



Regulated Industries Complaints Office
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cca.hawaii.gov/rico

For Condo Owners: Information About Paying Association Fees

What are condo associations?

Condominium Associations are designed to be, and operate as, self-governing entities. Condominium law is based on principles of (1) self-governance and (2) owner-enforcement, with little or no government intervention. In fact, the word “condominium” comes from Latin words meaning “common ownership and control.”

Information for consumers about paying association fees....

1. *Know what you owe:*

If you are a member of a condominium association, it's important for you to know what monthly fees are assessed and when payments are due.

Find out from your condominium board or managing agent when monthly fees are assessed and how you go about finding out how much you owe each month.

2. *Monitor your monthly fees and charges closely, especially if you're paying by automatic payment:*

It's a good idea to monitor monthly fees and charges closely, especially if your monthly fees are on automatic payment.

If a fine is assessed or the maintenance fee increases, the authorized automatic payment amount may not be enough to cover the total amount you owe. If, after your regular monthly payment is applied, an unpaid balance remains, you may incur late charges.

3. *What happens if you pay late?*

If you fall behind, the condominium association may take action to try to collect on the unpaid amounts. In Hawaii, condominium boards are able to bring foreclosure actions to take back a unit from an owner who is in arrears.

4. *Understand how payments are applied:*

Not only is it important for you to know how and when fees and charges are assessed, you should also know how payments are applied. Your condominium board may have a policy that applies monies to fines, attorney's fees or other assessments, first.

Say, for example, you write a check to pay for the monthly maintenance fees forgetting you have an outstanding fine of \$100; \$100 of the check you wrote may be applied to the unpaid fine amount first, making you delinquent on the payment of your maintenance fees. And, if your maintenance fee is paid late, you may be assessed a late charge.

5. *What happens if you don't agree with a charge or assessment?*

Hawaii Revised Statutes Chapter 514B has a “*pay first, challenge later*” provision in HRS §514B-146 (c), which provides in relevant part that “*No unit owner shall withhold any assessment claimed by the association.*”

While you may not agree with a charge or an assessment, the law is clear that you must pay first before you can take advantage of any dispute resolution means that may be available to you.

To assist you, under the law, as a disputing unit owner you can request a written statement that specifies:

- The common expenses included in the assessment along with the due date of each amount claimed;
- The amount of any penalty, late fee, lien filing fee and any other charge included in the assessment;
- Any attorney's fees included in the assessment;
- That under Hawaii law, a unit owner may not withhold assessments, for any reason;
- The right of a unit owner to demand mediation or arbitration to resolve the assessment dispute, provided the unit owner pays the assessment in full and stays current with all assessments; and
- That payment of the assessment in full does not prevent the owner from challenging the assessment or from receiving a refund of all amounts not owed.

Again, if you fall behind, the condominium association may take action to try to collect on the unpaid amounts.

A message for boards and managers.

The Regulated Industries Complaints Office encourages all boards and manager to work cooperatively with owners to address outstanding charges.

Consider sending written notice as soon as a unit owner misses a monthly common charge payment without explanation, and be mindful of the impact that additional charges, such as late fees and attorney fees can have.

Issues still not resolved?

Mediation may be available through private providers contracted by Hawaii's Real Estate Commission.

- Oahu: Mediation Center of the Pacific, 521-6767
- Maui: Mediation Services of Maui, 244-5744
- Kauai: Kauai Economic Opportunity Offices, 245-4077
- East Hawaii Island: Kuikahi Mediation Center, 935-7844
- West Hawaii Island: West Hawaii Medication Center, 885-5525

Last Resorts.

Consider retaining an attorney. Many attorneys will attempt to resolve a matter through negotiation rather than litigation which can be costly and usually lengthy. Consider hiring someone with experience handling these types of cases.

RESOURCES

The Department of Commerce and Consumer Affairs (DCCA) and its Regulated Industries Complaints Office (RICO), offers tools, tips, and services you can use to check out an individual or business. Information is available by calling **(808) 587-4272** or online at **cca.hawaii.gov/business_online**.

For information about filing a complaint or to report unlicensed activity, call RICO's Consumer Resource Center (CRC) at **(808) 587-4272** or visit us online at **cca.hawaii.gov/rico**. Neighbor Island residents can call, toll free, by dialing Kauai 274-3141, Maui 984-2400, Hawaii 974-4000, and Lanai/Molokai 1-800-468-4644, then 7-4272, followed by the # sign.

To speak with a **condominium specialist** with the Real Estate Branch, call **(808) 586-2643**. Neighbor Island residents can call, toll free, by dialing the number above, then 6-2643, followed by the # sign. Helpful information and publications are available at **cca.hawaii.gov/reb/condo_ed**.

This brochure is for informational purposes only and not intended for the purposes of providing legal advice. Information provided is subject to change. Printed material can be made available for individuals with special needs in Braille, large print or audio tape. Submit requests to the RICO Complaints and Enforcement Officer at (808) 586-2666.