



# Hawaii Condominium Bulletin

## contents

What Maintenance?  
Smart Lighting Comes of Age  
page 1, 3

Letter from the Chair  
page 2

CAI Hawaii Seminar  
page 2

Ask the  
Condominium Specialist  
page 4

Focus on Ku'ikahi  
page 5

HCAA Almost Free Legal  
Advice 2013 Mediation/  
Arbitration  
page 5

Solar Water Heating  
page 6, 7

Mediation Case Summaries  
page 7

2013-2014  
Real Estate Commission  
Meeting Schedule  
page 8

Funded through  
the Condominium  
Education Trust Fund

This material can be made  
available for individuals with  
special needs. Please call the  
Senior Condominium Specialist  
at (808) 586-2643 to  
submit your request.

## What Maintenance? Smart Lighting Comes of Age

By Howard Wiig, Energy Analyst, Hawaii State Energy Office



*The Hawaii State Energy Office, an agency of the Department of Business, Economic Development and Tourism of the State of Hawaii, is tasked with implementing the State of Hawaii's goal of achieving 70% clean energy by the year 2030. The Hawaii State Energy Office has embraced this goal and has embarked on a strategic plan to position Hawaii as a proving ground for clean energy technologies and accelerate Hawaii's transformation to a clean energy economy. In the context of condominium living, LED lighting can improve security, reduce light bills and lessen the amount of time maintaining common area lighting.*

*The following articles were contributed by the Hawaii State Energy Office.*

Picture a "smart warehouse," the lights dimmed to 20% until a forklift enters an aisle. The aisle brightens to 100% and then dims back to 20% as the driver exits. If there's adequate daylight from skylights, all lights are at 0%. At night they're off—until something moves, alerting security. Welcome to the world of smart LED systems. They deliver light only where and when it's needed, resulting in warehouse energy savings of 80%-90%. Savings won't be so dramatic in high rise residential buildings, but the same revolutionary business model can be applied to doubling or tripling energy productivity.

How are such dramatic savings possible?

- 1) LED's can be dimmed and switched on and off by sensors almost at will. Their life span actually increases. Most spaces are unoccupied the majority of the time.
- 2) Their pinpoint accuracy directs light precisely where it's needed. Unlike other sources, their light can be directed to spaces like the deep crevice of a warehouse aisle.
- 3) LED's efficacy (lighting's miles per gallon) is as high as 150 lumens per watt (lpw)—far higher than the HID sources they replace.

(continued page 3)

# Letter from the Chair



Aloha & Happy Holidays,

Here we are at the last Condominium Bulletin for 2013, it's amazing how the year has flown by.

In this issue we have some good material on energy savings for condominium associations with articles on Smart Lighting and Solar Energy. There is also a synopsis of the last CAI Hawaii Seminar held on November 21st on Board Do's and Don'ts. January usually begins the annual meeting Season for a lot of associations around the State, and the more you know...the better you will understand how your board and your association operates. On January 23rd the first CAI Hawaii Seminar for 2014 will be **Avoiding Annual Meeting Disasters** at the Japanese Cultural Center from 12:00 PM - 1:30 PM. You can check the CAI Hawaii website <http://www.caihawaii.org> for more info and other seminars for 2014. Also in this issue is some very timely information in "Ask the Condo Specialist".

In closing, I would like to thank the Condominium Staff at the Real Estate Commission and all the other staff members for all their hard work throughout 2013.

I wish you and your family the Happiest of Holidays and a very Prosperous New Year.

Aloha,

Scott A. Sherley

## CAI Hawaii Seminar

On November 21, 2013, CAI Hawaii conducted its final educational seminar for 2013 entitled "Board Do's and Don'ts."

