

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: December 12, 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: John Love, Vice Chair, Public / Honolulu Commissioner
Bruce Faulkner, Broker / Maui Commissioner
Aileen Wada, 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
Tammy Norton, Recording Secretary

Others: Chatney Pacheco, Hawaii Association of REALTORS®
Ethel Keyes, Hawaii Association of REALTORS®
Everett Kaneshige

Absent: Laurie A. Lee, Chair, Broker / Honolulu Commissioner
Scott Arakaki, Public / Honolulu Commissioner
Aleta Klein, Broker / Honolulu Commissioner

Call to Order: The Vice Chair called the meeting to order at 9:11 a.m., at which time quorum was established.

Chair's Report: No report was presented.

The Vice 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.

Chair Lee, Commissioner Arakaki, and Commissioner Klein were excused from the meeting. Prior notification of their non-attendance was received.

Condominium
 Specialist's
 Report:

Minutes

Upon a motion by Commissioner Faulkner, seconded by Commissioner Ginoza, it was voted on and unanimously carried to accept the minutes of the November 14, 2018 Condominium Review Committee meeting as circulated.

Condominium
 Governance and
 Management:

AOUO Registrations

Specialist Stone reported that as of November 30, 2018, 1,583 AOUOs have successfully registered.

Condominium Seminars and Symposium - CAI Hawaii fiscal year seminars

The Commission acknowledged receipt of CAI Hawaii's November 27, 2018 request for approval of condominium education trust fund subsidized seminars for the remainder of fiscal year 2019.

Upon a motion by Commissioner Pang, seconded by Commissioner Wada, it was voted on and unanimously carried to approve, subject to the terms and conditions of the fiscal year 2019 contract between CAI Hawaii and the State (Real Estate Commission), the following proposed seminar for CETF subsidies: May 2019 – "ABCs - the Essential of Community Association Management."

Condominium Seminars and Symposium – CAI Hawaii October 18, 2018 presentation

Specialist Richelieu noted that of the 274 registered attendees for CAI Hawaii's October 18, 2018 seminar, 154 were from registered associations.

Case Law Review Program

The following were distributed for informational purposes: Bear Creek Master Association v. Southern California Investors, California, October 31, 2018, and Hensley v. Gadd et al., Kentucky, November 15, 2018.

Condominium
 Project
 Registration:

Condominium Project Registration - Public Reports Issued

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

PROJ #	PROJECT NAME	PROJECT ADDRESS	TMK #	UNIT	REPORT	DATE
8073	`AKOKO AT HO`OPIILI	IWI KUAMOO ST KAPOLEI HI 96707	191017072	124	B AMD	11/27/2018
4611	2786 BOOTH ROAD	2786 BOOTH RD HONOLULU HI 96813	122027029	2	SUPPL	11/8/2018
4490	2955 KALOALUIKI & 2955 KALOALUIKI NO.A	2955 & 2955A KALOALUIKI ST HONOLULU HI 96822	129049005	2	SUPPL	11/16/2018
3410	3945 HO`OHUKI STREET	3945 HO`OHUKI ST LIHUE HI 96766	437006029	2	SUPPL	11/16/2018
5620	4580 KULI ROAD	4580 KULI RD KALAHEO HI 96741	424001082	2	SUPPL	11/19/2018
4396	59-481 KE WAENA ROAD	59-481 KA WAENA RD HALEIWA HI 96712	159003002	2	SUPPL	11/20/2018
5141	AHONUI GARDENS	3788 AHONUI PL PRINCEVILLE HI 96722	453008018	5	SUPPL	11/14/2018
8248	ANDO ESTATES	9641 HUAKAI RD WAIIMEA HI 96796	412009001	2	B REPT	11/19/2018
4936	BAMBOO	LOT 78-D-1 KAPAA HMSTD 1ST KAPAA HI 96746	44607076	2	SUPPL	11/14/2018
6049	BLACK PEARL SOURCE	66-218 KAMEHAMEHA HWY HALEIWA HI 96712	162005020	3	SUPPL	11/8/2018
1702	CLIFFS AT POHAKEA	45-81 LILIPUNA RD KANELOHE HI 96744	145045038	7	SUPPL 4	11/20/2018
8196	FONG ESTATES CONDOMINIUM	4393 OPANA PL HAIKU HI 96708	228002193	2	B REPT	11/29/2018

