

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: March 9, 2016

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, Broker / Maui Commissioner
Nikki Senter, Public / Honolulu Commissioner
Rowena Cobb, Broker / Kauai Commissioner
Aileen Wada, Broker / Honolulu 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
Miles Ino, Executive Officer
Benedyne Stone, Condominium Specialist
Dathan Choy, 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
Torrie-ann Primacio, Office Assistant

Others: Vernon T. Tashima, Esq.
Marsha Shimizu, Hawaii Association of REALTORS®

Absent: None.

Call to Order: Chair Sherley called the meeting to order at 10:30 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.

Condominium
 Specialist's
 Report:

Minutes

Upon a motion by Commissioner Cobb, seconded by Commissioner Arakaki, it was voted on and unanimously carried to accept the minutes of the February 10, 2016 Condominium Review Committee meeting as circulated.

Condominium
 Governance and
 Management:

AOUO Registrations

Specialist Stone reported that as of February 29, 2016, 1,572 AOUOs have successfully registered.

Condominium
 Project
 Registration:

Condominium Project Registration - Public Reports Issued

A list of those condominium projects issued effective dates during the month of February 2016 were distributed for informational purposes.

| PROJ # | PROJECT NAME | PROJECT ADDRESS | TMK # | UNITS | REPORT | DATE |
|--------|--------------------------------------|---|-----------|-------|----------|-----------|
| 7776 | 1822 KAIKUNANE LOOP | 1822 KAIKUNANE LP HONOLULU HI 96817 | 116028004 | 2 | B REPT | 2/18/2016 |
| 7732 | 187 KALUANUI ROAD | 187 KALUANUI RD MAKAWAO HI 96768 | 225004089 | 2 | B REPT | 2/19/2016 |
| 7785 | 45-676A KAMEHAMEHA HIGHWAY | 45-676A KAMEHAMEHA HWY KANEHOE HI 96744 | 145071021 | 2 | B REPT | 2/19/2016 |
| 7794 | 47-467 AHUIMANU ROAD | 47-467 & 47-467A AHUIMANU RD KANEHOE HI 96744 | 147050011 | 2 | B REPT | 2/22/2016 |
| 7761 | 561 & 561A KANEAPU PLACE | 561 & 561-A KANEAPU PL KAILUA HI 96734 | 143009022 | 2 | B REPT | 2/18/2016 |
| 7777 | HALE HINAHINA | HINAHINA RD KAILUA-KONA HI 96740 | 373063015 | 24 | B REPT | 2/9/2016 |
| 5512 | HAZEN CONDOMINIUM | 881 KAI HELE KU ST LAHAINA HI 96761 | 247010003 | 2 | SUPPL | 2/3/2016 |
| 7758 | HO'OKILI GARDENS | 0 HO'OKILI RD HAIKU HI 96708 | 228005120 | 2 | B REPT | 2/2/2016 |
| 22 | ILIKAI APARTMENT BUILDING | 1777 ALA MOANA BLVD HONOLULU HI 96815 | 126010007 | 1025 | SUPPL 9 | 2/22/2016 |
| 7771 | ILIKAI APARTMENT BUILDING (PHASE 2) | 1777 ALA MOANA BLVD HONOLULU HI 96815 | 126010007 | 41 | FINAL | 2/22/2016 |
| 7691 | KAMANI AT KEHALANI | OFF OMA'OMA'O ST WAILUKU HI 96793 | 235001090 | 10 | B AMD | 2/3/2016 |
| 7497 | KAPIWAI | 2914 BOOTH RD HONOLULU HI 96813 | 122040005 | 25 | B AMD | 2/19/2016 |
| 6174 | KOLOA LANDING AT POIPU BEACH - PH I | 2641 POIPU RD KOLOA HI 96756 | 428015025 | 87 | B AMD 10 | 2/29/2016 |
| 6616 | KOLOA LANDING AT POIPU BEACH - PH II | 2641 POIPU RD KOLOA HI 96756 | 428015025 | 242 | B AMD 6 | 2/29/2016 |
| 7770 | MAHANALUA NUI LOT 21-A CONDO | LOT 21-A MAHANALUA NUI LAHAINA HI 96761 | 247009043 | 2 | B REPT | 2/22/2016 |
| 6107 | OPUKEA AT LAHAINA | LIMAHANA PLACE LAHAINA HI 96761 | 245011001 | 114 | B AMD 5 | 2/1/2016 |
| 7765 | PUPUKEA LANDING | 59-61 & 59-61A AMAUMAU PL HALEIWA HI 96712 | 159011057 | 4 | B REPT | 2/9/2016 |
| 7783 | PUUHUE PLACE-FROG LANE CONDO | 302 PUUHUE PL & 1640 FROG LN HONOLULU HI 96817 | 117018071 | 2 | B REPT | 2/10/2016 |
| 6199 | VILLAS AT KEHALANI - PHASE I THE | KEHALANI PKWY WAILUKU HI 96793 | 235001074 | 93 | B AMD 14 | 2/29/2016 |
| 6712 | VILLAS AT KEHALANI - PHASE II THE | KEHALANI PKWY WAILUKU HI 96793 | 235001074 | 10 | B AMD 12 | 2/29/2016 |

| | |
|----|--------------------------|
| 0 | Preliminary Reports |
| 0 | Contingent Final Reports |
| 1 | Final Reports |
| 2 | Supplementary Reports |
| 10 | B Reports |
| 7 | B Amendment Reports |
| 20 | TOTAL REPORTS |

