

# Hawaii Condominium Bulletin

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## Understanding Condominium Insurance Claims and How The Association Master, HO6 and HO4 Policies Fit Together by Elaine Panlilio, CRM, CIC, CISR

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One of the most common issues in condominium living arise from determining whether the association's master policy or the unit owner's HO6 policy would be responsible for covering the damage.

The answer to this will always lead us back to the Condominium Association's Governing Documents, the Declarations or Bylaws because these governing documents define and list what the association is responsible for and what the individual unit owners are responsible for.

Most condominium declarations or bylaws take the position that common elements which all unit owners share ownership of are the association's responsibility to insure, maintain, repair, and replace. Personal property of the unit owners as well as any renovations or additions to their unit, their personal liability and loss of use or loss of rents will be the responsibility of the respective owners under their HO6 Unit Owners Policy. Tenants will also need to obtain their own HO4 Renters Policy to cover their personal property, personal liability, and loss of use.

#### **Association's Master Insurance Policy:**

- **Building**

The association's policy covers the buildings and the common elements that typically include exterior and interior walls, floors, ceilings, including elevators and other building equipment as defined by the association's governing documents.

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Funded through  
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This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at (808) 586-2644 to submit your request.

# Message from the Chair

Aloha,

Welcome to our first edition of 2022 and the Year of the Tiger.

The 2022 legislative session is well under way. Some of the proposed legislation that the Commission is following concerns increasing the required offerings of owner-occupant units for sale to prospective owner-occupants from 50% to 90%; requiring associations to incorporate zero emission charging stations onto its residential properties; requiring condominium associations or their designated agents to be responsible for the maintenance of the buildings and structures; and requiring fees for attorneys retained by an association to be paid from association or reserve funds. We'll be following these bills and report in our June edition on their status.

The Commission is pleased to sponsor our 8th Condorama event and the first for 2022 on Saturday, April 23, 2022. It will be a virtual webinar presented by CAI Hawaii. You can view details of the topics, speakers and registration info at our website, [www.hawaii.gov/hirec](http://www.hawaii.gov/hirec). It will be posted as soon as we get all the specifics. If you're a subscriber to our regular email bulletin, you'll receive an update about Condorama VIII in your email.

Starting with the April edition of CAI Hawaii's newsletter, the Real Estate Commission will have a regular column called "The Common Elements". The column will address all things condo, from general information on project development to the daily concerns of condominium associations. Give it a look in the April CAI Hawaii newsletter at its website, [www.caihawaii.org](http://www.caihawaii.org).

Obtaining insurance on our real property is smart financial planning. In our feature article written by Elaine Panlilio learn the important coverage differences between condominium association master insurance policies and homeowner HO6 policies. Ms. Panlilio also discusses insurance coverage for tenants of condominium units.

What other laws may apply to your condominium association aside from HRS Chapter 514B? Can I purchase an "owner-occupant" unit? Ask the Condo Specialist will tell you.

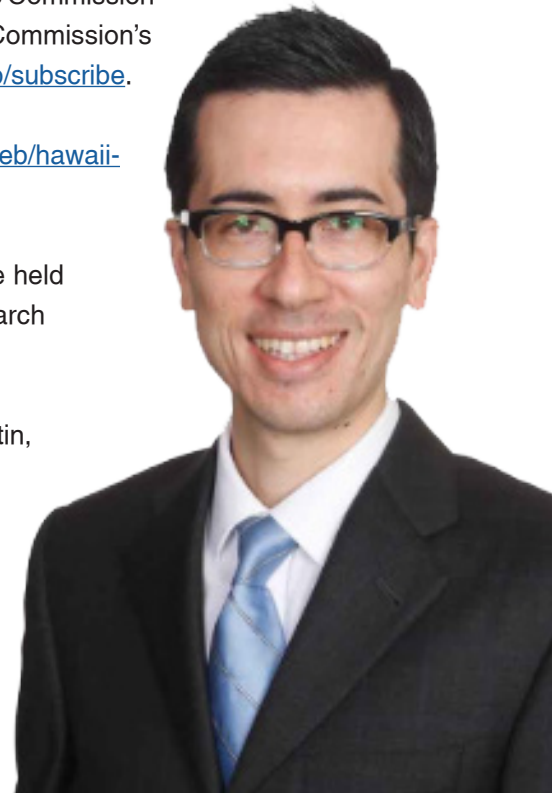
Keep up with the current condo issues, legislative news, including the status of bills the Commission is monitoring and educational events for the condo community, by signing up for the Commission's quarterly email subscription service. Get it at the link here, <http://cca.hawaii.gov/reb/subscribe>.

