

**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: June 10, 2008

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  
Stanley Kuriyama, Broker / Honolulu Commissioner  
Michele Sunahara Loudermilk, Public / Honolulu Commissioner  
Frances Gendrano, Broker / Honolulu Commissioner

Neil Fujitani, Acting Supervising Executive Officer  
Cynthia Yee, Senior Condominium Specialist  
Cheryl Leong, Condominium Specialist  
Benedyne Stone, Condominium Specialist  
Diane Choy Fujimura, Senior Real Estate Specialist  
Amy Endo, Real Estate Specialist  
David Grupen, Real Estate Specialist  
Shari Wong, Deputy Attorney General  
Tammy Norton, Recording Secretary

Others: None

Absent: William Chee, Chair, Broker / Honolulu Commissioner  
Annette Aiona, Broker / Hilo Commissioner

Call to Order: Vice Chair Suiso called the meeting to order at 10:03 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.

Chair Chee and Commissioner Aiona were excused from the meeting. Prior notification of their non-attendance was received.

Condominium  
Specialist's  
Report:

#### **Additional Distribution**

The following materials were distributed prior to the start of the meeting:

6. Program of Work, FY08
  - i. Interactive Participation with Organizations

Minutes:

Upon a motion by Commissioner Abrams, seconded by Commissioner Loudermilk, it was voted on and unanimously carried to accept the minutes of the May 7, 2008 Condominium Review Committee meeting as circulated.

Condominium  
Governance and  
Management:

#### **AOAO Registrations**

Specialist Stone reported that as of May 31, 2008, 1,597 AOAOs have successfully registered.

#### **Mediation and Arbitration**

Specialist Stone reported that the Real Estate Branch requested and received approval from the State Procurement Office for an exemption from Chapter 103D, HRS, to enter into contracts with mediation providers. The contracts have been mailed to the vendors and staff is awaiting return of the contracts for further processing.

Vice Chair Suiso questioned whether the mediation case information was provided to the Real Estate Branch and if so, if the mediation case information could be made available.

Specialist Yee indicated that this information is provided quarterly to the Committee and in the Commission's Condominium Bulletin provided to all registered Association of Apartment Owners.

#### **Case Law Review Program**

The following articles were distributed for informational purposes:

- 1) *Common Ground* CAI (May June 2008)
  - a) "Deadly Dispute"
  - b) "Cutting Corners"
- 2) *Community Association Management Insider* CAI (May 2008)
  - a) *Gall v. Mariemont Windsor Square Condo Assn.* (March 2008)
  - b) *Pacitti V. Durr* (March 2008)

#### **Condominium Related Articles**

The following articles were distributed for informational purposes:

- 1) *Community Association Management Insider* (May 2008)
  - a) "New Federal Pool & Safety Act Tightens Rules on Pool Drains"
  - b) New Cable Law May Force Associations to Change Strategies"

- 2) *Common Ground* CAI (May June 2008)
  - a) "Beauty or Beast"
  - b) "ahead of the game"
  - c) "Who's Fuming Now?"
- 3) *Wai Halana* Hawaii Flood News (April 2008)
  - a) "Read through your Home and Flood Insurance Policies, lately?"
  - b) The Library of Congress Preservation – "Preparing your Family Treasures"

It was suggested that staff inquire into copyright permission for the article "ahead of the game" and include the article in the Commission's Condominium Bulletin.

Condominium  
 Project  
 Registration:

**Condominium Project Registration - Public Reports Issued**

A list of those condominium projects issued effective dates during the month of May 2008 were distributed for informational purposes.

