



Hawaii Condominium Bulletin

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Understanding Capital Expenditures and Reserve Studies in Property Management

Leslie Chang, Senior Community Portfolio Manager, Hawaiian Properties

In property management, the concepts of capital expenditures and reserve studies are essential for ensuring the longevity and financial stability of associations. Capital expenditures are major upgrades or repairs that are necessary for the overall well-being of the association. Typically, these are replacement of the common area drain lines, elevator modernization, painting, spalling repairs, asphalt/parking repairs or replacement, etc. A reserve study is a budget forecasting tool that estimates both the timing and cost of future capital expenditures. This study is conducted annually to update and refine the information, ensuring that the association is financially prepared for significant repairs or replacements.

Please remember, [§514B-148\(a\)\(5\), HRS](#), notes, "The estimated replacement reserves assessments that the association will require to maintain the property based on a reserve study performed by or on behalf of the association; provided that the reserve study, if not prepared by an independent reserve study preparer, shall be reviewed by an independent reserve study preparer not less than every three years; provided further that a managing agent with industry reserve study designations shall not be considered as having a conflict of interest for purposes of this paragraph;"

For example, consider a simple analogy involving the purchase of a car. If you plan to make a \$15,000 down payment in 15 months, you will need to save \$1,000 per month. Similarly, in property management, associations set aside funds each month into specific "envelopes" for future capital expenditures. These envelopes represent various property components such as the roof, elevators, or HVAC systems, which will eventually require replacement or significant maintenance.

A practical application of this is the replacement of a roof installed in 2010 with a 30-year lifespan. By 2040, the roof will need replacement, and the association must have saved enough to cover the cost, accounting for factors like inflation. For instance, if the current cost of replacing the roof is \$50,000 and inflation is estimated at 3% annually, the association would need to save approximately \$138.88 per month for 2010, \$147.34 per month for 2011, \$151.76 per month for 2012 continuing until 2040. In 2040, the total collected will be \$85,844.

However, unforeseen circumstances such as early failure, economic changes, or natural disasters can affect these plans. If the roof fails in 2035, the association will be short five years of contributions, necessitating either reallocating funds, approving a special assessment, or obtaining a loan. This example underscores the importance of regularly reviewing and adjusting the reserve study to ensure adequate preparation for all scenarios.

In conclusion, understanding and effectively managing capital expenditures and reserve studies are critical for the long-term success of any association. These financial strategies ensure that associations can meet their future obligations without imposing sudden, significant financial burdens on their members.

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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.

Message from the Chair

Aloha,

I hope everyone had a fantastic summer.

In this Fall edition of our Condominium Bulletin, we've included an update of the 2024 legislative session with the condominium bills enacted into law by the Governor. These Acts may have significant impacts upon condominium governance in the aspect of electronic meetings and voting, the ability of condominium owners to invest in alternative energy, access to commercial like lending, as well as some benefits to delivering certain documents via email during the developer selling process.

The "Ask the Condo Specialist" discusses getting copies of condominium documents, always a hot topic among both owners and board members. The Akamai Buyer gives tips on what to look out for when buying condominium units with occupancy and reselling restrictions.

Hawaiian Properties was gracious enough to provide guidance on capital expenditures and reserve studies, which have become more pressing in the era of rising insurance and residential high rise infrastructure disasters in Florida, Iowa, New York, and Minnesota.

