

REAL ESTATE COMMISSION
Department of Commerce and Consumer Affairs
State of Hawaii
335 Merchant Street, Room 333
Honolulu, HI 96813

CONDOMINIUM PROPERTY REGIME
Chapter 514A, Hawaii Revised Statutes

GENERAL INFORMATION

A Condominium is a special form of ownership of real property. To create a condominium project in Hawaii, the requirements of the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes (HRS) shall be complied with. In addition, the condominium project shall comply with all applicable requirements and secure required approvals of the respective county in which the project is located.

A condominium project is created by recording in the Bureau of Conveyances and/or filing with the Office of the Assistant Registrar of the Land Court the master deed or lease, the declaration of Condominium Property Regime, the condominium map, and the bylaws of the Association of Apartment Owners. A condominium project is not created by the Real Estate Commission.

If a developer desires to offer and sell the condominium apartments, the developer shall submit the required documents and fees to the Real Estate Commission. **The Commission does not approve or disapprove the condominium project** but merely reviews the developer's proposed public report to determine whether the public report adequately discloses all material facts to prospective buyers based on the information and documents (application package) submitted by the developer.

No apartment in a condominium project shall be offered for sale prior to the issuance of an effective date for the developer's preliminary, contingent final or final public report.

Many condominium projects are created but not offered for sale. In such cases, the Commission has not received any information or documents (an application package) from the developer nor has the developer issued any public report.

Developers of a number of condominium projects have submitted incomplete initial filings with the Commission, but have not proceeded to complete the project.

Developers are subject to the applicable laws, requirements, fees, and forms in effect at the time of filing.

PROCESSING INFORMATION

The process for the issuance of an effective date for the public report takes approximately six weeks and is as follows:

1. The developer submits to the Commission a complete application package, including fees and supporting documents in accordance with instructions.
2. Upon receipt by the Commission, the application package is reviewed for organization and deficiencies. If incomplete or unorganized, the developer is so notified and the processing of the application is suspended until corrections are made by the developer.
3. If the application package is organized and without deficiencies, then the application is administratively processed and the project is assigned to a condominium consultant for review. The developer is notified that all further communications concerning the project should be directed to the assigned condominium consultant.
4. The condominium consultant will communicate directly with the developer with any questions, deficiencies, recommendations, etc.

5. Upon recommendation by the condominium consultant, the commission will issue an effective date for the public report. The developer will finalize the public report and provide the necessary copies to the Commission.

The processing time is dependent on the following factors, among others:

1. The organization, completeness, and accuracy of the filing;
2. The complexity and the number of non-traditional elements of the documents and the project;
3. The number of amendments, changes, or corrections initiated by the developer during the process;
4. Whether the project has problems or delays with the county review and approval process;
5. The backlog and volume of filings received by the Commission;
6. Whether the filing requires review and decision-making at the Commission's monthly meeting;
7. Whether the filing raises issues requiring an Attorney General opinion.

ADVERTISING INFORMATION

A condominium project shall **not** be offered for sale until the issuance of an effective date for a developer's preliminary, contingent final or final public report. "Offer(s) for sale" include(s), but is not limited to, any advertisement, inducement, solicitation of letters of intent to purchase, or any attempt of whatever nature to encourage any person to acquire any legal or equitable interest in any condominium apartment. The method used in offering for sale may include, but is not limited to, sales contracts, agreements of sale, reservation agreements, owner-occupant affidavit, options to purchase, solicitation or acquiring of interested parties list whether general or specific, posting of signs indicating that the project is a condominium project, or giving of the selling agent's name or address or telephone number.

Circulars, prospectuses, brochures, pamphlets, leaflets, and all other advertising and promotional materials regarding the condominium project shall **not** be issued, circulated or published prior to the Commission's issuance of an effective date for a developer's preliminary, contingent final or final public report.

SALES TO OWNER-OCCUPANTS INFORMATION

In summary, Part VI of Chapter 514A, HRS, requires that, except where excluded or inapplicable, a developer of a condominium project must designate at least fifty percent of the residential apartments in the project for sale to prospective owner-occupants through specifically described published announcements. Developers must review Part VI, Sales to Owner-Occupants, and Chapter 107, Hawaii Administrative Rules, thoroughly. If the published announcements do not comply with all applicable requirements, or if the announcements are for condominium projects not governed by or subject to Part VI, Chapter 514A, the developer and real estate broker shall:

1. Cease the reservation procedure immediately;
2. Refund all earnest money deposits and return all affidavits;
3. Rescind and cancel all reservations;
4. Terminate all "offers for sale"; and
5. Only for applicable projects, revise and republish the announcements in compliance with the law and rules.

EXTENSION OF A DEVELOPER'S PUBLIC REPORT EFFECTIVE DATE

A developer who desires to extend the expiration date of a developer's public report shall submit a written request for an extension to the Commission at least thirty days prior to the expiration date of the public report, together with such supporting information as may be required by the Commission. Requests shall be approved if there are no changes to the project and no changes to the information in the developer's public report that would render the public report misleading to purchasers in any material respect, and after payment of a \$50 non-refundable fee. All approved extension requests shall extend the effective dates for a period of thirteen months.

Exceptions: Upon written request to the Commission at least thirty days prior to the expiration date of the developer's public report, together with evidence satisfactory to the Commission that one or both apartments are either retained by the developer, or conveyed to an irrevocable trust to benefit a spouse or family member (related by blood, descent or adoption) of the developer and payment of a \$100 non-refundable fee, the Commission may issue an order that the final public report for a two apartment condominium project shall have no expiration date.

Developers obtaining this order shall provide written notification to the Commission within thirty calendar days of any subsequent sale and conveyance of each apartment.

If any material change subsequently occurs, the developer shall immediately comply with the laws and rules for obtaining an effective date for issuance of a developer's supplementary public report.

REPRINTS OF LAW AND RULES

The Condominium Property Regime law (Chapter 514A, HRS) and the Administrative Rules (Chapter 107) are available online. Please refer to the following sites:

Website to access official copy of laws: www.capitol.hawaii.gov

Website to access unofficial copy of laws: www.hawaii.gov/dcca/hrs

Website to access rules: www.hawaii.gov/dcca/har

INSTRUCTIONS

1. Complete all forms using a typewriter or **print legibly** in black ink.
2. Answer all questions and fill in all blanks. If not applicable, write "NA." Incomplete, illegible or otherwise insufficient documents, exhibits and printed matter will be cause for rejection of the submission as well as delay or termination in processing.
3. Non-refundable fees shall accompany filing as follows (all fees are subject to change):
 - \$250 Application registration fee;
 - \$250 Notice of Intention registration fee (the application fee shall be credited to the registration fee)
 - \$1000 Consultant review fee for each developer's preliminary, contingent final, final or supplementary public report;
 - \$150 Subsequent developer's public report fee (applies to a developer's final public report where a preliminary public report was issued by developer);
 - \$75 Developer's supplementary public report fee;
 - \$10 Per apartment in the project for condominium management education fund for the issuance of an effective date for a developer's final public report.

