

Hawaii Condominium Bulletin

H06 & H04 Homeowner's Policies

by Shawn Meador

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What are they and why do I need one? How does my policy protect me? Who is responsible to fix damages to my unit? We will try and explore these questions and provide insight on why your Homeowner's Association or Landlord are more and more frequently requiring you to obtain a policy.

First, let's look at what these two types of policies are for. HO6 policies provide homeowner's coverage for the owner of an apartment or condominium unit, while HO4 policies provide coverage for a tenant or renter. Both types of policies provide coverages for both Personal Liability and Property, but regarding Property the HO6's focus is protecting the unit owner's assets and personal belongings as well as the unit itself, while the HO4's focus is covering the tenant's personal belongings, but not the unit owner's assets.

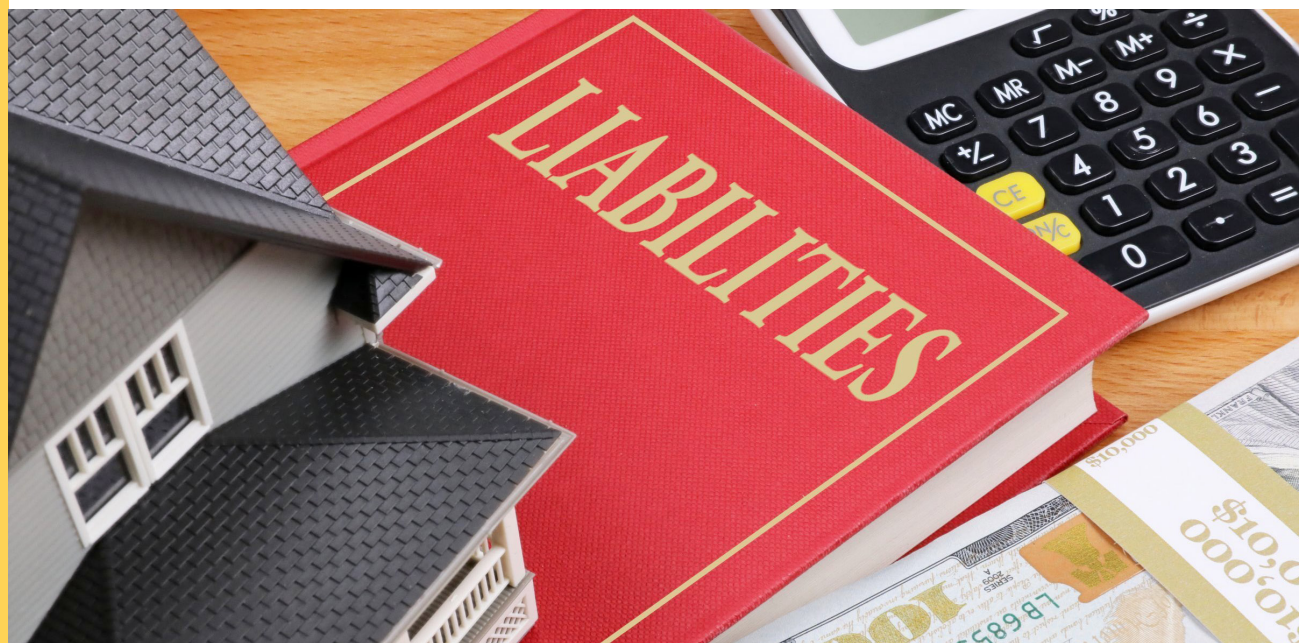
Today, most Homeowner Associations require each unit owner obtain an HO6 policy. These policies should include Coverage A (Dwelling), Coverage C (Personal Property), Coverage D (Loss of Use), Coverage E (Personal Liability), and Loss Assessment, coverage. Associations are trying to ensure that each unit owner has at a minimum enough coverage to pay for the Association's Property Insurance Deductibles and maintain a certain level of Liability protection should an event that stems from a particular unit causes Property Damage to common areas or adjacent units in the building.

For the same reason, landlords (unit owners that rent their unit out) should also require that their tenants obtain HO4 policies to provide coverage for Liability should the tenant cause a toilet to overflow or forget to turn off a sink. HO4 policies can provide valuable coverage for tenants' belongings should they get damaged during a loss as the tenant cannot turn to the unit owner's policy to replace the tenant's belongings. Both the HO6 and the HO4 policies should provide Loss of Use coverage which can help the tenant if they need to move out and find another place to live while the unit is repaired or can help the unit owner by replacing the loss of rental income if the loss forces their tenant out of the unit.

