



Hawaii Real Estate Commission

CONDORAMA V

PRESENTED BY CAI HAWAII

A **Free** Education Program for Condominium Owners

Topics Include:

Non-judicial foreclosure

Covenant enforcement

Shorter and effective meetings

Selecting the right insurance



Saturday, April 13, 2019
Program: 9:00 a.m. to 10:30 a.m.
State Capitol Auditorium

CONDORAMA V

April 13, 2019

AGENDA

8:30 – 9:00 a.m.	Registration
9:00 – 9:05 a.m.	Welcome & Introductions
9:05 - 9:25 a.m.	Non-Judicial Foreclosures – recent decisions and efforts to remedy the problems created by the recent decision Melanie Oyama, Esq., Motooka Rosenberg Lau & Oyama
9:25 – 9:45 a.m.	Do's and Don'ts of Covenant Enforcement Paul A. Ireland Koftinow, Esq., Anderson Lahne & Fujisaki
9:45 – 10:05 a.m.	Shorter Effective Meetings – Common obstacles & how to overcome them Steve Glanstein
10:05 – 10:25 a.m.	Selecting the Right Insurance – Cheaper is not always better Sue Savio, Insurance Associates, Inc.
10:25 – 10:30 a.m.	Evaluation and Adjournment

This seminar or educational presentation is entirely or partly funded by funds from the Condominium Education Trust Fund (CETF), Real Estate Commission, Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs, State of Hawaii for condominium unit owners whose associations are registered with the Real Estate Commission

SPEAKERS

MELANIE OYAMA is a Partner in the firm of Motooka Rosenberg Lau & Oyama. She started at the firm as a legal assistant, and then was a collections and litigation paralegal for more than ten (10) years. Her practice focuses on representing homeowner associations. She has experience in delinquency collections, litigation, general matters and rendering opinions on house rules violations. She has served as Co-Chair for the CAI's annual Board leadership workshop known as ABCs since 2016. Ms. Oyama also handles conveyance matters for the firm. She is a graduate of the Arizona Summit School of Law, and has a BA in Justice Administration from Hawaii Pacific University.

PAUL A. IRELAND KOFTINOW is an associate with Anderson Lahne & Fujisaki LLP A Limited Liability Law Partnership. His practice is focused on representing community associations in covenant enforcement litigation, collections work, general management issues, contract negotiations, and developing association regulations and policies. He received his J.D. degree from William S. Richardson School of Law in 2013. Mr. Ireland Koftinow served as a Representative with the Student Bar Association at William S. Richardson.

STEVE GLANSTEIN, Professional Registered Parliamentarian, has been nationally certified as a Professional Registered Parliamentarian since 1984. He has served as parliamentarian or professional presiding officer for over 1,800 meetings since attaining registration. He has also provided written expert testimony and testified as an expert witness on parliamentary procedure in Hawaii. He has been an advocate for condominium and community associations in the Hawaii Legislature. He is a past president of CAI Hawaii. He is a recipient of CAI Hawaii's highest award, the Richard Gourley Award.

SUE SAVIO has been president and owner of Insurance Associates since 1975. Insurance Associates specializes in providing insurance services for Condominiums, Cooperatives, Homeowners Associations and similar developments. Insurance Associates today represents over 750 community associations throughout Hawaii. Ms. Savio has served as President of the Hawaii Independent Insurance Agents Association (HIIA), is President of Community Associations Institute (CAI) Hawaii, and has served on their board in different capacities since 2000. She was awarded the Gourley Award for distinguished service to CAI Hawaii. She currently serves on the boards of three condominium associations. You may reach her at (808) 526-9271 or by e-mail at sue@insuringhawaii.com.