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3447	GRAND VIEW ESTATES	STAR ROUTE 101 KULA HI 96790	221008025	2	SUPPL	11/14/2018
8250	HAIKU TOWN LOT 9 CONDOMINIUM	873 AUWAHA ST HAIKU HI 96708	227038009	2	B REPT	11/2/2018
4295	HALE ANUENUE	3700 KILAUEA LIGHTHOUSE DR KILAUEA HI 96754	452004068	3	SUPPL	11/14/2018
1738	HALE KUMULA'AU	3368 ANOAI PL HONOLULU HI 96822	129071023	2	SUPPL	11/2/2018
2784	HUIOULI LOT 4	LOT 4 KANEHOA SUBDIV KAMUELA HI 96743	362009003	2	SUPPL	11/14/2018
8203	K & C CONDOMINIUM	443 & 445 KAOKOLO PL KAPAA HI 96746	441007117	2	B REPT	11/8/2018
3701	KALIHIWAI RIDGE II LOT 14 CPR	LOT 14 OF KALIHIWAI RDGE HANALEI HI 96754	452022014	3	SUPPL	11/20/2018
3075	KALOKO LOT 7A	LOT 7A KALOKO N KONA HI 96745	373024036	2	SUPPL	11/7/2018
8255	KAMANI AT KEHALANI (PHASE 11)	OFF OMAOAO ST WAILUKU HI 96793	235001090	4	B REPT	11/19/2018
5717	KARASIC PARK II	4758 LAE RD KALAHEO HI 96741	424005019	3	SUPPL 2	11/13/2018
5601	KEKAHA KAI	7990 ULILI RD KEKAHA HI 96752	413001079	2	SUPPL	11/28/2018
5796	KOAMALU FARMS	4575 KALAMANIA RD KILAUEA HI 96754	452019007	2	SUPPL	11/19/2018
5837	KULANA	OLOHENA RD KAPAA HI 96746	443011001	7	SUPPL 2	11/8/2018
4888	KULANA	OLOHENA, HAU'IKI & KAAPUNI RD KAPAA HI 96746	443003005	96	SUPPL 3	11/8/2018
8063	LEI PAUKU AT HOAKALEI, INCREMENT 7	91-2220 KAIWAWALO ST EWA BEACH HI 96706	191134063	6	B AMD	11/27/2018
5252	LUANA WAIKIKI	2045 KALAKAUA AVE HONOLULU HI 96815	126006023	225	SUPPL 2	11/2/2018
4469	MA'LA AINA III	76-6019G MAMALAHOA HWY HOLUALOA HI 96725	376005051	2	SUPPL	11/19/2018
3594	MOANA RANCH CONDO	6490 PUUPILO RD KAPAA HI 96746	442002167	5	SUPPL	11/13/2018
8249	NA'ALAE HOMESTEAD CONDOMINIUM	1431 NAALAE RD KULA HI 96790	222015074	2	B REPT	11/28/2018
3800	NOKEKULA CIRCLE	2753 NOKEKULA CIR LIHUE HI 96766	436021016	3	B REPT	11/27/2018
8237	PULEHUIKI ROAD CONDOMINIUM	733 PULEHUIKI RD KULA HI 96790	223001133	2	B REPT	11/27/2018
6094	SLEEPING GIANT VIEW CONDOMINIUM	LOT 243-E KAPAA HI 96746	446012075	2	SUPPL	11/14/2018

0	Preliminary Reports
0	Contingent Final Reports
0	Final Reports
24	Supplementary Reports
8	B Reports
2	B Amendment Reports
34	TOTAL REPORTS

Specialist Richelieu noted that 24 of the 34 reports issued effective dates were developer's supplementary reports. Staff continues to receive chapter 514A projects trying to meet the safe harbor.

