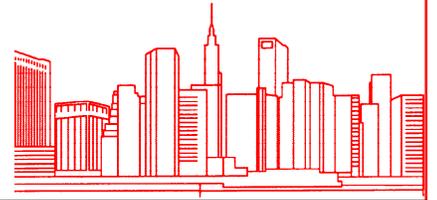
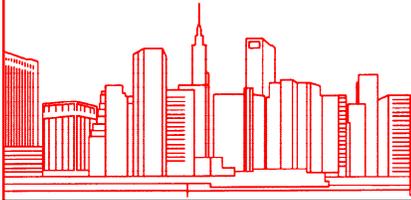


HAWAII CONDOMINIUM BULLETIN



VOLUME 9 NO. 3

JUNE 2001

Funded through the Condominium Education Fund

Unregistered AOA's Lack Standing to Collect or Foreclose

Section 514A-95.1, Hawaii Revised Statutes requires condominium projects or associations of apartment owners (AOAOs) comprised of six or more apartments to be registered.

The deadline to re-register for 2001-2003 was Thursday May 31, 2001. Failure to successfully re-register by June 30, 2001, requires condominium projects to file as a new applicant, and are subject to a \$50.00 penalty fee, plus an additional 10% of the Condominium Management Education Fund fee assessment for late payment or late re-registration.

Condominium projects and AOAOs that failed to re-register by June 30, 2001 are advised to submit the registration application, fees and penalties, and all required documents to the Real Estate Branch: Association Registration; 250 S. King St., Rm. 702; Honolulu, HI 96813.

AOAOs that fail to register are denied standing to maintain an action or proceeding in the courts of this State, and are precluded from filing an action to collect delinquent maintenance fees or foreclose a lien for common expenses. Unregistered AOAOs will be referred to the Regulated Industries Complaints Office for violation of Section 514A-95.1, HRS. Readers who have questions about condominium AOAO registration may contact the condominium section at (808) 586-2644.

New Laws of Interest to the Condominium Community

As of June 18, 2001, Governor Cayetano signed several new laws into effect that may be of interest to the condominium community and real estate licensees.

The Governor has until July 10, 2001 to sign the enacted bills by the Legislature into law. After July 10, 2001, the bills unsigned by the Governor become law without his signature.

The Governor has until June 25, 2001 to give notice that he will veto enacted bills. After the bills are vetoed, the Legislature may override the Governor's veto by a two-thirds vote in each house.

The following is a summary of laws enacted in the 2001 Legislative session. The summaries are not intended to be an exhaustive list or to cover all provisions of the new law. Interested readers may access the Legislature's website, www.capitol.hawaii.gov, to read the full text of the bills or print copies of the Acts. Copies of the acts can be found at the Senate Printshop, State Capitol Rm. 012A; House Clerk's Office, State Capitol Rm. 027; Lieutenant Governor's Office, State Capitol 5th floor; Supreme Court Library, 417

See New Legislation on pg. 6

Owners and Directors Invest in Education

Are you a condominium owner who's wondering what can be done to improve your association? Or perhaps you're on the board of directors and you need some training on the numerous issues which directors face. The Real Estate Commission (Commission) encourages owners and directors to educate themselves on important condominium issues. The Commission subsidizes \$15 of the registration fee for approved educational seminars for owners in currently registered condominium associations.

The subsidy is paid from the Condominium Education Fund, and providers such as the Community Association Institute - Hawaii Chapter (CAI) and the Hawaii Association of Realtors conduct the seminars. Here are some of the recent educational seminars subsidized by the Real Estate Commission:

Covenant Enforcement - Case Law Update (September 21, 2000) - discussed how Hawaii and mainland courts have ruled in recent covenant enforcement actions; gave valuable information to help

associations develop successful enforcement policies and strategies; and reviewed common defenses raised by

See Education on pg. 7

ALSO IN THIS ISSUE

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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

The Hawaii Condominium Bulletin is funded by the Condominium Education Fund, Real Estate Commission, Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs, State of Hawaii.



Dear Condominium Owners and Managing Agents:

The 21st Legislature has concluded its work for 2001. A number of bills have been signed by the Governor and have become law, and a number are still pending his signature. The Governor has until June 25, 2001 to veto any bill and July 10, 2001 to sign bills into law, or allow them to become law without his signature.

Summaries of selected bills enacted as law appear on pages 1 and 6.

Of particular note is Act 232 (HB 1231 HD1, CD1). This bill makes mediation mandatory for certain condominium disputes.

