

# Hawaii Condominium Bulletin

## Condominium: Access to Condominium Documents

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### Access to Condominium Documents

Condominium law provides for owner access to a wide variety of association documents. Owners, boards, and managing agents should be aware of the requirements in §§514B-152, 153, 154, and 154.5, HRS – a real laundry list of what records must be maintained, available, or provided.

### Association Records

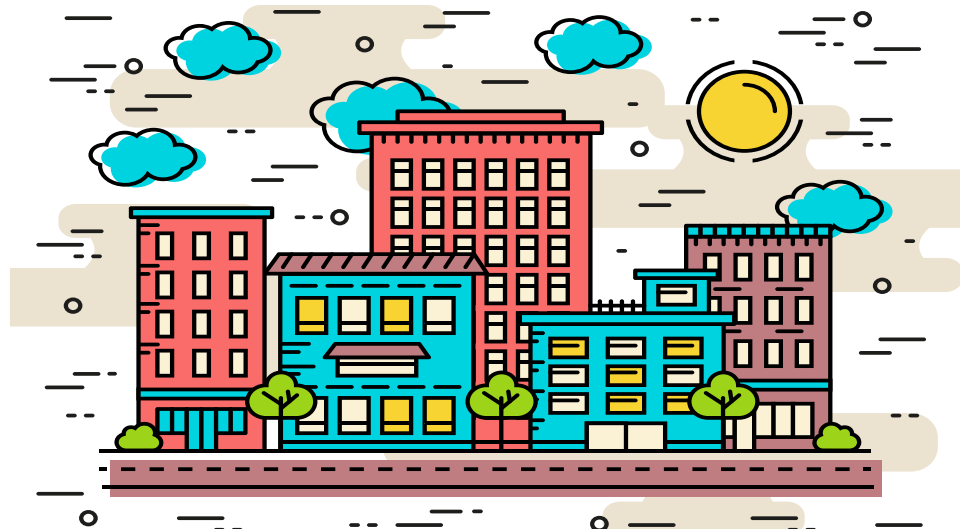
An association must keep financial and other records which are sufficiently detailed to enable it to comply with requests for information and disclosures related to unit resales. Association records or copies thereof must be maintained on the island on which the project is located.

### Association Records Which Must be Maintained

As association must maintain an accurate copy of the declaration, bylaws, house rules and master lease (if any), sample original conveyance document, and public reports and amendments. Detailed and accurate records of common expense receipts and expenditures and other expenses must also be maintained and the written managing contract; in addition, an accurate and current list of owners and their current (mailing) addresses a copy of which must be available at cost to any owner as provided in the governing documents and subject to an executed affidavit regarding how the list will be used. The list may only be used by an owner and for the purpose of soliciting votes or proxies or providing information to owners about association matters.

### Association Records Which Must be Made Available

The association's most current financial statement must be provided to an owner at no cost or on 24-hour loan. The board approved meeting minutes for the prior and current year must be available or transmitted upon request within 15 days. No cost can be charged without notice. Financial documents, insurance policies, contracts, invoices, and election materials must also be available for examination for which an affidavit may be required and may incur costs.



Funded through  
the Condominium  
Education Trust Fund

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

# Message from the Chair

Welcome to the year of the ox!

The new year brings with it a new legislative session as well. The “third Wednesday in January”, the constitutionally mandated opening day of the Hawaii legislature was January 20, 2021, this year. While the State Capitol Building remains closed to the public due to the corona virus, interested persons may still submit written testimony, testify according to the procedures set forth by the Legislature this year (check with the hearing committee to confirm procedures for testifying), and view the hearings online.

We have lots of education news to report! On January 28, 2021, the first online Condorama was presented. Two hundred and four persons logged on at noon to listen to four speakers discuss aspects of condominium governance; an additional 60 persons registered and received a recording of the event to view at their convenience. Look inside this bulletin for a link to the handouts and the YouTube video of the sessions. On April 8, 2021, CAI Hawaii is hosting a webinar on the current fire and life safety evaluations and sprinkler update. You can register for this webinar here <https://www.caihawaii.org/>.

