



Hawaii Condominium Bulletin

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Board Responsibility

Condominium and Community Associations are more than just neighborhoods. In many ways, they are a lot like businesses. Collectively, the regular annual assessments amount to tens of thousands of dollars that need to be budgeted carefully and spent wisely. And neighbors who have volunteered and been elected to serve on the association's board are responsible for making critical decisions—on everyone's behalf—about managing the community and its money.

The board also develops long-range plans—like when the parking lot will need to be repaved and when the elevators will need to be replaced—about the parts of the community that are shared property. The board must set aside funds so that these kinds of projects can be accomplished on schedule or even ahead of schedule in the event there's an unexpected breakdown.

The board also sends out requests for bids and contracts with vendors to do the work necessary to maintain shared amenities. Board members decide who will do the best job of replacing the roof at the best price or who will be the most reliable company to hire to mow the grass and remove dead tree limbs.

The board's decisions can have a significant impact on the community's appearance and, consequently, on property values. Regardless of any professional manager, the board ultimately is responsible for overseeing association operations. Owners should be sure to communicate with the board regularly, observe board meetings, and attend annual meetings to elect responsible board members and to participate in the conversations about significant community issues.

This piece was reprinted with permission from the CAI Hawaii April 2017 Newsletter.

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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.



Message from the Chair

We've made it through another legislative session! What started out with about 130 bills related to condominiums at the start of the 2017 legislative session, has come down to 5 bills that will go before the Governor for his signature. If the Governor does not veto a bill by the veto deadline of June 26, 2017, he must sign the remainder of the bills by July 11, 2017 for the bill to become law. If he neither signs nor vetoes a bill by this date, the bill becomes law without his signature. Take a look at the remaining condominium-related bills in our description of them in this edition of the Hawaii Condominium Bulletin.

If you didn't have an opportunity to attend the April 8 Condorama at the State Capitol Auditorium, you may watch the video of the event which is available at our website; `Olelo was kind enough to tape the event for subsequent viewing for those who could not attend or who wanted a second listen to the condominium professionals. Our website address is <http://www.hawaii.gov/hirec>.

We hope you enjoy reading the reprint from CAI Hawaii regarding the importance of a condominium board and its responsibilities. Also, if you are new to your condominium association's board, you may be interested in attending CAI Hawaii's upcoming daylong session on the basics of being a board member. It will be held on June 17, 2017 at the Dole Cannery. Visit CAI Hawaii's website for registration information.

Don't forget that you have until the end of June to timely register your condominium association for the biennial period 2017-2019. All association registrations terminate on July 1; if you've failed to register by then, a late fee will be added to the normal registration fee.

And if you haven't signed up yet for our periodic emails on the latest in condominium information, here's the link <http://cca.hawaii.gov/reb/subscribe>.

Have an enjoyable summer!

Aloha,

Laurie A. Lee, Condominium Review Committee Chair



2017 Legislative Session Update

The 2017 Legislative Session has adjourned with several condominium bills awaiting the Governor's action to become law. The following descriptions are summarizations of these bills, meant to provide general information only.

House Bills:

HB 239 clarifies that if a standard proxy is returned with no box or more than one box checked, the proxy shall be used for quorum purposes only.

HB 832 states that any violation by a board, officers, or members of the mandatory provisions of sections 514B-161 or 162, Hawaii Revised Statutes ("HRS"), regarding mediation and arbitration may constitute a violation of fiduciary duty, but provides a safe harbor for dissenting board members. HB 832 also allows for post board election establishment of rules for owner participation at board meetings. HB 832 further clarifies that members shall be permitted to participate subject to adopted rules. The bill further expands that public notice list the business items expected to be discussed to be posted on the meeting agenda, and reduces the deadline for posting of unapproved final draft minutes from 60 days to 30 days.