Make check payable to: Commerce and Consumer Affairs.

4. Submit one original and one copy of the executed Notice of Intention and Questionnaire forms, one copy of the proposed draft of the public report and one copy each of all supporting documents. All papers must be bound in a file folder. Documents must be indexed and tabbed in the order listed on the "Table of Contents for Documents Required for Issuance of an Effective Date for a Developer's Preliminary/Final Public Report." (Tab no. 1 should be at the top of the file and supporting documents tabbed below.) Project file should be labeled with the condominium project name, type of public report for which an effective date is requested, and provide adequate space for the registration number.

The condominium map may be submitted under separate cover and not bound within the file folder. Label the condominium map by project name, type of report for which an effective date is requested, and provide adequate space for the registration number.

5. Simultaneously with the filing to the Commission submit a copy of the executed Notice of Intention and Questionnaire forms, condominium map and a copy of the proposed draft of the public report to the appropriate county official in the county where the proposed condominium project is located.

County of Kauai:	Director Planning Department County of Kauai 4444 Rice Street, Suite 473 Lihue, HI 96766	Administrator Real Property Assessment Div. County of Kauai 4444 Rice Street, Suite A-454 Lihue, HI 96766
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Acting Manager and Chief Engineer
Dept. of Water, County of Kauai
4398 Pua Loke Street
P.O. Box 1706
Lihue, HI 96766

City and County of Honolulu:	Administrator <i>(Map & amendments only)</i> Real Property Assessment Division City and County of Honolulu 842 Bethel Street, 2 nd Floor Honolulu, HI 96813	Director <i>(Suspended until further requested)</i> Dept. of Planning & Permitting City and County of Honolulu 650 South King Street Honolulu, HI 96813
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County of Maui:	Land Use and Codes Administrator Dept. of Public Works & Environmental Management, County of Maui 250 South High Street Wailuku, HI 96793	Engineering Program Manager Dept. of Water Supply County of Maui 200 South High Street Wailuku, HI 96793-2155
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County of Hawaii: Director
Planning Department
County of Hawaii
101 Pauahi Street, Suite 3
Hilo, HI 96720

A copy of the letter or memorandum of transmittal to the county agency shall be submitted with the application package submitted to the Commission.

6. Refer to attached Checklist for Filing Condominium Project sheet for the specific documents to be submitted for the condominium project.

Include the Declaration Checklist and the Bylaws Checklist within the respective sections.

7. NOTE: Any change(s) in the project or amendments to the project's document(s) made after submitting the documents to the Commission shall be immediately reported to the Commission. If, after the effective date for a developer's public report has been issued by the Commission, any circumstance occurs which would render the public report misleading to purchasers in any

material respect, the developer shall stop all sales and immediately submit to the Commission sufficient information to describe the changed circumstances and a proposed developer's supplementary public report.

8. The condominium public report will conform to the format outlined in FORM: RECO-30 (Plain Language format).
9. Submit the completed application package to:

Real Estate Commission
Department of Commerce and Consumer Affairs
335 Merchant Street, Room 333
Honolulu, HI 96813
10. Condominium Registration Telephone No.: 586-2643
11. Incomplete or inaccurate applications will not be accepted.

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.

**TABLE OF CONTENTS FOR DOCUMENTS REQUIRED FOR ISSUANCE OF AN EFFECTIVE DATE
FOR A DEVELOPER'S PRELIMINARY PUBLIC REPORT**

PROJECT NAME _____

REGISTRATION NO. _____
(For Office Use Only)

1. CPR Notice of Intention and Questionnaire
Filing Fee (\$250-application / registration fee + \$1,000-consultant review fee = \$1,250)
2. Preliminary Public Report Draft and Disclosure Statement (if applicable)
3. Declaration of Condominium Property Regime
4. Bylaws of the Association of Apartment Owners
5. House Rules
6. Escrow Agreement (executed)
7. Sales Contract
8. Apartment Conveyance
9. Management Contract
10. Title Report or Other Documents Evidencing Developer's Interest
11. Master Conveyance
12. Letter to County transmitting Notice of Intention
13. Notice of election of Part VI, Chapter 514A, HRS or notice to waive specific provisions of Part VI, Chapter 514A, HRS, pursuant to section 514A-108(a) or (d) (if applicable)
14. Letter from the County to the Commission regarding section 514A-108(a) or (d) (if applicable)
15. Certified Organizational Documents: Articles of Incorporation, Partnership Statement, Certificate of Limited Liability Partnership (LLP), Articles of Organization of Limited Liability Company (LLC): Articles of Organization resulting from Conversion, Articles of Merger (LLC), (if developer is a corporation, partnership, joint venture, LLP, or LLC)
16. Sales Broker Listing Agreement
17. Condominium Map

TABLE OF CONTENTS FOR DOCUMENTS REQUIRED FOR ISSUANCE OF AN EFFECTIVE DATE FOR A DEVELOPER'S FINAL PUBLIC REPORT (WITHOUT A PRIOR REPORT)

PROJECT NAME _____

REGISTRATION NO. _____
(For Office Use Only)

1. CPR Notice of Intention and Questionnaire
Filing Fee (\$250-application/registration fee + \$1,000-consultant review fee = \$1,250 + \$10 per unit assessment for condominium education fund)
2. Final Public Report Draft and Disclosure Statement (if applicable)
3. Declaration of Condominium Property Regime (recorded)
4. Bylaws of the Association of Apartment Owners (recorded)
5. House Rules
6. Escrow Agreement (executed)
7. Sales Contract
8. Apartment Conveyance
9. Management Contract
10. Title Report or Other Documents Evidencing Developer's Interest
11. Master Conveyance
12. Letter to County transmitting Notice of Intention (except City and County of Honolulu)
13. Notice of election of Part VI, Chapter 514A, HRS or notice to waive specific provisions of Part VI, Chapter 514A, HRS, pursuant to section 514A-108(a) or (d) (if applicable)
14. Letter from the County to the Commission regarding section 514A-108(a) or (d) (if applicable)
15. Certified Organizational Documents: Articles of Incorporation, Partnership Statement, Certificate of Limited Liability Partnership (LLP), Articles of Organization of Limited Liability Company (LLC): Articles of Organization resulting from Conversion, Articles of Merger (LLC), (if developer is a corporation, partnership, joint venture, LLP or LLC)
16. Sales Broker Listing Agreement
17. Verified Statement of Costs and Estimate of Time of Completion
18. Statement of Program of Financing
 - a) Permanent Loan Commitment
 - b) Construction Mortgage
 - c) Construction Contract (executed)
 - d) Performance Bond or Letter of Credit
19. Conversion: Verified Statement from County regarding compliance and variances Declarant's Statement and Architect/Engineer's Report (if applicable)
20. Condominium Map

CHECKLIST FOR FILING CONDOMINIUM PROJECT
(Pursuant to the Condominium Property Act, Chapter 514A, HRS)

Developer shall prepare and submit either a preliminary, contingent final, or a final public report depending upon what requirements have been satisfied. Developers are subject to the applicable laws, requirements, fees and forms at the time of filing. Requirements are as follows:

		Preliminary	Contingent	Final
1.	Notice of Intention and Questionnaire. (Original + 1 copy) Non-refundable fees: \$250 application/registration fee plus \$1,000 consultant fee (initial developer's public report) \$150 filing fee plus \$1,000 consultant fee (subsequent developer's public report) \$75 filing fee plus \$1,000 consultant fee (for every supplementary public report thereafter) \$10 assessment per apartment in the project – Condominium Management Education Fund (for Final Public Report)	Yes	once only	once only
2.	Draft of Public Report and Disclosure Abstract Statement (if applicable)	Yes	Yes	Yes
3.	Declaration of condominium property regime	Yes (may be unexecuted & unrecorded)	Yes (executed & recorded)	once only
4.	Bylaws of association of apartment owners	Yes (may be unexecuted & unrecorded)	Yes (executed & recorded)	once only
5.	A statement by the developer explaining the method of formula used in computing the percentage of common interest appurtenant to the condominium units	Yes	once only	once only
6.	House Rules (if applicable)	Yes	once only	once only
7.	Executed escrow agreement between developer and escrow (see requirements stated in Secs. 514A-40, 514A-65 and 514A-67, HRS)	Yes	once only	once only
8.	Specimen copy of sales contract	Yes	once only	once only
9.	Specimen copy of apartment deed or lease	Yes	once only	once only
10.	Copy of Condominium Managing Agent (CMA) agreement	No	Yes (executed)	once only
11.	Title search (not more than 60 days old at time of filing)	Yes	Yes	Yes
12.	Recorded master deed or master lease and/or any other evidence of developer's ownership interest in the land committed to the project	Yes	Yes or recorded option/agreement of sale	Yes
13.	Letter to County transmitting Notice of Intention and other required documents (except City and County of Honolulu)	Yes	once only	once only

		Preliminary	Contingent	Final
14.	Offers for Sale:			
a.	Specimen copy of owner-occupant affidavit (if applicable)	Yes	once only	once only
b.	Specimen owner-occupant reservation agreement (if applicable)	Yes	once only	once only
15.	Notice of election of Part VI, Chapter 514A, HRS or notice to waive specific provisions of Part VI, Chapter 514A, HRS, pursuant to section 514A-108(a) or (d) (if applicable)	Yes	once only	once only
16.	Letter from the County to the Commission regarding section 514A-108(a) or (d) (if applicable)	Yes	once only	once only
17.	Certified Organizational Documents: Articles of Incorporation, Partnership Statement, Certificate of Limited Liability Partnership, Articles of Organization of Limited Liability Company (LLC): Articles of Organization resulting from Conversion, Articles of Merger (LLC) (if developer is a partnership, limited partnership, joint venture, LLP or LLC) with certificate of good standing	Yes	once only	once only
18.	Executed broker listing agreement	Yes	once only	once only
19.	For projects which include one or more existing structures being converted to condominium status:			
a.	A statement signed by an appropriate county official that the project is in compliance with all zoning and building ordinances and codes;	No	Yes	Yes
b.	A statement signed by an appropriate county official of whether any variance has been granted from any ordinances and codes to achieve such compliance;	No	Yes	Yes
c.	A statement signed by an appropriate county official whether the project contains any legal nonconforming uses or structures as a result of the adoption or amendment of any ordinances or codes;	No	Yes	Yes
*d.	A statement by the developer, based upon a report prepared by an independent Hawaii registered architect or engineer, describing the a) present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the project and b) expected useful life of each item or a statement that no representations are made in that regard;	No	Yes	Yes
*e.	A list of any outstanding notices of uncured violations of building code or other municipal regulations, together with the cost of curing these violations; and	No	Yes	Yes
f.	Specimen copy of notice to existing tenants which shall contain first right of refusal to purchase for conversions (if applicable)	Yes	once only	once only

*** Applies only to apartments that may be occupied for residential use and have been in existence for five or more years.**

		Preliminary	Contingent	Final
g.	A developer's declaration subject to the penalties set forth in section 514A-49(b) that the project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000).	No	No	Yes
20.	Construction documents are required for issuance of an effective date for a developer's public report prior to completion of construction. No effective date for a developer's public report may be issued prior to completion of construction of the project unless there is filed with the Real Estate Commission:			
a.	All building permits;	No	No	See §§ 514A-12, 514A-36, HRS
b.	A statement showing all costs involved in completing the project, including land purchase payments or lease payments, real property taxes, construction costs, architect's, engineer's and attorney's fees, financing costs, provisions for contingency, etc., which must be paid on or before the completion of construction of the building;	No	Yes	Yes
c.	A statement of the estimated time of completion of construction of the total project;	No	Yes	Yes
d.	Satisfactory evidence of sufficient funds to cover all costs involved in completing the project from purchasers' funds, equity funds, interim or permanent loan commitments, or other sources;	No	No	Yes
	A letter of interest in financing construction of the project from a lender authorized to do business in this State;	No	Yes	See 20f below
e.	A copy of the executed construction contract;	No	No	Yes
f.	Satisfactory evidence of a performance bond or irrevocable letter of credit issued by a federally insured Hawaii lending institution in an amount not less than one hundred per cent of the total cost of construction. The commission may accept a performance bond issued by a material house subject to the following conditions:	No	No	Yes
	1) All purchasers' funds shall be placed in an escrow account;			
	2) Purchasers' funds shall not be disbursed to pay for construction costs or other expenses of the project until both the completion of the apartment to be conveyed and the closing of the sale;			
	3) If closing is to occur prior to the expiration of the applicable mechanic's lien period, the developer shall: (1) provide the purchaser with an owner's title insurance policy with a mechanic's lien endorsement that protects the purchaser against			

		Preliminary	Contingent	Final
	all future mechanic's and materialmen's liens, and (2) provide the commission with a release by the general contractor of the contractor's lien rights;			
	4) The financial institution lending funds to develop the project shall accept the performance bond issued by the material house;			
	5) The commission's approval of the material house;			
	6) Adequate disclosure is made in the public report concerning the developer's use of a material house bond instead of a surety bond and the restrictions on the developer's use of purchasers' funds; and			
	g. If purchasers' funds are used for construction, an executed copy of agreement for the trust fund	No	Yes	Yes
21.	a. Site plan, elevation plan of building(s), floor plan of each floor with apartment numbers, the dimensions for each type of apartment's net living area and the parking plan. The parking plan to include designated parking stalls if parking stalls are to be considered limited common elements. Parking plan should also show guest stalls, if any. Map size, no larger than 22" x 34"	Yes (preliminary drawings)	Yes (as filed w/ the county)	Yes (as provided in 514A-12)
	b. Architect's or engineer's recorded certificate (see requirements stated in Sec. 514A-12, HRS)	No	Yes	Yes
22.	A developer's declaration subject to the penalties set forth in section 514A-49(b) that the project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000).	No	No	Yes

REAL ESTATE COMMISSION
Department of Commerce and Consumer Affairs
State of Hawaii
335 Merchant Street, Room 333
Honolulu, Hawaii 96813

NOTICE OF INTENTION

Date: _____

Reg. No.: _____
(For office use only)

Condominium Project: _____

Project Address: _____

Tax Map Key: _____

Fee Simple Leasehold Fee Simple Apartment/Leasehold Underlying Land

In accordance with the provisions of Section 514A-31, HRS, the undersigned gives notice to the State of Hawaii, Real Estate Commission, of the developer's intention to sell the condominium apartments hereinafter described.