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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 are pleased to welcome John Love as the new chair of the Condominium Review Committee. Commissioner Love is a public member who was appointed to the Commission in 2018. He is a partner at the Cades-Schutte law firm in Honolulu. His areas of practice include residential, resort and commercial real estate development and financing matters. Commissioner Love is also an “enthusiastic member of the Oahu Civic Orchestra”! We congratulate him on his advancement to chair of the CRC and look forward to his contributions to the condominium community. We also bid aloha and mahalo nui to the previous chair of the CRC, Commissioner Laurie Lee, whose term on the Commission has ended. We wish her all the best!

Greetings to all,

Welcome to the September issue of our Condominium Bulletin. I am pleased to take over as chair of the Commission’s Condominium Review Committee and look forward to working alongside the Hawaii condominium community.

Mark your calendars for a free upcoming educational event presented by the Commission with CAI Hawaii. The date is Saturday, **October 23, 2021**. The event, Fundamentals of Successfully Operating an Association, will run from 9:00 am to noon, and cover six areas vital to operating a condominium association. Take a look at the Commission’s website for more information on the topics covered and the speakers. You can register for this event at CAI Hawaii’s website, www.caihawaii.org.

Learn about HO6 and HO4 homeowner insurance policies in this issue of the bulletin. An insurance agent with 20 years’ experience explains the basics for condominium owners. Also inside Ask the Condo Specialist offers advice and resources when considering the purchase of a condominium and answers the question about what happens to the reserve fund if an association removes itself from the condominium property regime.

Meet our 3 new commissioners in this issue. We welcome P. Denise La Costa, Jennifer Andrews and Audrey Abe to the Commission.

We are proud to report that the Real Estate Branch has been awarded this year’s ARELLO (the Association of Real Estate License Law Officials) Education Award in the category of Consumer Education Program/Course for its series of condominium educational videos. There is now a total of 15 videos that you can view! Congratulations to the condominium specialists and the video production company for putting together an award-winning set of informational videos for our condo owners! Here’s the link to the videos <https://cca.hawaii.gov/reb/hawaii-condo-living-guide/>.

To keep up with the latest condo issues, legislative news and educational events for the condo community, sign up for the Commission’s quarterly email subscription service. Get it at the link here, <http://cca.hawaii.gov/reb/subscribe>.

All are welcome to attend the monthly Real Estate Commission meetings which are held on Zoom. You’ll find a calendar of Commission meetings for the remainder of this year inside. Stay safe everyone, and thank you for taking the time to read our Condominium Bulletin,

John R. Love
Chair, Condominium Review Committee



HO6 & HO4 Homeowner's Policies (cont. from page 1)

HO6 policies are an essential component in dealing with claims. While Association By Laws and Declarations can vary, there are some similarities. Most Association Property policies provide primary protection for the Association's Property & Assets subject to the policy deductibles. They are designed to restore the damaged property back to as-built original quality. Depending on the facts of a claim, the unit owner's HO6 policy under Coverage A Dwelling may respond up to the covered limit, and often associations now ask unit owners to set their Coverage A limit to meet or exceed the Association's deductible. Once the Association's deductible is paid by the HO6, the Association's policy then starts to respond and will pay the difference of the claim. But if the unit owner does not carry adequate Coverage A limits to cover the Association's deductible the unit owner may have to pay for that gap themselves.

An important point to remember is that the Association's policy will only pay to restore damages back to original quality. Even if the unit has been upgraded since original construction the Association's policy will only cover the cost to rebuild the unit to its original construction and the unit owner will be responsible for the additional costs to restore any upgrades and renovations done to the unit over the years. Upgrades can include cabinets, countertops, permanently mounted window coverings, upgraded flooring, or other items that did not originally come with the unit. It is very important you discuss these items with your insurance agent to ensure you are obtaining the proper coverage for your situation.

HO6 policies also provide valuable protection for your personal belongings. After a terrible fire you will want to try and get back to living your life as quickly and as easily as you can. At that time, you will look to your HO6 policy to not only repair your unit back to a livable state, but you will also want coverage for the cost of replacing all your possessions and belongings that the fire robbed you of. If your unit has a mortgage and a fire forces you out, you now have an additional cost to rent your own temporary residence while still paying your monthly mortgage. If it's a rental unit and the tenant leaves, you no longer have rental income coming in, but you will still need to make your mortgage payments. Loss of Use coverage can be the difference between repairing and keeping your unit or being forced to sell your unit at a distressed price. Loss Assessment is another coverage available under the HO6 policy as a sudden unexpected assessment can be extremely difficult to financially afford if you have a fixed income or do not have significant savings or a rainy-day fund readily available.