This seminar provided condominium board members, owners, and other interested individuals with information about employment law issues, insurance, Board contracts, meetings, procedures, and policies. Tamara M. Gerrard, Esq., highlighted a variety of employment issues and discussed ways to help minimize the threat of employment lawsuits. Topics covered included factors that may distinguish an independent contractor from an employee, creating and implementing proper policies, procedures and training for employees, and compliance with applicable State and Federal law regarding an employer's obligation to provide reasonable accommodation. Ron Tsukamaki of Atlas Insurance Agency provided useful tips on the "do's" and "don'ts" of insurance to reduce or avoid claims or lawsuits against boards and board members, as well as an overview of liability protections and limitations of AOUO Condominium Insurance Coverage and HO6 Unit Owners Insurance Coverage. The seminar concluded with Philip L. Lahne, Esq.'s presentation on "Board Operations and Best Practices" which included a well-rounded discussion on contracts and proper contract drafting, board protocols, imposition of fines and penalties, and the adoption of a consistent collections policy. The seminar was moderated by John Morris, Esq.

See CAI Hawaii at <http://www.caihawaii.org> for a calendar of its events for 2014, kicking off with "Avoiding Annual Meeting Disasters" on January 23, 2014 at the Japanese Cultural Center. CAI Hawaii seminars are partly funded by Condominium Education Trust Fund of the Real Estate Commission.

# What Maintenance? Smart Lighting Comes of Age

(cont. from page 1)

“Smart lighting” is destined to become more ubiquitous than smart phones next year when there will be 1.7 billion cell phone shipments vs. 1.9 billion LED shipments. Each digitally networked light fixture thinks for itself, communicating with control central and reacting to the changing environment. Much like a human eye, it adjusts to lighting levels and movement. “Cognitive lighting systems” are now available as complex-wide packages. Some high-rise residential buildings start with smart lighting, then graduate to become smart high rise residences by adding security and individual temperature adjusting features.

LED's not only act like a human eye, but their light quality can be fine-tuned for maximum “visual acuity,” meaning their light closely matches the daylight that we homonids evolved under for some 4.2 million years. Fine-tuned LED colors faithfully replicate our skin tones, clothing and jewelry. More impressively, LED's can change lighting conditions according to the time of day or the event taking place. LED systems can mimic the relaxing and invigorating effects of natural light by changing from sunrise to noontime to sunset colors in tune with our circadian rhythm. Lighting for posh events can be tuned for dignified subtlety. Dazzling and splashy light can create excitement for splashy proms and weddings.

High level visual acuity improves security. Guards can accurately identify suspicious characters, and parking patrons can distinguish their aqua car from the blue car. LED's beam spread in parking garages can reach into every nook and cranny, leaving no dark spots. The City of Los Angeles was an LED pioneer, installing 140,000 LED streetlamps. They started with the highest-crime area, and crime is down by 15% because LED's accurately highlight suspects' features.

LED's also promote sleep, as their beam spread can be cut off with near-surgical precision, eliminating “light trespass” into bedroom windows.

Some users are finding that the maintenance savings from not having to change bulbs is greater than the energy savings. Not only do LED's 50,000 hour lives cut lamp change-outs by half or more, but since controlled LED's spend large amounts of time off or dimmed, their lifetimes can increase from four years to eight years, and more.

However, not all LED's are created equal. The industry is emerging from its “wild west” period of wild claims, similar to Dr. Carter's Liver Pills, which 100 years ago cured everything from horse bites to hangovers. Vendors should provide the results of US Department of Energy tests, including LM-79, LM-80 and TM-21. The most rigorous test is CALiPER (Solid-State Lighting: CALiPER Summary), which measures the performance of a product against its claims (many products fail). Determine which have achieved Energy Star status by going to [www.energystar.gov/productfinder](http://www.energystar.gov/productfinder).

Experts predict that LED's will be 80% of all lamp sales just seven years from now, that their lpw will exceed 200 lpw, and that their lives will be around 100,000 hours. Prices are dropping, which means the cost of installing and maintaining LED systems is quickly paid back, given 30 cents per kWh prices. In fact, a recent analysis showed a six month payback. Many distributors are willing to finance the design and installation costs in the certainty that the client's electricity bill will drop dramatically, especially when they factor in Hawaii Energy's rebate program.

