

CONDOMINIUM REVIEW COMMITTEE
Real Estate Commission
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

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: Friday, June 16, 1995

Time: 10:30 a.m.

Place: Kaua'i Coconut Beach Hotel
Chart Room
Kapa'a, Kaua'i

Present: Carol Mon Lee, Chair
Michael Ching, Vice Chair
Charles Aki, Hawaii Member
Barbara Dew, Oahu Member
Alvin Imamura, Maui Member
Stanley Kuriyama, Oahu Member
Nora Nomura, Public Member

Marcus Nishikawa, Oahu Member
Calvin Kimura, Supervising Executive Officer
Christine Rutkowski, Executive Officer
R. Victoria Shiroma, Condominium Specialist
Stephen Okumura, Condominium Specialist
Jan Yamane, Real Estate Specialist
Lee Ann Teshima, Real Estate Specialist
Shari Wong, Deputy Attorney General
Irene Kotaka, Secretary

Cynthia Yee, Hawaii Real Estate Research and Education Center
Merrily Leong, Hawaii Association of Realtors
Karen Ono, Kauai Board of Realtors
Cliff Owen, Operating and Managing Services
Mike Merremer, G/I Realty
Larry Swenson, Hawaii Association of Realtors
Dennis Lombardi, Esq., Schuler Homes
Lynn P. McCrory, Pahio
Donna Henrickson, OMC

Call to Order: Chair Lee called the meeting to order at 10:46 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. Project Registration, Public Reports, and Sales to Owner-Occupants
 - c. §16-107-16, HAR - Copies of Public Report to be Provided to the Commission by Developer
 - d. Brochure - So You Want to Go Condo?
8. Budget and Finance Report

Minutes of Previous Meetings

The minutes of the May 11, 1995 Condominium and Cooperative Review Committee were distributed to the Commissioners for their review and approval.

Project
Registration,
Public Reports,
and Sales to
Owner-Occupants:

Schuler Homes, Inc. - Performance Bond Substitute Request

Dennis Lombardi, Attorney for Schuler Homes, Inc., was present to request that the Commission approve Schuler Homes, Inc.'s request to accept a completion guaranty as a substantial equivalent of a performance bond for their future projects.

The Commission has accepted performance bonds issued by licensed sureties, performance bonds issued by a (non-licensed surety) material house and letters of credit as substantial equivalents to a performance bond.

Mr. Lombardi stated that Schuler Homes, Inc. would like to request that the Commission accept a completion guaranty based on their submitting satisfactory evidence of the financial strength and funding for the cost of construction, as substantially equivalent security to satisfy §514A-40(a)(5), HRS. No monies would be utilized until the home is completed. In the event that they are unable to perform, they will file a supplemental public report and will cease sales. It is their intent to build in greater security for the consumer in the event that the contractor falls out of the job. It is not in the best interest of the sureties to complete the job. The insurance companies use defenses to delay the performance of the completion of the job. Mr. Lombardi stated that if the Commission approved the completion guaranty, it would save money as the performance bond and the letter of credit costs approximately 1/2 to 2 percent over the construction cost and these costs are passed on to the consumers.

Mr. Lombardi was asked if the contractor was also the developer because the Commission would like the assurance that it precludes an affiliate. Mr. Lombardi stated that no affiliate of the developer has been used by the developer within the last four to five years to complete a project. Mr. Lombardi stated that they are in the process of submitting their disclosure abstract.

When Mr. Lombardi was asked what type of financing does Schuler Homes traditionally obtain, he stated, "None." Most projects are built with cash. For the project, The Village at Waialeale, a line of credit mortgage will be attached to the property. They have an unsecured line of credit by First Hawaiian Bank. When

asked if they were experiencing difficulties in obtaining a material house bond, Mr. Lombardi stated that they have used irrevocable letters of credit. He stated that every time a letter of credit is issued, it limits the borrowing power that they have. Mr. Lombardi was informed that material house bonds are available at nominal costs. Mr. Lombardi stated that the materials are shipped from the mainland. The homes are prefabricated in Seattle and are shipped to Hawaii.

Upon a motion by Commissioner Ching, seconded by Commissioner Dew, it was voted on and unanimously carried to take this matter under advisement.

