

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 4, 2015

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

Place: Community Meeting Hale
West Hawaii Civic Center
74-5044 Ane Keohokalole Hwy., Bldg. G
Kailua-Kona, Hawaii

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

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

Others: Stanley Sitko, Real Property, County of Hawaii, Tax Administration
Kelly Shaw, Realtor, Koa Realty, Inc.
Rollie Litteral, American Dream Real Estate
Robert Wund, Fairway Villas AOA
Mary Begier, Mary Begier Realty
Bennett Mark, Hawaii County Planning Department

Absent: Nikki Senter, Public / Honolulu Commissioner
Aileen Wada, Broker / Honolulu Commissioner

Call to Order: Chair Sherley called the meeting to order at 10:00 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.

Commissioners Senter and Wada 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:

- 5.a. CPR Registration and Developer's Public Reports
 - 1) August 2015

Addition to the Agenda

Upon a motion by Commissioner Arakaki, seconded by Commissioner Faulkner, it was voted on and unanimously carried to add to the agenda as follows:

- 4.d. Condominium Governance and Management
 - 1) CAI Hawaii October Seminars – "Learning from the Movies – What they teach us about Running your Association" – Request for Expense Approval

Chair Sherley announced that staff is also conducting its Specialists' Office for the Day, should anyone wish to meet with the Specialists, to please inform staff.

Minutes:

Upon a motion by Commissioner Lee, seconded by Commissioner Pang, it was voted on and unanimously carried to accept the minutes of the August 12, 2015 Condominium Review Committee meeting, as circulated.

Condominium
Governance and
Management:

Mediation & Arbitration

Senior Specialist Yee reported that there have been phone calls regarding the new subsidized evaluative mediation, which is available to condominium association unit owners of registered condominium associations.

AOUO Registrations

Senior Condominium Specialist Yee reported that as of August 31, 2015, 1,110 AOUs have successfully registered for the 2015-2017 biennium.

Condominium Seminars and Symposium – CAI Hawaii "Ask the Experts" August 13, 2015 Evaluation

Staff's evaluation of the seminar was distributed for informational purposes. Specialist Yee announced that Condominium Specialist Choy reported that the presenters shared valuable information. Senator Rosalyn Baker, as Chair of the Commerce, Consumer Protection, and Health Committee spoke about the legislative process. Paul McCurdy general manager for Hawaiiki Tower spoke about the cost reductions he was able to make in that property.

Condominium Seminars and Symposium – CAI Hawaii October Seminars – "Learning from the Movies – What they teach us about Running your Association" – Request for Expense Approval

Upon a motion by Commissioner Lee, seconded by Commissioner Faulkner, it was voted on and unanimously carried to approve the proposed expenses related to bringing in George Nowack, Esq., to do the three (3) seminars on Kauai, Kona and Oahu as detailed in its letter of August 24, 2015, subject to the

terms and conditions of the existing contract between CAI Hawaii and the Real Estate Commission/State.

Case Law Review Program

The following articles were distributed for informational purposes: *Guinn v. Apartment Owners Ass'n of Makaha Valley* 2015 WL855151 (D. Hawaii) Feb. 27, 2015; *Hicks v. Makaha Valley Plantation Homeowners Ass'n* 2015 WL328311 (D. Hawaii) Jan. 23, 2015; and *In re Beck*, 2015 WL110459 (D. Hawaii) Jan. 7, 2015 Slip Copy.

Senior Specialist Yee announced that the law requires associations to provide certain information to their unit owners.

Condominium Related Articles

The following articles from the August 2015 issue of *CAI Hawaii* were distributed for informational purposes: "Growing Mediation to Resolve Condominium Disputes" By Tracey Wiltgen; and "Answers to Board Members' Top 10 Budget Questions" By Gene Peles.

Condominium
 Project
 Registration:

Condominium Project Registration - Public Reports Issued

A list of those condominium projects issued effective dates during the month of August 2015 were distributed for informational purposes.

