



# Hawaii Condominium Bulletin

## Congratulations! You're Elected to the Board – Now What?

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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.

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The Annual Meeting for your Community Association recently came to a close. During this meeting, your neighbor nominated you to the Board, but you had no idea you would actually be elected, as you are new to the community and not to mention, a first-time home owner! Excitement and anxiety sets in and your first question is... Now What?

The business following the Annual Meeting is an Organizational Meeting. This is where the officers of your Board were appointed, along with the assignment of committee chairs and co-chairs. Again to your surprise, you were appointed to the position of Board Secretary, and assigned co-chair of the Landscaping Committee. Another whirlwind that followed, included setting meeting dates that everyone agreed upon, which geared everyone up for the business at hand to manage your community association.

The feeling of cluelessness continued to linger. But don't be dismayed, your Community Association Manager provided you with a couple of three-ring binders overflowing with all of the association's documents. This information included the Association's Bylaws, CC&R's, meeting minutes, monthly financials, annual budget, reserve study, house rules and newsletters, along with several publications detailing everything you need to know about the duties and responsibilities of the Board of Directors. A personal 75-page copy of the Landscaping Committee's Standard Operating Procedures Handbook peeked out at you too. No problem, you have three weeks until your first Regular Meeting of the Board to digest it all, and conduct a site inspection of 14-acres worth of landscaping.

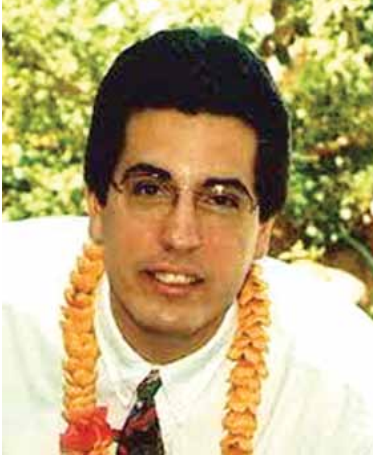
At this point, you dove right into the material through researching, asking questions, and scouring the Internet for direction. You came across advice and opinions about "Best Practices" for Community Association operations, and are now well read, confident, and prepared to tackle anything as the Secretary and as the Landscaping Committee Co-Chair. Your research revealed that everything would fall into place if you could ensure the following guidelines are implemented by the Board:

- Conduct a successful Board meeting in a professional manner (striving to achieve that elusive goal of a one-hour Board meeting)
- Publish notices and helpful tips for owners that wish to attend/participate in Board and/or committee meetings.

The following tips for running a successful community association meeting and for preparing to attend a Board meeting were found in a blog published six years ago by The Management Trust, a mainland property management company, which are still valid as well as being user friendly (I also added my own spin on some of their tips as well). They stress, that to make the most of the meeting time allotted will require employing some key strategies, which will provide the Board a great opportunity to address issues and take appropriate action in a positive and timely manner. Here are some tips you may want to employ:

(continued page 3)

# Message from the Chair



Aloha,

Welcome to summer.

In this issue of the Condominium Bulletin we have a great article entitled **What is the Association's Reserve Fund Condition? By Mike Price RS**. This is a very important aspect of condominium ownership in Hawaii and recent articles have broached the subject of reserves, special assessments and the need for planning for future repairs and replacements.

When a buyer purchases a condominium unit in Hawaii they receive "documents" to review prior to completing the purchase. These documents include by-laws, declarations, house rules, and minutes of meetings, current financials and a copy of the reserve study. It's imperative for the buyer to review these documents and understand the current condition of the association they are considering buying into. Many times buyers just take a cursory look at all the documents without looking in detail as to the association's financial condition. Most buyers are only concerned about what the current maintenance fees are and if they can afford it on top of the mortgage payment, which is natural of course, but the documents you receive may indicate that there are other issues down the road, or coming up quickly. The article by Mike Price RS, will give you a good idea of what to look for when you are reviewing a reserve study.

Other articles in this issue deal with becoming a board member, highlights of condominium related seminars and the Real Estate Branch new dedicated line.

Have a safe and enjoyable summer.

Scott A. Sherley

## HCCA Educational Seminar

The Hawaii Council of Community Associations held its Law Updates 2016 seminar on May 26, 2016. The theme of the seminar was on proposed bills this session that would have created a condominium "czar" and a condominium ombudsman, and how to have more successful condominium self-governance by the owners and board members. While the ombudsman and czar bills didn't make it through the legislature this year, according to seminar organizers, the bills almost certainly will be introduced at next year's session and risk dismantling the self-governance philosophy of the condominium law.

