

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 9, 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: Stanley Kuriyama, Chair, Broker / Honolulu Commissioner
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

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

Others: Milton Motooka, CAI Hawaii
Surita Savio, President, CAI Hawaii

Call to Order: Chair Kuriyama called the meeting to order at 10:20 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:

- 4.b.2) Ratification
- 5.a.2) Project Statistics
- 5.a.4) Informal Non-Binding Interpretation Owner-Occupant §514A-107, HRS – No Action Request – Gabino L. and Rosalinda F. Baloy
- 6.a. Recodification of Chapter 514A and Education – Project Presentation

Minutes: Upon a motion by Commissioner Abrams, seconded by Commissioner Kagawa, it was voted on and unanimously carried to accept the minutes of the October 12, 2005 Condominium Review Committee meeting as circulated.

The agenda was taken out of order at this time.

Condominium
Governance and
Management:

Condominium Seminars and Symposium

Specialist Yee reported that the Commission has procured for educational providers and the selections have been made by the Director, Head of the Purchasing Agency. We are currently in the stage of contract negotiations.

Mr. Milton Motooka and Ms. Surita Savio, President, representing CAI Hawaii, waived their right to privacy and requested to know the status of the contract and their request for higher compensation.

Specialist Yee reported that the actual contract is in the final review stage with the Deputy Attorney General. Should CAI request to move forward with their request for a different compensation schedule than that which was included in the Commission's Notice those services would need to go out for procurement again.

Mr. Motooka replied that timing is of the essence as CAI Hawaii has offered programs in September and October to which they have credited the Commission in its flyers. Programs for the upcoming year are ready to begin in January. If the process is going to drag on, CAI Hawaii would like the Commission to look into approving and subsidizing the programs on a program by program basis.

Deputy AG Wong commented that the Commission has had to transition to the procurement contract system; the need for the Commission to initiate the solicitation process again, should there be a change in the terms of the solicited scope; and that it may not be faster to procure for the approval of seminars on a program by program basis.

Mr. Motooka stated that the initial request for proposals came out on August 31st with a 12 day deadline to submit proposals. He questioned why the Commission has taken so long to finalize a contract.

Specialist Yee reported that there are multitude of administrative procedures and processes to follow including DCCA policies and the State Procurement Law and administrative procedures.

Mr. Motooka informed the committee that the terms proposed in the new contract are the same as was done three years ago when the Commission first entered into a contract with CAI Hawaii to subsidize seminars. He further reported that it is very difficult to operate that way, with smaller seminars as the compensation schedule is based on attendance. There are no other organizations able to put on quality programs as CAI Hawaii and CAI Hawaii has a track record. To use what was created three years ago as a trial period is difficult. CAI Hawaii is also thinking of expanding and offering their seminars on the neighbor islands which would also require subsidy for the speakers' airfare, ground transportation, etc. Mr. Motooka further commented that he believed the Condominium Education Fund is collecting close to \$300,000 in education fees.

Mr. Motooka further requested assistance in expediting the process and cutting through the red tape.

AOAO Registrations

Specialist Grupen reported that as of October 31, 2005, 1,445 AOAOs have successfully registered.

Upon a motion by Commissioner Nishihara, seconded by Commissioner Abrams, it was voted on and unanimously carried to recommend approval to ratify issuance of effective registration dates for Association of Apartment Owners through October 31, 2005 for the 2005-2007 registration. The associations are as follows:

Aiea Medical Building	10/6/2005	Hale Kaimuki	10/4/2005
Hawaii Business Park	10/4/2005	Hawaiian Colony	10/11/2005
Hualalai Village	7/1/2005	Kala Kai Marina 4B	9/28/2005
Koa Lagoon	10/19/2005	Luana Kai	10/19/2005
Manoa Tei	10/17/2005	Moanalua View Estates	10/6/2005
Moloaa Valley Farms	10/18/2005	University Plaza	7/1/2005
Wai'aka Village	10/11/2005		

AOAO Ratification Research

Upon a motion by Commissioner Loudermilk, seconded by Commissioner Nishihara, in accordance with §436B-8, HRS, it was voted on and unanimously carried to recommend approval to delegate to staff the registration of condominium projects or association of apartment owners meeting the requirements of §514A-95.1, HRS; provided the Commission retains the authority to reject or terminate any registration that fails to comply with §514A-95.1, HRS.

Condominium
 Project
 Registration:

CPR Registration and Listing Agreement – Kauai Beach Resort

The initial request submitted by Bernice Littman, Esq. on behalf of her client Kauai Beach Resort, that the Commission reconsider it's position that the developer is required either to be a licensed broker or to have a broker's agreement with an outside broker and is not permitted to have its employee and Vice President, Carey Chamberlain, act as broker for certain sales in the project was withdrawn via a letter dated November 8, 2005. Ms. Littman in her correspondence stated that although they continue to believe that the developer is not required by law to obtain a broker's license in its own name, it has applied for such a license in order to avoid delays.

Specialist Yee noted that the general issue still remains and should be deferred to the Laws and Rules Review Committee for further study.