_____, being duly sworn, deposes and says:
(Print Name of Developer)

That the statements contained herein and the documents submitted herewith are full, true and complete and that he/she is the developer of the condominium project described herein, or that he/she is the officer or agent authorized by the developer to complete the accompanying questionnaire.

(Signature of Developer)

(Print Name of Signatory*)

(Print Title of Signatory*)

**Must be signed for a: corporation by an officer; partnership or Limited Liability Partnership (LLP) by the general partner; Limited Liability Company (LLC) by the manager or member; and for an individual by the individual.*

- c. Is the project in compliance with all county zoning and building ordinance and codes and all other county permitting requirements applicable to the project pursuant to Act 251 (SLH 2000) and all applicable state and federal requirements?
 Yes No

6. Architect/Engineer:

Name	Address	Hawaii Reg. No.
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7. Contractor:

Name	Address	Hawaii Reg. No.
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8. Bond(s):

Type	Amount	Surety	Obligee(s)	Coverage
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9. Sales to Owner-Occupants:

- a. Is the project developed pursuant to section 46-15 or 46-15.1, or chapter 53, 201G or 206?
 Yes No
- b. Is the project developed pursuant to an affordable housing condition or provision imposed by a state or county governmental agency?
 Yes No
- c. Does the developer intend to sell the project to a spouse or family members related by blood, descent or adoption?
 Yes No
- d. Does the developer plan to construct or convert to condominium status two or fewer apartments?
 Yes No

10. Title (Title insurance, abstract, certificate, others):

- a. Type: _____
- b. Name of firm who issued certificate: _____
- c. Date issued (**not more than 60 days old at time of filing**): _____

11. Financing:

Do you have a program of financing the project, including any financing commitment? Yes No

If so, with whom? _____

12. Escrow/Depository or Clients' Trust Account:

Name of Escrow/Depository: _____

Address: _____

13. Is the developer affiliated with or does the developer have a financial interest with the subject condominium project's real estate broker, escrow company, general contractor, condominium managing agent or attorney?

Yes No

If so, please describe the affiliation or financial interest, in detail, on a separate exhibit.

DECLARATION CHECKLIST

PROJECT NAME _____

REGISTRATION NO. _____
(For Office Use Only)

Page No., Section

- _____ 1. Description of the land whether [] fee simple or [] leasehold
- _____ 2. Description of the building(s).
 - _____ a. Number of buildings.
 - _____ b. Number of stories.
 - _____ c. Number of basements.
 - _____ d. Number of apartments.
 - _____ e. Principal materials of construction.
- _____ 3. Description of the apartments.
 - _____ a. Apartment number of each apartment.
 - _____ b. Location of each apartment.
 - _____ c. Approximate area of each apartment.
 - _____ d. Number of rooms of each apartment.
 - _____ e. Immediate common element to which each apartment has access.
 - _____ f. Designated parking stall if considered a limited common element.
 - _____ g. Other data necessary for proper identification of the apartments.
 - _____ h. Net living area of enclosed portion of apartment to be measured from interior surface of apartment perimeter walls. Lanai or patio areas considered as part of apartment to be computed and reported separately from the apartment area.
- _____ 4. Description of common elements.
- _____ 5. Description of limited common elements and apartments to which reserved.
- _____ 6. The percentage of undivided interest in common elements appertaining to each apartment and its owner for all purposes, including voting.
- _____ 7. Statement of purposes for which the building(s) and each apartment are intended and restricted as to use.
- _____ 8. The name of a person authorized to receive service of process with address of residence or place of business in the county or city in which property is located.

- _____ 9. Provision as to the percentage of votes by the apartment owners which shall be determinative of whether to rebuild, repair or restore the property in the event of damage or destruction to all or part of the project.
- _____ 10. The method by which the declaration may be amended, provided that an amendment to the declaration shall require a vote or written consent of 75% of all apartment owners, except for projects with five or less apartments, which may require more than 75% of all apartment owners.
- _____ 11. Description of any additions, deletions, modifications and reservations as to the property.
- _____ 12. Any provision concerning the merger or addition of later phases of the project.
- _____ 13. If applicable, in the case of a project which includes one or more existing structures being converted to condominium status, a statement of whether any variance has been granted from any ordinance or code to achieve such compliance and whether, as a result of the adoption or amendment of any ordinance or code, the project presently contains any legal non-conforming uses or structures.
- _____ 14. A declaration subject to the penalties set forth in section 514A-49(b) that the project is in compliance with all county zoning and building ordinances and codes, and all other county permitting requirements applicable to the project, pursuant to Act 251 (SLH 2000). Developers requesting an effective date for a developer's final public report shall instead make this declaration in the final public report (including a developer's final public report for a converted project).

BYLAWS CHECKLIST

PROJECT NAME _____

REGISTRATION NO. _____
(For Office Use Only)

Page No., Sect.

_____ A. Association

- _____ 1. Qualifications for membership.
- _____ 2. First meeting.
The first meeting of the Association of Apartment Owners shall be held not later than one hundred eighty days after recordation of the first apartment conveyance; provided forty per cent or more of the project has been sold and recorded. If forty per cent of the project is not sold at the end of one year, an annual meeting shall be called; provided ten per cent of the apartment owners so request. [514A-82(a)(11)]
- _____ 3. Place of meetings.
All meetings of the association of apartment owners shall be held at the address of the condominium project, or elsewhere within the State as determined by the board of directors. [514A-82(a)(17)]
- _____ 4. Method of calling meetings. [514A-82(a)(2)]
- _____ 5. Notices of meetings.
Notices of association meetings, whether annual or special, shall be sent to each member of the association of apartment owners at least fourteen days prior to such meeting and shall contain at least: the date, time, and place of the meeting, the items on the agenda for the meeting and a standard proxy form authorized by the association, if any. [514A-82(b)(3)]
- _____ 6. Quorum of apartment owners if other than a majority. [514A-82(a)(2)]
- _____ 7. Voting: Percentage necessary to adopt binding decisions. [514A-82(a)(2)]
- _____ 8. Proxies.
 - _____ a. No resident manager or managing agent shall solicit, for use by the manager or managing agent, any proxies from any apartment owner of the association of owners that employs the resident manager or managing agent, nor shall the resident manager or managing agent cast any proxy vote at any association meeting except for the purpose of establishing a quorum. Any board of directors that intends to use association funds to distribute proxies, including the standard proxy form referred to in section 514A-82(b), shall first post notice of its intent to distribute proxies in prominent locations within the project at least thirty days prior to its distribution of proxies; provided that if the board receives within seven days of the posted notice a request by any owner for use of association funds to solicit proxies accompanied by a statement, the board shall:
 - _____ (A) Mail to all owners a proxy form containing either the names of all owners who have requested the use of association funds for soliciting proxies accompanied by their statements; or

