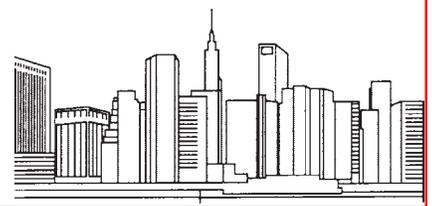
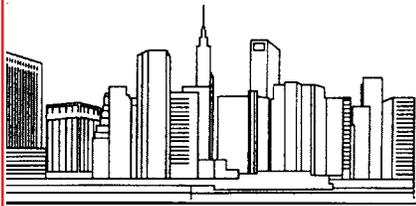


# HAWAII CONDOMINIUM BULLETIN



VOLUME 10 NO. 3

JULY 2002

Funded through the Condominium Education Fund

## Selected 2002 Legislative Acts Affecting Condominium Property Regimes

The following discussion highlights some of the statutory amendments to Chapter 514A, Hawaii Revised Statutes (HRS), Condominium Property Regimes, and other amendments of interest, made by the 2002 Legislature. Readers are advised to consult the full text of the Acts, as this discussion is intended only to briefly summarize the amendments and does not constitute legal advice. For specific advice as to how the provisions of Chapter 514A, HRS, apply to a particular circumstance, readers should seek the advice of a licensed Hawaii attorney familiar with condominium law. The bills enacted are:

• **Act 137 (SLH 2002) SB 2289 SD1 HD2** – allows the board of directors of an association of apartment owners (AOAO) to install television signal distribution and telecommunications equipment on the common elements without deeming the installation an alteration, impairment, or diminishment of the

*See Selected Acts on pg. 7*

## HRS Chapter 514A Recodification Update

In January 2002, the Commission completed its initial draft of the recodification. The Uniform Condominium Act (1980), with appropriate changes incorporated from the Uniform Common Interest Ownership Act (1994), served as the basis for Recodification Draft #1. Where appropriate, we also incorporated provisions from HRS Chapter 514A, other jurisdictions' laws, and the Restatement of the Law, Third, Property (Servitudes).

Recodification Draft #1 provides a starting point and framework from which to: 1) work on specific problems, and 2) continue our discussions on improving Hawaii's condominium law. Some portions are more complete than others, with Article 3 (Management of Condominium) needing a lot more work integrating provisions of HRS Chapter 514A and suggestions from stakeholders.

*See Recodification Update pg. 6*

## Standing Committee Meetings Held on Kauai on June 14

On June 14, 2002, the Real Estate Commission (Commission), convened its monthly standing committee meetings in Lihue, Kauai.

Committee meetings held on different islands is part of the Commission's program of work. The meetings provide the members of the condominium and real estate communities with an opportunity to attend the Commission's Laws and Rules, Education, and Condominium Review Committee meetings usually held on Oahu.

Participants varying from condominium apartment owners, board members, an attorney, and representatives from the Hawaii Association of Realtors® attended the Condominium Review

Committee meeting. Committee members and participants engaged in a lively interchange of information and questions about various concerns and issues including: possible discriminatory situations involving pets and children; problems of self management by an association; collection and non-payment of assessments; foreclosure and liens for non-payment of assessments; declaration and bylaws; and association's independent contractors and employees and various insurance requirements; insurance for associations, and contracts for associations.

The participants appeared satisfied with the feedback, comments, and information gleaned from the interchange. Following the adjournment of the com-

mittee meeting, Senior Condominium Specialist and the Recodification Attorney met with individual participants and provided additional information for the concerns, issues, and questions raised during the committee meeting.

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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:

This issue of the *Bulletin* provides information about some newly enacted laws of interest to the condominium community beginning on page 1.

The selected new laws relate to the Board of Director's expanded authority to install television signal distribution and telecommunication equipment on common elements; flood insurance requirements; streamlined regulatory requirements for condominium managing agents; new requirements for assessing owners for requested information; same time period for obtaining vote or written consents for bylaw amendments for owners and board members; responsibility for mandatory mediation costs, and requirements for acquiring the remaining fee interests.

