

**CONDOMINIUM REVIEW COMMITTEE**  
Real Estate Commission  
Professional and Vocational Licensing Division  
Department of Commerce and Consumer Affairs  
State of Hawaii  
[www.state.hi.us/hirec](http://www.state.hi.us/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: August 14, 2002

Time: 11:00 a.m.

Place: Kapuaiwa Room  
HRH Princess Victoria Kamamalu Building  
1010 Richards Street, Second Floor  
Honolulu, Hawaii

Present: Mitchell Imanaka, Chair  
Peter Rice, Vice Chair  
Louis Abrams, Member  
Marshall Chinen, Member  
Patricia Choi, Member  
John Ohama, Member  
Iris Okawa, Member  
  
Calvin Kimura, Supervising Executive Officer  
Alan Taniguchi, Executive Officer  
Cynthia Yee, Senior Condominium Specialist  
Cheryl Leong, Condominium Specialist  
Gordon Arakaki, Condominium Recodification Attorney  
Diane Choy Fujimura, Senior Real Estate Specialist  
Lorene Arata, Real Estate Specialist  
Shari Wong, Deputy Attorney General  
Tammy Norton, Recording Secretary

Others: Cliff Treese, Recodification Blue Ribbon Committee  
Lorrin Hirano, Recodification Blue Ribbon Committee  
Greg Valdez, Condominium Owner  
Kendell Hee, Hawaii Association of Land Surveyors

Excused: Kathleen Kagawa, Member  
Vern Yamanaka, Member

Call to Order: Chair Imanaka called the meeting to order at 11:37 a.m., at which time quorum was established.

Chair's Report: No report was presented.

Condominium Specialist's Report: **Additional Distribution**

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

- 5.a. CPR Registration and Developer's Public Reports
- 5.a.4) Metes and Bounds for limited common elements – Revisiting
- 6.c. Hawaii Condominium Bulletin

Minutes: Upon a motion by Commissioner Okawa, seconded by Commissioner Choi, it was voted on and unanimously carried to accept the minutes of the July 10, 2002 Condominium Review Committee meeting as circulated.

At this time, Chair Imanaka took the agenda out of order to accommodate those present wishing to present information on their respective issues.

Condominium  
Project  
Registration:

**Owner-Occupant Request for Waiver, HRS 514A-107**

Mr. Greg Valdez was present to answer any questions the committee may have relating to his owner-occupant request for waiver.

Mr. Valdez informed the committee that the Air Force recently relocated his family to Hawaii and the Valdez family had intended on living in base housing. They were then informed by the base housing office of a year-long waiting list for base housing. Unable to find a reasonably-priced rental home, the Valdez family decided to purchase a home with the intention of selling or renting the home when a base house opened in one year. After closing of the purchase of the new home, they were informed that a base home would be available at the end of August. Mr. Valdez requested that the Commission waive the one year owner-occupant requirement.

Upon a motion by Commissioner Abrams, seconded by Commissioner Choi, it was voted on and unanimously carried to recommend approval to issue an informal non-binding opinion that the circumstances described by Greg and Rosalyn Valdez in their letter of July 10, 2002 and by Greg Valdez at the CRC meeting of August 14, 2002 appear to fall within §514A-107(b)(4), "Any unforeseeable occurrence subsequent to the execution of the [owner occupant] affidavit," and further recommend approval to issue a no action letter.

**Metes and Bounds for limited common elements - Revisiting**

Kendell Hee, 2002 Vice President of the Hawaii Association of Land Surveyors, addressed the committee about the role of a licensed professional land surveyor and condominium documents. Mr. Hee reported that the Commission's administrative rules require that a licensed architect or engineer stamp condo plans, but does not accept a condo plan stamped by a licensed land surveyor. When it comes to areas that are undefined by a rock wall, fence, or other physical feature, the Land Surveyor should be tasked with drawing and describing the exclusive use area as well as calculating the areas.

Chair Imanaka questioned in the case of parking stalls with lines on pavement, is this sufficient to describe the limited common element area? Traditionally in a condominium map, that is how parking stalls are depicted.

Mr. Hee replied that Land Surveyors should be used in the development stage to define that which is questionable so that in later years should those originally

involved parties be gone, questions could be easily answered by a land surveyors drawing and descriptions.

Commissioner Ohama inquired about the types of problems encountered by land surveyors.

Mr. Hee responded that in cases where a condo unit with a yard area with limited common elements that were not defined when originally mapped out by an architect or engineer, the land surveyor would face the problems in the future when requested to stake out the property. Mr. Hee further noted that developers have had their project maps rejected by the Commission because it was stamped by a land surveyor and not an architect or engineer.

Chair Imanaka questioned whether an engineer or architect would stamp a plan done by a land surveyor.

