

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: August 7, 2013

Time: Upon adjournment of 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: Scott Sherley, Chair, Broker / Hilo Commissioner
Bruce Faulkner, Vice Chair / Maui Commissioner
Nikki Senter, Public / Honolulu Commissioner
Walt Harvey, Broker / Honolulu Commissioner
Rowena Cobb, Broker / Kauai Commissioner
Aileen Wada, Broker / Honolulu Commissioner
Scott Arakaki, Public / Honolulu Commissioner
Laurie Lee, Broker / Honolulu Commissioner

Neil Fujitani, Supervising Executive Officer
Miles Ino, Executive Officer
Cynthia Yee, Senior 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
Amy Fujioka, Office Assistant

Others: Aron Espinueva, Hawaii Association of REALTORS®
Marsha Shimizu, Hawaii Association of REALTORS®
Peter Hamasaki, McCorriston Miller Mukai MacKinnon LLP
Bryan Andaya, Eddie Flores Real Estate Continuing Education School

Absent: Frances Gendrano, Broker / Honolulu Commissioner

Call to Order: Chair Sherley called the meeting to order at 9:13 a.m., at which time quorum was established.

Chair's Report: No report was presented.

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.

Commissioner Gendrano was excused from the meeting. Prior notification of her non-attendance was received.

Condominium
Specialist's
Report:

Additional Distribution

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

4. Condominium Governance and Management
 - d. Condominium Seminars and Symposium

5. CPR Registration and Developer's Public Reports
 - a. Condominium Projects and Developer's Public Reports - Request dated June 28, 2013 for informal nonbinding interpretation of statutory amendments relating to Time Share Registration, Time Share Disclosure Statement and Developer's Public Report, Disclosure Abstract, made in 2001 and 2002 to Chapter 514A, HRS superseding the requirement of Section 16-107-19, "Expiration of public report," Hawaii Administrative Rules, and Extensions of Effective Date For Developer's Public Report issued pursuant to Chapter 514A, HRS and other related issues - Charles Pear, Esq. McCorrison Miller Mukai Mackinnon LLP

Specialist Yee noted that the vacant Condominium Specialist position will be filled on August 21, 2013.

Minutes:

Upon a motion by Commissioner Faulkner, seconded by Commissioner Lee, it was voted on and unanimously carried to accept the minutes of the July 10, 2013 Condominium Review Committee meeting as circulated.

Condominium
Governance and
Management:

AOUO Registrations

Specialist Stone reported that as of July 31, 2013, 1012 AOUOs have successfully registered.

Condominium Seminars and Symposium

Upon a motion by Commissioner Cobb, seconded by Commissioner Wada, it was voted on and unanimously carried to approve, subject to the terms and conditions of the July 1, 2013 contract, the following proposed seminars for Condominium Education Trust Fund (CETF) Subsidies: August 22, 2013 – Grappling with Government Controls and Regulations; October 17, 2013 – Hoarders, Boarders, & Boomers; and November 21, 2013 – Board Do's and Don'ts.

Case Law Review

The following article was distributed for informational purposes: "Set Rule Barring Members, Guests from Condo Roofs" - *Community Association Management Insider* (July 2013).

Condominium Related Articles

The following articles were distributed for informational purposes:

- 1) "Tailor Recordkeeping to State Law, Association's Specific Needs" - *Community Association Management Insider* (July 2013)
- 2) *Wai Halana* DLNR State of Hawaii Engineering Division (July 2013): "Can equipment be located below the BFE and still be compliant?" "Real Estate Connection: Buying or Selling a Property may trigger Flood Insurance Rate Changes," "Flood Maps Updates," and "New Preliminary Digital Flood Insurance Rate Maps for Honolulu."

Condominium
 Project
 Registration:

Condominium Project Registration - Public Reports Issued

A list of those condominium projects issued effective dates during the month of July 2013 were distributed for informational purposes.

