



# Hawaii Condominium Bulletin

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## To File or Not to File

### The Corporate Transparency Act that Likely Affects Most Associations Has Been Blocked

Melanie K. Oyama, Esq. and Anya M. Perez, Esq.



The word is out that Congress enacted the Corporate Transparency Act (“CTA”) as an amendment to the Bank Secrecy Act. Unfortunately, it appears that the prevailing consensus is that most Associations will need to comply with the CTA requirements and this is creating confusion and concerns for many Association directors. However, there is good news; at least for now. This article reviews the CTA filing requirements and the court cases affecting the enforcement of the CTA.

The purpose of the CTA is to make it more difficult for smaller business entities to engage in money laundering by requiring these entities to provide information about the persons who directly or indirectly own or operate the entity.

The CTA<sup>1</sup> required the United States Department of Treasury’s Financial Crimes Enforcement Network (“FinCEN”) to adopt regulations to implement the provisions of the CTA, to create the forms required to be filed, and the procedures for filing them. Those regulations have been adopted and are effective as of January 1, 2024.

The regulations require many types of legal entities to file a “beneficial ownership information” (“BOI”) report<sup>2</sup> with FinCEN. Beneficial ownership information is about an entity, its beneficial owners, and in some cases, its company applicants.<sup>3</sup> Not all entities, or companies, are required to file a BOI report with FinCEN under the Reporting Rule.<sup>4</sup> An entity is required to report only if it meets the Reporting Rule’s definition of a “reporting

1 The CTA applies to both existing entities and new entities.

2 See, Beneficial Ownership Information Reporting | FinCEN.gov.

3 The “company applicant” is **not** applicable to Associations that were created **before** January 1, 2024. See, Title 31 of the Code of Federal Regulations (“CFR”) § 1010.380(b)(2)(iv).

4 See, 31 CFR § 1010.380.

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

# Message from the Chair

Aloha,

Cooler temperatures and the holiday season are finally here as Winter in Hawaii is upon us.

As the holiday season starts, it's a good reminder to start your shopping list, just as it is to be reminded of the reporting obligations condominium association of unit owners have under the Federal Corporate Transparency Act. In this edition of our Condominium Bulletin, you'll find a variety of topics from mediation, what to look for when buying a condominium, educational resources, as well as our main article graciously written by community association lawyers Anya Perez and Melanie Oyama. Perez and Oyama lay out the requirements, exemptions, and overall reporting obligations required under the Corporate Transparency Act ("CTA") for condominium associations. While the CTA has temporarily been halted in the courts, it may be allowed to move forward in the future forcing some associations to report certain information. Keep cool by knowing what you must do.

The "Ask the Condo Specialist" discusses instances when a party refuses to partake in mandatory mediation. Mediation can be used to temper down conflicts and seek mutually agreeable solutions; however, there are times when a party refuses to partake. Thankfully, there are procedures to compel participation in alternative dispute resolution.

The Akamai Buyer gives tips on what to look out for when buying condominium units, such as reviewing upcoming repairs and requesting a copy of the reserve study to ensure a prospective buyer isn't in for an expensive blood-pressure-spiking surprise down the line. Stay frosty and informed by knowing what's coming.

Too often condominium owners and board members lose their composure when incidents happen. Being educated on issues can help mitigate these incidents from escalating. A staff article describes the Real Estate Branch's massive free library of digital brochures, educational videos, frequently asked questions, legislative updates going back years, and so much more. Keep a tranquil temperament by being educated or at least aware of where you can find information relevant to your condominium in the event an incident flares up.