As previously discussed in other issues of this bulletin, the legislative intent of the condominium governance law is minimal government involvement, self-governance, mediation, mandatory arbitration upon request, and owner enforcement. Consistent with this intent, I am pleased to report on the increased offerings of Commission subsidized seminars and use of mediation services on pages 1 and 6 respectively.

The reference article found on page 3 written by an attorney practicing in condominium management law provides basic information about the importance of amending a condominium's basic documents. The article is a good starting point on the subject.

I am also pleased to report that we are making good progress on recodifying the condominium law. Hopefully, this effort will make the law easier to understand and use. An update of this program of work item appears on page 5.

In closing, please take note of the educational opportunities available to condominium owners, board members, managing agents, and other related professionals as indicated on the Education Calendar on page 8. The self-governance road begins with education.

As announced in previous bulletins, the Commission extends to the condominium community a standing open invitation to its monthly CRC meetings. The meeting schedule can be found on page 8 of this bulletin. On an ongoing basis, at these meetings, the Commission plans its program of work. Your input is important to the planning process. The Commission looks forward to your input at these meetings.

Sincerely,

Mitchell A. Imanaka

Mitchell A. Imanaka, Chair
Condominium Review Committee

Ask the Condominium Specialist

Q We have a lot of turnover on our condominium association board of directors. Owners are often unwilling to serve on the board because they don't know what a director's responsibilities include. If the association could educate its directors, maybe more owners would be willing to serve on the board. It doesn't seem fair, however, to require directors to spend their own money to educate themselves because they already volunteer their time to serve as directors. May the board use association funds for directors to attend educational seminars or purchase educational materials?

A Educating condominium association directors is vital. HRS section 514A-82.4 states that "Each director shall owe the association of apartment owners a fiduciary duty in the performance of the director's responsibilities." But Chapter 514A does not provide for a definition of "fiduciary duty" in its definition section nor does it enumerate all the responsibilities of a director. Condominium associations, therefore, should take the initiative to educate their own directors. HRS section 514A-82(b)(12) states:

The directors may expend association funds, which shall not be deemed to be compensation to the directors, to educate and train themselves in subject areas directly related to their duties and responsibilities as directors; provided that the approved annual operating budget shall include these expenses as separate line items. These expenses may include registration fees, books, videos, tapes, other educational materials, and economy travel expenses. Except for economy travel expenses within the State, all other travel expenses incurred under this subsection shall be subject to the requirements of paragraph (10).

Paragraph (10) of HRS section 514A-82(b), read in conjunction with HRS section 514A-82(b)(12), prohibits directors from expending association funds for travel *outside* the State, directors' fees, and per diem, unless the majority of the owners approve these expenses. Thus, the law specifically allows condominium boards to use association funds to educate directors regarding directly related responsibilities. To ensure disclosure and accountability to the owners, however, the association's annual operating budget must include all director education expenses as separate line items. Also, unless the majority of owners approve, directors cannot be paid for travel *outside* the State, director fees, or per diem expenses. The Real Estate Commission encourages condominium education by subsidizing registration costs of approved seminars for directors and owners of condominium associations currently registered with the Commission. For 2001, the Commission approved 14 educational seminars provided by the Community Associations Institute (CAI) and the Hawaii Association of Realtors. Consult the Education Calendar on page 8 of this bulletin for specific information about the seminar offerings.

Q As board members we understand we have the right on behalf of all apartment owners to have access to each apartment to make necessary repairs. We must do this during reasonable hours. We have owners who work and sleep at various times. We also have owners who are retired. So what are reasonable hours?

A Sometimes a review of your condominium's declaration, bylaws, or house rules may provide the answer. If they don't, perhaps the board should discuss amending the governing documents and include provisions for defining conditions of access and reasonable hours. The reference article included in this issue on page 3 has some practical information for amending your governing documents. Seeking the advice of an attorney familiar with amending condominium documents is advisable. In considering any amendments, it's good to begin with a survey or cross sampling of all the owners as to what they might consider as reasonable hours.

Amendment of Documents for Condominiums

By John A. Morris, Esq.

GENERAL AMENDMENT ISSUES

In addition to Chapter 514A, three basic documents govern the operation of a condominium: the “declaration” [including the condominium map], the “bylaws,” and the “house rules.” The declaration creates, describes, and divides the condominium project; the bylaws state how the project is to be operated (the provisions of the declaration and bylaws may overlap); the house rules state how the common elements are to be managed and operated. The amendment requirements for each of the three are different. The declaration is the “controlling” document, so if there is a conflict between the declaration, the bylaws, and the house rules, the declaration controls. In a conflict between the bylaws and the house rules, the bylaws control.