MODERATOR

MILTON M. MOTOOKA, ESQ., a Partner in the firm of Motooka Rosenberg Lau & Oyama, has been practicing law in Hawaii for more than 40 years. His practice is devoted almost exclusively to representing homeowner associations. Mr. Motooka was the only attorney from Hawaii initially selected to become a member of the Charter Class of the College of Community Association Lawyers, comprised of attorneys who have distinguished themselves in the field of community association law and community service. He was awarded the Richard M. Gourley Distinguished Service Award in 1997 for his contribution to Hawaii's community association industry in law. He was one of the founders of CAI Hawaii. The firm currently represents more than 290 Condominiums, Cooperatives, and Community Associations statewide.

Association Nonjudicial Foreclosures

Melanie K. Oyama, Esq.
Motooka Rosenberg Lau & Oyama, LLC

A. Nonjudicial Foreclosures Under Part I of Chapter 667

1. Background of Hawaii Revised Statute (“HRS”) Chapter 667. In 2010, Chapter 667 had 2 parts:
 - a. Part I provided fewer consumer protections and could only be used if a mortgage contained a power of sale.
 - b. Part II contained more protections for the homeowner, such as reasonable time and opportunity to save the home from foreclosure, notice requirements, the nonjudicial foreclosure served as a full satisfaction of debt, and the conveyance document had to be signed by the homeowner.
2. Lawsuits regarding Nonjudicial Foreclosures Under **Part I** of Chapter 667:
 - a. Galima v. Association of Apartment Owners of Palm Court
 - b. Brown and Connelly v. Porter, et. al.
 - c. Malabe v. Association of Apartment Owners of Executive Center

B. Lawsuit regarding Nonjudicial Foreclosures Under **Part VI** of Chapter 667

1. Background of HRS Chapter 667. In June 2012 (Act 182 of 2012), Chapter 667 underwent significant changes and created Part VI: Association Alternate Power of Sale Foreclosure Process
 - a. Provided Associations with an alternate foreclosure method (HRS 667-91);

- b. Provided more protections for owners such as:
 - i. Notice requirements for the Notice of Default and Intent to Foreclose which provides the owner with 30 days to submit a reasonable payment plan as defined in HRS 667-92 and if a reasonable payment plan is requested, the Association “shall not reject a reasonable payment plan.”;
 - ii. Also provides an owner with 60 days to cure the default (pay in full);
 - iii. Requirements for the Public Notice of Public Sale, such as, posting the notice on the property (HRS 667-96) and provides the owner with time to cure the default no later than 3 business days before the auction date (HRS 667-97);
 - iv. Requirements for the Conveyance documents.
 - c. HRS 514B and HRS 421 both provided an additional layer of protection which provided that an Association may not use a nonjudicial foreclosure for delinquent balances that arose from fines, penalties, late fees or legal fees as this would require a judicial foreclosure.
- 2. Sakal v. Association of Apartment Owners of Hawaiian Monarch; Appealed from the Circuit Court of the First Circuit. Sakal filed a complaint seeking relief against the Association for Wrongful Foreclosure, among other counts of relief.
 - 3. Sakal argued that the Association did not have the authority to conduct a power of sale either by contract (the Declaration or Bylaws) or by statute and therefore, the Association conducted a wrongful foreclosure of his unit.
 - 4. In Sakal, the AOA Monarch argued “that the Bylaws provide the AOA with broad authority to enforce a lien against the unit/apartment of a delinquent owner, and that the available

remedies include nonjudicial power of sale foreclosure pursuant to HRS § 514A-90, HRS § 514B-146(a), or both.”

