

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: November 8, 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: Mark Suiso, Vice Chair, Public / Honolulu Commissioner
Louis Abrams, Broker / Kauai Commissioner
Trudy Nishihara, Broker / Honolulu Commissioner
Carol Ball, Broker / Maui 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
Irene Kotaka, Recording Secretary

Others: Jeffrey S. Grad, Esq.

Absent: William Chee, Chair, Broker / Honolulu Commissioner
Stanley Kuriyama, Broker / Honolulu Commissioner

Call to Order: Vice Chair Suiso called the meeting to order at 9:45 a.m., at which time quorum was established.

Chair's Report: No report was presented.

The Vice 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
 - b. CPR Workshops and Meetings – November 2, 2006

Minutes:

Upon a motion by Commissioner Abrams, seconded by Commissioner Nishihara, it was voted on and unanimously carried to accept the minutes of the October 10, 2006 Condominium Review Committee meeting as circulated.

Condominium
Governance and
Management:

AOAO Registrations

Specialist Grupen reported that as of October 31, 2006, 1,545 AOAOs have successfully registered.

Condominium Seminars and Symposium

The committee acknowledged receipt of RICO Investigator Gail Fujimoto's report on the monitoring of CAI Hawaii's seminar "Condominium Owner and Board Disputes" offered in Maui on October 18, 2006. Ms. Fujimoto raised concerns that the seminar did not mention the names of the mediation services that are available on the island.

Upon a motion by commissioner Nishihara, seconded by Commissioner Abrams, it was voted on and unanimously carried to recommend approval to send a letter to CAI Hawaii requesting that for future seminars on the subject of "Condominium Owner & Board Disputes," the curriculum, materials, handouts, and presentation should include, at minimum, a reference to the mediation providers on a particular island which have contracted with the Commission to provide mediation services funded by the CEF.

Condominium Related Articles

The article entitled "Everything You Thought You Knew About Flood Determination But Were Afraid to Ask" from the October 2006 issue of *Hawaii Flood Management News* was distributed for informational purposes.

Condominium
Project
Registration:

Condominium Project Registration - Public Reports Issued

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

6063	1324 HEULU STREET	1324 HEULU ST HONOLULU HI 96822	(1)2-04-025:012	Final	10/18/06
6051	1431 10TH AVENUE	1431 10TH AVE HONOLULU HI 96816	(1)3-03-033:039	Final	10/18/06
6127	3510 KILAUEA AVENUE CONDOMINIUM	3510 KILAUEA AVE HONOLULU HI 96816	(1)3-02-025:006	Final	10/02/06
6124	355 & 355A AUWINALA ROAD	355 & 355A AUWINALA RD KAILUA HI 96734	(1)4-02-020:080	Final	10/09/06
6091	45-537 AND 45-539 PALEKA ROAD	45-537 PALEKA RD HALEIWA HI 96792	(1)4-05-020:066	Final	10/11/06