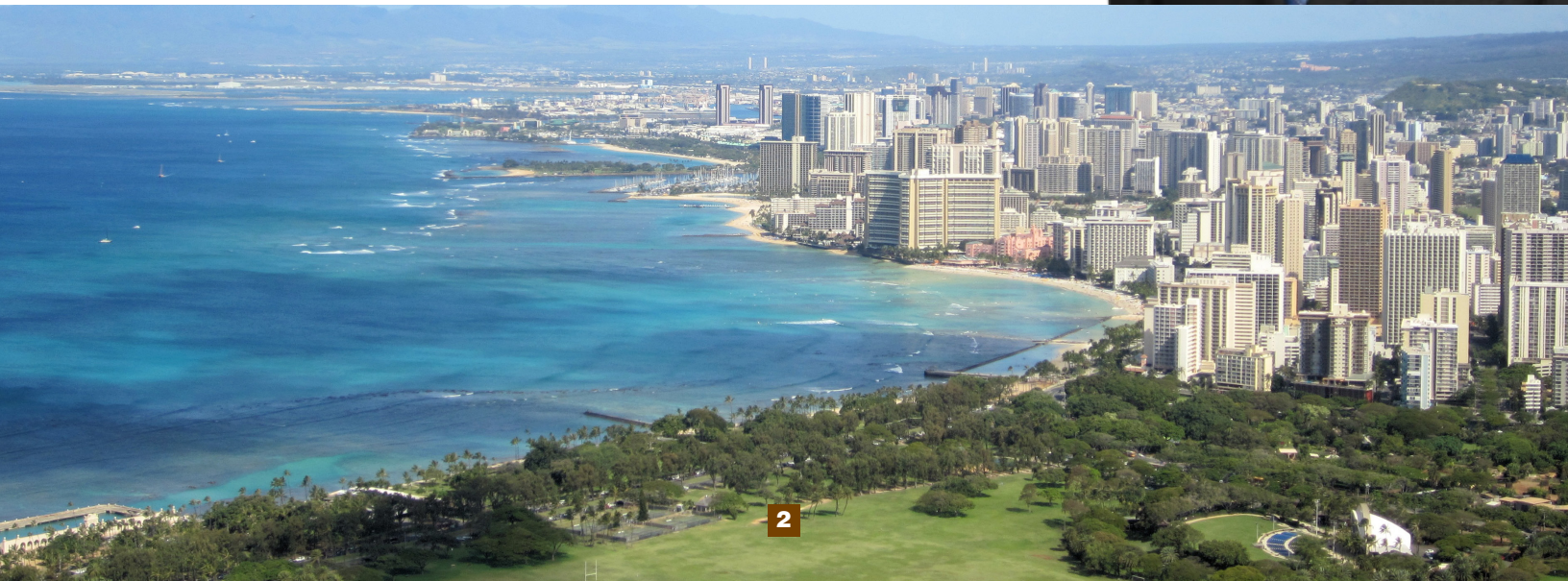
We've also included summaries of condominium mediations that have been conducted in the last few months.

Keep up with the current condo news, 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 is available at the following link: <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.

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/>.

A calendar of our meetings for 2024 is also included inside. All are welcome and encouraged to attend any of the monthly meetings which are now held in-person, primarily in the Queen Liliuokalani Conference Room of the King Kalakaua Building, 335 Merchant Street, First Floor. Click the link here https://cca.hawaii.gov/reb/agendas_minutes/ to visit our website to get the upcoming agenda and to review the minutes from prior meetings.

John R. Love
Chair, Condominium Review Committee



2024 Legislative Session Acts



The 2024 legislative session adjourned with several condominium bills enacted into law. Please consult with legal professionals regarding these new laws. The following descriptions are summarizations of a few Acts meant to provide only general information.

House Bills:

Act 40, SLH 2024, creates a Solar Hui Program in the Hawai'i Green Infrastructure Authority. This program allows multi-family residential property owners to invest into a solar fund to receive installation tax credits and income derived from the sale of energy.

Act 41, SLH 2024, enacts a commercial property assessed clean energy and resiliency (C-PACER) program to allow certain condominium projects to access alternative funding for qualified association capital improvements. Under C-PACER, loan terms are typically much longer than conventional loans, making annual loan payments more affordable. Subject to any approval requirements in a condominium's governing documents, C-PACER loans require a minimum approval of unit owners representing 50% of the common interest vote. This program will also be administered by the Hawai'i Green Infrastructure Authority.

Act 42, SLH 2024, clarifies prior statutory language regarding electronic meetings, electronic voting, and mail voting. These may now be authorized via approval at association meetings, or between three and eighteen months prior to the electronic meeting, electronic vote, or mail vote. This Act also repeals language governing machine voting and the use of electronic voting devices.

