

## CONDOMINIUM PROPERTY REGIME TASK FORCE

Department of Commerce and Consumer Affairs

State of Hawaii

<https://cca.hawaii.gov/>

### AGENDA

Date: December 14, 2023

Time: 1:30pm

In-Person Meeting Location: Hawaii State Capitol  
Conference Room 430  
415 South Beretania St.  
Honolulu, Hawaii 96813

Agenda: The agenda was posted to the State electronic calendar as required by Hawaii Revised Statutes (“HRS”) section 92-7(b).

Virtual Participation: Virtual Videoconference Meeting – Zoom Webinar (use link below)

<https://dcca-hawaii-gov.zoom.us/j/81670970587>

Phone: +1 669 444 9171 US  
Meeting ID: 816 7097 0587

If you wish to submit written testimony on any agenda item, please email your testimony to [kladao@dcca.hawaii.gov](mailto:kladao@dcca.hawaii.gov) or submit by hard copy mail to: Attn: Condominium Property Regime Task Force, 335 Merchant Street, Room 310, Honolulu, Hawaii 96813. We request submission of testimony at least 24 hours prior to the meeting to ensure that it can be distributed to the task force members.

When testifying, you will be asked to identify yourself and the organization, if any, that you represent. Each testifier will be limited to five minutes of testimony per agenda item.

### **INTERNET ACCESS:**

To view the meeting and provide live oral testimony during the meeting, please use the above link. You will be asked to enter your name in order to access the meeting as an attendee. The Task Force requests that you enter your full name, but you may use a pseudonym or other identifier if you wish to

remain anonymous. You will also be asked for an email address. You may fill in this field with any entry in an email format, e.g., \*\*\*\*\*@\*\*\*mail.com.

Your microphone will be automatically muted. When the Chairperson asks for public testimony, you may click the Raise Hand button found on your Zoom screen to indicate that you wish to testify about that agenda item. The Chairperson will individually enable each testifier to unmute their microphone. When recognized by the Chairperson, please unmute your microphone before speaking and mute your microphone after you finish speaking.

### **PHONE ACCESS:**

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Upon dialing the number, you will be prompted to enter the Meeting ID which is also listed at the top of the agenda. After entering the Meeting ID, you will be asked to either enter your panelist number or wait to be admitted into the meeting. You will not have a panelist number. So, please wait until you are admitted into the meeting.

When the Chairperson asks for public testimony, you may indicate you want to testify by entering "\*" and then "9" on your phone's keypad. After entering "\*" and then "9", a voice prompt will let you know that the host of the meeting has been notified. When recognized by the Chairperson, you may unmute yourself by pressing "\*" and then "6" on your phone. A voice prompt will let you know that you are unmuted. Once you are finished speaking, please enter "\*" and then "6" again to mute yourself.

For both internet and phone access, when testifying, you will be asked to identify yourself and the organization, if any, that you represent. Each testifier will be limited to five minutes of testimony per agenda item.

If connection to the meeting is lost for more than 30 minutes, the meeting will be continued on a specified date and time.

Instructions to attend State of Hawaii virtual board meetings may be found online at <https://cca.hawaii.gov/pvl/files/2020/08/State-of-Hawaii-Virtual-Board-Attendee-Instructions.pdf>

The Task Force may move into Executive Session to consult with the Task Force's attorney on questions and issues pertaining to the Task Force's powers, duties, privileges, immunities, and liabilities in accordance with Section 92-5(a)(4), HRS.

1. Call to Order

2. Old Business
  - a. Approval of Minutes
    - i. October 27, 2023
    - ii. November 30, 2023
3. New Business
  - a. Proposed discussion of draft Interim Report tasking items for the legislative auditor.
4. Next Meeting: TBD  
  
In-Person Meeting Location: TBD
5. Adjournment

If you need an auxiliary aid/service or other accommodation due to a disability, contact Kyle Ladao, Administrative Assistant, at (808) 586-3025 or at [kladao@dcca.hawaii.gov](mailto:kladao@dcca.hawaii.gov), as soon as possible, preferably by December 12, 2023. Requests made as early as possible have a greater likelihood of being fulfilled. Upon request, this notice is available in alternate/accessibile formats.

## **Interim Report for HB1509, Act 189 - Condominium Property Regime Task Force**

*Date: December 11, 2023*

*To: 33<sup>rd</sup> Legislature of Hawaii*

*From: Condominium Property Regime Task Force*

*Subject: Interim Report on HB1509, Act 189*

### **Executive Summary:**

The Condominium Property Regime Task Force, established pursuant to HB1509, Act 189, is diligently addressing reported concerns related to condominium property regimes (CPRs). Common-interest developments, including condominiums, play a vital role in the State's land development, constituting the fastest-growing form of housing globally.

