

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: September 11, 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
Frances Gendrano, Broker / 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
Katherine Linster, 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
Marilyn Antolin, Secretary
Amy Fujioka, Office Assistant

Others: Aron Espinueva, Hawaii Association of REALTORS®
Kenneth Chong, Condominium Consultant
Lex Smith, Esq.
Jenny Aquino, Esq.
Paul Sirman, Continental Pacific

Call to Order: Chair Sherley called the meeting to order at 9:08 a.m., at which time quorum was established.

Chair's Report: 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.

Condominium
 Specialist's
 Report:

Minutes

Upon a motion by Commissioner Faulkner, seconded by Commissioner Arakaki, it was voted on and unanimously carried to accept the minutes of the August 7, 2013 Condominium Review Committee meeting as circulated.

Condominium
 Governance and
 Management:

AOUO Registrations

Specialist Stone reported that as of August 30, 2013, 1,196 AOUOs have successfully registered.

Condominium Seminars and Symposium - "Grappling With Governmental Controls and Regulations" August 22, 2013 CAI Hawaii - Evaluation

Evaluations submitted by Specialist Yee and Deputy Attorney General Wong were distributed for information. Deputy Attorney General Wong noted that not all presenters provided handouts which attendees could have taken with them as a reference rather than only showing a power point of the information.

Condominium Seminars and Symposium – "ABC's Workshop Recap" May 11, 2013 CAI Hawaii

The article entitled "ABC's Workshop Recap" from the June 2013 issue of CAI Hawaii was distributed for informational purposes.

Condominium Related Articles

The following articles from the June 2013 issue of *CAI Hawaii* were distributed for informational purposes "Big Changes Coming to Flood Insurance" and "Cyber Theft: A Lurking Threat to Homeowner Associations."

Condominium
 Project
 Registration:

Condominium Project Registration - Public Reports Issued

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

PROJ #	PROJECT NAME	PROJECT ADDRESS	TMK #	UNIT	RPT	DATE
7392	3728 AND 3728-A CLAUDINE STREET HONOLULU HI 96816	3728 & 3728-A CLAUDINE ST	133015034	2	B REPT	8/12/2013
7333	44-458 KANEOHE BAY DRIVE KANEOHE HI 96744	44-458 KANEOHE BAY DR	144035019	2	B REPT	8/12/2013
7092	46-255 & 46-255A NAHEWAI STREET KANEOHE HI 96744	46-255 & 46-255A NAHEWAI ST	146035039	2	B AMD	8/7/2013
7381	54 & 54A WALKER AVENUE WAHIAWA HI 96786	54 & 54A WALKER AVE	174003055	2	B REPT	8/5/2013
7389	55-501 & 55-501A KAMEHAMEHA HWY LAIE HI 96762	55-501 & 55-501A KAMEHAMEHA	155011006	2	B REPT	8/28/2013
6993	AULANI A DISNEY RESORT & SPA KO OLINA HAWAII	92-1185 ALI'I NUI DR KAPOLEI HI 96707	191057034	12	B AMD 2	8/22/2013
6941	AULANI DISNEY VACATION CLUB	92-1185 ALII NUI DR	191057035	215	B AND 3	8/22/2013