Featured speakers were retired Associate Justice of the Supreme Court of Hawaii, William Duffy, Jr. and Chris Porter, Esq. Justice Duffy is active as a mediator of condominium disputes. As Mr. Porter has submitted condominium disputes to mediation for resolution, both he and Justice Duffy emphasized the benefits of mediation over litigation, e.g., mediation is faster, cheaper (procedures inherent in civil litigation such as depositions and interrogatories are avoided) and unlike a court proceeding, mediation allows for empowering people by allowing for things such as an apology from one party to the other.

HCCA announced that it will be offering a Hawaii Qualified Association Leader Program to unit owners. It is a nine-course program at a cost of \$5 per person; at the end of the course, the owner will be certified as a leader and must re-certify yearly. This leadership program has a July or August 2016 start-up date.

HCCA has also begun filming of its "Condo Insider" informational videos; these are available via ThinkTech Hawaii. It is a series of videos each about 45 minutes in length on a variety of topics.

Finally, HCCA will be starting a telephone hotline for condominium association members; no start date was announced for this, so as with other HCCA initiatives, check out the HCCA website for more information. HCCA website @<https://hawaiicouncil.com>

# Congratulations! You're Elected to the Board

## – Now What? (cont. from page 1)

- Make sure every meeting is necessary and productive. If properly done, your meetings should never exceed two hours, note: strive for that one-hour meeting.
- Be prepared. Publish your agenda early and make sure it is delivered to all attendees at least a week prior to the meeting. This will keep things moving along. Be sure to include any relevant background informational material to save time in explaining complex issues.
- Board meetings are business meetings, not a social gathering, so look and act professional. Request that members don't bring their children, pets or others who could distract from the business at hand. Don't forget, your meetings are open to the owners (except when in Executive Session). You want to make a positive impression.
- Location, location, location. Choose a centrally located and quiet location with minimal noise and distractions for your meeting. Ensure ample and comfortable seating available for all attendees.
- Stick to the agenda's schedule. Be thoughtful of everyone's time by starting the meeting on time and ending the meeting on time.
- Stay on topic. Adhere to the items on your agenda. Gently guide those who go on tangents back to the agenda. Refrain from having irrelevant side conversations, again this is a business meeting.
- Keep a record. Take proper minutes that record the date, time and location of the meeting along with the names of all the attendees. Minutes need to be accurate recording the subject and the vote on the Board's decision and most importantly refrain from going into superfluous details. State the facts and act on the facts!
- Employ a process. Avoid conflicts by being proactive, not reactive. Create procedures for allocating speaking time, assigning tasks, and vote on important issues and ask questions and provide answers. Set ground rules such as turning off/muting cell phones before the meeting. Have committees submit written reports prior to the Board meeting and then just highlight the main points of the report during the meeting.
- Use technology such as visual aids, slides, and brochure information where appropriate. Keep it simple.
- Wrap up meetings with a clear statement of the next steps and who is to take them. Look forward to the next successful meeting.

### AS AN OWNER:

Every Community Association has Board meetings, and every owner of that association is allowed and welcome to attend these meetings. All Board meetings are open and owners who wish to address the Board are welcome to do so during the Owners' Forum, conducted prior to the beginning of each business meeting. Here are some helpful tips for Owners' Forum participation:

- Provide in writing, questions prior to the meeting. This isn't mandatory, but it helps you and the Board to respond in a timely manner, as some issues may require advance research. The Board can serve you better if members have time to consider your concern.
- Call ahead. As courtesy, let the property manager know you are planning to attend and address the Board. This also allows them to contact you if a meeting is rescheduled or cancelled for any reason.
- Plan your remarks to last no longer than five minutes. Board members enjoy visiting with owners; but remember that the meeting agenda is always very full, and a speaking limit whether two minutes or five ensures that everyone gets the opportunity to address the Board, not to mention, ensure all Board business gets conducted. If you have a big concern, take the time to summarize your concern and the Board will assign it to an appropriate committee to investigate. They will be more than happy to add it to the next meeting's agenda for discussion and/or decision.
- Don't expect an immediate response. Board members do not act independently. All issues require discussion and in most cases a vote. Sometimes an immediate answer is possible, but is just as likely you may not get a response until after the meeting. Be patient.

It is important to remember Board members are volunteers, who may have full-time jobs, familial obligations, and other aspects of life to fulfill. Through a cohesive relationship among Board members and residents, many, if not all, Association matters can be accomplished in a timely and professional manner, together.

I recommend that you make a copy of this short article, and refer to it in the event you get the opportunity to join your association's Board of Directors, or serve on one of their committees. No more lamenting, "Now What?", rather, "I Can Do It!"

