



Condominium Project Registration

Reminders Real Estate Commission Memorandum 2019-3 (10/22/19)

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.*

- Historically, the Hawaii Real Estate Commission (“Commission”), has voiced concerns upon issuing effective dates for nested condominiums. A nested condominium is a condominium within a condominium. As of August 2019, only one nested condominium has been registered with the State, the Kahului Town Center, registration [#6632](#) and [#6781](#).

The Commission is concerned about nesting for a variety of reasons including but not limited to, the protection of the statutory rights of nested condominium owners, conflicts between the governing documents of the “master” and nested condominium projects, and increased confusion by owners over multiple layers of governance.

The Commission regularly receives many calls from condominium owners confused or unaware of what their rights are as owners. Adding on potentially multiple levels of various governing documents may cause additional confusion for these consumers. As a consumer protection agency, the Commission is particularly concerned about the additional complexity created by a nested condominium structure and full and proper disclosures related thereto. As such, developers should carefully structure the governing documents for both the “master” and nested condominium projects and fully and clearly disclose, among other things, the relationship between the projects and the rights of a nested condominium owner in the public reports for the two projects.

Nesting may serve a specific purpose, such as separating commercial and residential developments from each other, where other development methods are prohibited. Nesting is a highly complex method of development under the existing condominium law and the Commission strongly recommends that developers review all other available options before choosing nesting. Further, the Commission encourages developers to contact the Commission prior to submitting a public report for a nested condominium to the Commission so the developer can fully address the Commission’s concerns in the submission.

*** 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.**