



Condominium Project Registration

Reminders Real Estate Commission Memorandum 2017-1 (8/30/17)

The information provided here is intended to provide developers including where applicable their attorneys and agents as well as interested others with supplemental information in the form of reminders about the condominium project registration process*.

- The chapter 514A, HRS, Developer's Public Report has been revised as of March 2017. Please use the current form which can be downloaded from the REC website at http://cca.hawaii.gov/reb/rec_forms/. The form has been revised to make it form fillable for user convenience.
- Act 181, SLH 2017 repeals chapter 514A, HRS, on January 1, 2019. The rationale for the repeal was to reduce confusion between the two existing condominium laws. While most of the governance sections of chapter 514A, HRS, were superseded by the 2006 recodification into chapter 514B, HRS, the development sections still applied. Despite §514B-22, HRS, explicitly defining the applicability of specific sections and part VI of chapter 514B, HRS, to all condominiums, both the Legislature and the Real Estate Branch received regular inquiries regarding which law applies to their condominium's governance.

Act 181, repeals chapter 514A, HRS, including the development sections. Pursuant to the law's safe harbor provision, the most recent final report, supplementary, and disclosure abstracts, if any, of non-expired, active chapter 514A, HRS, projects will be treated as non-expiring chapter 514B, HRS, reports. Sales will be allowed to continue post January 1, 2019, on such previously issued chapter 514A developer's public reports if the developer's public reports are accurate and not misleading. Should any pertinent and/or material changes occur, developers must file an amended chapter 514B, HRS, report that supersedes all prior reports. Chapter 514A, HRS, projects that are active and non-expired on January 1, 2019, and that must file a chapter 514B, HRS, report will be exempt from the conversion requirements of §514B-84(a)(1) and (2), HRS.

Chapter 514A, HRS, contingent and preliminary reports will not be treated as non-expiring chapter 514B, HRS, reports and must file as a new project under chapter 514B, HRS, to sell units after January 1, 2019. Any condominium property regime created pursuant to chapter 514A, HRS, that was not issued an effective date must also file as a new project under chapter 514B, HRS, to sell units after January 1, 2019.

Developers with registered chapter 514A, HRS, projects containing unsold inventory who fail to have an active report subject to §§514A-4 and 41, HRS, on January 1, 2019, will be forced to withdraw any previously filed registration granted an effective date and refile as a completely new project to sell units outside of the exemptions listed under §514B-51(b), HRS. A property cannot be submitted simultaneously to both condominium laws, thus necessitating the withdraw before registering under chapter 514B, HRS.

The Commission strongly recommends that developers who still retain inventory to file extensions and supplementary reports to ensure that their projects are active and non-expired on January 1, 2019. Two-unit projects granted non-expiring status by the Commission should review their developer's public reports to ensure that there are no changes requiring supplementary reports.

Please plan accordingly as the review process may be delayed due to the large numbers of developers filing reports in response to Act 181's deadline of January 1, 2019. Developers who have worked exclusively with chapter 514A, HRS, should familiarize themselves with the development provisions of chapter 514B, HRS, as any changes must be filed as an amended report pursuant to that chapter.

As a reminder, §514A-1.5(a)(2)(B), HRS, remains in effect and thus unless a developer had provided the Commission with notice of intent prior to July 1, 2006, they must register their created but not registered project subject to chapter 514B, HRS.

**** The provided information is unofficial, informal, and non-binding on the Real Estate Commission and is being provided pursuant to §16-201-92, Hawaii Administrative Rules. Please contact the Real Estate Commission at (808) 586-2643 between 7:45 AM and 4:30 PM, Monday through Friday and your attorney for more information.***