

Hawaii Condominium Bulletin

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Condominium Association Registration 2023-2025

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The biennial condominium association registration for the July 1, 2023 - June 30, 2025, period is going live at the Real Estate Branch registration website, www.aou.ehawaii.gov on April 1, 2023. The website will be available for online registration until June 30, 2023, after which time all re-registering associations must request a paper registration form from the Real Estate Branch office.

All current condo association registrations expire on June 30, 2023, and associations must be fully re-registered by that date to remain compliant with the law and to avoid penalty payments upon re-registering.

The registration of condominium associations is a biennial event pursuant to the Hawai'i condominium law. The requirements are contained in HRS § 514B-103, and condominium associations containing 6 or more units are required to register "each odd-numbered year".

Some associations are exempt from the registration requirement. Exceptions to registering apply to condominiums (1) where all units are restricted to nonresidential uses or (2) condominiums containing no more than five units and are not subject to any continuing development rights. Additionally, the exception to registration must be provided for in the declaration or bylaws of condominiums claiming the registration exemption. HRS § 514B-101.

In addition to paying application fees, including the Condominium Education Trust Fund and Mediation per unit contributions totaling \$10 per unit, registration requires providing proof of a fidelity bond, i.e., crime or dishonesty insurance coverage protecting association funds. The fidelity bond must cover the managing agent and its employees and any employees of the association. Exemptions to the fidelity bond requirement are available for certain types of condominiums associations. These are for (1) associations with a sole owner, (2) associations that are used 100% for commercial purposes and (3) associations with 20 or fewer units.

While required by law, there are benefits to registering. Owners of registered condominiums are eligible for subsidized mediation and binding arbitration through private dispute resolution providers. Since self-governance by unit owners is the guiding philosophy of the Hawai'i condominium law, these subsidized options are a valuable tool in resolving disputes among owners.

Funded through
the Condominium
Education Trust Fund

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

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Message from the Chair

Aloha,

Welcome to 2023 and another legislative session. Around 40 bills were introduced at the legislature this session relating to some form of condominium governance or project development. Some of the bills followed by the Real Estate Branch include proposing the creation of a condominium ombudsman; putting homeowner associations and cooperatives under the regulatory control of the DCCA; mandatory education or certification for board members and property managers; and requiring associations to include the estimated cost of fire sprinklers in the estimated cost of replacement reserves. Our June Condominium Bulletin will report on what bills survived the session.

Join us for the upcoming Spring Condorama X. It will be held on Saturday April 29, 2023. It's a free online educational event for all unit owners in registered condominium associations. Over 500 persons joined us for the November 2022 Condorama! The Real Estate Commission is proud to provide free quality education to so many condominium owners. Additional information for the spring event, including the speakers and topics is on our REB website, www.hawaii.gov/hirec, or at CAI Hawai'i's website, www.caihawaii.org. Register today!

Inside this issue, we remind you of the upcoming condominium association registration (yes, it's that time again folks) and why it matters.

Ask the Condo Specialist looks at what it takes to turn your association's tennis courts into pickleball courts and what owners can do when questioning meeting procedures. And mediator/arbitrator Lou Chang, Esq. gives us a Hawai'i example of how disputing parties talking to each other can work.

As always, 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>. By signing up you'll get the latest news for the condo community emailed directly to your inbox. The emails are also posted at the Real Estate Branch website if you prefer, including our latest from February 2023.

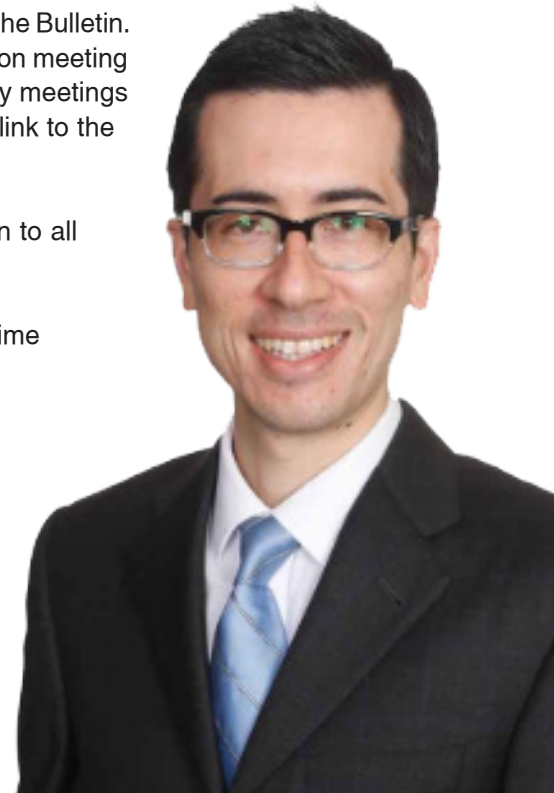
To view any of our short and informative educational videos on various aspects of condo living, click the link here <https://cca.hawaii.gov/reb/hawaii-condo-living-guide/>. In this edition of our bulletin, we give you a look at what videos are available.