### **Findings:**

1. **Significance of Common-Interest Developments:** The legislature recognizes the exponential growth of common-interest developments in the State, acknowledging their importance in the housing landscape. These developments involve individuals who co-own property, share common property, and engage in self-governance through associations or corporations.
2. **Dispute Resolution Concerns:** The governance documents of associations provide mechanisms for dispute resolution. The Task Force has received testimony expressing concern about the adequacy of dispute resolution mechanisms available to address condominium-related disputes. Additional objective data is needed to evaluate such concerns.
3. **Alternative Dispute Resolution (ADR) Systems:** The Task Force is actively assessing the ADR systems established by the legislature for condominium property regimes governed by Chapter 514B, Hawaii Revised Statutes. The goal is to identify strengths, weaknesses, and areas for improvement in the existing framework.

### **Recommendations and Ongoing Study:**

1. **Enhancement of Dispute Resolution Mechanisms:** The Task Force recommends review of dispute resolution mechanisms used in other jurisdictions to determine whether the currently available options can be enhanced or improved.
2. **Board of Directors Duties and Fiduciary Responsibilities:** The Task Force is currently investigating the fiduciary responsibilities imposed on members of the boards of directors within condominium property regimes to determine whether those responsibilities adequately meet the needs of condominium communities.

### **Next Steps:**

As part of the ongoing efforts to comprehensively address the concerns related to condominium property regimes (CPRs), the Task Force is requesting the Hawaii State Auditor to conduct a detailed study. This study aims to provide additional insights and recommendations to further inform the legislative process and enhance the regulatory framework governing these developments. The following outlines the next steps for the Hawaii State Auditor's study:

## **I. Regulatory Framework and Oversight:**

- 1. Licensing and Continuing Education:**
  - Examine licensing and continuing education requirements for managing agents.
- 2. Education Requirements:**
  - Investigate education requirements for board members within common-interest developments.
- 3. Incentives for Alternative Dispute Resolution (ADR):**
  - Assess incentives, such as subsidies and fee reductions, for boards and condo owners participating in ADR.
- 4. Licensure for Community Managers:**
  - Evaluate whether community/account/property managers/executives should undergo licensure for increased professionalism and accountability.
- 5. Comparison with Other States:**
  - Investigate states with education mandates for board members, enforcement mechanisms, and their impact on receiverships.
- 6. State-level Condominium Dispute Handling:**
  - Explore how other states handle condominium disputes at the state level and assess changes post-implementation.
- 7. Review of Complaint and Dispute Resolutions:**
  - Review the current process for complaint and dispute resolutions, identifying effective and ineffective approaches.
- 8. Best Practices from Other States:**
  - Examine at least three other states to identify best practices for condominium dispute and complaint resolution.
- 9. Licensing for Property Managers:**
  - Investigate if other jurisdictions have licensing requirements for property managers or managing agents, and what impact such licensing requirements have had on condominium management.
- 10. Comparison of Dispute Handling Mechanisms:**
  - Analyze how similar concerns/complaints are managed in other jurisdictions with effective condominium regimes.

## **II. Condominium Mediation Cases:**

- 11. Auditor Report Recommendations:**
  - Recommend an auditor report on condominium mediation cases, addressing various aspects, including mediators' qualifications and conflict of interest.
- 12. Utilizing Mediation Cases for Training:**
  - Explore how the condo industry can use mediation cases as examples for condominium board training and educational seminars.
- 13. Examining Alternative Dispute Resolution Mechanisms:**
  - Investigate how mediation case examples can be used to examine alternative dispute resolution options.
- 14. Mediation Companies in Hawaii:**

- Compare policies, procedures, and methodologies of mediation companies handling condominium disputes.

**15. Compensation as a Barrier:**

- Assess whether compensation acts as a barrier to the purpose of HRS 514 – 161.

**III. Education and Access to Information:**

**16. Education Programs and Mandates:**

- Examine existing educational programs funded by the Condominium Education Trust (CETF) and assess their effectiveness.

**17. Access to Information:**

- Investigate the accessibility of important association documents, cost implications, and barriers for owners.

**18. Distribution and Dissemination of Information:**

- Assess the efficacy of DCCA's dependence on management companies for information dissemination and examine the sharing of owners' email addresses.

**IV. Alternative Dispute Resolution Mechanisms:**

**19. Investigation of ADR Mechanisms:**

- Investigate alternative dispute resolution mechanisms that meet specific criteria without using taxpayer funds excessively.

**V. Governance Issues:**

**20. Legal Fees and Fines:**

- Examine the impact of legal fees and fines on associations, investigate proportionality, and consider reform options.

**21. Budget and Clean Elections:**

- Examine the reserve study-to-budgeting process, allocation of common expense assessments, and clean elections.

**22. RICO Enforcement:**

- Investigate the enforcement of HRS 514B and HRS 467, particularly in relation to management companies and election procedures.

This comprehensive study will provide valuable insights into various aspects of common-interest developments and condominium property regimes in Hawaii.

**Conclusion:**

In conclusion, the Condominium Property Regime Task Force is committed to promoting the responsible and effective governance of condominiums in the State. The findings and recommendations outlined in this interim report reflect ongoing efforts to ensure a balanced and equitable framework for all stakeholders involved in these components of land development.

Respectfully submitted,

Philip Nerney, Chair  
Condominium Property Regime Task Force