

Hawaii Condominium Bulletin

Visit our website: www.hawaii.gov/hirec / Call us: (808) 586-2644

Condorama IX

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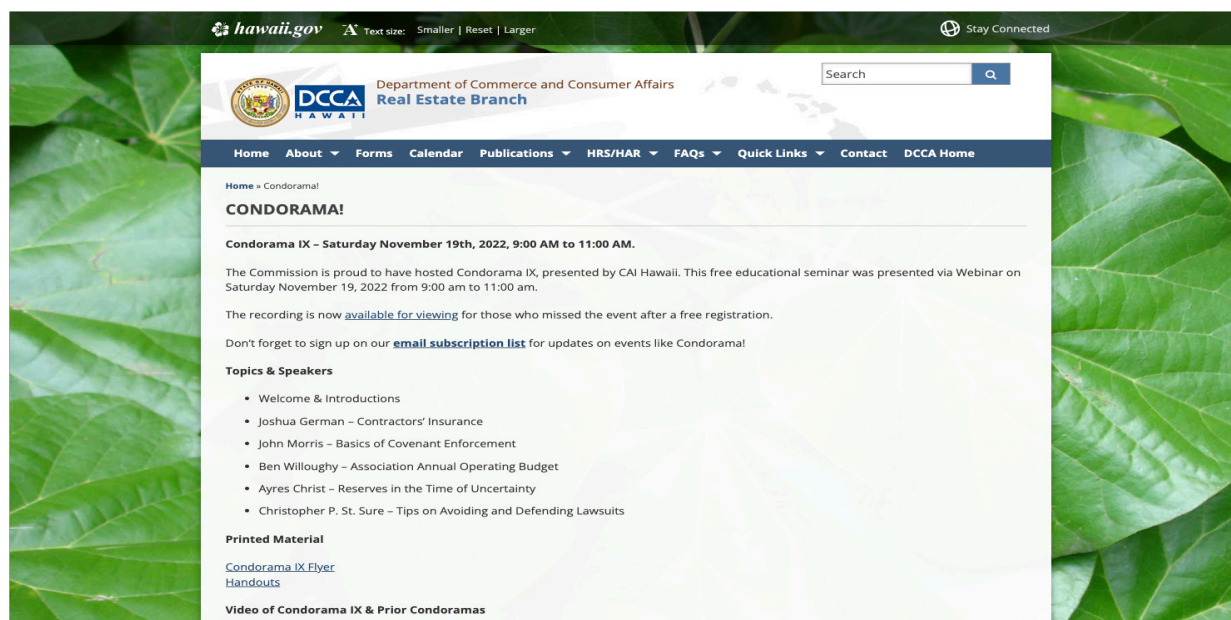
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This material can be made
available for individuals with
special needs. Please call the
Senior Condominium Specialist
at (808) 586-2644
to submit your request.



On November 19, over 500 persons Zoomed in to hear 5 speakers discuss contractor's insurance for condo associations, budgeting and reserves, enforcing association covenants, and tips on avoiding and defending lawsuits. This was the 10th Condorama held (a Condorama was held on Maui in January of 2020 but wasn't given a number, just the "Maui Condorama"! by the REB in conjunction with CAI Hawai'i. It's gratifying to see the number of people in our condo community taking advantage of this free educational opportunity grow larger every year. From Condorama's beginnings in the State Capitol Auditorium in 2017, where we were limited to about 120 persons, i.e., the number of people who could attend due to the auditorium's seating capacity, the program has grown in attendance as well as reputation.

Then came the pandemic! Organizers and attendees had to shift gears and switch to remote attendance and presentation along with sharpening the technical skills that come with producing (and viewing!) remote events.

Speaking of technical presentations, CAI Hawai'i now has an expert techie in Mr. Richard Ma. He runs a smooth Zoom operation and makes it easy for anyone to sign up and join in. You just click a few links and you're in, getting valuable perspective from proven condominium professionals without worrying about the technical end of things! And it's FREE!

Condorama IX is up on our website now for your viewing along with the handouts from the speakers. Watch it or review the handouts for expert advice and information. Here's the link www.hawaii.gov/hirec. Click on the second slider bullet for Condorama IX.

See you at Condorama X in 2023!

Message from the Chair

Aloha,

We're nearing the end of another year! I hope that you were able to take advantage of the numerous educational events offered throughout this year in condominium governance. If not, make a resolution to attend a few in 2023. You'll be glad you did!