Mr. Hee responded that in his case, he is also a licensed professional engineer. If he had taken a condo map drawn and described by a land surveyor and added additional information into that plan, he would then stamp the map. But he would not stamp work that was not done by him, the licensee.

Commissioner Abrams questioned Mr. Hee if he is suggesting that metes and bounds be done by a land surveyor for each limited common element at the start of a project.

Mr. Hee replied in the affirmative unless the limited common elements were physically defined on the ground.

Chair Imanaka reported that Condominium Consultant Kenneth Chong noted that there is a need for greater certainty to the location of boundary lines and recommends metes and bounds be required where there is no "permanent" or "structural" monuments and in cases where there are physical monuments, no metes and bounds are necessary, only distances.

Chair Imanaka reported that §514A-12, HRS, still requires an architect or engineer stamp on a map where there is a building involved, but it does not prohibit additional information submitted by land surveyors.

Commissioner Abrams reported that he has not seen metes and bounds done on limited common elements on many projects and would like to see land surveyors become involved in the process.

Upon a motion by Commissioner Rice, seconded by Commissioner Choi, it was voted on and carried to recommend approval to issue an informal non-binding opinion that §514A-11(1), (4), (5), and §514A-36(a), HRS: 1) Do not require "metes and bounds description" to define limited common element areas where there are "visible demarcations," "physical boundaries," "permanent," or "structural" monuments; including, without limitation, roads, walls, fences and parking stall striping and 2) Do require a metes and bounds description to define limited common element areas where there are no "visible demarcations," "physical boundaries," "permanent," or "structural" monuments to aid in the description of limited common

element areas. Further recommend for approval that the Commission accept a Hawaii licensed land surveyor's certification of "metes and bounds" as supplementary to the required architect's or engineer's statements submitted as part of the condominium project registration requirements. In addition, further recommend for approval and the inclusion of this informal non-binding opinion in the next rulemaking effort or in the recodification of Chapter 514A, HRS. Commissioner Ohama recused himself from voting.

Chair Imanaka reported that this recommendation would be used as an interpretative guideline for use by staff in processing condominium project registrations.

Condominium  
Governance and  
Management:

### **AOAO / CMA / CHO Registrations**

Specialist Leong reported that as of July 31, 2002, 1,441 AOAOs have successfully registered.

Upon a motion by Commissioner Rice, seconded by Commissioner Okawa, it was voted on and unanimously carried to recommend approval to ratify issuance of effective registration dates for Association of Apartment Owners through July, 2002 for the 2001-2003 registration. The associations are as follows:

Kumulani at the Uplands at Mauna Kea	07/08/2002
Villas on the Prince	07/16/2002

### **Mediation and Arbitration**

Acknowledged receipt of quarterly reports from mediation contractors.

### **Condominium Seminars and Symposium**

Acknowledged receipt of Lois A. Janis' memo dated July 8, 2002 withdrawing her proposal for CEF subsidy of seminars.

Acknowledged staff evaluations of CAI Hawaii's 2002 Legislative Update Seminar.

### **Case Law Review Program**

The following articles from the July 2002 issue of *Community Association law reporter* were distributed for informational purposes: "Attorney-Client privilege Is Not Waived by Dissemination of Letter" and "Association Is Entitled to Attorney's Fees Because Owner Had Knowledge of Pet Restriction at time of Purchase."

**Education Calendar** – CAI Hawaii submitted an updated schedule of upcoming seminars.

### **Condominium Related Articles**

The following articles from the Summer 2002 issue of *Ledger Quarterly* were distributed for informational purposes: "SAS No. 94: New standards on technology and internal control," "Raising the Bar for Audit Documentation: Specific

requirements added to SAS No. 96,” and “Ask the Editor: Revenue Ruling 70-604 Election.”

Condominium  
 Project  
 Registration:

**Condominium Project Registration - Public Reports Issued**

Chair Imanaka recused himself from discussion and on projects 4670, 4722, 4870, 4871, and 4872 as his firm is the attorney for the projects. Upon a motion by Commissioner Okawa, seconded by Commissioner Rice, it was voted on and carried to recommend approval to ratify issuance of effective dates for public reports for the month of July 2002 as follows:

Proj No	Project Name	Project Address	TMK #	Report	Date
4863	1035 1037 ALEWA	1035 & 1037 ALEWA RD HONOLULU HI 96817	(1)1-08-034:010	Final	07/01/02
4868	1926 & 1930 9TH AVENUE	1926 & 1930 9TH AVE HONOLULU HI 96816	(1)3-04-001:053	Final	07/30/02
4886	1936 KUAPAPA PLACE CONDO	1936 & 1936-A KUAPAPA PL HONOLULU HI 96819	(1)1-04-013:087	Final	07/24/02
4670	2100 KALAKAUA AVENUE	2100 KALAKAUA AVE HONOLULU HI 96815	(1)2-06-018:010	Final	07/22/02
4896	2251 WAIOMAO ROAD	2251 WAIOMAO RD, 2184 HELO PL HONOLULU HI 96816	(1)3-04-015:017	Final	07/18/02
4857	2871C AND 2871C-1 KALIHI STREET	2871C & 2871C-1 KALIHI ST HONOLULU HI 96819	(1)1-04-010:011	Final	07/01/02
4290	55 OLD PALI PLACE	55 OLD PALI PL HONOLULU HI 96817	(1)1-09-009:023	Suppl 1	07/30/02
4895	ARRUDA ESTATES II	6415 KAWAIHAU RD KAPAA HI 96746	(4)4-06-007:137	Final	07/24/02
4817	COCONUT PLNTN@KO OLINA RESRT & MARINA 3	92-1070 OLANI ST KAPOLEI HI 96707	(1)9-01-056:004	Final	07/09/02
4907	CORTEBELLA PHASE 6	MAKALAUNA PL EWA BEACH HI 96706	(1)9-01-010:062	Prelim	07/26/02
4887	DESTINY II AT MILILANI MAUKA PH III	PA'ALI'I ST/KE'EHOU ST/KAELA P MILILANI HI 96789	(1)9-05-002:034	Prelim	07/01/02
4816	EXPRESSIONS III AT ROYAL KUNIA PHASE I	POLINA PLACE WAIPAHU HI 96797	(1)9-04-146:017	Final	07/24/02
4859	GILMAC FARMS	1271 KAMALU ROAD KAPAA HI 96746	(4)4-04-010:001	Final	07/11/02
4567	HALE OLA KINO	82-5782 NAPOOPOO RD CAPTAIN COOK HI 96704	(3)7-06-005:051	Suppl 1	07/11/02
4876	KE ALA O KE AHE	LOT 5 OF PUU PANE SUBDIV HANALEI HI	(4)5-01-05:104	Final	07/16/02
4839	KE NOHO KAI TOWNHOMES INCR 1	KEONE'ULA BLVD & KAILEOLE'A DR EWA BEACH HI	(1)9-01-012:005	Final	07/26/02
3739	KEALA PLANTATION ESTATES	81-6656 MAMALAHOA HWY KEALAKEKUA HI 96750	(3)8-01-025:001	Suppl 1	07/03/02
4864	KUAOLOA STREET	5609 POOLA ST HONOLULU HI 96821	(1)3-05-073:111	Final	07/01/02
4888	KULANA	OLOHENA, HAU'IKI & KAAPUNI RDS KAPAA HI 96746	(4)4-03-003:005	Prelim	07/30/02
4889	KULANA KAI	OLOHENA RD KAPAA HI 96746	(4)4-03-003:001	Prelim	07/31/02
4882	LOI PLANTATION CONDOMINIUM	KAAPUNI RD KAPAA HI 96746	(4)4-06-011:136	Final	07/16/02
4715	LOT 2 SLEEPING GIANT ACRES	LOT 2 SLEEPING GIANT ACRES SUB KAPAA HI	(4)4-04-011:001	Suppl 1	07/26/02
4718	LOT 5 SLEEPING GIANT ACRES	LOT 5 SLEEPING GIANT ACRES SUB KAPAA HI	(4)4-04-011:001	Suppl 1	07/11/02
4878	MANGO HILLS (APT 3 THRU 10)	2506 N SCHOOL ST HONOLULU HI 96819	(1)1-03-011:078	Cont Final	07/08/02
4884	NAPILI VILLAS - PHASE III	HANAWAI ST NAPILI HI 96761	(2)4-03-003:122	Cont Fina	07/18/02
4722	PENINSULA AT HAWAII KAI THE	520 LUNALILO HOME ROAD HONOLULU HI 96825	(1)3-09-008:016	Suppl 1	07/17/02
4881	PUU PILO MEADOWS	LOT 15 NONAKA SUBDIV PHASE II WAILUA HI	(4)4-02-022:057	Final	07/26/02
4893	RONA AND ROBERTA CONDO	KAEHULA RD	(4)4-06-011:109	Final	07/16/02

