

Chapter 514B, Developer's Public Report, Amendments—Avoiding Common Errors

The Hawaii Real Estate Commission (“Commission”) oversees the application and review process for the registration of condominiums for initial sale. Developers occasionally have changes to their reports and the Commission oversees the filing of amendments to the Developer’s Public Report. The Commission has produced this quick guide to assist developers and their agents in avoiding common mistakes in filling out amendments to the Developer’s Public Report.

Frequently Asked Questions:

What are the current fees?

Please review the [General Information](#) for CPR chapter 514B for current fees.

What’s the difference between an amended and amendment?

An amended report supersedes all prior reports and is required once the developer has two or more material and/or five or more pertinent changes since the last report. The amended report submits all pages and exhibits.

An amendment provides updates to an existing report and must be read with that report. A maximum of two amendments may be used to update an existing report, with a maximum of two material and/or five or more pertinent changes disclosed. Amendments do not submit all of the pages of the full form, only the amendment form, the pages within the report that have changed, and updated exhibits. The fee for an amendment is also considerably smaller.

What is the average time for review for an amendment?

The average total review time after assignment to one of the Commission’s consultants is between four to six weeks.

What do I do if I need additional space on the forms?

Attach exhibits or addendums. **Do not** modify any existing forms or existing user entry fields .

Do all developers have to sign?

Yes. If there are more than one developer, each developer must sign on their own signature page.

Can I submit my filings in a three-ring binder?

No. All supporting papers must be bound in a press board folder. No three ring binders will be accepted. The developer’s public report may be binder clipped. Final drafts shall not contain any holes or staples.

What other documents should I look at?

In addition to the [General Information](#) for CPR chapter 514B, the document checklist, project questionnaire, and all other forms under the chapter 514B, HRS, registration [forms section](#) on the Real Estate Branch’s website.

What other benefits does the developer get from disclosure?

The developer’s public report serves to both educate the buyer about all material and pertinent facts and to protect the developer. By fully disclosing such facts prior to sale, developers may reduce their legal liability.

Can I, the developer, advertise and sell before my amendment has been reviewed or been granted an effective date?

Developers may sell during an amendment review process prior to the effective date, but must provide the changes to prospective buyers.

Transitioned Chapter 514A Projects—Frequently Asked Questions:

Projects that transitioned from chapter 514A to chapter 514B, HRS, pursuant to Act 223, SLH 2019, require updating of their developer's public reports should changes occur. Such projects must use the chapter 514B, HRS forms. The Commission has produced these FAQs to help developers understand the necessary procedural steps to update their reports under chapter 514B, HRS.

I've already submitted two short supplementary reports on my last chapter 514A, HRS, Developer's Public Report. Can I use the chapter 514B, HRS, amendment form?

No, a maximum of two short supplementary, or amendments may be filed per full supplementary or amended report. Submit your changes on the chapter 514B, HRS, Developer's Public Report.

I'm submitting an amendment for my chapter 514A, HRS, project that was transferred to chapter 514B, HRS. What do I do?

Do not use any chapter 514A, HRS, forms. Submit the amendment on the chapter 514B, HRS, form and include the corresponding pages with new information from the chapter 514B, HRS, Developer's Public Report form. For example, if your attorney has changed, submit page 9 from the chapter 514B, HRS, Developer's Public Report form fully filled out. If your filing package includes a new title report, submit page 5 from the Developer's Public Report form fully filled out. Complete as necessary for all updated and new information.

Does this amendment replace my requirement to file this year's annual report?

Yes. Do not file an annual report if filing an amendment to the Developer's Public Report.

Can I still sell units while my amendment or amended report is under review?

Yes, as long as the appropriate real estate broker or brokers and purchasers are advised of the changes.