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5778	VILLIAS KO OLINA HAWAII BENNETT ESTATES KOLOA HI 96756	KAPOLEI HI 96707 LOT 110	428015012	2	SUPPL 2	8/9/2013
7394	BLUE CREST HEIGHTS WAHIAWA HI 96786	219 CREST AVE	174011029	2	B REPT	8/20/2013
7399	CANE HAUL GARDENS WAIPAHU HI 96797	94-1591 WAIPAHU ST	194046002	4	B REPT	8/13/2013
7403	HAIKU ROAD CONDOMINIUM HAIKU HI 96708	1817 HAIKU RD	227007076	3	B REPT	8/28/2013
6425	HENRY COURT HONOLULU HI 96817	2839 HENRY ST	122036013	3	B AMD 2	8/23/2013
7387	HOKIO PLACE TERRACE AIEA HI 96701	99-045A & 99-045B HOKIO PL	199006056	2	B REPT	8/28/2013
7406	KA MILO AT MAUNA LANI PHASE 8 KOHALA COAST HI 96743	68-1122 N KANIKU DR	368022041	4	B REPT	8/20/2013
7397	KIPUKA AT HOAKALEI INCREMENT 1 EWA BEACH HI 96706	END OF KAIKOHOLA ST	191134023	41	B REPT	8/22/2013
7410	KULALANI AT MAUNA LANI (PHASE 4) KAMUELA HI 96743	68-1118 N KANIKU DR	368022007	6	CONT	8/29/2013
7400	LAULANI XXIII PHASE 31 EWA BEACH HI 96706	91-1001 KEAUNUI DR	191149044	9	B REPT	8/6/2013
7401	LAULANI XXIV PHASE 32 EWA BEACH HI 96706	91-1001 KEAUNUI DR	191149045	9	B REPT	8/6/2013
7405	LAULANI XXV PHASE 33 EWA BEACH HI 96706	91-1001 KEAUNUI DR	191149046	11	B REPT	8/6/2013
7371	LOT 950 ESTATES KALAHEO HI 96741	2901 PUA NANI ST	436011014	2	B REPT	8/22/2013
7395	MBP PULEHU CONDOMINIUM WAILUKU HI	HO'OKELE ST & PULEHU RD	238101036	9	B REPT	8/23/2013
7086	MELE WAI CONDOMINIUM KAPAA HI 96746	LOT 41-A	446004030	2	B AMD	8/5/2013
6669	MIRAGE CONDOMINIUM THE KOLOA HI 96756	4311 & 4380 UPA RD	427008087	2	B AMD	8/5/2013
7356	OCEAN VIEW CONDOMINIUM LAHAINA HI 96761	MAKILA PLANTATION PHASE III	247001042	2	B REPT	8/30/2013
6498	OMAO RANCH LANDS (Report covers 1A 3B & 10)	2-3990-B KAUMUALII HWY OMAO HI 96756	427003005	12	B AMD 3	8/22/2013
6790	OMAO RANCH LANDS (Report covers 1B & 3A)OMAO	2-3990-B KAUMUALII HWY OMAO HI 96756	427003005	3	B AMD	8/22/2013
0	Preliminary Reports					
1	Contingent Final Reports					
0	Final Reports					
1	Supplementary Reports					
16	B Reports					
8	B Amendment Reports					
26	TOTAL REPORTS					

Continental Pacific, LLC's ("CP") Request for informal non-binding interpretation concerning the characterization of its condominium project "New Camp at Kahuku Village" Registration No. 7288 as spatial units ("Units") to include the existence of some temporary, chattel-housing created for sugar plantation workers constructed back in the early 1900's

Commissioner Senter recused herself due to a client conflict and excused herself from the meeting.

Commissioner Gendrano declared a possible conflict, noted that Jenny Aquino, one of the attorneys for New Camp at Kahuku Village, also represents her projects. Commissioner Gendrano stated that her affiliation with Ms. Aquino will not affect her objectivity in decision making on the issue.

Specialist Yee informed the committee that pursuant to Chapter 514B, the Commission registers projects with units being offered as either newly

constructed, new construction with approved building permits to be constructed by a date certain, converted existing structures, or spatial units.

Lex Smith, Esq. of Kobayashi, Sugita & Goda noted his appearance as representing the Developer, Continental Pacific, LLC, for the condominium project New Camp at Kahuku Village, Registration Number 7288.

The developer is requesting that the Commission issue an effective date for an amended Developer's Public Report for the New Camp at Kahuku Village project as spatial units' amendments to include updates on the "iwi" issues and clarification on the existence of some temporary, chattel-housing created for sugar plantation workers constructed back in the early 1900's.

