Hawaii Real Estate Commission

CONDORAMA IX

Melanie Oyama
CAI Hawaii Programs Co-Chair

AGENDA

09:00 – 09:05 a.m.	**Melanie Oyama -** Welcome & Introductions
09:05 – 09:30 a.m.	**Joshua German** – Contractors' Insurance
09:30 – 10:00 a.m.	**John Morris** – Basics of Covenants Enforcement
10:00 – 10:30 a.m.	**Ben Willoughby** – Association Annual Operating Budgets **Ayres Christ** – Reserves in the time of Uncertainty
10:30 – 11:00 a.m.	**Christopher P. St. Sure** – Tips on Avoiding and Defending Lawsuits
11:00 – 11:05 a.m.	Closing

Mahalo

Krystyn Weeks

- Insurance Associates

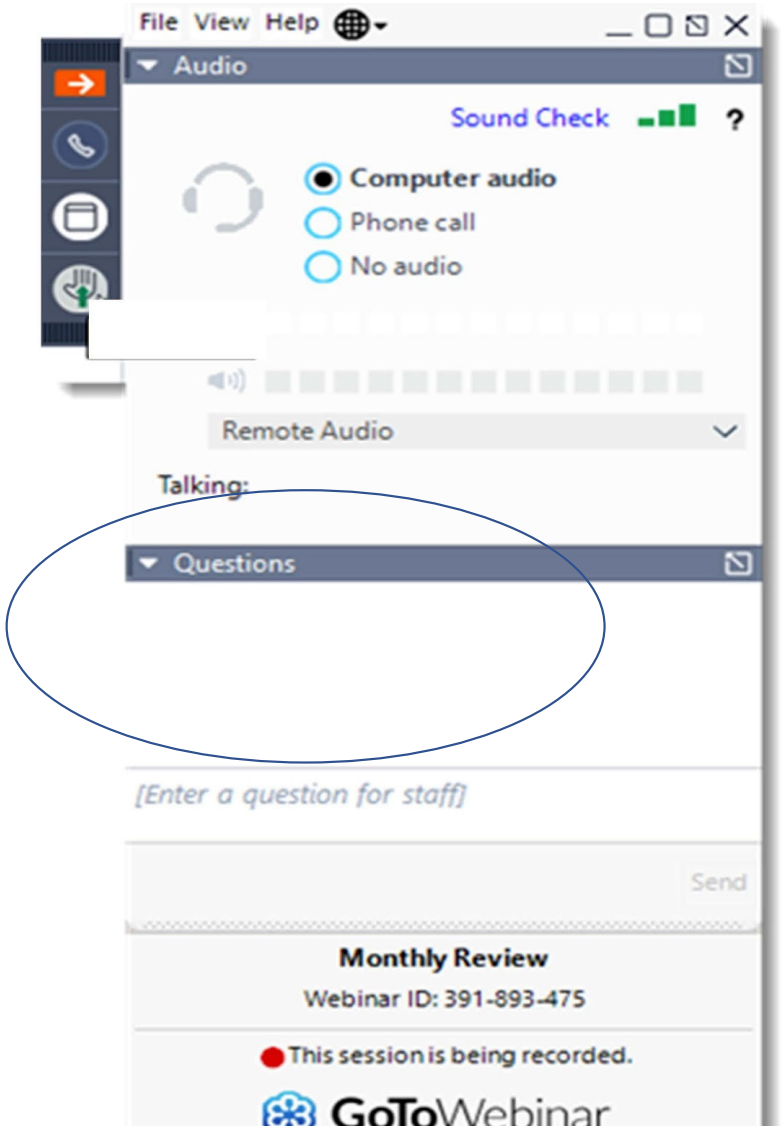
Milton Motooka

Motooka Rosenberg Lau & Oyama

Richard Ma

Presentation Resources

Submit them using the GoToWebinar Tool "Questions"



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HAWAII CHAPTER community ASSOCIATIONS INSTITUTE

This webinar is pending approval by the Community Association Managers International Certification Board (CAMICB) for 2 credit hours to fulfill continuing education requirements for CMCA® certification.

CAIHAWAII@HAWAIIANTEL.NET

Our Speakers

Joshua German – Mr. German is an Account Executive with Insurance Associates, Inc. He has been handling insurance for community associations since 2008. Since joining Insurance Associates in 2014, Josh's primary responsibility has been servicing approximately 250 neighbor island associations.

Josh was born and raised in Lihue, Kauai and was an accounting major in college. He served as the Treasurer for the Honolulu Association of Insurance Professionals from 2016 to 2019. He is also active in the Community Associations Institute, Institute for Real Estate Managers and Community Council of Maui.

Our Speakers

JOHN 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. As condominium specialist , he gave advice on questions about the condominium law and helped review developers' filings for new projects. He is a co-manager of Ekimoto & Morris LLLC, which represents numerous condominiums and other types of homeowner associations, including advising them on processing owner requests to modify their properties.

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.

Our Speakers

Ben Willoughby joined Associa Hawaii in 2015 as an Administrative Assistant. Soon thereafter in 2016 he was promoted to Community Manager, where he had excelled at providing operation and managerial support to his client portfolio. In 2018 Ben was once again promoted to Director of Operations for the Island of Hawaii branch and relocated to Kona for his new role where he now oversees a team of 7 Community Managers and 2 Administrative Assistants.

Ben has considerable experience managing complex Residential and Commercial properties and understands the nuances of the Hawaii market as it pertains to Associa Hawaii operations. Prior to joining Associa Hawaii, Ben was the Store Manager for PPG Paints in Centennial, Colorado where he managed the operations of a retail storefront. In addition to his professional experience, Ben earned his Bachelor of Arts in Business and Environmental Sustainability from Arizona State University's W.P. Carey School of Business and School of Sustainability.

Our Speakers

Ayres Christ & Kim Becker manage Associa Hawaii's Reserve Study Division. Associa Hawaii is the only property management company with an independent reserve study division dedicated to performing reserve studies for its clients as well as non-Associa associations.

Ayres & Kim are both owners in associations and bring their homeowner perspective when working with clients. The division performs reserve studies and provides advice on capital expenditure planning for condominiums, townhomes, planned community associations, commercial properties, and non-profits, including UH-Manoa and the Salvation Army. Ayres and Kim can be reached at reserves@associahawaii.com.

Our Speakers

Christopher St. Sure is a partner with Goodsill Anderson Quinn & Stifel LLP. Mr. St. Sure focuses his litigation practice primarily in business litigation, real estate, construction, premises liability, and condominium law. He routinely serves as appointed insurance defense counsel for associations.

