

**CONDOMINIUM REVIEW COMMITTEE**  
Real Estate Commission  
Professional and Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii  
[www.hawaii.gov/hirec](http://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 6, 2006

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  
Mark Suiso, Vice Chair, Public / 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  
Cheryl Leong, Condominium Specialist  
David Grupen, Condominium Specialist  
Lorene Kimura, Real Estate Specialist  
Shari Wong, Deputy Attorney General  
Tammy Norton, Recording Secretary

Others: Barbara Suzuki, Condominium Owner  
Harrison Nam Koong

Call to Order: Chair Chee called the meeting to order at 9:43 a.m., at which time quorum was established.

Chair's Report: 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:

5. CPR Registration and Developer's Public Reports
  - a. Condominium Projects and Developer's Public Reports
    - 3) CPR Project – Informal Non Binding Interpretation Request “Spatial Units/Airspace Condominium” 66-419 Paalaa Road, DeFreitas, Developer; Jeffrey S. Grad, Esq., attorney for developer; §§514B-3 definitions “condominium”, “unit,” 514B-32(a)(7), 514B-32(13), 514B-33(a)(3), 514B-5 and 514B-32(a)(13), 514B-51, 514B-54, HRS
6. Program of Work
  - k. Consumer Education
    - 1) Development, publication, printing, distribution of 3 proposed pamphlets/brochures
9. Budget and Finance Report

Minutes: Upon a motion by Commissioner Aiona, seconded by Commissioner Nishihara, it was voted on and unanimously carried to accept the minutes of the November 8, 2006 Condominium Review Committee meeting as circulated.

Condominium  
 Governance and  
 Management:

**AOAO Registrations**

Specialist Gruppen reported that as of November 30, 2006, 1,547 AOAOs have successfully registered.

**Case Law Review Program**

The article “Association Member Can’t Sue for Defamation over Meeting Minutes” from the December 2006 issue of *Community Association Management Insider* was distributed for informational purposes.

**Condominium Related Articles**

The following articles were distributed for informational purposes: “New Federal Law OKs Flag Display, Allows Reasonable Restrictions” *Community Association Management Insider* (November 2006) and “Resolving Condominium Disputes: Mediation Works” *Hawaii Bar Journal* (November 2006).

Condominium  
 Project  
 Registration:

**Condominium Project Registration - Public Reports Issued**

A list of those condominium projects issued effective dates during the month of November 2006 were distributed for informational purposes.

Proj No.	Project Name	Project Address	TMK #	Report	Date
6123	1672 AND 1672 A CALIFORNIA AVE	1672 CALIFORNIA AVE WAHIAWA HI 96786	(1)7-05-003:077	Final	11/13/06
5629	4124 PAI STREET	4124 PAI STREET KOLOA HI	(4)2-03-021:002	Suppl 1	11/29/06
6110	55-003 KAMEHAMEHA HIGHWAY	55-003 KAMEHAMEHA HWY LAIE HI 96762	(1)5-05-001:001	Final	11/21/06
6116	AINA `O KAPA`A	5910 KAAPUNI RD KAPAA HI 96746	(4)4-06-011:071	Final	11/03/06
6049	BLACK PEARL SOURCE	66-218 KAMEHAMEHA HWY HALEIWA HI 96712	(1)6-02-005:020	Final	11/21/06
5871	HO`OKENA AT PUHI	HANALIMA ST LIHUE HI 96766	(4)3-03-003:036	Final	11/09/06
6144	HO`OKU`I CONDOMINIUM	7 HOOKUI RD	(4)5-02-011:032	Final	11/22/06