Take a look at REBs new educational videos at the link here <https://cca.hawaii.gov/reb/hawaii-condo-living-guide/>. They're small bites of important governance information that all owners should know. Four videos are posted currently, with more planned for posting shortly. Condominium association biennial registration starts up on April 1, 2021. Make sure that your condo association of 6 or more units is registered to take advantage of subsidized mediation, seminars and future Condoramas!

In this edition of our bulletin you'll find information on the above items as well as our quarterly mediation report and a few proposed legislative bills the Real Estate Commission is following. Our schedule of meetings for 2021 is included so that you can plan to virtually attend one.

Lastly, to keep up with the latest condo issues, legislative news and educational events for the condo community, be sure to subscribe to the Commission's quarterly email subscription service, by signing up here, <http://cca.hawaii.gov/reb/subscribe>.

Until next time, keep up with condominium education virtually and stay safe.

Laurie A. Lee  
Chair, Condominium Review Committee



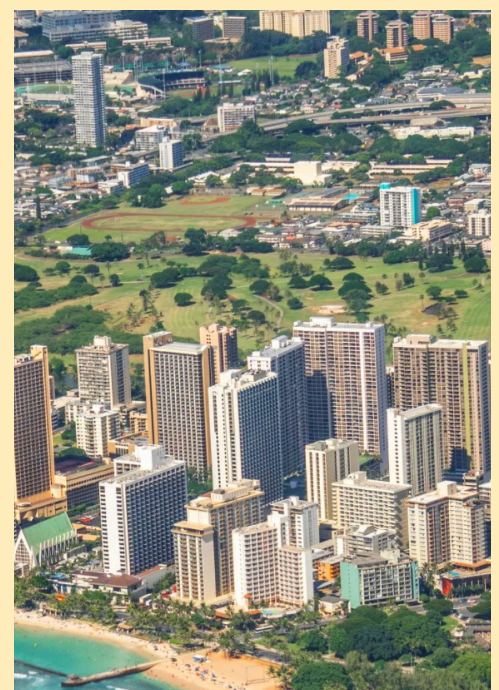
## CONDORAMA

On January 28, 2021, Condorama VII was held virtually from noon to 1:30. Two-hundred and four persons linked in to watch and listen to four speakers and a moderator discuss issues concerning reserves, construction contracts, insurance for contractors, and avoiding meeting blunders; an additional 60 persons who were unable to go online at the scheduled time registered to receive the recording. This was the first Condorama to be held virtually and as is the practice, the event was held at no cost. The attendees included condo owners (including board members), attorneys and employees of property management companies. Condorama VII was presented by the Real Estate Commission and CAI Hawaii.

Jonathan Billings, Lance Fujisaki, Esq., Joshua German and Steve Glanstein were the featured speakers, with Milton Motooka, Esq., moderating. The video of Condorama VII as well as the handouts for the sessions are available below and at the Real Estate Branch website.

Here's the link to watch the video of the Condorama: [https://www.youtube.com/playlist?list=PLpZqXX1YgrzBxwXUzSpOK0A1OVVJ\\_df6b](https://www.youtube.com/playlist?list=PLpZqXX1YgrzBxwXUzSpOK0A1OVVJ_df6b)

If you would like to take a look at the handouts, you may do so here: <http://cca.hawaii.gov/reb/educational-video-seminars/>



## Association Documents Which Must be Provided

Other documents which must be available to owners and their agents include managing contracts, association minutes, on-site managing contract (redacted for personal information) including job description and compensation, election electronic voting audit (§514B-121(b)), and financial information subject to specified time limits, affidavit, and cost requirements (duplication cannot exceed \$1 per standard page) depending upon the requested document. The information may be made available electronically or cost-free download.