IMPORTANT - - Read This Developer Prepared Report Before Buying

This Report Is Not a Commission Approval or Disapproval of This Condominium Project

AMENDMENT TO THE DEVELOPER'S PUBLIC REPORT FOR A CONDOMINIUM

| | |
|---------------------------|---|
| CONDOMINIUM PROJECT NAME: | |
| PROJECT ADDRESS: | |
| REGISTRATION NUMBER: | |
| EFFECTIVE DATE OF REPORT: | |
| THIS AMENDMENT: | <div><input type="checkbox"/> Must be read together with:<div><input type="checkbox"/> Developer's Public Report: Effective Date _____ <input type="checkbox"/> Amended Report: Effective Date _____</div></div> <div><input type="checkbox"/> Supersedes all prior amendments. Includes all prior amendment(s) and <u>must</u> be read together with:<div><input type="checkbox"/> Developer's Public Report: Effective Date _____ <input type="checkbox"/> Amended Report: Effective Date _____</div></div> |
| DEVELOPER(S): | |

Preparation of this Amendment

The Developer prepared this amendment pursuant to the Condominium Property Act, Section 514B-56, Hawaii Revised Statutes ("HRS"), as amended from time to time. Section 514B-56, HRS, requires that after the Hawaii Real Estate Commission ("Commission") has issued an effective date for the Developer's Public Report, if there are any changes, either material or pertinent changes, or both, regarding the information contained in or omitted from the Developer's Public Report, or if the Developer desires to update or change the information set forth in the Developer's Public Report, the Developer shall immediately submit to the Commission an amendment to the Developer's Public Report or an amended Developer's Public Report clearly reflecting the change, together with such supporting information as may be required by the Commission, to update the information contained in the Developer's Public Report.

The law defines "material change" as used in parts IV and V of Chapter 514B, HRS, as any change that directly, substantially, and adversely affects the use or value of (1) a purchaser's unit or appurtenant limited common elements or (2) those amenities of the project available for the purchaser's use.

For all sales information, please contact the Developer and real estate broker on page 9 of the Developer's Public Report.

Individuals with special needs may request this material by calling the State of Hawaii Real Estate Commission at 586-2644.

Select which amendment is being filed (1 or 2) by selecting the first drop down list.

If the amendment is updating an existing amended report, use the second drop down list to select the most recent amended report being updated.

Capitalize every letter in the project name.

Leave effective date blank.

The law defines "pertinent change", as determined by the commission, as a change not previously disclosed in the most recent public report that renders the information contained in the public report or in any disclosure statement inaccurate, including, but not limited to (1) the size, construction materials, location, or permitted use of a unit or its appurtenant limited common element, (2) the size, use, location, or construction materials of the common elements of the project, or (3) the common interest appurtenant to the unit. A pertinent change does not necessarily constitute a material change.

The filing of an amendment to the Developer's Public Report or an amended Developer's Public Report, in and of itself, shall not be grounds for a purchaser to cancel or rescind a sales contract. A purchaser's right to cancel or rescind a sales contract shall be governed by sections 514B-86 and 514B-87, HRS, the terms and conditions of the purchaser's contract for sale, and applicable common law.

This Amendment has not been prepared or issued by the Commission or any other governmental agency. The issuance by the Commission of an effective date for this amendment to the Developer's Public Report (1) does not mean that the Commission approves or disapproves of the project, (2) does not mean that the Commission thinks that either all material facts, material changes, or pertinent changes about the project have been fully or adequately disclosed, and (3) is not the Commission's judgment of the value or merits of the project.

The law defines "material facts" as any fact, defect, or condition, past or present, that to a reasonable person, would be expected to measurably affect the value of the project, unit, or property being offered or proposed to be offered for sale. This amendment may be used by the Developer for promotional purposes only if it is used with the last Developer's Public Report in its entirety.