To view any of our 15 educational videos, click the link here <https://cca.hawaii.gov/reb/hawaii-condo-living-guide/>.

All are welcome to attend the monthly Real Estate Commission meetings which are held on Zoom; let us know you'll be attending, and we'll send you a link to join in. The March Commission meeting will be held on March 24, 2022.

Stay safe everyone and thank you for taking the time to read our Condominium Bulletin,

John R. Love  
Chair, Condominium Review Committee



# Understanding Condominium Insurance Claims and How The Association Master, HO6 and HO4 Policies Fit Together (cont. from page 1)

- **Fixtures**

The association's governing documents will also define and list the fixtures inside the units that it is responsible for. These can include but are not limited to refrigerators, cooking ranges, built-in appliances, built-in cabinets and countertops or any other fixture as originally installed in a unit. The association's insurance policy will cover the fixtures as originally installed and will repair or replace with like kind or quality.

## **HO6 Unit Owner's Insurance Policy:**

HO6 Policy Premiums start at around \$350 per year depending on coverage limits and covers the following:

- **Building Additions and Alterations**

For condominiums, under the Hawaii Revised Statutes §514B – 143(b), unless otherwise provided in the declaration or bylaws, the association's insurance need not cover improvements or betterments to the units. What this means is that renovations, improvements, or betterments made by unit owners within their units will be their respective duty to insure, maintain, repair, and replace.

For example, in a condominium where the bylaws read that the unit owners are responsible for any improvements or betterments made to the unit, if at some point the original carpet flooring was replaced with hard wood, the unit owner will need to insure the upgraded replacement cost of the flooring. If coverage applies in a claim, the association's policy will only pay for the cost to repair or replace carpet of like kind or quality as originally installed. The cost difference between repairing and replacing damaged carpet to hard wood floors will then be covered under the unit owner's policy.

The association's insurance policy and the unit owner's insurance policy dovetail and fit together like puzzle pieces to make the association and the unit owner whole again and restore them to the same condition before the loss occurred.

- **Contents/Personal Property**

Another important feature of the unit owner's policy is coverage for personal belongings owned by the unit owner since these items are not covered by the association's policy.

- **Loss of Use Coverage: Additional Living Expense or Fair Rental Value**

When a unit becomes unlivable from a covered loss, the additional living expense like the cost of temporary housing in a hotel and the increased cost of meals are covered under the unit owner's policy.

For a unit owner that rents out their unit, when the unit becomes unlivable from a covered loss, the rental income that the unit owner is missing out on is covered under the Fair Rental Value Coverage.

- **Personal Liability**

In this increasingly litigious society that we live in, liability coverage becomes increasingly important. Personal Liability Coverage is included in a unit owner's policy.

When someone is injured in a common area such as lobbies or hallways, elevators and clubhouses, the association's Commercial General Liability Policy will provide coverage. However, if the injury occurs inside a unit or if a unit owner is legally liable, for example: a unit owner's dog bites someone, the unit owner's Personal Liability Coverage will be the one to provide coverage.

# Understanding Condominium Insurance Claims and How The Association Master, HO6 and HO4 Policies Fit Together (cont. from page 3)

- **Loss Assessment Coverage**

Loss Assessment is a unit owner's share of a loss to the common elements. Under the Hawaii Revised Statutes §514B – 143(d), the board may assess the association's master policy deductible to the unit where the loss originated or to the units affected by the loss. The association may also charge a special assessment to all the unit owners following a bodily injury or property damage in a common area.

## **HO4 Renter's Insurance Policy**

HO4 Policy Premiums start at around \$200 per year depending on coverage limits and covers the following:

- **Contents/Personal Property**

Renters or Tenants will need their own HO4 Renter's Insurance Policy because their personal property will not be covered by the Unit Owner's Policy or the Association's Policy.