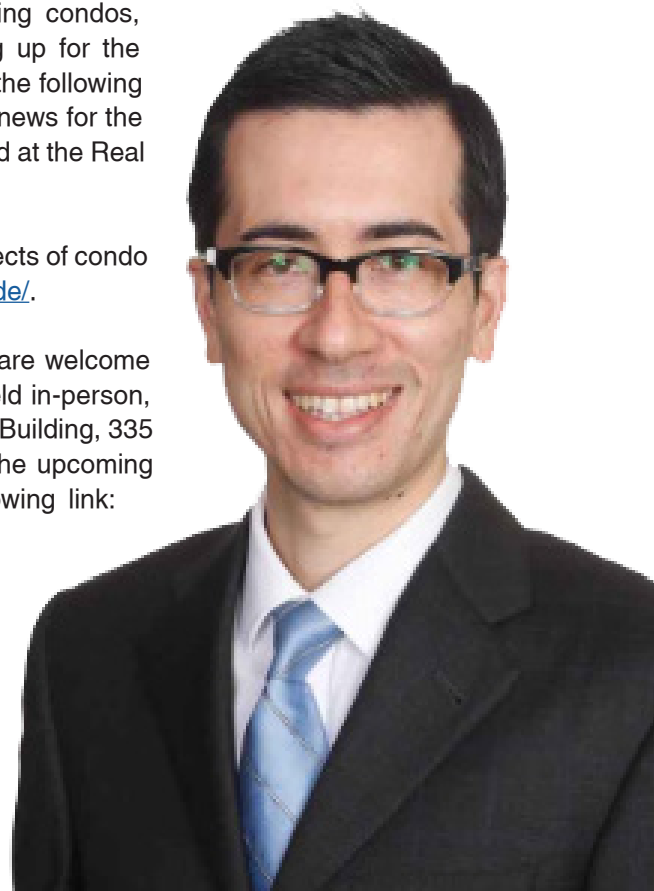
We've also included summaries of condominium mediations and arbitrations that have been conducted in the last few months.

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 the upcoming 2025 meeting schedule is also included. 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. Please feel free to visit our website to get the upcoming meeting agenda and to review minutes from prior meetings at the following link: [https://cca.hawaii.gov/reb/agendas\\_minutes/](https://cca.hawaii.gov/reb/agendas_minutes/).

John R. Love  
Chair, Condominium Review Committee



# To File or Not to File The Corporate Transparency Act that Likely Affects Most Associations Has Been Blocked (cont. from page 1)

company” and does *not* qualify for an exemption. Any entity<sup>5</sup> that is a corporation, a limited liability company, or **any entity** created through a filing with a Secretary of State or any similar office<sup>6</sup> under the law of any State is required to file a BOI report with FinCEN. The entity is referred to as a “reporting company.”<sup>7</sup> A determination should be made by the Association’s legal counsel as to whether your Association is considered an entity that is required to file a BOI report with FinCEN.

There is a list of twenty-three (23) exemptions<sup>8</sup> for the reporting company. One such exemption is if the Association is an organization described in Section 501(c) of the Internal Revenue Code (the “Code”) and is exempt under Section 501(a) of the Code.<sup>9</sup> Based on the list, it is likely 4 most Associations are *not* exempt because most Associations are classified as a nonexempt membership organization likely taxed as either a homeowner’s association under Section 528 of the Code or as a regular corporation under Section 277 of the Code. However, a determination should be made by the Association’s legal counsel as to whether your Association is a reporting company that is exempt from the requirement to file a BOI report with FinCEN. In addition, the Association should obtain a finding from the Association’s Certified Public Accountant as to the type of organization the Association is under the Code. If the Association does not fall under an exemption, then the Association, as a reporting company, will need to file a BOI report with FinCEN.

If the Association is a reporting company that is required to file a BOI report with FinCEN, then a determination needs to be made as to who (i.e., a natural person) does the filing. In this regard, the natural person would be considered a beneficial owner. A beneficial owner is “any individual who, directly or indirectly, either exercises substantial control over such reporting company or owns or controls at least 25 percent of the ownership interests of such report company.”<sup>10</sup> The term “exercises substantial control” is the standard under which Directors and Officers will be required to register with FinCEN as beneficial owners.<sup>11</sup> The question becomes, who on the Board of Directors is considered a beneficial owner who “directly or indirectly . . . exercises substantial control” over the Association and who is required to file a BOI report with FinCEN. An individual that “serves as a senior officer of the reporting company” is likely considered a beneficial owner.<sup>12</sup> The definition for senior officer<sup>13</sup> is not entirely helpful but it is likely that directors and officers are beneficial owners who are required to file a BOI report with FinCEN.