HREREC Report: A written report was distributed prior to the meeting.

Program of Work and Budget FY1996

REB staff has received the Center's proposed draft on this matter.

Hawaii Condominium Bulletin

Spring 1995

The mail out has been completed.

Summer 1995

They are anticipating distribution at the end of June.

Condominium Board of Directors Guide

Building "A Sense of Community" in Condominium Associations

The mail out has been completed.

Insurance relating to condominiums

Basically, a review of the national literature has been completed; Hawaii case law is being reviewed. Secondary Mortgage Market requirements are being incorporated into the chapter along with Hawaii hurricane and National flood insurance requirements. Anticipated draft of the chapter has been delayed because writer has been ill longer than anticipated. New target date is June 23, 1995.

Condominium Association Budget and Reserves

Workshop

The last of the 1995 condominium seminars on "Condominium Budget & Reserves Rules: Building Community; Fiduciary Duty & Proxies" was presented on May 20, 1995 on Oahu. The report on the seminar was attached.

Guide

There is no change in status. HREREC anticipates updating the guide with the formally adopted reserve rules. Center will continue to monitor for any developments in Federal and State laws that may impact on the subject matter including IRS developments and Research Plan and will update the Reserve Guide accordingly.

Roll-over Five Year Education

The second of the five-year rollover had been distributed at the May CCRC meeting for discussion only. Center awaits comments from REB staff and Commission.

Condominium Seminars

The summary report on the 1995 Condominium Seminar presented on May 20, 1995, on Oahu, was distributed to the Commissioners for their information.

Ms. Yee stated that the neighbor islands had voiced their concerns that more information was needed on budget and reserves. Oahu participants were interested in seminars relating to the laws and rules. Ms. Yee also reported that no additional costs were incurred except the cost of materials. As a recommendation for future seminars, she recommended that the registration allow for 150% of the maximum, allowing for no-shows and cancellations. There was a high amount of no-shows.

Concerns were raised that people did not commit themselves because there was no registration fee.

Condominium Survey

No change in status. The Center is continuing its analysis of the survey results. The report will be written upon the completion of all data analysis (Deferred to FY96).

Media Educational Articles

No change in status from the last reporting. The Center is rethinking the feasibility of this project, given the recent appearance of a condominium column in the Honolulu Advertiser and Star Bulletin.

HREREC Interaction Program

No new developments in this area.

Legislative Participation

Not applicable for the remaining portion of the FY.

"Welcome to Condominium Living Booklet"

Deferred to next FY96.

Other - Research Associate/Administrative Officer

No change of status. Center with input the SEO of REB has closed this position because of administrative considerations. It will have to readvertise the position when the administrative climate improves.

Condominium Governance and Management:

Common Ground - May/June 1995 Article

A copy of the article, "Bending the Rules", which appeared in the May/June 1995 issue of Common Ground, was distributed to the Commissioners for their information. The article includes a reference to the Kukui Plaza Condominium Association.

Kahuamoku Manor Letter

A copy of the letter from Mr. George Itagaki, President of the Board of Directors for the Kahuamoku Manor, was distributed to the Commissioners for their information. Mr. Itagaki thanked the Commission for providing the three-ring Hawaii Condominium Bulletin binder for the association's use. The Chair recommended inclusion of Mr. Itagaki's letter in the next issue of the Hawaii Condominium Bulletin.

CAI Alert - Congressional Proposal to End FHA Multifamily Project Mortgage Insurance Program

A copy of the CAI National Legislative Hotline Alert was distributed to the Commissioners for their information.

Open Forum

Lynn McCrory, of the Hawaii Hurricane Relief Fund Board, announced that the board is funding a study on the options available to condominium associations to acquire insurance for their projects.

Ms. McCrory reported that \$50,000 was set aside to conduct a study on condominium insurance. She also reported that they were unable to get the \$500,000 level increased through the Legislature. They are asking for input from the various management companies. Then they will look at their options. She stated that they may consider pooling funds to buy more insurance through a re-insurance program. There are a number of condominiums with high insurance levels. They are also having discussions with the Internal Revenue Service on whether or not they will be taxed if they carry commercial insurance.