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. The next Commission meeting is on March 24, 2023. All are welcome and encouraged to attend any of the monthly meetings which are held on Zoom; simply go to our website and click on the agenda for the link to the Zoom meeting, here https://cca.hawaii.gov/reb/agendas_minutes/.

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

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



Mediation – What’s the Beef?

The following is reprinted with permission from “Mediation News” a service from Lou Chang, Mediation – Arbitration – Neutral Services. It’s an example of what two seemingly opposing parties can get done when they talk to each other! Check out our REB link for mediation and voluntary binding arbitration services for condo owners here, <https://www.hawaii.gov/reb/resources-for-condominium-owners/>.

What’s the beef!?

“My attorneys were telling me that I would win in court. The attorneys did not want us to talk to each other. But in the end that was the solution. Sometimes, you’ve got to get the attorneys out of the way so you can make friends and fix things. Life is too short to make enemies. Making friends is a lot less stressful and a lot more fun!”

---Frank VanderSloot, owner of Honolulu Meat Co. LLC---

This quote appeared in a news article written by Peter Boylan of the Star Advertiser. A trademark infringement lawsuit had been filed on behalf of Kua ‘Aina, the locally beloved Haleiwa hamburger shop. Honolulu Meat Company, a meat distributor, adopted the term Kua ‘Aina as part of its branding of its meat products. The litigation became testy. One of the attorneys suggested mediation but apparently faced resistance from the other attorney. Standard litigation advice appears to have been given for the principals to not talk to each other as the litigation proceeded.

The principals of the two companies took the “bull by the horns”, so to speak, and met directly to discuss resolution of the lawsuit. They ultimately agreed to conduct a public contest to select a new branding name for Honolulu Meat Company. More than 2000 individuals submitted more than 5000 suggestions for a new name. The winner of the naming contest won a prize of \$10,000 for his suggestion, Kama ‘Aina Ranches and 100 runner-ups received a \$20 gift card to the Kua ‘Aina Sandwich Shop in Haleiwa. The \$10,000 in prize money and \$2000 in gift cards brought both companies immeasurably valuable publicity and goodwill and will bring more customers to Kua ‘Aina Sandwich Shop. Research has shown that a \$20 gift card will, on average, generate actual sales greater than the face value of the gift card. The positive creativity of the principals of the two companies created winners all around.

My attorney colleagues should not take too much offense from the quote about getting the attorneys “out-of-the-way”. It’s too easy to take a swipe at the attorneys. They articulated and framed the issues and set the stage. The principals seized the opportunity to make a practical, creative and productive resolution that made business sense. This is not a case where a mediator got involved. But the parties did what a good mediator would try to do, help the parties broaden their perspectives to identify and consider multiple ideas and ways for business conflicts to be resolved in a practical, productive and creative way.

Condominium Association Registration 2023-2025 (cont. from page 1)

Financial institutions and mortgage companies check on the registration status of associations for their own purposes when an association applies for a loan. It is not unusual for these companies to call the REB to confirm an association’s registration status.

Prospective purchasers of units also benefit. Because the AOUO registration form is posted on the REB website for public viewing, members of the public are free to review this information. This is a good place for potential purchasers of a unit to begin their research into how an association they may be considering buying into is run. For example, what is the percentage of owner-occupants to non-resident owners and what is the percentage of reserve funding set aside by the association? Owner-occupants may demand a level of care for the association property, for example landscaping, that owners who reside elsewhere may care less about simply because they don’t live on the property. A high owner-occupant rate may indicate this. Likewise, knowledge of the current level of reserve funding can give prospective purchasers an indication of whether special assessments may be in an owner’s future. And if you find a prospective association to be unregistered, this may say something about the association as well!

An association’s registration status can influence pending litigation. HRS § 514B-103 (b) provides that any association that fails to register as required by law shall not have standing to **maintain** any action or proceeding in the courts of Hawai‘i until it registers. The failure to register does not impair the validity of any contract however, nor does it prevent an association from **defending** any action or proceeding against it. The REB is aware of at least one case that was thrown out upon motion by the defendant because the complaining association was not registered as required by law. This case was brought to our attention by the defendant’s attorney inquiring with the REB on the registration status of the complainant AOUO.