Request for Informal Non-Binding Interpretation Regarding Annual Report Requirements for Act 181 Safe Harbor Projects

Specialist Richelieu reported that pursuant to Act 181, SLH 2017, chapter 514A projects which meet the safe harbor, will be treated as non-expiring developer's public reports under part IV of chapter 514B, HRS. Developer's public reports under chapter 514B must comply with the requirements under §514B-58, annual report, requiring them to file an annual report based on the anniversary of the effective date of their developer's public report. As all projects will be subject to §514B-58, staff is requesting that the Commission make clear that an annual report must be filed and clarify the anniversary date.

Upon a motion by Commissioner Pang, seconded by Commissioner Faulkner, it was voted on and unanimously carried to issue the following informal, non-binding interpretation that all projects subject to §514B-58, HRS, including former chapter 514A, HRS, projects which are treated as non-expiring developer's public reports under part

IV of chapter 514B, HRS, pursuant to Act 181, SLH 2017, shall file their required §514B-85, HRS, annual report at least thirty days prior to the anniversary date of the effective date for a developer's public report. The anniversary date is the effective date of the most recent developer's public report.

Request for Informal Non-Binding Interpretation Regarding Act 181 Chapter 514A Non-Safe Harbor Projects Which File as Chapter 514B Projects

Pursuant to Act 181, SLH 2017, chapter 514A projects which meet the safe harbor, will be treated as non-expiring developer's public reports under part IV of chapter 514B, HRS. Projects which did not meet the safe harbor must revise their governing documents and register under chapter 514B "for a developer to offer for sale or to sell condominiums." Staff is looking to provide a process to assist projects registering under these unique circumstances.

Upon a motion by Commissioner Faulkner, seconded by Commissioner Pang, it was voted on and unanimously carried to issue the following informal non-binding interpretations as follows:

1. Existing bona fide or arm's length transaction purchasers are not developers as defined by §514B-3, HRS;
2. Developers are exempted from detailed reporting on units and buildings that have previously been sold in bona fide or arm's length sales, except where explicitly required under part IV of chapter 514B, HRS. The existence of all units and buildings in the project must be disclosed in the report and on the map pursuant to §514B-33, HRS, but are otherwise exempted from other details, developer statements, certifications, county letter requirements, and other requirements unless otherwise required by part IV of chapter 514B, HRS; and
3. The requirement of a copy of the deed, master lease, agreement of sale, or sales contract evidencing either that the developer holds the fee or leasehold interest in the property or has a right to acquire same in §514B-54(a)(3), HRS, applies only to the developer's unsold inventory.

Program of Work: **Condominium Laws and Education**

Chapter 514A repeal information and forms have been posted to the Commission's website. The information emphasizes that Act 181 has no extension. Effective November 26, 2018, staff has been requiring the developer or developer's agent submitting a chapter 514A project to sign an acknowledgment form. Staff is trying to protect the last-minute filers that if the Commission proceeds with the review and it is not active and accurate prior to January 1, 2019, all fees may be forfeited. The developer or developer's agent completing the acknowledgment form has the option of proceeding with the review or withdrawing their submission. A copy of the form can be viewed on the forms page of the Commission's website at www.hawaii.gov/hirec.

Rulemaking, Chapter 119

After a review of the revisions to draft proposed rules §16-119.3-14 and §16-119.3-16, Commissioner Pang moved to approve draft proposed rules Chapter 16-119.1 through 16-119.8. Commissioner Wada seconded the motion. The motion was voted on and unanimously carried.

Staff reported that the draft proposed rules will be forwarded to the Director's office for review and approval and to the Administrative Services Office for typesetting.

Ad Hoc Committee on Condominium Education and Research

Specialist Sides requested the reactivation of the Ad Hoc Committee on Condominium Education and Research, an ad hoc committee consisting of members of the condominium community who meet periodically to provide input and recommendations to the Condominium Review Committee on condominium education.