5. AOA Monarch Bylaws contained the following provision:
 - a. “The Board may file a claim of lien against the Apartment of such delinquent Owner Upon recordation of a duly executed original or copy of such claim of lien with Office of the Assistant Registrar of the Land Court of the State of Hawaii, the Board shall have all remedies provided in Section 514A-90, HRS.”
 - b. HRS 514A-90 provides, in part: “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 and in the name of the association of apartment owners; provided that no association of apartment owners may exercise the nonjudicial or power of sale remedies provided in chapter 667 to foreclose a lien against any apartment that arises solely from fines, penalties, legal fees, or late fees, and the foreclosure of any such lien shall be filed in court pursuant to part IA of chapter 667.”
 - c. HRS 514B-146(a) and 421J-10.5 provides the exact same language.
6. The Court’s review & conclusion:
 - a. The Court seemed to focus on the title of Chapter 667 which is the “Alternate Power of Sale Foreclosure PROCESS” which the Court concluded only provided the PROCESS in which to follow, it does not confer the power or authority to conduct a nonjudicial foreclosure.
 - b. “After an exhaustive review, we have concluded that over a number of years the Legislature has worked to craft workable, nonjudicial foreclosure procedures, available to associations as well as lenders, but at no point did the Legislature take up the

issue of whether to enact a blanket grant of powers of sale over all condominiumized properties in Hawaii. Accordingly, we conclude that a power of sale in favor of a foreclosing association must otherwise exist, in the association's bylaws or another enforceable agreement with its unit owners, in order for the association to avail itself of the nonjudicial power of sale foreclosure procedures set for in Hawaii Revised Statutes (HRS) chapter 667."

7. Example "power of sale" provisions:
 - a. "[T]he Board shall have all the remedies as provided in Section 514A-90 of the Hawaii revised Statutes, as amended, and as otherwise provided by law. Said remedies include, but are not limited to, foreclosure of said lien in a like manner as to the foreclosure of a mortgage of real property, including foreclosure under power of sale, as provided for in Chapter 667 of the Hawaii Revised Statutes."
 - b. "By suit or suits at law to enforce each such assessment obligation or in any other manner permitted by law, including nonjudicial or power of sale foreclosure procedures authorized by Chapter 667, Hawaii Revised Statutes, as that chapter may be amended from time to time."
 - c. "The lien of the Association may be foreclosed by action or by non-judicial or power of sale foreclosure procedures set forth in Chapter 667 of the Hawaii Revised Statutes, as amended."
8. The Sakal case is now the "law of the land".
9. What does this mean for Associations?
 - a. If the Association's project documents contain the necessary language allowing a nonjudicial foreclosure (see example language above), then nonjudicial foreclosure is an option that can be utilized in the collections process.
 - b. Regardless if the Association is a condominium or planned community association, if the Association's project documents

do NOT contain the necessary language, then the Board may want to consider amending the project documents to include the necessary language.

- c. Regardless if the Association is a condominium or planned community association, and if the Association's project documents do NOT contain the necessary language because the Board does not or cannot amend the project documents to include the necessary language, then nonjudicial foreclosure is not an option that can be utilized in the collections process.
10. Consequences to Associations that cannot utilize nonjudicial foreclosures
- a. Association will need to budget for an increase in legal fees if the only foreclosure option is a judicial foreclosure because a judicial foreclosure is substantially more expensive than a nonjudicial foreclosure.
 - b. Association will need to wait longer to recover monies owed because a judicial foreclosure takes twice as long (if not longer) than a nonjudicial foreclosure.
 - c. The Association as a whole, that is **all** the owners, will end up paying more in maintenance fees to cover the delinquency of the non-paying owners.
11. Pending legislation (SB551) provides additional protections for owners
- a. A nonjudicial foreclosure cannot be used against a unit owned by a person who is on active duty.
 - b. A nonjudicial foreclosure must be stayed (put on hold) during an agreed upon repayment plan or during the 60 days provided to cure the default (pay in full).

Do's and Don'ts of Covenant Enforcement

(A brief discussion of covenant enforcement issues)

*Paul A. Ireland Kofinow, Esq.**

For many condominium associations, the enforcement of covenants and house rules is bound to arise. Likewise, there may be instances where owners dispute covenant enforcement efforts and, in some cases, owners may raise serious challenges to an association's ability to obtain its legal remedies. The sections that follow summarize various defenses often raised by owners in response to covenant enforcement claims made by an association (or sometimes by another owner who is enforcing a covenant). Many of these challenges are easy to raise, can prolong litigation, and can exhaust the parties' resources. It is therefore important to be able to recognize situations where these challenges are viable - and where these challenges are frivolous. If these challenges are successful, an association enforcing a covenant is likely to incur significant costs (and the association may find itself unable to enforce the covenant). On the other hand, there are many cases where these defenses are frivolous, and cause a waste of resources.

