

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 10, 2006

Time: Upon adjournment of the Education Review Committee meeting which follows 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: Stanley Kuriyama, Broker / Honolulu Commissioner
Louis Abrams, Broker / Kauai Commissioner
Trudy Nishihara, Broker / Honolulu Commissioner
Carol Ball, Broker / Maui Commissioner
Michele Sunahara Loudermilk, Public / Honolulu Commissioner
Annette Aiona, Broker / Hilo Commissioner

Calvin Kimura, Supervising Executive Officer
Neil Fujitani, Executive Officer
Cynthia Yee, Senior Condominium Specialist
Cheryl Leong, Condominium Specialist
David Grupen, Condominium Specialist
Diane Choy Fujimura, Senior Real Estate Specialist
James Paige, Deputy Attorney General
Tammy Norton, Recording Secretary

Others: None

Absent: William Chee, Chair, Broker / Honolulu Commissioner
Mark Suiso, Vice Chair, Public / Honolulu Commissioner
Frances Gendrano, Salesperson / Honolulu Commissioner

Call to Order: Chair Pro Tem Kuriyama called the meeting to order at 10:53 a.m., at which time quorum was established.

Chair's Report: Chair Chee was excused from the meeting. Prior notification of his non-attendance was received.

The Chair Pro Tem 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:

5. CPR Registration and Developer's Public Reports
 - a. Condominium Projects and Developer's Public Reports
 - 4) Public Reports/Attachment of Project Instrument
 - 5) Request for Informal Non-Binding Interpretation HRS §§514B-86(a)(1)(A) & 514B-88(4)

Minutes:

Upon a motion by Commissioner Ball, seconded by Commissioner Abrams, it was voted on and unanimously carried to accept the minutes of the September 13, 2006 Condominium Review Committee meeting as circulated.

Condominium
Governance and
Management:

AOAO Registrations

Specialist Grupen reported that as of September 30, 2006, 1,545 AOAOs have successfully registered.

Case Law Review Program

The following articles from the October 2006 issue of *Community Association Management Insider* were distributed for informational purposes: 1) "Member Ordered to Stop Harassing Other Members;" 2) "Board Had No Authority to Amend Declaration;" and 3) "Don't Specify Delinquent Member's Name in Meeting Minutes."

Condominium Related Articles

The following articles from the September October 2006 issue of *Common Ground* were distributed for informational purposes: 1) "The Worst Is Yet To Come;" 2) "Unacceptable Losses;" and 3) G&PA Update "Legislative and Regulatory News" – Federal Flag Law.

Condominium
Project
Registration:

Condominium Project Registration - Public Reports Issued

A list of those condominium projects issued effective dates during the month of September 2006 were distributed for informational purposes.

6079	155 AUHANA STREET CONDO	155 AUHANA ST KIHEI HI 96753	(2)3-09-017:030	Final	09/14/06
6085	422 AND 422-A HUALANI STREET	422 HUALANI ST KAILUA HI 96734	(1)4-03-045:008	Final	09/11/06
5514	4222 KAANA STREET CONDO	4222 KAANA ST LIHUE HI 96766	(4)3-06-018:058	Suppl 1	09/05/06
5445	6421 PUUPILO ROAD	6421 PUUPILO RD WAILUA HI 96746	(4)4-02-022:066	Suppl 1	09/15/06
6108	67-278 & 67-278A KUKEA CIRCLE	67-278 KUKEA CIRCLE WAIALUA HI 96712	(1)6-07-007:020	Final	09/11/06
6026	725 AND 727 HAUSTEN ST CONDO	725 AND 727 HAUSTEN ST HONOLULU HI 96826	(1)2-07-011:023	Final	09/05/06
6080	AINA PLACE ESTATES	2755 OHANA AINA PL KALAHEO HI 96741	(4)2-04-005:170	Final	09/06/06
6083	AINA-ALAU CONDOMINIUM	575 KAI HELE KU ST LAHAINA HI 96761	(2)4-07-009:029	Final	09/14/06

