

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

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: January 10, 2003

Time: 9:30 a.m.

Place: Conference Room
Realtors Association of Maui
441 Ala Makani Place
Kahului, Maui

Present: Mitchell Imanaka, Chair
Peter Rice, Vice Chair
Kathleen Kagawa, Member
John Ohama, Member
Iris Okawa, Member
Vern Yamanaka, Member

Calvin Kimura, Supervising Executive Officer
Alan Taniguchi, Executive Officer
Cynthia Yee, Senior Condominium Specialist
Gordon Arakaki, Condominium Recodification Attorney
Lorene Arata, Real Estate Specialist
Tammy Norton, Recording Secretary

Others: Vicky Hammond, Montana Board of Realty Regulation
Marian Ringius, Destination Maui, Inc.
Barbara Norris
Scott Sherley, Hawaii Association of Realtors
Phyllis Magean
Mary Jo & Clifford Phillips

Excused: Louis Abrams, Member
Marshall Chinen, Member
Patricia Choi, Member

Call to Order: Chair Imanaka called the meeting to order at 9:47 a.m., at which time quorum was established.

Chair's Report: Chair Imanaka wished all present a Happy New Year. He further welcomed all present, including Vicky Hammond of the Montana Board Realty Regulation, to the Condominium Review Committee meeting and thanked host Commissioner Rice of the

island of Maui and the Realtors Association of Maui for hosting the meetings at their facilities.

Condominium
Specialist's
Report:

Specialist Yee reported that a Condominium Review Committee Educational Advisory Group will be convening on January 14, 2003 in the Kuhina Nui Room on the second floor of the Kamamalu Building. The panel members will revisit the Commission's current CRC education plan and make recommendations, where appropriate, for further plans.

Minutes:

Upon a motion by Commissioner Rice, seconded by Commissioner Okawa, it was voted on and unanimously carried to accept the minutes of the December 12, 2002 Condominium Review Committee meeting as circulated.

Condominium
Governance and
Management:

AOAO / CMA / CHO Registrations

Specialist Yee reported that as of December 31, 2002, 1,450 AOAOs have successfully registered.

Upon a motion by Commissioner Okawa, seconded by Commissioner Rice, it was voted on and unanimously carried to recommend approval to ratify issuance of effective registration dates for Association of Apartment Owners through December 31, 2002 for the 2001-2003 registration. The association is as follows: Waiohai Beach Club, effective December 3, 2002.

Condominium Seminars

Flyer regarding the January 16, 2003 CAI Hawaii seminar "Covering Your Assets – Insurance in the Post 9/11 Era" was distributed for informational purposes.

Upon a motion by Commissioner Rice, seconded by Commissioner Kagawa, it was voted on and unanimously carried to recommend approval of the 2003 CAI Hawaii seminars proposal dated December 24, 2002 as CMEF subsidized seminars subject to the terms and conditions of the existing contract with the Commission.

Condominium Related Articles

The following articles from the November/December 2002 issue of *Common Ground* were distributed for informational purposes: "Clearing the Air" and "CAI Annual Report 2001-2002."

The article entitled "New Law Change Procedures for Incorporated Associations" from the October 2002 issue of *Hawaii Community Associations* was distributed for informational purposes.

Chair Imanaka noted that the article highlights the new law. The article, among other things, appears to make clear that an officer or director that is not compensated and has no expectation of compensation is not liable for performance of his or her duties unless they are grossly negligent.

Vice Chair Rice noted that the article indicated that if there is a conflict with the new Nonprofit Corporation Act and the Condominium Property Act (Chapter 514A), the Condominium Property Act will govern. This law took effect July 1, 2002.

Mr. Terry Tolman of the Realtors Association of Maui questioned whether this new Act was specific to only condominium associations, or all nonprofit associations.

Commissioner Okawa noted that the article appears to say that the new Nonprofit Corporation Act is not specific to condominium associations, but rather all nonprofit corporations.