Selective Enforcement: "The Association Has Singled Me Out!"

"Selective enforcement" is raised when an owner claims that there is a lack of "uniform enforcement" of the rules in the project. If there is no "consistent and uniform enforcement" of a covenant, it is more likely a court will find that there is selective enforcement and that the owner should be excused from compliance with the covenant. Owners raising this defense will often say that the association is harassing them, or that the association has singled them out.

Owners raising this defense often point to violations involving other properties, and claim that the association is not enforcing against those violations. However, just because there might be different types of violations elsewhere in the project, it does not necessarily follow that the association will be barred from enforcing a type of violation it regularly enforces. The question is whether a particular type of violation is being enforced regularly and systematically against others in the project.

Waiver and Estoppel: "The Association Didn't Enforce the Covenant in the Past"

Whether an owner should be excused from compliance because of long delay in enforcement will depend on the circumstances of each case.

Waiver is the intentional relinquishment of a known right. Waiver may arise where an association knowingly refrained from objecting to a violation and allowed the violation to continue. For owners to support an estoppel defense, they must show that there was an act or representation made by the association which they reasonably relied on to their own detriment. If the owners can show that their reliance on the association's representations was reasonable and that they were prejudiced, the association may be estopped from enforcing the covenant at issue.

Abandonment and Changed Conditions: "The Association Has Abandoned Enforcement of a Particular Covenant (or Violations in the Community Are so Numerous) That the Covenants Have Lost Their Value"

"Abandonment" is likely to arise after a long period of non-enforcement. For a party to support a defense of abandonment, they must prove that "the lot owners of a subdivision acquiesced in substantial and general violations of the covenant within the restricted area." See Cummings v. Roth, 121 Hawai'i 541, 221 P.3d 519 (2009).

The "changed conditions" defense arises where conditions in the whole neighborhood have changed so radically as to virtually destroy the essential purpose and objectives of the covenants. "Changed conditions" defenses may arise in situations where an owner seeks to add a second floor. Many associations have height restrictions in order to preserve ocean views, but have previously allowed some owners to build second floors beyond the height restriction. Later on, when another owner applies to build a second floor and their request is denied, they may claim that due to "changed conditions" the particular covenant is no longer

enforceable. In most cases, it is very difficult for an owner to prevail on a “changed conditions” defense. This is because it is very rare that a project will have changed so drastically that the “essential purpose of the covenant is destroyed.”

Lack of Notice: “*I never received notice of the violation*”

There are two types of notice when the enforceability of a restrictive covenant is concerned: actual notice and constructive notice. Actual notice is found to exist where the owner’s deed makes a specific reference to a restrictive covenant. See Lee v. Puamana Community Association, 109 Hawai‘i 561, 568, 128 P.3d 874, 881 (2006). Constructive notice is found to exist where an association’s governing documents are filed in a recording system. See Association of Apartment Owners of Kukui Plaza v. City and County of Honolulu, 7 Haw.App. 60, 72, 742 P.2d 974, 982 (1987).

Unlike an association’s Bylaws or Declaration, an association’s house rules are generally not recorded. Accordingly, when making amendments to an association’s rules, policies, and regulations, Board members and association managers should deliver a copy of the amended rules to owners to ensure notice is given.

Statute of Limitations and Laches: “*The association’s claims are time-barred*”

In Hawai‘i, the statute of limitations for claims arising out of a contract is six years. See HRS § 657-1. Since restrictive covenants are formed contractually, their enforcement may be limited to the six year statute of limitations. Courts generally find that the six years begins to run on the day the association “discovered” or had a reasonable opportunity to discover the violation.