While high rise residential buildings won't enjoy the 80%-90% savings achieved by warehouses, conversion to LED smart systems can improve safety, satisfaction, comfort and even mood creation while reducing lighting bills by an average of 50%. And that doesn't include maintenance chores dropping to near-zero for a few years. To stay abreast of LED progress, subscribe to Jim Brodrick's e-newsletter ([www.lightingfacts.com](http://www.lightingfacts.com)). A U.S. Department of Energy engineer, Brodrick's sole job is traveling the country reporting on the latest LED developments.

# *Ask the Condominium Specialist*

**Q:** I live in a relative's condominium unit. The association's board of directors will be raising the monthly parking fee to double the current rate. In addition, the board is initiating an additional "premium" charge. Does the law allow the board to increase the fee charged for a parking stall?

**A:** There are two issues here. Generally speaking, a condominium board of directors has the legal authority to impose charges, pursuant to HRS § 514B-104 (a) (11). Confirm the parameters of the board's right to impose charges by reviewing the bylaws. The right to challenge the increase, however, lies in the owner of the unit. The tenant of any unit lacks legal standing to challenge board action. The owner of the unit, in this instance your relative, must challenge the board's action regarding the increase in fees for parking stalls. Should the unit owner and the board be unable to resolve any dispute over the increase in fees, the owner of the unit may submit the dispute to private dispute resolution providers, i.e., mediation or arbitration services or to a private attorney.

**Q:** Our condominium managing agent missed the July 1, 2013, deadline for the biennial association registration this year. Who is responsible for any penalties that are incurred for late registration?

**A:** It depends. What are the terms of the contract with the managing agent? Does it state that the managing agent is responsible for the biennial registration for the association? If so, does it include terms providing for the payment of penalties for late registration by the managing agent? If the managing agent is contractually obligated to complete the association biennial registration, then it may be contractually responsible for the payment of penalties incurred due to untimely registration. The contract must be reviewed to determine responsibility for any fines imposed for late condominium association registration.

**Q:** How do I CPR my property? I called my county zoning office and they referred me to the Real Estate Branch.

**A:** A condominium (condominium property regime) is created by recording in the Bureau of Conveyances and/or filing with the Office of the Assistant Registrar of the Land Court: 1) the master deed or lease; 2) the declaration of condominium property regime; 3) the bylaws of the association of unit owners; and 4) the condominium map. A condominium project must contain at least two units. The number of units and allowable uses are determined by county zoning requirements. Neither the Real Estate Commission nor the Counties approve or disapprove any proposed condominium project. Moreover, the REC cannot respond to questions about the zoning of any property. Zoning is strictly a county jurisdictional issue. The REC recommends that when inquiring with the county about permissible uses on a property, it is best to ask for general information, e.g., provide the TMK number of the property and ask about permissible uses in a general manner. The fact that you are considering submitting a property to CPR is not relevant to the county in determining use and density and often serves to confuse the matter.

*The information provided herein is informal and for general informational purposes only. Consult with an attorney familiar with the Hawaii condominium law for specific legal advice regarding a particular situation.*

## Focus on Ku'ikahi



Since 1983, Ku'ikahi Mediation Center in Hilo, Hawaii, has been conducting mediations for the community as an alternative dispute resolution method. While Ku'ikahi began as a program of the YMCA, it became an independent non-profit organization in 2005. Today, Ku'ikahi raises awareness of mediation as a successful tool for resolving conflicts and a viable option to litigation. “We empower people to come together—to talk and to listen, to explore options, and to find their own best solutions,” said Executive Director Julie Mitchell. Ms. Mitchell (photo left) promotes mediation in the community by speaking to various groups. In the last quarter, among her public engagements, Ms. Mitchell addressed the Hilo and Volcano Rotary Clubs, gave training sessions at the Hilo Courthouse for court staff alongside the Director of the State Judiciary’s Center for Alternate Dispute Resolution, addressed the Volcano Community Association board, and with Hawai`i Island Aloha United Way gave workplace presentations. To find out more about Ku'ikahi’s activities, log on to their website at [www.hawaiimediation.org](http://www.hawaiimediation.org).

