

**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: November 12, 2014

Time: Upon adjournment of the Laws and Rules Review Committee meeting scheduled to convene at 9:30 a.m.

Place: Grove Farm Building  
Conference Room  
3-1850 Kaunualii Hwy  
Lihue, **KAUAI**

Present: Scott Sherley, Chair, Broker / Hilo Commissioner  
Bruce Faulkner, Vice Chair, Broker / Maui Commissioner  
Laurie Lee, Broker / Honolulu Commissioner  
Rowena Cobb, Broker / Kauai Commissioner  
Scott Arakaki, Public / Honolulu Commissioner  
Aileen Wada, Broker / Honolulu Commissioner  
Aleta Klein, Broker / Interim Honolulu Commissioner  
Michael Pang, Broker / Honolulu Commissioner

Neil Fujitani, Supervising Executive Officer  
Diane Choy Fujimura, Senior Real Estate Specialist  
Cynthia Yee, Senior Condominium Specialist  
Shari Wong, Deputy Attorney General  
Marilyn Antolin, Recording Secretary

Others: Karen Ono, Executive Director, Kauai Board of REALTORS®  
Chad Deal, President, Kauai Board of REALTORS®  
F. Lee Morey, Kauai Board of Realtors, CB TurtleCoveRealty  
Boe Greene, Diamond Resorts International  
Liz Crites, Sun Village  
Sunshine Hatto, Hawaiiana Management  
Robert Grinpas, Esq.

Absent: Nikki Senter, Public / Honolulu Commissioner

Call to Order: Chair Sherley called the meeting to order at 9:55 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 Senter was excused from the meeting. Prior notification of her non-attendance was received.

Condominium  
Specialist's  
Report:

#### **Additional Distribution**

The following material was distributed prior to the start of the meeting:

5. CPR Registration and Developer's Public Reports
  - a. Condominium Projects and Developer's Public Reports
    - 4) Owner-Occupant—Deferred from August 13, 2014 CRC meeting -- Request of Sean Simko for a Real Estate Commission No Action Letter For Alleged Violations of the Owner Occupant Requirement Sales To Owner-Occupants, Part VI Chapter 514A, HRS

Minutes:

Upon a motion by Commissioner Faulkner, seconded by Commissioner Klein, it was voted on and unanimously carried to accept the minutes of the October 8, 2014 Condominium Review Committee meeting as circulated.

Condominium  
Governance and  
Management:

#### **AOUO Registrations**

Specialist Yee reported that as of October 31, 2014, 1,660 AOUOs have successfully registered.

#### **Condominium Seminars and Symposium**

Commissioner Klein and Senior Condominium Specialist Yee monitored the CAI Hawaii Seminar, "The Effective One Hour Board Meeting" held on November 06, 2014. Larry Pothast, a nationally known speaker among community associations on the subject, provided the presentation. Commissioner Klein and Senior Condominium Specialist Yee reported highlights from the seminar.

Commissioner Klein reported on Larry Pothast's position that the members of the board are not professionals. They should rely on professionals and their expertise, and require professional reports when available. For example, a unit in a 120 unit condominium should celebrate their accomplishments of preserving or increasing the condominium projects value annually. An updated appraisal may be relied on as a measurement of value. Commissioner Klein and Senior Condominium Specialist Yee reported that the instructor appeared well versed on the subject and apparently knew his material. The end result included an apparent effective presentation.

#### **Condominium Related Articles**

The following articles from the *CAI Hawaii* August 2014 issue were distributed for informational purposes:

1. "How to Read Your Reserve Study"
2. "Reserve Component Deterioration"



Condominium  
 Project  
 Registration:

**Condominium Project Registration - Public Reports Issued**

A list of those condominium projects issued effective dates during the month of October 2014 were distributed for informational purposes.