An unofficial copy of Chapter 514A, Hawaii Revised Statutes, is enclosed and includes updates to the condominium law. This copy should be kept and made accessible to all apartment owners.

This issue's Reference File includes an article about the different bylaw provisions of the condominium law and the impact on an association's bylaws. Another article, which you'll find on page 5, reviews the impact re-insurance has on an association's insurance. The articles are written by contributing authors familiar with and who have practical experience in these areas.

The recodification of Chapter 514A, HRS, is a high priority project for the Commission. We have included an update of its progress beginning on page 1.

Finally, the Commission's meeting schedule for 2002, and the education calendar are included.

You are welcome to attend any of these sessions. On an ongoing basis, the Commission plans its program of work at these meetings. 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** If an owner has a dispute with the association regarding the payment of an assessment, must the owner pay the disputed assessment *before* the dispute has been settled with the association?

**A** Generally, yes. Section 514A-90(c), Hawaii Revised Statutes (HRS), states that "No apartment owner shall withhold any assessment claimed by the association."

The statute also provides that owners have "a right to demand mediation or arbitration to resolve disputes about the amount or validity of an association's assessment, provided the apartment owner immediately pays the assessment in full and keeps assessments current, and that payment in full of the assessment does not prevent the owner from contesting the assessment or receiving a refund of amounts not owed."

Under Section 514A-90(d), HRS, owners who pay the full amount claimed by the association may file in small claims court or require the association to mediate disputes regarding the amount or validity of association's claim.

If the owner and the association are unable to resolve the dispute through mediation, then either party may file for arbitration, provided that an owner may only file for arbitration if all association claims are paid in full on or before the date of arbitration filing.

If, however, the owner fails to keep association assessments current during the arbitration, the association may ask the arbitrator to temporarily suspend the arbitration proceedings according to the statute.

An owner who pays all association assessments within 30 days of the date of arbitration suspension may then ask the arbitrator to recommence the arbitration.

If the owner fails to pay all association assessments by the end of the 30-day period, the association may ask the arbitrator to dismiss the arbitration proceedings.

**Q** What can we do about disagreements or disputes between board members; between the board and the owners and between owners?

**A** The original intent and policy of the Legislature included self-management and self-governance. That is, each condominium association should decide on its own, with little interference by government on how to manage its own affairs.

However, to foster civility and assist in dispute resolu-

*See Q & A on pg. 6*

# Statutory Provisions Related to Condominium Boards

By M. Anne Anderson, Esq.

There are a number of provisions in Chapter 514A, Hawaii Revised Statutes, dealing with the functions of condominium association boards of directors and meetings of boards of directors.

A number of those provisions can be found in Section 514A-82(a), Hawaii Revised Statutes. However, the provisions in Section 514A-82(a), Hawaii Revised Statutes, have a prospective application and are not applicable to all condominium associations. In other words, the provisions of Section 514A-82(a), Hawaii Revised Statutes, are applicable only to condominium projects created after the effective date of said provisions.

In some instances, the provisions of a condominium association's bylaws will differ from the current provisions of Section 514A-82(a) and the bylaw provisions will be controlling.

A brief discussion of selected provisions found in Section 514A-82(a), Hawaii Revised Statutes, relating to boards of directors and board meetings and their application to existing condominium associations is set forth below.<sup>1</sup>

## **A. Section 514A-82(a)(1)(A) through and including Section 514A-82(a)(1)(C), Hawaii Revised Statutes.**

A history of Section 514A-82(a)(1)(A) through and including Section 514A-82(a)(1)(C), Hawaii Revised Statutes, is set forth below.

### 1. Section 514A-82(a)(1)(A), Hawaii Revised Statutes.

Section 514A-82(a)(1)(A), Hawaii Revised Statutes, currently requires that the bylaws provide for an elected board of directors. The requirement that bylaws of condominium associations provide for the election of a board of directors has been contained in Chapter 514A and its predecessor chapters since May 29, 1963. As such, this provision will be found in the bylaws of most condominium associations.