Mr. Smith informed the committee that the New Camp at Kahuku Village project is located on property originally used as temporary employee housing in the early 1900's for its sugar plantation workers. The structures were never permanently affixed to the property.

Fifty-one of the homes remain in various states of condition. Twenty-five are located in a designated floodway. Twenty-six are located outside of the floodway.

The structures had been conveyed to the Kahuku Village Association who conveyed some of the structures to the residents via quit-claim bills of sale, long before Continental Pacific purchased the land.

In 2006, the developer, Continental Pacific, LLC, acquired the land from Campbell Estate. In 2009 the Dept. of Planning and Permitting approved an Existing Use Permit for the temporary housing structures till 2015. The condominium declaration includes 25 spatial units with no temporary structures on them and 26 spatial units with temporary structures on them. When the developer's public report was initially issued an effective date Continental Property did not own any of the structures.

Mr. Smith distributed a map of the project depicting the units and the floodway. Those structures located in the floodway are limited common elements to a single spatial unit. The City requires that there be no structures in the floodway, however in order to accommodate the current residents, the EUP has been amended to allow residents of the floodway to continue to reside there until the earlier of (1) the vacancy by the existing tenant, 2) the death of the assigned tenant, or 3) December 31, 2040, at which time the structures will need to be removed.

Commissioner Faulkner questioned if there are any restrictive covenants and also the approximate size of the properties.

Mr. Smith responded that there are many restricted covenants and that the properties range in size from approximately 7,500 to 15,000 square feet.

Commissioner Arakaki questioned if the 1 spatial unit with the homes listed as limited common elements is for sale.

Mr. Smith responded that the spatial unit in question is not for sale at the moment until the flood zone situation is addressed.

Commissioner Lee questioned why the structures/homes are listed as a limited common element to one spatial unit versus a common element.

Mr. Smith responded that as a limited common element the developer has control.

Specialist Yee noted that the EUP states that the structures were legal at the time they were constructed and inquired why the developer did not submit the project for registration as a partial conversion.

Mr. Smith responded that the expectation was that new homes would be built or major renovations done. The current structures were viewed from the onset as "temporary" dwellings.

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

Continental Pacific, LLC's ("CP") Request for informal non-binding interpretation concerning the characterization of its condominium project "New Camp at Kahuku Village" Registration No. 7288 as spatial units ("Units") to include the existence of some temporary, chattel-housing created for sugar plantation workers constructed back in the early 1900's

Upon a motion by Commissioner Arakaki, seconded by Commissioner Faulkner, it was voted on and unanimously carried to require the developer, Continental Pacific, LLC, to satisfy the requirements of section 514B-84, HRS, Developer's public report; special types of condominiums (conversion of existing structures to condominium status).

Commissioner Senter returns to the meeting.

Minutes: Upon a motion by Commissioner Arakaki, seconded by Commissioner Wada, it was voted on and unanimously carried to approve the executive session minutes of the August 7, 2013 meeting with amendments.

Program of Work: No report presented.

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 and Finance Report: Upon a motion by Commissioner Wada, seconded by Commissioner Faulkner, it was voted on and unanimously carried to accept the Condominium Education Trust Fund Financial Report for the period ending June 30, 2013.

Next Meeting: October 9, 2013
Upon adjournment of the Laws and Rules Review Committee meeting scheduled to convene at 9:30 a.m.
West Hawaii Civic Center's Community Meeting Hale
74-5044 Ane Keohokalole Hwy., Building G
Kailua-Kona, Hawaii

Adjournment: With no further business to discuss, Chair Sherley adjourned the meeting at 10:11 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

Cynthia M. L. Yee
Senior Condominium Specialist

September 16, 2013

Date

Minutes approved as is.

Minutes approved with changes; see minutes of _____

CY/tn/130913