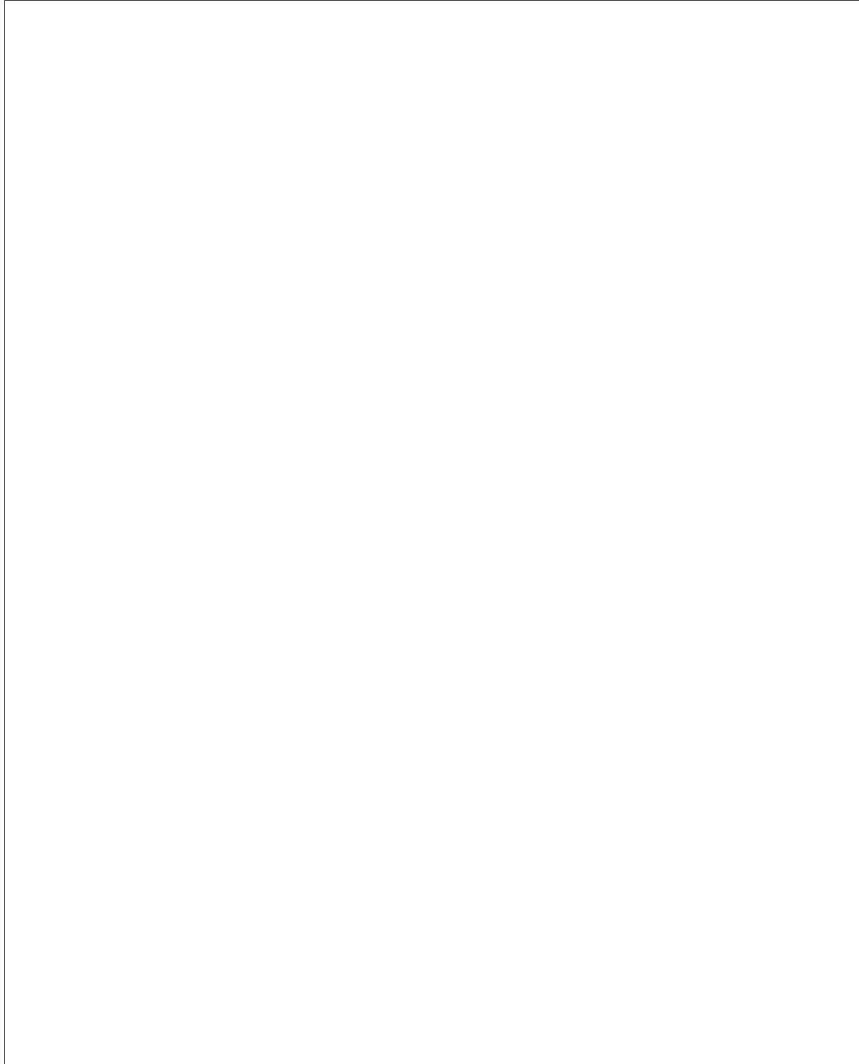
Prospective purchasers and purchasers are encouraged to read this amendment carefully and to seek professional advice.

Summary of Changes from Earlier Developer's Public Report are Described Beginning on the Next Page

Summary of Changes from Earlier Developer's Public Report:

This summary contains a general description of the changes, if any, made by the Developer since the last Developer's Public Report was issued an effective date. It is not necessarily all inclusive. Prospective purchasers and purchasers must read this amendment together with the last Developer's Public Report with the effective date as noted on the top of page 1 if they wish to know the specific changes that have been made.

Changes made are as follows (include a description of what the change is and page number and/or exhibit alphabet or number; additional pages may be used):



List all changes being disclosed.

Attach all pages with listed changes.

Example: If the broker has changed, attach the updated page 9 showing the new broker's Information from the last developer's public report.

The Developer declares subject to the penalties set forth in Section 514B-69, HRS, that this project continues to conform to the existing underlying county zoning for the project, zoning and building ordinances and codes, and all applicable permitting requirements adopted by the county in which the project is located, all in accordance with Sections 514B-5 and 32(a) (13), HRS.

For any conversion, if any variances have been granted, they are specified in Section 1.14 of this report as amended, and, if purchaser deposits are to be used by the Developer to cure any violations of zoning, permitting requirements, or rules of the county in which the project is located, the violation is specified in Section 1.15 of this report as amended, along with the requirements to cure any violation. Section 5.5 specifies the date by which the cure will be completed.

The Developer hereby certifies that all the information contained in this report as amended and the exhibits attached to this report (if any) as amended and all documents to be furnished by the Developer to purchasers concerning the project have been reviewed by the Developer and are, to the best of the Developer's knowledge, information, belief, true, correct, and complete. The Developer hereby agrees to promptly amend this report to report and include either or all material facts, material or pertinent changes to any information contained in or omitted from this report, and to file annually a report to update the material contained in this report as amended at least 30 days prior to the anniversary date of the effective date of this report.

Printed Name of Developer

Duly Authorized Signatory*

Date

Printed Name & Title of Person Signing Above

Distribution:

Department of Finance, _____

Planning Department, _____

***Must be signed for a corporation by an officer; for a partnership or limited liability partnership (LLP) by the general partner; for a limited liability company (LLC) by the manager or an authorized member; and for an individual by the individual.**

****In the event of multiple Developers, each Developer must sign on their own signature page.**

If multiple developers or authorized signatories are signing, each must sign on their own page. Make a copy of the signing page per signatory and attach to the report in order.

Original signatures and dates will be required for the final draft.