At the end of the day insurance is meant to provide you peace of mind knowing you have a policy you can turn to after a claim to help you recover and get back to living your life. If everyone properly covers their unit then whenever a claim pops up there will be a way to cover the claim, fix the damages, and get back to normal as quickly as possible. The Association's coverage protects the building as well as everyone's liability exposure tied to the location, while each unit owner covers their own unit interior, their belongings, and a small share of the building as well. In this way, the Association board and all unit owners work together to protect the group's shared asset, the building itself.

Shawn Meador is an insurance agent at Noguchi & Associates, Inc. who has been in the business of insurance for 20 years. This article is reprinted with permission from the CAI Hawaii April 2021 newsletter.

We Welcome New Commissioners!



Interim commissioner P. Denise La Costa, Maui commissioner, was confirmed on March 22, 2021. Commissioner La Costa's term is March 22, 2021 – June 30, 2024. She will serve as the Vice Chair of the Condominium Review Committee. She is the Principal Broker of La Costa Realty.



Jennifer Andrews is an Oahu commissioner. She is a broker-in-charge for EXP Realty LLC. She has been a broker since 2005. She received a BA of Fine Arts from the University of Hawaii at Manoa. Commissioner Andrews' term is July 1, 2021 – June 30, 2025.



Audrey Abe is an Oahu Commissioner. She is licensed in Hawaii as a Certified Public Accountant, a Certified General Appraiser, and a real estate broker associated with Harry Z. Kiyabu Realty, LLC. She received an MBA from the University of Hawaii at Manoa. Commissioner Abe's term is July 1, 2021 – June 30, 2025.

Ask the Condominium Specialist

Q: I am thinking of purchasing a condominium. What things should I look for when considering the available units on the market besides affordability?

A: The high cost of single-family housing in Hawaii certainly makes the purchase of a condominium unit seem reasonable. In addition, the recent incident in Florida of the collapsed condominium building has highlighted the importance of carefully considering the physical and financial strength of an association before purchasing a unit.

Before you purchase a condominium unit, do some homework. Start with the Real Estate Branch's website and look at the brochures and videos dealing with purchasing a condo and reserve funding. You can do that here, <http://cca.hawaii.gov/reb/resources-for-condominium-owners/>. You'll find a reserves brochure at the *Budgeting, Financing and Reserves* link, "*Budgeting and Reserve Funding*" that was revised in 2019, and information for prospective purchasers at the Prospective Buyers and Owner Occupants link. Every brochure and video for prospective purchasers listed in that link should be read and viewed by persons considering the purchase of a condominium unit.

Before you buy a unit, read the association's declaration, bylaws and house rules to familiarize yourself with the rules of the community. Ask to see a copy of the most recent budget. Has an audit been conducted recently? Does the association have a reserves account? Has the reserve study been updated recently? What percentage of anticipated needed reserves has been set aside? Have there been recent special assessments, in addition to the monthly maintenance fee? Is there a planned special assessment coming up? The financial strength of an association should be a critical consideration when thinking about buying. Once you make a purchase, your options become limited if an association gets into financial trouble.

In terms of the building's structural integrity, has it been evaluated by an engineer? If so, what were the results of the evaluation? Ask for it and read it. If no inspection has been done, is one needed? What kind of insurance does the association have, and for how much? Review materials to determine what is being done to protect owners' health and safety during the pandemic in addition to protecting the owners' investment. Ask the real estate licensee representing you in the purchase to obtain all materials for your review.

Current owners can take the same care and interest in the maintenance of a building as well. Stay involved in the life and issues of the community. Know your rights as well as your responsibilities as an owner. Read your documents. Attend meetings and ask questions. Pay your maintenance fees. Agree to fund reserves for the maintenance and repair of major components. Participate in free online educational events sponsored by the Real Estate Branch; watch one of the REBs videos. Take advantage of the free educational materials at the REB and CAI Hawaii website, www.caihawaii.org and its national organization, www.caionline.org.

Q: If a property gets removed from the condominium property regime and is no longer a condominium association, what happens to the reserve funds that had been set aside by the owners for future maintenance or repairs?

A: Look for a "Condemnation" paragraph in your association's declaration. Hopefully it was well drafted and will include a clause addressing reimbursing owners' share of the reserve proceeds in the event of termination of the condominium property regime. If there is no such clause, consult with an attorney familiar with the Hawaii condominium law.

For an updated copy of the declaration and any amendments, visit the State Bureau of Conveyances at <https://dlnr.hawaii.gov/boc/>

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 June 2021 through August 2021, the following condominium mediations or arbitrations were conducted pursuant to Hawai'i Revised Statutes §§ 514B-161 and 514B-162.5 and subsidized by the Real Estate Commission for registered condominium associations. The Mediation Center of the Pacific conducted additional condominium mediations through the District Courts while mediation providers conducted community outreach in their respective communities.