### 2. Section 514A-82(a)(1)(B), Hawaii Revised Statutes.

Section 514A-82(a)(1)(B), Hawaii Revised Statutes, addresses the number of directors that must serve on the board. The law since May 29, 1963, has provided that the bylaws of condominium associations must state the number of directors

serving on the board. However, the law has varied over time regarding the minimum required number of directors and the procedure for changing that number. A brief discussion of the change in the law and its application to different condominium projects is set forth below.

### a. Condominium Projects Created Prior to May 18, 1984.

For condominium projects created prior to May 18, 1984, there was no minimum requirement regarding the number of directors serving on the board.

### b. Condominium Projects Created Between May 18, 1984, and May 27, 1985.

For condominium projects created during the period of May 18, 1984, to May 27, 1985, the law provided that condominiums having more than 100 apartment units were to have an elected board of not less than nine members unless not less than 75% of all owners voted by secret written ballot to set the minimum number of directors at less than nine during an annual or special meeting called for the purpose of reducing the minimum number of directors.

### c. Condominium Projects Created Between May 28, 1985, and May 13, 1988.

The law was again amended in 1985. During the period of May 28, 1985, and May 13, 1988, the bylaws of condominium projects having more than 100 apartment units were required to provide for a board of not less than nine members unless not less than 75% of all owners voted by mail ballot or at a special or annual meeting to reduce the minimum number of directors. The change in the law served to permit a reduction in the minimum number of directors by mail ballot, to eliminate the requirement that the ballot be a "secret" ballot, and to eliminate the requirement that the association meeting be called for the specific purpose of voting on the issue of reducing the minimum number of directors.

### d. Condominium Projects Created Since May 14, 1988.

Section 514A-82(a)(1)(B), Hawaii Revised Statutes, was amended again effective as of May 14, 1988. The 1988 change in the law served to reduce from 75% to 65%, the percentage of owners required to reduce the minimum number of directors serving on the board for projects with more than 100 apartment units to a number less than nine. Condominium associations with the higher 75% approval requirement may amend their bylaws to conform with the current statutory provi-

<sup>1</sup> The References herein are to the current sections found in Section 514A-82(a), Hawaii Revised Statutes. However, it should be noted that the chapter and section numbers have changed over the years. The earlier versions of the statutory sections discussed in this article may have had different chapter and/or section numbers. References herein to projects created between two dates or from one date to another date are intended to include the beginning and ending date (e.g., a reference to projects created between May 29, 1963, and June 28, 1995, means projects created on May 29, 1963, June 28, 1995, or any date in between those two dates). Finally, references to the creation date of a condominium project means the date the declaration of condominium property regime (formerly known as a declaration of horizontal property regime) was recorded.

sion.

3. Section 514A-82(a)(1)(C), Hawaii Revised Statutes.

Section 514A-82(a)(1)(C), Hawaii Revised Statutes, currently provides that the bylaws shall provide “[t]hat for the initial term of office, directors shall serve for a term of three years or the term as specified by the bylaws or until their successors have been elected or appointed.”

This provision has been in effect since May 18, 1984. It does not apply to condominium associations created prior to May 18, 1984.

4. Staggered Terms.

Chapter 514A, Hawaii Revised Statutes, currently does not require staggered terms. However, it should be noted that for condominium associations created during the period of May 29, 1963, to May 17, 1984, the law required that the bylaws provide that the terms of at least one-third of the directors shall expire annually.

**B. Section 514A-82(a)(1)(D) through and including Section 514A-82(a)(1)(F), Hawaii Revised Statutes.**

Since May 29, 1963, the bylaws of condominium projects have been required to provide for: 1) the powers and duties of the board; 2) the compensation, if any, of the directors; and 3) whether or not the board may engage the services of a manager or managing agent, or both, and specifying which of the powers and duties granted to the board by Chapter 514A or otherwise may be delegated by the board to either or both of them.

