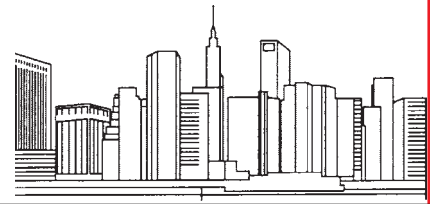
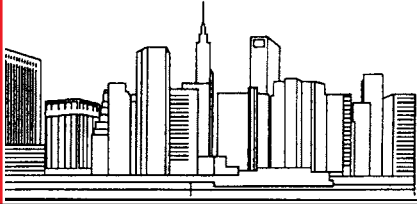


HAWAII CONDOMINIUM BULLETIN



VOLUME 11, NO. 2

JUNE 2003

Funded through the Condominium Education Fund

New Laws Affecting Condominium Property Regimes

In May 2003, Governor Lingle signed some bills into law which impact the condominium community. The remaining bills may be vetoed by the Governor or become law without the Governor's signature.

The veto deadline was June 23, 2003, and the deadline for her signature is July 8, 2003. The legislature may override the Governor's veto by a two-thirds vote in each house.

The following discussion highlights some of the statutory amendments to Chapter 514A, Hawaii Revised Statutes (HRS), Condominium Property Regimes, and other related amendments.

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.

The summaries are not intended to be an exhaustive list or to cover all provisions of the new laws.

Interested readers may access the Legislature's website, www.capitol.hawaii.gov, to read the full text of the bills or print

See New Laws on pg. 6

Kona Condominium Owners Attend Commission's Committee Meetings

On May 8, 2003 the Real Estate Commission (Commission), convened its monthly standing committee meetings in Kona, Hawaii. The Commission also held a Condominium Specialist Office for the Day in conjunction with the meeting. Committee meetings and Condominium Specialist Office for the Day are held on different islands as 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, real estate licensees, and representatives from the Realtors® Association of Maui attended the Condominium Review Committee meeting. Committee members and participants engaged in an interchange of information and questions about various condominium concerns and

See Kona Meetings on pg. 7

32% of AOA's Reregister Online!

Congratulations to Beaumont Woods Terrace Condo, the first Association to complete the 2003-2005 AOA Biennial Registration ONLINE!

For the first time, the AOA Biennial Registration application was made available online, providing applicants the opportunity to complete the reregistration application and pay registration fees either by check or credit card. By the June 2, 2003 deadline, 472 Associations utilized the online application; this represents 32% of condominium associations. WAY TO GO! Also, initial indications are that far fewer applications were deficient for

those Associations that completed the online application than those who completed the application by mail.

As of the deadline date, 222 Associations failed to complete the reregistration process. It is important to note that Associations that fail to reregister by June 30, 2003 are required to file as a new applicant, are subject to a \$50.00 penalty fee, and an additional 10% of the CMEF for late payment and registration. Furthermore, Association of Apartment Owners that fail to reregister may be referred to RICO for violations of Sections §514A-95.1, Hawaii Revised Statutes, 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.

ALSO IN THIS ISSUE

Letter from the Chair	2
Ask the Condominium Specialist	2
Guide to Fiduciary Duty	3
Website Can Reduce Costs	5
Administrative Actions	6
Condominium Education Calendar	8

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.



Letter from the Chair . . .

The Twenty-second State Legislature concluded its Regular Session of 2003, and as of the date of this Bulletin, a few bills have been enacted while others are still pending the Governor's signature.

The Governor had until June 23, 2003 to veto any bill. July 8, 2003 is the end date to sign bills to law or allow them to become law without the Governor's signature.

We are closely monitoring our Commission-sponsored House Bill 75, which extends the recodification project to 2004. For more information about legislation refer to the article, "New Laws Affecting Condominium Property Regimes" that begins on page 1.

We note that the biennial AOA O reregistration was available online for the first time. A total of 32% of condominium associations took advantage of this opportunity.

In this issue, we have two (2) contributing authors who are both attorneys practicing condominium management law.

One article provides guidance to Board Members on the subject of their fiduciary duty. The Commission receives regular inquiries about this topic.

The second article discusses the advantages of establishing an association website.

As a final note, please review the Education Calendar on page 8 and take advantage of the many educational offerings relevant to condominium owners, board members, managing agents and other professionals.

We remind the condominium community of our standing invitation to attend our monthly meetings. The meeting schedule is provided on page 8. At the committee meetings, the committee members review current issues affecting condominium associations and plan the program of work. We look forward to your input about these matters at these meetings.