- **Loss of Use Coverage and Additional Living Expense**

When a tenant's unit becomes unlivable from a covered loss, the HO4 Policy provides coverage for additional living expense if the tenant needs to relocate to a hotel room or other temporary accommodation.

- **Personal Liability**

A tenant may become personally liable if they cause bodily injury or property damage. Some liability situations we have seen are a tenant's dog bites someone in the common areas or a tenant overflows a bathtub or accidentally sets off the fire sprinklers by hanging something on a sprinkler head.

It is best practice for unit owners that rent out their unit to require their tenants to carry HO4 Renter's Insurance.



## About the Author Elaine Panlilio, CRM, CIC, CISR

Elaine Panlilio is an Account Executive in the AOA Unit at Atlas Insurance Agency.

She holds the Certified Risk Manager, Certified Insurance Counselor and Certified Insurance Service Representative professional designations from the National Alliance of Insurance Education and Research. She can be reached at (808)533-8766 and at [epanlilio@atlasinsurance.com](mailto:epanlilio@atlasinsurance.com)

## REMINDER - CHECK YOUR CONDO DOCS

Hawaii condominium law is based on the philosophy of self-governance. What does this mean?

Condominium property regimes are creatures of their governing documents. When you have a question, first check these. Your governing documents are your condo declaration, condo map, bylaws, and house-rules.

When you purchased your unit, you would have received copies of these docs. For the most recent copies, including amendments, visit the website of the Hawaii Bureau of Conveyances, at [www.dlnr.hawaii.gov/boc/](http://www.dlnr.hawaii.gov/boc/). Check with a board member or property manager to get the most recent set of house-rules.

Chances are you'll find your answer in one these documents.



# Ask the Condominium Specialist

**Q:** I was told that Hawaii laws 421J and 414D apply to my condominium association along with 514B. Should we be following those laws also?

**A:** Hawaii Revised Statutes Chapter 421J is the law in Hawaii applying to “planned community associations” which is defined in the law as real property “other than a condominium” and also excludes cooperative housing communities and time share plans. In short, Chapter 421J does not apply to your condominium association and should not be considered when making decisions pertaining to it.

Hawaii Revised Statutes Chapter 414D, also known as the Hawaii Nonprofit Corporations Act, applies to condominium associations that have incorporated their association by filing articles of incorporation and other required documents with the Business Registration Division of the Department of Commerce and Consumer Affairs.

The condominium law, Chapter 514B, does not require associations to incorporate, thus whether to incorporate or not is a business decision that associations may make.

If a condominium association has incorporated, then the laws of both 414D and 514B may apply. Determining which law applies in a given situation is the role of the association attorney. An incorporated condominium association should consult with its attorney in every situation.

**Q:** A relative recently bought a condominium unit in the Kaka`ako area. It's in a nice new building and seems like it would be a nice community. He said he purchased it as an “owner-occupant” and must live in it for at least one year. What is this and is this available to others and in all condos?

**A:** Part V.B of Hawaii’s condominium law, Chapter 514B, details the owner-occupant requirements in a condominium project.

In brief, the developer of any project containing residential condominium units must designate at least 50% of the units for sale to “prospective owner-occupants”. Part V.B defines an “owner-occupant” and contains numerous conditions for owner-occupant sales, from the designation of owner-occupant units; how the units may be chosen; affidavit requirements for prospective owner-occupants; prohibitions against selling or any type of conveyance of an owner-occupant unit within the required owner-occupant time frame (an owner-occupant must physically reside in the unit for not less than 365 days); certain exemptions from the 365 day requirement based on “extenuating circumstances”; and finally, specifies condominium projects that are exempt from the owner-occupant requirements of Chapter 514B.

Certain city or state housing projects for example, such as urban renewal housing programs, public housing or affordable housing units are exempt from the Chapter 514B owner-occupant requirements. In some cases, the city or state governments may impose their own owner-occupant requirements based on their governing statutes (often with much longer owner-occupant residency requirements) and in those cases, Part V.B of the condominium law would not apply.

Under the condominium law, owner-occupant units designated for sale must be representative of all the residential units in the project with regard to factors of square footage, number of bedrooms and bathrooms, floor level and lanai space.