Associations that were created *before* January 1, 2024, will have until January 1, 2025 to file the initial registration of beneficial owners.<sup>14</sup> After the initial registration, Associations will have thirty (30) days from the date a person becomes a beneficial owner for that person’s information to be filed with FinCEN.<sup>15</sup> In other words, every time there is a beneficial ownership change, such as a change in the Board of Directors, then the Association has thirty (30) days to report that change to FinCEN.

For Associations created before 2024, there is a list of information items that must be provided in the initial report as well as in each subsequent filing.<sup>16</sup> The required information includes Personal Identifying Information (PII) such as date of birth, current address, and “unique identifying number” that comes from documents such as passports or driver’s license.<sup>17</sup> However, a beneficial owner may opt to provide a FinCEN identifier instead of the unique identifying number from an acceptable identification document and issuing jurisdiction (i.e., a passport number, driver’s license number, etc.)<sup>18</sup> A FinCEN identifier is the unique identifying number assigned by FinCEN to

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5 See, 31 CFR § 1010.380(c)(1)(i).

6 “Similar office” would likely include the Department of Commerce & Consumer Affairs, as well as the Office of the Assistant Registrar of the Land Court of the State of Hawaii, and the Bureau of Conveyances of the State of Hawaii.

7 See, 31 CFR § 1010.380(c)(1)(i)(C).

8 See, 31 CFR § 1010.380(c)(2).

9 See, 31 CFR § 1010.380(c)(2)(xix)(A).

10 See, 31 CFR § 1010.380(d).

11 See, 31 CFR § 1080.380(d)(1).

12 See, 31 CFR § 1080.380(d)(1)(A).

13 See, 31 CFR § 1080.380(f)(8) states, “The term “senior officer” means any individual holding the position or exercising the authority of a president, chief financial officer, general counsel, chief executive officer, chief operating officer, or any other officer, regardless of official title, who performs a similar function.”

14 See, 31 CFR § 1010.380(a)(1)(iii) which states that “Any domestic reporting company created **before** January 1, 2024 . . . shall file a report not later than January 1, 2025.” However, Associations created on or **after** January 1, 2024, must file their initial report “within 90 calendar days of the earlier of the date on which it receives actual notice that its creation has become effective or the date on which a secretary of state or similar office first provides public notice, such as through a publicly accessible registry, that the domestic reporting company has been created.” See 31 C.F.R. § 1010.380(a)(1)(i)(A).

15 See, 31 C.F.R. § 1010.380(a)(2)(i).

16 See, 31 CFR § 1010.380(b)(1) and 31 CFR § 1010.380(b)(2).

17 See, 31 CFR § 1010.380(b)(1)(ii).

18 See, 31 CFR § 1010.380(b)(4).



# To File or Not to File The Corporate Transparency Act that Likely Affects Most Associations Has Been Blocked (cont. from page 3)

an individual or reporting company.<sup>19</sup> A FinCEN identifier is obtained by submitting an application with the aforementioned information directly to FinCEN to receive a code.<sup>20</sup> This code can then be included in the reporting company's BOI report instead of including the individual's personal information. A FinCEN identifier may be helpful to those who do not want to provide their personal information to a reporting company for inclusion in a FinCEN filing.

Given the confidential information that will need to be provided, it will be imperative for Associations to protect any PII received from a beneficial owner, as such information can be used to fraudulently access a person's personal accounts and to assume a person's identity. There is an ongoing disclosure obligation for an Association's beneficial owners. Associations will be obligated to disclose any change in any of the information previously submitted within thirty (30) days of the change through an amendment to the initial annual filing. Also, if an Association becomes aware that any information included on a BOI report filed with FinCEN is inaccurate, it will have thirty (30) days from the date the Association became aware of the inaccuracy to file a report correcting the inaccuracy.