_____ (B) Mail to all owners a proxy form containing no names, but accompanied by a list of names of all owners who have requested the use of association funds for soliciting proxies and their statements. The statement shall not exceed one hundred words, indicating the owner's qualifications to serve on the board and reasons for wanting to receive proxies. [514A-82(b)(4)]

_____ b. A proxy, to be valid, must be delivered to the secretary of the association of apartment owners or the managing agent, if any, no later than 4:30 p.m. on the second business day prior to the date of the meeting to which it pertains, and must contain at least: the name of the association of apartment owners, the date of the meeting of the association of apartment owners, the printed name(s) and signature(s) of the person(s) giving the proxy, the apartments for which the proxy is given, and the date that the proxy is given; contain boxes wherein the owner has indicated that the proxy is given: for quorum purposes only; to the individual whose name is printed on a line next to the box; to the board of directors as a whole and that the vote be made on the basis of the preference of the majority of the board; or to those directors present at the meeting and the vote to be shared with each board member receiving an equal percentage. [514A-83.2(a)]

_____ c. A proxy shall only be valid for the meeting to which the proxy pertains and its adjournments, may designate any person as proxy and may be limited as the apartment owner desires and indicates; provided that no proxy shall be irrevocable unless coupled with a financial interest in the unit. [514A-83.2(b)]

_____ d. No board of directors or member of the board shall use association funds to solicit proxies except for the distribution of proxies as set forth in section 514A-82(b)(4), provided that this shall not prevent an individual member of the board from soliciting proxies as an apartment owner under section 514A-82(b)(4). [514A-83.2(c)]

_____ e. A copy, facsimile telecommunication, or other reliable reproduction of a proxy may be used in lieu of the original proxy for any and all purposes for which the original proxy could be used; provided that any copy, facsimile telecommunication, or other reproduction shall be a complete reproduction of the entire original proxy.

_____ f. Nothing in this section shall affect the holder of any proxy under a first mortgage of record encumbering an apartment or under an agreement of sale affecting an apartment. [514A-83.2(e)]

_____ 9. Adjournment.

_____ 10. Order of business.

_____ 11. Meetings shall be conducted in accordance with the most current edition of Robert's Rules of Order. [514A-82(a)(16)]

_____ 12. Other provisions of 514A-82(a) and (b).

B. Directors

_____ 1. Number of directors.

The number of persons constituting the board; provided that condominiums with more than one hundred individual apartment units shall have an elected board of not less than nine members unless not less than sixty-five per cent of all apartment owners vote by mail ballot, or at a special or annual meeting, to reduce the minimum number of directors. [514A-82(a)(1)(B)]

- _____ a. Qualifications for directors.
All members of the board of directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partners of a limited partnership shall be deemed to be the owners of an apartment for this purpose. [514A-82(a)(12)]
- _____ b. Not more than one representative on the board of directors from any one apartment. [514A-82(a)(12)]
- _____ c. No resident manager shall serve on the board. [514A-82(a)(14)]
- _____ d. Compensation, if any. [514A-82(a)(1)(E)]
- _____ 2. Power and duties of the board.
 - _____ a. Each director shall owe the association a fiduciary duty in the performance of the director's responsibilities. [514A-82.4]
 - _____ b. Whether board may engage services of manager or managing agent, or both, and specify which powers and duties granted may be delegated to either or both of them. [514A-82(a)(1)(F)]
- _____ 3. Method of electing the board.
- _____ 4. Term of office. For the initial term of office, directors shall serve for a term of three years or the term as specified by the bylaws or until their successors have been elected or appointed. [514A-82(a)(1)(C)]
- _____ 5. Method of removing directors.
At any regular or special meeting of the apartment owners, any one or more members of the board of directors may be removed by the apartment owners and successors shall then and there be elected for the remainder of the term to fill the vacancies thus created. The removal and replacement shall be in accordance with all applicable requirements and procedures in the bylaws for the removal and replacement of directors, including any provision relating to cumulative voting. If removal and replacement is to occur at a special association meeting, the call for such meeting shall be by the president or by a petition to the secretary or managing agent signed by not less than twenty-five per cent of the apartment owners as shown in the association's record of ownership; provided that if the secretary or managing agent shall fail to send out the notices for the special meeting within fourteen days of receipt of the petition, then the petitioners shall have the authority to set the time, date and place for the special meeting and to send out the notices for the special meeting in accordance with the requirements of the bylaws. Except as otherwise provided in section 514A-82, such meeting for the removal and replacement from office of directors shall be scheduled, noticed, and conducted in accordance with the bylaws of the association. [514A-82(b)(1)]
- _____ 6. Board shall meet at least once a year. [514A-82(a)(15), -82(a)(15)]
- _____ 7. Directors shall not cast any proxy vote at any board meeting. [514A-82(a)(13)]
- _____ 8. A director shall not vote at any board meeting on any issue in which that director has a conflict of interest. [514A-82(a)(13)]
- _____ 9. Disclosure of a conflict prior to a vote.
A director who has a conflict of interest on any issue before the board shall disclose the nature of the conflict of interest prior to a vote on that issue at a board meeting, and the minutes of the meeting shall record the fact that disclosure was made. [514A-82(b)(5)]

- _____ 10. Notice of meetings to be posted.
Whenever practicable, notice of all board meetings shall be posted by the resident manager or a member of the board in prominent locations within the project seventy-two hours prior to the meeting or simultaneously with notice to the board of directors. [514A-82(b)(9)]
- _____ 11. All board meetings, except executive sessions, shall be open to all members of the association.
- _____ a. Members who are not on the board of directors may participate in any deliberation or discussion, other than executive sessions, unless a majority of a quorum of board votes otherwise.
- _____ b. Board, by a majority of a quorum of its members, may adjourn a board meeting and reconvene in executive session to discuss and vote on personnel matters or litigation.
- _____ c. The nature of any and all business to be considered in executive session shall first be announced in open session. [514A-83.1]
- _____ 12. Minutes of meetings.
Minutes of meetings of the board of directors and association shall include the recorded vote of each board member on all motions except motions voted on in executive session. [514A-83.4]
- _____ 13. Directors shall not spend association's funds for their travel, directors' fees and per diem, unless owners are informed and a majority approve of these expenses. [514A-82(b)(10)]
- _____ 14. Condominium documents.
Associations, at their own expense, shall provide all board members with a current copy of the association's declaration, bylaws, house rules, and, annually, a copy of Chapter 514A, HRS, with amendments. [514A-82(b)(11)]

C. Officers

- _____ 1. Election and term.
- _____ 2. An owner shall not act as an officer of an association and an employee of the managing agent employed by the association. [514A-82(b)(7)]
- _____ 3. President: Elected from board and presides over meetings of the board and association. [514A-82(a)(3)]
- _____ 4. Secretary: Keeps the minute book wherein resolutions shall be recorded. [514A-82(a)(4)]
- _____ 5. Treasurer: Keeps the financial records and books of account. [514A-82(a)(5)]
- _____ 6. Auditor: Association shall require an annual audit of the association's financial accounts and no less than one annual unannounced verification of the association's cash balance by a public accountant; provided these may be waived by a majority vote taken at an association meeting if the association is comprised of less than twenty owners. [514A-96(a)]

