



WHAT IS MEDIATION?

Mediation is an informal, inexpensive, and confidential process for resolving disputes quickly. The mediator acts as an impartial third party who assists the parties in face-to-face meetings to work out a mutually acceptable solution.

There are two types of mediation available: 1) facilitative; and 2) evaluative. In facilitative mediation, mediators facilitate discussions between parties and assist participants in memorializing perspectives. In evaluative mediation, mediators with subject matter expertise review the parties' pre-mediation position statements and provide written evaluations of the strengths and weaknesses of a case.

ARE THERE ADVANTAGES IN MEDIATION?

- Inexpensive;
- Expedient;
- Parties control the solutions;
- Solutions are tailored to needs of parties;
- Confidential process by mediators with knowledge of the condominium law;
- Scheduled at convenience of parties;
- Even if dispute is not completely resolved, mediation often defuses hostilities, clarifies issues, and expands options; and
- Small Claims Court, arbitration, administrative hearings, and litigation are still options if unable to resolve dispute through mediation.



IS MEDIATION MANDATORY?

Section 514B-161, HRS, **requires** mediation if a condominium owner or the board of directors requests mediation of a dispute involving the interpretation or enforcement of an association's declaration, bylaws or house

rules, or a dispute involving Part VI of Chapter 514B, HRS.



IS THERE A COST FOR MEDIATION?

There is a nominal fee. The Real Estate Commission (Commission) established a trust fund, the Condominium Education Trust Fund, which is used for educational purposes, including mediation. Subject to availability of these monies, subsidized mediation services are available through the mediation providers listed in this brochure for **eligible parties and eligible issues**.

WHO IS ELIGIBLE TO FILE FOR MEDIATION?

Owners or boards of directors of condominium associations registered with the Commission.

WHAT IS CONSIDERED AN ELIGIBLE ISSUE?

Disputes involving:

- The declaration of a registered condominium association;
- The bylaws of a registered condominium association; and
- The house rules of a registered condominium association.

Matters contained in Part VI of Chapter 514B, HRS, including:

- The declaration, bylaws, and/or house rules;
- Removal of board members;
- Amendments of bylaws;
- Notices of association meetings;
- Solicitation, voting & distribution of proxies;
- Director conflict of interest;
- Right of access to apartments;
- Owners acting as officers & employees of managing agent;
- Association employees selling/renting apartments;

- Notice & board meetings;
- Expending association funds for director travel/fees/per diem;
- Providing board members with project documents;
- Association expenses to educate directors;
- Enforcing liens;
- Background check on condominium employees;
- Board representation in mixed use condominiums;
- Association borrowing money;
- Pet bylaws applying equally to owners & tenants;
- Pet replacement & prohibition;
- Purchaser's right to vote;
- Board meeting requirements;
- Proxy requirements;
- Provision of membership lists;
- Minutes of meetings;
- Documents of the association; and
- Provision of association contracts.

ARE THERE INELIGIBLE ISSUES?

- Parties and issues involving Chapter 521, HRS, Residential Landlord-Tenant Code
- Condominium developers and construction issues
- Time share owners/associations and time share issues
- Issues concerning employees of registered condominium associations and labor law issues

WHAT IS THE PROCEDURE IN REQUESTING - SUBSIDIZED MEDIATION?

You may contact any of the Commission's mediation providers listed in this brochure. The mediation providers will explain their procedures and cost. The Commission does not conduct mediations.

DCCA OFFICE OF ADMINISTRATIVE HEARINGS

Act 164, Session Laws of Hawaii, 2004, provided for implementation of the Condominium Dispute Resolution pilot project, (CDR). Through the Office of Administrative Hearings, an administrative hearing is available to any unit owner or board of directors where a dispute has not been resolved by mediation, including for the reason that a party refuses to participate in mediation. This pilot program is scheduled for repeal on June 30, 2011, unless extended for additional time by the legislature. For more information, contact the Office of Administrative Hearings at 586-2828 or by email at oah@dcca.hawaii.gov.

MEDIATION PROVIDERS

Contact the following mediation providers directly about the procedures and cost, and arranging mediation (check www.hawaii.gov/hirec for a current list of mediation centers):

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

Maui: Mediation Services of Maui, Inc.
95 Mahalani Street
Wailuku, HI 96793
Tel: (808) 244-5744
Fax: (808) 249-0905
Email: msm@mauigateway.com

W. Hawaii: West Hawaii Mediation Center
65-1279 Kawaihae Road, # 213
Kamuela, HI 96743
Tel: (808) 885-5525 (Kamuela)
Tel: (808) 326-2666 (Kona)
Fax: (808) 887-0525
Email: whmc@bigisland.net

E. Hawaii: Ku'ikahi Mediation Center
101 Aupuni St., Ste. 1014B2
Hilo, HI 96720
Tel: (808) 935-7844
Fax: (808) 961-9727
Email: kuikahimmediation@hawaiiantel.net

Kauai: Kauai Economic Opportunity, Inc.
2804 Wehe Road
Lihue, HI 96766
Tel: (808) 245-4077 X237
Fax: (808) 245-7476
Email: keo@hawaiian.net

USEFUL INFORMATION SOURCES

Department of Commerce and Consumer Affairs (DCCA)

Chapters 514A and 514B, HRS, and Chapter 107, HAR, regarding Condominium Property Regimes, are available online. Please refer to the following sites:

Website to access unofficial copy of laws:
www.capitol.hawaii.gov
www.hawaii.gov/dcca/hrs

Website to access rules:
www.hawaii.gov/dcca/har

STATE TOLL-FREE NUMBERS

From the neighbor islands:

Kauai 274-3141, ext. 6-2643
Maui 984-2400, ext. 6-2643
Hawaii 974-4000, ext. 6-2643
Molokai & Lanai 1-800-468-4644, ext. 6-2643.

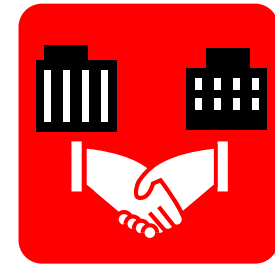
Real Estate Branch Website:

www.hawaii.gov/hirec

REAL ESTATE COMMISSION

STATE OF HAWAII

MEDIATION OF CONDOMINIUM DISPUTES



Department of Commerce & Consumer Affairs

**Real Estate Branch
Professional & Vocational Licensing Division
335 Merchant Street, Room 333
Honolulu, HI 96813
Telephone: (808) 586-2643**

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*This printed material can be made available for individuals with special needs. Please submit your request to the Senior Condominium Specialist at (808) 586-2643.
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