This means that Associations will have thirty (30) days to file an update when any officer or director is removed, resigns, and/or is replaced.<sup>21</sup> Similarly, if there is a change in the Board following an annual (or special) meeting, the Association will have thirty (30) days to file an update. As a result, it will be imperative for Associations to maintain accurate and up to date records to ensure that BOI reports and updates are filed in a timely manner to avoid the risk of penalties being imposed.

Some people may not wish to be directors because they will need to provide their PII to FinCEN. The Association's Board of Directors may wish to include in the call for candidates a disclosure that any person elected to the Board may have to provide the required PII or FinCEN identifier to the Association for reporting to FinCEN. Unfortunately, there is an expectation that this new requirement will have a chilling effect on volunteerism, as owners may be hesitant to provide such sensitive confidential information. The Association's Board of Directors may wish to inform owners that they can use a FinCEN identifier, instead of providing their personal information, as a way to possibly help overcome their reluctance to run for a director position.

If an Association fails to comply with the reporting requirements, there are consequences of noncompliance. Regardless if the failure to comply is intentional or not, any person who violates the reporting requirements "shall be liable to the United States for a civil penalty of not more than \$500 for each day that the violation continues or has not been remedied and may be fined not more than \$10,000, imprisoned for not more than 2 years, or both."<sup>22</sup>

Senior officers of a reporting company that fail to file a required BOI report may be held accountable for that failure. Additionally, a person may be subject to civil and/or criminal penalties for willfully causing a company not to file a required BOI report or to report incomplete or false beneficial ownership information with FinCEN.

With the above information in mind, an Association that qualifies as a reporting company is required to comply with the CTA requirements by filing a BOI report with FinCEN. However, for the time being there is a temporary stay on the enforcement of the CTA requirements.

By way of background, there is a court case out of the United States District Court Northern District of Alabama, Northeastern Division,<sup>23</sup> that held that the CTA is unconstitutional, as Congress lacked the power to regulate companies and their beneficial owners when they obtain formal corporate status from a state entity but this decision is only applicable to the Plaintiffs in this case.

In addition, Community Associations Institute National ("CAI National") filed a lawsuit on September 10, 2024 "against the U.S. Department of the Treasury, Secretary Janet Yellen, and the director of the Financial Crimes Enforcement Network, challenging the application of the Corporate Transparency Act on community associations. This action is being taken to protect our members from the burdensome and unnecessary requirements of the Corporate Transparency Act."<sup>24</sup> Unfortunately, on October 24, 2024, the federal judge denied CAI National's preliminary injunction request. However, CAI National has filed an appeal. For updates on CAI National's efforts, or to get involved in advocacy efforts, please visit: [www.caionline.org/CTA](http://www.caionline.org/CTA).

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<sup>19</sup> See, 31 CFR § 1010.380(f)(2).

<sup>20</sup> See, 31 CFR § 1010.380(b)(4).

<sup>21</sup> See, 31 CFR § 1010.380(a)(2).

<sup>22</sup> See, 31 U.S.C.A. § 5336(h).

<sup>23</sup> National Small Business United, d/b/a The National Small Business Association, et al. v. Janet Yellen, in her official capacity as Secretary of the Treasury, et al.; filed in the United States District Court Northern District of Alabama, Northeastern Division; Case No. 5:22-cv-01448-LCB; Memorandum Opinion filed March 1, 2024.

