

**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: August 8, 2018

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: Laurie A. Lee, Chair, Broker / Honolulu Commissioner  
John Love, Vice Chair, Public / Honolulu Commissioner  
Bruce Faulkner, Broker / Maui Commissioner  
Aileen Wada, Broker / Honolulu Commissioner  
Scott Arakaki, Public / Honolulu Commissioner  
Aleta Klein, Broker / Honolulu Commissioner  
Michael Pang, Broker / Honolulu Commissioner  
Sean Ginoza, Broker / Hawaii Island Commissioner  
Russell Kyono, Broker / Kauai Commissioner

Neil Fujitani, Supervising Executive Officer  
Miles Ino, Executive Officer  
Carole Richelieu, Senior Condominium Specialist  
Benedyne Stone, Condominium Specialist  
Dathan Choy, Condominium Specialist  
Lorie Sides, Condominium Education Specialist  
Diane Choy Fujimura, Senior Real Estate Specialist  
Amy Endo, Real Estate Specialist  
David Grupen, Real Estate Specialist  
Shari Wong, Deputy Attorney General – late arrival  
Tammy Norton, Recording Secretary

Others: Ethel Keyes, Hawaii Association of REALTORS®  
Chatney Pacheco, Hawaii Association of REALTORS®  
Harold Berman

Absent: None

Call to Order: The Chair called the meeting to order at 9:28 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 Klein, seconded by Commissioner Faulkner, it was voted on and unanimously carried to accept the minutes of the July 11, 2018 Condominium Review Committee meeting as circulated.

Condominium  
Governance and  
Management:

### **AOUO Registrations**

Specialist Stone reported that as of July 31, 2018, 1,566 AOUOs have successfully registered.

### **Condominium Seminars and Symposium**

#### CAI Hawaii 2019 planning session

The supplemental contract between CAI Hawaii and the Real Estate Commission has been fully executed with an effective date of July 28, 2018. Staff attended CAI Hawaii's Program Committee's planning meeting and broached the subject of a budget and reserves topic. The topic will be incorporated into the August 9<sup>th</sup> seminar on maintenance fees. The employment law topic will be incorporated into its October seminar on almost free legal advice.

CAI Hawaii provided members of the planning meeting with a historical list of seminars and registration numbers.

Commissioner Klein noted that the 2018 seminars scheduled for the neighbor islands, but canceled due to low registration numbers, were the same topics offered on Oahu. She suggested offering more interesting topics on the neighbor islands such as the "Fire and Life Safety" topic.

Specialist Richelieu commented that CAI Hawaii is looking at bringing in a national speaker for their upcoming seminar as they have done in the past. This may draw a larger crowd.

Commissioner Wada stated that the number of registered versus the number of actual attendees is a concern. She noted that in the past, she has seen many name tags left on the sign in table and was concerned that the Commission is paying for registered versus actual attendees as there are many no shows.

Specialist Richelieu responded that she will follow up with CAI Hawaii on the registered versus actual attendee issue.

#### CAI Hawaii "Legislative Update 2018"

Specialists Stone, Sides, and Choy attended CAI Hawaii's Legislative Update 2018 seminar which covered new laws ranging from the changes in priority of payments, mediation, wage inequality disclosure, service animals, all mail ballot voting, landlord

tenant changes, road maintenance, to the County's fire and life safety evaluation bill. The Commission did not subsidize this seminar.

**Case Law Review Program**

The following were distributed for informational purposes: In the Matter of Olszewski et al. v. Cannon Point Association, Inc., et al., New York, March 9, 2017; Geraci v. Union Square Condominium Association, Seventh Circuit, May 25, 2018; Priesner et al. v. Starry et al., Nebraska, May 25, 2018; and McNair v. Maxwell & Morgan PC et al., Ninth Circuit, June 25, 2018.

**Condominium Related Articles**

The following articles were distributed for informational purposes: CAI "Survey Says: Residents Satisfied with Their Community" June 7, 2018; CAI "Hawaii Community Associations facts & figures" 2016-2017; Hawaii New Now "Jury awards Maui couple \$1.7M in suit against their condo association" July 19, 2018; and Honolulu Star-Advertiser "Jury award Maui couple \$1.7M in suit against their condo association" July 22, 2018.

Condominium  
 Project  
 Registration:

**Condominium Project Registration - Public Reports Issued**

A list of those condominium projects issued effective dates during the month of July 2018, was distributed for informational purposes.

