

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: October 12, 2016

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
Bruce Faulkner, Vice Chair, Broker / Maui Commissioner
Nikki Senter, Public / Honolulu Commissioner
Rowena Cobb, Broker / Kauai Commissioner
Aileen Wada, Broker / Honolulu Commissioner
Scott Arakaki, Public / Honolulu Commissioner
Michael Pang, Broker / Honolulu Commissioner
Aleta Klein, Broker / Honolulu Commissioner

Miles Ino, Executive Officer
Carole Richelieu, Senior Condominium Specialist
Dathan Choy, Condominium Specialist
Amy Endo, Real Estate Specialist
David Grupen, Real Estate Specialist
Shari Wong, Deputy Attorney General
Tammy Norton, Recording Secretary

Others: Ben Park, Senate Ways and Means Committee
Myoung Oh, Hawaii Association of REALTORS®
Kate Paine, Association of Apartment Owners
Dale Head, Condo Owner Coalition
Lourdes Sheibert, Condo Owner
Lila Mower, Hui 'Oia'i'o
Marsha Shimizu, Hawaii Association of REALTORS®
Lori Amano, Cades Schutte
Robin Sagadraca, Old Republic Title

Absent: None

Call to Order: The Chair called the meeting to order at 9:10 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:

Additional Distribution

The following materials were distributed prior to the start of the meeting:

- 8. Budget and Finance Report

Minutes:

Upon a motion by Commissioner Cobb, seconded by Commissioner Wada, it was voted on and unanimously carried to accept the minutes of the September 14, 2016 Condominium Review Committee meeting as circulated.

Condominium
 Governance and
 Management:

AOUO Registrations

It was reported that as of September 30, 2016, 1,680 AOUOs have successfully registered.

Condominium Seminars and Symposiums

Chair Lee and Specialist Richelieu's evaluation of CAI Hawaii's September 15, 2016 seminar, "Highs and Lows of How Marijuana Use Affects Associations" subsidized by the Condominium Education Trust Fund, was distributed for informational purposes.

Attendees reported that the seminar was well attended. Speakers provided a good overview. It was noted that CAI Hawaii did run out of handouts at the seminar, but provided an electronic copy via email following the seminar.

Condominium
 Project
 Registration:

Condominium Project Registration - Public Reports Issued

A list of those condominium projects issued effective dates during the month of September 2016 was distributed for informational purposes.

PROJ #	PROJECT NAME	PROJECT ADDRESS	TMK #	UNIT	REPORT	DATE
7431	1118 ALA MOANA	1118 ALA MOANA BLVD HONOLULU HI 96814	123001001	172	B AMD 5	9/29/2016
7673	1328 AUPUPU STREET	1328-A & 1328-B AUPUPU ST KAILUA HI 96734	142030072	2	B AMD	9/13/2016
7862	1720 E AND 1720 E1 PALOLO AVENUE	1720 E PALOLO AVE HONOLULU HI 96816	133047037	2	B REPT	9/22/2016
7858	2023 AND 2023A FERN STREET	2023 & 2023A FERN ST HONOLULU HI 96822	127003044	2	B REPT	9/2/2016
7870	59-401 & 59-401A KE NUI ROAD	59-401 & 59-401A KE NUI RD HALEIWA HI 96712	159020064	2	B REPT	9/13/2016
7724	BOUNTY HOUSES THE	5281 WEKE RD & 4421 MALOLO RD HANALEI HI 96714	455002003	2	B AMD	9/21/2016
7537	CLUB BUNGALOWS AT KUKUI'ULA PH IB	KE ALAULA ST KOLOA HI 96766	426019017	6	B AMD	9/14/2016
7551	COLLECTION (MIDRISE PHASE) THE	600 ALA MOANA BLVD HONOLULU HI 96813	1201055041	56	B AMD 2	9/30/2016