<sup>24</sup> See, Corporate Transparency Act | Community Associations Institute

## To File or Not to File

# The Corporate Transparency Act that Likely Affects Most Associations Has Been Blocked (cont. from page 4)

Further, legislation has been introduced in Congress to combat the CTA requirements – a House bill and Senate bill. The first one is House bill H.R. 9045 - Community Association Reporting Exemption Act – that seeks “to amend title 31, United States Code, to exempt entities subject to taxation under section 528 of the Internal Revenue Code of 1986 from certain beneficial ownership reporting requirements.”<sup>25</sup> The second one is Senate bill S. 3625 - Protect Small Business and Prevent Illicit Financial Activity Act – that seeks “to amend title 31, United States Code, to provide small businesses with additional time to file beneficial ownership information...”<sup>26</sup>

Finally, there was a favorable decision issued on December 3, 2024, by the United States District Court, Eastern District of Texas. Specifically, the court issued a preliminary nationwide injunction against the CTA. The preliminary injunction essentially prevents the U.S. Department of Treasury from enforcing the CTA's filing requirements. The opinion<sup>27</sup> states, in relevant part:

The Court determines that the injunction should apply nationwide. Both the CTA and the Reporting Rule apply nationwide, to “approximately 32.6 million existing reporting companies.” NFIB’s membership extends across the country. And, as the Government states, the Court cannot provide Plaintiffs with meaningful relief without, in effect, enjoining the CTA and Reporting Rule nationwide. The extent of the constitutional violation Plaintiffs have shown is best served through a nationwide injunction. Given the extent of the violation, the injunction should apply nationwide. (Citations omitted.)

The court’s<sup>28</sup> conclusion states:

Therefore, the CTA, 31 U.S.C. § 5336 is hereby enjoined. Enforcement of the Reporting Rule, 31 C.F.R. 1010.380 is also hereby enjoined, and the compliance deadline is stayed under § 705 of the APA. Neither may be enforced, and **reporting companies need not comply with the CTA’s January 1, 2025, BOI reporting deadline** pending further order of the Court. (Emphasis added.)

However, be aware that this injunction will most likely be appealed by the government and there are no assurances that the injunction will be upheld on appeal. As such, the injunction could be temporary. If the injunction is lifted on appeal, there is a chance that the compliance deadline of December 31, 2024 could be reinstated. If you have already complied with the CTA filing requirements, then there is nothing further to do.

If you have not complied with the CTA filing requirements and are contemplating not filing, please be aware that the potential risks and consequences if the injunction is lifted is currently unknown. However, the consensus is that given there is a stay on the enforcement of the CTA requirements, there will likely be an effective date for compliance if the injunction is lifted. In other words, if the injunction is lifted, the Government will likely provide a grace period to allow those that did not comply by the deadline to file their BOI report before penalties are imposed for non-compliance.

Although the preliminary injunction is good news for Associations, it is still not a done deal; at least not until all appeal efforts have been exhausted and a final judgment is issued ruling that the CTA is unconstitutional and is not applicable to Associations or House bill H.R. 9045 is passed that will exempt Associations under section 528 of the Internal Revenue Code from the CTA filing requirements.

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25 Text - H.R.9045 - 118th Congress (2023-2024): Community Association Reporting Exemption Act | Congress.gov | Library of Congress

26 Text - S.3625 - 118th Congress (2023-2024): Protect Small Business and Prevent Illicit Financial Activity Act | Congress.gov | Library of Congress

27 Texas Top Cop Shop, Inc., et al v. Garland et al, Docket No. 4:24-cv-00478 (E.D. Tex. May 28, 2024), Court Docket at pg. 78

28 Texas Top Cop Shop, Inc., et al v. Garland et al, Docket No. 4:24-cv-00478 (E.D. Tex. May 28, 2024), Court Docket at pg. 79

# Condominium Educational Material

## Hawaii Real Estate Branch Staff



An often-overlooked resource, the Hawaii Real Estate Branch's website has a wealth of condominium related educational material. Located at <https://cca.hawaii.gov/reb/>, there is a dedicated section for resources for [Condominium Owners, Prospective Buyers, Boards of Directors & Associations](#).

Board members should look for the ® symbol. The ® circled in red signifies a brochure that board members should read to quickly get up to speed on important condominium association issues. These are quick one-to-two-minute reads on various topics such as fiduciary duty, agents of the association, the business judgement rule, owner and board member rights and responsibilities, and other key information.