Declaration

The declaration may usually be amended by the vote or written consent of 75% of all apartment owners, except in a few limited situations (e.g. parking stall transfers; changes affecting limited common elements and common interests). Some older projects used to require *all* apartment owners to vote to approve declaration amendments. Some years ago, however, the Legislature amended the law to permit most amendments to be approved by 75% of the apartment owners and to permit amendments by written consent. Declaration amendments must be recorded.

The condominium file plan or map is sometimes considered part of the declaration. The law does not specifically state how amendments to the map are to be made after it is first recorded, but map amendments are usually made as declaration amendments.

BYLAWS

The bylaws may be amended by the vote or written consent of 65% of all apartment owners, even if the bylaws themselves require a higher percentage [Many older bylaws require the approval of 75% of owners for amendment. State law overrides that requirement.] The board of directors may propose amendments. In addition, subject to certain restrictions, a “volunteer owners’ committee” can submit a petition signed by at least 25% of owners and *require* the board to mail out a proposed bylaws amendment to the owners for their approval.

Section 514A-82 has created considerable confusion about the legal requirements for bylaws in Hawaii. Generally, the requirements stated in Section 514A-82(a) are *not* retroactive, i.e. do not apply to all projects but only to those projects created after a requirement stated in Section 514A-82(a) was enacted into law. In contrast, the requirements stated in Section 514A-82(b) *are* retroactive, i.e. they apply to all projects, regardless of when they were created. If a question arises as to the applicability of any requirement in subsection 514A-82(a), board members may have to consult an attorney experienced in condominium law.

House Rules

The method of adopting and amending rules governing the use and operation of the common elements – “house rules” – is supposed to be specified in the bylaws (Section 514A-82(a)(9)). The law states no requirements on how house rules must be amended. The bylaws of many projects permit the board alone to amend house rules after giving owners notice and an opportunity to be heard on the proposed amendments. Other bylaws require a percentage of owners to approve amendments or give the board an unrestricted right to amend the house rules.

Generally, house rules should govern only the use and operation of the common elements (although the bylaws of some projects give broader scope to house rules). Nevertheless, because boards can often amend the house rules without owner approval, some boards have a tendency to include things in the house rules which should more properly be in the declaration or bylaws.

Courts generally evaluate house rules approved by the board *more critically* than bylaws or declaration amendments approved by the owners. Courts often evaluate house rules under a four-part test—primarily a reasonableness test: 1) does the board have the authority to adopt the rule (under the law, the declaration, or the bylaws); 2) was the rule adopted in a reasonable manner (i.e., in accordance with the procedures required by the bylaws and with notice to all residents); 3) is the content or wording of the rule reasonable (e.g., is it clear and reasonably related to the purpose for which the project was established); and 4) are the enforcement procedures for the rule applied reasonably, e.g., is there notice, are appeal procedures and a chance to correct the violation provided?

Boards can, however, use house rules for more than just their statutory purpose (i.e., use and operation of the common elements):

Many residents read only the house rules, not the declaration or bylaws, so many boards repeat the important provisions of the declaration and bylaws in the house rules.

By themselves, house rules may not be enforceable on issues which should be in the declaration or bylaws, but house rules should be enforceable if they merely repeat declaration and bylaws restrictions.

House rules which state more detailed policies or resolutions on how the board will enforce the declaration and bylaws (e.g. collections, modifications to apartments) should be enforceable.

SPECIFIC AMENDMENT ISSUES

Restatement

A condominium board may “restate” the declaration or bylaws *without* owner approval to: (i) include previous amendments approved by the owners, or (ii) to conform the documents to the provisions of any Federal, State, or County laws, rules and ordinances. The “restated” declaration or bylaws must also be recorded. Note, however, that the board can **ONLY** restate the declaration or the bylaws for those two purposes. The board may NOT restate the declaration or bylaws to make changes not required by law or not approved by the owners. Moreover, if the board’s restatement does not correctly restate the requirements of the law, the restatement may be challenged and invalidated.

Restatement of a condominium declaration and bylaws usually includes the following:

1. Changes required by the Federal Fair Housing Amendments Act [and its state counterpart, Chapter 515, Hawaii Revised Statutes], for example, amendments relating to pets, children, and alterations to the property.

2. Those sections of Chapter 514A which the law deems to be incorporated into the bylaws (see Section 514A-82(b)), for example, sections relating to conflicts of interest, use and solicitation of proxies, and amendment of bylaws.

3. All existing declaration and bylaws amendments.

4. Incorporate changes made to the law after the association’s declaration and bylaws were drafted, for example (depending on the age of the project), fidelity bonding, proxy form requirements, and priority of an association’s lien for common expenses.