PROJ #	PROJECT NAME	PROJECT ADDRESS	TMK #	UNIT	RPT	DATE
7369	2218 AND 2222 AULII STREET CONDOMINIUM	2218 & 2222 AULII ST HONOLULU HI 96817	118035060	2	B REPT	7/2/2013
7370	364-A & 364-A-1 OLOMANA STREET	364-A & 364-A-1 OLOMANA ST KAILUA HI 96734	143041003	2	B REPT	7/8/2013
7383	51-440 & 51-442 MAUMAULUUKEA ST	51-440 & 51-442 MAUMAULUUKEA KAAAWA HI 96730	151014049	2	B REPT	7/18/2013
7366	54-062 KUKUNA ROAD	54-062 KUKUNA RD HAUULA HI 96717	154007068	2	B REPT	7/15/2013
7375	99-036 AND 99-036A MOANALUA ROAD CONDOMINIUM	99-036 & 99-036A MOANALUA RD AIEA HI 96701	199038078	2	B REPT	7/19/2013
7393	BEAUTIFUL BEACH HOMES OF KAAAWA	51-458 KAMEHAMEHA HWY KAAAWA HI 96730	151011039	2	B REPT	7/18/2013
7382	COLLECTION THE (TOWER PHASE)	600 ALA MOANA BLVD HONOLULU HI 96813	121055004	400	B REPT	7/3/2013
5365	COLONY SURF THE	2895 KALAKAUA AVE HONOLULU HI 96815	131032008	176	FINAL	7/15/2013
7168	COVE WAIKIKI THE	1800 & 1820 KAILOO DR HONOLULU HI 96815	126012037	117	B AMD2	7/25/2013
7384	HAILIMA HIGHLANDS ESTATES	HAILIMA RD LAWAI HI 96765	426013053	2	B REPT	7/18/2013
7385	HALE MAUKA CONDOMINIUM	54 ILIAHI WAY LAHAINA HI 96761	247010073	2	B REPT	7/10/2013
6163	HONU KAI CONDOMINIUM BUILDING NE-A KONEA ENCLAVE	LOT 4 KAAPALI HI	244014006	184	B AMD 8	7/29/2013
6164	HONU KAI CONDOMINIUM BUILDING NE-B KONEA ENCLAVE	LOT 4 KAAPALI HI	244014006	61	B AMD 8	7/29/2013
6165	HONU KAI CONDOMINIUM BUILDING NE-C KONEA ENCLAVE	LOT 4 KAAPALI HI	244014006	68	B AMD 8	7/29/2013
6378	HONU KAI CONDOMINIUM BUILDING SE-A HOKULANI ENCLAVE	130 KAI MALINA PKWY LAHAINA HI 96761	244014006	195	B AMD 6	7/29/2013
6379	HONU KAI CONDOMINIUM BUILDING SE-B HOKULANI ENCLAVE	130 KAI MALINA PKWY LAHAINA HI 96761	244014006	76	B AMD 6	7/29/2013
6380	HONU KAI CONDOMINIUM BUILDING SE-C HOKULANI ENCLAVE	130 KAI MALINA PKWY LAHAINA HI 96761	244014006	54	B AMD 6	7/29/2013
7365	KEALIA HEIGHTS	85-4526 MAMALAHOA HWY CAPTAIN COOK HI 96704	385002063	2	B REPT	7/15/2013
7386	KUAAU SUNSET BEACH LOTS CONDOMINIUM	41 ALENUI ST & 90 ALEIKI PL PAIA HI 96779	226012036	2	B REPT	7/29/2013
6946	LOT 11 AKULIKULI SPRINGS	LOT 11 KAPAA HI 96746	446004002	2	B AMD	7/3/2013

7290	ONE ALA MOANA	1555 KAPIOLANI BLVD HONOLULU HI 96814	123040022	206	B AMD	7/9/2013
7378	POOHIWI CONDOMINIUM	LOTS 11 & 30-D LAE RD KALAHEO HI 96741	424005039	5	B REPT	7/29/2013
7391	TOWN HOMES AT KA MAKANA AT HOAKALE INCREMENT 9	OFF KEONE'ULA BLVD & EWA BEACH HI 96706	191147165	10	B REPT	7/18/2013
7339	WAIOLANI	2756J PALI HWY HONOLULU HI 96817	118009033	2	B REPT	7/17/2013
0	Preliminary Reports					
0	Contingent Final Reports					
1	Final Reports					
0	Supplementary Reports					
14	B Reports					
9	B Amendment Reports					
24	TOTAL REPORTS					

CPR Project

Specialist Yee reported that in regards to the Condominium Project Online Registration project an ISCO employee indicated that ISCO staff has completed their research and provided their IT manager with the results of their research. With the change over in management at ISCO, the project has apparently stalled and appears now to be taking a back seat to other ISCO priorities.