In this issue of the Condo Bulletin, you'll find out where to file a complaint against persons affiliated with your condominium association. It takes a lot of personnel to keep a condo association running smoothly. Where to go if issues arise with any of these persons? We tell you in this piece.

Ask the Condo Specialist addresses whether a board must hold a vote of all owners to temporarily fill a board vacancy. As it turns out, it depends. And what to do if a managing agent is presenting questionable financial information to owners? Ask the Condo Specialist offers some tips.

If you're a registered CHO, remember to renew your registration with the REB by December 31, 2022, so that you may legally continue your short-term rental operation. Unless renewed, all registrations expire on December 31, 2022. You'll find a reminder in this issue of the Bulletin.

Condorama IX was held on November 19. I am pleased to report that five hundred and thirty-six persons registered to attend the Saturday session and many more requested the video recording to share with other owners and board members at a time of their choosing. You can find details of Condorama IX in this issue.

Please note that the December 2022, Commission meeting has been rescheduled to December 19, 2022. Call our office at (808) 586-2644 for information on attending.

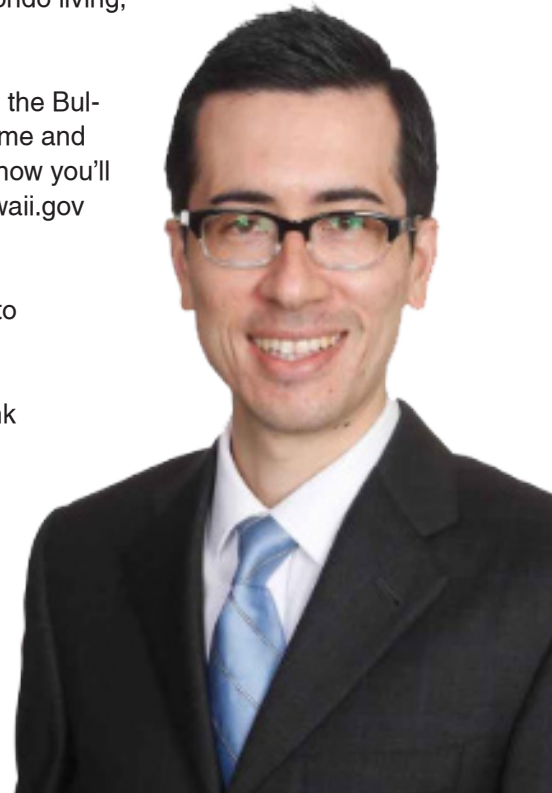
Keep up with the current condo news and issues, legislative action affecting condos, and educational events being held for the condo community by signing up for the Commission's quarterly email subscription service. Sign up for it at the link here, <http://cca.hawaii.gov/reb/subscribe>. You'll get the latest news for the condo community emailed directly to your inbox. To view any of our short and informative educational videos on various aspects of condo living, click the link here <https://cca.hawaii.gov/reb/hawaii-condo-living-guide/>.

The Real Estate Commission meeting calendar for 2023 is included in this edition of the Bulletin. Plan now to join the Commission at one of its meetings in 2023. All are welcome and encouraged to attend any of the monthly meetings which are held on Zoom; let us know you'll be attending by calling our office at 808.586.2643, or emailing us at hirec@dcca.hawaii.gov, and we'll send you a link to join in.

In conformance with the latest pandemic protocols, the DCCA building is now open to all with no vaccine or masking requirements.

I wish all of you a wonderful holiday season and a very peaceful start to 2023! Thank you for your continued interest in condominium education and for taking the time to read the Condominium Bulletin.

John R. Love
Chair, Condominium Review Committee



Making a Complaint Under Hawai'i's Self-Governing Condominium Law

While it may be the season to be jolly, complaints still do arise during the holidays. You might find the information below helpful in resolving disputes within your association.

I want to file a complaint against someone in my condominium. Does the Hawai'i condo law, with its emphasis on self-governance by the owners allow it? How can I find out?

We get many calls at the Real Estate Branch from persons wanting to make a complaint against different individuals involved in the daily life of an association. Let's look at the various players in a condominium association and consider if any regulatory body has jurisdiction over them and if so, where complaints may be made.

Managing Agents

Managing Agents are representatives from third-party management companies who are contracted by the association to provide a variety of services. These management companies provide a full range of services - from comprehensive full-service management to simple accounting and everything in between.