**C. Section 514A-82(a)(3) through and including Section 514A-82(a)(5), Hawaii Revised Statutes.**

Section 514A-82(a)(3) through and including Section 514A-82(a)(5), Hawaii Revised Statutes, currently require the bylaws of condominium associations to provide for the election of a president from among the board who shall preside over the meetings of the board and the association, the election of a secretary who shall keep the minute book wherein resolutions are recorded, and the election of a treasurer to keep the financial records and books of account of the association.

These three subsections have been in effect since May 29, 1963, and apply to all condominium associations formed on or after that date.

**D. Section 514A-82(a)(12), Hawaii Revised Statutes.**

Section 514A-82(a)(12), Hawaii Revised Statutes, currently sets forth the qualifications to serve on the board. This section has gone through a number of changes which are discussed below. Because this law is prospective and not retroactive, the qualifications to serve on the board may vary from project to project.

1. Condominium Projects Created Between May 29, 1963, and June 28, 1965.

For projects created during the period between May 29, 1963, and June 28, 1965, the only requirement was that board members be elected *from among the apartment owners*.

2. Condominium Projects Created Between June 29, 1965, and May 23, 1975.

For projects created during the period of June 29, 1965, to May 23, 1975, the law did not specify the qualifications to serve on the board. As such, it is possible that bylaws of condominium associations created during this time period allow nonowners to serve on the board.

3. Condominium Projects Created Between May 24, 1975, and June 8, 1976.

For projects created during the period of May 24, 1975, to June 8, 1976, the bylaws were to provide that all members of the board be owners, co-owners, a spouse of an owner, or an officer of any corporate owner of an apartment.

The bylaws were also required to provide that the partners in a general partnership and the general partners of a limited partnership shall be deemed to be the owners of an apartment for purposes of serving on the board.

4. Condominium Projects Created Since June 9, 1976.

The law has provided since June 9, 1976, that the condominium bylaws shall provide that all members of the board of directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment.

The bylaws must also provide that the partners in a general partnership and the general partners of a limited partnership shall be deemed to be the owners of an apartment for this purpose. The 1976 change to the law served to delete the reference to spouses of owners as being qualified to serve on the board.

5. Not More Than One Representative Per Apartment – Condominium Projects Created Since September 1, 1981.

Since September 1, 1981, Section 514A-82(a)(12), Hawaii Revised Statutes, has provided that there shall not be more than one representative on the board of directors from any one apartment. Projects created prior to September 1, 1981, are not subject to this requirement and may have more than one representative on the board.

**This article will be completed in the next issue of the Hawaii Condominium Bulletin.**

### About the Contributing Author

M. Anne Anderson, Esquire, is a partner in the law firm of Neeley & Anderson, LLP, A Limited Liability Law Partnership. She is a past president of Community Association Institute Hawaii Chapter. She has practiced law in Hawaii since 1984. Her law practice is devoted almost exclusively to the representation of community associations.

# The Role of Re-Insurance in the Insurance Industry

By Surita Savio

Re-insurance is, in essence, the driving force in the insurance industry. Re-insurance should be thought of as “insurance for an insurance company.” The companies that issue a policy to the consumer, such as First Insurance or Firemen’s Fund, are called primary insurers and a company that insures another insurance company is called a re-insurer. Whereas a primary insurance company is usually a regional or a national company, re-insurers are global in scope.

For larger businesses, the primary insurance company retains a “small” portion of the risk and then buys re-insurance for the balance of the coverage. For instance, if a primary insurance company insures a building(s) worth \$50 million, they may only insure the first (primary) \$1 million of coverage and then buy the additional \$49 million of coverage from a re-insurer. The re-insurance company will pay for a loss in excess of \$1 million, such a loss is termed “catastrophic.”