However, the six year statute of limitations might not be applicable in all cases. The Hawai‘i Supreme Court has also “explained that the statute of limitations applies to legal causes of action, while **laches applies to actions requesting equitable relief.**” See Thomas v. Kidani, 126 Hawai‘i 125, 267 P.3d 1230 (2011). Since restrictive covenants are often enforced through the equitable remedy of an injunction, a Court may find that the defense of laches applies instead.

The defense of laches arises when there has been an unreasonable delay in enforcement that has prejudiced the owner. It should be noted that a “lapse of time alone does not constitute laches,” but a delay that is without some reasonable explanation and that has resulted in a disadvantage to the owner may support the defense of laches. See Pelosi v. Wailea Ranch Estates, 91 Hawai‘i 478, 491, 985 P.2d 1045, 1058 (1999).

Many violations are ongoing and continuous in nature, such that the violation is considered a “continuous nuisance.” If a violation is found to be a continuous nuisance, then a new cause of action arises each day the covenant violation persists. In any event, and when possible, association boards and managers should ensure that covenant enforcement claims are filed within six years after discovering a particular violation.

Conclusion

Many defenses raised in response to covenant and house rule violations will involve an association’s conduct. However, owner raising these defenses will find it difficult to prevail against an association that is regularly and uniformly enforcing its covenants. Defenses to covenant enforcement may be avoided by adopting and following comprehensive policies and procedures. If violations in a project have been rampant, the board should consider sending a letter to all owners notifying them that it is proceeding with enforcement actions in a uniform manner. The association should also be sending noncompliance notices regularly upon discovering violations. Forms are often helpful, but only to the extent that good record-keeping practices (taking notes, photographs, and sending follow-up letters) are also used in the event the association is required to show that its rules and covenants are regularly, uniformly, and fairly enforced. Additionally, since not every case is the same, well-managed associations are able to recognize when it is necessary to consult with legal, counsel and do so expeditiously.

**Paul A. Ireland Kofinow, Esq., is an associate with Anderson Lahne & Fujisaki LLP A Limited Liability Law Partnership. His practice is focused on the representation community associations in covenant enforcement litigation, collections, and general matters (including governance issues and development of policies and regulations). He has also been a speaker at several seminars on topics such as covenant enforcement and board members' duties. He has also testified before numerous committees of the Hawai‘i State Legislature regarding proposed legislation and issues related to community associations.*

Shorter Effective Meetings – Condorama V (April 13, 2019)

By Steve Glanstein, Professional Registered Parliamentarian

FIRST THREE RULES: Know your Job! Prepare for the Meeting! Do your Job!

Quick-notes regarding abbreviations (Most current editions as of March 31, 2019):

1. *Robert's Rules of Order Newly Revised*, 11th edition is abbreviated as "RONR".
2. *Robert's Rules of Order Newly Revised in Brief*, 2nd edition is abbreviated as "RIB".

Quick-note regarding handout: This handout contains operating practices recommended by RONR and RIB and operating practices based on the author's experiences at over 1,800 meetings starting in 1983 and continuing to the present.

1. **Officers: President**

a. Pre-Meeting Activities

Always have a:

- 1) copy of the applicable laws, group's bylaws, and other rules;
- 2) copy of the group's parliamentary authority, such as RONR;
- 3) list of all committees and their members; and
- 4) memorandum of the complete order of business for the meeting, ideally drawn up by or together with the secretary¹.

Supplemental Suggestions:

- 1) Have a copy of applicable legal opinions that may impact the meeting.
- 2) Work with committees and members to ensure motions are prepared properly.
- 3) Be available to assist members with organizational questions, e.g. minutes, parliamentary procedure, motions, correspondence, etc.
- 4) Prepare a meeting script.
- 5) Prepare to handle motions expected to occur at the meeting.

b. Meeting Activities

Robert's Rules recommend six steps for effective presiding:²

- 1) Memorize commonly used parliamentary procedure.
- 2) Make sure everybody knows what is being debated and voted on.
- 3) Learn how to conduct voting.
- 4) Know the steps for the meeting (agenda and handling business).
- 5) Learn how to handle a *Point of Order* and an *Appeal*.
- 6) Know more about parliamentary procedure than other members.