D. Management

- _____ 1. Operation of the property. [514A-82(a)(6)]
- _____ 2. Payment of common expenses. [514A-82(a)(6)]

- _____ 3. Determination and collection of common charges [514A-82(a)(6)]; collection from tenants, 514A-90.5, alternatives to foreclosure proceedings. [514A-90(e)(f)]
- _____ 4. Manner of handling and disbursement of association funds.
 - _____ a. Prohibition against commingling of the association's general operation funds with funds of other activities, such as lease rent collections, and rental operations or a managing agent's own funds. [514A-97(a)]
 - _____ b. Lease rent collections and rental operations. [514A-97(b)]
 - _____ c. Manner of disbursement and accounts. Association funds collected shall be:
 - (1) Deposited in a financial institution including a federal or community credit union, located in the State of Hawaii whose deposits are insured by an agency of the United States government;
 - (2) Held by a corporation authorized to do business under article 8 of chapter 412; or
 - (3) Held by the United States Treasury; or
 - (4) Purchased in the name of and held for the benefit of the association through a securities broker that is registered with the Securities and Exchange Commission, has an office in the State, and the accounts of which are held by member firms of the New York Stock Exchange or National Association of Securities Dealers and insured by the Securities Insurance Protection Corporation.
 - _____ d. Telephone transfer of association funds prohibited. [514A-97(d)]
 - _____ e. Managing agent disbursement requirements. [514A-97(e)]
 - _____ f. Penalty for knowingly misappropriating or embezzling association funds. [514A-97(f)]
- _____ 5. Insurance.
 - _____ a. The association shall purchase and at all times maintain insurance which covers the common elements and, whether or not part of the common elements, all exterior and interior walls, floors, and ceilings, in accordance with the as-built condominium plans and specifications, against loss or damage by fire and flood (if property is located in an identified flood hazard area as designated by the federal Department of Housing and Urban Development) sufficient to provide for the repair or replacement thereof. Exterior glass may be insured at the option of the association. Coverage shall be written on the property in the name of the association. Premiums shall be common expenses. Coverage shall not prejudice the right of each owner to insure the owner's own apartment for the owner's benefit. [514A-86(a)]
 - _____ b. The association may purchase and maintain directors' and officers' liability insurance with minimum coverage in such amount as shall be determined by the board of directors. Premiums shall be common expenses. [514A-86(b)]
 - _____ c. Any insurance policy required by 514A-86(a) and -86(b) shall contain a provision requiring the insurance carrier to provide the board, at the inception of the policy and on each anniversary date thereof, with a written summary of the policy, in layman's terms, to be provided to each apartment owner. The

summary shall include the type of policy, a description of the coverage and the limits thereof, amount of annual premium and renewal dates. [514A-86(c)]

- _____ 6. Budgets and Reserves. The board shall prepare, adopt and distribute an annual operating budget to apartment owners based on the formula and method provided in Chapter 514A-83.6, HRS, and chapter 107, Hawaii Administrative Rules. [514A-83.6]
- _____ 7. Borrowing of money for association use. [514A-82.3]
- 8. Audits.
 - _____ a. Annual audit and unannounced verification of cash balance requirement. Waiver by majority vote of all apartment owners for associations comprised of less than twenty owners is permitted. [514A-96(a)]
 - _____ b. A copy of the annual audit shall be made available to each apartment owner at least thirty days prior to the annual meeting which follows the end of the fiscal year. Requests to obtain either a summary of the annual audit report, or an unabridged copy of the annual audit report shall be made upon all official proxy forms. If the annual audit is not completed by the date of the annual association meeting the board shall make available an unaudited year end financial statement until the audit is completed. [514A-96(b)]
- _____ 9. Manner of collecting common expenses, expenses, costs and fees recoverable by the association and any penalties and late charges. [514A-82(a)(7)]
- _____ 10. Penalties, method of determining violations, enforcement of penalties. [514A-82(a)(18)]
- 11. Priority of Liens.
 - _____ a. All sums assessed by the association but unpaid for the share of the common expenses chargeable to any apartment constitute a lien on the apartment prior to all other liens, except:
 - (1) Government imposed liens for taxes and assessments against the apartment; and
 - (2) All sums unpaid on any mortgage of record recorded prior to the recordation of notice of a lien by the association and costs and expenses including attorneys' fees provided in such mortgages.

The lien of the association of apartment owners may be foreclosed by action or by nonjudicial or power of sale foreclosure procedures set forth in chapter 667, by the managing agent or board of directors, acting on behalf of the association of apartment owners, in like manner as a mortgage of real property. In any such foreclosure the apartment owner shall be required to pay a reasonable rental for the apartment, if so provided in the bylaws, and the plaintiff in the foreclosure shall be entitled to the appointment of a receiver to collect the rental owed. The managing agent or board of directors, acting on behalf of the association of apartment owners, unless prohibited by the declaration, may bid on the apartment at foreclosure sale, and acquire and hold, lease, mortgage, and convey the apartment. Action to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same. [514A-90(a)]

- _____ b. The acquirer of title and acquirer's successors and assigns pursuant to foreclosure of the mortgage shall not be liable for the share of common expenses or assessments by the association for the apartment. The unpaid share of common expenses or assessments shall be deemed collectible from all the apartment owners including the acquirer and the acquirer's successors and

assigns except, the board of an association of apartment owners may specially assess the amount of the unpaid regular monthly common assessments for common area expenses against a person who, in a judicial or non-judicial power of sale foreclosure, purchases a delinquent apartment; provided that:

- (1) A purchaser who holds a mortgage on a delinquent apartment that was recorded prior to the filing of a notice of lien by the association of apartment owners and who acquires the delinquent apartment through a judicial or non-judicial foreclosure proceeding, including purchasing the delinquent apartment at a foreclosure auction, shall not be obligated to make, nor be liable for, payment of the special assessment as provided for under this subsection; and
- (2) A person who subsequently purchases the delinquent apartment from the mortgagee referred to in paragraph (1) above shall be obligated to make, and shall be liable for, payment of the special assessment provided for under this subsection; provided that the association of apartment owners has filed a notice of lien against the delinquent apartment for the unpaid assessments for common area expenses which form the basis of the special assessment, prior to the subsequent purchaser's acquisition of title to the delinquent apartment.