Mr. St. Sure is the Hawaii Young Lawyers Division ("YLD") Hawaii Delegate to the American Bar Association's House of Delegates and a former President of the YLD. Born and raised in Hawaii, Mr. St. Sure received his B.A. from University of Hawaii and his law degree from the William S. Richardson School of Law in 2013.

Contractor's Insurance

Presented by:

Joshua German

November 19, 2022

Condorama IX

INSURANCE ASSOCIATES

Agenda

- Contractor's Commercial General Liability Policy (CGL)
  - Exclusions
  - Policy language differences
- Other Insurance Considerations
  - Auto, WC, Umbrella, etc.
  - Limits of liability
  - Common BOD mistakes
- Licensing and Bonding
  - What does it mean?
  - Why is it important?
  - When is it needed?

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Commercial General Liability

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General Liability Policy

- Covers
  - Bodily Injury
  - Property Damage
  - Damage from work product of the contractor

- But….every policy has exclusions

  Some require special policies to overcome the deficiencies of the CGL. Others require tweaking the CGL coverage.

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Exclusions - Pollution

Pollution

(1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

(i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot from equipment used to heat that building;

(ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to

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LESSON:

The standard General Liability policy form offers very little pollution coverage. A separate Pollution policy may be necessary. A construction consultant can help you identify exposures.

lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".

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(2) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

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Exclusions - Lead

EXCLUSION - LEAD

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising ou... en... wh... tra...

LESSON:

A separate Pollution policy may be necessary. A construction consultant can help you identify exposures.

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Exclusions - Asbestos

EXCLUSION - ASBESTOS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. This insurance does not apply to:

e. transmitted by any other means.

LESSON:

A separate Pollution policy may be necessary. A construction consultant can help you identify exposures.

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Exclusions - Professional Liability

EXCLUSION - CONTRACTORS - PROFESSIONAL LIABILITY

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following exclusion is added to Paragraph **2.**, **Exclusions** of **Section I - Coverage A - Bodily Injury And Property Damage Liability** and

2. Subject to Paragraph **3.** below, professional services include:

architectural or surveying services in connection with construction work you perform.

sequences and procedures employed by you in connection with your operatons in your capacity as a construction contractor.

LESSON:

When you engage with a contractor to do structural or design work a separate Professional Liability policy is needed.

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Exclusions - Residential

MULTI-FAMILY RESIDENTIAL CONSTRUCTION EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following exclusion is added to **2. Exclusions** of **COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY (Section I)**:

This insurance does not apply to:

"Property damage" arising out of any construction operations, whether ongoing operations or the "products/completed operations hazard", which involve "multi-family owned developments", "tract housing" developments or "condominiums projects".

This exclusion applies to construction operations including "pre-construction", "construction", "post-construction", or "reconstruction" of such buildings or structures, whether performed by the insured or on the insured's behalf.

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Additional Insured

- CG 2010– for ongoing operations
- CG 2037- for completed work
- New version is (Ed. 04-13) difference is

"If coverage to the additional insured is required by a contract or agreement, the most [the insurer] will pay on behalf of the additional insured is the amount of insurance required by the contract."

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Additional Insured

- Sample Additional Insured Contract Requirement that we have seen used.

  The Contractor, and its subcontractors of any tier, shall obtain and maintain in full force and affect the following insurances with limits which will be the greater of:

  (a) those specified in this Agreement;

  (b) Contractor's actual insurance policy limits; or

  (c) those limits required by law.

- Primary and Non-contributory status and Waiver of Subrogation is recommended.

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Occurrence Endorsement

CHANGE IN OCCURRENCE DEFINITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The definition of "occurrence" in **SECTION V - DEFINITIONS** is replaced by the following:

"Occurrence" means:

a. An accident, including continuous or repeated exposure to substantially the same general harmful conditions; or

b. A negligent act or omission in the performance of a "construction contract", but only with respect to "property damage".

B. The following definition is added to **SECTION V - DEFINITIONS:**

"Construction Contract" means a written contract or written agreement to build, demolish, repair, remodel, or alter tangible real property, including land and the improvements thereon, or a written contract or written agreement to supply material, parts, equipment, goods or products for such work on tangible real property.

C. All other terms, conditions, provisions and exclusions of the policy shall apply.

General Liability

- $2,000,000 General Aggregate*
- $2,000,000 Products and Completed Operations Aggregate
- $1,000,000 Personal and Advertising Injury
- $1,000,000 Each Occurrence
- $100,000 Damage to Premises rented to insured
- $5,000 Medical Expense Limit

*Per project aggregate is recommended.

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Key Commercial General Liability Considerations

- No exclusion for multi-family, townhouse or condominium projects.
- Additional insured endorsements shall be on form CG 2010 07 04 (ongoing operations) and CG 2037 10 04 (completed work) or their equivalent if possible
- Primary and non-contributory coverage in favor of the additional insured
- Waiver of subrogation in favor of the additional insureds
- Coverage for completed operations with a revised definition of Occurrence
- Coverage on a per project general aggregate basis

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General Liability

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Other Insurance Considerations

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Business Automobile Liability

The business auto policy shall include coverage for all owned, leased, hired and non-owned automobiles.

- $1,000,000 Bodily Injury Each Person
- $1,000,000 Bodily Injury Each Accident
- $1,000,000 Property Damage Each Accident

--or—

- $1,000,000 Combined Single Limit of Liability

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Workers' Compensation

The workers' compensation shall be endorsed to provide a waiver of subrogation in favor additional insureds.

- Employer's Liability
  - $500,000 Bodily Injury by Accident (each accident)
  - $500,000 Bodily Injury by Disease Limit (policy limit)
  - $500,000 Bodily Injury by Disease Employee (each employee)

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Workers' Compensation

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Umbrella Liability

- The umbrella liability shall be at least following form excess over the commercial general liability, business auto liability and employer's liability.

- The policy shall provide defense in addition to the limits of liability.

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Common BOD Mistakes

- Not verifying who's insuring the materials in transit, off the jobsite, and while on the job site.
- Not verifying the if the contractor has the correct lines and limits.
- Not verifying if the contractor has the proper endorsements and coverage enhancements. (Primary wording, Waiver of Subrogation, etc.)

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Licensing and Bonding

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Licensing

- A Licensed contractor has training, Insurance (Commercial General Liability and Workers' Compensation), and can obtain building permits.

- The DCCA requires projects over $1,500 to be done by licensed contractors (Plumbing and electrical work always require licensed contractors).

Bonding

A bond is a guarantee by a 3rd party that ensures the contractor's obligation will be fulfilled.