## How to Request Documents

Owner requests should be made to the managing agent, resident manager, board, or association's representative. It is best practice to make a written request and keep a record. As an alternative, the Regulated Industries Complaints Office ("RICO") of DCCA has an online form to request records, as well as sample affidavits and response forms. RICO also accepts complaints from owners who are refused access to association documents which are required to be made available. Forms are available on-line at: <https://cca.hawaii.gov/rico/got-records/>. Complaints may also be resolved through Commission-subsidized alternative dispute resolution: <http://cca.hawaii.gov/reb/files/2015/06/mediate.0615.pdf>

## Learn more about the Real Estate Branch (REB) of the Department of Commerce and Consumer Affairs

Check out the REB website [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec) for more information and some frequently asked questions.

- What services does the REB provide to the condominium community?
- What laws apply to my condominium association?
- How do I obtain a real estate license?
- Where do I file a complaint against my association?
- How do I get a copy of my association documents?
- What are the laws and rules for real estate licensees?

## Real Estate Branch - About Us

The Real Estate Branch, as part of the Professional and Vocational Licensing Division, assists the Real Estate Commission in carrying out its responsibility for the education, licensure and discipline of real estate licensees; registration of condominium projects, condominium associations, condominium managing agents, and condominium hotel operators; and intervening in court cases involving the real estate recovery fund.

Subscribe - Receive emails on relevant condominium educational materials. Sign up now at <http://cca.hawaii.gov/reb/subscribe/>

Contact Us - Condominium Hotline: 808-586-2644 Hours: 9:00 AM – 3:00 PM Email: [hirec@dcca.hawaii.gov](mailto:hirec@dcca.hawaii.gov) [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec)

This is for informational purposes only and not intended for the purpose of providing legal advice. Information provided is subject to change.

# Condominium Association Registration

The 2021-2023 biennial condominium association registration period is upon us. The registration site goes "live" on April 1, 2021 and the new biennial registration period begins July 1, 2021. The site will not be available after July 1, 2021, and all registrations after that period will be delinquent and subject to penalties, only be available by hard copy, and must be requested through the Real Estate Branch office.

**WHO MUST REGISTER:** HRS § 514B-103 requires registration by condominium projects or associations having more than five units. Condominium projects must register within 30 days of the Association's first meeting (HRS § 514B-103 (a) (2)). If the Association has not held its first meeting and at least one year has passed since recordation of the purchase of the first unit, then the developer, developer's affiliate, or the managing agent is required to register the Association of Unit Owners (AOUO) but need not obtain a fidelity bond (HRS § 514B-103 (a) (2)).

In addition to penalty fees, the failure to register as required by law will result in the lack of legal standing to maintain any action or proceeding in the courts of this State until the AOUO properly registers, pursuant to HRS § 514B-103 (b).

Go to the Real Estate Branch website, [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec) for the link to the registration site.

***The deadline for a completed registration is Monday, May 31, 2021, or Monday May 3, 2021, if submitting an application for fidelity bond exemption.***

# Ask the Condominium Specialist

**Q:** I've requested a copy of my association's most recent financial statement and have been asked to provide an affidavit affirming that I am making this request in good faith for the protection of the association and its members. Must I provide an affidavit to receive a copy of the financial statement?

**A:** In this edition of the bulletin we feature one of our educational brochures on the topic of document accessibility for condo owners. Be sure to look over that as well when considering your situation. Numerous documents and records are maintained by condominium associations and differing legal requirements may be in place for their provision to requestors.

Specifically, regarding obtaining a copy of a recent financial statement, HRS § 514B-154.5 (a) (7) provides that it shall be provided to you at no cost or on loan for 24 hours at a convenient location designated by the board. HRS § 514B-154.5 (a) (10) (A) and (B) also allows a board to require an affidavit prior to receiving the financial statement and for owners to pay for administrative costs associated with producing the statement in excess of eight hours per year (if a unit owner requests documents on January 1 of the year and takes up eight hours of administrative time, every other requestor pays for the rest of the year after that).

**Q:** Does the law give certain individual unit owners the right to make decisions within their association based upon their percentage ownership interest without input from other owners?