For those associations managed by a condominium managing agent, the managing agent will most likely take on the responsibility of completing the registration; confirm though that this is a responsibility assumed by the managing agent. Self-managed associations have the same statutory duty to register. In this case, the board of the association is responsible for registering or for delegating the responsibility. Condominium associations that fail to reregister by June 30, 2023, will be subject to the payment of penalty fees and remain unregistered until all registration requirements are completed. Don’t wait until the last minute!

Ask the Condominium Specialist

Q: My condominium association has tennis courts in our recreation area. Some owners want to change the use of the courts and re-line them for pickleball games; this would give us more pickleball courts out of one tennis court. Our condominium documents say that the existing courts are “for tennis only”. What must be done so that the tennis courts can legally be used for pickleball? Can we simply re-stripe the courts? It does seem that there is more interest in pickleball among the owners than might be interested in keeping the existing tennis courts.

A: Pickleball is increasing in popularity. The competition for courts is such that recently, Honolulu’s parks division rededicated a number of tennis courts for pickleball use. Your association’s owners would be lucky to have courts for their own use. If your association documents designate the tennis courts as “for tennis only”, these documents will have to be amended before the courts can be rededicated for pickleball use. Since the condominium law relating to these matters is based on the philosophy of self-governance and majority rule, an approval vote of at least 67% of the owners is needed to amend the documents to allow the courts to be rededicated. Good luck!

Q: Our condo association doesn’t have the funds to hire a parliamentarian to assist us with our association meetings, but I wonder at some of the actions our board takes regarding meeting procedure. Most recently, they’ve cancelled an election for board members, and it’s not the first time they’ve cancelled votes at the last minute. They do this at the meeting where the voting was supposed to take place! Of course, this makes it difficult for the owners campaigning because then the vote gets rescheduled, and they must start over. The whole thing doesn’t seem right to me, to manipulate a meeting this way to exclude voting that was planned for. Can boards just cancel a scheduled vote at the last minute like this?

The results of our last association meeting, after being announced, were changed due to what they told us was “a mistake”. This changed the outcome of an election. Can they make what some of us consider an arbitrary change to a voting outcome?

A: We’ll take these two questions together because they both raise procedural issues at a meeting. Procedural matters relating to association meetings are not addressed in the Hawai’i condominium law, HRS Chapter 514B, but they are addressed in Robert’s Rules of Order, Newly Revised (“Robert’s Rules”). HRS § 514B-121 for association meetings, and HRS § 514B-125 for board meetings states that these meeting “shall be conducted” in accordance with the most recent edition of Robert’s Rules. Review Robert’s Rules for any guidance that may pertain to your association’s meetings, for the procedures for cancelling meetings and rules pertaining to amending the outcome of a vote.

The fundamental basis of the condominium law is the concept of self-governance by the condominium unit owners. Because unit owners are on their own, so to speak, take some time to review HRS Chapter 514B as well as your condominium documents. The bylaws of your association may contain language relating to conducting meetings in your association that may pertain to your current situation. And while your question about the board’s meeting procedures is not addressed by HRS Chapter 514B, getting familiar with the law may be helpful should other issues arise in the future.

The information provided herein is informal and intended for general informational purposes only. Consult with an attorney familiar with the Hawai’i condominium law for specific legal advice regarding your situation.