HB 1498 requires that a copy of any contract, written job description, and compensation between the association and any person or entity retained by the association to manage the operations of the property onsite to be added to the documents required to be made available to owners under section 514B-154.5, HRS, with some personal information allowed to be redacted. The bill also mandates that only unit owners of a class (residential or non-residential) may vote to remove or replace a director of that class. The bill allows non-residential association owned units to vote for non-residential directors. Finally, the bill bans tenants from serving on the board.

Senate Bills:

SB 292 repeals chapter 514A, HRS, in its entirety. Previously, the recodification of the condominium law under chapter 514B, HRS, superseded most of the governance within chapter 514A, HRS, for all condominium projects in the state. SB 292 repeals the entire chapter on January 1, 2019, including the development sections while providing technical language on what happens to registered projects that still retain developer inventory, as well as projects created under chapter 514A, HRS, but never registered. Developers with chapter 514A, HRS, projects may wish to consult their attorneys regarding the repeal and the Real Estate Branch will be providing outreach to developers informing them of the deadlines.

SB 369 prohibits retaliation within condominium associations against those acting in a lawful action to address, prevent or stop violations of chapter 514B, HRS, or the governing documents. Lawful actions protected include complaints or reports of alleged violations, participation in investigations, aiding in complaints, reports or investigations, and exercising or attempts to exercise any right granted under chapter 514B or the governing documents. The law is enforced by allowing the person allegedly retaliated against to bring a civil action in district court, which the court may issue an injunction or award damages, court costs, attorney fees or other relief.

Ask the Condominium Specialist

Q: We are a new condominium association. I understand that there is a registration requirement for associations such as ours. Can you tell me what those requirements are?

A: HRS § 514B-103 sets out the requirements for condominium associations with six or more units; there is no registration requirement for those associations with less than six units. Essentially, a new association must register 30 days after the first association meeting (pursuant to HRS § 514B-102, the first meeting must be held not later than 180 days after recordation of the first unit, provided that 40% or more of the project has been sold and recorded – if 40% of the project has not been sold, an annual meeting shall be called if 10% of the unit owners request it).

If no first association meeting has been held and it is at least one year after the recordation of the purchase of the first unit in the project, the developer, or its affiliate, or the managing agent shall register on behalf of the association.

If you are not sure whether you are required to register, call a condominium association registration clerk at 586-2643 and we'll help you sort it out.

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.

Mediation Case Summaries

From March 2017 through May 2017, the following condominium mediations were conducted pursuant to Hawai'i Revised Statutes § 514B-161, and subsidized by the Real Estate Commission. The Mediation Center of the Pacific conducted additional condominium mediations in the District Courts and mediation providers conducted community outreach in their respective communities.

Dispute Prevention and Resolution, Inc.

Owner vs. AOOU	Alleged violation of project documents regarding plumbing in a unit and unit access.	Mediated; no agreement.
Owner vs. AOOU	Issues surrounding non-payment of maintenance fees.	Mediated to agreement.
Owner vs. AOOU	Dispute over source of water damage to unit.	Mediated to agreement.
Owner vs. AOOU	Dispute concerning water intrusion and resulting mold.	Mediated; no agreement.

Maui Mediation Services

Owner vs. AOOU	Alleged violation of house rules regarding the installation of tile flooring.	Mediated; no agreement.
Owner vs. AOOU	Request by owner to treat condominium complex for termite infestation.	Parties reached agreement at initiation of mediation.

2017 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 14, 2017*
Wednesday, July 12, 2017
Wednesday, August 09, 2017
Wednesday, September 13, 2017
Wednesday, October 11, 2017
Wednesday, November 08, 2017
Wednesday, December 06, 2017

Friday, June 30, 2017
Friday, July 28, 2017
Friday, August 25, 2017
Friday, September 29, 2017
Friday, October 27, 2017
Wednesday, November 22, 2017
Friday, December 15, 2017

* The Meeting will be held at the West Hawaii Association of REALTORS®, 75-5995 Kuakini Hwy., #221, Kailua-Kona

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 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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