Condominium
 Project
 Registration:

Condominium Project Registration - Public Reports Issued

Chair Imanaka recused himself from discussion and voting on projects numbered 4722, 4938, and 4935. 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 December 2002 as follows:

Proj No	Project Name	Project Address	TMK #	Report	Date
4979	3178 HIKINA KOLOA HI	3178 HIKINA RD 96756	(4)2-06-008:011	Final	12/19/02
4980	3186 HIKINA KOLOA HI	3186 HIKINA RD 96756	(4)2-06-08:025	Final	12/19/02
4971	ALA WAI TERRACE HONOLULU HI	1684 ALA MOANA BLVD 96815	(1)2-06-011:022	Final	12/05/02
4887	DESTINY II AT MILILANI MAUKA PH III MILILANI HI	PA'ALI'I ST/KE'EHOU ST/KAELA P 96789	(1)9-05-002:034	Final	12/30/02
4949	ESM ACRES KAPAA HI	HULUIA RD 96746	(4)4-06-012:016	Final	12/06/02
4832	KAIPII STREET CONDOMINIUM KAILUA HI	739 KAIPII ST 96734	(1)4-03-067:113	Final	12/30/02
4981	KE NOHO KAI TOWNHOMES INCR 2 EWA BEACH HI	KEONE'ULA BLVD/KAPOLIE PARKWA 96706	(1)9-01-012:005	Final	12/17/02
4957	KOLEA CONDO VILLAS BLDG 1 WAIKOLOA HI	69-289 WAIKOLOA BEACH DR 96738	(3)6-09-007:010	Prelim	12/03/02
4958	KOLEA CONDO VILLAS BLDG 2 WAIKOLOA HI	69-289 WAIKOLOA BEACH DR 96738	(3)6-09-007:010	Prelim	12/03/02
4959	KOLEA CONDO VILLAS BLDG 3 WAIKOLOA HI	69-289 WAIKOLOA BEACH DR 96738	(3)6-09-007:010	Prelim	12/03/02
4960	KOLEA CONDO VILLAS BLDG 4 WAIKOLOA HI	69-289 WAIKOLOA BEACH DR 96738	(3)6-09-007:010	Prelim	12/03/02
4961	KOLEA CONDO VILLAS BLDG 5 WAIKOLOA HI	69-289 WAIKOLOA BEACH DR 96738	(3)6-09-07:010	Prelim	12/03/02
4962	KOLEA CONDO VILLAS BLDG 6 WAIKOLOA HI	69-289 WAIKOLOA BEACH DR 96738	(3)6-09-007:010	Prelim	12/03/02
4963	KOLEA CONDO VILLAS BLDG 7 WAIKOLOA HI	69-289 WAIKOLOA BEACH DR 96738	(3)6-09-007:010	Prelim	12/03/02
4793	MAKAULA RANCH	73-4185 MAMALAHOU HWY KAILUA KONA HI 96740	(3)7-03-002:024	Cont. Final	12/13/02
4966	MIULANA PLACE CONDOMINIUM KAPAA HI	395 MIULANA PL 96746	(4)4-01-006:089	Final	12/16/02
4956	MOLOAA BAY ORGANIC FARMS KILAUEA HI	3500 MOLOAA RD #3 96754	(4)4-09-011:003	Final	12/30/02
4972	NA HALE AT PAUOA BEACH KOHALA HI	PAUOA WAY	(3)6-08-034:024	Prelim	12/13/02
4941	NALU SUNRISE WAIALUA HI	68-036 APUHIHI ST 96791	(1)6-08-011:065	Final	12/16/02
4722	PENINSULA AT HAWAII KAI THE HONOLULU HI	520 LUNALILO HOME ROAD 96825	(1)3-09-008:016	Suppl 2	12/11/02
4938	PENINSULA AT HAWAII KAI-PROJ I	520 LUNALILO HOME RD	(1)3-09-008:016	Suppl 1	12/11/02

4940	(48 units) QUEEN'S COURT HONOLULU HI	HONOLULU HI 800 BETHEL ST 96813	96825 (1)2-01-002:026	Final	12/11/02
1247	ROYAL SEA-CLIFF CLUB THE KAILUA-KONA HI	75-6040 ALII DR 96740	(3)7-05-020:014	Suppl 2	12/19/02
4943	SEASCAPE AT MAKAKILO	ELELE ST KAPOLEI HI 96707	(1)9-02-019:056	Cont. Final	12/04/02
4921	TERRAZZA PHASE 6 EWA BEACH HI	91-124 MAKALE'A ST 96706	(1)9-01-010:055	Final	12/19/02
4984	TIBURON PHASE 3 EWA BEACH HI	LUAHOANA ST 96706	(1)9-01-010:082	Prelim	12/02/02
4973	JEOKA BUILDING CONDO, THE WAILUKU HI	2103 WELLS ST 96793	(2)3-04-008:048	Final	12/11/02
4902	UNIVERSITY PARKSIDE NORTH KONA HI	LOT1 UNIVERSITY HGTS WEST	(3)7-03-056:035	Suppl 1	12/11/02
4880	VELZY VIEW ESTATES X HALEIWA HI	58-258 KAMEHAMEHA HWY 96812	(1)5-08-004:066	Final	12/11/02
4840	WATERCOLORS AT MAKAKILO KAPOLEI HI	MAKAKILO DR 96707	(1)9-02-019:040	Final	12/27/02
	Preliminary Reports:	9			
	Contingent Final Reports:	3			
	Final Reports:	15			
	Supplementary Reports:	4			

Total: 31

Chair Imanaka further noted that the condominium consultants' average review time of a condominium project filing has been drastically reduced and thanked the consultants for their diligence and hard work.