Project Registration, Public Reports, and Sales to Owner-

Section 16-107-16, Hawaii Administrative Rules

Upon a motion by Commissioner Nomura, seconded by Commissioner Ching, it Occupants: was voted on and unanimously carried to recommend that developers of condominium projects

located in the State of Hawaii shall provide the Real Estate Commission ("REC") with six (6) copies of the public report as prescribed below. However, the developer of a condominium project located in the County of Maui shall provide the REC with seven (7) copies of the public report.

Preliminary Public Report - Yellow Paper
 Final Public Report - White Paper
 Supplementary Public Report - Pink Paper

Brochure - So You Want to Go Condo?

A copy of the brochure, "So You Want to Go Condo?" was distributed to the Commissioners for their information.

It was recommended to accept and distribute the brochure, "So You Want to Go Condo?", upon its finalization. Final comments are requested to REB staff by the June 23, 1995 REC meeting.

Program of Work:

Condominium Project and Public Reports

Upon a motion by Commissioner Ching, seconded by Commissioner Aki, it was voted on and unanimously carried to recommend ratification of the effective dates issued in the month of May, 1995 for the following public reports:

<u>Reg. No.</u>	<u>Effective</u> <u>Project Name</u>	<u>County/</u> <u>TMK</u>	<u>Type of</u> <u>Report</u>	<u>Date</u>
2990	Pae Ko Gardens	Honolulu (1) 9-1-16:35	Final	5/1/95
3278	637 Manu O'o	Honolulu (1) 4-2-13:14	"	"
3308	Olohu/Haahaa	Honolulu (1) 5-1-14:30	"	"
3313	Northpoint - Phase II	Honolulu (1) 9-5-49:35	"	5/4/95
3314	Alii Lani Phase 1A	Hawaii (3) 7-5-20:73 por	Preliminary	"
3318	748 21st Avenue	Honolulu " (1) 3-2-57:19	Final	
3259	Lihimauna Estates	Honolulu (1) 5-1-11:06	Final	"

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1223	Executive Centre	Honolulu (1) 2-1-21:04	Supplementary*	5/8/95
1760	One Napili Way fka:Sixty-Five Napili Way	Maui (2) 4-3-02:49	Supplementary*	"
2356	Maui Lani Terraces fka:Poinciana Place	Maui (2) 4-3-06:04	Supplementary*	"
3269	Coco Court	Honolulu (1) 2-7-12:40	Final	"
3312	Lapa'olu Aiea Heights	Honolulu (1) 9-9-7:02	Preliminary	"
1303	Sunset Shores	Honolulu (1) 6-8-11:46	5th Supplementary	5/10/95
3292	Hoomaka A'na Condominium	Hawaii (3) 7-3-20:19	Final	"
3306	Kamalu Hale	Kauai (4) 4-4-5:67	Final	"
2061	Maui Kamaole Phase III	Maui (2) 3-9-4:82 por;83	Supplementary	5/15/95
3297	Manoa Rainbow Condominium	Honolulu (1) 2-9-69:118	Final	"
3300	Kauakoko	Honolulu (1) 3-3-14:04	"	"
3305	Kukuna Seaside Estates	Kauai (4) 4-9-5:15	Final	5/15/95
3315	Laula Ohana	Hawaii (3) 2-4-4:71;92	Final	"
3320	Royal Garden - Makiki	Honolulu (1) 2-4-20:54	Preliminary	"
1926	Makiki Courte	Honolulu (1) 2-4-20:54	Supplementary	5/23/95
3299	Levitt Apartments	Hawaii (3) 4-6-1:13	Final	"
3316	Palm Drive	Honolulu (1) 3-2-19:27	Preliminary	"
3324	Kainalu	Honolulu (1) 5-9-12:02	Final	"

3326	Makani Kai Properties	Kauai	(4) 4-6-7:69	"	"
3058	Honuakaha	Honolulu	(1) 2-1-31:21	Final	5/26/95
3297	Manoa Rainbow Condominium	Honolulu	(1) 2-9-69:118	Supplementary	"
3319	Seawind Farms	Kauai	(4) 5-1-6:17	Final	"
3325	3458 Kalihi	Honolulu	(1) 1-4-19:02	"	"
3334	915 & 915-A Mokapu Boulevard	Honolulu	(1) 4-4-27:22	"	"
3335	1133 Waimanu	Honolulu	(1) 2-3-4:25	Preliminary	"
3345	Coronado, Phase C	Honolulu	(1) 9-1-76:188	Preliminary	5/26/95

Neighbor Islands Outreach - Kona, October 1995

The next neighbor island REC Committee meetings are scheduled for October 4, 1995, in Kona, Hawaii, in conjunction with the Hawaii Association of Realtors Convention.