Senate Bills:

Act 39, SLH 2024, requires the counties to adopt or amend ordinances to allow for at least two accessory dwelling units ("ADU"), subject to certain restrictions, on all residentially zoned lots. This may result in an expansion of condominiums on Kauai, Maui, and Hawaii counties. At the date of this publication, the City and County of Honolulu forbids the submission of ADUs to condominiums.

Act 43, SLH 2024, requests and funds a study for the Legislative Reference Bureau to examine a multistate approach to various condominium governance issues, such as a condominium ombudsman, licensing individuals who manage condominiums, dispute resolution programs, requirements for owner education at point of sale, and several other topics of interest determined by the Condominium Property Regime Task Force established by Act 189, SLH 2023.

Act 44, SLH 2024, allows for email to be used to deliver certain documents during the initial developer sale of condominium units. Printed copies of the Developer's Public Report are still mandatory, pursuant to §514B-86(a)(1)(ii), HRS, but supporting documents, including rescission and cancellation notices, may be delivered by email.

Act 240, SLH 2024, expands who can act as a complainant in a multi-unit building for reporting burglaries.

Legislative Process:

Are you interested in the legislative process? A key part is to understand the deadlines during the session. The legislative session normally starts in January and closes in May annually. See the legislative calendar (<https://www.capitol.hawaii.gov/docs/sessioncalendar.pdf>) for more legislative deadlines and dates.

The best time to work on new legislation is before the legislative session starts. Contact legislators in the interim between sessions to voice your concerns and see if they are willing to champion your proposed bill. There is only a short period of time for legislators to submit bills. Work with legislators to draft a bill, address concerns, and fine tune for submission during the first week of the legislative session.

Mediation Case Summaries

From June of 2024 through August of 2024, 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.

AOUO vs Owner	Dispute over the interpretation of the declaration, bylaws and house rules	Mediated to an agreement
Owner vs AOUO	Dispute over the maintenance fees and legal fees	Mediated to an agreement
Owner vs AOUO	Dispute over retaliation, interpretation of the bylaws and house rules	Mediated to an agreement
Owner vs AOUO	Dispute over the bylaws and declaration, common elements	No Agreement
Owner vs AOUO	Dispute over the bylaws and declaration, insurance	No Agreement
Owner vs AOUO	Dispute over the bylaws covering flooring	No Agreement
Owner vs AOUO	Dispute over the bylaws and declaration over fines	Mediated to an agreement
AOUO vs Owner	Dispute over the bylaws and declaration over repairs	No Agreement
Owner vs AOUO	Dispute over the bylaws and declaration over repairs	Mediated to an agreement
Owner vs AOUO	Dispute over the bylaws and declaration over repairs and budget	Mediated to an agreement
AOUO vs Owner	Dispute over the bylaws and declaration over improvements	No Agreement
AOUO vs Owner	Dispute over the bylaws and declaration over smoking	Mediated to an agreement
Owner vs AOUO	Dispute over the bylaws and declaration over insurance	No Agreement
AOUO vs Owner	Dispute over the bylaws and declaration over attorney fees	Mediated to an agreement

Lou Chang

Owner vs AOUO	Dispute over House Rules, noise, common area maintenance and harassment	Mediated to an interim agreement, future private mediation
Owner vs AOUO	Dispute over interpretation of the bylaws, declaration, owner participation and common elements	Mediated to an agreement

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

Oahu

Mediation Center of the Pacific, Inc.

1301 Young Street, 2nd Floor

Honolulu, HI 96814

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

West Hawaii

West Hawaii Mediation Center

65-1291 Kawaihae Road, #103B

Kamuela, HI 96743

Tel: (808) 885-5525 (Kamuela)

Tel: (808) 326-2666 (Kona)

Fax: (808) 887-0525

Email: info@whmediation.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@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

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/>

Ask the Condominium Specialist

Q: I need a copy of my project's declaration, bylaws, house rules, and map. Can I ask my board for them?

A: As an owner, you are legally entitled to an accurate copy of the declaration, bylaws, house rules and master lease (if any) from the managing agent, resident manager, board, or association's representative pursuant to [§514B-154.5\(a\)\(2\), HRS](#). Should you encounter difficulties in acquiring such documents from your board or its agents, please contact the Regulated Industries Complaints Office for assistance on this matter.