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7868	COVE BEACH VILLAGE	82 KANANI RD KIHEI HI 96753	239016004	32	B REPT	9/2/2016
7865	FLECK FARMS CONDOMINIUM	1405 MIDDLE RD KULA HI 96790	222017014	2	B REPT	9/7/2016
6870	GEORGE A. FERN CONDOMINIUM	7190 KAHUNA RD KAPAA HI 96746	446004040	2	B AMD 2	9/14/2016
6784	HALEAKALOA	42-100 KOOKU PL KAILUA HI 96734	142098018	2	SUPPL	9/14/2016
7885	KA MALANAI AT KAILUA PHASE 2	361 AND 409 KAILUA RD KAILUA HI 96734	142001062	60	B REPT	9/29/2016
7864	KA MILO AT MAUNA LANI PHASE 15	68-1122 N KANIKU DR KOHALA COAST HI 96743	368022041	2	B REPT	9/16/2016
7882	KAMANI AT KEHALANI (PHASE 3)	OFF OMA'OMA' O ST WAILUKU HI 96793	235001090	12	B REPT	9/27/2016
7766	KEHAU PLACE CONDOMINIUM	3279, 3279A, 3279B, 3279C KEHAU PL HONOLULU HI 96816	133045042	4	B REPT	9/16/2016
7863	KULALANI AT MAUNA LANI (PHASE 11)	68-1118 KANIKU DR KAMUELA HI 96743	368022007	4	FINAL	9/2/2016
7883	KUPU HOU CONDOMINIUM	1651 NAALAE RD KULA HI 96790	222015003	3	B REPT	9/19/2016
7690	LIVING NUUANU	1822 & 1834 NUUANU AVE HONOLULU HI 96717	117011003	6	B REPT	9/12/2016
7756	PA AWAWA UA	4951 & 4939 KUA RD KALAHEO HI 96741	425002007	2	B REPT	9/7/2016
7737	PALM PLACE	68-069 & 68-071 AKULE ST WAIALUA HI 96791	168011024	2	B AMD	9/9/2016
7695	UHILEHUA	45-668A, A1, B, C & D UHILEHUA ST KANEOME HI 96744	145083017	2	B AMD	9/9/2016
7875	UHILEHUA (PHASE 2)	45-668B, B1 & C UHILEHUA ST KANEOME HI 96744	145083017	3	B REPT	9/9/2016
0	Preliminary Reports					
0	Contingent Final Reports					
1	Final Reports					
1	Supplementary Reports					
13	B Reports					
8	B Amendment Reports					
23	TOTAL REPORTS					

Program of Work: **Advice, Education and Referral**

Dale Head

Mr. Dale Head was present to address the committee on his concerns on building and resident managers taking advantage of the elderly. He noted that he had previously spoken to Specialist Stone who communicated with him his options to making changes to the law. He will be addressing his concerns with his legislators in hope to get new laws enacted, but still wanted to voice his concerns to the committee.

He noted a case in which a wrongful sale of a condo unit occurred when a resident manager took advantage of an elderly owner with dementia. He stated that had there been licensure requirements in place for association managers, this individual could have gotten his license revoked. Mr. Head noted that his efforts to get the manager prosecuted by the state or city was not successful. A city deputy prosecutor explained to him that up until the point a Court declares a person mentally incompetent, it is legal for the individual to give away all of their assets. He further noted that other States prosecute for 'Abuse of Power of Attorney', but Hawaii does not.

Commissioner Senter questioned whether the incident was reported to the condominium managing agent.

Mr. Head responded that at that time the association's Board was loyal to the resident manager, and refused to meet and discuss with owners complaints against the resident manager. The managing agent's response was to communicate through the board's attorney.

Commissioner Cobb questioned whether the current board members understand their responsibilities of serving on the board.

Mr. Head responded in the negative. He noted that his association consists of 456 units of which less than 10% are owner occupants. The average owner is an absentee investor.

Commissioner Arakaki asked how Mr. Head would attract better board members.

Mr. Head responded that credit and criminal background checks should be done. The State offers a good website through its Ho'ohiki site which provides online access to information from criminal and civil case files in the Circuit and Family Courts and certain cases in the District Courts.

Lourdes Sheibert

Ms. Sheibert addressed the committee regarding her association concerns. She submitted and read from her written testimony.