The amount of the special assessment assessed under subsection 514A-90(g) shall not exceed the total amount of unpaid regular monthly common assessments that were assessed during the six months immediately preceding the completion of the judicial or non-judicial power of sale foreclosure, and for which the association of apartment owners had filed a notice of lien against the delinquent apartment pursuant to subsection 514A-90(g)(2). In no event shall the amount of the special assessment exceed the sum of \$1,800. (Act 39, SLH 2000: to be repealed on December 31, 2003) [514A-90(b)]

- _____ c. No apartment owner shall withhold any assessments claimed by the association. Describe method of dispute notice. [514A-90(c)]
- _____ d. As an alternative to foreclosure proceedings under subsection (a), where an apartment is owner-occupied, the association of apartment owners may authorize its managing agent or board of directors to, after sixty days' written notice to the apartment owner and to the apartment's first mortgagee of the nonpayment of the apartment's share of the common expenses, terminate the delinquent apartment's access to the common elements and cease supplying a delinquent apartment with any and all services normally supplied or paid for by the association of apartment owners. Any terminated services and privileges shall be restored upon payment of all delinquent assessments.
- _____ e. An apartment owner who pays an association the full amount claimed by the association may file in small claims court or require the association to mediate. If unable to resolve the dispute through mediation, either party may file for arbitration under Part VII of 514A, HRS. The apartment owner shall be entitled to a refund of any amounts paid to the association which are not owed. [514A-90(d)]

- _____ 12. In a voluntary conveyance the grantee of an apartment is jointly and severally liable with the grantor for all unpaid assessments against the grantor for the grantor's share of the common expenses. Any grantor or grantee is entitled to a statement of the unpaid assessments. The grantee is not liable for any unpaid assessments against the grantor in excess of the amount on the statement, except as to the amount of subsequently dishonored checks received within the thirty day period immediately preceding the statement date noted in the statement. [514A-91]

- _____ 13. No apartment owner may exempt himself from liability for contribution towards the common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of the apartment. [514A-92]
- _____ 14. Designation and removal of personnel necessary for the maintenance, repair and replacement of common elements. [514A-82(a)(8)]
- _____ 15. Association's employees shall not engage in selling or renting apartments, except association-owned units, unless such activity is approved by an affirmative vote of sixty-five per cent of the membership. [514A-82(b)(8)]
- _____ 16. Restrictions on use and maintenance of apartments and common elements. [514A-82(a)(10)]
- _____ 17. House Rules: Method of adopting and amending administrative rules governing the details of the operation and use of the common elements. [514A-82(a)(9)]
- _____ 18. Amendment of bylaws.
- a. The bylaws may be amended at any time by the vote or written consent of sixty-five per cent of all apartment owners; provided that each one of the particulars set forth in this section shall be embodied in the bylaws always; and provided further that any proposed bylaws with the rationale for the proposal may be submitted by the board of directors or by a volunteer apartment owners' committee. If submitted by that committee, it shall be accompanied by a petition signed by not less than twenty-five per cent of the apartment owners as shown in the association's record of ownership. The proposed bylaws, rationale, and ballots for voting on any proposed bylaw shall be mailed by the board of directors to the owners at the expense of the association for vote or written consent without change within thirty days of the receipt of the petition by the board of directors. The vote or written consent required to adopt the proposed bylaw shall not be less than sixty-five per cent of all apartment owners; provided that the vote or written consent must be obtained within one hundred twenty days after mailing. In the event that the bylaw is duly adopted, then the board shall cause the bylaw amendment to be recorded in the bureau of conveyances or filed in the Land Court, as the case may be. The volunteer apartment owners' committee shall be precluded from submitting a petition for a proposed bylaw which is substantially similar to that which has been previously mailed to the owners within one year after the original petition was submitted to the board. This subsection shall not preclude any apartment owner or voluntary apartment owners committee from proposing any bylaw amendment at any annual association meeting. [514A-82(b)(2)]
- b. The bylaws may be amended to provide that the composition of the board reflect the proportional number of apartments for a particular use as set forth in the declaration. [514A-82.15]
- _____ 19. Documents of the association.
- _____ a. The association's most current financial statement and minutes of the board of directors' meetings, once approved, shall be available to any owner at no cost or on twenty-four hour loan, at a convenient location designated by the board of directors. [514A-83.5(a)]
- _____ b. Minutes of meetings of the board of directors and the association for the current and prior year shall be available for examination by apartment owners at convenient hours at a place designated by the board. Minutes of meetings shall include the recorded vote of each board member on all motions except motions voted on in executive session. Copies of meeting minutes shall be provided to any owner upon the owner's request provided that the owner pay a reasonable

fee for duplicating, postage, stationery and other administrative costs associated with handling the request. [514A-83.5(b)]

_____ c. Financial statements, general ledgers, the accounts receivable ledger, accounts payable ledgers, check ledgers, insurance policies, contracts and invoices of the association of apartment owners for the current and prior year and delinquencies of ninety days or more shall be available for examination by apartment owners at convenient hours at a place designated by the board; provided:

(1) That the board may require owners to furnish to the association a duly executed and acknowledged affidavit stating that the information is requested in good faith for the protection of the interests of the association or its members or both; and

(2) That owners pay for administrative costs in excess of eight hours per year.

Copies of these items shall be provided to any owner upon the owner's request, provided that the owner pay a reasonable fee for duplicating, postage, stationery and other administrative costs associated with handling the request. [514A-83.5(c)]

_____ d. Owners shall also be permitted to view proxies, tally sheets, ballots, owners' check-in lists and the certificate of election for a period of thirty days following any association meeting; provided:

(1) That the board may require owners to furnish to the association a duly executed and acknowledged affidavit stating that the information is requested in good faith for the protection of the interest of the association or its members or both; and

(2) That the owners pay for administrative costs in excess of eight hours per year.

Proxies and ballots may be destroyed following the thirty-day period. Copies of tally sheets, owners' check-in lists and the certificates of election from the most recent association meeting shall be provided to any owner upon the owner's request, provided that the owner pay a reasonable fee for duplicating, postage, stationery and other administrative costs associated with handling the request. [514A-83.5(d)]

_____ e. Owners may file a written request with the board to examine other documents. The board shall give written authorization or written refusal with an explanation of the refusal within thirty calendar days of receipt of the request. [514A-83.5(e)]

_____ 20. Availability of project documents.

An accurate copy of the declaration of condominium property regime, the bylaws of the association of apartment owners, the house rules, if any, the master lease, if any, a sample original conveyance document, all public reports and any amendments thereto, shall be kept at the managing agent's office. The managing agent shall provide copies of those documents to owners, prospective purchasers and their prospective agents during normal business hours, upon payment to the managing agent of a reasonable charge to defray any administrative or duplicating costs. In the event that the project is not managed by a managing agent, the foregoing requirements shall be undertaken by a person or entity, if any, employed by the association of apartment owners, to whom this function is delegated. [514A-84.5]

