

CONDOMINIUM REVIEW COMMITTEE
Real Estate Commission
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii
www.state.hi.us/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: April 11, 2001

Time: 11:00 a.m.

Place: Kapuaiwa Room
HRH Princess Victoria Kamamalu Building
1010 Richards Street, Second Floor
Honolulu, Hawaii

Present: Peter Rice, Vice Chair
Charles Aki, Member
Michael Ching, Member
John Ohama, Member
Alfredo Evangelista, Member
Iris Okawa, Member
Patricia Choi, Member
Casey Choi, Member – early departure

Calvin Kimura, Supervising Executive Officer
Alan Taniguchi, Executive Officer
Cynthia Yee, Senior Condominium Specialist
Gina Watumull, Condominium Specialist
Cheryl Leong, Condominium Specialist
Gordon Arakaki, Condominium Recodification Attorney
Iris Ikeda Catalani, Senior Real Estate Specialist
Lorene Arata, Real Estate Specialist
Tammy Norton, Recording Secretary

Others: Roy Takemoto, Hawaii County Planning Department
Norman DuPont, HCAAO
Milton Motooka, Community Association Institute Hawaii Chapter
Ruth Okada, Community Association Institute Hawaii Chapter

Excused: Mitchell Imanaka, Chair
Shari Wong, Deputy Attorney General

Call to Order: Vice Chair Rice called the meeting to order at 11:08 a.m., at which time quorum was established.

Chair's Report: No report was presented.

Condominium
Specialist's
Report:

Additional Distribution

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

- 3.b. Minutes of Previous Meetings
- 4.c. Mediation & Arbitration
- 4.f.3) "Fair Housing: 2001 and Beyond," April 24, 2001, Oahu; April 25, 2001, Maui; April 26, 2001, Big Island – contact HAR

At this time Vice Chair Rice took the agenda out of order.

Condominium
Project
Registration:

§514A-40(b), HRS – Letter from Christopher J. Yuen, March 22, 2001, Planning Director, County of Hawaii Planning Department

Senior Condominium Specialist Yee introduced Mr. Roy Takemoto, Deputy Director of the Hawaii County Planning Department. Specialist Yee reported that the Commission has received a letter from Christopher Yuen, Director of the Hawaii County Planning Department requesting that the Commission carefully review condominium project registrations for Hawaii County and deny such registrations unless there is a letter from the Planning Director certifying compliance with all applicable county zoning and development regulations, pursuant to HRS §514A-40(b).

Mr. Takemoto reported that the Hawaii County Planning Department will be using the authority granted by Act 251, SLH 2000 (codified as HRS § 514A-1.6) to refuse to certify those proposed CPRs that are not in compliance with the applicable county zoning and development laws.

Mr. Takemoto further reported that Hawaii County is considering amending the county codes to have CPRs fall under the subdivision code. The subdivision codes serve many purposes including environmental and safety. The codes ensure that improvements are available and up to standard; historic sights, wetlands etc. are preserved; natural hazards are avoided; roads connect to surrounding roads; and that emergency vehicles can access private roads, etc.

The County has observed that developers of CPRs appear to be neglecting these concerns. Thus there is a need for CPRs to be done through the subdivision code.

SEO Kimura reported that this issue goes back many years. However, the Commission does not have the authority to approve or disapprove the creation of CPRs. The Commission's responsibility is with the required developer's disclosures to purchasers. The counties have the ability to stop a project from moving forward in requiring the developers to obtain all the necessary permits and comply with the county codes and ordinances. For converted projects, if the Commission does not receive an approved county letter, it cannot issue an effective date for a developer's final public report.

Specialist Yee posed the situation to Mr. Takemoto where a developer constructs a toolshed or other similar structure and is exempt by Hawaii County from obtaining a building permit since the structure is below a certain size. Act 251, SLH 2000, in this

situation, arguably could be read to allow the filing of the floor plans without the required architect or engineer certification statement referencing that the floor plans are on file with the county. Some other counties also allow the construction of small sheds without a permit. When the sheds are actually replaced the county would then be involved in approving the building permits. At that point, the county may not grant the permit due to non-compliance with the county's requirements. What would Hawaii County's position be?

