

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: January 11, 2006

Time: 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.

Place: REALTORS Association of Maui
441 Ala Makani Place
Kahului, Maui

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
Cynthia Yee, Senior Condominium Specialist
Shari Wong, Deputy Attorney General
Tammy Norton, Recording Secretary

Others: Keone Ball, Carol Ball, Inc.
Scott A. Sherley, ERA Maui Real Estate
Gail Fujimoto, Regulated Industries Complaints Office
Terry Tolman, REALTORS Association of Maui
Horst Ihle
Sherley Blodgett, Honokowai Condo
Bert Blodgett, Honokowai Condo

Excused: Stanley Kuriyama, Chair, Broker / Honolulu Commissioner

Call to Order: Vice Chair Loudermilk called the meeting to order at 11:13 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. Recodification of Chapter 514A and Education

Minutes: Upon a motion by Commissioner Okawa, seconded by Commissioner Kagawa, it was voted on and unanimously carried to accept the minutes of the December 7, 2005 Condominium Review Committee meeting as circulated.

Condominium
Governance and
Management:

AOAO Registrations

It was reported that as of December 31, 2005, 1,485 AOAOs have successfully registered.

Condominium Related Articles

The article entitled "Avoiding & Responding to Recall Petitions" from the December 2005 issue of *Hawaii Community Associations* was distributed for informational purposes.

Nevada Real Estate Division

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

Information from the Nevada Real Estate Division's website was distributed to the Commissioners for their information:

- 1) Common-Interest Community
- 2) Ombudsman for Owners in Common-Interest Communities
- 3) Ombudsman's Seminars
- 4) Community Association Manager
- 5) Annual Association Registration
- 6) Residential Common-Interest ADR

Condominium
Project
Registration:

Condominium Project Registration - Public Reports Issued

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

86-912A and 86-912B Pukui Place, CPR #5649

Issue deferred to the February 8, 2006 CRC meeting per the request of the Developer's attorney.

900 Alewa Drive, Lot C

Issue deferred to the February 8, 2006 CRC meeting per the request of the Developer's attorney.

Program of Work:

Recodification of Chapter 514A

SEO Kimura reported that the Director's office had received communication from Tom Berg, Office Manager for Representative Rida Cabanilla relating to condominium laws. Mr. Berg questioned the applicability of the new condominium law to existing condominium associations, the CDR Pilot Program

sunset, and the expansion of DCCA jurisdiction to include community associations.

The Director's response noted that the applicability of any new condominium law to existing condominium associations has been based on a number of Attorney General (AG) Opinions to the Legislature over the past twenty years. The most recent opinion is contained in a report to the 1997 Legislature on Act 303 (SLH 1996). Although it concerns the applicability to common interest communities, the opinion and the case law is similar to those provided previously to the Legislature and appears would be applicable to the new Condominium Law. It is a constitutional issue on the "state impairment of contracts and retroactive application of the law." He also noted that the existing condominium bylaw provision (section 514A-82) is based on an AG Opinion. In that, the section is bifurcated into subsection a. and subsection b., in which subsection a. has prospective application and subsection b. has retrospective application to all condominium associations including existing ones.

The Director's response further noted that only 2 cases have been submitted to the CDR pilot program and the experience to date does not appear to justify a permanent program, however if the Legislature wishes to propose a 1 or 2 year extension of the current program to gain further experience and data, the Department would be open to considering it. His response further noted that DCCA does not have sufficient information on the demand for an expansion to include community associations to take a position at this time and would like to have input from the community and the Commission.

Vice Chair Loudermilk noted that the Director's written response to Mr. Berg is consistent with the Real Estate Commission's prior responses.

NORCs Final Report to the Legislature

A copy of the Task Force Report on Facilitation of Establishment of Viable Naturally Occurring Retirement Communities was distributed to the Commissioners for their information. The Commission did participate on the Task Force and will continue to support its efforts if needed.

Vice Chair Loudermilk reported that a general survey was conducted by the Task Force to condominiums on Oahu but would like to reach out to the entire state. The general recommendation of the task force was that more time and money would be required to do further research.

Commissioner Okawa noted that she would like to see social services included in future research.

Sunrise Analysis: Condominium Association Managers

A copy of the Legislative Auditor's Report No. 05-10, Sunrise Analysis: Condominium Association Managers was distributed to the Commissioners for their information. The Auditor concluded there is little evidence that problems in condominium management are the result of the lack of knowledge of

condominium law and operations on the part of the condominium managers and is not recommending any regulatory scheme to regulate condominium managers.

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:

Ms. Shirley Blodgett of Honokowai Condominiums addressed the committee. Ms. Blodgett encouraged the committee to provide more information and publicity on the mediation programs available to condominium associations. She stressed that there is a need to get the word out on mediation.

Ms. Blodgett also requested information on action taken by the State to incorporate the new recodified condominium law.

SEO Kimura informed Ms. Blodgett that the recodified law passed over two legislative sessions with an effective date of July 1, 2006. The Revisor of Statute has assigned the recodified law Chapter 514B. The Acts are available on the Commission's website for review by the general public. The Commission will be monitoring the bills at the legislature this session to see if there will be any impact on the new recodified law prior to drafting its unofficial copy of Chapter 514B. The Commission does and will provide an unofficial copy of the updated laws to each registered condominium association. This information can also be downloaded from the Commission's website at www.hawaii.gov/hirec. The official copy is provided by the Legislative Reference Bureau's Revisor of Statute.

The SEO further reported that the Commission is working on an educational program to provide information via its Condominium Bulletin, its website, etc. He also noted for information that there is an upcoming course entitled "The New Condominium Law in Hawaii" being offered on January 31, 2006 by a private vendor.

The Commission is available to offer a speakership program and provide information and education to groups and suggested that the Bodgetts contact the Condominium Council of Maui to arrange to have a Specialist attend a meeting and provide educational information.

SEO Kimura also informed Ms. Blodgett that the Commission will look into monitoring condominium related bills and listing them on its website to assist the condominium community in tracking those bills that may have an impact on the condominium laws.

Condominium
Governance and
Management

Mediation & Arbitration

Mediation contracts are pending with the AG's office. Staff is awaiting an update on its status.

Seminars and Symposium

Two vendors were selected and offered contracts to provide condominium educational seminars. Staff has heard back from one of the vendors but to date has not received the signed contract back from any of the vendors. If the Commission cannot execute a contract with either vendor, it will need to go through the procurement procedures again.

CEF Budget &
Finance Report:

Auditor's Report No. 05-08

Excerpts from the Office of the Auditor's Report on the Review of Revolving Funds, Trust Funds, and Trust Accounts of the Judiciary and the Departments of Commerce and Consumer Affairs, Hawaiian Home Lands, Health and Human Services, relating to the condominium management education fund, was distributed to the Commissioners for their information. In summary, the report states that the fund continues to serve the purpose for which it was created and its intended beneficiaries. Condominium Associations, boards of directors, and apartment owners benefit from the fund's comprehensive education and research program. The fund receives no general fund appropriations.

Next Meeting:

February 8, 2006
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, Vice Chair Loudermilk adjourned the meeting at 11:40 a.m.

Reviewed and approved by:

/s/ Calvin Kimura

Calvin Kimura
Supervising Executive Officer

February 8, 2006

Date

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