The Mediation Center of the Pacific, Inc.

Owner vs. AOOU	Dispute regarding interpretation of bylaws and house rules relating to accommodations. Parties decide to settle outside of mediation.	
Owner vs. AOOU	Dispute over issues regarding unit renovations and permits.	Mediated to agreement.
Owner vs. AOOU	Dispute over interpretation of bylaws and house rules regarding renovations and property damage.	Mediated; no agreement.

Dispute Prevention and Resolution, Inc.

AOOU vs. Owner	Owner alleged breach of fiduciary duty by board in eliminating cable service and in creating budget.	Mediated to agreement.
Owner vs. AOOU	Dispute over whether renovations made to a unit had been approved by the board.	Mediated to agreement.
Owner vs. AOOU	Dispute over water leakage into owner's unit and responsibility repairs.	Mediated; no agreement.
Owner vs. AOOU	Complaint about the upstairs unit; alleges that the board did not respond. While mediation has concluded, parties continue to work towards a complete agreement.	
AOOU vs. Owner	Issue over whether a renovation to the unit was allowed by the project documents.	Mediated to agreement.
AOOU vs. Owner	Issue of whether a renovation had been approved, and if not, who would pay for removal of renovation.	Mediated to agreement.
Owner vs. AOOU	Dispute over (1) whether reimbursement was owed to unit owners for certain attorneys' fees and (2) the questioned sale of a generator.	Mediated; no agreement.
Owner vs. AOOU	Dispute over leak and demand for reimbursement of expenses incurred to repair the leak.	Mediated to agreement.
Owner vs. AOOU	Owner alleged self-dealing and conflicts of interest of board members.	Mediated; no agreement.
Owner vs. AOOU	Dispute over interpretation and enforcement of governing documents in relation to water damage to owner's unit. The parties continue to attempt settlement subsequent to the mediation.	

Lou Chang

Owner vs. AOOU	Owners alleged that board and managing agent failed to perform duties per declaration and by-laws after major fire damage.	Mediated; no agreement.
Owner vs. AOOU	Owners alleged conflict of interest by board president, illegal election of association directors and misuse of common areas.	Mediated to agreement.
Owner vs. AOOU	Owner alleged board failure to address problems related to use of common areas, insurance and lack of communication to unit owners.	Mediated to agreement.

2021 Real Estate Commission Meeting Schedule

Real Estate Commission – 9:00 a.m.

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 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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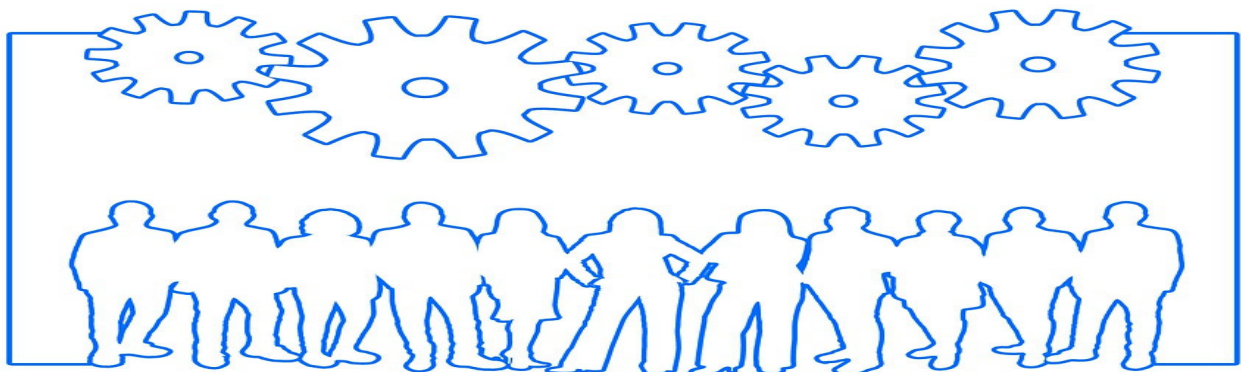
Hawaii Real Estate Commission

Fundamentals of Successfully Operating an Association

PRESENTED BY CAI HAWAII

A **Free** Education Program for Condominium Owners

Topics Include: Association Finances, Contracting, Reducing Board Liability, Do's and Don'ts of Effective Rule Making, Association Insurance, and Processing Unit Modifications



Saturday, October 23, 2021
Program: 9:00 a.m. to 12:00 p.m.
Via Webinar

The seminar will be conducted via Webinar, with the link to the webinar sent after online registration at www.caihawaii.org. Registration available prior to start of event.