PROJ	PROJECT NAME	PROJECT ADDRESS	TMK #	UNIT	REPORT DATE
7429	1108 AUAHI	1108 AUAHI ST HONOLULU HI 96814	1230050	320	B AMD 8/4/2015
7700	1596 & 1596A HANAI LOOP	1596 & 1596A HANAI LP HONOLULU HI 96817	1160270	2	B REPT 8/20/2015
7635	2469 KILAUEA	2469 KILAUEA AVE HILO HI 96721	3220420	2	B REPT 8/5/2015
7635	2469 KILAUEA	2469 KILAUEA AVE HILO HI 96721	3220420	2	B REPT 8/5/2015
7683	4250 AND 4250A SIERRA DR	4250 & 4250A SIERRA DR HONOLULU HI 96816	1330180	2	B REPT 8/17/2015
7693	4460 PUNEE ROAD	4460 PUNEE RD KOLOA HI 96756	4270070	2	B REPT 8/17/2015
7531	474 KULIOUOU ROAD	474 KULIOUOU RD HONOLULU HI 96821	1380100	8	B AMD 8/20/2015
7660	51 KAPU CONDOMINIUM	51 W KAPU PL KIHEI HI 96753	2390090	2	B REPT 8/6/2015
7636	51-386 HAUHELE ROAD	51-386 HAUHELE RD KAAAWA HI 96730	1510100	2	B REPT 8/31/2015
7679	709 AND 709A AKUMU ST	709 & 709A AKUMU ST KANEEOHE HI 96744	1420500	2	B REPT 8/6/2015
7482	801 SOUTH ST - BLDG B	801 SOUTH ST HONOLULU HI 96813	1210470	789	B AMD 8/31/2015
7535	941 KAIPII STREET	941 KAIPII ST KAILUA HI 96734	1430810	2	B AMD 8/10/2015
7662	HALEIWA COUNTRY ESTATES IV	66-146 & 66-148 HALEIWA HI 96712	1660340	2	B REPT 8/19/2015
7620	HO`OMALOLO IV	450 HOOMALOLO PL & HAIKU HI 96708	2280022	2	B REPT 8/25/2015
7687	KIM RESIDENCE	45-575 LOIHI ST & 45-636 KANEEOHE HI 96744	1450960	2	B REPT 8/13/2015
2816	KUAKINI PHYSICIANS TWR	347 N KUAKINI ST HONOLULU HI 96817	1170170	77	SUPPL 6 8/14/2015

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7699	LA'AKEA HOMES	84-892 & 84-894 WAIANAE HI 96792	1840140	2	B REPT	8/17/2015
7703	MA'ELI'ELI	47-410 LULANI ST KANEEOHE HI 96744	1470450	2	B REPT	8/31/2015
7665	MAKENA BEACH CLUB RESIDENCES	5400 MAKENA ALANUI WAILEA HI 96753	2210050	64	B REPT	8/14/2015
7697	S. HOLOKAI ROAD CONDO	225 S. HOLOKAIA RD HAIKU HI 96708	2280050	2	B REPT	8/20/2015
7695	UHILEHUA	45-668A, A1, B, C & KANEEOHE HI 96744	1450830	5	B REPT	8/19/2015
6586	WALUA PROFESSIONAL CTR	75-5905 WALUA RD KAILUA KONA HI 96740	3750180	10	B AMD	8/19/2015

0	Preliminary
0	Contingent Final
0	Final
1	Supplementary
16	B Reports
5	B Amendment
22	TOTAL

Case Law

The following was distributed for informational purposes: *Narayan v. Ritz-Carlton Development Co., Inc.*, 135 Hawaii 327 (June 3, 2015). Specialist Yee briefly discussed the Supreme Court's ruling and the court's discussion relating to the developer's public report and project registration.

Condominium Project Registration Related Articles

The following articles were distributed for informational purposes: "World War II Bunker to Be Condo AOUO" CAI Hawaii (August 2015); and "Extreme Tsunami Map Places 330,000 More in Danger Zones" and "Living with Levees: A Shared Responsibility Information for Property Owners" *Wai Halana Hawaii Flood News* (July 2015).

Program of Work: **Rulemaking Chapter 107/119**

Chair Sherley announced that he co-chaired the Blue Ribbon Committee, along with Commissioner Arakaki. Chair Sherley found the experience to be beneficial as it provided an opportunity to work and also obtain valuable input from insurance industry and attorneys. Commissioner Arakaki shared the same sentiments. Senior Specialist Yee reported that progress in this matter has been impacted by staffing and training issues. Those issues have now been addressed. Now staff is working on incorporating the Blue Ribbon Panel's recommendations in the next draft of the proposed rules. The next draft, may be ready for the Commission's review in November 2015.

Condominium Organizations Forum: The Chair called for a recess from the meeting at 10:31 a.m. Chair Sherley reconvened the scheduled meeting at 10:35 a.m.

Mr. Robert Wund, unit owner in the Fairway Villas was present to elaborate on his August 28, 2015 correspondence to the Condominium Review Committee regarding the current statutory requirements of HRS §514B-148. Among the many topics Mr. Wund elaborated on included his understanding about the following:

- The intent and purpose of the reserve laws and rules;
- The requirements of the reserve laws and rules;

- Issues relating to use of the "Hawaii Cash Flow" to meet the requirements;
- The disregard of the intent of reserves;
- The reserves at his condominium;
- His desire to provide comments about any proposed rules; and
- Experience with the Regulated Industries Complaints Office about reserves.

The Commissioners thanked Mr. Wund for sharing his concerns and observations and informed Mr. Wund of the status of the rulemaking efforts and the public hearing to be held on the proposed rules for reserves and other provisions of Chapter 514B, HRS. The Commissioners further informed Mr. Wund that he will be able to provide oral and written comments at the public hearing stage of the rulemaking process.

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.

Next Meeting:

October 7, 2015
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 10:57 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

Cynthia M. L. Yee
Senior Condominium Specialist

September 30, 2015

Date

Minutes approved as is.

Minutes approved with changes; see minutes of _____