## HCAA Almost Free Legal Advice 2013 Mediation/Arbitration

The Hawaii Council of Community Associations held its Annual Meeting on November 14, 2013, at the Hale Koa Hotel. Avoiding litigation and a discussion of defamation were topics presented to the lunch time crowd, in addition to a discussion by Gerald Clay, Esq. and Richard Ekimoto, Esq., about the benefits of mediation and arbitration as a means of dispute resolution for condominium owners.

Mr. Clay explained that while mediation is generally viewed as a good alternative to litigation, it has been determined that in some instances, trained mediators are more effective than lay mediators in resolving disagreements where legal rights are in dispute. Trained mediators, often attorneys and retired judges, draw on their legal expertise and the methods utilized in the “evaluative” style of mediation to produce more successful outcomes for the disputing parties. Additionally, the evaluative mediator provides a written summary of each party’s legal position at the conclusion of the mediation process. Mr. Clay noted that there is a cadre of attorneys with experience in the condominium law who are willing to make their services available, pro bono, for evaluative mediations conducted at the Mediation Center of the Pacific. He emphasized that in addition to the cost benefits of mediation, mediation was a “far superior way to resolve disputes”.

Arbitration, unlike mediation, is closer to the litigation process in that it is a “binary” process with but two possible results. Additionally, HRS § 514B-163 provides for trial de novo and appeal in the circuit court upon a written demand by any party desiring trial de novo after submission of a dispute to arbitration.

Of course, there are certain situations, acknowledged by Mr. Ekimoto, where mediation is not appropriate and one must seek legal advice from an attorney. That being said, mediation and arbitration generally remain good options for dispute resolution for condominium owners.

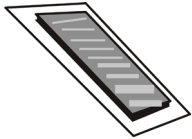
### *Editor’s note:*

*For over twenty years, the Real Estate Commission has been subsidizing mediation as a means of encouraging condominium owners to settle their disputes outside of the courtroom. Act 187 (2013) provides additional support for mediation of condominium related disputes as one of the educational purposes supported by the condominium education trust fund. Beginning with the July 1, 2015 biennial association registration, Act 187 requires the Real Estate Commission to collect additional funds for the condominium education trust fund, to be dedicated to supporting mediation utilizing mediators with expertise in the condominium law.*

# Solar Water Heating

A utility-approved solar water heater is the most important energy savings step for a Hawaii home. Conventional water heating is a big expense, accounting for about 30 - 40% of the utility bill in a Hawaii home. A solar system isn't cheap, but much of the installation cost can be offset by Hawaii Energy rebates and state and federal tax credits.

## Types of Water Heaters



### Solar

Saves up to 40% on your electrical bill.

Energy savings can pay back the installation cost in less than 4 years.



### Instant On Gas water heater.

Requires gas service.

Produces heat only when you need it.



### Gas

Some savings, requires gas service.

Consider an ENERGY STAR model with an energy factor (EF) of 0.65 or higher.



### Heat pump

Works like an air conditioner in reverse, heating water and cooling air.

Look for ENERGY STAR heat pump water heaters to ensure better energy efficiency.



### Electric Resistance

Most common but most expensive to use.

Check the Energy Guide label and buy ENERGY STAR water heaters.

## Tips & Techniques

- Get State of Hawaii and Federal tax credits for a solar water heating system.
- Call Hawaii Energy (537-5577) when planning your solar system. Incentives are available for efficient water heating systems, further reducing the cost. They also have a list of qualified contractors.
- Insulate hot water pipes with at least ½ foam or 1" fiberglass insulation.
- Set the thermostat for 120°F or less – raise the temperature if necessary.
- Plan for solar water heating in the future (if not possible at present) by providing hot water pipe stubs.
- Install water-conserving fixtures like low-flow showerheads and aerators in faucets.
- Consider an ENERGY STAR refrigerator. Refrigerators are often the second largest energy user in homes and Hawaii Energy offers rebates.
- Consider an ENERGY STAR horizontal-axis (front-loading) washing machine that uses much less water. Hawaii Energy offers rebates.

# Solar Water Heating (cont. from page 6)

## Cost

- A typical solar system costs about \$6,600+, but the cost to the homeowner can be much less due to tax credits and Hawaii Energy incentives.