The cost of the re-insurance dictates the premium that the primary insurance company charges their clients. When there are few catastrophic losses, insurance premiums are stable or decrease. When there are numerous catastrophes in a given year, or even a single large catastrophic loss, the re-insurance companies increase their premiums. In addition to the income from premiums, re-insurers (and primary insurers) also rely on investment income to be profitable. For the 2001 period, the re-insurance industry paid, in claims and expenses, \$1.43 for every \$1.00 of income.

The events on September 11, 2001, had estimated losses of \$40 - \$70 billion. The re-insurance companies will pay for the bulk of the claims. The insurance industry did not and could not anticipate a single loss of such a magnitude, and had never included its possibility when developing the premiums they charge. Consequently, the re-insurers are now increasing their premiums to both re-coup their losses and build reserve funds for the possibility of future losses of such magnitude.

As the premiums paid by the primary insurance companies increase, so do the premiums they charge you, the consumer. Keeping in mind that the re-insurers are active on a global scale, even losses occurring 5,000 miles away have an adverse effect on the cost of insurance here in Hawaii, and elsewhere.

The overwhelming influence that re-insurers have on primary insurers, during such times as these, leaves little bargaining room for either the primary insurance company or the insurance agent. The re-insurers are the companies that must absorb the tremendous losses of September 11 and, until they have regained their profitability, the insurance market will not experience much change.

*(Author’s note: This article has addressed re-insurance as it applies to property insurance as it was the property re-insurers who were most affected by September 11. However, there was not a single type of business insurance that was not severely affected by the events of that date.)*

## About the Contributing Author

Surita Savio is the President of Insurance Associates, a kama’aina insurance agency founded in 1969. She has served as President of the Hawaii Independent Insurance Agents Association and currently serves on their legislative and fiscal committees.

Ms. Savio also belongs to the Insurance Women of Honolulu and the National Association of Insurance Women. She specializes in providing insurance services for condominiums, cooperatives, homeowners’ associations, and similar developments.

## Administrative Actions

### William J. Aronson – REC 1999-127-L

As of December 18, 2001, Respondent worked under direction of a broker license issued to Americorp International, Ltd. In approximately April, 1998, Respondent entered into a verbal agreement with a client to act as agent in the purchase and rental management of a condominium unit on Maui. On February 1, 2002, The Regulated Industries Complaints Office (RICO) filed a Second Amended Petition for Disciplinary Action against Respondent’s salesperson’s license, alleging he violated §467-7, HRS (acting as a real estate broker without being licensed to do so), §467-14(6), HRS (real estate salesperson attempting to act as a broker), §467-14(7), HRS (collecting a commission or other compensation from someone other than one’s employer or broker), §16-99-3(f), HAR (failing to have a written real property rental management agreement); §467-14(16), HRS (converting other people’s moneys to the licensee’s own use); §16-99-4(i), HAR (handling trust properties without the express written authorization of the person’s principal broker or broker in charge), §436B-19(16), HRS (employing or utilizing unlicensed persons), §436B-27(a), HRS (employing or utilizing unlicensed persons), §467-30(b), HRS (failing to obtain a condominium hotel operator’s license), §467-7, HRS (acting, advertising or assuming to act as a real estate broker), §436B-27(a) (aiding and abetting an unlicensed person to evade Chapter 436B or the applicable licensing law). Respondent admitted to the veracity of the allegations contained in the Second Amended Petition and admitted that his acts and/or admissions constituted violations of the statutes and/or rules cited here. Respondent voluntarily agreed to revocation of his real estate salesperson’s license for a five-year period.