The resource page is divided into various sections, covering budgeting, governance, condominium law, mediation, educational seminars, and prospective buyers, among others. Visitors will find quick reads on access to documents, insurance, agents of the association, special assessments, filing complaints, law changes going back to 2017, alternative dispute resolution, the [award-winning YouTube Hawaii Condo Living Guide](#), along with recordings of historical Condorama seminars covering a wide variety of topics. All these resources are free.

Prospective buyers should check out their specific section which covers what they should look for when buying, what they should expect when living in a condominium, and how to read a Developer's Public Report which is the disclosure document developers are legally required to produce prior to sales.

A copy of chapter 514B, HRS, the law that governs condominiums is [available for free](#) in searchable PDF format as well as the link to the official version hosted by the State Capitol.

Many association's recent [biennial registrations and contact lists](#) are available where the officers, contact designee, managing agent, owner occupancy percentage, reserve funding percentage and other useful information can be found. Every issued Developer's Public Report and their amendments are also available for viewing where you can find details about every registered project.

The site also hosts hot topics in its [frequently asked questions](#), ranging from questions on how to remove board members, where to obtain documents, meeting notice requirements, association access to units, association reserves, budgets, maintenance fees, issues with renters, and if an association is eligible for subsidized mediation and/or arbitration.

Don't forget to sign up for [quarterly emails](#) regarding condominium educational materials covering seminars, law updates, hot topics, the Hawaii Condo Bulletin, and much more.

# Mediation Case Summaries

From September of 2024 through November 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 ("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.

Mediation exists not only to facilitate conflict resolution, but to also educate the parties involved as to the intricacies of the condominium law, their association's governing documents, and the strengths and weaknesses of their respective arguments. While the Commission strives for every mediation to resolve the conflicts, not every mediation will come to an agreement. That does not necessarily mean mediation has failed, as it also serves to reduce costly litigation.

The Commission subsidizes up to \$3,000 for qualified evaluative mediations and up to \$600 for facilitative mediations for qualified associations. Should a mediation not come to an agreement once that subsidy money is exhausted, no agreement is noted in Commission records. However, the Commission is aware that parties often come to agreements through continued unsubsidized mediation.

## Dispute Prevention and Resolution, Inc.

Owner vs AOOU	Dispute over interpretation of the house rules and retaliation	Mediated to agreement
AOOU vs Owner	Dispute over interpretation of the declaration, bylaws, and house rules regarding tenants	Mediated to agreement
Owner vs AOOU	Dispute over interpretation of the declarations and bylaws over repairs	Mediated to agreement
Owner vs AOOU	Dispute over interpretation of the declarations and bylaws	No agreement
Owner vs AOOU	Dispute over interpretation of the house rules and retaliation	No agreement
Owner vs AOOU	Dispute over interpretation of the bylaws, house rules, and selective enforcement	No agreement, private mediation continues
Owner vs AOOU	Dispute over the governing documents and retaliation	No agreement
Owner vs AOOU	Dispute over the governing documents and related attorney fees	Mediated to agreement
Owner vs AOOU	Dispute over interpretation of the declaration and bylaws in use of parking ramp	Arbitration in favor of the owner
AOOU vs Owner	Dispute over interpretation of the declaration and bylaws over use of common element for EV charging	No agreement
Owner vs AOOU	Dispute over the governing documents and related attorney fees and fines	Mediated to agreement
Owner vs AOOU	Dispute over parking, harassment, and board duties	No agreement
Owner vs AOOU	Dispute over noise, recreational area usage, and fire code violations	No agreement
Owner vs AOOU	Dispute over interpretation of the declarations and bylaws in repairs	Mediated to agreement

# Mediation Case Summaries

## Kauai Economic Opportunity

Owner vs AOOU	Dispute over damage	No mediation, AOOU failed to respond
Owner vs AOOU	Dispute over damage	No mediation, AOOU failed to respond
Owner vs AOOU	Dispute over leaks and insurance coverage	No agreement, owner withdrew

## Lou Chang

AOOU vs Owner	Dispute over the governing documents regarding access to perform repairs and maintenance	Mediated to agreement
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## Mediation Center of the Pacific