PROJ #	PROJECT NAME	PROJECT ADDRESS	TMK #	UNIT	REPORT	DATE
7281	2295 B LILIHA STREET	2295 B LILIHA ST HONOLULU HI 96817	1180040232		B AMD	10/8/2014
7569	54-006 AND 54-008 AHINALU PL	54-006 & 54-008 AHINALU PL HAUULA HI 96717	1540030382		B REPT	10/15/2014
7565	66-158 NIUULA ROAD	66-158 NIUULA RD HALEIWA HI 96712	1660030044		B REPT	10/06/2014
7555	AIEA HEIGHTS ESTATES	99-337A & 99-337B UWAW DR AIEA HI 96701	1990250362		B REPT	10/20/2014
7573	HO'ONANI V	91-1351A & 91-1351B KILIPUE ST EWA BEACH HI 96706	1911630062		B REPT	10/06/2014
7571	HO'ONANI IV 10/09/2014	91-1289-A KILIPUE ST EWA BEACH HI 96706		1911630062	B REPT	
7566	KIPIKA AT HOAKALEI INCR 11	END OF KAIKOHOLA ST EWA BEACH HI 96706	1911620088		B REPT	10/15/2014
6181	KOHANA'IKI LOT 27 CONDO	LOT 27 KONA HI 96740	3730580523		SUPPL 2	10/07/2014
7572	KULIOUOU ESTATES	510 KULIOUOU RD HONOLULU HI 96821	1380100045		B REPT	10/24/2014
4543	MAI'A SPLIT ACRES CONDO	3755 WAHA RD KALAHEO HI 96741	4230180022		SUPPL 4	10/30/2014
7548	MAILI BEACH PHASES 13-14	87-176 MAIPALAOA RD WAIANA'E HI 96792	18702306063		B REPT	10/22/2014
4289	MAMALAHOA RANCH	LOT 11 KALOKO-MAUKA SUBDIV N KONA HI	3730260233		SUPPL 2	10/23/2014
6107	OPUKEA AT LAHAINA	LIMAHANA PLACE LAHAINA HI 96761	245011001114		B AMD 4	10/23/2014
7558	PULANA CONDOMINIUM	PU'UPILO RD KAPAA HI 96746	4420220704		B REPT	10/29/2014
7388	WADA CONDOMINIUM	3092 AKAHI ST LIHUE HI 96766	4360060523		B REPT	10/08/2014
4221	WAILANI RANCH CONDO	LOT A HOLUALOA 1 & 2 N KONA HI	3760020203		SUPPL 2	10/03/2014
7363	WAILUALANI ESTATES	4616 HALEILIO RD KAPAA HI 96746	4410060384		B AMD	10/22/2014
0	<b>Preliminary Reports</b>					
0	<b>Contingent Final Reports</b>					
0	<b>Final Reports</b>					
4	<b>Supplementary Reports</b>					
10	<b>B Reports</b>					
3	<b>B Amendment Reports</b>					
17	<b>TOTAL REPORTS</b>					

**Condominium Projects and Developer's Public Reports**

Owner-Occupant (Deferred from August 13, 2014 CRC meeting): Request of Sean Simko for a Real Estate Commission No Action Letter For Alleged Violations of the Owner Occupant Requirement Sales To Owner-Occupants, Part VI Chapter 514A, HRS.

The Chair took the agenda out of order and continued this item to the end of the agenda.

**CPR Registration and Developer's Public Reports Related Articles**

Wai Halana Hawaii Flood News , Department of Land and Natural Resources Engineering Division, State of Hawaii (October 2014)

The following articles from Wai Halana (October 2014) issue were distributed for informational purposes:

- 1) "Online Dam and Reservoir Tool"
- 2) "New FEMA Map Service Center Portal"
- 3) "New Preliminary DFIRMs Released for Maui County"

Program of Work: **Condominium Laws and Education**

Commissioner Arakaki announced that he will be attending the CAI Annual meeting scheduled for Friday, November 14, 2014, at which time he will be accepting a recognition from CAI Hawaii on behalf of the Commission for its support of condominium education.

**Rulemaking, Chapter 107/119**

Specialist Yee reported that the Blue Ribbon Committee's (BRC) October meeting focused on the subject of association reserves and propose rules relating thereto. Dale Armstrong, a reserve specialist, and one of the individuals advocating for the enactment of the initial reserve requirements apprised the BRC about the current issues and developments in the reserve area.

Commissioner Arakaki noted that the current amount of time an average consumer may be given to ascertain and analyze the reserve study may not be adequate. Chair Sherley noted that reserve studies should be re-evaluated and updated at least annually to help in making wise reserve study decisions. In Hawaii, there appears to be a lack of using the cash flow method.

**Condominium Specialist Office for the Day**

Chair announced that if any participant has questions of or need information from the Condominium Specialist that upon adjournment of the CRC meeting, they will be able to meet with the specialist in the room down the hall from the meeting room.

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: None.

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

Commissioner Arakaki moved to have Mr. Simko, provide by notarized, signed declaration (perhaps an affidavit) subject to the penalties under §514A-107.5, 514A-107.6, (HRS), (an unofficial version to be attached) that the facts and information in his letters received from him on September 29, 2014, are true and accurate. Commissioner Klein seconded the motion. The motion was voted on and unanimously carried.

Commissioner Arakaki further moved to have William N. Simko, Sean Simko's father, submit a notarized affidavit attesting under oath and under penalty of law that the facts and information contained in his letter dated May 15, 2014, and notarized on September 4, 2014, are true and accurate. Commissioner Klein seconded the motion. The motion was voted on and unanimously carried.

Commissioner Arakaki additionally moved to authorize Commission, staff and counsel to negotiate a settlement with Mr. Simko to resolve this matter. Commissioner Klein seconded the motion. The motion was voted on and unanimously carried.

Next Meeting: December 10, 2014  
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 10:40 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

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Cynthia M. L. Yee  
Senior Condominium Specialist

December 2, 2014

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Date

Minutes approved as is.  
 Minutes approved with changes; see minutes of \_\_\_\_\_