5. Incorporate new sections of the law which have no counterpart in the association’s declaration and bylaws, but which probably should be brought to the attention of the owners, for example, provisions of the legislation on reserves and on disputes concerning maintenance fees.

From the standpoint of potential liability, only changes to comply with the discrimination laws have to be included, but the others are advisable to avoid conflicts between what the documents and the law require. The restatement provision of Chapter 514A was originally enacted, in part, because owners would accuse their board of violating the documents, when, in fact, the board was following legal requirements enacted after the documents had been drafted.

Fair Housing and Discrimination

The Federal Fair Housing Amendments Act and Chapter 515 Hawaii Revised Statutes prohibit discrimination in housing. For homeowner associations, the four main problem areas of the Federal and State laws are: (i) alterations to apartments and common elements (as they affect disabled occupants); (ii) restrictions on children; (iii) restrictions on pets (as they affect disabled occupants); and (iv) occupancy standards (as they affect families with children).

Compliance with those laws is important because violations can result in significant penalties, ranging from \$10,000 to \$100,000. Printing or publishing discriminatory statements or notices is specifically prohibited. Therefore, associations face the possibility of liability simply for having document provisions which are deemed to violate the laws, *regardless* of whether the provisions are actually enforced.

Pets

In 1989, the Legislature enacted section 514A-82.6, Hawaii Revised Statutes, regarding pets. Under the generally accepted interpretation of that section, pet restrictions and prohibitions must be stated in the bylaws, *not* just in the house rules. (Reportedly, one Hawaii court refused to enforce a pet prohibition found *only* in the house rules.)

If the bylaws permit or do not prohibit pets, apartment owners may continue to have and replace their pets as long as the *owners* continue to reside in the project. If an apartment owner is keeping a pet on that basis, a bylaws amendment which prohibits pets in the project cannot restrict the owner’s right to continue to keep the pet or to acquire new pets.

Fines

The fines and penalties for violations of the declaration, bylaws or house rules and the method of determining them should be specified in the bylaws (Section 514A-82(a)(18). [Nevertheless, projects which predate the time that requirements on fining went into the law are not necessarily subject to those requirements, although some boards prefer to amend the bylaws to add specific fining authority.]

Parking Stalls

Subject to the consent of any mortgagees or lessors of an apartment, the owner of the apartment may amend the declaration to change the designation of the parking stall(s) reserved for the use of the apartment (Section 514A-14). [Consent of the association or board is not specifically required. As a result “hidden” declaration amendments may be drafted and recorded without the association’s knowledge.]

Antennas and Satellite Dishes

The U.S. Congress passed Section 207 of the Telecommunications Act of 1996, titled “Restrictions on Over-the-Air Reception Devices.” That law makes it difficult for a condominium or other homeowner association to prevent an owner from installing an antenna or small satellite dish (one meter in diameter or less) as long as the installation is on property owned by or for the exclusive use of the owner.

SOME AMENDMENTS TO CONSIDER

Dealing with difficult tenants and owners

Use and leasing of common areas

Modifications to apartments

Responsibility for parts of the project (e.g., windows, window frames, doors, doorframes, etc.)

Amendment of Documents from pg. 4

Voting for the election of directors
Insurance deductibles
Late fees
Quorum
Purchase of resident manager's apartment

Note About the Contributing Author

John A. Morris, Esq. is an attorney with the law firm of Ashford & Wriston concentrating in the area of community association law. He has practiced law in Hawaii since 1984. He was the first condominium specialist for the State of Hawaii and a past President of CAI-Hawaii.

An Update on Recodification of Hawaii Condominium Law

The Real Estate Commission's review of Hawaii's condominium property regimes law (Chapter 514A, Hawaii Revised Statutes) is moving along according to the scheduled workplan. The initial phase included researching and trying to gain an understanding of relevant issues and various approaches to condominium property regulation.

[Reminder: The workplan and timetable for recodification of Hawaii's condominium property regimes law is available on Commission's website at: <http://www.state.hi.us/hirec.>]

A section by section comparison of the Uniform Common Interest Ownership Act (1994), the Uniform Condominium Act (1980), and HRS Chapter 514A has been completed. This is the base working document and it is also available on Commission's website. (Accessing the document online makes the most sense since it is 160 pages long.)

In mid-April, a letter soliciting input from organizations and individuals affected by HRS Chapter 514A was mailed. Responses are trickling in. The comments will be reviewed throughout the month of June.