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6163	HONU A KAI CONDOMINIUM (BLDG NE-A)	KILAUEA HI 96754 LOT 4	(2)4-04-014:006	Final	11/22/06
6164	HONU A KAI CONDOMINIUM (BLDG NE-B)	KAANAPALI HI LOT 4	(2)4-04-014:006	Final	11/22/06
6165	HONU A KAI CONDOMINIUM (BLDG NE-C)	KAANAPALI HI LOT 4	(2)4-04-014:006	Final	11/22/06
6129	HPR ESTATES	KAANAPALI HI 3936 WAHA RD	(4)2-03-017:009	Final	11/21/06
5749	KA MILO AT MAUNA LANI	KALAHEO HI 96741 68-1122 N KANIKU DR	(3)6-08-022:041	Final	11/09/06
6146	KA MILO AT MAUNA LANI PHASE 5	KOHALA HI 96743 68-1122 NORTH KANIKU DR	(3)6-08-022:041	Final	11/13/06
5910	KAPOLEI SPECTRUM BUSINESS PARK	KOHALA HI 96743 2106 LAUWILIWILI ST	(1)9-01-075:003	Final	11/03/06
5716	KO OLINA BEACH VILLAS OCEAN TOWER	KAPOLEI HI 96707 92-102 WAILII PL	(1)9-01-057:009	Final	11/13/06
6099	LANI HALE	KAPOLEI HI 96707 3632 SALT LAKE BLVD	(1)1-01-018:012	Suppl 1	11/15/06
6130	MALIA ESTATES	HONOLULU HI 96818 6801 KUAMOO RD	(4)4-02-019:019	Final	11/15/06
6131	MENEHUNE LOT 2 CONDOMINIUM	KAPAA HI 96746 5121 MENEHUNE RD	(4)1-05-001:046	Final	11/01/06
6081	MOANA KEA VILLAS	WAIMEA HI 96796 KAPIOLANI STREET	(3)2-03-012:060	Cont. Final	11/15/06
6034	ORION CONDOMINIUMS	HILO HI 96720 BOUGAINVILLE/NASSAU	(1)9-01-013:082	Final	11/01/06
6035	ORION PARK CONDOMINIUMS	KAPOLEI HI 96707 CRNR OF FRANKLIN	(1)9-01-013:077	Final	11/01/06
6151	PILI MAI AT PO'IPU PHASE II	ROOSEVELT AVE 2611 KIAHUNA PLANTATION DR	(4)2-08-014:033	Cont. Final	11/22/06
6118	TOWN HOMES AT FAIRWAY'S EDGE INCR 2	KOLOA HI 96756 KEONEULA BLVD	(1)9-01-012:058	Final Suppl 1	11/14/06
6156	TOWNHOMES AT FAIRWAY'S EDGE INCR 3	96706 KEONEULA BLVD	(1)9-1-012:058	Final	11/15/06
6122	TRUMP INT'L HOTEL & TWR@WAIKIKI BCH WALK	EWA BEACH HI 96706 KALIA RD	(1)2-06-003:032	Final	11/08/06
6018	VILLAS AT PUALI (PHASE III-B) THE	HONOLULU HI 96815 4261 PUHI RD	(4)3-03-003:039	Suppl 1	11/20/06
6000	VILLAS AT PUALI - PHASE III-A THE	LIHUE HI 96766 4261 PUHI RD	(4)3-03-003:039	Suppl 1	11/20/06
6101	YACHT CLUB ESTATES	LIHUE HI 96766 44-543 KANEOHE BAY DR	(1)4-04-037:005	Final	11/08/06
		KANEOHE HI 96744			
	Preliminary Reports:	0			
	Contingent Final Reports:	2			
	Final Reports:	13			
	Supplementary Reports:	3			
	B Report	8			
	B Amendment Reports:	2			

Total: 28

**Informal Non-Binding Interpretation Request "Spatial Units/Airspace Condominium" 66-419 Paalaa Road, DeFreitas, Developer; Jeffrey S. Grad, Esq., attorney for developer; §§514B-3 definitions "condominium," "unit," 514B-32(a)(7), 514B-32(13), 514B-33(a)(3), 514B-5, 514B-32(a)(13), 514B-51, and 514B-54, HRS**

It was reported that the new law allows for spatial units and direction from the committee is requested as to an acceptable description of spatial units. The applicable statutes were provided for information.

Information from attorney Rick Kiefer regarding what other states accept as an appropriate description of an "airspace" unit was distributed. A comparison of the statutes from the sampled states with Hawaii's Chapter 514B law indicate some differences.

Deputy Attorney General Wong noted the Condominium Consultant assigned the project review verifies and ensures that the information contained in the developer's public report does comply with Chapters 514 A and B.