21. Records, examination; disposal.

- _____ a. The managing agent or board of directors shall keep detailed, accurate records, in chronological order, of the receipts and expenditures affecting the common elements, specifying and itemizing the maintenance and repair expenses of the common elements and any other expenses incurred. The managing agent or board of directors shall also keep monthly statements indicating the total current delinquent dollar amount of any unpaid assessments for common expenses. [514A-85(a)]
- _____ b. All records and the vouchers authorizing the payments and statements shall be kept and maintained at the address of the project, or elsewhere within the State as determined by the board of directors. [514A-85(b)]
- _____ c. A managing agent employed or retained by one or more condominium associations may dispose of the records of any condominium association which are more than five years old without liability if the managing agent first provides the board of directors of the condominium association affected with written notice of the managing agent's intent to dispose of the records if not retrieved by the board of directors within sixty days, which notice shall include an itemized list of the records which the managing agent intends to dispose of. [514A-85(c)]
- _____ d. No person shall knowingly make any false certificate, entry, or memorandum upon any of the books or records of any managing agent or association. No person shall knowingly alter, destroy, mutilate, or conceal any books or records of a managing agent or association. [514A-85(d)]

_____ 22. Annual registration of the association of apartment owners of projects having six or more apartment units with the Real Estate Commission. Registration includes current evidence of the fidelity bond coverage (for all officers, directors, employees and managing agents who handle the association's funds), registration fee, the public information required to be submitted on any completed application form shall include but not be limited to evidence of and information on fidelity bond coverage, names and positions of the officers of the association, the name of the association of apartment owners' managing agent, if any, the street and the postal address of the condominium, and the name and current mailing address of a designated officer of the association of apartment owners where the officer can be contacted directly. Associations that fail to comply shall not have standing to maintain any action or proceeding in the courts of the State of Hawaii until compliance is effected. However, this shall not impair the validity of any contract or act of the association nor prevent the association from defending any action or proceeding in any court in the State. [514A-95.1]

E. Miscellaneous

- _____ 1. Right of access.
The apartment owners shall have the irrevocable right, to be exercised by the board of directors, to have access to each apartment from time to time during reasonable hours as may be necessary for the operation of the property or for making emergency repairs therein necessary to prevent damage to the common elements or to another apartment or apartments. [514A-82(b)(6)]
- _____ 2. Pets.
 - _____ a. Indicate whether or not pets are permitted.
 - _____ b. If permitted, bylaws may:
 - (1) Include reasonable restrictions or prohibitions against excessive noise or other problems caused by pets on the property; [514A-82.5(a)(5)]

- (2) Reasonably restrict or prohibit the running of pets at large in the common areas of the property; [514A-82.5(a)(6)]
- (3) Allow each owner or tenant to keep only one pet in the apartment. [514A-82.5(a)(3)]

c. The animals shall not include those described as pests under section 150A-2, HRS, or animals prohibited from importation under sections 141-2, 150A-5 or 150A-6, HRS. [514A-82.5(a)(4)]

d. If the owner has agreed in writing to allow his tenants to keep a pet in the apartment, the tenants may keep only those types of pets which may be kept by the apartment owners. [514A-82.5(a)(1), -82.5(a)(2)]

e. Replacement of pets subsequent to prohibition.
Any apartment owner who is keeping a pet, not prohibited in the bylaws, as of the effective date of an amendment to the bylaws which prohibits pets, may, upon the death of the pet, replace the animal with another and continue to do so for as long as the owner continues to reside in the owner's apartment or another apartment subject to the same bylaws. [514A-82.6]

3. Family child care home conditions and limitations where permitted. [502C]

4. The declaration and bylaws of the condominium are subject to the laws of the State of Hawaii, including but not limited to: Chapter 514A, Hawaii Revised Statutes, (Condominium Property Regime) and the Hawaii Administrative Rules, Title 16, Chapter 107. [514A-2, 514A-99]

SALES TO OWNER-OCCUPANT NOTICE PUBLICATION

PROJECT NAME _____

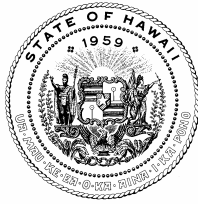
REGISTRATION NO. _____
(For Office Use Only)

At least once in each of two successive weeks, and at any time following the issuance of an effective date of the first developer's public report for the condominium project, the developer shall cause to be published in at least one newspaper published daily in the State with a general circulation in the county in which the project is to be located, and, if the project is located other than on the island of Oahu, in at least one newspaper that is published at least weekly in the county in which the project is to be located, an announcement or advertisement containing at least the following information:

1. The location of the project;
2. The minimum price of the residential apartments;
3. A designation as to whether the residential apartments are to be sold in fee simple or leasehold;
 - a. The designation shall be set forth either in the developer's public report or in the announcement or advertisement required by section 514A-102, and may be set forth in both. The apartments shall constitute a proportionate representation of all the residential apartments in the project with regard to factors of square footage, number of bedrooms and bathrooms, floor level, and whether or not the apartment has a lanai.
 - b. A developer shall have the right to substitute an apartment designated for owner-occupants with an apartment that is not so designated; provided that the apartments are similar with regard to factors enumerated in subsection (a). The substitution shall not require the developer's submission of a supplementary public report.
4. A statement that for a thirty-day period following the initial date of sale of the condominium project, at least fifty per cent of the residential apartments being marketed shall be offered only to prospective owner-occupants;
5. The name, telephone number, and address of the developer or other real estate broker designated by the developer that an interested individual may contact to secure an owner-occupant affidavit, public report, and any other information concerning the project.

BENJAMIN J. CAYETANO
GOVERNOR

MAZIE K. HIRONO
LIEUTENANT GOVERNOR



KATHRYN S. MATAYOSHI
DIRECTOR

NOE NOE TOM
LICENSING ADMINISTRATOR

STATE OF HAWAII
REAL ESTATE BRANCH
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
250 SOUTH KING STREET, ROOM 702
HONOLULU, HAWAII 96813
<http://www.state.hi.us/hirec>
November 22, 1995

MEMORANDUM

TO: CONDOMINIUM PROJECT DEVELOPERS AND ATTORNEYS
FROM: REAL ESTATE COMMISSION
RE: MISLEADING "SUBDIVISION"-TYPE REFERENCES

After a review of the information presented at its monthly meeting, the Real Estate Commission has clarified its position regarding the use of "subdivision"-type references in materials provided to the public.

Unless approved as a "subdivision" by the county government, all documents relating to condominium property regime public reports, advertising of condominium projects and any other document either provided to a prospective purchaser or made part of the public record shall not have references or illustrations that may imply representation that the condominium project is a "subdivision" or that the lots are subdivided lots. In addition, the following guidelines shall be utilized:

1. All terminology shall be consistent with Chapter 514A, Hawaii Revised Statutes;
2. The words "lot" and "parcel" shall not be used to describe any limited common element area;
3. The descriptive terms "single family", "home" or "residence" may be used to describe individual apartments as long as it is used in conjunction with the word "condominium", e.g., "condominium homes", or "single family condominium residences";
4. Any metes and bounds descriptions or square footage figures of land areas shall be clearly and specifically identified as the condominium project's total land area, its common element land area, or as the limited common element land area;
5. Solid lines shall not be utilized to delineate limited common elements or common elements; and
6. Where dotted or dashed lines are utilized in drawings, illustrations, maps or plans to delineate limited common elements or common elements, a disclosure shall appear on the page where the dotted or dash lines appear. Such disclosure shall state that such lines do not represent subdivided lots and that they represent either a limited common element area or a common element area.