Supplemental Suggestions:

- 1) **Always show respect** to the organization and its members, regardless of personal feelings.
- 2) Parliamentary procedure is a **tool** of the organization and **not** its master.
- 3) Learn how to effectively use the principle of unanimous consent.
- 4) There is generally no discussion without a motion, unless the group's rules provide otherwise.³
- 5) The Chair should not debate.⁴

Successful Meeting Management

By Steve Glanstein, Professional Registered Parliamentarian

- 6) No explanation should accompany the making of a motion. This is why the maker of the motion has the right to speak first to the motion.
- 7) Make sure that proper decorum is maintained, i.e. debate should be focused on the issue and not on the personality of the other members.
- 8) Do not permit one or more individuals to verbally hold the meeting hostage with their individual issues. This is known as “parliamentary hostage-taking.”⁵

c. Post-Meeting Activities

Review the following:

- 1) Adopted motions.
- 2) Referrals to committees.
- 3) Draft minutes.
- 4) Correspondence.

Review and followup:

- 1) Evaluate the meeting dynamics and results.
- 2) Use the results to have better meetings.

2. **Officers: Vice-President**

Needs to be prepared to perform all of the functions of the President in the event of disability, absence, or resignation.

3. **Officers: Secretary**

a. Pre-Meeting Activities

Usually the secretary does the following:⁶

- 1) Sends all members a “call” in advance of each meeting with information about its time, date and location.⁷
- 2) Includes items of “previous notice” in the meeting notice.⁸
- 3) Prepares a memorandum for the presiding officer that lists each item that is scheduled to come up, in proper order.

Sometimes one or more of these duties may be delegated to another individual or a management company.

Bring to the meeting:⁹

- 1) the official membership roll;
- 2) a list of existing committees and their members;
- 3) the bylaws, including any other rules of the group; and
- 4) recent minutes.

b. Meeting Activities

If both the president and vice-president are absent, the secretary usually calls the meeting to order and conducts an election of a temporary chairman.¹⁰

Shorter Effective Meetings – Condorama V (April 13, 2019)

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The secretary reads the minutes to the group when directed by the chair.¹¹

During officers' reports, when it comes time for the Secretary's Report, the secretary reads any letters received.

Throughout the meeting, the secretary may have to read the text of motions, especially longer resolutions.

Both for the sake of the minutes and to assist the chair during the meeting, the exact wording of motions, especially main motions and amendments must be recorded.

If a vote is counted, the secretary may be called on to help the presiding officer do the count.¹²

If roll call votes are used or required, the secretary must be familiar with the procedure for conducting them, in which case the secretary has a key role.¹³

c. Post-Meeting Activities

The secretary should keep the official records of the group, including the bylaws, special rules of order and standing rules, minutes, membership roll, and committee reports.¹⁴ The secretary must provide the committees with necessary documents for their work.

The secretary usually is responsible for drafting the minutes of the meeting for approval at the next succeeding regular meeting. Minutes must be available for inspection by the members at reasonable times and places.

The secretary usually conducts the group's official correspondence, including officially notifying officers, committee members, and convention delegates of their election or appointment. The secretary may also need to certify by signature official acts, and sometimes, the credentials of delegates representing the group at a convention.¹⁵

Review and followup:

- 1) Evaluate the meeting dynamics.
- 2) Use the results to have better meetings.

4. Officers: Treasurer

a. Pre-Meeting Activities

The treasurer is usually the officer entrusted with custody of the organization's funds, which are spent only by authority of the society or as the bylaws provide.¹⁶

In some organizations, it is the treasurer's responsibility to bill and collect dues from members.