Mr. Takemoto reported that the Hawaii County now has a much stricter interpretation of farm dwellings. If the developers are aware of the County's interpretation of farm dwellings from the beginning, they may not try and circumvent the law.

Specialist Yee requested that the Commission be provided with a copy of Hawaii County's stricter interpretation of "farm dwellings."

Condominium
Governance and
Management:

CAI Hawaii Program Proposal – Condominium Seminars

Specialist Yee informed the committee that the Commission currently has a contract with CAI Hawaii to subsidize \$15 per registered association owner for those seminars approved by the Commission. The subsidy is available from the condominium management education fund. This contract, if not extended, will expire on June 30, 2001.

Ruth Okada, CAI Hawaii President, informed the committee that her goal as president is to promote better educational programs and seminars. CAI Hawaii is a non-profit organization dependent on volunteers to be a success. The current proposal will assist CAI to produce better programs and possibly bring in out-of-state speakers.

Milton Motooka informed the committee that CAI Hawaii has been around for 15 years and produces approximately ten seminars per year. The current agreement between CAI Hawaii and the Commission has been a financial loser for CAI Hawaii.

Mr. Motooka reported that CAI Hawaii has restructured its proposal to the Commission and summarized it's proposal as follows: CAI Hawaii will provide the Commission with a list of 10 programs for the calendar year with a description of the course. The Commission will then decide which programs it wishes to sponsor. Sponsorship fee will be \$5,000 per program. CAI Hawaii will provide a 50% discount for registered AOAOs, two complimentary registrations for the Commission per sponsored program, a report of the number or registrants who were provided the 50% subsidy, set of all materials, and a set of evaluations of the program.

Mr. Motooka further reported that if there are any profits from the programs, CAI will consider either lowering registration fees for future programs or inviting out-of-state speakers.

Vice Chair Rice questioned Mr. Motooka as to his statement that CAI Hawaii's agreement with the Commission has been a financial loser for CAI Hawaii.

Mr. Motooka replied that the way the subsidy is structured, it is a financial loser because CAI Hawaii does not get any money from the Commission. The subsidy goes directly to the benefit of the registrant.

Vice Chair Rice asked if the seminars itself are financial losers.

Mr. Motooka replied that it depends on the attendance, etc. on whether or not the seminar is a financial loser.

Ms. Okada informed the Committee that currently CAI Hawaii is limited on who they can get as speakers for their programs. As president of CAI Hawaii she would like to broaden the pool of speakers. Ms. Okada noted that she needs to work with her committee on generating more ideas on increasing attendance. The proposal before the committee indicates that if there is a profit, CAI Hawaii will look into bringing in out-of-state speakers the following year.

Vice Chair Rice informed Ms. Okada that he does not see a problem with the quality of the programs put on by CAI Hawaii, but he does have a hard time reconciling a \$5,000 fee per seminar versus the current \$15 per qualified registrant.

Mr. Motooka replied that the Commission is collecting thousands of dollars to put on educational programs. It is the fiduciary duty of the Commission to put on seminars for registered AOAOs.

Specialist Yee questioned how CAI Hawaii plans to promote the seminars and increase attendance.

Ms. Okada replied that she will be meeting with her committee chairs on a plan to promote the programs. As president, she will be working closely with the chairs of the committees. CAI Hawaii will try to market their programs better, but it does take money to market. They are currently trying to find avenues of revenue to generate business. Breaking even on a program is okay; but making a profit is the direction in which CAI Hawaii wants to go.

Specialist Yee informed Ms. Okada that there are 1,400 plus registered associations and it appears that the CAI Hawaii program flyers do not get sent to nearly that number.

Mr. Motooka replied that large numbers of flyers are distributed to CMAs who in turn distribute them to those AOAOs that they manage.

SEO Kimura reported that the Commission has been told that many AOAOs are unaware of a majority of the seminars offered by CAI Hawaii. SEO Kimura also reported that those who contribute into the Condominium Education Fund should benefit directly from the fund (registered AOAOs and developers). CAI Hawaii reaches out to many organizations and individuals that do not contribute to the fund. Condominium Managing Agents do not contribute to this fund. Any funding would need to show that the funds expended go directly to those persons who paid into the fund (registered AOAOs and contributing developers).