You can also order a copy of the most recently recorded map from the Bureau of Conveyances ("Bureau"). The Bureau is the recording agency for the State. While the Hawai'i Real Estate Commission ("Commission") does receive maps during the initial registration process from the developer, it neither maintains current maps nor receives any updates from associations when they, or owners, update the map. Also, the Commission maintains a ten-year document retention policy, after which documents are destroyed. The Commission strongly recommends consulting your board and the Bureau for the most up-to-date documents. The Bureau also maintains [a website to request copies of maps](#).

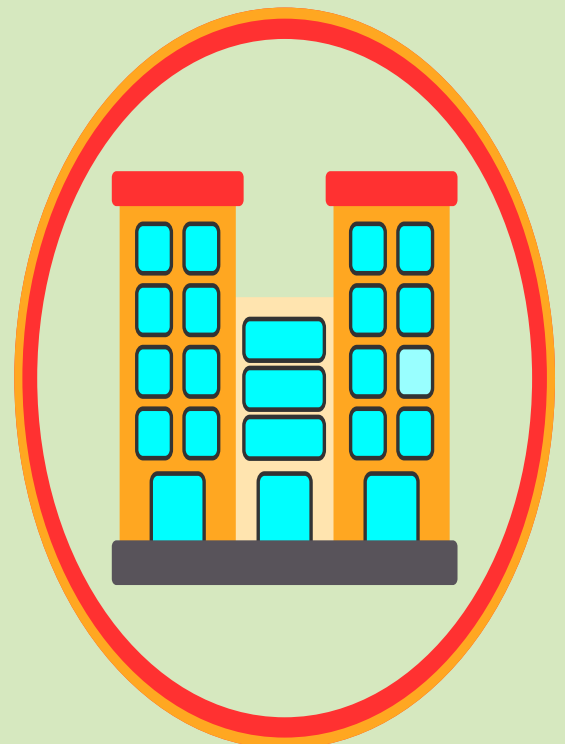
Document requests are not limited to the declaration, bylaws, and house rules. Owners may review and obtain copies of contracts, financial statements, ledgers, and many, many other documents. These documents are listed in the Hawai'i condominium law under [sections 514B-152 through 514B-154.5, HRS](#). Be aware that if an association chooses to comply with document requests by making the documents available for download through an internet site at the option of the unit owner, the association must do so at no cost to the owner or their authorized agent, pursuant to [§514B-154.5\(e\), HRS](#).

THE AKAMAI BUYER

Reselling and Occupancy Restrictions

Many new condominiums come with reselling and occupancy restrictions for some of their units. To keep certain units more affordable, agencies like the Hawai'i Housing Finance and Development Corporation ("HHFDC") and the Hawai'i Community Development Authority ("HCDA") will impose certain conditions as part of their subsidization programs. The condominium law itself only requires that projects which contain more than two residential units shall initially offer 50% of its units to prospective owner-occupants for thirty days. However, this restriction is replaced by any requirements imposed by HHFDC or HCDA, if they are involved in the development. These additional rules often require the owner to live in the unit between one to ten years, give the agency the first right to buy from the owner, and/or mandate profit sharing with the respective agency, if and when the owner sells. HHFDC and HCDA are also the agencies to enforce these more restrictive requirements that supersede the condominium law requirements (See [§514B-99.5\(a\)\(1\), HRS](#)).

Not every unit in such a project is subject to such rules. Condominium projects often have a mix of restricted and unrestricted units, so be sure to read the fine print to determine the reselling and occupancy restrictions, if any, for the unit you want to buy.



2024 Real Estate Commission Meeting Schedule

Real Estate Commission – 9:00 a.m.

Friday, September 27, 2024

Friday, October 25, 2024

Friday, November 22, 2024

Wednesday, December 18, 2024

All Real Estate Committee Meeting items will be discussed at the Real Estate Commission Meetings until further notice. Real Estate Commission Meetings will be held in-person 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.

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