## Savings

- A solar water heater may save you up to \$600 per year compared to an electric water heater (based on 31.9¢/kWh).

# Mediation Case Summaries

From September 2013 through November 2013, the following condominium mediations were conducted pursuant to Hawaii Revised Statutes § 514B-161, and subsidized by the Real Estate Commission. Mediation Center of the Pacific may have conducted additional condominium mediations through the District Court.

## Mediation Center of the Pacific

Through its Skype video conferencing capabilities, MCP has been conducting mediations with condominium owners who live part-time in Hawaii and are currently residing out of the state.

Owner vs. Board	Alleged unequal enforcement of house rules.	Mediated to agreement.
Owner vs. Board	Dispute over assessments.	Mediated to agreement.
Owner vs. Board	Dispute over common element and interpretation of house rules and bylaws.	Mediated; no agreement.
Board vs. Owner	Dispute over assessments.	Mediated; no agreement.
Owner vs. Board	Alleged improper assessment of legal fees.	Mediated to agreement.
Owner vs. Board	Dispute over interpretation and enforcement of house rules.	Mediated; no agreement.
Owner vs. Board	Assessment of legal fees against complaining owner; board declined mediation.	Case closed.

Mediation Services of Maui, Kaua'i Economic Opportunity, Ku'ikahi Mediation Center and West Hawaii Mediation Center did not report any condominium mediations for this reporting period.

# 2013 - 2014 Real Estate Commission Meeting Schedule

**Laws & Rules Review Committee – 9:00 a.m.**

**Condominium Review Committee – Upon adjournment of  
the Laws & Rules Review Committee Meeting**

**Education Review Committee – Upon adjournment of the  
Condominium Review Committee Meeting**

**Real Estate Commission – 9:00 a.m.**

Wednesday, December 11, 2013

Wednesday, January 8, 2014\*

Wednesday, February 12, 2014

Wednesday, March 12, 2014

Wednesday, April 9, 2014

Wednesday, May 14, 2014

Wednesday, June 18, 2014

Wednesday, July 9, 2014

Wednesday, August 13, 2014

Wednesday, September 10, 2014

Wednesday, October 8, 2014

Wednesday, November 12, 2014

Wednesday, December 10, 2014

Friday, December 20, 2013

Friday, January 24, 2014

Friday, February 28, 2014

Friday, March 28, 2014

Friday, April 25, 2014

Friday, May 30, 2014

Friday, June 27, 2014

Friday, July 25, 2014

Friday, August 29, 2014

Friday, September 26, 2014

Friday, October 24, 2014

Wednesday, November 26, 2014

Friday, December 19, 2014

\* January 8, 2014 Committee meetings will be held in Kahului, Maui, at the RAM office, 441 Ala Makani Place.

All other meetings will be held in the Queen Liliuokalani Conference Room of the King Kalakaua Building, 335 Merchant Street, First Floor.

Meeting dates, locations and times are subject to change without notice. Please visit the Commission's website at [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec) or call the Real Estate Commission Office at (808) 586-2643 to confirm the dates, times and locations of the meetings. This material can be made available to individuals with special needs. Please contact the Executive Officer at (808) 586-2643 to submit your request.

HAWAII CONDOMINIUM BULLETIN, December 2013 copyright Hawaii Real Estate Commission. All rights reserved. This Bulletin, or any part thereof, may not be reproduced without the written permission of the Hawaii Real Estate Commission, except permission is granted to registered Hawaii condominium associations to reproduce and distribute copies of this entire publication, but not for profit, as an educational service. This publication is intended to provide general information and is not a substitute for obtaining legal advice or other competent professional assistance to address specific circumstances. The information contained in the Bulletin is made pursuant to Hawaii Administrative Rules Section 16-201-92 and is not an official or binding interpretation, opinion or decision of the Hawaii Real Estate Commission or the Department of Commerce and Consumer Affairs. The Hawaii Condominium Bulletin is funded by the Condominium Education Trust Fund, Real Estate Commission, Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs, State of Hawaii.