Ms. Sheibert suggested more education for property managers and resident managers on preventive maintenance. She noted that by providing testimony at today's meetings, she is sure she will receive retribution from some in her association.

Ms. Sheibert also thanked the Commission for funding mediation but noted that mediation was a waste of her time and money because her Association's attorneys refused to participate. She further noted that she supports the licensing of property managers and will be lobbying for enforcement of City and County Building Code 3401.2 Maintenance.

Kate Paine

Ms. Paine noted that she is a resident manager and owner of a condominium in Mo'ili'ili. She asked whether there are any laws in place to enforce reserves. She also stated that nation-wide self-management does not work and neither does mediation.

Commissioner Arakaki responded that in all jurisdictions, condominiums have similar problems and different solutions. No regulator currently polices reserve studies, but consumers are welcome to contact the Real Estate Branch staff to talk to either the real estate or condominium specialists to find out more information on the laws governing real estate and condominiums.

Lila Mower

Ms. Mower commented that retaliatory practices occur against board members who speak up. She stated that lobbyists say there is no empirical evidence relating to retaliatory practices.

She also noted that Senate Bill 2661, which would have established procedures providing condo owners with the right to submit disputed legal fees and fines to the mediation process prior to payment, died this past session. There is currently no opportunity to dispute a violation until all fines and expenses have been paid. In this scenario, even if you pay your maintenance fees timely, the fine can be taken from your maintenance fees, thereby making you late on your maintenance fees because now the fee is not paid in full. This will roll over, and could potentially lead to foreclosure of your property.

She also commented that the end of the year report shows that two-thirds of mediation does not get resolved because the board members refuse to participate or do not show up. Unit owners pay into the condominium education trust fund for mediation that is not working.

Ms. Mower also commented that reserve studies are inadequate or eliminate important items. She questioned whether there are reserve specialists certified to do the reserve studies and commented that she seeks accountability from the management companies. She noted that with the larger management companies, only one individual needs to be licensed.

The email from Marcia Kimura was distributed for informational purposes.

Hawaii Condominium Bulletin

The article entitled "100% Funded Reserve Study vs. 50% Fully Funded Reserve Study" provided by Mike Price, RS, was included in the September 2016 Hawaii Condominium Bulletin.

Neighbor Island Outreach

Specialist Richelieu reported that through the HSBA, she traveled to Ka'u on the Big Island and assisted owners pro bono. She also distributed educational materials provided by the Real Estate Commission.

Consumer Education

It was reported that per the Honolulu Board of REALTORS® request, the Real Estate Branch provided a number of condominium and consumer education brochures for their distribution, and that brochures are being rewritten and developed.

Condominium
Organizations Forum:

No comments, recommendations or concerns were received from the following: Community Associations Institute Hawaii Chapter, Alakahi Foundation, Hawaii Council of Association of Apartment Owners, Hawaii Independent Condominium and Cooperative Owners, Hawaii State Bar Association/Real Property & Financial

Services Section, Land Use Research Foundation, Condominium Council of Maui, Hawaii Association of Realtors/Institute of Real Estate Management Hawaii Chapter/ Oahu Arm Committee, others.

CETF Budget &
Finance Report:

Specialist Grupen noted that the percentage of remaining balance for dues and subscriptions is at -169% as the office was billed and paid for a subscription for both calendar years 2016 and 2017 in fiscal year 2016.

Upon a motion by Commissioner Cobb, seconded by Commissioner Faulkner, it was voted on and unanimously carried to accept the Condominium Education Trust Fund Financial Report for the period ending June 30, 2016.

Next Meeting:

November 9, 2016
Upon adjournment of the Laws and Rules Review Committee meeting scheduled to convene at 9:00 a.m.
Queen Liliuokalani Conference Room
King Kalakaua Building
335 Merchant Street, First Floor
Honolulu, Hawaii

Adjournment:

With no further business to discuss, the Chair adjourned the meeting at 10:05 a.m.

Respectfully submitted:

/s/ Carole R. Richelieu

Carole R. Richelieu
Senior Condominium Specialist

October 17, 2016

Date

Minutes approved as is.

Minutes approved with changes; see minutes of _____

CRR:tn/