Visit www.cca.hawaii.gov/reb/condogov for more information

This webinar or educational presentation is entirely 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. Real Estate Commission may be reached at (808) 586-2644, 7:45 AM to 4:30 PM. If you need an auxiliary aid/service or other accommodation due to a disability, contact Benedyne Stone at (808) 586-2644 or hirc@dcca.hawaii.gov as soon as possible, preferably within two (2) business days of the seminar. If a response is received after that date, we will try to obtain the auxiliary aid/services or accommodation, but we cannot guarantee that the request will be fulfilled. Upon request this notice is available in alternative formats such as large print, Braille, or electronic copy.

REGISTRATION FORM

Webinar

Mail this completed registration form :

CAI Hawaii
1050 Bishop St. #153
Honolulu, HI 96813

or

Register online: www.caihawaii.org.

or

Email: caihawaii@hawaiiantel.net

Name -- please print

Email

Name -- please print

Email

Name -- please print

Email

Firm/Association

Email Certificate of Attendance: _____

Online Registration Completed

Please Register Me/Us

Register for recording only

For more information: 488-1133

SPEAKERS

John A. Morris, Esq. first became involved with condominiums and homeowner associations when he served for three years (1988-1991) as the first condominium specialist for the Hawaii Real Estate Commission. Mr. Morris is a co-manager of Ekimoto & Morris LLLC, which represents many condominiums and other types of homeowner associations. He has spoken and written articles about homeowner associations and legislation affecting them. Mr. Morris is a past president of the Hawaii Chapter of CAI and a former member and co-chair of its Legislative Action Committee. Every year, he participates in legislative hearings on changes to the condominium law and provides testimony on proposed bills. In 2011, he served as a member of the Mortgage Foreclosure Task Force Advisory Committee. The committee was created by the Legislature to provide advice and assistance in developing a fair and effective foreclosure law.

Jonathan Billings, PCAM, RS is Vice President of Operations of Touchstone Properties, and has been involved with association management in Hawaii since 2010. Jonathan manages several associations that vary in size and difficulty and has been successful in developing strong relationships with all of his Boards and On-Site Management. He was awarded "Property Manager of the Year" in 2011 by the Resident Manager Association and received the prestigious Hoku award in 2014 from the CAI Chapter of Hawaii, which is given in recognition of participating in support of CAI education programs, and demonstrated leadership skills, and an interest in being a future leader with CAI Hawaii. Jonathan is currently serving as the President of the Hawaii Chapter of CAI. He has received his Professional Community Association Manager (PCAM) and Reserve Specialist (RS) designations from CAI.

Lance S. Fujisaki, Esq. was born and raised in Honolulu, received his Bachelor of Arts degree from the University of California, Berkeley, and his Juris Doctor degree from Hastings College of the Law. He served as a Technical Editor on the Hastings Law Journal. A partner at Anderson Lahne & Fujisaki LLP A Limited Liability Law Partnership, he has been a member of the Hawai'i State Bar Association and the American Bar Association since 1986 and is licensed to practice in all courts of the State of Hawai'i, as well as the U.S. District Court, District of Hawai'i. He has taught numerous programs on legal matters for CAI and other local organizations, has written articles for the community association community, and has spoken at Condorama presentations in Honolulu. His exclusive field of practice is in the representation of community associations, including counseling, contract negotiations and documentation for renovation projects.

Melanie K. Oyama is Partner with Motooka Rosenberg Lau & Oyama; her primary practice areas are delinquency collections and general counsel for Condo and Community Associations. She earned her Juris Doctor at Arizona Summit School of Law in 2015. She completed a three-year juris doctor program in just over two years, including courses in Ireland. Prior to attending law school, Melanie received her Bachelors in Justice Administration from Hawaii Pacific University in 2013. Prior to and while earning her B.A. degree, Melanie worked for Motooka & Rosenberg for thirteen and a half years as a paralegal. This is her fourth year as co-chair of CAI's Board Leadership Development Workshop.

Neil Ross, PCAM, has been working in the Property Management Industry since 2007 in London – England, New Jersey and Hawaii. In 2017 he joined Associa Hawaii as Senior Vice President of Operations. In this role, he is responsible for oversight of Management Services throughout the State. He is also directly involved in the day-to-day management of several Associations. Neil has spoken on several Community Association related issues including technology, future trends, and Association finances. Prior to joining the property industry, Neil lived in the Bay Islands of Honduras, working as a PADI (Professional Association of Diving Instructors) Course Director and Dive Operation General Manager

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 a past 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.