Mr. Motooka replied that traditionally, 90% of the attendees are condominium board of directors. Mr. Motooka also questioned how HAR is handling the promotion of their seminar.

SEO Kimura replied that HAR is doing a direct mail out to each registered AOA.

Upon a motion by Commissioner Ohama, seconded by Commissioner Aki, it was voted on and unanimously carried to recommend approval to delegate the research and evaluation of the proposal to a subcommittee comprised of the CRC Chair, CRC Vice Chair and REB staff; and to report the subcommittee's recommendations to the CRC at its May 11, 2001 meeting scheduled for the island of Kauai. The delegation includes authorization to conduct negotiations with representatives of CAI Hawaii.

Commissioner C. Choi excused from meeting.

Minutes: Upon a motion by Commissioner Ohama, seconded by Commissioner Aki, it was voted on and unanimously carried to accept the minutes of the March 14, 2001 Condominium Review Committee meeting as circulated.

Condominium
Governance and
Management:

AOAO / CMA / CHO Registrations

Specialist Leong reported that as of March 30, 2001, 1,416 AOAOs have successfully registered. Specialist Leong further reported that 97 CMAs and 122 CHOs are also currently registered.

Upon a motion by Commissioner Evangelista, seconded by Commissioner Aki, it was voted on and unanimously carried to recommend approval to ratify the issuance of an effective registration date for the Association of Apartment Owners of Kurtistown Village, effective March 1, 2001.

Specialist Leong further reported that the Association of Apartment Owners 2001-2003 Biennial Registration Applications were mailed on April 2, 2001. The deadline for Bond Exemption Applications is April 30, 2001 and the deadline for the Registration Application is May 31, 2001.

Mediation and Arbitration

Specialist Watumull reported that the Mediation Center of the Pacific, Inc., per its contract with the Commission, has submitted its quarterly report on mediation.

Education Calendar

Updated calendar of condominium events circulated for information. This information is also provided on the Commission's webpage.

Condominium Seminar Evaluations – “Ask the Experts” CAI Hawaii

Specialist Yee reported that the seminar was very informative and the presenters were well versed in the topics.

Condominium Seminar – “Fair Housing: 2001 and Beyond,” April 24, 2001, Oahu; April 25, 2001, Maui; April 26, 2001, Big Island

The seminar is being co-sponsored by HAR and the Real Estate Commission. Commissioners to notify staff of their attendance. Vice Chair Rice and Commissioner Aki may possibly attend seminar on their respective islands.

Case Law Review Program

The following articles were distributed for informational purposes:

- “First Hawaiian Bank v. Franklin B. Sequin, et al” (*Ka Nu Hou* March 2001)
- “Act 39, A Recent Court Ruling” (*Hawaii Community Associations*, March 2001)
- “Association Did Not Waive Its Enforcement Right and Did Not Selectively Enforce a Restriction Prohibiting Sheds” (*Community Association Law Reporter*, March 2001)
- “Association Did Not Violate Deceptive Trade Practices Act” (*Community Association Law Reporter*, March 2001)
- “Insurance Policy Does Not Cover Water Damage” (*Community Association Law Reporter*, March 2001)

Condominium
 Project
 Registration:

Condominium Project Registration - Public Reports Issued

Upon a motion by Commissioner Evangelista, seconded by Commissioner Ohama, it was voted on and unanimously carried to recommend approval to ratify issuance of effective dates for public reports for the month of March 2001 as follows:

Proj No	Project Name	Project Address	TMK #	Report	Date
4549	51-426 KEKIO RD & 51-024 HIIAKA RD	51-426 KEKIO RD & 51-024 KAAAWA HI 96730	(1)5-01-011:023	Final	03/12/01
4488	AVALON, PHASE 5	94-1029 LAULAUNA ST, ETAL EWA BEACH HI 96706	(1)9-01-102:016	Final	03/09/01
4579	CALHOUN/PARKER	LOT 4 PUAKEA KOHALA HI	(3)5-06-002:045	Final	03/27/01
4492	COCONUT PLANATATION AT KO OLINA THE	92-1070 OLANI ST KAPOLEI HI 96797	(1)9-01-056:004	Prelim	03/16/01
4487	CORTEBELLA, PHASE 2	91-220 MAKALAUNA PL EWA BEACH HI 96706	(1)9-01-010:058	Suppl 1	03/01/01
4465	DESTINY AT MILILANI - PHASE III	KUAOA ST MILILANI HI 96789	(1)9-05-002:001	Suppl 1	03/20/01
2091	DOO/HIGA HOMES	3003 WAIOMAO HOMESTEAD RD HONOLULU HI 96816	(1)3-04-018:001	Suppl 1	03/30/01
4564	HALE KAI O HUALALAI CONDO	HUALALAI RD KAILUA-KONA HI 96740	(3)7-05-010:011	Prelim	03/02/01
4563	KAUAI TMK :5-3-8-8 PROJECT	4981 KAPA'KA ST PRINCEVILLE HI 96722	(4)5-03-008:008	Final	03/07/01
4586	KAUHALE KAMAHAO CONDO	LOT 3 WAINIHA HUI LAND WAINIHA HI	(4)5-08-010:014	Final	03/20/01
4454	KOOHIO CONDOMINIUM	7819 KOOLAU RD MOLOAA HI 96703	(4)5-01-004:034	Final	03/06/01
4574	LAWAI HANA CONDOMINIUM	LOT 19 CEMENT TRACH SUBDI KOLOA HI	(4)2-05-007:014	Final	03/22/01

Condominium Review Committee Minutes
 Meeting of April 11, 2001
 Page 7

4170	MACK CONDOMINIUM	73-4244 KIEKIE ST KAILUA-KONA HI 96740	(3)7-03-022:073	Suppl 1	03/09/01
4573	MAKANA HALE	LOT 8-J WAILUA HOMESTEADS WAILUA HI	(4)4-02-021:048	Final	03/02/01
4524	MAKAWAO RANCH CONDOMINIUM	136 MAHOLA ST MAKAWAO HI 96768	(2)2-04-023:016	Final	03/28/01
4464	MANGO LANE CONDOMINIUM PROP REGIME	45-906 WAILELE RD KANEHOE HI 96744	(1)4-05-011:006	Final	03/16/01
4587	NA POHAKU OHANA	3465 & 3467 PATY DRIVE HONOLULU HI 96822	(1)2-09-049:005	Final	03/08/01
4585	NAPILI VILLAS - PHASE I	HANAWAI ST NAPILI HI 96761	(2)4-03-003:110	Prelim	03/09/01
4498	NORTHPOINTE AT MILILANI PHASE II	95-1025 KAAPEHA ST MILILANI HI 96782	(1)9-05-049:049	Final	03/27/01
4576	OMAO PILI AU CONDOMINIUM	LOT 50-C OMAO HMSTDS OMAO HI	(4)2-07-004:100	Final	03/02/01
4569	PINAPPLE RIDGE CONDOMINIUM	LOT 10 KALAHEO HMSTDS KOLOA HI	(4)2-03-009:102	Final	03/23/01
4545	PUNAWAI CONDOMINIUM	UHA RD LAWAI KOLOA HI 96756	(4)2-05-006:013	Final	03/06/01
3841	PUU HONU KALAHEO	2502 PUU RD KALAHEO HI 96741	(4)2-03-013:040	Suppl 1	03/02/01
4584	ROYAL GARDEN AT WAIKIKI	440 OLOHANA ST HONOLULU HI 96815	(1)2-06-016:039	Final	03/22/01
2277	SHEARWATER THE	3730 KAMEHAMEHA RD PRINCEVILLE HI 96722	(4)5-04-005:032	Suppl 2	03/09/01
4530	TERRA FIRMA CONDOMINIUM	568 HANA HWY KUAU HI 96779	(2)2-06-010:002	Final	03/09/01
4306	TERRACES MANELE BAY PHASE IV	POLIHUA PLACE LANAI HI 96763	(2)4-09-022:013	Suppl 1	03/13/01
4540	TERRAZA, PHASE 5	MAKALE'A ST EWA BEACH HI 96706	(1)9-01-010:054	Final	03/12/01
4589	TERRAZZA PHASE 8	MAKALEA ST EWA BEACH HI 96706	(1)9-01-010:048	Prelim	03/20/01
4521	WAIHAI BEACH CLUB	2249 POIPU RD KOLOA HI 96756	(4)2-08-017:012	Cont Fin	03/30/01
4571	WILHELMINA RISE ESTATES	1546 & 1544 WILHELMINA RI HONOLULU HI 96816	(1)3-03-032:004	Final	03/08/01
4509	WOLFORD/GUARD OHANA	LOT 5 COASTVIEW SUBDIV N KONA HI	(3)7-03-023:017	Final	03/27/01