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6134	5119 LIKINI STREET	5119 LIKINI ST HONOLULU HI 96818	(1)1-01-059:006	B Rpt	10/23/06
3287	54-269 KAMEHAMEHA HIGHWAY	54-269 KAMEHAMEHA HWY HAUULA HI 96717	(1)5-04-011:006	Suppl 1	10/30/06
6088	84-802 FARRINGTON HIGHWAY	84-802 A & B FARRINGTON WAIANAE HI 96792	(1)8-04-016:064	Final	10/06/06
6136	AKAKOA ESTATES	736 AKAKOA PL KANEHOHE HI 96744	(1)4-07-043:063	Final	10/19/06
6125	ALII BANYAN CONDOMINIUMS	HOLUALOA 2ND KONA HI 96740	(3)7-06-014:026	Final	10/10/06
5715	BEACH VILLAS AT KO OLINA BEACH TOWER	92-102 WAILII PL KAPOLEI HI 96707	(1)9-01-057:009	Final	10/10/06
5710	EGGERKING ROAD CONDOMINIUM	341 EGGERKING RD KAPAA HI 96746	(4)4-01-016:083	Suppl 1	10/02/06
6082	EMERALD PLAZA PLACE	147 KUPUOHI ST LAHAINA HI 96761	(2)4-05-010:026	Final	10/04/06
5820	EMERSON ESTATES	1443 EMERSON ST HONOLULU HI 96813	(1)2-1-039:031	Suppl 1	10/25/06
6100	ESTENZO ESTATES CONDOMINIUM	5701 MAKAMAKA ST KAPAA HI 96746	(4)4-06-009:056	Final	10/16/06
4639	FIUME PARADISO	WAINIHA HUI LANDS HANAIE HI	(4)5-08-006:012	Suppl 1	10/10/06
6143	HOAPILI CONDOMINIUM	4410 HOOKUI RD HANAIE HI 96754	(4)5-02-011:013	Final	10/30/06
6050	HOKU-LELE ESTATES	LOT 145 D-1 KALAHEO HI	(4)2-03-008:002	Final	10/16/06
6097	KOLOA ZAP OHANA	5490 EMI RD KOLOA HI 96756	(4)2-08-005:016	Final	10/11/06
5797	KUAHINE AT CASTLE POINT	57 AND 57A KAILUANA PL KAILUA HI 96734	(1)4-03-022:011	Final	10/18/06
6036	LOT 111 ESTATES	4378 ALII RD HANAPEPE HI 96716	(4)1-08-012:016	Final	10/30/06
5901	LOT 14 ESTATES	6693 KUHOHO ST KAPAA HI 96746	(4)4-02-011:062	Suppl 1	10/02/06
6028	MAGELLAN VILLAS	642 MAGELLAN AVE HONOLULU HI 96813	(1)2-01-038:001	Suppl 1	10/31/06
6096	MAKANA KAI AT WEHILANI - PHASE I	WAIKOLOA RD KOHALA HI	(3)6-08-002:027	B Amd 1	10/16/06
4212	MANA MELE	KAHILI MAKAI RD KILAUEA HI	(4)5-02-021:006	Suppl 1	10/09/06
633	MOKULEIA SHORES	68-041 WAIALUA BEACH RD WAIALUA HI 96791	(1)6-08-011:001	Suppl 3	10/16/06
6120	MONTECITO/TUSCANY III (TUSCANY 2 PH 1)	91-1200 KEAUNUI DR EWA BEACH HI 96706	(1)9-01-010:007	B Rpt	10/23/06
6090	PARK ESTATES	6421 OPAEKAA RD KAPAA HI 96746	(4)4-02-006:042	Final	10/16/06
6103	PLANTATION TOWN APARTMENTS	94-979 KAUOLU PL WAIPAHU HI 96797	(1)9-04-017:058	B Amd 1	10/11/06
6140	PUALENA RANCH	5617 HOKU RD KAPAA HI 96746	(4)4-04-006:009	Final	10/25/06
5179	VILLAS AT PUALI THE (PHASE III-D)	4261 PUHI ROAD LIHUE HI 96766	(4)3-03-003:039	Final	10/10/06
6057	WAIAKEA VILLAGE	400 HUALANI ST HILO HI 96720	(3)2-02-030:018	Prelim	10/02/06
5521	WAIKOLOA BEACH VILLAS THE	WAIKOLOA BEACH DR WAIKOLOA HI	(3)6-09-008:013	Suppl 1	10/10/06
5887	WAILUA PLANTATION COTTAGES	341 NANA PL KAPAA HI 96746	(4)4-01-008:004	Final	10/11/06

Preliminary Reports: 1
Contingent Final Reports: 0
Final Reports: 20
Supplementary Reports: 9
B Reports: 2
B Amendment Reports: 2

Total: 34

Senior Specialist Yee noted that the above report now also lists the "B" Reports that were issued during the month.

Request for Informal Non-Binding Interpretation – Request for Separate Public Reports for 2 Unit Condominium, Jeffrey S. Grad, Esq.