3 Parties to a bond:

- Obligee (association)
- Principal (contractor)
- Surety (the company that assures the contractor's performance)

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Types of Bonds

- **Performance Bond**
  If the contractor does not complete the job the surety will pay to get it done.

- **Payment Bond**
  If the contractors does not pay the subcontractors or material suppliers the surety will pay.

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When is Bonding Needed?

- If it is a governing document requirement.
- If it is a lender requirement.
- When the size of the project is large.
- When there is difficulty finding a qualified alternative contractor.

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Takeaways

- Consult with Professionals when Engaging with a Contractor
  - Construction Consultant
  - Attorney
  - Insurance Agent

- A well written contract protects the Association and the contractor.

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Thank you.

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CONDORAMA -- BASICS OF COVENANTS ENFORCEMENT

John A. Morris
Ekimoto & Morris, LLLC

OWNERS AND BOARDS

- "Covenants" are the restrictions imposed by the condominium declaration and bylaws on the rights of owners and residents in the condominium. The law may also impose restrictions.
- In condominiums, an owner's action has greater potential to adversely affect other owners in the same condominium. Therefore, the governing documents of most condominiums restrict the rights of owners to make modifications to their unit or the common elements or taking any action that is likely to adversely affect other residents. For that reason, the guiding principle for condominium owners should be "***ask first***." As a Hawaii appellate court stated more than 30 years ago, in Association of Owners of Kukui Plaza v. City and County of Honolulu, 7 Hawaii App. 60, 74 (1987): *"The uniqueness of the condominium concept of ownership has caused the law to recognize that each unit owner must give up some degree of freedom of choice he might otherwise enjoy in separate, privately owned property."*
- Following the principle of "**ask first**" may prevent owners from becoming involved in expensive disputes with their association.
- Boards of directors should be aware that their freedom of action may be limited by the declaration, bylaws, and the condominium law. For example, the law and most declarations and bylaws (i) allow boards, alone, to approve certain types of modifications or other actions by owners but (ii) also impose limits for certain other actions by individual owners that require majority or even 67% owner approval (or more) before the board can approve those actions. In other words, in approving requests of owners, boards should be aware of the limits on their powers imposed by the governing documents and the law. Similarly, in taking action on behalf of the association, owner approval may be required for certain board action.

Case Law

Despite the limits that the governing documents and the law impose on board action, courts also recognize that boards need discretion to act on behalf of the association that may not be specifically stated in the declaration, bylaws, or law. In Association of Apartment Owners of Ahuimanu Gardens v. Flint (2005) (an unreported case), Ms. Flint argued that the board lacked the authority to require her to vacate her unit so the association could tent the building in which her unit was located for termites. The Hawaii Supreme Court concluded that the board had that authority. The court stated:

> *Thus, the absence of any provision **explicitly** authorizing the Board to require a condominium unit owner to temporarily vacate her unit **is not fatal to the Board's right to do so**. . . . It would be impossible to list all restrictive uses in a declaration of condominium.*

(Emphasis added.)

Case Law (continued)

On the other hand, boards should not get too carried away based on the decision in the Flint case. In the Flint case, the Hawaii Supreme Court cites with approval Beachwood Villas Condominium vs. Poor, 488. So.2d 1143 (Fla. App 1984), where the court was considering a rule governing leasing, and where the key issue was the scope of the board's **implied** authority. The court in Beachwood stated as follows:

> *Therefore, we have formulated the appropriate test in this fashion: provided that a board-enacted rule does not* ***contravene*** *either an express provision of the declaration* ***or a right reasonably inferable therefrom****, it will be found valid, within the scope of the board's authority. This test, in our view, is fair and functional; it safeguards the rights of unit owners and preserves unfettered the concept of delegated board management.*

(Emphasis added.)

In summary, the governing documents of a condominium association do not have to spell out every power of the board of directors to act. Nevertheless, Hawaii courts will not automatically support board decisions and may still impose limits on those decisions.

Business Judgment Rule

Those limits are usually referred to as the "business judgment rule" – a requirement that the board exercise its powers reasonably and in good faith. Almost 40 years ago, in Lussier v. Mau-Van Development, Inc. 4 Hawaii App. 359 (1983), the Hawaii Intermediate Court of Appeals stated the basic standard of the business judgment rule:

> *Upon a careful review of treatises and pertinent case authorities, we hold that the business judgment rule* ***requires a shareholder who challenges a non-self-dealing transaction to prove that*** *the corporate director or officer in authorizing the transaction (1) failed to act in good faith, (2) failed to act in a manner he reasonably believed to be in the best interest of the corporation, or (3) failed to exercise such care as an ordinarily prudent person in a like position would use in a similar circumstances.*

4 Haw. App. at 376 (Emphasis added.)

The Hawaii Supreme Court has recognized that the same standard applies to a decision by the board of a homeowner association. McNamee v. Bishop Trust Co., Ltd., 63 Haw. 397 (1980). In McNamee, the plaintiffs had filed suit against the managing committee (i.e., board) of a homeowner association for denying the plaintiffs' request to add a second story to their home. (The homeowner association in question was not a condominium but served a similar function for a group of homes situated at Wailupe in Honolulu.)

In McNamee, the Hawaii Supreme Court concluded that the decision of a homeowner association board should be upheld if the board acted reasonably and in good faith, i.e., met the standard of the business judgment rule. On that basis, the Hawaii Supreme Court confirmed the lower court's decision in favor of the managing committee, stating:

> "*The Managing Committee's decision to reject the plaintiffs' application was reasonable and made in good faith, and, accordingly, the trial court's decision* [upholding the Management Committee's decision] *should be affirmed.*"

62 Haw. at 410.

Case Law (continued)

In Sandstrom v. Larsen (Hawai‘i Supreme Court), 59 Haw. 491, 583 P. 2d 971 (1978), the court required an owner to remove the second story of the owner's home that had been built in knowing violation of the covenants, stating:

> *A basic consideration in the enforcement of restrictive covenants 'is that they are enforceable through the equitable relief afforded by an injunction.' As such, because the court is enforcing an established legal right embodied in the covenants, 'the relative hardships to the parties has no application to the award of final relief to the plaintiff' . . . We are convinced that where a property owner 'deliberately and intentionally violates a valid express restriction running with the land or intentionally 'takes a chance', the appropriate remedy is a mandatory injunction to eradicate the violation.'*

In Village Park Community Association v. Nishimura, 108 Hawai‘i 487, 122 P.3d 267 (Haw. App 2005), the court qualified that decision, stating:

> *Although we recognize that there are more ways to be unreasonable than by being arbitrary, we interpret 'arbitrary or made in bad faith' as intended to be the flip side of 'reasonable and made in good faith.' . . . We conclude that when the **property owner is the plaintiff** and has the burden of proof, the plaintiff-property owner's burden is to prove that the committee/association's decision was unreasonable and/or made in bad faith. In contrast, **when the association is the plaintiff** and has the burden of proof, the plaintiff-association's burden is to prove that the committee/association's decision was reasonable and made in good faith.*

Case Law (continued)

In Pelosi v. Wailea Ranch Estates – 91 Hawai‘i 478, 985 P.2d 1045 (1999), the Hawai‘i Supreme Court acknowledged its analysis in Sandstrom:

> *[T]hat mandatory injunctive relief must be granted as the remedy for a violation of a restrictive covenant if two requirements are met: "(1) the defendant had actual or constructive knowledge of the restrictive covenant; and (2) despite such knowledge, the defendant deliberately and intentionally proceeded with construction violative of the covenant or intentionally assumed the risk of violating the covenant without first obtaining a resolution of the covenant.*

The court also noted, however, that certain situations might require the application of "*the test of 'relative hardship,' also called 'balancing the equities,' to property owners who breach covenants without deliberateness or intent*." As a result, the court concluded:

> *In the present matter, the individual defendants purchased Wailea Ranch parcels once the covenant had already been violated by the commencement, at the very least, of the construction by WRE of the roadway and tennis court. . . . At the point of their purchases, it was no longer possible for them to intentionally 'take a chance.' The individual defendants merit different analysis, therefore, than that imposed by the Sandstrom court on property owners who affirmatively originate intentional breaches of restrictive covenants.*

In other words, delay in enforcing a covenant may make the covenant unenforceable.

Case Law (continued)

Boards also face problems when covenants are ambiguous. In Brown v. Brent, 138 Hawai‘i 140, 377 P. 3d 1058 (Haw. App. 2016), the Hawai‘i Intermediate Court of Appeals concluded that summary judgment is not appropriate when covenants are ambiguous, so if there is an ambiguity, summary judgment cannot be granted. The ICA found the following provision ambiguous as it relates to exterior doors:

> *Each apartment shall be deemed to include . . . the inner decorated or finished surfaces of all walls, floors and ceilings, doors and door frames, windows and window frames and lanais.*

The board argued that the phrase ‘the inner decorated or finished surfaces’ modified the reference to ‘doors and door frames’ and that the exterior doors, which were installed outside of the main doors to an apartment, were therefore not part of the apartment. The Circuit Court had disagreed and found that the doors and door frames were part of the apartment.

The ICA concluded that both the board’s reading and the Circuit Court’s reading of the provision were reasonable and therefore concluded that the provision was ambiguous and summary judgment was not appropriate.

Brown also considered another common issue for condominiums -- what is a “material” or “nonmaterial change?” In Brown, the court ruled that whether a change in paint color of exterior walls was a material or nonmaterial alteration presented a genuine issue of fact. Therefore, a trial may be needed to decide such a question of fact.

Case Law (continued)

• Hiner v. Hoffman 90 Hawai‘i 188, 977 P.2d 878 (1999) seems to further limit the enforceability of covenants. In that case, the central issue on appeal was the interpretation of language in a 1966 restrictive covenant running with the Hoffmans' land. The covenant, the undisputed purpose and intent of which is to restrict the height of a home built on the property, prohibited dwellings that are more than "two stories in height." The Hoffmans, having built a three-story home, essentially argued that the covenant is ambiguous because it provides no indication as to the allowable height of each story.

The Hawaii Supreme Court concluded:

> *Because we agree that the failure to define the measurable height of a "story" renders the restrictive covenant ambiguous, we hold that the covenant is unenforceable against the Hoffmans. We therefore vacate the circuit court's order granting plaintiffs-appellees' motion for summary judgment and denying the Hoffmans' cross-motion for summary judgment. We also remand this case with instructions to the circuit court to enter summary judgment in favor of the Hoffmans.*

Rules and Forms

Boards should try to have rules and forms that lay out clearly what an owner can and cannot do. For example, an apartment renovation policy should include:

- Prior to commencement of any work, a detailed written proposal with diagrams, samples, and technical data for the proposed work shall be submitted to the Board for review and approval.
- Prior to the commencement of any work, the owner must confirm each contractor or service provider who shall be assisting the owner in his/her remodeling efforts has read the rules. The owner must also (i) assume responsibility for ensuring everyone involved in the work complies with all condominium documents and (ii) take financial and legal responsibility for any of the workers' actions.
- The owner shall not undertake any work which may impair the structural integrity of the building or change the outside appearance of the building.
- The owner is responsible for obtaining and complying with all City and County (County) rules concerning requirements for building permits.

Rules and Forms (continued)

An apartment renovation policy should include (continued)**:**

- The owner and contractor are required to have full insurance coverage.
- A licensed contractor must perform any electrical, plumbing or other work requiring a license.
- All contractors must use preventative measures, such as laying down drop cloths in front of the apartment entrance, hallways or any common area that may be affected by materials and foot traffic. No common area or other apartment unit shall be affected by dust, paint, or odors that are offensive or toxic in nature.
- Permitted hours of work, e.g., 9:00 a.m. - 4:00 p.m., Monday through Saturday only.
- Other issues for rules: Use of elevators; parking; loading and unloading; noise; removal of trash and debris (nothing is to be put down the trash chute or left in any of the trash rooms).

Rules and Forms (continued)

Fair Housing and Disabilities. Association rules should include something on this issue or boards should at least be aware of the issue:

> *Owners with disabilities shall be permitted to make reasonable modifications to their apartments and/or common elements, at their expense, if such modifications are necessary to enable them to use and enjoy their Apartments and/or the common elements, as the case may be. Any Owner with a disability desiring to make such modifications shall make such request, in writing, to the Board of Directors. That request shall state, with specificity and in detail, the nature of the request and that the requesting party needs to make such modifications because of a disability. The Board of Directors shall not unreasonably withhold or delay its consent to such request.*

Rules and Forms (continued)

The following, from a memo drafted by the federal government, explains what a board must consider in evaluating a request for a reasonable accommodation to modify a unit or the common elements for a disabled owner or resident:

> *A reasonable modification is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises. Reasonable modifications can include structural changes to interiors and exteriors of dwellings and to common and public use areas. A request for a reasonable modification may be made at any time during the tenancy. The Act makes it unlawful for a housing provider or homeowners' association to refuse to allow a reasonable modification to the premises when such a modification may be necessary to afford persons with disabilities full enjoyment of the premises.*
>
> *To show that a requested modification may be necessary, there must be an identifiable relationship, or nexus, between the requested modification and the individual's disability. Further, the modification must be "reasonable." Examples of modifications that typically are reasonable include widening doorways to make rooms more accessible for persons in wheelchairs; installing grab bars in bathrooms; lowering kitchen cabinets to a height suitable for persons in wheelchairs; adding a ramp to make a primary entrance accessible for persons in wheelchairs; or altering a walkway to provide access to a public or common use area. These examples of reasonable modifications are not exhaustive.*

Recommendations

- Try to periodically remind owners and residents that: (i) living in a condominium or in a property subject to a homeowner association limits the rights they might otherwise have if they were living in a single-family home without restriction; and (ii) all the board powers do not necessarily have to be specifically stated in the governing documents.
- Remember that when the board is enforcing the rules, the board may have the burden of proof to show that it acted reasonably and in good faith. Try to comply with the requirements of the business judgment rule by ensuring board action is reasonable and taken in good faith. Fairness and due process on the part of the board can help counter the common perception of the "big, bad association versus the poor little homeowner."
- Try to act promptly on violations and not let things "slide." The doctrine of "laches" may give a court an excuse to forgive violations if the board does not act promptly.
- If the homeowner did not create the problem but inherited it from a prior owner of the same property, a court may be less willing to enforce than if the existing homeowner knowingly violated the rules.
- Make sure your rules are as clear and enforceable as possible and properly adopted by the board under the requirements stated in the bylaws.

Resolving Disputes -- Options

If an owner or resident fails to respond to a request to comply with the law or project documents, boards may need to take action to resolve the dispute and enforce compliance. Options for resolving disputes include discussion (negotiation), mediation, arbitration, and litigation.

1. Negotiation. Informally resolving disputes can avoid the time-consuming and expensive process of litigation. Ideally, the parties to a dispute should try to resolve their own dispute through negotiation and communication. Otherwise, the parties can use "mediation", an informal, voluntary method of resolving disputes in which a neutral third party assists the parties to the dispute in reaching a solution.

2. Mediation. Each party pays only a filing fee to participate in mediation. Mediation helps provide a controlled setting for discussion and communication. Mediation also helps the parties focus on issues, not personalities, and on resolving the dispute, not blaming each other. Specially trained mediators assist the parties in communicating with each other, exploring possible solutions, and negotiating mutually acceptable settlements. Mediators do not impose solutions on parties to a dispute but try to help them reach their own solutions.

Resolving Disputes -- Options (continued)

3. Arbitration. Certain condominium disputes may be resolved by arbitration at the request of a party to the dispute, {Section 514B-162}, subject to certain limitations. Arbitration is a method of resolving disputes by submitting them to an impartial person who has the power to make a binding determination concerning the dispute. Not all disputes can be arbitrated because the law provides for certain exceptions {see, Section 514B-162(b)}.

An arbitration hearing is similar to a court hearing but much less formal. Sworn testimony and evidence may be presented, as in court, but the process is usually more flexible and informal, and pre-trial procedures are reduced. The decision of the arbitrator is binding and enforceable in circuit court. A party who dislikes an arbitrator's decision may appeal or request a new trial in court, but appeals and new trials are uncommon. Arbitration can be expensive and is certainly more expensive than mediation.

4. Litigation. As with any disputes, condominium-related disputes can be decided in court. (Nevertheless, as noted above, parties can also demand arbitration of some disputes.) Since litigation can be expensive and time-consuming, boards and owners should first explore mediation or arbitration.

ASSOCIATION ANNUAL OPERATING BUDGETS

Benjamin Willoughby
Associa Hawaii

INTRODUCTION

Each Association is required to produce an Annual Operating Budget to their owners each fiscal year and is referenced in detail in most Association Bylaws.

Considerations need to be made throughout the budgeting process, so being prepared in advance and starting your budget early is ideal. The first step is to begin with a Reserve Study update (Level 1, 2 or 3) which will be discussed separately.

All Association are governed by at least 2 State Statutes.

- **Chapter 514B** – Condominium Property Regime
- **Chapter 421J** – Planned Community Associations law (HOA's)
- **Chapter 414D** - Nonprofit Corporation Act, Both Condominium Associations and HOA's/PUD's are governed by Chapter 414D, and due to this, the goal is to make a **"zero-based" budget**, meaning that all income collected is equal to all expenses. All owners as outlined in the Associations governing documents should be billed their appropriate assessment based on the required need to fulfill all expected expenses throughout the year.
    - **Chapter 414D-155** – Standards of conduct for officers. – All decisions should be made in "good faith" and for what an officer "reasonably believes to be in the best interest of the corporation or its members, if any"

PRIMARY GOALS

1. ACCURATE
2. TRANSPARENT
3. TIMELY

NAVIGATING BUDGETED EXPENSES

- Treat the budget like you would your personal finances, account for each and every known expense and have a savings for the larger projects.

- Most Associations have at minimum two departments within the budget: Operating and Reserve
  - The Operating Department is designated to capture all the standard monthly, bi-monthly, quarterly and annual expenses known throughout the year that are used to upkeep the building/grounds and keep Operations moving forward. Most Management Companies create monthly financial statements so ideally the budget is created with monthly expenses in mind.
  - The Reserve Department will recognize income expensed from the Operating Department and all expenses from the Reserve Study as outlined by a Reserve Specialist.

- All expenses should be included in the Operating budget.
  - This will include Administrative, Payroll, Utilities, Insurance, Reserve Savings, Maintenance & Repair, Professional Fees, Grounds and Landscaping, Owned Unit Expenses, Shared Expenses, Taxes and Audit, Legal, etc.
  - Use historic figures and known increases as a model for how you will shape the next years budget. For example, if you now pay $800 for trash service, and it is known that the price has either historically increased by 5% each year, or you are quoted a 5% increase for next year, the goal is to budget the approximate expense which should equal at minimum $840.

“If an expense is known, it should be in the budget”

WHO IS INVOLVED

What parties need to be involved in the budgeting process?

- Board Members
- Appointed Committee Members
- Association Management Representatives
- Site Manager/Resident Manager (if any)
- Reserve Specialist
- Professional Contractors
- Other Professionals

DO YOUR RESEARCH

- Get quoted by all vendors and contractors
  - Insurance Agent
  - Landscapers
  - Pool Maintenance
  - Site Management
  - Trash and Recycling Service
  - Association Management
  - Etc.

- Locate needs within Community
  - Does your pool require an annual draining or filter replacement?
  - Do you have an annual tree trimming that was not recognized in past budgets?
  - Did you budget for the Biennial Condominium Registration for 2023?
  - Is there a new service you need to include or a service that is no longer necessary?