Meetings are continuing with people throughout the state and abroad (e.g., the Hawaii State Bar Association's Real Property and Financial Services section, the Condominium Council of Maui, condominium consultants, commissioners from the National Conference of Commissioners on Uniform State Laws, etc.). Conversations had with attendees at the Community Associations Institute's 50th National Conference in early May revealed that folks across the country are interested in Hawaii's condominium property law recodification!

As initially reported from the inception of this process, the Commission: 1) will seek to balance the desire to modernize Hawaii's condominium property regimes law with the need to protect the public and to allow the condominium community to govern itself; and 2) is committed to engaging the participation of stakeholders throughout the recodification process.

If you have any questions or comments, please contact the Commission's recodification counsel, Gordon Arakaki, by e-mail at Gordon_M_Arakaki/DCCA@dcca.state.hi.us or regular mail at State of Hawaii, Real Estate Branch, Department of Commerce and Consumers Affairs, 250 South King Street, Room 702, Honolulu, HI 96813.

Standing Committee Meetings Held on Kauai on May 11 Attract a Record Turnout

On May 11, 2001 the Real Estate Commission (REC) convened its monthly standing committee meetings in Lihue, Kauai.

Convening committee meetings on different neighbor islands is part of the REC's program of work.

These meetings provide the members of the condominium and real estate communities with the opportunity to attend the REC's respective Laws and Rules, Education, and Condominium Review Committee meetings normally held on Oahu.

Each committee meeting had a set agenda with a time slot for open forum.

The agenda items included subjects ranging from Chapter 514A, Hawaii Revised Statutes (HRS), Condominium Property Regime and Chapter 107, Hawaii Administrative Rules (HAR), condominium projects and public reports, governance and management, association registration, dispute resolution program, managing agent registration, education programs, condominium management education fund, status report on the Commission's recodification project and report on legislation.

During the open forum portion of the meeting, condominium owners, managing agents, board members, county officials, representatives from the Kauai Board of Realtors and the Condominium Council of Maui testified about a number of condominium governance issues and concerns.

The testimony included remarks about the availability of an association of apartment owners' records and documents to owners for examination including proxies and election ballots, agriculture dedication and disclosures of possible tax liability upon termination of the dedication (including seller's disclosure of the tax liability), monitoring and enforcement of the "Farm Dwelling Agreement," and jurisdiction of the Kauai County Planning Department.

Following the respective meetings, members of the Real Estate Commission and the Commission's staff provided information and entertained questions.

New Legislation from pg. 1

S. King Street; and the William S Richardson School of Law Library, 2525 Dole Street (all in Honolulu, Hawaii).

On the Island of Hawaii, bills or acts may be obtained at all public libraries, the Hilo Law Library at 75 Aupuni St. (phone 961-7438), and in Kealahou at the Kona Law Library, Keakealani Building, 79-7595A Haukapila St. (phone 322-8729).

On Kauai, bills or acts may be obtained at all public libraries, and in Lihue at the Kauai Law Library at the Fifth Circuit Court, 3059 Uni St., Room 206 (phone 246-3327).

On Maui, bills or acts may be obtained at all public libraries, and in Wailuku at the Maui Law Library at 2145 Main St., Room 207 (phone 244-2959).

Condominium Laws

Act 225 (SLH 2001) HB 118 HD 3 SD 2 CD 1 – amends HRS Chapter 502C relating to family child care homes, including requirement that any family child care home existing on July 2, 2001 shall notify association within 60 days of intent to operate, prohibits liability insurance to exceed one million dollars in coverage per child care provider, and extends repeal date to June 30, 2005.

Act 237 (SLH 2001) SB 178 SD 2 HD 1 CD 1 – amends HRS Chapter 514A relating to condominium property regimes to exempt developer registration of public reports and disclosure abstracts for time share projects within condominium projects if time share plan is registered under HRS Chapter 514E and has an effective disclosure statement that is required to be delivered to purchaser or prospective purchaser.

Act 232 (SLH 2001) HB 1231 HD 1 SD 1 – amends HRS Chapter 514A relating to condominium property regimes to require owners and board of directors to participate in mediation if dispute involves the declaration, bylaws, house rules, or specified sections of HRS Chapter 514A. If an owner or the board refuses to participate in mediation, then a court may take refusal to participate into consideration when awarding expenses, costs and attorney's fees.

Real Estate Laws

Act 224 (SLH 2001) HB 79 HD 1 SD 1 – amends HRS Chapter 508D relating to mandatory seller disclosures in real estate transactions.