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5811	ALAMIHI CONDOMINIUM	5-7215 KUHIO HWY HANALEI HI 96714	(4)5-08-011:007	Suppl 1	09/27/06
6106	BLUE SKY ESTATES	OMAO ROAD KOLOA HI 96756	(4)2-07-006:033	Final	09/28/06
6109	COHN CONDOMINIUM	15 E HUAPALA PL LAHAINA HI 96761	(2)4-07-010:049	Final	09/08/06
5621	EKAHI ESTATES	4910 NUNU RD KAPAA HI 96746	(4)4-06-015:013	Suppl 1	09/20/06
5957	HANA ALOHA ESTATES	6131 KOLOPUA STREET KAPAA HI 96746	(4)4-02-010:019	Final	09/05/06
6117	HINE ESTATES	5031 KIKALA RD KALAHEO HI 96741	(4)2-04-005:154	Final	09/18/06
6093	HONOIKI COTTAGES CONDO	5232 OLD MAKENA RD KIHEI HI 96753	(2)2-01-007:006	Final	09/06/06
6111	HONUJA KAI CONDOMINIUM (BLDG NE-A & NE-C)	LOT 4 KAAANAPALI KAAANAPALI HI	(2)4-04-014:006	Cont. Final	09/05/06
6112	HONUJA KAI CONDOMINIUM (BLDG NE-B)	LOT 4 KAAANAPALI KAAANAPALI HI	(2)4-04-014:006	Cont. Final	09/05/06
22	ILIKAI APARTMENT BUILDING INC	1777 ALA MOANA BLVD HONOLULU HI 96815	(1)2-06-010:007	Suppl 2	09/27/06
5569	KA`IULANI OF PRINCEVILLE	4100 QUEEN EMMA DR PRINCEVILLE HI 96722	(4)5-03-006:022	Final	09/19/06
6019	KALALEA O` KAI CONDOMINIUM	5053 ALIOMANU RD ANAHOLA HI 96703	(4)4-09-004:045	Final	09/15/06
6102	KAPOLEI CENTER	KAPOLEI PARKWAY KAPOLEI HI 96707	(1)9-01-118:008	Final	09/05/06
4745	KAWAIIHAU MEADOWS CONDO	ALT O KAAPUNA HUI MOLOAA KAWAIIHAU HI	(4)4-09-009:030	Suppl 2	09/28/06
5583	KE KAILANI PHASE I	LOT 1 MAUNA LANI RESORT HI	(3)6-08-022:039	Final	09/27/06
6095	KIPAPA FARMS	6611 KIPAPA RD KAPAA HI 96746	(4)4-04-002:075	Final	09/28/06
5961	KUHINA AT KAHALA	650 HUNALEWA ST HONOLULU HI 96816	(1)3-02-064:130	Final	09/28/06
6099	LANI HALE	3632 SALT LAKE BLVD HONOLULU HI 96818	(1)1-01-018:012	Final	09/01/06
6039	LULANI TERRACE	47-358 LULANI ST KANEOME HI 96744	(1)4-07-045:032	Final	09/21/06
6059	MILO COURT AT KEHALANI	HONOAPIILANI HWY WAILUKU HI	(2)3-05-001:081	Cont. Final	09/08/06
6058	MOLOA`A RANCH	MOLOAA HI 96703	(4)4-09-010:004	Final	09/15/06
5882	NAUPAKA COURTYARDS	2455 SOUTH KIHEI ROAD KIHEI HI 96753	(2)3-05-020:007	Cont. Final	09/06/06
5826	OCEAN RESORT VILLAS NORTH (PHASES 2 & 3)	170 KAI ALA DR LAHAINA HI 96761	(2)4-04-014:004	Final	09/14/06
5659	OHANA PILI KAI	68-180 AU ST WAIALUA HI 96791	(1)6-08-011:034	Suppl 1	09/06/06
5951	PILI MAI AT PO`IPU	2611 KIAHUNA PLANTATION DR KOLOA HI 96756	(4)2-08-014:033	Cont. Final	09/18/06
5997	TOWEY ESTATES	6325 OLOHENA RD KAPAA HI 96746	(4)4-04-009:014	Final	09/15/06
6118	TOWN HOMES AT FAIRWAY'S EDGE INCR 2 THE	KEONEULA BLVD EWA BEACH HI 96706	(1)9-01-012:058	Final	09/28/06
6098	VILLAS AT PUALI (PHASE III-C) THE	4261 PUHI RD LIHUE HI 96766	(4)3-03-003:039	Final	09/06/06
6071	WAILUKU VILLAGE BUILDING NO. 1	245 WAINAKU ST HILO HI 96720	(3)2-06-008:023	Cont. Final	09/15/06
6072	WAILUKU VILLAGE BUILDING NO. 2	245 WAINAKU S HILO HI 96720	(3)2-06-008:023	Cont. Final	09/15/06
6073	WAILUKU VILLAGE BUILDING NO. 3	245 WAINAKU ST HILO HI 96720	(3)2-06-008:023	Cont. Final	09/15/06
6074	WAILUKU VILLAGE BUILDING NO. 4	245 WAINAKU ST HILO HI 96720	(3)2-06-008:023	Cont. Final	09/15/06
6075	WAILUKU VILLAGE BUILDING NO. 5	245 WAINAKU ST HILO HI 96720	(3)2-06-008:023	Cont. Final	09/15/06
6076	WAILUKU VILLAGE BUILDING NO. 6	245 WAINAKU ST HILO HI 96720	(3)2-06-008:023	Cont. Final	09/15/06
6077	WAILUKU VILLAGE BUILDING NO. 7	245 WAINAKU ST HILO HI 96720	(3)2-06-008:023	Cont. Final	09/15/06
6067	WALUA SUNSETS	75-5915 WALUA RD KAILUA KONA HI 96740	(3)7-05-018:092	Prelim	09/11/06

Preliminary Reports: 1

Contingent Final Reports: 12
Final Reports: 24
Supplementary Reports: 7

Total: 44

Forms

Commissioner Loudermilk provided staff with some minor corrections to the draft forms distributed.

Upon a motion by Commissioner Ball, seconded by Commissioner Nishihara, it was voted on and unanimously carried that subject to additional non-substantive changes, recommend approving the "Amendment ___ to Developer's Public Report For a Condominium" form as circulated.