Interactive Participation with Organizations

Hawaii Association of Realtors Convention - The Condominium Specialists will participate in the 1995 HAR Convention, from October 4 to 6, 1995, in Kona, Hawaii.

Community Associations Institute - An informational flyer highlighting CAI's programs and services was distributed to the Commissioners for their information.

Condominium Specialists Office for the Day

The next Condominium Specialist's Office for the Day is being planned for August 1995. The exact location and date have not been determined as yet. The next Condominium Specialist's Office for the Day will be held in Kona, in October 1995.

Condominium Speakership Program

Condominium Specialist Okumura reported on the May 23, 1995 Oahu Reserves Seminar, which was held at the University of Hawaii.

Case Law Review

A copy of the Case Law Review section of the May/June 1995 issue of Common Ground was distributed to the Commissioners for their information.

Budget and Finance Report: The SEO reported on the status of the Condominium Management Education Fund (CMEF) Budget for fiscal years 1996 and 1997.

It was reported that it appears that funding for the vacant Condo Secretary II position was lost in an unexplainable combination of adjustments by the Legislative budget approval process. With the former employee and the Condo Secretary II position still listed as an active employee in two Final Budgets, CMEF and the Real Estate Education Fund (REEF), the Legislature deleted the funding in both budgets. It is a mystery as to why the position and former employee was listed in the REEF budget. Another mystery in the REEF budget is the approval of \$41,999 for temporary positions, although part of this may be for the REEF funded clerk-typist position in Licensing Branch. It is uncertain as to whether or not the vacant Condo Secretary II position and the vacant Condo Clerk V position can be recruited and filled. The Commission's condominium programs are being affected and will be greatly impacted in the long run. The processing of condominium project registration and issuance of effective dates for public reports is backlogged and in the long run will be greatly impacted. Previously, the Legislature reported that \$100,000 from CMEF will be confiscated and deposited into General Fund. This has yet to be substantiated and monthly financial reports are being closely monitored for this confiscation. This means that the Commission will have to be very cautious as to expenditures on condominium programs. Presently, a number of alternatives are being investigated, including if "B" account funding can be moved to "A" account. REB staff is working with the Licensing Administrator to try to rectify this program.

Since it has been represented that the Governor can approve any increases in the budget ceilings, the Commission may want to explore raising the budget ceiling for CMEF and making it more responsible for the salaries of the condominium section employees.

Upon a motion by Commissioner Ching, seconded by Commissioner Dew, it was voted on and unanimously carried to approve the "Final" Biennium Budget for the CMEF, FY 1996 and FY 1997, subject to semi-annual reviews.

Upon a motion by Commissioner Nomura, seconded by Commissioner Aki, it was voted on and unanimously carried to approve the initiation of the approval process to raise the CMEF budget ceiling to cover the payroll of the Condo Secretary II and all the Condominium Specialists (presently under the PVL special fund budget) and simultaneously have the PVL special fund take over the payroll of all the Real Estate Specialists (presently under the REEF budget).

Executive Session: Upon motion by Commissioner Nomura, seconded by Commissioner Dew, 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 board's

powers, duties, privileges, immunities, and liabilities;"

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

Project Registration,
Public Reports, and
Sales to Owner-
Occupants:

Schuler Homes, Inc. - Performance Bond Substitute Request

Upon a motion by Commissioner Imamura, seconded by Commissioner Nomura, it was voted on and unanimously carried to deny Schuler Homes, Inc.'s request to accept a completion guaranty as a substantial equivalent to a performance bond, pursuant to §§514A-40(a)(5), HRS.

Next Meeting:

Wednesday, July 12, 1995
10:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Adjournment:

With no further business to discuss, the Chair adjourned the meeting at 11:35 a.m.

Respectfully submitted by

Stephen Okumura
Condominium Specialist

Date