Condominium Project Registration - Public Reports Issued

Upon a motion by Commissioner Abrams, seconded by Commissioner Okawa, it was voted on and unanimously carried to recommend approval to ratify issuance of effective dates for developer's public reports for the month of October 2005 as follows:

Proj No	Project Name	Project Address	TMK #	Report	Date
5805	1228 & 1230 PUA LANE	1230 PUA LN HONOLULU HI 96817	(1)1-07-031:002	Final	10/26/05
2362	1640 MAKANUI CONDOMINIUM	1640 MAKANUI RD	(4)2-08-020:059	Suppl 2	10/11/05

Condominium Review Committee Minutes
 Meeting of November 9, 2005
 Page 4

4854	1800 LANILOA PLACE	KOLOA HI 96756 1800 LANILOA PLACE	(1)7-05-008:017	Suppl 1	10/14/05
5790	1806 & 1808 LANAKILA AVE.	WAHIAWA HI 96786 1806 LANAKILA AVE	(1)1-06-010:039	Final	10/10/05
5772	4635 KANU	HONOLULU HI 96817 4635 KANU RD	(4)1-06-003:059	Final	10/12/05
5795	5071 OPELU STREET	WAIMEA HI 96796 5071 OPELU ST	(4)5-05-010:039	Final	10/17/05
5786	54-300 AND 54-302 HAUULA	HANAIEI HI 96714 54-300/54-302 HAUULA HMSTD RD	(1)5-04-015:009	Final	10/04/05
5797	55 KAILUANA PLACE	HAUULA HI 96717 57 AND 57A KAILUANA PL	(1)4-03-022:011	Prelim	10/21/05
5791	59-630 KAMEHAMEHA HIGHWAY	KAILUA HI 96734 59-630 KAMEHAMEHA HWY	(1)5-09-010:014	Final	10/21/05
5798	AINA PONO PLACE CONDOMINIUM	HALEIWA HI 96712 309 AINA LOLI PL	(4)4-02-015:013	Final	10/24/05
5784	BOYD FAMILY CONDOMINIUM	KAPAA HI 96746 112 AWAIKU ST	(2)4-07-009:054	Final	10/19/05
5702	HAINOA VILLAS	LAHAINA HI 96761 HAINOA ST	(3)7-02-025:007	Suppl 1	10/21/05
5723	HALI'I KAI (PHASE I)	KONA HI 96740 69-1029 NAWAHINE PL	(3)6-09-010:001	Final	10/28/05
4128	HIGHKIN CONDOMINIUM	WAIKOLOA HI 96738 76-6007 MAMALAHOA HWY	(3)7-06-005:049	Suppl 1	10/26/05
5800	ISLAND CLASSICS II @ MILILANI MAUKA PH 1	HOLUALOA HI 96725 UKUWAI ST	(1)9-05-049:027	Prelim	10/20/05
5485	KAI MALU AT WAILEA (PHASE I)	MILILANI HI 96789 OKOLANI DRIVE	(2)2-01-008:117	Final	10/20/05
5553	KAI MALU AT WAILEA (PHASE II)	KIHEI HI 96753 OKOLANI DR	(2)2-01-008:117	Final	10/20/05
5492	KAI NANI AT MAKAKILO	KIHEI HI 96819 MAKAKILO DR	(1)9-02-019:044	Suppl 1	10/04/05
5555	KANANI WAILEA	KAPOLEI HI KAPILI ST	(2)2-01-008:112	Final	10/24/05
5777	KING KALAKAUA BUILDING	KIHEI HI 96753 333 - 335 MERCHANT ST	(1)2-01-025:004	Final	10/10/05
5675	KO OLINA HILLSIDE VILLAS (PH I)	HONOLULU HI 96813 92-1520 ALII NUI DR	(1)9-01-056:013	Final	10/21/05
5796	KOAMALU FARMS	KAPOLEI HI 96707 4575 KALAMANIA RD	(4)5-02-019:007	Final	10/27/05
5589	KULALANI AT MAUNA LANI	KILAUEA HI 96754 68-1118 N KANIKU DR	(3)6-08-022:007	Cont Final	10/26/05
5792	LANI HALE	KOHALA HI 3632 SALT LAKE BLVD	(1)1-01-018:012	Final Prelim	10/24/05
5785	MAKOA ESTATES	HONOLULU HI 96818 4132 AND 4132A KAWILI ST	(4)3-06-020:034	Final	10/25/05
4777	SERENGETI CONDOMINIUM	LIHUE HI 96766 LOT 9 PRINCEVILL AG SUBDIV	(4)5-03-008:009	Suppl 1	10/28/05
5774	WAI'ULA'ULA AT MAUNA KEA RESORT (INCR 2)	HANAIEI HI 68-3200 'AMAUI PL	(3)6-02-013:013	Final	10/06/05
5486	WALAKA MAUI	KAMUELA HI 96743 112 WALAKA ST	(2)3-09-016:007	Final	10/07/05
	Preliminary Reports:	3			
	Contingent Final Reports:	1			
	Final Reports:	18			
	Supplementary Reports:	6			
	Total:	28			

CPR Project Ratification Research

Upon a motion by Commissioner Loudermilk, seconded by Commissioner Abrams, in accordance with §436B-8, HRS, it was voted on and unanimously carried to recommend approval to delegate to staff the registration of condominium projects and issuance of effective dates for the developers projects' preliminary, supplementary, contingent final, and final public reports which meet the requirements of Chapter 514A, HRS; provided the Commission retains the authority to reject or terminate any project registration and effective date issued for a developer's public report that fails to comply with Chapter 514A, HRS. Further recommend that staff continue to provide Commission for informational purposes only, a monthly listing of

registered condominium projects together with the effective dates issued for the developers' public reports.