PROJ #	PROJECT NAME	PROJECT ADDRESS	TMK #	TOTAL	REPORT DATE
8186	2212 KALIHI STREET	2212 KALIHI ST HONOLULU HI 96819	113034019	2	B REPT 7/12/2018
8173	59-783 KAMEHAMEHA HIGHWAY	59-783 & 59-783A KAMEHAMEHA HALEIWA HI 96712	159004027	2	B REPT 7/16/2018
2593	99-516/99-516A ALIIPOE DRIVE	99-516 & 516A ALIIPOE DR AIEA HI 96701	199056049	2	SUPPL 7/30/2018
8183	AZURE ALA MOANA	641 KEEAUMOKU STREET HONOLULU HI 96814	132021037	410	B REPT 7/25/2018
8170	CALIFORNIA AVENUE GARDENS	2127A,B,C,D,&E CALIFORNIA AVE WAHIAWA HI 96786	175015012	5	B REPT 7/18/2018
8150	DELMONTE LINCOLN VILLAGE	3254 & 3254-A LINCOLN AVE HONOLULU HI 96816	132016069	2	B REPT 7/23/2018
7991	E.K. ESTATES	385 E KUIAHA RD HAIKU HI 96708	227013078	3	B AMD 7/16/2018
8003	HAIKU DREAM CONDOMINIUM	0 KAUHIKOA RD HAIKU HI 96708	227008037	2	B AMD 2 7/19/2018
4233	HALE ONA ONA MAKANI CONDOMINIUM PROJ	55-339 HOEA RD HAWI HI 96719	355013011	2	SUPPL 7/17/2018
7994	HO'OLUANA CONDOMINIUM AT KOHEA LOA	HANAMAULU TRIANGLE LIHUE HI 96766	437003020	94	B AMD 7/13/2018
8158	HO'OMAKA	4786 & 4786A PELEHU RD KAPAA HI 96714	446016018	2	B REPT 7/6/2018
4910	HONO KAUAI	HONO O'HALA PLACE KAPAA HI 96746	444009009	2	SUPPL 2 7/6/2018
8101	HONU KAI CONDOMINIUM	130 KAI MALINA PKWY LAHAINA HI 96761	244014006	72	B AMD 7/25/2018
8184	IOKEPA ESTATES	3910 KOULA RD HANAPEPE HI 96716	419005015	2	B REPT 7/20/2018
8194	KAHENA WAI ESTATES	53-428/53-440/53-450/53-53- HAUULA HI 96717	153005028	11	B REPT 7/17/2018
8141	KAOKOLO PLACE	337 & 339 KAOKOLO PL KAPAA HI 96746	441007118	2	B REPT 7/6/2018
6119	KAWAIHAU OCEAN & MOUNTAIN VIEW	5587 KAWAIHAU RD KAPAA HI 96746	446037057	2	B REPT 7/19/2018
3293	MALU	LOT 31-B KOLO SUBDIV S KONA HI	387013064	2	SUPPL 7/20/2018
7764	NORTH SHORE PRESERVE OCEANSIDE RANCH	5-3900 KUHIO HWY PRINCEVILLE HI 96722	453006026	73	B AMD 7/3/2018
8042	OHANA FARM PARCELS CONDOMINIUM	KAMEHAMEHA HIGHWAY WAHIAWA HI 96786	164003017	40	B AMD 7/10/2018

5898	PARK PLAZA	1300 N HOLOPONO ST KIHEI HI 96753	222024008	26	SUPPL	7/30/2018
8192	PILI MAI AT PO'IPU (PHASE 11)	2611 KIAHUA PLANTATION DR. KOLOA HI 96756	428014033	13	B REPT	7/20/2018
7894	POHAKALA AT MEHANA	KAKALA ST & KAMAHA ST KAPOLEI HI 96707	191160051	127	B AMD 4	7/25/2018
5421	PU'U LOLO 2 CONDOMINIUM	LOT 2 PU'U LOLO SUBDIVISION KALAEHO HI	423008064	2	SUPPL 2	7/10/2018
8120	WAIHONU PLACE	95-092 WAIHONU PLACE MILILANI HI 96789	195005047	2	B REPT	7/25/2018
0	<b>Preliminary Reports</b>					
0	<b>Contingent Final Reports</b>					
0	<b>Final Reports</b>					
6	<b>Supplementary Reports</b>					
12	<b>B Reports</b>					
7	<b>B Amendment Reports</b>					
25	<b>TOTAL REPORTS</b>					

**Consultants' Forum**

Staff will be conducting a condominium consultants' forum on August 31, 2018, to provide continuity between consultants, review new legislation, new forms and procedures, and recent committee decisions.