Management companies are licensed with at least one real estate broker on board. The Regulated Industries Complaints Office ("RICO") can potentially act against the management company for violations of the condominium and real estate laws, or any other applicable law. The managing agent and management firm are hired by the board of directors. You can reach the Regulated Industries Complaints Office at (808) 587-4272 from 7:45 AM to 4:30 PM, Monday through Friday. Or visit their website at www.cca.hawaii.gov/rico.

Boards of Directors and Fellow Owners

Boards of Directors are volunteer individuals who hold no state issued license as condominium board members. Therefore, RICO has no jurisdiction over these volunteer board members and is largely relegated to helping owners acquire certain documents from their association.

Should you have a complaint against your board or a specific board member, your best option is to go to mediation (subsidized through the Real Estate Branch for registered associations) and work with the professional mediators to come to a mutually acceptable agreement.

Like board members, other owners in your association hold no state issued license that pertains to their ownership in a condominium. Should you have an issue with a fellow owner, talking to your board about any alleged violations of the declaration, bylaws, or house rules is recommended. Having the authority of your board behind you to enforce the governing documents may alleviate the alleged problems caused by another owner. Owners may also attempt to resolve their issues with mediation.

Association Employees

Employees of the association may or may not have a professional license. If you are making a complaint against the specific actions relevant to an employee's license, please contact RICO. But general complaints should be sent to the board of directors as they are ultimately responsible for association employees' actions.

Tenants in the Association

Not all residents of an association are unit owners. The DCCA has a Landlord Tenant Information center that is open from 8:00 AM to 12:00 PM, Monday through Friday at (808) 586-2634, to assist with landlord-tenant disputes and issues. Also remember that landlords are responsible for their tenants, and everyone, including tenants, must comply with the association's rules. If you're having issues with another owner's tenant, you may wish to directly contact the landlord, i.e., unit owner, first as they may be unaware of any alleged problems their tenants may be causing.

Association Attorneys

Associations often retain attorneys for various needs. Attorneys are regulated by the Judicial Branch of the government and attorney behavior and disciplinary actions are handled by the Office of Disciplinary Counsel ("ODC"), through the Hawaii Supreme Court. You can reach the ODC at <https://dbhawaii.org/> or (808) 521-4591.

The Hawaii Real Estate Commission can be contacted for assistance with all the above but is not authorized to take complaints or engage in investigations, instead engaging in educational outreach and informing the public about the laws, available resources, and other avenues to meet their needs.

Ask the Condominium Specialist

Q: Our managing agent presents dated financials at meetings with owners and its questionable whether appropriate amounts are being set aside for our association reserves. We don't want to get stuck with future large special assessments. What can we do? Can the Real Estate Commission review our budget for us?

A: In accordance with HRS § 514B-149 (e), a condominium managing agent is charged with maintaining association funds "in strict compliance with any agreement made with the condominium owners", i.e., the contract entered with the board of the as-association relating to managing the finances of the association, in addition to complying with the rules of the Commission, the real estate licensing law and any other applicable laws.

Q: Can a board appoint members to the board on the resignation of a sitting board member? Don't they have to hold a vote of the owners to choose a new board member?

A: Consistent with the self-governing basis of the Hawai'i condominium law, check your bylaws. HRS § 514B-108 (b)(3) provides that bylaws of a condominium association *shall* provide for, among other things, the "manner of electing and removing directors and officers and **the filling of vacancies**". (Emphasis added.) Some associations allow the board to fill vacancies temporarily until the next election. Your association may be one of those.

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 September 2022, through November 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	Owners alleged the association was not enforcing or selectively enforcing, the declaration and bylaws of the association.	Mediated to agreement.
Owner vs. AOOU	Owners were fined for allegedly conducting unpermitted work on their unit. Owners allege penalties were retaliatory and selectively enforced.	Mediated; no agreement.
AOOU vs. Owner	AOOU instructed owners to remove certain appliances from their units due to plumbing issues. Owner refused asserting it was a necessary reasonable accommodation.	Mediated; no agreement.
AOOU vs. Owner	Board requested owner remove appliances not allowed pursuant to the house rules. Owner refused.	Mediated; no agreement.
Owner vs. AOOU	Owner alleges AOOU must provide a parking stall to comply with Fair Housing laws.	Mediated; no agreement.
AOOU vs. Owner	AOOU alleges owner properly installed doors to owner's unit in violation of project documents.	Mediated; no agreement.
Owner vs. AOOU	Allegation that the board withheld information regarding litigation from all owners of the association.	Mediated; no agreement.