**A:** The condominium law does not provide for association decisions to be made unilaterally by owners. Condominium associations are based upon the principle of majority rule by all owners. A unit owner's voting power is based upon the common interest ownership held by the owner; the common interest ownership is attached to each unit and is described in the condominium declaration. You should consult with a condominium association attorney should questions arise about an owners' common interest ownership and related voting power.

*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 your situation.*



# Mediation Case Summaries

From December 2020, through February 2021, the following condominium mediations or arbitrations were conducted pursuant to Hawai'i Revised Statutes § 514B-161 and subsidized by the Real Estate Commission for registered condominium associations. The Mediation Center of the Pacific conducted additional condominium mediations in the District Courts and mediation providers conducted community outreach in their respective communities as well.

## Mediation Center of the Pacific, Inc.

Owner vs. AOOU	Owner alleged violation of the condo bylaws and house rules by AOOU regarding maintenance fees and fines incurred.	Owner withdrew complaint.
Owner vs. AOOU	Owner alleged board member in violation of house rules regarding maintenance of property.	Owner withdrew complaint.

## Kaua'i Economic Opportunity, Inc.

Owner vs. AOOU	Owner disputed fine for allegedly interfering with work of contracted landscapers working the common areas.	Mediated to agreement.
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## Dispute Prevention and Resolution, Inc.

Owner vs. AOOU	Owners allege AOOU failed to properly interpret project documents relating to maintenance of exterior fencing.	Mediated to agreement.
Owner vs. AOOU	Owners challenged the validity of a special election notice and the use of certain proxies.	Mediated; no agreement.
Owner vs. AOOU	Owner made improvements to unit based upon board approval which was later withdrawn. Owner alleges board misinterpreted the declaration regarding the improvements.	Mediated; no agreement.
Owner vs. AOOU	Owner objected to fines imposed by the association.	Mediated to agreement.
Owner vs. AOOU	AOOU claimed owner did not follow notice protocol for guests on the property.	Mediated; discussion ongoing.
Owner vs. AOOU	Owners allege board violating their fiduciary duties.	Mediated to agreement.
AOOU vs. Owner	Dispute over whether a boat slip was a common element and governed by the House Rules.	Mediated; no agreement.

# Legislative Update

While the legislature has reduced the number of bills it has introduced this year due to the pandemic and the resulting economic situation, the Real Estate Branch is following a number of bills at this year's legislative session relevant to condominiums.

House Bill ("HB") 166, HB503, HB599 and HB677 are proposals to allow condo associations to continue the business of meeting during the current pandemic or other emergencies without specific permission in the project documents. A few associations were caught off-guard during the pandemic when it came time to meet; while some associations were able to meet remotely because of permitting language in their project documents, others had to postpone or adjourn meetings due to the lack of consent in their project documents to meet virtually.

On the Senate side, Senate Bill ("SB") 235 and SB236 both specify that condominium association meetings may be conducted by means of Internet, teleconference, or other electronic transmission technology and authorize electronic meetings and electronic or machine voting during any period in which a state of emergency is declared.

Subscribe to REB's quarterly email service here <http://cca.hawaii.gov/reb/subscribe> to keep up with the status of condo bills being considered by the legislature.

# 2021 Real Estate Commission Meeting Schedule

## Real Estate Commission – 9:00 a.m.

Thursday, March 25, 2021

Friday, April 23, 2021

Friday, May 28, 2021

Friday, June 25, 2021

Friday, July 23, 2021

Friday, August 27, 2021

Friday, September 24, 2021

Friday, October 22, 2021

Friday, November 19, 2021

Friday, December 17, 2021

Until further notice, Laws & Rules Review Committee, Condominium Review Committee, and Education Review Committee Meeting items will be discussed at Real Estate Commission Meetings.

Real Estate Commission Meetings will be held online via the Zoom platform until the Department resumes in-person meetings. Thereafter, all meetings will be held in the Queen Liliuokalani Conference Room of the King Kalakaua Building, 335 Merchant Street, First Floor.

Meeting dates, locations and times are subject to change without notice. Please visit the Commission's website at [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec) or call the Real Estate Commission Office at 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 586- 2643 to submit your request.

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