Informal Non-Binding Interpretation Owner Occupant §514A-107, HRS – No Action Request – Gabino L. and Rosalinda F. Baloy

Upon a motion by Commissioner Abrams, seconded by Commissioner Ball, it was voted on and unanimously carried to recommend approval to issue a "no action" letter subject to the receipt of verification from the parents' licensed physician(s) of their medical conditions requiring care.

Program of Work: **Interactive Participation with Organizations – CAI Community Leadership Forum Report**

The committee acknowledged the written report of Executive Officer Fujitani and Condominium Specialist Grupen on their attendance and participation at CAI's Community Leadership Forum held in Atlanta, Georgia.

Interactive Participation with Organizations – CAI's 27th Annual Community Association Law Seminar, January 27-28, 2006

Upon a motion by Commissioner Yamanaka, seconded by Commissioner Abrams, it was voted on and unanimously carried to recommend approval to send two participants (recommend one staff member and the Deputy Attorney General) to be designated by the Chair and the SEO; subject to receipt of the necessary approvals and budget.

Neighbor Island Outreach – Maui, January 2006

The next neighbor island outreach is tentatively scheduled for the island of Maui. The meeting is scheduled to be held at the Realtors Association of Maui offices on January 11, 2006.

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: Upon a motion by Commissioner Nishihara, seconded by Commissioner Loudermilk, it was voted on and unanimously carried to recommend acceptance of the Budget Report (unaudited) of the Condominium Education Fund for the period ending September 30, 2005 subject to audit.

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

Condominium
Governance and
Management:

Condominium Seminars and Symposiums

Upon a motion by Commissioner Nishihara, seconded by Commissioner Kagawa, subject to the Deputy Attorney General's advice, recommend approval to complete the procurement process for the professional education and training services contracts for the administration and delivery of condominium seminars and educational sessions for the period ending Fiscal Year 2006, at which time the Commission may again procure for such services.

Commissioners Nishihara and Abrams were excused to attend a meeting with the Regulated Industries Complaints Office on agency issues.

Case Law Review Program

The article entitled "Hawaii's Federal District Court Judges Differ on Interpretation of Federal Fair Debt Collection Practices Act" from the October 2005 issue of *Hawaii Bar Journal* was distributed for informational purposes.

Hearings Program

DCCA's Office of Administrative Hearings, Condominium Dispute Resolution Pilot Program Notice of Hearing and Pre-Hearing Conferences for the following were distributed for informational purposes: CDR-2005-2 *Michael Riordan vs. Edean Hayashida and Marc Udoff* and CDR-2005-3 *Tad Imura vs. Board of Directors, One Kalakaua Senior Living Association and Metropolitan Management Inc.*

Condominium Related Articles

The following articles from the October 2005 issue of *Hawaii Community Associations* were distributed for informational purposes: "Aging-In-Place in Condos," "Building Our Ohana: Growing Old Together," and "Things That Go Bump in the Night."

Colorado Real Estate Commission

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

The State of Colorado does not regulate the governance and management of Homeowner Associations which includes condominium associations. The government handles NO homeowner complaints. The creation and operation of common interest communities is addressed in the Colorado Common Interest Ownership Act. Homeowner Associations are typically governed by an elected board. The board, on behalf of the owners, is responsible for hiring personnel or contracting for the day to day management related to commonly owned elements in the development.

Information from Colorado Real Estate Commission's website was distributed to the Commissioners for their information.

CAI: US Community Association

Information from CAI's website regarding Data on US Community Associations was distributed to the Commissioners for their information.

Condominium
Project
Registration:

Project Statistics

Condominium project statistics on the number of effective dates issued or pending and number of projects completed or pending by consultant for filings received July 1, 2005 through September 30, 2005 were distributed for informational purposes.

Commissioner Okawa commented on the much improved review time.

Condo Purchaser's Education – Hawaii HomeOwnership Center

Website information from the Hawaii HomeOwnership Center was distributed for informational purposes.

Program of Work:

Recodification of Chapter 514A and Education – Project Presentation

Presentation deferred.

Legislative Acts and Resolutions – NORCs Status Report

A draft of the committee's report was distributed for informational purposes. Commissioner Loudermilk noted that Commission staff submitted some suggestions for incorporation in the final version.

Next Meeting:

December 7, 2005
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, Chair Kuriyama adjourned the meeting at 11:15 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

Cynthia M. L. Yee
Senior Condominium Specialist

December 7, 2005

Date

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