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TO: Condominium Developers, Attorneys and Interested Others
FROM: Real Estate Commission
DATE: September 25, 1992
SUBJECT: **PUBLIC REPORT FORMAT REVISED; OWNER-OCCUPANT AFFIDAVIT AMENDED; RECENT COMMISSION DECISIONS; 1992 LEGISLATION; OHANA ORDINANCE AMENDED; CHAPTER 107, HAR REVISION**

PUBLIC REPORT FORMAT REVISED

The revised public report form and instructions are enclosed. Public report forms dated 11/90 will be accepted until November 13, 1992. Developers are encouraged to use the new forms immediately.

OWNER-OCCUPANT AFFIDAVIT AMENDED

The owner-occupant affidavit form dated 6/1/92 has been amended. See commission affidavit form dated 9/24/92, enclosed. The new format requires the developer to provide information to facilitate recordation. The information contained within the affidavit remains substantively the same. Note: the reaffirmation should be integrated into and made a part of the affidavit itself and not simply attached as a separate sheet to the affidavit.

RECENT COMMISSION DECISIONS

After a review of the information presented at its August 28, 1992 and September 25, 1992 meetings, the Real Estate Commission has made the following informal, non-binding interpretations, for informational and explanatory purposes only:

A. OWNER-OCCUPANT AFFIDAVIT DISTRIBUTION SITE

Should a developer and/or real estate broker request to distribute and collect owner-occupant affidavits from the condominium project site without an approved real estate site office registration, the developer and/or real estate broker will be allowed to do so for any two days from the date of the first published announcement. Thereafter, the distribution and collection of affidavits shall be conducted only at the real estate broker's principal place of business, branch office or registered site office. A lottery may be conducted at any location with real estate broker supervision.

B. OWNER-OCCUPANT TITLE - CO-SIGNER OF MORTGAGE LOAN

A non-owner-occupant may share title with an owner-occupant if: 1) the developer has satisfactory proof that the mortgage lender requires it; 2) the non-owner-occupant complies with and is subject to Chapter 514A, Hawaii Revised Statutes (HRS) and Chapter 107, Hawaii Administrative Rules (HAR); and

3) the non-owner-occupant may only offer and convey interest in the owner-occupant unit to the owner-occupant on title during the first year of ownership.

1992 LEGISLATION - CHAPTER 514A, HRS AMENDMENTS

Act 50, effective April 29, 1992, provides for major amendments to Chapter 514A, FIRS, "Sales to Owner-Occupants." A memorandum dated June 1, 1992 was previously disseminated.

Act 173, effective June 12, 1992, amends:

- 1) section 514A-41, FIRS, to require the developer to cease all offers of sale as well as sales when "any circumstance occurs which would render the public report misleading."
- 2) section 514A-43, HRS, to allow an exception for the non-expiration of the effective date of a final public report for a two-apartment project. See commission memorandum dated September 1, 1992, enclosed.
- 3) section 514A-46, HRS, to include additional sections and persons subject to the Commission's investigatory powers.
- 4) sections 514A-47, -48 and -49 to add section 514A-132, HRS, to each section.

Act 189 effective June 12, 1992, provides for major amendments to section 514A-83.6 entitled Associations of apartment owners; budgets and reserves.

Review of the 1992 legislative amendments is recommended.

OHANA ORDINANCE AMENDED

For your information, on September 10, 1992, the City and County of Honolulu amended City Ordinance No. 92-101, Bill No. 96, CD-2 (1992), which affects ohana permit requirements. Review of this ordinance is recommended. Copies may be obtained at the City Clerk's Office at City Hall, Room 203.

CHAPTER 107, HAWAII ADMINISTRATIVE RULES (HAR) REVISION

Chapter 107, HAR, (the commission's rules governing Condominium Property Regime) is undergoing revision. Any suggested additions or revisions are welcome and should be sent, by October 30, 1992, to the Commission at the above address, ATTN: CHAPTER 107 REVISIONS. Comments received after October will be reviewed for future amendments.