Sincerely,

Mitchell A. Imanaka

Mitchell A. Imanaka, Chair
Condominium Review Committee

Ask the Condominium Specialist

Q I am a president of a 150-unit condominium and attend all committees of the association of apartment owners. Our "proxy committee" is currently working on revising the association's official proxy form to be in accordance with the most current law, specifically §514A-83.2, Hawaii Revised Statutes. What are the requirements for a valid proxy?

A Your association is to be congratulated for having an active board and volunteer committees. We are not authorized or licensed to provide legal advice. We can offer the following for informational purposes. §514A-83.2, HRS, appears to require, among other things, that the proxy satisfy certain conditions to be valid:

1. Be delivered to the secretary of the association of apartment owners or the managing agent, if any, no later than 4:30 p.m. on the second business day prior to the date of the meeting to which it pertains. (Section 514A-83.2(a)(1), HRS)

2. Contain at least the name of the association of apartment owners, the date of the meeting of the association of apartment owners, the printed names and signatures of the person giving the proxy, the apartments for which the proxy is given, and the date that the proxy is given. (Section 514A-83.2(a)(2), HRS)

3. Include four (4) boxes in the proxy form and the owner is to indicate that the proxy is given either: for quorum purposes only; to the individual whose name is printed on a line next to the box; to the board of directors as a whole and the vote made on the preference of the majority of the board; or to the directors present at the meeting and the vote shared with each board member receiving an equal percentage. (Section 514A-83.2(a)(3), HRS)

Other requirements affecting proxies include:

1. A mailing out of a standard proxy form authorized by the AOA O, if any is required. (Section 514A-82(b)(3), HRS)

2. The proxy shall only be valid for the meeting to which the proxy pertains and its adjournments, may designate any person as proxy, and may be limited by the apartment owner. (Section 514A-83.2(b), HRS)

3. NO board director can use AOA O funds to solicit proxies, but the director can solicit as an apartment owner subject to Section 514A-82(b)(4), HRS. (Section 514A-83.2(c), HRS)

4. Any board of directors must post notice of intent to distribute proxies in prominent locations within the project at least 30 days prior to its distribution of proxies if the board of directors intends to use association funds to distribute proxies. (Section 514A-82(b)(4), HRS)

5. A copy, facsimile telecommunication, or other reliable reproduction of a proxy may be used.

6. A box where an owner may indicate if the owner wishes to obtain a copy of the annual audit report. (Section 514A-96(b), HRS)

A 'Quick & Dirty' Guide to Fiduciary Duty

Philip L. Lahne, Esq.
Neeley & Anderson LLP

The phrase "fiduciary duty" is often used as if it were a magical incantation to compel associations to do the bidding of the person invoking the phrase. It is not. It is a legal "term of art" with a specific meaning. For incorporated associations, that meaning is now codified in the Hawaii Nonprofit Corporation Act (Chapter 414D, Hawaii Revised Statutes). Those definitions are also likely to be applied by the courts to unincorporated condominium associations. There are also court decisions that further define and explain fiduciary duty. Association boards should consult their legal counsel if fiduciary duty questions arise (that's part of their fiduciary duty!).

What Is a "Fiduciary"?

fiduciary 1. One who owes to another the duties of good faith, trust, confidence, and candor. 2. One who must exercise a high standard of care in managing another's money or property.
Black's Law Dictionary (7th ed. 1999)

What Is A "Fiduciary Duty?"

The duty of absolute loyalty: A director must under all circumstances place the interests of the association above all other interests, including his or her own personal interests if those interests conflict with the association's interest; i.e., a director must vote to increase assessments if a reasonable person would conclude that such an increase is needed to preserve and protect the property, even if such an increase would cause a personal financial hardship.

The duty of care: A director must act honestly and in good faith, with the diligence, care, and skill of the ordinarily prudent person in the same or similar circumstances, including the obligation to make or cause to make such inquiry as the director reasonably believes to be appropriate (i.e., seeking the advice of such professionals as attorneys, accountants, and engineers as needed), and the director must rationally believe that a decision is in the best interest of the association.

To Whom Is a Fiduciary Duty Owed?

Each director shall owe the association a fiduciary duty in the performance of the director's duties.

Section 514A-82.4, Hawaii Revised Statutes

What is the Statutory Law Related to Fiduciary Duty?

Condominium associations

§514A-82(a)(13), Hawaii Revised Statutes: A director shall not cast any proxy vote at any board meeting, nor shall a director vote at any board meeting on any issue in which the director has a conflict of interest.

§514A-82(b)(5), Hawaii Revised Statutes: A director who has a conflict of interest on any issue before the board shall disclose the nature of the conflict of interest prior to a vote on that issue at the board meeting, and the minutes of the meeting shall record the fact that a disclosure was made.