PITFALLS OF BUDGETING

- The dreaded fixed percentage or amount target.
  - “We can’t raise the fees more than 3% so make the budget work for that number.”
- Not considering trends and changes in the market and with vendors that are clear and obvious.
- Lack of planning and preparation. Starting too late and needing to rush the budget.

SAMPLE MONTHLY BUDGET

Operating Income:
Maintenance Fees: $40,700
Rental Income: $1600
Total Operating Income: $42,300

Operating Expenses:
Administrative: $500
Utilities: $18,000
Payroll & Benefits: $6,600
Insurance: $5,400
Landscaping and Grounds: $2,400
Repair & Maintenance: $2,200
Professional Fees: $3,200
Reserve Savings Contribution: $4,000
Total Operating Expenses: $42,300

NET INCOME/(LOSS): $0

Budget

['bə-jət]

An estimation of revenue and expenses over a specified future period of time that is re-evaluated on a periodic basis.

PLAN FOR BUDGET DISTRIBUTION

PLANNING	REVIEW	APPROVAL	DISTRIBUTION	START
RESERVE STUDY UPDATE AND DRAFT BUDGET CREATION	BOARD OR DESIGNATED COMMITTEE REVIEW	BOARD MEETING FOR APPROVAL	NOTICE TO OWNERS 30/60 DAY NOTICE - CHECK BYLAWS	NEW FISCAL YEAR START DATE

TIMELINE FOR CALENDAR YEAR BUDGETS

MARCH-JUNE	AUGUST	SEPT-OCT	OCT-NOV	30-60 DAY NOTICE
Begin engaging Reserve Specialist to update Reserve Study for next year.	Begin Draft 1 Budget with Management Company	Board and Committees to Review and Approve Budget and Reserve Study	Management to distribute budget to all Owners	Provide proper legal notice 30 or 60 days prior to increase of dues – check Bylaws

- Schedule subject to change if budget is not on a calendar year

SUMMARY

There are many considerations that need to be accounted for when creating a budget and overall, an association should do their best to capture all expenses anticipated for the forthcoming year. Remember to take your time, start early, do you research, and be transparent and honest with what expenses the owners will need to cover.

MAHALO!

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Reserves in the time of Uncertainty: Supplemental Information

- A Reserve Study is a budget tool for common element capital projects that an association is responsible for. Examples of such projects include roof replacement/coating, asphalt sealcoating, exterior painting, extensive concrete repairs, equipment replacement (pool, HVAC), walkway railing replacement, elevator modernization, waterline & wastepipe replacements, and beautification projects.

- It is separated from, but linked to, the annual operating budget for an Association. A Reserve Study plans in years (rather than in months) to fund large expenditures.

- The Hawaii State Law (Hawaii Revised Statutes 514B – 148) holds the association accountable for the total replacement reserves (building components) to be funded through a reserve study and to determine the useful life and replacement cost of each component, over a 30-year funding plan.

- Other types of associations (governed by 421J, for example) may not be required to have a reserve study but are still responsible for the common elements. Thus, they can benefit by having a reserve study to ensure that they are accurately saving for repairs and replacements and avoid the likelihood of a loan or special assessment to owners.

- The governing documents include language regarding the common elements that the Board is responsible to maintain. The association Board is legally obligated to maintain all the common elements for their association. The Board should consult their association attorney if the documents are vague about responsibility. If board members knowingly fail to maintain the common elements, they open themselves up to potential liability and lawsuits from owners.

- A reserve study is made of up of two parts:
  - Information about the physical status of the Association's components and the estimated repair and/or replacement cost of each component. (Physical Analysis)
  - The evaluation and analysis of the Association's Reserve balance, income and expenses and proper funding plan. (Financial Analysis)

- The reserve study analyzes the Association's current reserve funds and recommends an appropriate annual contribution to reserves in order to properly fund these projects. By following the reserve study funding plan, Associations will have the necessary funds to repair or replace an item when it is due. This helps Associations avoid special assessments and loans to pay for these projects.

- A good reserve study funding plan helps ensure each owner pays their fair share, or use, of the common elements. It also ensures that future owners are not financially penalized and paying the majority of the replacement costs of these large items.

- A reserve study should be updated every year; don't rely on an outdated reserve study! It is a living document and changes annually as projects are completed and funds are spent.

- While it is recommended that Boards consult with professionals to manage and update their reserve study, ultimately, the Board of Directors approves and adopts the reserve study on behalf of the Association.

- Some best practices include:
  - Ensuring the reserve study accurately reflects what items are Association responsibility as defined in its governing documents.
  - Periodically updating prices to current market rates rather than relying on old costs.
  - Not manipulating the reserve study's data and components in order to suppress maintenance fees.
  - Ensuring that critical components such as roofs, painting, and siding/concrete are *not* deferred.
  - Not lowering the reserve contribution.

- When in doubt, seek legal council's advice!!! The clearer that the Board and owners are on who is responsible for what, the better off an association will be.

Can’t We All Just Get Along? Tips on Avoiding and Defending Lawsuits

Christopher St. Sure, Esq.

Christopher St. Sure is partner with Goodsill Anderson Quinn & Stifel LLP. Mr. St. Sure focuses his litigation practice primarily in business litigation, real estate, construction, premises liability, and condominium law. He routinely serves as appointed insurance defense counsel for associations.

Mr. St. Sure is the Hawaii Young Lawyers Division ("YLD") Hawaii Delegate to the American Bar Association's House of Delegates and a former President of the YLD. Born and raised in Hawaii, Mr. St. Sure received his B.A. from University of Hawaii and his law degree from the William S. Richardson School of Law in 2013.

What to Expect?

1. Tips on Avoiding Lawsuits
2. “Common” Claims Against AOAOs and Boards
3. Mediation under HRS 514B
4. Binding and Non-Binding Arbitration under HRS 514B-162
5. Defenses – Importance of the Business Judgment Rule

How to avoid Lawsuits?

- Carefully Evaluate Contracts before Signing.
- Transparency.
- De-Escalate.
- Vigilantly enforce covenants regularly and uniformly .
- Be Responsive.
- Keep Good Records and Minutes.
- Records request? Be aware of response deadlines.

