Commissioner
Vern Yamanaka, Broker / Hilo Commissioner

Calvin Kimura, Supervising Executive Officer
Neil Fujitani, Executive Officer
Cynthia Yee, Senior Condominium Specialist
Cheryl Leong, Condominium Specialist
David Grupen, Condominium Specialist
Ryan Yamashiro, Real Estate Specialist
Shari Wong, Deputy Attorney General
Tammy Norton, Recording Secretary

Others: George Chatani

Absent: Stanley Kuriyama, Chair, Broker / Honolulu Commissioner

Call to Order: Vice Chair Loudermilk called the meeting to order at 11:08 a.m., at which time quorum was established.

Chair's Report: No report was presented.

Condominium Specialist's Report: **Additional Distribution**
The following materials were distributed prior to the start of the meeting:

6.a.1) Letter from George Chatani, November 4, 2005

At this time Vice Chair Loudermilk took the agenda out of order.

Program of Work: **Recodification of Chapter 514A**

Mr. Chatani submitted to the committee for their review a letter dated November 4, 2005 attached to a letter dated November 3, 2005 with errors he found in Act 164. Mr. Chatani requested a response as to whether his comments and proposals are valid or any comments to the contrary.

Specialist Yee reported that Mr. Chatani's concerns are not new and that issues relating to the applicability of new laws to existing associations have always been a problem. These issues arise out of the prospective and retrospective application of any new law. Specialist Yee informed Mr. Chatani that the law on this issue is well settled; that no law operates retrospectively unless otherwise expressed or obviously intended.

Vice Chair Loudermilk thanked Mr. Chatani for thoroughly reviewing the new Act and bringing his concerns to the Commission. She further informed Mr. Chatani that the Act will take effect July 1, 2006. General discussion about the new condominium law and an AOAO's governing documents followed. Vice Chair Loudermilk suggested that Mr. Chatani work with his association to make a decision whether to incorporate any of the provisions of the new recodification.

SEO Kimura explained to Mr. Chatani that his battle may involve property rights. A general discussion about property rights and case law followed.

Mr. Chatani noted that his Association's current bylaws are not in compliance with the current law. He also made note that any ordinary person is not able to understand the law as it has been re-written. He further noted that managing agents also will have problems understanding the new law.

Vice Chair Loudermilk informed Mr. Chatani that not everyone interprets the law in the same way and therefore may end up in court for an interpretation.

SEO Kimura informed Mr. Chatani that the administrative deadline for proposing legislation had passed, thus the Commission is unable to submit a bill to the legislature at this time. The SEO also commented that any individual can go to their legislators to see if they will entertain a bill on their behalf. The Commission will be monitoring if others will be submitting bills which could incorporate some of the housekeeping errors brought to its attention.

Mr. Chatani informed the committee that he has tried for two years to change the law and has been disappointed in the results.

Vice Chair Loudermilk informed Mr. Chatani that staff will send him a copy of the background information on retrospective laws for his information and further informed him that his concerns need to be addressed to a legislator or find others who will be submitting bills on the related matter.

Specialist Yee informed Mr. Chatani that he is not alone, there are other groups who also want the new law to pertain to all condos.

Mr. Chatani replied the regulation itself is hard for a normal person to understand and in reviewing the new Act he found contradictions between the new and current law. He also noted that last October he also raised concerns, one of which was the definition of common element.

Specialist Yee replied that some of Mr. Chatani's issues were addressed in the new law, but not the definition of common element.

Vice Chair Loudermilk informed Mr. Chatani that the definition of common element is a major issue that cannot be taken care of as a housekeeping issue. Vice Chair Loudermilk further thanked Mr. Chatani for bringing his information to the Commission's attention.

Minutes:

Upon a motion by Commissioner Kagawa, seconded by Commissioner Ball, it was voted on and unanimously carried to accept the minutes of the November 9, 2005 Condominium Review Committee meeting as circulated.

Condominium
Governance and
Management:

AOAO Registrations

Specialist Grupen reported that as of November 2005, 1,463 AOAOs have successfully registered.

Condominium Seminars and Symposium

Vice Chair Loudermilk informed the committee that the Hawaii State Bar Association's (HSBA) Real Property Section will be sponsoring a seminar on the Condominium Recodification to be held in late April or early May. HSBA is requesting the Commission to co-sponsor the seminar. Co-sponsorship will not include any funding, just publicity, etc. The seminar will go through the new recodification and present the new forms. The Commission has already retained the services of Galen Leong to work on the recodification education which will include the completion of three summaries by December 31, 2005 and the completion of the new forms by February 28, 2006. The seminar speaking panel will include either Galen Leong or a Commission staff member.

Upon a motion by Commissioner Abrams, seconded by Commissioner Nishihara it was voted on and unanimously carried to recommend approval to co-sponsor with the Hawaii State Bar Association, Real Property Section a seminar on the new recodified condominium property Act in FY 2006; co-sponsorship excludes any funding.

Case Law Review Program

The article entitled "How to Handle Disabled Member's Request for Accessible Parking Space" from the November 2005 issue of *Community Association Management Insider* was distributed for informational purposes.

Condominium Related Articles

The following articles from the November-December 2005 issue of *Common Ground* were distributed for informational purposes: "Cold Hard Cash," "Double Indemnity," "CAI Annual Report," and "Legislative and Regulatory News."

The article entitled "Misconception Regarding Your Managing Agent's Role" from the July-September 2005 issue of Certified Management, Inc., was distributed for informational purposes.

Arizona Department of Real Estate

As previously reported, staff will be presenting reports on how other states regulate common interest ownership and/or condominiums.

The Arizona Department of Real Estate's website reports that there are no state agencies that handle complaints or provide information about homeowner associations which include condominium associations.

Information from the Arizona Department of Real Estate's website was distributed to the Commissioners for their information.

Condominium
Project
Registration:

Condominium Project Registration - Public Reports Issued

A list of those condominium projects issued effective dates during the month of November 2005 were distributed for informational purposes.

Executive Session:

Upon a motion by Commissioner Okawa, seconded by Commissioner Abrams, 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 Abrams, seconded by Commissioner Nishihara, it was voted on and unanimously carried to move out of executive session.

Program of Work:

Recodification of Chapter 514A

Upon a motion by Commissioner Yamanaka, seconded by Commissioner Kagawa it was voted on and unanimously carried to recommend approval directing staff to provide a response to Mr. Chatani as outlined in the draft response dated December 16, 2005.

Recodification Presentation

Presentation deferred. Specialist Yee further reported that throughout the month of December 2005 on Sundays at 7:30 pm., "Ewa Today" Oceanic Cable Channel 54, features Richard Emery, President of Hawaii First, Inc., Cynthia Yee, Senior Condominium Specialist-Real Estate Branch, and Representative Rida Cabanilla, reviewing the recodification of the Condominium Property Regime law. The

discussion centered on three topics: condominium education fund; Condominium Dispute Resolution pilot program, and the new recodified condominium law.

Neighbor Island Outreach

The January 11, 2006 committee meetings will be held on the island of Maui at the Realtors Association of Maui offices.

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: January 11, 2006
Upon adjournment of the Education Review Committee meeting which follows the Laws and Rules Review Committee meeting scheduled to convene at 9:30 a.m.
Realtors Association of Maui
441 Ala Makani Place
Kahului, Maui

Adjournment: With no further business to discuss, Vice Chair Loudermilk adjourned the meeting at 11:42 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

Cynthia M. L. Yee
Senior Condominium Specialist

January 11, 2006

Date

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