Upon a motion by Commissioner Suiso, seconded by Commissioner Aiona, it was voted on and unanimously carried to issue an informal non-binding interpretation that "spatial units" shall be described in accordance with the following statutes:

- §514B – 3, HRS "Unit"
  - designated for separate ownership or occupancy;
  - boundaries indicated in accordance with §514B-35;
  - has access to a public road or to a common element leading to a public road;
- §514B-32(a) (7), HRS
  - indicate a location;
  - have dimensions - horizontal and vertical boundaries;
  - include spatial coordinates – a beginning and an end point;
- §514B-32 (a) (13), HRS
  - spatial unit must comply with county requirements - spatial coordinates and dimensions must comply with all zoning and building ordinance and codes, and all other permitting requirement pursuant to section 514B-5, HRS;
  - dimensions of the spatial unit should not exceed the dimensions, heights, set backs, and other requirements mandated by the county;

and further recommend approval that developers include in the developer's public report appropriate disclosures of applicable county requirements.

**"On developers' side, Maui mayor to veto affordable housing policy"  
*Honolulu Advertiser* (November 8, 2006)**

The aforementioned article was distributed for informational purposes.

Program of Work:

**Condominium Recodification and Education – Support in Principle  
Proposed Chapter 514B, HRS, amendments**

A draft proposal of housekeeping legislation for Chapter 514B based on the Commission's informal non-binding interpretations were circulated.

The committee discussed the draft proposed legislation and made amendments to the draft.

Upon a motion by Commissioner Nishihara, seconded by Commissioner Ball, it was voted on and unanimously carried to **Recommend approval** to support in principle, legislation as proposed in December 6, 2006 CRC Agenda item 6.a. amended as follows and subject to technical, stylistic and non-substantive changes:

SECTION 4. Section 514B-86, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**“[§514B-86] Requirements for binding sales contracts; purchaser's right to cancel.** (a) No sales contract for the purchase of a unit from a developer shall be binding on the developer, prospective purchaser, or purchaser until:

- (1) The developer has delivered to the prospective purchaser:
  - (A) A true copy of the developer's public report including all amendments with an effective date issued by the commission. The developer's public report shall include the report itself, the condominium project's recorded declaration and bylaws, house rules if any, a letter-sized condominium project map, and all amendments which shall be:
    - (i) Attached to the developer's public report itself as exhibits or shall be concurrently and separately provided to the prospective purchaser or purchaser with the developer's public report;
    - (ii) Printed copies unless the commission, prospective purchaser or purchaser indicate in a separate writing their election to receive the required condominium's declaration, bylaws, house rules, if any, letter-sized condominium map, and all amendments through means of a computer disc, email, download from an internet site or by any other means contemplated by Chapter 489E, "The Uniform Electronics Transaction Act." Where it is impractical to include a letter-sized condominium project map, the prospective purchaser or purchaser shall be provided a written notice of an opportunity to examine the map. The copy of the recorded declaration and bylaws creating the project, shall indicate the document number or land court document number, or both, as applicable; and
  - (B) A notice of the prospective purchaser's thirty-day cancellation right on a form prescribed by the commission, upon which the prospective purchaser may indicate that the prospective purchaser has had an opportunity to read the developer's public report, understands the developer's public report, and exercises the right to cancel or waives the right to cancel; and
- (2) The prospective purchaser has waived the right to cancel or is deemed to have waived the right to cancel.”

SECTION 5. Section 514B-103, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- [(1)] (1) Secure and maintain a fidelity bond in amount for such coverage and terms as required by section 514B-143(a)(3). An association shall act promptly and diligently to recover from the fidelity bond required by this section. An association that is unable to obtain a fidelity bond may seek approval for an exemption, a deductible, or a bond alternative from the commission. Current evidence of a fidelity bond includes a certification statement from an insurance company registered with the department of commerce and consumer affairs certifying that the bond is in effect and meets the requirement of this section and the rules adopted by the commission.

...

Add another section to provide the Commission's current exemption policies shall be used until such time the Commission adopt rules.