4870	ROYAL PALM AT WAIPIO THE PH I	KAPAA HI 96746 94-539 PUAHI ST WAIPAHU HI 96797	(1)9-04-115:036	Final	07/26/02
4871	ROYAL PALM AT WAIPIO THE PH IV	94-539 PUAHI ST WAIPAHU HI 96797	(1)9-04-115:036	Final	07/26/02
4872	ROYAL PALM AT WAIPIO THE PH V	94-539 PUAHI ST WAIPAHU HI 96797	(1)9-04-115:036	Final	07/26/02
4844	SILVALINED ESTATES	6204-B OLOHENA RD KAPAA HI 96746	(4)4-04-003:035	Final	07/12/02
4825	TERRAZZA PHASE 14	91-187 to 91-210 MAKALE'A ST EWA BEACH HI 96706	(1)9-01-010:049	Final	07/08/02
4891	TERRAZZA PHASE 16	MAKALE'A ST EWA BEACH HI 96706	(1)9-01-010:049	Prelim	07/12/02
4892	TERRAZZA PHASE 17	MAKALE'A ST EWA BEACH HI 96706	(1)9-01-010:049	Prelim	07/12/02
Preliminary Reports:		6			
Contingent Final Reports:		2			
Final Reports:		21			
Supplementary Reports:		6			

Total: 35

### Conversions and Disclosures

Chair Imanaka discussed the rationale for revisiting conversion projects and disclosures.

Condominium Consultant Kenneth Chong drafted suggested language to be included in developer's public reports alerting buyers of questions to ask. The suggested language reads as follows: "This project involves dwelling units converted to condominium ownership. The sale of the units is not governed by the Mandatory Seller's Disclosure Law on residential property (Chapter 508D, HRS). Although developers are still required to disclose material facts that they are aware of in this report, such disclosures may not cover the same scope, nor depth one will find in the "Seller's Real Property Disclosure Statement" currently in use by industry. Therefore, prospective purchasers are urged to consider the age of the units while inspecting and evaluating the units, ask questions on matters such as plumbing, roof repairs, and termite history, and engage the services of a home inspector and other specialists if appropriate."

Upon a motion by Commissioner Ohama, seconded by Commissioner Okawa, it was voted on and unanimously carried to recommend approval to develop for inclusion on page 2 of the Commission's approved developer's public report form "in principle" the disclosure language as proposed for discussion by Condominium Consultant Kenneth Chong dated July 31, 2002.

### Condominium Consultants Contracts

Upon a motion by Commissioner Ohama, seconded by Commissioner Abrams, it was voted on and unanimously carried to enter into executive session pursuant to Section 92-5(a)(4), "To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities."

Upon a motion by Commissioner Abrams, seconded by Commissioner Okawa, it was voted on and unanimously carried to move out of executive session.

Upon a motion by Commissioner Abrams, seconded by Commissioner Ohama, it was voted on and unanimously carried to recommend approval to: 1) Increase the number of condominium review consultants from 7 to 9; and 2) Engage the services of 2 interested individuals for consulting services, for the terms and conditions outlined in Appendices A & B in accordance with the procurement code's non-bid small purchase procedures.

### **Condominium Projects and Developer's Public Reports**

An article entitled "Minimum tax, CPR bills pass first reading" from the Thursday, August 1, 2002 issue of *West Hawaii Today* was distributed for informational purposes. Chair Imanaka reported that the Hawaii Council is moving forward and passed a bill that will regulate Ag Condos like subdivisions.

### **CPR Workshops and Meetings**

Chair Imanaka reported that a condominium consultant workshop, a program of work item, is scheduled for September 10, 2002 to provide consultants with a continuing forum for reviewing the registration process.

Program of Work:

### **Hawaii Condominium Bulletin**

The July 2002 issue of the Hawaii Condominium Bulletin was distributed for informational purposes. The bulletin is also available on the Commission's website. Registered AOA's, CMAs and CHOs should be receiving their copy along with one unofficial copy of chapter 514A, Hawaii Revised Statutes, shortly. Copies for the AOA's are mailed to the contact officer listed on their registration forms.

### **Interactive Participation with Organizations – National Land Council Meeting, October 23-27, 2002**

The National Land Council will be convening its annual conference in Florida, October 23-27, 2002 and are expecting regulators from a number of jurisdictions. A copy of the letter and prior year's program was distributed for informational purposes.

### **Recodification of Chapter 514A and Recodification Attorney Report**

Chair Imanaka reported that he and Recodification Attorney Arakaki reported on the progress of the recodification efforts at a meeting of the Hawaii Developer's Council and received comments.

CMEF Budget &  
Finance Report:

No report presented.

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.

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Open Forum: No discussion presented.

Next Meeting: September 4, 2002; 11:00 a.m.  
Sheraton Waikiki Hotel  
2255 Kalakaua Avenue  
Honolulu, Hawaii

Adjournment: With no further business to discuss, Chair Imanaka adjourned the meeting at 12:20 p.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

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Cynthia M. L. Yee  
Senior Condominium Specialist

September 4, 2002

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Date

Minutes approved as is.

Minutes approved with changes; see minutes of \_\_\_\_\_

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