Program of Work: **Rulemaking, Chapter 119**

Commissioners and staff were reminded of today's deadline for comments to the proposed Ch. 119 draft. Two comments were received from staff and Commissioner Love will soon be forwarding his comments.

**Legislative Acts and Resolutions – "2018 Legislative Wrap Up"**

A written report on the 2018 legislative wrap up by Specialist Richelieu was distributed for informational purposes. The FAQs on the website are being updated.

**Interactive Participation with Organizations – CAI 2018 Law Seminar**

The committee acknowledged receipt of Specialist Richelieu's written report on her participation at the Community Associations Institute 2018 Law Seminar.

**Consumer Education**

Staff created four new condominium brochures: Developer's Public Reports; Expanded Alternative Dispute Resolution; 2018 Legislative Session Update; and Introduction to Condominium Living. The brochures may be found on the Commission's website at [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec). The quarterly email blast was also sent to all on the Commission's condominium subscription list.

**Records Management**

The Commission's decision on its records retention schedule of 60 years for developer's public reports was forwarded to the State Archivist on July 20, 2018. Since the retention period is not "permanent," the files will not get transferred to the Archives, instead, we will work with the State Records Center on storage and destruction.

Recess: Chair Lee recessed the meeting at 9:59 a.m.

Reconvene: Chair Lee reconvened the meeting at 10:47 a.m.

Condominium  
Project  
Registration:

**Real Estate Branch Request for Withdrawal of Informal Non-Binding Interpretation Regarding Supplementary Report Requirements**

Staff reported that the current interpretation applies to Chapter 514A projects which will be repealed on January 1, 2019. The current informal non-binding interpretation does not require a developer's supplementary public report to disclose the change of a shed apartment to a residential dwelling where the public report discloses that such changes to the project are permitted.

Staff believes that the change is a material fact and should be disclosed via a developer's supplementary public report.

Commissioner Pang stated that he has never seen this Commission withdraw its informal non-binding interpretation and questioned if staff recalled one being done.

Specialist Richelieu responded that she is not sure if the Real Estate Commission has ever withdrawn an informal non-binding interpretation in the past, but has seen it done in other boards.

Commissioner Arakaki noted that if the interpretation causes confusion, maybe a clarification is needed. If a consumer challenges the Commission's interpretation, the consumer should bring the issue before the Commission for a decision.

Commissioner Arakaki noted that informal non-binding interpretations were issued on a case by case basis based on specific facts. He suggested deferring the issue for further research.

Specialist Choy commented that delaying decision making may cause a problem for Chapter 514A condos as they may not meet the safe harbor provision.

Commissioner Arakaki suggested that staff issue a memorandum with tips to move forward with their Chapter 514A developer's public report to make developers and developers' attorneys aware.

Specialist Choy responded that Act 181 states that Chapter 514A developer public reports must be active and accurate to transfer to Chapter 514B. Staff could provide language in its outreach stating the following: "In light of the Chapter 514A repeal, statutory language supersedes the informal non-binding interpretations issued by the Commission."

Deputy Attorney General Wong arrived at 11:09 a.m.

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

After a review of the information presented, Commissioner Arakaki moved that the November 1994 informal non-binding interpretation should not be relied on to determine compliance with Act 181. Commissioner Klein seconded the motion. The motion was voted on and unanimously carried.

**Real Estate Branch Request for Informal Non-Binding Interpretation Regarding Changes to DPRs**

After a review of the information presented, Commissioner Pang moved that the Commission will allow a developer to disclose up to two material changes or five pertinent changes, which would otherwise render a developer's public report misleading, through an amendment to a developer's public report, subject to the Real Estate Commission retaining its final decision-making authority to require a full amended developer's public report. Commissioner Ginoza seconded the motion. The motion was voted on and unanimously carried.

Condominium Organizations Forum: No comments, recommendations or concerns were received.

Next Meeting: Wednesday, September 12, 2018  
Upon adjournment of the Laws and Rules Review Committee meeting scheduled to convene at 9:30 am  
Grove Farm Building Conference Room  
3-1850 Kaumuali'i Hwy.  
Lihue, Kauai

Adjournment: With no further business to discuss, the Chair adjourned the meeting at 11:40 a.m.

Respectfully submitted:

/s/ Carole R. Richelieu

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Carole R. Richelieu  
Senior Condominium Specialist

August 16, 2018

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Date

Minutes approved as is.

Minutes approved with changes; see minutes of \_\_\_\_\_

CRR:tnv