SECTION 6. Act 93, Session Laws of Hawaii, 2005, is amended by amending subsection 9(b) to read as follows:

“(b) The developer of a project ~~registered~~ created pursuant to chapter 514A, Hawaii Revised Statutes, may elect to register the project under the new chapter established by section 2 of Act 164, Session Laws of Hawaii 2004, as amended by this Act, by submitting the application, documentation, and fees required under sections -52 and -54, Hawaii Revised Statutes, in section 3 of this Act~~[-],~~ provided the property is removed from chapter 514A, in accordance with section 514A-21. Upon the issuance of an effective date for the project's public report pursuant to the new chapter, the project's registration under chapter 514A, Hawaii Revised Statutes, shall terminate, the developer shall provide copies of the new public report to all existing purchasers, and the rights and obligations of the developer and all purchasers shall thereafter be governed by the new chapter; provided that unless the new public report reflects a material change to the project: . . .

### **Consumer Education – Development, publication, printing, distribution of 3 proposed pamphlets/brochures**

For discussion purposes the committee reviewed proposed objectives for 4 proposed condominium consumer education brochures. Staff recommended that the process for developing the consumer brochures include: 1) Reconvening the Condominium Education Advisory Committee to review and expand the goals and objectives of the contemplated consumer brochures and to contribute to drafting the brochures with staff, 2) Circulate the brochures for input and rewrites among stakeholders, 3) REC approval of final product, 4) Distribution of brochures to stakeholders via real estate licensees and other non profit and profit agencies involved with purchasing condominiums, and 4) Evaluate the effectiveness of the brochures.

Deputy Attorney General Wong excused at 10:20 a.m.

The committee was informed that according to the Commission's 2007 program of work, Commissioner Suiso and Specialist Leong have been assigned to administer this program.

SEO Kimura reported that the Condominium Education Advisory Committee was initially created to review governance issues and may not be the appropriate committee to work on the brochures and that the Consumer committee may be a better committee to request assistance from.

Chair Chee noted that the committee is looking into dealing with the creation of the brochures and should attempt to work on the production of one brochure at a time.

It was noted that the Commission currently has a brochure available to the consumer entitled "So You Want to Go Condo?" It was also suggested that staff look into what other states provide on similar topics.

Upon a motion by Commissioner Ball, seconded by Commissioner Nishihara, it was voted on and unanimously carried to recommend approval to look at other developed publications and source materials relating to condominium living.

### **Condominium Specialist Office for the Day**

Condominium Specialist Office for the day will be held on January 10, 2007 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:

**Barbara Suzuki**

Ms. Barbara Suzuki informed the committee that she lives in a 30 year old condominium and commented that most board members have no education in real estate or the running of a condominium and that educational training is needed. She reported that the President of her condominium association is an ex police officer and the secretary is a Lt. Colonel in the military and that they both change the rules of the association as the temperature changes. Living in the condominium project has been a nightmare. Ms. Suzuki informed the committee of some of the problems which have occurred and the steps which the concerned owners have taken to rectify the problems.

Specialist Yee informed Ms. Suzuki that the Commission has procured mediation services for the island of Oahu and has a contract with the Mediation Center of the Pacific and that the Condominium Education Fund subsidizes the fees. The Commission has no contract with Community Association Dispute Resolutions, Inc., and the CEF does not subsidize its mediation services.

Ms. Suzuki replied that she did go through the Mediation Center of the Pacific, Inc. but her board was unaware that it was mandatory.

Chair Chee informed Ms. Suzuki that staff can provide her after the meeting with more information on the mediation process.

Commissioner Loudermilk thanked Ms. Suzuki for coming before the committee and also informed her that the Commission is unable to assist her with her independent mediation process and that she should rely on her attorney, Mr. Grant, to assist her with her problem.

CEF Budget &  
Finance Report:

Upon a motion by Commissioner Ball, seconded by Commissioner Abrams, it was voted on and unanimously carried to accept the Condominium Education Fund Financial Report for the period ending September 30, 2006.

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Next Meeting: January 10, 2007  
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, Chair Chee adjourned the meeting at  
10:45 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

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Cynthia M. L. Yee  
Senior Condominium Specialist

January 10, 2007

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Date

Minutes approved as is.

Minutes approved with changes; see minutes of \_\_\_\_\_

CY/tn/061221