PROJ #	PROJECT NAME	PROJECT ADDRESS	TMK #	TOTALRPT	DATE
6615	1375 AKALANI LOOP	1375 AKALANI LP KAILUA HI 96734	142030015	2 B REPT	5/29/2008
6606	1669 AKIAKI	1669 AKIAKI PL HONOLULU HI 96816	135055079	2 B REPT	5/14/2008
6603	256 AND 256 A MALUNIU AVENUE	256 & 256A MALUNIU AVE KAILUA HI 96734	143032037	2 B REPT	5/28/2008
6583	3840 AND 3840A CLAUDINE CONDOMINIUM	3840 CLAUDINE ST HONOLULU HI 96816	133015024	2 B REPT	5/14/2008
6567	59-714 & 59-714 A KANALANI PLACE	59-714 & 59-714A KANALANI PLACE HALEIWA HI 96712	159031027	2 B REPT	5/22/2008
6456	AINAHAU GARDENS	2442 TUSITALA ST HONOLULU HI 96815	126024092	56 B AMD	5/22/2008
6185	ALLURE WAIKIKI	1837 KALAKAUA AVE HONOLULU HI 96815	126013001	292 B AMD 3	5/8/2008
1099	ALOHA SURF HOTEL	444 KANEKAPOLEI ST HONOLULU HI 96815	126021016	254 SUPPL 4	5/29/2008
6585	COCO PALMS AT KEAUKAHA PHASE I	1331 KALANIANA'OLE ST HILO HI 96720	321014004	3 B REPT	5/16/2008
6587	COCO PALMS AT KEAUKAHA PHASE II	1339 KALANIANA'OLE ST HILO HI 96720	321014004	3 B REPT	5/16/2008
6588	COCO PALMS AT KEAUKAHA PHASE III	122 APAPANE RD HILO HI 96720	321014004	3 B REPT	5/16/2008
6589	COCO PALMS AT KEAUKAHA PHASE IV	114 APAPANE RD HILO HI 96720	321014004	3 B REPT	5/16/2008
6557	GNAZZO ESTATES	3170 IWIPPOO RD LAWAI HI 96765	426001005	2 B REPT	5/2/2008
6608	HALE AKAMAI LIMA	2391 KIPUKA ST KOLOA HI 96756	428023043	2 B REPT	5/14/2008
6579	HAMAI-WALSH CONDOMINIUM	1333-1335 PIIHOLO RD MAKAWAO HI 96768	224014029	2 B REPT	5/8/2008
6593	HAWAII TROPICAL PLANTATION CONDO	1466 & 1482 HONOAPIILANI HWY WAILUKU HI 96793	236005068	2 B REPT	5/2/2008
5749	KA MILO AT MAUNA LANI	68-1122 N KANIKU DR KOHALA HI 96743	368022041	37 SUPPL	5/14/2008
6601	KAHIAPO CONDOMINIUM	68 & 70 KAHIAPO PL HAIKU HI 96708	227006033	2 B REPT	5/13/2008
6604	KALAMA MAKAI	345 B AND 345 B-1 KALAMA ST KAILUA HI 96734	143040026	2 B REPT	5/12/2008
6532	KALAMA STREAM ESTATES	489 C & D KAMALU RD KAPAA HI 96746	442021009	2 B REPT	5/13/2008
6526	KALANIPU'U	HOOLAULEA WAY KALAPAKI HI 96766	435001027	79 B AMD	5/1/2008
6613	KAMOA KAI	4460 KAMOA RD KAPAA HI 96746	443007007	4 B REPT	5/27/2008
6255	LOT 125 ESTATES	4120 KAWILI ST LIHUE HI 96766	436020036	2 B AMD	5/27/2008
6554	MAKALEHA GARDENS	628 HELENA LN	446007080	2 B REPT	5/1/2008

6596	MAKAWAO MAKAI CONDOMINIUM	KAPAA HI 96746 1025 UKIU RD	224025020	4	B REPT	5/15/2008
6541	MCLERNON ESTATES	MAKAWAO HI 96768 3110 & 3116 POIPU RD	428010019	2	B REPT	5/8/2008
6107	OPUKEA AT LAHAINA	KOLOA HI 96756 LIMAHANA PLACE	245011001	114	B AMD	5/6/2008
6516	PARKS ESTATES	LAHAINA HI 96761 6495 MAKANA RD	442022039	2	B REPT	5/27/2008
6408	PILI MAI AT PO'IPU PHASE II	KAPAA HI 96746 2611 KIAHUNA PLANTATION DR	428014033	39	FINAL	5/12/2008
6602	PUKALANI VIEWS CONDOMINIUM	KOLOA HI 96756 278 & 280 IKALANI PL	223045008	2	B REPT	5/13/2008
6565	PUNANA NO KA PUEO CONDOMINIUM	PUKALANI HI 96768 5454 KAHILIHOLE RD	452017003	2	B REPT	5/2/2008
6412	SLATER CONDOMINIUM	KILAUEA HI 96754 45 & 55 WAIPIO RD	229005054	2	B AMD	5/2/2008
3655	SOUTHERN CROSS	HAIKU HI 96708 2270 OLUOLU RD & PEE RD	428020067	2	SUPPL	5/27/2008
0	<b>Preliminary Reports</b>					
0	<b>Contingent Final Reports</b>					
1	<b>Final Reports</b>					
3	<b>Supplementary Reports</b>					
23	<b>B Reports</b>					
6	<b>B Amendment Reports</b>					
33	<b>TOTAL REPORTS</b>					

### **Owner-Occupant – Request for Informal Non-Binding Interpretation of §514B-98.5, HRS**

Specialist Stone reported that Romulo and Cristina Pinlac are requesting the Commission make an informal non-binding interpretation under the category of “other unforeseeable occurrence.” The Pinlacs have asserted that their original intent was to reside in their Capitol Place two-bedroom condominium unit with their daughter. Due to health issues, Mrs. Pinlac’s mother will now need to reside with the Pinlacs. The Pinlacs assert that the two-bedroom condominium unit cannot accommodate their family of four and that they are unable to maintain two homes. The Pinlac’s state that their intent is to classify their unit as a rental unit and then change it to an owner occupied unit in the future when their living arrangements change.

It was brought to the committee’s attention that Mr. Pinlac holds a mortgage solicitor’s license and Mrs. Pinlac holds a mortgage solicitors license and a real estate salesperson’s license.