Owner vs AOOU	Dispute over interpretation of the declarations and bylaws over fines, late fees, and attorney fees	Mediated to agreement
Owner vs AOOU	Dispute over interpretation of the declaration and bylaws over fees for documents	No mediation, requesting owner withdrew
Owner vs AOOU	Dispute over interpretation of the declaration, bylaws, house rules over fees and fines, building management	No mediation, AOOU declined mediation
Owner vs AOOU	Dispute over interpretation of the declaration, bylaws, house rules over fees and fines, meeting participation, and maintenance	No mediation, requesting owner refused contact

*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](mailto: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](mailto: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](mailto: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](mailto: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](mailto: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](mailto:louchang@hula.net)  
Website: [www.louchang.com](http://www.louchang.com)

### Charles W. Crumpton

Crumpton Collaborative Solutions LLLC  
Tel: (808) 439-8600  
Email: [crumpton@chjustice.com](mailto:crumpton@chjustice.com)  
Websites: [www.acctm.org](http://www.acctm.org); [www.nadn.org](http://www.nadn.org);  
[www.accord3.com](http://www.accord3.com); and [www.mediate.com](http://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 requested mediation, but the other party refused or did not respond. Can they do that?

**A:** In our mediation summaries, you'll notice some entries that state "no agreement" or "no mediation" because one party refused to participate in mediation. Should this happen to you, be aware that the condominium law details the mediation process in §514B-161, HRS, which explicitly states that mediation is legally mandatory under the following conditions as described in subsection (a):

- The dispute involves the interpretation or enforcement of the association's declaration, bylaws, or house rules;
- The dispute falls outside the scope of subsection (b) [see below];
- The parties have not already mediated the same or a substantially similar dispute; and
- An action or an arbitration concerning the dispute has not been commenced.

Subsection (b) details when mediation is not mandatory and either party may legally decide not to participate when the dispute involves:

- Threatened property damage or the health or safety of unit owners or any other person;
- Assessments;
- Personal injury claims; or
- Matters that would affect the availability of any coverage pursuant to an insurance policy obtained by or on behalf of an association.

Should any of the disputes fall into subsection (a), boards and owners legally cannot refuse mediation as those subjects, by law, are mandatory for parties to participate in. Should a board or owner refuse mandatory mediation, subsection (d) allows for a petition to the circuit court to compel mediation, and the prevailing party may be awarded attorneys' fees and costs not to exceed \$1,500.

## THE AKAMAI BUYER

### More Things to Consider Before You Buy a Condo

Before you make the leap and purchase a condominium unit, inquire with the seller to see if the building is planning any major renovations or repairs in the upcoming years. Major repairs and replacements, such as elevators, piping, and roofing can potentially add tens of thousands of dollars to your condominium ownership cost through special assessments or higher maintenance fees to pay for loans. You may also consider requesting a copy of the association's reserve study from the seller. Associations with more than five units are required to have their reserve studies reviewed by an independent reserve study preparer, pursuant to §514B-148(a)(4), HRS. This document will assist you in determining when any large expenses for the association will be due.

Sellers and their licensed real estate agents should be making these material fact disclosures pursuant to the real estate and condominium laws, but it never hurts to ask to ensure that you're getting all the important information before you commit. Knowledge and information are the best tools that a potential buyer can have.



# 2025 Real Estate Commission Meeting Schedule

## Real Estate Commission – 9:00 a.m.

Friday, January 24, 2025

Friday, February 28, 2025

Friday, March 28, 2025

Friday, April 25, 2025

Friday, May 30, 2025

Friday, June 27, 2025

Friday, July 25, 2025

Friday, August 29, 2025

Friday, September 26, 2025

Friday, October 24, 2025

Friday, November 21, 2025

Friday, December 19, 2025

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](http://www.hawaii.gov/hirec) or call the Real Estate Commission Office at (808) 586-2643 to confirm the dates, times and locations of the meetings.

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