Mediation Center of the Pacific, Inc.

Owner vs. AOOU	Owner alleged violation of bylaws regarding maintenance fees after foreclosure on owner's unit.	Mediated; no agreement.
Owner vs. AOOU	Alleged violation of house rules regarding the use of medical marijuana. Owner withdrew mediation request.	
Owner vs. AOOU	Owner questioning maintenance fees in comparison with other units. After intake with the parties, no mediation occurred.	

West Hawai'i Mediation Center

Owner vs. AOOU	Issue regarding repair work done on owner's lanai, who was responsible for the work and for the legal fees incurred over this issue. Owner subsequently withdrew request for mediation.	
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Mediation Case Summaries

To consult with any of our subsidized private mediation services, contact one of the following providers:

Oahu: Mediation Center of the Pacific, Inc.
245 N. Kukui Street, #206
Honolulu, HI 96817
Tel: (808) 521-6767
Fax: (808) 538-1454
Email: mcp@mediatehawaii.org

Maui: Mediation Services of Maui, Inc.
95 Mahalani Street, Suite 25
Wailuku, HI 96793
Tel: (808) 244-5744
Fax: (808) 249-0905
Email: info@mauimmediation.org

W. Hawaii: West Hawaii Mediation Center
65-1279 Kawaihae Road, #202
Kamuela, HI 96743
Tel: (808) 885-5525 (Kamuela)
Tel: (808) 326-2666 (Kona)
Fax: (808) 887-0525
Email: info@whmediation.org

E. Hawaii: Ku'ikahi Mediation Center
101 Aupuni St. Ste. 1014 B-2
Hilo, HI 96720
Tel: (808) 935-7844
Fax: (808) 961-9727
Email: info@hawaiiimmediation.org

Kauai: Kauai Economic Opportunity, Inc.
2804 Wehe Road
Lihue, HI 96766
Tel: (808) 245-4077 Ext. 229 or 237
Fax: (808) 245-7476
Email: keo@keoinc.org

Lou Chang, A Law Corporation
Mediator, Arbitrator, Attorney
Member, National Academy of Arbitrators
P.O. Box 61188, Honolulu, Hawaii 96839
Tel: (808) 384-2468
Email: louchang@hula.net
Website: www.louchang.com

Charles W. Crumpton
Crumpton Collaborative Solutions LLLC
TOPA Financial Center, Suite 702
745 Fort Street, Honolulu, Hawaii 96813
Tel: (808) 439-8600
Email: crumpton@chjustice.com
Websites: www.acctm.org; www.nadn.org;
www.accord3.com; and www.mediate.com

Dispute Prevention and Resolution
1003 Bishop Street, Suite 1155
Honolulu, HI 96813
Tel: 523-1234
Website: <http://www.dprhawaii.com/>

CHO Registration Renewals!

All Condominium Hotel Operator (persons or entities managing short-term rentals in a condominium association for others) registrations expire on December 31, 2022.

If you are operating a CHO registered with the REB and haven't renewed yet you've just a short time left to get your paperwork in and approved to continue operating legally into 2023. If you hold a Hawai'i real estate broker's license, there is no registration requirement; you operate short-term rentals in a condo association through your Hawai'i broker's license.

Renewal reminders and re-registration applications were sent out in early October. If you've misplaced your paperwork or haven't renewed your registration, call our office at 808.586.2644 or email the REB at hirec@dcca.hawaii.gov for information on renewing. All renewal applications must be received AND APPROVED in the REB by December 31, 2022, to continue operating legally. If not renewed and approved by that date, a new application must be completed and approved before resuming short-term rental operations out of a condominium association.

Happy Holidays!

*From the
Hawaii Real Estate Commission*



2022-2023 Real Estate Commission Meeting Schedule

Real Estate Commission – 9:00 a.m.

Monday, December 19, 2022

Friday, January 27, 2023

Friday, February 24, 2023

Friday, March 24, 2023

Friday, April 21, 2023

Friday, May 26, 2023

Friday, June 23, 2023

Friday, July 21, 2023

Friday, August 25, 2023

Friday, September 22, 2023

Friday, October 27, 2023

Friday, November 17, 2023

Friday, December 15, 2023

All Real Estate Committee Meeting items will be discussed at Real Estate Commission Meetings until further notice.

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 (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.

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