Al Denys, (RA), GRI, CMCA®, AMS®, PCAM®  
Vice President, Governmental Affairs/Senior Property Manager  
Hawaiian Properties, Ltd.

# What's the Association's Reserve Fund Condition?

By Mike Price RS

**This is a now a frequent question of lenders and prospective astute buyers. It should be the question of every owner.** As we slowly climb back from the longest recession and real estate market decline in recent history, whether an association is **adequately** funded is a deal maker or breaker in the real estate market. Lenders do not want mortgage payment delinquency and resulting foreclosure losses due to surprise loans and special assessments impacting mortgagees' ability to make monthly payments. No lender or owner is happy with deferred maintenance due to inadequate funding. Foreclosures and delinquencies result in financial shortfalls, placing higher maintenance fees and special assessment payments on future owners. Loss of property value and investment is another result of inadequate funding.

A current Reserve Study by a reserve professional is more and more a necessary requirement of mortgage applications. Lenders look for strong funding and a complete component list of major assets requiring replacement by Reserve funding. **Adequate funding** begins with an accurate Reserve Component List.

**A Reserve Study prepared according to National Reserve Study Standards (NRSS) defines the Reserve Component List:** a clear description of the major assets maintained by the association with limited, predictable life expectancies. There is a **4 Part Test** qualifying an expense as a Reserve Component:

1. Component must be the Association's maintenance responsibility.
2. Component must have a limited Useful Life (UL).
3. Component must have a predictable Remaining Useful Life (RUL).
4. Component must be above a minimum Threshold cost.

All parts of the test must be met for an expense to qualify as a NRSS Reserve Component and all qualifying components must be included and adequately funded.

**The Component List is the foundation of the Reserve Study Report and calculation of Reserve Fund strength.** The Board of Directors has the fiduciary responsibility for insuring that the Component List includes all assets requiring Reserve Funding. The reserve study or reserve study update process can be delegated to the management agent or professional reserve provider, but their report recommendation has to be approved by the Board of Directors after their review for completeness. Checking completeness of the Component List is not difficult and NRSS provides a handy checklist to assist with this review at [www.caionline.org](http://www.caionline.org).

**A Reserve Study prepared according to National Reserve Study Standards (NRSS) includes a bench mark calculation of Reserve Fund Strength based on dividing the current Fiscal Year (of the Reserve Study Report) Starting Reserve Fund Balance by the Current Total Deteriorated Value of all Reserve Components.** This Current Total Deteriorated Value is labeled the "Fully Funded Balance" in the Reserve Study Report. No matter what funding objective is selected: Full Funding, 50% Hawaii Funding (Threshold Funding per NRSS), or Hawaii Cash Flow Method funding (Baseline Funding per NRSS) this benchmark measure of Reserve Fund Strength should be transparent in the Reserve Study Report. The calculation is stated as **Percent Funded**. An association's Percent Funded evaluation is not the same as "100% Replacement Reserve" for the current year. Percent Funded is also not a comparison of current Reserve cash to the total replacement cost of all Reserve assets.

**The NRSS Percent Funded strength is a measure of future risk of cash flow problems for the association. Percent Funded indicates the strength and adequacy of the reserve fund. A Percent Funded between 70% and 130% is considered strong** because the association has Reserve cash on-hand roughly equivalent to the deterioration of its Reserve components, with the result that Reserve cash flow problems (special assessments and deferred maintenance) are extremely rare in this range. **A Percent Funded between 30% and 70% is considered fair**, as there is typically enough Reserve cash on hand in this range to manage the necessary Reserve projects without running into a cash flow problem when projects inevitably happen earlier or more expensive than anticipated. **A Percent Funded below 30% is considered weak** because Reserve cash flow problems are common, since there is little to no margin for the association to manage projects that happen earlier or more expensive than anticipated. Note: when all goes according to plan, there are no problems. But because reality rarely goes exactly according to plan, associations need some "margin" to avoid cash flow problems. **A below 30% funding objective has the highest risk of cash problems.**

In closing, adequate funding of Reserves is responsible, required by lenders, and fair to all owners now and in the future. Please make wise reserve study decisions.

**About the Author:** Mike Price – CAI Reserve Specialist #164 has provided independent third party comprehensive reserve studies for all Islands in the past. Mr. Price has a BA degree from Eastern Washington University and over 30 years' experience in construction and project management. Mr. Price can be contacted at [mike.arhllc@gmail.com](mailto:mike.arhllc@gmail.com) or 808 936-4789.