“Common” Claims

- Directors have the powers and duties to act on behalf of the association, including but not limited to making annual budgets, collecting assessments, upkeeping common elements, and enforcing the restrictions and covenants contained in the declaration, bylaws, and house rules. Associations are responsible for damages arising from its failure to maintain common elements. As the New Jersey Supreme Court emphasized in *Thanasoulis v. Winston Towers,* 200 Asso., 110 N.J. 650, 655 (1988), “the most significant responsibility of an association is the management and maintenance of the common areas of the condominium complex.”
  - A unit owner may bring a lawsuit against the association for its failure to fulfill such responsibility based on legal theories of **violation of statutes, breach of covenants, breach of fiduciary duty, negligence, and premises liability**.
- Architectural Request or Remodel Denials.
- Discrimination.
- Noise Disputes.
- Pet Disputes.
- Counterclaims in a Covenant Violation Enforcement.

Covenant Enforcement: Regular and Uniform Enforcement

- Recognize when a challenge made to your enforcement of a covenant or house rule is legitimate.
- Be prepared to address common defenses early:
  - Selective Enforcement – “Lack of Uniform Enforcement of the Rules”
  - Waiver – “Knowingly refrained from objecting to a violation”
  - Abandonment – “Acquiescence in substantial and general violations of the covenant within the restricted area.”
- Pristine Record Keeping (take notes, photographs, letters).

Not every disagreement can be resolved amicably. A claim asserted against the Association or Board. Now what?

While being named as a defendant in a lawsuit or threatened with one is not pleasant, community or condo associations have a number of defense tactics available to prepare for the possibility of litigation.

- **Ensure Proper Insurance Coverage;**
- **Notify your Insurance Carrier and Attorney;**
- **Determine if Coverage Exists;**
- **Right to Choose Counsel? Is this the right dispute to invoke it?**
- **Does the dispute qualify for mandatory mediation, if not already demanded?**
- **Be Proactive and start collecting relevant documents. Create a timeline.**

Mediation, HRS 514B-161

(a) The mediation of a dispute between a unit owner and the board, unit owner and the managing agent, board members and the board, or directors and managing agents and the board **shall be mandatory upon written request to the other party when**:

(1) The dispute involves the interpretation or enforcement of the association's declaration, bylaws, or house rules;

(2) The dispute falls outside the scope of subsection (b);

(3) The parties have not already mediated the same or a substantially similar dispute; and

(4) An action or an arbitration concerning the dispute has not been commenced.

(b) The mediation of a dispute between a unit owner and the board, unit owner and the managing agent, board members and the board, or directors and managing agents and the board **shall not be** mandatory when the dispute involves:

(1) Threatened property damage or the health or safety of unit owners or any other person;

(2) Assessments;

(3) Personal injury claims; or

(4) Matters that would affect the availability of any coverage pursuant to an insurance policy obtained by or on behalf of an association.

Mediation (Continued)

(f) Each party to a mediation shall bear the attorneys' fees, costs, and other expenses of preparing for and participating in mediation incurred by the party, unless otherwise specified in:

(1) A written agreement providing otherwise that is signed by the parties;

(2) An order of a court in connection with the final disposition of a claim that was submitted to mediation;

(3) An award of an arbitrator in connection with the final disposition of a claim that was submitted to mediation; or

(4) An order of the circuit court in connection with compelled mediation in accordance with subsection (e).

(g) Any individual mediation supported with funds from the condominium education trust fund pursuant to section 514B-71:

(1) Shall include a fee of $375 to be paid by each party to the mediator;

(2) Shall receive no more from the fund than is appropriate under the circumstances, and in no event more than $3,000 total;

(3) May include issues and parties in addition to those identified in subsection (a); provided that a unit owner or a developer and board are parties to the mediation at all times and the unit owner or developer and the board mutually consent in writing to the addition of the issues and parties; and

(4) May include an evaluation by the mediator of any claims presented during the mediation.

Non-Binding Arbitration, HRS 514B-162

At the request of any party, any dispute concerning or involving one or more unit owners and an association, its board, managing agent, or one or more other unit owners relating to the interpretation, application, or enforcement of this chapter or the association's declaration, bylaws, or house rules adopted in accordance with its bylaws **shall be submitted to arbitration**.

Actions Not Subject to HRS 514B-162

(b) Nothing in subsection (a) shall be interpreted to mandate the arbitration of any dispute involving:

(1) The real estate commission;

(2) The mortgagee of a mortgage of record;

(3) The developer, general contractor, subcontractors, or design professionals for the project; provided that when any person exempted by this paragraph is also a unit owner, a director, or managing agent, such person in those capacities, shall be subject to the provisions of subsection (a);

(4) Actions seeking equitable relief involving threatened property damage or the health or safety of unit owners or any other person;

(5) Actions to collect assessments which are liens or subject to foreclosure; provided that a unit owner who pays the full amount of an assessment and fulfills the requirements of section 514B-146 shall have the right to demand arbitration of the owner's dispute, including a dispute about the amount and validity of the assessment;

(6) Personal injury claims;

(7) Actions for amounts in excess of $2,500 against an association, a board, or one or more directors, officers, agents, employees, or other persons, if insurance coverage under a policy or policies procured by the association or its board would be unavailable because action by arbitration was pursued; or

(8) Any other cases which are determined, as provided in subsection (c), to be unsuitable for disposition by arbitration.

Unintended Problems with HRS § 514B-162?

- Mandatory and non-binding
- Expensive (Each party is responsible for own attorney's fees and also splitting
- Fee shifting to Prevailing Party is left to Arbitrator's discretion (*see* HRS § 514B-162(e)).
- Appeal for trial de novo (HRS § 514B-163) with no penalty if result is less favorable.

Compare to CAAP

The Hawaii Court Annexed Arbitration Program is a mandatory non-binding arbitration for all personal injury cases with an estimated value of less than $150,000.

An independent, court-appointed arbitrator, who is typically a volunteer member of the bar, is appointed to hear the case and evidence in an arbitration setting. The arbitrator appointed typically allows limited discovery, including the subpoena of medical records, after which a hearing is held and an award or defense verdict is entered. The non-prevailing party has the option of requesting a trial de novo, but must improve its position at trial by 30% or face an award of costs and possible attorney's fees.

Voluntary Binding Arbitration, HRS § 514B-162.5

(a) Any parties permitted to mediate condominium related disputes pursuant to section 514B-161 **may agree** to enter into voluntary binding arbitration, which may be supported with funds from the condominium education trust fund pursuant to section 514B-71; provided that voluntary binding arbitration under this section may be supported with funds from the condominium education trust fund only after the parties have first attempted evaluative mediation.