Request dated June 28, 2013 for informal nonbinding interpretation of statutory amendments relating to Time Share Registration, Time Share Disclosure Statement and Developer's Public Report, Disclosure Abstract, made in 2001 and 2002 to Chapter 514A, HRS superseding the requirement of Section 16-107-19, "Expiration of public report," Hawaii Administrative Rules, and Extensions of Effective Date For Developer's Public Report issued pursuant to Chapter 514A, HRS and other related issues - Charles Pear, Esq. McCorriston Miller Mukai MacKinnon LLP

Peter J. Hamasaki, Esq. was present representing McCorriston Miller Mukai MacKinnon LLP (McCorriston). Mr. Hamasaki reported that in 2011 McCorriston on behalf of the developer SVO Pacific, Inc., appeared before the CRC and was issued the following informal non-binding interpretation:

- Chapter 514A, HRS, does not require condominium projects that have been time shared to update the developer's public report if the developer provides the prospective purchaser or purchaser with an updated "Time Share Disclosure," therefore the developer need not submit for an extension of the developer's public report;
- Should the developer elect to file a request for an extension, then the developer must disclose any material changes to the developer's public report; and
- In the specific case of CPR 4652, Ocean Resort Villas, the two reviewed changes (construction and the submission of all existing resort apartments to a time share plan) are not material changes in that the subject matter was disclosed in the developer's public report.

Mr. Hamasaki stated that the 2011 informal non-binding interpretation did not address the question of the restrictions in Section 16-107-19, HAR, and are requesting further clarification of whether said provision has been superseded by

the statutory amendments of 2001 and 2002 to Chapter 514A or whether, in the applicable case the initial public report may be extended without the filing of a developer's supplementary public report, regardless of whether there has been material change in the project.

Commissioner Harvey questioned whether the developer is having issues with consumers and are they trying to eliminate the consumers' rescission rights.

Mr. Hamasaki responded that there are no current issues with consumers. Mr. Hamasaki further noted that the project that generated the requests is 100% Time Share.

Commissioner Arakaki questioned whether the public would receive notice of material change under the Time Share Disclosure Statement and whether it would include the rescission rights.

Mr. Hamasaki responded in the affirmative to both.

Upon a motion by Commissioner Senter, seconded by Commissioner Wada, it was voted on and unanimously carried to take the matter under advisement.

Program of Work: **Records Management**

The following article was distributed for informational purposes: "Isle nonprofit digitizes Iowa's past" *Star Advertiser.com* April 14, 2013.

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.

CETF Budget &
Finance Report:

No report presented.

Executive Session:

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

Condominium Project Registration: **Request dated June 28, 2013 for informal nonbinding interpretation of statutory amendments relating to Time Share Registration, Time Share Disclosure Statement and Developer's Public Report, Disclosure Abstract, made in 2001 and 2002 to Chapter 514A, HRS superseding the requirement of Section 16-107-19, "Expiration of public report," Hawaii Administrative Rules, and Extensions of Effective Date For Developer's Public Report issued pursuant to Chapter 514A, HRS and other related issues - Charles Pear, Esq. McCorriston Miller Mukai MacKinnon LLP**

Upon a motion by Commissioner Senter, seconded by Commissioner Arakaki, it was voted on and unanimously carried to issue pursuant to Title 16, Chapter 201, Subchapter 5, Hawaii Administrative Rules, the following informal non-binding interpretation in the specific case of CPR #4632, Ocean Resort Villas, as follows:

Section 16-107-19, "Expiration of public reports," Hawaii Administrative Rules, does not apply to sales contract of time share interests duly registered in compliance with HRS, Chapter 514E, that constitute interests within units of condominium projects.

Next Meeting: September 11, 2013
Upon adjournment of 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 Sherley adjourned the meeting at 9:51 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

Cynthia M. L. Yee
Senior Condominium Specialist

August 26, 2013

Date

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