Kalihi Valley Estate, Reg. No. 4900 – Developer's Final Public Report

Specialist Yee reported that Kalihi Valley Estate condo project is a conversion project which has applied for an existing use permit from the City and County. The condominium consultant, Kenneth Chong, in his memorandum, reported that the developer had certified that the project was in compliance, but a county letter stated that the project was not in compliance with the county ordinances, codes and the permitting requirements of the existing use permit had not yet been satisfied. Condominium Consultant Kenneth Chong's memorandum indicated he had discussed the matter with the developer's attorney who indicated a willingness to condition all sales on satisfying the existing use permit requirements, but the owner did not want to fulfill the conditions, which are costly, prior to making any sales.

Upon a motion by Commissioner Okawa, seconded by Commissioner Rice, it was voted on and unanimously carried to recommend approval to accept the condominium consultant's (Kenneth Chong) recommendation as set forth in his memo of December 19, 2002, subject to the review and advice of the Commission's Deputy Attorney General. The consultant's recommendation reads as follows: "Issue an effective date for a developer's final public report subject to the developer's qualified §514A-40(a)(9) declaration and subject to developer's compliance with all EUP conditions before the closing of any sale. This practical approach gives the developer options, depending on whether sales materialize; it also protects buyers from purchasing units in a condo project that is not in compliance with EUP conditions and which cannot be rebuilt if destroyed."

Hawaii County

Specialist Yee reported that Hawaii County passed an ordinance that condominium projects in Hawaii County must comply with the subdivision ordinance and included a grandfather clause. Staff inquired as to the position of the Hawaii County regarding the ability of a CPR project owner to rebuild a destroyed structure where the CPR project had been grandfathered and received a letter of compliance pursuant to §23A-20 of the referenced ordinance. Staff was also concerned about the appropriate disclosures to potential purchasers of a CPR in meeting the infrastructure requirements of the Subdivision Code should a CPR project which was grandfathered be destroyed. Thus, staff contacted the Hawaii County Planning Department for clarification. Mr. Yuen, Director of the Hawaii County Planning Department, responded via a December 18, 2002 letter, circulated for informational purposes, which indicated that a grandfathered CPR could be rebuilt in compliance with the non conforming use ordinance under these circumstances. Condominium consultants will be made aware of disclosures that need to be made.

Program of Work:

Recodification of Chapter 514A

Recodification Attorney Gordon Arakaki reported that the Commission will be submitting a proposal to extend the recodification project to 2004. The Blue Ribbon Recodification Advisory Committee (BRRAC) has spent hundreds of hours pro bono to work on this project. The committee would like to take the project to a broader audience over the coming year and submit a third or fourth draft to the legislature for review.

SEO Kimura reported that the Recodification report to the legislature and bill extending the project, position and funding is in the Governor's office awaiting signature on the transmittals to the legislature. Staff will be meeting with Representative Hiraki and Senator Menor next week.

Ms. Barbara Norris questioned whether any preliminary report on the recodification project was out for public information.

Recodification Attorney Arakaki replied that drafts can be viewed on the Commission's website at www.state.hi.us/hirec. The report being submitted to the Legislature is also available on the Commission's website. The working plan is also to conduct formal public hearings in each county.

Interactive Participation with Organizations – National Land Council Report

The National Land Council report was distributed for informational purposes. The 35th annual National Land Council Seminar will be held September 10-14, 2003 in New Orleans.

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.

Open Forum: Mr. Sherley made notice that he is interested in participating in the CRC Educational Advisory Forum.

Next Meeting: February 12, 2003; 11:00 a.m.
Kapuaiwa Room
HRH Princess Victoria Kamamalu Bldg.
1010 Richards Street, Second Floor
Honolulu, Hawaii 96813

Adjournment: With no further business to discuss, Chair Imanaka adjourned the meeting at 10:15 a.m.

Respectfully submitted:

/s/ Cynthia M. L. Yee

Cynthia M. L. Yee
Senior Condominium Specialist

February 12, 2003

Date

Minutes approved as is.
 Minutes approved with changes; see minutes of _____