

JOHN WAIHEE
GOVERNOR



ROBERT A. ALM
DIRECTOR

NOE NOE TOM
LICENSING ADMINISTRATOR

STATE OF HAWAII
REAL ESTATE BRANCH
PROFESSIONAL & VOCATIONAL LICENSING DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
250 SOUTH KING STREET, ROOM 702
HONOLULU, HAWAII 96813

January 25, 1993

MEMORANDUM

TO: CONDOMINIUM DEVELOPERS AND THEIR AGENTS

FROM: REAL ESTATE COMMISSION

SUBJECT: OWNER-OCCUPANT AFFIDAVIT BINDING ONLY UPON AFFIANT(S)

After a review of the information presented at its January 22, 1993 meeting, it is the opinion of the Real Estate Commission that the owner-occupant affidavit required by Chapter 514A, Hawaii Revised Statutes (HRS), is intended to be binding only upon the affiant(s). Therefore, the owner-occupant affidavit is not binding upon mortgage lenders who acquire or convey title of the subject apartment at or in lieu of foreclosure.

In addition, as long as the owner-occupant affidavit is recorded pursuant to section 514A-104.5(e), HRS, recordation of the subject mortgage may occur immediately prior to recordation of the owner-occupant affidavit.

The above opinion is an informal, non-binding interpretation which is provided for informational and explanatory purposes only, pursuant to Subchapter 5, Hawaii Administrative Rules, Title 16, Chapter 201, Administrative Practice and Procedure.

If a formal opinion is preferred, a petition for declaratory relief may be submitted pursuant to Subchapter 3, Hawaii Administrative Rules, Title 16, Chapter 201, Administrative Practice and Procedure.