Act 245 (SLH 2001) SB 1061 SD 1 HD 1 CD 1 – amends HRS Chapters 467 and 514A to require 3 years full-time Hawaii salesperson experience in the 5 years immediately prior to submission of a broker experience certification application; exempts real estate brokers from

condominium hotel operator registration and fidelity bond requirements, and requires condominium managing agents to keep a current fidelity bond but no longer provide evidence of fidelity bond when registering with DCCA unless requested to do so by Real Estate Commission.

Other New Laws

Act 4 (SLH 2001) HB 587 HD 1 – amends HRS Chapter 454 regarding mortgage brokers and solicitors licensing law.

Act 17 (SLH 2001) HB 22 HD 2 – amends HRS Chapter 514E relating to time sharing plans by redefining "acquisition agent" to exclude employees or contractors of real estate brokers.

Act 18 (SLH 2001) HB 23 HD 2 – amends HRS Chapter 514E relating to deceptive trade practices for time sharing plans by requiring time share contracts to contain a seven day right of rescission notice.

Act 27 (SLH 2001) SB 175 SD 2 – amends HRS Chapter 514E relating to time sharing plans by repealing DCCA registration requirement for sales agents and requiring acquisition agents to register with DCCA unless currently licensed as a real estate broker.

Act 35 (SLH 2001) HB 1173 HD 1 – repeals licensing requirement for a lodging or tenement house, group home, group residence, group living arrangement, hotel, or boardinghouse, and amends general excise tax exemption for hotels by redefining hotel.

Act 68 (SLH 2001) HB 1552 HD1 – amends laws relating to time sharing to exclude time share plans from the definition of "planned community."

Act 70 (SLH 2001) SB 174 – amends HRS Chapter 514E relating to time sharing plans by exempting disclosure statement and mutual right to cancel requirements for time shares offered for sale outside of Hawaii.

Act 71 (SLH 2001) SB 176 – amends HRS Chapter 514E relating to time sharing plans by repealing requirement that time share agents wear identification badges.

Act 129 (SLH 2001) HB 600 HD 1 SD 1 CD 1 – amends various laws relating to business registration to reflect modern business practices.

Act 149 (SLH 2001) SB 1062 SD 1 HD 1 – amends HRS Chapter 436B to establish that professional and vocational licensees that have converted to a new form of business entity shall file an application for conversion of license.

Act 191 (SLH 2001) HB 204 HD 1 SD 1 CD 1 – amends HRS Chapter 421J regarding proxy requirements for planned community association boards that use association funds to distribute proxies that include election of directors.

Act 223 (SLH 2001) HB 16 HD 2 SD 2 CD 1 – amends HRS Chapter 514E to establish provisions relating to time share owner referral fees.

Mediation Case Summaries

MCP=Mediation Center of the Pacific, Inc. 521-6767 MSM=Mediation Services of Maui, Inc. 244-5744 WHMS=West Hawaii Mediation Services 885-5525 (Kamuela), 326-2666 (Kona) KMC=Ku'ikahi Mediation Center 885-5388 KEO=Kauai Economic Opportunity, Inc. 245-4077 RICO=Regulated Industries Complaints Office 587-3222 BOD=Board of Directors CMA=Condominium Managing Agent

COMPLAINANT VS. RESPONDENT

COMPLAINT

DISPOSITION

| COMPLAINANT VS. RESPONDENT | COMPLAINT | DISPOSITION |
|----------------------------|--|----------------------------------|
| | Cases handled by MCP (1/1/01 – 5/31/01) | |
| Owner vs. BOD | House rules and bylaws violations | Mediation declined; case closed. |
| BOD vs. Owner | Bylaws violation re: payment for repairs | Mediated; agreement reached. |
| BOD & Manager vs. Owner | Bylaws violation re: alterations to lanai | Mediated; no agreement. |
| Owner vs. Owner | House rules & bylaws violations | Mediated; agreement reached. |
| Owner vs. Owner | House rules & bylaws violations | Mediated; agreement reached. |
| Owner vs. Owner | House rules & bylaws violations | Mediated; agreement reached. |
| | Cases handled by MSM (1/1/01—5/31/01) | |
| BOD vs. Owner | House rules violation re: reimbursement of attorney fees | Mediated; agreement reached. |
| Owner vs. Neighbor/Tenant | House rules violations; re: noise complaint | Mediation declined; case closed |

(No cases reported handled by WHMS, KMC, KEO, or RICO (1/1/01—5/31/01))

owners in covenant enforcement actions and how to avoid them. Speakers consisted of attorneys with first-hand experience in Hawaii covenant enforcement actions: Joyce Neeley, Esq. of Neeley & Anderson, Trudy Burns Stone, Esq. of Chun Kerr Dodd Beaman & Wong, and M. Anne Anderson, Esq. of Neeley & Anderson.