Jeffrey S. Grad, attorney for one of the owners of a property was present to request that the Commission issue two separate public reports for the condominium property regime.

Mr. Grad informed the Commissioners that there are no shared facilities and each owner has a separate mortgage for the property. One owner would like to sell the property. The other owner is not sure if they want to sell and is having financial problems. He is concerned that if both parties are shown as co-owners, it will be inferred that both owners will be held joint and liable.

He reported that after the condominium project was created, apartment A was conveyed to Owner A and apartment B was conveyed to Owner B. The parcels are not allowed to be subdivided.

Executive Session:

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

Request for Informal Non-Binding Interpretation – Request for Separate Public Reports for 2 Unit Condominium, Jeffrey S. Grad, Esq.

Commissioner Nishihara moved to recommend approval to issue an informal non-binding interpretation to issue an effective date for one developer's public report with one unit being reserved, to include but not limited to appropriate full disclosures of the surrounding circumstances relating to the different intentions, plans, non liability, and non agreement of the co-developers; and require the signatures on the developer's public report be the same as those appearing on the declaration, and further subject to the review and recommendations of the assigned condominium consultant. Commissioner Ball seconded the motion.

The Committee was concerned that consumers would be provided adequate disclosures regarding this situation. If Owner B later decides to sell the property, there should be full disclosures made.

Mr. Grad stated that the public report only comes in to place with the initial transaction.

Commissioners Aiona, Ball, Nishihara, Gendrano, and Suiso voted in favor of the motion. Commissioner Loudermilk opposed the motion. Commissioner Abrams abstained from voting. The motion was carried.

HRS §514A-3, “Project” definition; HRS §514A-31, Notification of Intention

Upon a motion by Commissioner Suiso, seconded by Commissioner Aiona, it was voted on and unanimously carried to recommend approval to further study the definition of “project” and to discuss at the next CRC meeting plans for educating prospective purchasers about developing and living in a condominium project.

CPR Workshops and Meetings – November 2, 2006

The report on the Condominium Consultant Forum/Workshop, which was held on November 2, 2006 was distributed to the Commissioners for their information.

The Committee recommended approval to accept the report for further consideration.

Case Law Review Program

The article entitled “Construction In Coastal Floodplains? The Possible Reverberations from a Massachusetts Court Ruling” from the October 2006 issue of *Hawaii Flood Management News* was distributed for informational purposes.

Also distributed was a copy of the following: *Caren Diamond and Harold Bronstein v. State of Hawaii, Board of Land and Natural Resources, and Carl Stephen, Defendants-Appellees*. No. 26997(Hawaii October 24, 2006) ___P.3d___, 2006 WL 3013333083, ___P.3d___.

Program of Work:

Condominium Recodification and Education

The following were distributed for the committees information: 1) Summary of Surveys – New Condominium Law Seminar – HAR PAC RIM Conference, October 11, 2006, and 2) Draft Sample “Board of Directors Association of Apartment Owners Resolution on Chapter 514B, HRS” distributed by Joyce Neeley, Esq. at the September 7, 2006 New Condominium Law Seminar.

Staff had contacted the Hawaii Association of REALTORS and the local boards asking them if they were interested in offering an informational meeting on the new Condominium laws. No timely response given.

Interactive Participation with Organizations

The Committee acknowledged receipt of staff’s report on attendance at the following: 1) Report on the 27th Annual Community Association Law Seminar, and 2) Report on the 55th National CAI Conference.

Neighbor Island Outreach & Condominium Specialist Office for the Day

The January 2007 committee meetings are scheduled to be held on January 10, 2007 at the Realtors Association of Maui offices in Kahului, Maui. The Commission will also hold its Condominium Specialist Office for the Day program at the same time and location.

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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: December 6, 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 Suiso adjourned the meeting at 10:52 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

Cynthia M. L. Yee
Senior Condominium Specialist

December 8, 2006

Date

Minutes approved as is.

Minutes approved with changes; see minutes of _____

CY/isk/061120