Preliminary Reports: 4
 Contingent Final Reports: 0
 Final Reports: 20
 Supplementary Reports: 7
 Total: 32

Extensions for FY 2001	1FY01	2FY01	3FY01	4FY01
Number of Requests Received	52	56	39	
Number Deficient	20	18	13	
Number of Extensions Authorized	46	49	36	
Number Denied - Supplementary Report Required	2	1	1	
Owner-Occupant Ads Received	5	0	2	

Project Statistics

Specialist Yee reported that the maximum number of project review days by condominium consultants has increased slightly due to unique situations caused by different projects. The averages still remain well below ninety days.

SEO Kimura reported that the exceptions of 271 and 207 days are extremely high for the review of a project registration. Staff will need to monitor the review time more closely and work with the condominium consultants to find out why a project registration has gone beyond ninety days, our threshold goal.

Upon a motion by Commissioner Ohama, seconded by Commissioner Aki, it was voted on and unanimously carried to recommend approval, where applicable, to have staff send a memo reminder to the condominium consultant that ninety days (90) have passed since the condominium project registration application had been assigned to that consultant, and that the consultant has a choice either to recommend to the REC to cease processing the application and return the file to the developer as an incomplete registration application; or to continue processing the registration application since in all likelihood that the developer is expected to complete the registration application within the next thirty (30) days.

§514A-12, HRS – Filed or approved floor plans and architect or engineer statement

Upon a motion by Commissioner Ching, seconded by Commissioner Ohama, it was voted on and unanimously carried to recommend deferral of the agenda item to the April 27, 2001 Real Estate Commission meeting.

HIBR News, March 2001

Article entitled “County Concerns Task Force Government Affairs Committee Update” distributed for informational purposes.

Program of Work:

Recodification of Chapter 514A

Condominium Recodification Attorney, Gordon Arakaki, reported that the recodification project is moving along according to the workplan schedule. He is still in his initial research and idea generation stage and has already spoken to the Hawaii State Bar Association’s Real Property and Financial Services section and the Condominium Council of Maui and solicited inputs from those organizations. He anticipates doing a mailout soliciting input from condominium property regime stakeholders by the end of the month.

It was further reported that Mr. Arakaki has developed a section by section comparison of the Uniform Common Interest Ownership Act (1994), the Uniform Condominium Act (1980), and HRS Chapter 514A. This will be the base-working document and is soon to be available on the Commission’s website. It provides a useful structure and context for discussions and input from the various interested parties.

Neighbor Island Outreach

The Condominium Review Committee meetings to be held on the following islands as part of the Commission’s Neighbor Island Outreach program are as follows: Kauai, May 11, 2001; Big Island, August 6, 2001.

CMEF Budget & Finance Report: No report presented.

Condominium Organizations Forum: There were no comments, recommendations or concerns 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.

Open Forum: No discussion presented.

Next Meeting: May 11, 2001; 11:00 a.m.
State Office Building
Conference Rooms A, B, and C
3060 Eiwa Street
Lihue, Kauai

Adjournment: With no further business to discuss, Vice Chair Rice adjourned the meeting at 12:10 p.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee
Cynthia M. L. Yee
Senior Condominium Specialist

May 11, 2001
Date

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