Psychos, Pot Pushers, Prostitutes & Parking - Solving the "P" Problem in Community Associations (October 26, 2000)

– explored how to deal with the difficult residents; what to do if a suspected drug dealer resides in the project; how to detect the presence of drug labs and what to do about it; how to deal with suspected “ladies of the night”; how the asset forfeiture law works; and what accommodations must be made under fair housing laws to provide parking for handicapped individuals. Speakers included: former Honolulu Prosecuting Attorney Keith Kaneshiro, Esq. of KMK Associates, Milton Motooka, Esq. of Love Yamamoto & Motooka, Deputy Prosecuting Attorney Charlotte Duarte, Esq., Lt. Dennis Yuen of the Honolulu Police Department Narcotics Vice Division, and Terry Revere, Esq. of Love Yamamoto & Motooka.

How To Conduct Successful Annual and Special Association Meetings (January 20, 2001)

– covered steps that must be taken before, during, and after annual and special meetings; issues related to posting of notices and scheduling meetings; preparation and use of proxies and ballots; voting procedures; making and adopting motions; preparation of minutes; how to prepare for difficult meetings; war stories regarding chaos and havoc at meetings; common mistakes made by associations; tips on how to field points of order and deal with unruly members; and common issues arising in special meetings to remove directors. Speakers were M. Anne Anderson, Esq. of Neeley & Anderson, Tanya Every of Chaney Brooks & Company, professional registered parliamentarian Steve Glanstein, and Ted Walkey of Hawaiiana Management Company.

Ask the Experts (March 15, 2001) – an all-star panel of experts answered audience questions about issues that affect the association’s bottom line: property management experts Emory Bush of Hawaiiana Management Company, Ralph Foulger of Chaney Brooks & Company, and Doug Mattos of Certified Management Company; audit and taxation expert Jonathan Carr of Jonathan Carr CPAs; insurance expert Surita Savio of Insurance Associates, Inc.; security expert Spike Dennis of Safeguard Services; reserve study preparation and construction management consulting expert Dale Armstrong of Armstrong & Associates; and construction consultant Skip Morgan of Alaka’i Mechanical Corporation.

Rules Development Amendments and the Design Review Process (April 19, 2001)

– explored important topics such as drafting enforceable rules; limitations on different types of rules; amendments commonly adopted by associations; things to look for when updating project documents; approval requirements for different types of rules and amendments; standard procedures to follow when owners make alterations to the apartment; procedures to ensure fair and uniform enforcement in the design re-

view process; and common mistakes made by associations regarding rules development, amendments, and design review. M. Anne Anderson, Esq. of Neeley & Anderson, Philip Lahne, Esq. of Neeley & Anderson, and John Morris, Esq., then of Iwai & Morris, were the speakers.

Fair Housing: 2001 and Beyond (April 24, 2001 on Oahu; April 25, 2001 on Maui; April 26, 2001 on Island of Hawaii)

– discussed issues regarding the Americans with Disabilities Act and its impact on the condominium community; meeting the needs of the handicapped; guidelines for preparing fair housing policies and procedures; the impact of fair housing laws on condominium declarations, bylaws, and house rules; practices to promote compliance with fair housing laws; strategies to address risk within the law; and fair housing complaints and case studies. Seminar taught by certified ARELLO instructor Tony Duncanson.

Advanced ABCs - Assembling the Professional Team (April 10, 2001)

– covered how to find and evaluate lawyers, managers, and other professionals for your association; how to develop interview questions to select the most qualified association employees; how to strengthen and use communication skills to resolve association conflicts; how to become familiar with bidding and contracting for maintenance services; how to build a sense of community; and how to recognize your association’s options for limiting liability. Speakers from Certified Management, Inc. were Susan Gregg, Emily Flusche-Griffith, and Brian Molina.

ABCs - A Basic Course for Community Associations (May 5, 2001)

– This one-day comprehensive workshop for association leaders and owners covered six sections: (1) overview of common interest communities by Ralph Foulger of Chaney Brooks & Company, (2) approach to solving problems by Lillian McCarthy of Certified Management, Inc., (3) maintenance by Alan Takumi of Certified Management, Inc., (4) rule enforcement by Tom Tobacco of Chaney Brooks & Company, (5) finances by Chuck Ray of Hawaiiana Management Company, and (6) board meetings by John Jepsen Jr. of Certified Management, Inc.