Specialist Stone reported that in November 2005, the Commission considered a similar request under the category “unforeseeable change in parental status” where a potential owner-occupant assumed the care of her elderly parents, both of whom had serious health problems. The Commission at that time issued a “no action” letter subject to verification from the parents’ licensed physician that the parents required additional care.

Commissioner Abrams noted that parental care is becoming more and more common.

Commissioner Ball noted that she is in favor with issuing the no action letter and agrees with Commissioner Abrams that parental care is becoming more common and necessary.

Upon a motion by Commissioner Kuriyama, seconded by Commissioner Ball it was voted on and carried to issue a "no action" letter to Romulo and Cristina Pinlac based on the unforeseeable occurrence subsequent to the execution of the owner occupant affidavit that the Pinlacs must now house and care for an additional family member, should their family situation change, i.e., they are no longer caring for their mother, they will then occupy the condominium unit in Capitol Place as owner-occupants.

Discussion followed. Commissioner Nishihara questioned the severity of Mrs. Pinlac's mother's medical problems.

Commissioner Loudermilk noted that the medical records should not be a part of the decision making. The request is not based on "serious illness", but rather on an "unforeseeable occurrence."

Specialist Stone noted that in the Pinlac's response to the deficiency notice, they stress that it is not the illness of Mrs. Pinlac's mother, as such, that prevents them from occupying the condominium unit at Capitol Place, but the size of the condominium unit, which they assert cannot accommodate four persons.

Commissioner Nishihara opposed. The motion carried.

#### **CPR Project – Registration of Condominium Projects with Fractionalized Interest – Developer's Public Report and Disclosures**

At the March 2008 CRC meeting the committee requested that staff develop a checklist for registrations which included fractionalized interest units for the condominium consultant to consider in their review and work towards the inclusion of disclosure language in the developer's public report relating to condominium projects with fractionalized ownership interests.

This issue was deferred from the May 7, 2008 committee meeting for review and comments from the Deputy Attorney General.

#### **Executive Session:**

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

Upon a motion by Commissioner Abrams, seconded by Commissioner Nishihara, it was voted on and unanimously carried to defer the acceptance of the proposed disclosure language with instructions to Commissioner Loudermilk to review and revise the proposed disclosure language for the committees consideration at the next committee meeting.

Commissioner Abrams moved to approve the checklist for condominium consultant's use in project review. Commissioner Nishihara seconded the

motion. Discussion followed. Commissioner Loudermilk indicated that the checklist is unnecessary if you have the disclosure language. Commissioner Kuriyama indicated that the checklist as proposed contains too much detail. Perhaps, there are only six to eight issues for inclusion in the disclosure.

Commissioner Abrams withdrew his motion.

### **Consultants**

Specialist Yee reported that the selection and review committee has selected 12 of the 20 applicants. The selection was sent to the Director pursuant to the procurement requirement. The Director as Head of the Purchasing Agency has directed Acting Supervising Executive Officer, Neil Fujitani, to negotiate contracts with the selected potential contractors.

Deputy Attorney General Wong indicated that she has already reviewed and approved the condominium consultant contracts and given staff the green light to move forward.

Commissioners requested to be informed of those selected as condominium consultants.

Specialist Yee indicated that she understood that once staff has posted the names of those selected to the Procurement Award site, the Commissioners can then be notified.

Commissioners Kuriyama and Loudermilk expressed concerns and requested to be included in the selection process of these condominium consultants. Specialist Yee provided some education about the procurement process and emphasized that Chair Chee, as Chair of the Condominium Review Committee, was a member of both the review and selection committee along with Acting Supervising Executive Officer Fujitani and herself.

Acting SEO Fujitani responded that staff will email either a list of the selected consultants or a link to the procurement award site where those selected can be viewed.

Program of Work:

### **Interactive Participation with Organizations**

Specialists Yee and Leong submitted a report on their attendance and participation at CAI's 57<sup>th</sup> National Conference and Exposition held in Orlando, Florida from April 30 to May 3, 2008. It was reported that Commissioner Suiso has previously submitted his written report.

### **Neighbor Island Outreach / Condominium Specialist Office for the Day**

The August 2008 committee meetings are tentatively scheduled to be held on the island of Kauai.

### Consumer Education

Specialist Yee reported that the Scope of Services for the rewrite of the two condominium brochures has been reviewed by the Deputy Attorney General. Staff will need to work with the Deputy Attorney General on some follow up questions. Once those issues are resolved, staff will be posting the request for quotes on HePs, the Hawaii Electronic Procurement System.

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 Loudermilk, seconded by Commissioner Ball, it was voted on and unanimously carried to accept the Condominium Education Fund Financial Report for the period ending March 31, 2008.

Next Meeting: July 9, 2008  
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 11:25 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

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Cynthia M. L. Yee  
Senior Condominium Specialist

June 23, 2008

\_\_\_\_\_  
Date

Minutes approved as is.

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