### Kaanapali Beach Properties, Inc., and Kenneth M. Rothman – REC 2000-34-L

It was alleged that in managing a condominium unit for a client, Respondents violated §467-14(7), HRS, by failing to pro-

*See Administrative Actions pg. 7*

## Recodification Update from pg. 1

A Blue Ribbon advisory committee made up of attorneys whose practices, combined, cover the full spectrum of condominium law, is currently reviewing Recodification Draft #1. Based on feedback we've received from the advisory committee, Realtors®, property managers, and others, the Commission has decided to use HRS Chapter 514A (rather than the uniform laws) as the base for most of the recodification (i.e., general provisions; creation, alteration, and termination of condominiums; protection of purchasers; administration and registration of condominiums; and condominium management education fund). At this point, the Uniform Condominium Act and Uniform Common Interest Ownership Act remain as the base for condominium governance matters.

As always, we are interested in learning what problems you have with HRS Chapter 514A and what solutions you might suggest. For your reference, Recodification Draft #1, our recodification workplan, timetable, base working document [a comparison of the Uniform Common Interest Ownership Act (UCIOA), Uniform Condominium Act (UCA), and HRS Chapter 514A], and other recodification materials are available on our website – <http://www.state.hi.us/hirec/>.

Please address correspondence to: Mitchell Imanaka & Gordon Arakaki, DCCA – Real Estate Branch, 250 South King Street, Room 702, Honolulu, HI 96813. You may also call us at 586-2644 or 586-2646, or e-mail us at [Gordon\\_M\\_Arakaki@dcca.state.hi.us](mailto:Gordon_M_Arakaki@dcca.state.hi.us).

### What Happens Next?

After a second draft of the recodification is completed, the Commission plans to hold public hearings on the proposed condominium law in each of the counties (probably some time in late August or early September). We will consider the public hearing comments and work on a third draft of the recodification. The Commission should submit a final report and proposed recodification bill to the Legislature twenty days before the start of the 2003 legislative session. (The 2003 regular session convenes on January 15, 2003, so the recodification final report and proposed bill should be submitted by December 26, 2002.)

### Special Note Re: Management of Condominiums in the Recodification

“Every [unit owners’ association] has three functions – to serve as a business, a governance structure, and a community.”

### Community Associations Factbook (1999)

As explained in the *Community Associations Factbook (1999)*, the business, governance, and community functions of community associations (including associations of apartment owners) have evolved over time. Early in the history of community associations, “busi-

ness” meant “austerity,” “governance” meant “compliance,” and “community” meant “conformity.” As the movement matured, “business” has come to mean “prudence,” “governance” has come to mean “justice,” and “community” has come to mean “harmony.” “Community/harmony” is obviously not something we can mandate by State law. Just as obviously, State law can help (or hinder) associations in their “business” and “governance” functions. We will keep these functions and principles in mind as we work on the provisions for management of condominiums.

The philosophy guiding our condominium governance provisions continues to be **minimal government involvement** and **self-governance** by the condominium community. Essentially, this means that we must ensure that the condominium community (both owners and management) has the tools with which to govern itself.

[**Note:** This does not mean that every problem and contingency should be addressed in State law (as happened too often in the past, resulting in our current need to recodify our condominium law). Addressing problems in State law is appropriate in some areas; others may more appropriately be handled in condominium governing documents or other private mechanisms.]

The Commission appreciates the commitment of time, interest, and energy that many people and organizations have put into this important effort. With everyone’s help and cooperation, we look forward to crafting a condominium property law that we can all live and work with for at least the next 40 years.

Thank You!

**Gordon M. Arakaki**  
**Recodification Attorney**

**Ask the Condominium Specialist**

*from pg. 2*

tion, the board should consider using alternative dispute resolution (ADR) procedures such as conciliation, mediation or arbitration. These procedures benefit the association, making problem solving simpler, faster, and less expensive.