Successful Meeting Management

By Steve Glanstein, Professional Registered Parliamentarian

Sometimes one or more of these duties may be delegated to another individual or a management company.

b. Meeting Activities

At each meeting, the chair may ask for a “Treasurer’s Report,” which may consist of an oral statement of the cash balance on hand, or of this balance less any amounts owed.

No action (motion) of acceptance by the assembly is required—or proper—on a financial report of the treasurer. If it is an annual report, then it is usually referred to auditors. In that case, it is the auditors’ report which is adopted by the assembly.¹⁷

The treasurer’s financial report should therefore be prepared long enough in advance for the audit to be completed before the report is made at a meeting of the society.

At the end of the accounting year, an “annual report” is usually provided. This report may be referred to the auditors.

c. Post-Meeting Activities

The treasurer receives and disburses funds in accordance with the organization’s instructions.¹⁸

5. Members

a. Pre-Meeting Activities

Know the following:

- 1) The organization’s governing documents will control what type of action the organization may take. Know them well.
- 2) **Prepare for the meeting; read notice of meeting and meeting materials.**
- 3) Business is brought to the assembly by a main motion.
- 4) Frame motions correctly.
- 5) Prepare long or complicated motions **in advance** and in writing.
- 6) Committee reports that recommend action should finish with appropriate motions.
- 7) Debate should be well planned, concise, and considerate of time requirements.

b. Meeting Activities

RONR recommends familiarity with the following rules:¹⁹

- 1) Debatable motions vs. undebatable motions.²⁰
- 2) Preference in recognition.
- 3) Stick to the subject.
- 4) Debate issues, not personalities.
- 5) Avoid use of an individual’s name.
- 6) Debate speech limits.

Supplemental Suggestions:

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By Steve Glanstein, Professional Registered Parliamentarian

- 1) Prepare debate speech in writing for important motions.
- 2) Obtain support for your motion from other members.
- 3) If possible, have other members share the debate.
- 4) Use eye contact to gauge the audience's reaction.
- 5) Adjust debate if needed.
- 6) Plan second debate speech.

c. Post-Meeting Activities

Review and followup:

- 1) Evaluate the meeting dynamics and results.
- 2) Use the results to have better meetings.

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1. RIB pp. 141, 143-144; RONR, p. 353, lines 27-33; RONR p. 450, line 29 through p. 451, line 6.
 2. RIB pp. 136-141; President's Duties in RONR pp. 449-451
 3. RONR p. 34, lines 7-9. This rule may be relaxed in small boards and committees. Refer to RONR p. 488, lines 7-9.
 4. RONR p. 43, lines 23-27. This rule may be relaxed in small boards and committees. Refer RONR p. 488, lines 18-20.
 5. Parliamentary Hostage-Taking is a term invented by Steve Glanstein, PRP in 1999 to refer to a situation where the actions of one or more individuals prevent an organization from conducting their business in a reasonable manner.
 6. RIB p. 143; RONR p. 458, line 24 through p. 459, line 31.
 7. RONR p. 459, lines 18-23.
 8. RONR p. 123, line 35 through p. 124, line 6.
 9. RIB p. 145; RONR p. 459, lines 6-10, 13-17.
 10. RIB p. 145; RONR p. 453, lines 13-16; p. 459, lines 29-31.
 11. RIB p. 14.
 12. RIB p. 146; RONR p. 51, line 34 through p. 52, line 5.
 13. RONR p. 420, line 28 through p. 422, line 33.
 14. RIB p. 151; RONR p. 458, line 24 through p. 459, line 5.
 15. RONR p. 459, lines 11-12.
 16. RIB pp. 153; RONR p. 461, lines 1-26.
 17. RIB p. 153; RONR p. 479, lines 5-9.
 18. RIB p. 153; RONR p. 461, lines 5-8.
 19. RIB pp. 28-37.
 20. RONR p. 396, line 29 through p. 397, line 14; tinted pp. 6-29.