Public Reports/Attachment of Project Instrument – Michael H. Sakai, Esq. Memorandum dated September 21, 2006

Request for Informal Non-Binding Interpretation HRS §§514B-86(a)(1)(A) and 514B-88(4) – Terry Ann Motosue, Esq., Dennis Lombardi, Esq.

Chair Pro Tem Kuriyama summarized the requests of those developer's attorneys. The issue is when delivering the public report to the purchaser or prospective purchaser, does the declaration, bylaws, house rules, if any and condominium map need to be attached to the public report, or can it be delivered separately and if so, can it be provided in the form of a CD?

Specialist Yee reported that the public report forms previously approved by the Commission states throughout the public report form that the documents are attached to the public report.

Chair Pro Tem Kuriyama noted that the documents should be delivered with the report concurrently.

Commissioner Aiona noted that the burden of providing the documents should be placed on the developer and not the purchaser.

Upon a motion by Commissioner Ball, seconded by Commissioner Nishihara, it was voted on and unanimously carried to recommend approval to issue an informal non-binding interpretation of delivery of the "developer's public report" as used and as referenced in §§514B-54, 514B-82, 514B-83, 514B-86(a)(1)(A), 514B-88(4), HRS, and elsewhere in Chapter 514B, HRS, to include the concurrent giving of the condominium's declaration, bylaws, house rules, if any, letter-sized condominium map, and all amendments with the developer's public report itself. Delivery of the "developer's public report" does not include attaching the condominium's declaration, bylaws, house rules, if any, letter-sized condominium map as exhibits to the developer's public report itself just the concurrent giving. Further recommend approval that:

- 1) Developers continue to provide the Real Estate Commission hard copies of the condominium's declaration, bylaws, house rules, if any, letter-sized

- condominium map, and all amendments with the developer's public report itself;
- 2) Developers continue to provide hard copies of the condominium's declaration, bylaws, house rules, if any, letter-sized condominium map, and all amendments with the developer's public report itself to prospective purchasers and purchasers unless they indicate in a separate writing their election to receive the required condominium's declaration, bylaws, house rules, if any, letter-sized condominium map, and all amendments via a CD, email, downloading from an internet site or by any other means contemplated by Chapter 489E, HRS, "The Uniform Electronics Transaction Act"; and
 - 3) Staff accordingly revises all forms to implement this informal non-binding interpretation including the "Notice of Receipt of the Public Report."

Consultants – Galen Leong, Ashford & Wriston

Recodification Consultant Galen Leong provided an invoice for services rendered. Commission to proceed with payment per the contract.

Program of Work:

Condominium Recodification and Education – Report on Kauai Realty September 20, 2006

In response to a request made by Kauai Realty the Commission provided an educational session on the new recodification law on September 20, 2006. The session was well attended. It was further reported that staff will also be providing an educational session at the Hawaii Association of Realtor's Pacific Rim Conference on October 11, 2006.

CMA & CHO Registrations – Request for Informal Non-Binding Interpretation – Condominium Hotel Operations at Mauna Lani Terrace CPR No. 1506

Specialist Grupen reported that Edmund Haisuka, Esq. has requested on behalf of Mauna Lani Terrace, an informal interpretation as whether language included in the Mauna Lani Terrace declaration meets the requirements of HRS §467-30(f) thereby allowing transient rentals at the Mauna Lani Terrace.

The committee reviewed Mr. Haisuka's request, documentation submitted, and chapter 467, HRS.

Upon a motion by Commissioner Abrams, seconded by Commissioner Ball, it was voted on and unanimously carried to recommend approval to re-issue an informal non-binding interpretation of §467-30(f), HRS, that condominium hotel operations are specifically permitted by the condominium project's declaration and bylaws when language appears in the declaration and or bylaws reflecting the statutory language "to provide transient lodging for periods of less than thirty days." General language similar to "residential apartments shall at all times be occupied and used only for residential purposes by the respective owners thereof, their tenants, licensees, families, domestic servants and social guests, and for no other purpose. The respective apartment owners shall have the absolute right to rent or lease such apartments subject to all provisions of this declaration" does not

specifically permit condominium hotel operations for purposes of providing transient lodgings for thirty days or less. Further recommend approval to continue the delegation to staff of approving or disapproving a condominium hotel operator's registration application in accordance with this informal non-binding interpretation.

Neighbor Island Outreach

The next neighbor island outreach program will be held on January 10, 2007 on the island of Maui.

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.

Open Forum: No discussion presented.

CEF Budget & Finance Report: Upon a motion by Commissioner Ball, seconded by Commissioner Nishihara, it was voted on and unanimously carried to recommend accepting the Condominium Education Fund Financial Report for the period ending June 30, 2006.

Next Meeting: November 8, 2006
Upon adjournment of the Education Review Committee meeting which follows 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, Chair Pro Tem Kuriyama adjourned the meeting at 11:20 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

Cynthia M. L. Yee
Senior Condominium Specialist

November 8, 2006

Date

Minutes approved as is.

Minutes approved with changes; see minutes of _____