Upcoming subsidized educational seminars are listed on page 8 of this bulletin. Be sure to check the Condominium Education Calendar, a regular feature in the *Hawaii Condominium Bulletin* and the Commission’s home page at www.state.hi.us/hirec, for the latest listings of upcoming seminars for the condominium community. (Seminars that have been approved for CEF subsidy by the Commission are indicated with an asterisk.) Condominium seminars are also publicized via flyers mailed by the Commission and seminar providers, so watch for seminar flyers in the mail. To receive information on specific seminars, or to register for upcoming seminars, please call the providers noted on page 8 of this bulletin.

REAL ESTATE COMMISSION MEETING SCHEDULE 2001

Laws & Rules Review Committee—9 a.m.

Education Review Committee—10 a.m.

Condominium Review Committee—11 a.m.

Wednesday, July 11, 2001

Monday, August 6, 2001 (Big Island)

Wednesday, September 12, 2001

Wednesday, October 10, 2001

Wednesday, November 14, 2001

Thursday, December 13, 2001

Real Estate Commission--9 a.m.

Friday, July 27, 2001

Friday, August 31, 2001

Friday, September 28, 2001

Tuesday, October 30, 2001

Friday, November 30, 2001

Friday, December 14, 2001

All meetings (unless specifically noted) will be held in the Kapuaia Room, Second Floor, HRH Princess Victoria Kamamalu Building 1010 Richards Street, Honolulu, Hawaii. Meeting dates, locations and times are subject to change without notice. Please call the Real Estate Commission Office at 586-2643 to confirm the dates, times and locations of the meetings. This material can be made available for individuals with special needs. Please call the Executive Officer at 586-2643 to submit your request.

Condominium Education Calendar

This calendar lists upcoming educational events of interest to the condominium community. The publishers express **no opinion** about the quality or content of any event they do not sponsor. This listing should not be construed as an endorsement or sponsorship of any event, unless expressly indicated. Events may be subject to change; please check directly with the provider to confirm each event.

| Date | Time | Event Title | Location | Provider |
|----------|--------------|--|----------------|----------|
| 06/21/01 | 12:00 – 1:30 | *Mediation and Alternative Dispute Resolutions | Hale Koa Hotel | CAI-H |
| 07/19/01 | TBA | *Legislative Update | Hale Koa Hotel | CAI-H |
| 08/16/01 | TBA | *Covenant Enforcement | Hale Koa Hotel | CAI-H |
| 09/15/01 | TBA | *Termite/Ground Maintenance | Hale Koa Hotel | CAI-H |
| 10/18/01 | TBA | *Fair Housing | Hale Koa Hotel | CAI-H |

**Seminar has been approved by the REC for CEF subsidy. Registration fees for condominium apartment owners whose AOA is currently registered with the REC are being subsidized with funds from the Condominium Education Fund.*

For full information on the above-listed courses, please call the provider.

| | Provider | Phone | Address |
|----------|--|----------------------|---|
| CAI | Community Associations Institute (National) | (703)548-8600 | 225 Reinekers Ln #300 Alexandria, VA 22314 |
| CAI-H | Community Associations Institute - Hawaii Chapter | 488-1133 | P.O. Box 976 Honolulu, HI 96808 |
| CCM | Condominium Council of Maui | 879-5266 | P.O. Box 647 Kihei, HI 96753 |
| HCAAO | Hawaii Council of Associations of Apartment Owners | 533-2528 | 677 Ala Moana Blvd, #401 Honolulu, HI 96813 |
| HSAP | Hawaii State Association of Parliamentarians | 839-4437 | |
| HSBA-CLE | Hawaii State Bar Association - Continuing Legal Educ. | 537-1868 | 1132 Bishop Street, Ste 906 Honolulu, HI 96813 |
| HICLE | Hawaii Institute For Continuing Legal Education | 537-1868 | 1136 Union Mall, PH 1 Honolulu, HI 96813 |
| IREM | Institute of Real Estate Management Hawaii Chapter No. 34 | 733-7060 ext. 106 | 1136 12th Ave, Ste 220 Honolulu, HI 96816 |
| OAC | Oahu Arm Committee | 523-6096 | 91-1030 Kaiheenalua Street Ewa Beach, HI 96706 |
| UH-SPP | Special & Professional Programs, College of Continuing Education, University of Hawaii | 956-8244 | 2530 Dole Street Honolulu, HI 96822 |

Real Estate Branch and Real Estate Commission's web page at: <http://www.state.hi.us/hirec>. Address: 250 S. King St., Rm. 702; Honolulu, HI 96813; Phone: 586-2644. June 7, 2001

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