Insurance Company

Quality & Ratings

Presented by:
Surita Savio, President
Insurance Associates, Inc.
April, 2019



AM Best - Rating Service

- AM Best is a global credit rating agency with focus on the insurance industry.
- Best's Ratings, which are issued through A.M. Best Rating Services, Inc., are a recognized indicator of insurer financial strength and ***creditworthiness***.



AM Best - Source of Insurance Data

- AM Best is also a source of insurance data and market intelligence
 - Covers thousands of companies worldwide
 - Uses analytical resources and news coverage
 - Provides a critical perspective for informed business decisions.



How it Works

- The company uses a standard grading scale to provide consumers with information about the stability and long term financial outlook of financial companies.
- At a glance, someone who is comparing prices of different insurance companies can know whether they are dealing with a company that is in dire straits, is making a comeback from a financial blow, or is riding on top of the heap.

Grading Scale

A++ and A+	Superior	Companies with either of these ratings are among the top rated in the industry.
A and A-	Excellent	These companies show a high degree of stability and a positive long term outlook.
B++ and B+	Good	These companies are stable, but have room for improvement. The long term outlook may be unsure.



Grading Scale

E

Under regulatory
supervision

Indicates a company which is being investigated or administered by outside agency.

F

In liquidation

Indicates a company that is being liquidated to pay debts. An F-rated company is probably not allowed to sell insurance products, and would not be a wise investment



Financial Ratings

- To enhance the usefulness of ratings, A.M. Best assigns each rated (A++ through D) insurance company a **Financial Size Category (FSC)**.
- The FSC is based on adjusted policyholders' surplus (PHS) and is designed to provide a convenient indicator of the size of a company in terms of its statutory surplus and related accounts.

Financial Size Category

•	<u>Class</u>	<u>Adj. PHS (\$ Millions)</u>
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•	I	Less than 1
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•	II	1 to 2
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•	III	2 to 5
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•	IV	5 to 10
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•	V	10 to 25
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•	VI	25 to 50
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•	VII	50 to 100
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•	VIII	100 to 250
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Financial Size Category

• <u>Class</u>	<u>Adj. PHS (\$ Millions)</u>
• IX	250 to 500
• X	500 to 750
• XI	750 to 1,000
• XII	1,000 to 1,250
• XIII	1,250 to 1,500
• XIV	1,500 to 2,000
• XV	2,000 or greater

PHS - Policyholder Surplus

- *Policyholder Surplus* is a line on an insurance company's balance sheet.
- It is the assets of an insurance company minus liabilities.
 - It can also be referred to a shareholders' equity.
- Policyholder surplus is one indicator of an insurance company's financial health.
- It gives an insurance company another source of funds, in addition to its reserves and reinsurance, if it needs to pay a higher than expected amount of claims.



Major Condo Insurers in Hawaii

- First Insurance
- Fireman's Fund - *Allianz*
- Lexington
- Lloyds of London
- Dongbu or DB Insurance

Policyholder Surplus

	Assets	Liabilities	Surplus
Lexington Insurance Company	\$21,180,122,142	\$15,738,267,712	\$5,441,854,430
Allianz Global US (Fireman's Fund)	\$7,349,679,897	\$5,499,096,34	\$1,850,583,549
First Insurance Company of HI	\$661,602,435	\$380,059,570	\$281,542,85
DB Ins (US Branch) <i>Dongbu</i>	\$283,371,041	\$204,556,326	\$78,814,715



Claims Practices for Condos

- Timely response
- Commits to finding ways to cover
- Named insureds do not have to sue to get their property claims paid



In Conclusion

- *Quality* of insurers is related to...
- AM Best Rating
- Financial Size
- Policyholder Surplus
- Claim Service



This free educational presentation was brought to you by the Hawaii Real Estate Commission (Commission) and the Community Associations Institute Hawaii Chapter (CAI Hawaii).

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