Commissioner Faulkner questioned how often the Ad Hoc Committee would meet so those members invited would be informed of the time commitment.

Specialist Sides responded that she is unsure and that it is open for discussion.

Specialist Stone responded that the nature of an ad hoc committee is not the same as a standing committee. The Ad Hoc Committee would be utilized as needed and then report its recommendations to the Condominium Review Committee.

Vice Chair Love commented that solicitation of information and discussion of the Ad Hoc Committee could also be done via email.

Deputy AG Wong informed the committee that the Ad Hoc Committee would fall under HRS §92-2.5, Permitted interactions of members, under the Sunshine Law.

Upon a motion by Commissioner Pang, seconded by Commissioner Ginoza, it was voted on and unanimously carried to reactivate the Ad Hoc Committee on Condominium Education and Research, approval of members delegated to the Supervising Executive Officer.

Government and Legislative Participation and Report

Specialist Richelieu reported that the legislature opens on January 16, 2019, and the Committee on Ways and Means, and Committee on Commerce and Consumer Protection and Health will be holding an information briefing on January 10, 2019 regarding DCCA.

Interactive Participation with Organizations - November 17, 2018 meeting with Hawaii Home Ownership Center

Specialist Sides reported that she attended the Hawaii Home Ownership Center's (HHOC) orientation on November 17, 2018. The HHOC has a similar mission to that of the Commission in providing education. The HHOC provides education to its members on becoming successful first-time homeowners. She anticipates working together with HHOC on educating its members who more than likely will be condominium purchasers.

Interactive Participation with Organizations - HCCA November 29, 2018 "Almost Free Legal Advice"

The committee acknowledged receipt of the written report on HCCA's "Almost Free Legal Advice" seminar attended by Condominium Specialists Richelieu, Stone, and Sides.

Consumer Education

45th Annual Maui County Senior Fair October 27, 2018 – Specialist Sides reported that she attended the Maui County Senior Fair and made 37 contacts and had one person sign up for the condominium email subscription list. She noted that there were many seniors in attendance, most interested in downsizing to possible condominium living. She reported that most condominium residents commented to her that they were unaware that there was an office to call regarding their condominium questions.

Condorama IV November 17, 2018 – Specialist Stone reported that staff worked with the procured provider, CAI Hawaii Chapter, to offer Condorama IV at the State Capitol Auditorium on Saturday, November 17, 2018, free of charge to all attendees. The topics for Condorama IV were sprinkler ordinance, service and assistance animals, and mediation and new related laws. The event was videoed by staff and has been posted to the Real Estate Branch website.

New condominium brochure "Special Assessments" – the brochure was distributed for informational purposes and has been posted to the Commission's website.

Home Building Show January 25-27, 2019 – the Real Estate Branch condominium staff will be participating in the upcoming Home Building show in January.

Condominium Specialist Office for the Day – Maui, January 9, 2019

The Specialist Office for the Day will be held in conjunction with the Real Estate Committee meetings at the REALTORS® Association of Maui office to be held on January 9, 2019.

Records Management – 60-year DPR retention effective October 5, 2018

A copy of the fully executed Records Disposition Authorization form amending item number 431200-00006, D-2, Registration Records (A) Condominium Files (2) Developer's Public Reports to a retention of 60 years, was distributed for informational purposes.

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

Next Meeting: January 9, 2019
Upon adjournment of the Laws and Rules Review Committee meeting scheduled to convene at 9:30 a.m.
REALTORS® Association of Maui
441 Ala Makani Place
Kahului, MAUI

Adjournment: With no further business to discuss, the Vice Chair adjourned the meeting at 9:57 a.m.

Respectfully submitted:

/s/ Carole R. Richelieu

Carole R. Richelieu
Senior Condominium Specialist

December 19, 2019

Date

Minutes approved as is.
 Minutes approved with changes; see minutes of _____
CRR:tn/