Under Chapter 514A, Hawaii Revised Statutes (HRS), in general, both arbitration and mediation are mandatory for disputes relating to the interpretation, application or enforcement of chapter 514A, HRS, or the association’s declaration, bylaws, or house rules adopted in accordance with its bylaws. A number of specific sections in §514A, HRS, requires mandatory mediation as follows: sections 514A-82(b)(1) to (13), 514A-82.1, 514A-82.15, 514A-82.3, 514A-82.5, 514A-82.6, 514A-83, 514A-83.1, 514A-83.2, 514A-83.3, 514A-83.4, 514A-83.5, 514A-84, 514A-84.5. (Official copy of laws may be accessed via website: [www.capitol.hawaii.gov](http://www.capitol.hawaii.gov))

*Selected Acts from pg. 1*

common interest, elements and easements appurtenant to each apartment, or be a structural alteration or addition to any building, provided that it does not directly affect any non-consenting apartment owner or owners without the consent of the owner or owners of the apartments of the limited common elements. Provides further that the board may abandon or change the use of any equipment on account of obsolescence or to provide an equivalent function by different means and methods.

• **Act 17 (SLH 2002) SB 2341 SD1** – provides that the AOA shall purchase and maintain flood insurance if the property is located in a special flood hazard area as delineated by the Federal Emergency Management Agency. The flood insurance policy shall comply with the requirements of the National Flood Insurance Program and the Federal Insurance Administration. Repeals the provision that flood insurance shall also be provided under the federal Flood Disaster Protection Act.

• **Act 129 (SLH 2002) SB 2724 SD2 HD1 CD1** - reduces duplicative regulatory requirements for limited-equity housing cooperatives, provides principal brokers with more flexibility in the management of real estate brokerages, amends the licensure requirements for out-of-state real estate licensees who have previously met equivalent pre-licensing requirements, streamlines regulatory requirements for condominium managing agents, and makes housekeeping amendments for clarity. Current law requires all condominium managing agents to register and maintain a fidelity bond. This act exempts active real estate brokers from registration and fidelity bond requirements, thereby eliminating the duplicative regulatory burden for real estate brokers.

• **Act 140 (SLH 2002) HB 1713 HD1 SD 1 CD1** – requires an AOA that has received a request for information from an owner, to notify the owner in writing of its intent to impose fees for providing that information prior to making the assessment, except where costs are assessed to provide information on delinquent assessments or in connection with enforcement proceedings. After receiving the AOA's notice, the owner has an option to withdraw the request and not be charged for the cost of providing the information.

• **Act 141 (SLH 2002) HB 1715 HD1 SD1 CD1** – extends the time period to obtain the vote or written consent of apartment owners to approve amendments to the bylaws of the AOA from 120 days to 365 days. This applies to bylaw amendments proposed by the board of directors or by a volunteer apartment owner's committee.

• **Act 142 (SLH 2002) HB 1716 HD1 SD1 CD1** – provides that each party participating in mediation under section 514A-121.5, HRS, be responsible for its own costs, except if both parties agree at the end of the mediation that one party will be responsible for all or a specific portion of the costs.

• **Act 204 (SLH 2002) HB 2832 HD1 SD2 CD1** – amends the time share sales presentation solicitation requirements; exempts apartments designated in a declaration for hotel, time share, transient vacation rental, or commercial use from condominium law parking stall requirements; allows certain hotels to

partially convert to time share; does not require the developer to deliver to a prospective purchaser or purchaser a true copy of the developer's public report, disclosure abstract, receipt and notice, when a time share plan is duly registered; and where a copy of the required time share disclosure statement is delivered or pursuant to the Time Share Law, the delivery of a copy of the time share disclosure statement is not required because the offer and sale of time share interest is made outside of Hawaii.

• **Act 199 (SLH 2002) HB 2413 HD1 SD1** – allows the owners association of a condominium partially converted to fee simple to acquire the remaining fee interest in a bulk sale if 75% of the remaining lessees approve a declaration amendment authorizing the sale.

• **Act 174 (SLH 2002) SB 2831 SD1 HD1 CD1** – extends a residential construction and remodeling tax credit that is deductible from taxpayers' (includes an association of apartment owners) net income tax liability to July 1, 2003.

## Administrative Actions

*from pg. 5*

vide a timely accounting to a client; and §16-99-147(e), HAR, by failing to inform the Real Estate Commission in writing of their management of an additional unit under their condominium hotel operator registration.