# Ask the Condominium Specialist

**Q:** My board has been conducting meetings by emailing each other. Needless to say, owners are left out of this process. Does the condominium law allow meetings to be held in this manner?

**A:** Hawaii Revised Statutes § 514B-125 states that all meetings of the board of a condominium association shall be open to all members of the association and association members who are not on the board may participate in any discussion or deliberation other than executive sessions, unless a majority of a quorum of the board votes otherwise. In addition, all meetings must be conducted in accordance with Robert's Rules of Order Newly Revised.

Unless the declaration or bylaws prohibit, board members may participate by telephone or electronic means and if permitted by the board, an owner may participate in a similar manner as long as all participants can simultaneously hear each other during the meeting; a board may require that a unit owner pay for any costs associated with such a participation.

If your board is conducting meetings that excludes owners from participating, then this appears to be a violation of the law relating to board meetings. Point this out to the board, attorney or managing agent. If this fails to yield a change in how the board conducts its meetings, you may initiate the evaluative mediation process. Information about this process can be found here [http://cca.hawaii.gov/reb/condo\\_ed/](http://cca.hawaii.gov/reb/condo_ed/).

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

## Avoiding Recalls

This CAI Hawaii educational seminar was held at the Japanese Chamber of Commerce on April 14, 2016 and partly funded by the Real Estate Branch. The featured speakers were Anne Anderson, Esq., Pauli Wong of Associa Hawaii and Steve Glanstein, Professional Registered Parliamentarian. All three are recognized industry experts in the Hawaii condominium community and have much to offer an audience by way of their professional expertise and experiences. Mr. Glanstein in particular peppers his talk with anecdotes from his 30-plus years as a professional parliamentarian.

Ms. Anderson has been practicing law in Hawaii since 1984. She has attended numerous removal meetings in her career as well as having advised associations on legal removal issues. She spoke for the greater part of the time between the three speakers focusing on the legal aspects of removing directors based on the relevant statutory provisions in the condominium law, Chapter 514B, HRS and Chapter 421J, HRS relating to planned community associations.

Ms. Wong provided the practical aspects of a recall. She noted that there is no such thing as a "friendly" recall and that the process is usually a long one draining both emotional and financial resources of an association. Ms. Wong emphasized communication, education and respect by managers and board members to owners as important factors in avoiding recalls.

Check the CAI Hawaii website for more educational seminars this year at <http://www.caihawaii.org>.

# Mediation Case Summaries

From March 2016 through May 2016, the following condominium mediations were conducted pursuant to Hawai'i Revised Statutes § 514B-161, and subsidized by the Real Estate Commission. The mediation providers also conducted additional condominium mediations in the District Courts and community outreach in their respective communities.

## Mediation Center of the Pacific

Through Skype video conferencing capabilities, MCP has been conducting additional mediations with condominium owners who live part-time in Hawaii and are currently residing out of the state; MCP continues to mediate condominium disputes referred from the Honolulu District Court.

|                 |   |                                      |
|-----------------|---|--------------------------------------|
| Owner vs. Board | Alleged house rule violations.                        | Mediated to agreement.               |
| Board vs. Owner | Dispute over responsibility for water damage to unit. | Parties unable to meet; case closed. |

## Maui Mediation Services

|                 |  |                           |
|-----------------|--|---------------------------|
| Owner vs. Board | Owner alleged construction by AOOU was violation of bylaws and negatively affected owner's unit. | Owner withdrew complaint. |
|-----------------|--|---------------------------|

## Dispute Prevention & Resolution, Inc.

|                 |   |                        |
|-----------------|---|------------------------|
| Owner vs. Owner | Alleged violation of house rules regarding noise. | Mediated to agreement. |
| Owner vs. Board | Alleged violation of house rules.                 | Mediated to agreement. |

# The Real Estate Branch Dedicated Line

The Real Estate Branch announces the creation of a dedicated telephone number where condominium owners, board members and other interested members of the public can call to get specific information about condominium issues, information and concerns. The telephone number is 586-2644. When calling, please specify that this is a condominium issue and staff will be happy to answer any questions you may have. This line is available from 7:45-4:30 daily, Monday through Friday, except State holidays.



# 2016 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, June 08, 2016

Wednesday, July 13, 2016

Wednesday, August 10, 2016

Wednesday, September 14, 2016

Wednesday, October 12, 2016

Wednesday, November 09, 2016

Wednesday, December 07, 2016

Friday, June 24, 2016

Friday, July 29, 2016

Friday, August 26, 2016

Friday, September 30, 2016

Friday, October 28, 2016

Wednesday, November 23, 2016

Friday, December 16, 2016

All 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.

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