(b) Any voluntary binding arbitration entered into pursuant to this section and supported with funds from the condominium education trust fund:

(1) Shall include a fee of $175 to be paid by each party to the arbitrator;

(2) Shall receive no more from the fund than is appropriate under the circumstances, and in no event more than $6,000 total; and

(3) May include issues and parties in addition to those identified in subsection (a); provided that a unit owner or a developer and board are parties to the arbitration at all times and the unit owner or developer and the board mutually consent in writing to the addition of the issues and parties.

Business Judgment Rule

A director shall discharge the director's duties as a director, including the director's duties as a member of a committee:

(1) In good faith;

(2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

(3) In a manner the director reasonably believes to be in the best interests of the corporation.

“Perfection”, Thankfully, Is Not the Measure

(c) Directors may rely on information, opinions, reports, or statements, including financial statements and data, if prepared or presented by:

(1) Officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;

(2) Qualified professionals or others the director reasonably believes are within the person's professional or expert competence; or

(3) A committee of the board of which the director is not a member if the director reasonably believes the committee merits confidence.

(d) A director is not acting in good faith if he/she has knowledge concerning the matter that makes reliance unwarranted.

(e) **A director is not liable, if the director performed the duties in compliance with the foregoing general standards.**

Application of Business Judgment Rule

- The Business Judgment Rule creates a presumption that the directors have met their duty of care
- Directors are not be liable for a good faith decision, in the exercise of business judgment, that later seems to have been erroneous (i.e. honest mistakes of business judgment)
- Protects directors from personal liability for any action taken as a director, or any failure to take any action
- Actions that negate the BJR include: fraud; self-dealing; conflicts of interest; lack of due diligence (including failing to be informed) and deliberation both at the outset and ongoing; and unlawful conduct

Application of Business Judgment Rule Continued: Example- *Smith v. Van Gorkom*, 488 A.2d 858 (Del. 1985)

Under Delaware law, the business judgment presumption must be rebutted by a showing of gross negligence (in contrast to ordinary negligence under Hawaii law) in discharging a director's duty of care with respect to making a careful, fully-informed decision.

- The duty of care was breached by the directors of Trans Union Corporation in Smith v. Van Gorkom when directors failed to inform themselves adequately with respect to a proposed merger and therefore could not have exercised an informed business judgement in approving it. Smith v. Van Gorkom, 488 A.2d 858 (Del. 1985).
- In Van Gorkom, the Trans Union directors approved a merger proposal that represented a 50% premium over market and was nearly 40% greater than the highest price that Trans Union shares had traded in the previous six years.
- In finding that the Board did not inform itself adequately, the Delaware Supreme Court considered the following factors:
  - The directors were not informed as to the role of the Chairman in forcing the sale and establishing the merger price and were not informed as to the intrinsic value of Trans Union.
  - The proposed merger was described in a 20 minute presentation to the Board, no documents reflecting the terms or supporting the merger price were presented to the Board and a decision was reached by the Board after only two hours of discussion, despite the fact that there was no emergency that required the Board to act in such a short time frame.
  - No valuation or opinion had been sought from financial advisers or in house staff.
  - The merger agreement had not been read by any of the directors, including the Chairman who signed the agreement.
  - A stockholder vote approving the merger did not exonerate directors in Van Gorkom because proxy materials were found to be misleading to stockholders with respect to the premium.

Parting Tidbits: Resolving Disputes

- Identify strengths and weaknesses of your case early.
- Dig into the “myth” of the statement: “We do not want a settlement to set a precedent for other owners to follow”.
- Detach personal feelings, if any are lingering, and approach the dispute objectively.
- In Mediation: think creatively.
- In Court: balance technicalities with reasonableness.

Mahalo and Aloha

- Thank you to our speakers and to everyone who joined us today.
- Email us if you would like to review the recording of this webinar: caihawaii@hawaiiantel.net. This is a free program so please feel free to share the recording with anyone who might be interested.
- Evaluation and feedback – the form will pop up when you exit. It will also be emailed to you. Use whichever method is easier for you.
- The recordings of all 2022 programs are still available. Email us if you would like to register for any of these.
- Annual Pass: We will again be offering our annual pass for webinars for 2023. Information and registration will be posted on our website and distributed to anyone who has attended 2022 webinars.

CAI HI 2022 Programs

January 20* **– Out with the Old, In with the New — Changes in the Way Association and Board Meetings are Held**; Anne Anderson, Steve Glanstein, Seminar Co-Chairs
February 17* **– Meet the Experts**—Carol Rosenberg, Josh German, Seminar Co-Chairs
March 17* **– Disaster Preparedness—**issues that Boards need to plan for when disasters occur; Bernie Briones and Pauli Wong, Seminar Co-Chairs
April 23 – **Condorama VIII** – ***free*** program from the Hawaii Real Estate Commission
May 12* **– R&R – Rules and Regulations: how to create and enforce them —Covenant Enforcement**; Melanie Oyama, Kanani Kaopua , Seminar Co-Chairs
June 18, 25* **– Board Leadership Development Workshop**; Keven Whalen, Melanie Oya-ma, Seminar Co-Chairs
July 14 **– Legislative Update—**presented by the Legislative Action Committee
September 14* **– Show me the Money —**Delinquency Collections; Melanie Oyama/Paul Ireland Koftinow, Seminar Co-Chairs
October 13* **– What Board Members Should Know About Condominium Unit Renovation Projects —** How to Handle Unit Owner Renovations of Apartments – More Important Than You May Think! Lance Fujisaki, John Morris' Seminar Co-Chairs
November 19 **– Condorama IX - *free*** program from the Hawaii Real Estate Commission

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

CAI HAWAII 2023 Programs

January 26* **– What's New in the World of Condominiums and Planned Community Associations**—Anne Anderson, Bernie Briones, Seminar Co-Chairs

February 15* **– Owners' and Board Members' Rights and Wrongs—Bringing Peace to the Promised Land**—Kanani Kaopua, Carol Rosenberg, Seminar Co-Chairs

March 9* **– Fortifying the Fortress—including security, preparing for the elderly, privacy**—Jennifer Landon, Milton Motooka, Seminar Co-Chairs

May 18* **– Finances—including budgets and reserves, inflation, insurance**—Deborah Balmilero, Josh German, Seminar Co-Chairs

June 17, 24* **– Board Leadership Development Course**—Melanie Oyama, Keven Whalen, Seminar Co-Chairs

July 27 **– Legislative Update 2023**—presented by the Legislative Action Committee

August 10 **– Cyber Threats**—Richard Ekimoto, Steve Glanstein, Seminar Co-Chairs

September 20 **– Short Term Rentals**—Mike Ayson, John Morris, Seminar Co-Chairs

October 25 **– Community Association Law for Dummies**—Lance Fujisaki, Melanie Oyama, Seminar Co-Chairs

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