Because the developers of new condo projects are subject to advertising requirements for owner-occupant units as set forth in Part V. B, you should check your daily newspaper for potential offerings.

If you’re in the market for a condominium unit and qualify as an owner-occupant, good luck to you! The owner-occupant laws were enacted in Chapter 514B to give persons who were not investor purchasers an opportunity to own residential real property in Hawaii.

*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 2021 through February 2022, 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.

## Dispute Prevention and Resolution, Inc.

Owner vs. AOOU	Alleged breach of fiduciary duty by board members.	Mediated; no agreement.
AOOU vs. Owner	AOOU alleged unauthorized modifications to owner's unit.	Mediated; no agreement.
Owner vs. AOOU	Owner alleged inadequate repair by AOOU of water damage to unit originating from the roof.	Mediated to agreement.
Owner vs. AOOU	Issue of water intrusion into owner's unit and the prompt and proper repair of the damage.	Mediated to agreement.
Owner vs. AOOU	Question of whether owner received prior approval for replacement of unit windows.	Mediated; no agreement.
AOOU vs. Owner	Issues regarding the alleged violation of association architectural design standards.	Mediated to agreement.
Owner vs. AOOU	Issue regarding alleged improper use of owner's parking stall. While no agreement reached upon payment cap, the parties continued to mediate.	
Owner vs. AOOU	Dispute over whether parts of the lanai were a part of the unit or were designated as common area.	Mediated to agreement.
Owner vs. AOOU	Alleged failure of AOOU to maintain and provide documents to owners as required by law.	Mediated to agreement.
Owner vs. AOOU	Dispute regarding items left in association storage units.	Mediated to agreement.
Owner vs. AOOU	Claim of water intrusion into owner's unit from common area and responsibility for water damage repairs.	Mediated; no agreement.
Owner vs. AOOU	Issue of water leaking from owner's unit into the unit below and responsibility for repairs. Parties submitted dispute to confidential arbitration.	
Owner vs. AOOU	Issues over owner's alleged misuse of parking stalls and not following rules for pets in the association.	Mediated to agreement.
Owner vs. AOOU	Dispute over noise which owner alleges come from machinery on the common elements. Parties continue to mediate on their own beyond the mediation cap.	
Owner vs. AOOU	Alleged violation of governing documents related to work conducted on owner's lanai. Parties continue to mediate after monetary cap was reached.	

## Lou Chang, a Law Corporation

Owner vs. AOOU	Owner alleged breach of board duty regarding water damages to a unit.	Mediated to agreement.
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## The Mediation Center of the Pacific, Inc.

Owner vs. AOOU	Dispute over alleged violation of house rules and subsequent fines. After parties filed for mediation and intake conducted, the parties resolved all issues on their own.	
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# 2022 Real Estate Commission Meeting Schedule

## Real Estate Commission – 9:00 a.m.

Thursday, March 24, 2022

Friday, April 22, 2022

Friday, May 27, 2022

Friday, June 24, 2022

Friday, July 22, 2022

Friday, August 26, 2022

Friday, September 23, 2022

Friday, October 21, 2022

Friday, November 18, 2022

Friday, December 16, 2022

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 (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.

## Out with the Old, In with the New – Changes in the Way Association and Board Meetings are Held

**CAI HAWAII**  
Out with the Old, In with the New -  
Changes in the Way Association and  
Board Meetings are Held  
January 20, 2022

**SCHEDULE**

- Welcome and Introductions 12:00 p.m. - 12:05 p.m.
- Presentation by Speakers 12:05 p.m. - 1:25 p.m.
- Questions & Answers (if time permits) 1:25 p.m. - 1:30 p.m.

**SPEAKERS**

- Anne Anderson
- Dave Bodnarchuk
- Jonathan Billings
- Steve Glanstein

Carol Rosenberg  
CAI Hawaii Programs Co-Chair

HAWAII CHAPTER  
**community**  
ASSOCIATIONS INSTITUTE

This webinar virtual program was held on January 20, 2022. Four Hawaii professionals discussed the changing variables of holding association meetings during this time of Covid restrictions.

You can view it at this link:

<https://register.gotowebinar.com/recording/5848933888458826241>

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