Mediation Case Summaries

From December 2022, through February 2023, 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	Dispute regarding noise between upstairs and downstairs unit owners and the installation of flooring. Dispute between owners settled; one owner working on remaining issues with AOOU regarding house rules enforcement.	
AOOU vs. Owner	Issues involved delinquent maintenance fees and resulting attorney's fees pursuant to the project documents.	Mediated; no agreement.
AOOU vs. Owner	AOOU alleges modifications made to owner's unit in violation of project documents.	Mediated; no agreement.
Owner vs. AOOU	Owner blamed AOOU and two other unit owners for negative health effects from noxious odors coming from owners' units, in violation of project documents.	Mediated; no agreement.
Owner vs. AOOU	Owner challenged board's decision to begin a construction project and obtain construction loan.	Mediated; no agreement.
Owner vs. AOOU	Owners allege unfair treatment by board to owners not in the association rental pool in violation of declaration and bylaws. Parties have agreed to participate in arbitration after mediation.	Mediated; no agreement.
Owner vs. AOOU	Dispute alleging violation of project documents relating to noise levels at a commercial venue on association property.	Mediated to agreement.
AOOU vs. Owner	Alleged violations of smoking and noise rules by owners.	Mediated; no agreement.
Owner vs. AOOU	Dispute regarding water intrusion into the unit and subsequent mold damage.	Mediated; no agreement.
Owner vs. AOOU	Owners allege meeting mismanagement, lack of reasonable accommodation for owners and removal of water hose on common element property.	Mediated; no agreement.
Owner vs. AOOU	Owners dispute construction projects and resulting assessments.	Mediated; no agreement.
Owner vs. AOOU	Owner alleged improper amendment of declaration regarding lanai enclosures.	Mediated; no agreement.
Owner vs. AOOU	Association asserted that the newly installed water heater was not in compliance with the bylaws.	Mediated; no agreement.
Owner vs. AOOU	Owners allege modifications were made to the common elements in contravention of the declaration.	Mediated; no agreement.

Mediation Case Summaries

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	Owner alleged violation of house rules and bylaws regarding air conditioning charges, storage locker use, and elevator repairs. After intake, with all parties, owner withdrew from mediation.	
Owner vs. AOOU	Issues involving handicap parking stalls and house rules. Owner withdrew request for mediation.	

Maui Mediation Services

Owner vs. AOOU	Owner disagrees with lighting installed on association property. Dispute resulted in attorney's fees imposed on owner.	Mediated; no agreement.
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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

East 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@hawaii-mediation.org

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

Maui

Mediation Services of Maui, Inc.

95 Mahalani Street, Suite 25
Wailuku, HI 96793
Tel: (808) 244-5744
Fax: (808) 249-0905
Email: info@mauimediation.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

Dispute Prevention and Resolution

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

West Hawaii

West Hawaii Mediation Center

65-1291 Kawaihae Road, #103B
Kamuela, HI 96743
Tel: (808) 885-5525 (Kamuela)
Fax: (808) 887-0525
Email: info@whmediation.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



Hawaii Real Estate Commission

CONDORAMA X

PRESENTED BY CAI HAWAII

A **Free** Education Program for Condominium Owners

Topics Include: Lawsuits, Maintenance Fee Increases,
Community Rules, and Electric Vehicle Charging
Stations In Condominiums



Saturday April 29, 2023
Program: 9:00 a.m. to 11:00 a.m.
Via Webinar

Condorama X will be conducted via Webinar, with the link to the webinar sent after online registration at www.caihawaii.org.

Registration available prior to start of event.

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

This webinar or educational presentation is entirely funded by funds from the Condominium Education Trust Fund (CETF), Real Estate Commission, Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs, State of Hawaii for condominium unit owners whose associations are registered with the Real Estate Commission. Real Estate Commission may be reached at (808) 586-2644, 7:45 AM to 4:30 PM. If you need an auxiliary aid/service or other accommodation due to a disability, contact Benedyne Stone at (808) 586-2644 or hirec@dcca.hawaii.gov as soon as possible, preferably within two (2) business days of the seminar. If a response is received after that date, we will try to obtain the auxiliary aid/services or accommodation, but we cannot guarantee that the request will be fulfilled. Upon request this notice is available in alternative formats such as large print, Braille, or electronic copy.

Resources for Condo Owners

Did you know that the Real Estate Branch website is full of useful information for condominium owners? The list below contains 15 short videos (each around 5 minutes) on condominium living – from purchasing to the facts of everyday living.

We've listed them below for you, including the link to any one of them any time. Take a look!

- Important Things to Know When Purchasing a Condo
- Important Things to Know:
 - New Condominium Owner in Hawaii
 - Owner's Rights and Responsibilities
 - About Boards of Directors
 - Common Governance Issues
- Important Things to Know: About Dispute Resolution
- Important Things to Know About Your Governing Documents
- Meetings
- Association Records
- Budgeting and Reserve Funding
- Maintenance Fees & Special Assessments
- Leaks and Water Damage
- Agents of the Association
- Condominium Resources



<https://www.hawaii.gov/reb/hawaii-condo-living-guide/>



The DCCA Consumer Fair was held on March 8, 2023. Over 500 people browsed the King Kalakaua Building Courtyard and engaged with representatives from local, federal, and community organizations and agencies. This was the first in-person event since the pandemic. Pictured is the Real Estate Branch table set up and manned by staff members.

2023 Real Estate Commission Meeting Schedule

Real Estate Commission – 9:00 a.m.

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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