Request for Informal Non-Binding Interpretation of §§514A-3 definition of "project", 514A-11, 514A-20, 514A-31, 514A-40, 514A-41, 514A-43, and any other related HRS Chapter 514A sections in connection with the letter request of Vernon T. Tashima, Esq. on behalf of client relating to CPR 3591 - 2801-M La'i Road

Specialist Choy reported that Mr. Tashima, on behalf of his client, has submitted an application for a supplementary developer's public report to add a unit to a 2 unit project previously registered with the Commission. Mr. Tashima has been informed that all projects must contain at least two units and that additional units must be separately registered as a new project.

Mr. Tashima, on behalf of his client was present to address the committee should they have any questions. He noted that he received short notice of this meeting therefore was not prepared to present testimony but could summarize his request. He noted that 2401-M La'i Road is an existing 2 unit project. The supplementary developer's public report is not to create a new project, but to add a single unit to the existing 2-unit project as allowed by the statute.

Mr. Tashima cited precedent in support of his request and further noted that construction has met all building codes and zoning laws. The supplementary developer's public report incorporates all changes.

Commissioner Senter questioned if 1 of the 3 units have been sold under contract.

Mr. Tashima responded that the project was created in 1997 on a 6 acre track. Unit 1 consisting of 2 acres was sold but still remains a part of the project. Unit 2 consists of 4 acres. The developer would like to cut Unit 2 in half.

Mr. Tashima was asked whether the percentage of common interest would change, to which he responded that there are no common elements. Units 1 and 2 have their own access. Units 2 and 3 would share a common entrance.

Mr. Tashima was asked if the owners of Unit 1 are in opposition of the addition of a third unit, to which he responded in the negative as nothing would affect Unit 1.

Mr. Tashima was asked if he is in opposition to withdrawing the project and creating a new project, to which he responded that he is unable to withdraw the 2-unit project as you would need more than 50% vote to withdraw. Does not understand why they are being told to create a new 3-unit project.

Specialist Choy noted that although Mr. Tashima cites the Villages at Mauna Lani #4547 project, it is not relevant. Villages at Mauna Lani's developer's public report stated the total number of units in the final registration as 135. Its most

recent supplemental developer's public report actually reduced the number of units to 130. Mr. Tashima's client never disclosed in its initial public report its intent for a third unit.

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

Executive Session: Upon a motion by Commissioner Faulkner, seconded by Commissioner Lee, it was voted on and unanimously carried to enter into executive session pursuant to Section 92-5(a)(1), HRS, "To consider and evaluate personal information, relating to individuals applying for professional or vocational licenses cited in section 26-9 or both;" and 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 Arakaki, seconded by Commissioner Pang, it was voted on and unanimously carried to move out of executive session.

Request for Reconsideration of the Hawaii Real Estate Commission's Informal Non-binding Interpretation Relating to Spatial Units

It was clarified that the Committee's previous informal non-binding interpretation relating to the proposed condominium project registrations of Puu Kulana CPR 808 and Goatsdoroam were case specific and the Commission's position on whether structures are allowed within a spatial unit after registration has not been decided upon and that the committee has referred the issues relating to spatial units to the Commission's Blue Ribbon Committee for further review, research, and study and to make recommendations to the REC draft rules for Commission's consideration and distribution to a larger group of stakeholders for comments as part of the Commission's rulemaking process.

Request for Informal Non-Binding Interpretation of §§514A-3 definition of "project", 514A-11, 514A-20, 514A-31, 514A-40, 514A-41, 514A-43, and any other related HRS Chapter 514A sections in connection with the letter request of Vernon T. Tashima, Esq. on behalf of client relating to CPR 3591 - 2801-M La'i Road

Upon a motion by Commissioner Senter, seconded by Commissioner Arakaki, it was voted on and unanimously carried that based on the specific facts presented regarding CPR #3591, to allow the developer to proceed to file a supplementary developer's public report to amend the number of units. Issuance of an effective date is subject to normal review and processing. Commissioner Pang opposed. The motion carried.

Program of Work: **Interactive Participation with Organizations**

Specialist Dathan Choy's written report of his participation at the Community Associations Institute Law Seminar held in New Orleans, Louisiana was distributed for informational purposes. A copy of the report will be transmitted to the PVL Licensing Administrator.

Consumer Education

Specialist Stone reported that staff has put together a series of brochures, "Maintaining the Basic Structure and Operation of a Condominium Association," "Condominium Governance, In Brief," "Board of Directors," "Board of Directors Fiduciary Duty," and "Business Judgment Rule," excerpts from Condominium Property Regimes: Owners Rights and Responsibilities. Copies of the brochures along with the "Mediation of Condominium Disputes" brochure have been provided to Hawaiiana Management and Associa Hawaii for distribution amongst its Association owners. Copies are also available at the Commission's website: www.hawaii.gov/hirec.

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.

Next Meeting: April 6, 2016
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 11:59 a.m.

Respectfully submitted:

/s/ Benedyne Stone

Benedyne Stone
Condominium Specialist

March 11, 2016

Date

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