Respondents waived their right to a hearing and agreed to a disposition of this case pursuant to the terms and condition of a Settlement Agreement. Respondents agreed to make restitution of \$192.20 to a client and pay a \$500 fine.

The Commission accepted the Settlement Agreement on April 26, 2002.

### **Certified Management, Inc., and James E. McKellar – REC 2001-146-L**

Respondent Certified Management was retained by the Association of Apartment Owners of Huali Vista to serve as property manager. Respondent McKellar was principal broker for Certified Management.

RICO was prepared to file a Petition for Disciplinary Action alleging that Certified Management violated §467-14(7), HRS, by failing to properly account for funds belonging to a former owner of a unit in the Huali Vista. Respondents voluntarily waived their right to a hearing.

Under terms of a Settlement Agreement Prior to Filing of Petition for Disciplinary Action, Respondents agreed to pay a \$1,000 fine. Respondents deny they violated §467-14(7), HRS, but admit the former owner's account was not accurately accounted for because of miscommunication concerning the AOA of Huali Vista's reversal of outstanding fines. Respondents made corrections to the accounting records for the AOA, who authorized the return of the remaining balance to the former owner's account.

The Commission approved the Settlement Agreement on May 31, 2002.

# REAL ESTATE COMMISSION

## 2002 MEETING SCHEDULE

Laws & Rules Review Committee – 9:00 a.m.

Education Review Committee – 10:00 a.m.

Condominium Review Committee – 11:00 a.m.

Wednesday, August 14, 2002–Kapuaiwa Room

**Wednesday, September 4, 2002–Sheraton Waikiki Hotel**

Wednesday, October 9, 2002–Kapuaiwa Room

Wednesday, November 13, 2002–Kapuaiwa Room

Thursday, December 12, 2001–Kapuaiwa Room

Real Estate Commission – 9:00 a.m.

Friday, August 30, 2002–Kapuaiwa Room

Friday, September 27, 2002–Kapuaiwa Room

Friday, October 25, 2002–Kapuaiwa Room

Friday, November 22, 2002–Kapuaiwa Room

Friday, December 13, 2002–Kapuaiwa Room

All meetings will be held in the HRH Princess Victoria Kamamalu Building, located at 1010 Richards Street, Second Floor, Honolulu, Hawaii, *except the September 4, 2002 meetings, which will be held at the Sheraton Waikiki Hotel, located at 2255 Kalakaua Avenue, Honolulu, Hawaii.* Meeting dates, locations and times are subject to change without notice. Please visit the Commission's website at [www.state.hi.us/hirec](http://www.state.hi.us/hirec) or 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 to individuals with special needs. Please call the Executive Officer at 586-2643 to submit your request.

## Condominium Education Calendar 2002

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
8/20	TBA	*Governatorial Candidates	Hale Koa Hotel	CAI-H
9/19	TBA	*Aging Community	Hale Koa Hotel	CAI-H
10/17	TBA	*Firing Line–Terminating Association Employees	Hale Koa Hotel	CAI-H
10/18	TBA	Real Estate Seminar	Sheraton Waikiki Hotel	HSBA-CLE
10/24-26		CAI Community Leadership Forum	Orlando, Florida	CAI

**\*The seminar is partly funded by funds from the Condominium Education Fund, Real Estate Commission, Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs, State of Hawaii for condominium apartment owners whose AOA is currently registered with the Real Estate Commission.**

**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	PO Box 1362 Kihei, HI 96753
HCAAO	Hawaii Council of Associations of Apartment Owners	533-2528	677 Ala Moana Blvd, #401 Honolulu, HI 9681
HSAP	Hawaii State Association of Parliamentarians	488-2489	
HSBA-CLE	Hawaii State Bar Association - Continuing Legal Educ.	537-1868	1132 Bishop Street, Ste 906 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 Kaiheenu 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**

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