§514A-82.4, Hawaii Revised Statutes: Each director shall owe the association of apartment owners a fiduciary duty in the performance of the director's responsibilities.

Incorporated condominium associations are also subject to Chapter 414D, Hawaii Revised Statutes, and courts may apply these provisions by analogy to unincorporated condominium associations as well.

§414D-149, Hawaii Revised Statutes:

General standards for directors.

(a) A director shall discharge the director's duties as a director, including the director's duties as a member of a committee:

- (1) In good faith;
- (2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
- (3) In a manner the director reasonably believes to be in the best interests of the corporation.

b) In discharging the director's duties, a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

- (1) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;
- (2) Legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence; or
- (3) A committee of the board of which the director is not a member, as to matters within its jurisdiction, if the director reasonably believes the committee merits confidence.

(c) A director is not acting in good faith if the director has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (b) unwarranted.

(d) A director is not liable to the corporation, any member, or any other person for any action taken or

See Guide to Fiduciary Duty on pg. 4

Guide to Fiduciary Duty from pg. 3

not taken as a director if the director acted in compliance with this section.

(e) A director shall not be deemed to be a trustee with respect to the corporation or with respect to any property held or administered by the corporation, including without limit, property that may be subject to restrictions imposed by the donor or transferor of the property.

(f) Any person who serves as a director to the corporation without remuneration or expectation of remuneration shall not be liable for damage, injury, or loss caused by or resulting from the person's performance of, or failure to perform duties of, the position to which the person was elected or appointed, unless the person was grossly negligent in the performance of, or failure to perform, such duties.

For purposes of this section, remuneration does not include indemnification of reasonable travel expenses and indemnification or insurance for actions as a director as allowed by sections 414D-159 to 414D-167.

§414D-150, Hawaii Revised Statutes:

Director conflict of interest.

(a) A conflict of interest transaction is a transaction with the corporation in which a director of the corporation has a direct or indirect interest.

A conflict of interest transaction is not voidable or the basis for imposing liability on the director if the transaction was fair at the time it was entered into or is approved as provided in subsection (b).

(b) A transaction in which a director has a conflict of interest may be approved if:

(1) The material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board and the transaction was authorized, approved, or ratified by the board or committee of the board; or

(2) The material facts of the transaction and the director's interest were disclosed or known to the members and they authorized, approved, or ratified the transaction.

(c) For purposes of this section, a director of the corporation has an indirect interest in a transaction if:

(1) Another entity in which the director has a material interest or in which the director is a general partner is a party to the transaction; or

(2) Another entity of which the director is a director, officer, or trustee is a party to the transaction.

(d) For purposes of subsection (b), a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors either on the board or on the committee, who have no direct or indirect interest in the transaction; provided that a transaction may not be authorized, approved, or ratified under this section by a single director.

If a majority of the directors on the board who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of or a vote cast by a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection (b)(1); provided the transaction is otherwise approved as provided in subsection (b).

(e) For purposes of subsection (b)(2), a conflict of interest transaction is authorized, approved, or ratified by the members if it receives a majority of the votes entitled to be counted under this subsection.

Votes cast by or voted under the control of a director who has a direct or indirect interest in the transaction, and votes cast by or voted under the control of an entity described in subsection (c)(1), may not be counted in a vote of members to determine whether to authorize, approve, or ratify a conflict of interest transaction under subsection (b)(2).

The vote of these members, however, is counted in determining whether the transaction is approved under other sections of this chapter.

A majority of the voting power, whether or not present, that are entitled to be counted in a vote on the transaction under this subsection constitutes a quorum for the purpose of taking action under this section.

(f) The articles, the bylaws, or a resolution of the board may impose additional requirements on conflict of interest transactions.

What are the Consequences of Breach of Fiduciary Duty?

The association may be liable for any loss or damage suffered by members or others caused by directors' breach of fiduciary duty. Insurance coverage may not be available if the breach was willful, intentional, or the result of gross negligence or misconduct. Insurance is probably *not* available if punitive damages are awarded. *See* §431:10-240, Hawaii Revised Statutes: "Coverage under any policy of insurance issued in this State shall not be construed to provide coverage for punitive or exemplary damages unless specifically included."

Directors may be personally liable to the association for gross negligence or intentional misconduct in the performance of their duties. Again, insurance coverage will probably not be available in such cases. Directors may have to pay their own costs of defense as well as any judgment.

Philip L. Lahne is a partner in the law firm of Neeley & Anderson LLP, A Limited Liability Law Partnership. He represents a number of community associations in Hawaii.

Association Website Can Reduce Legal Costs

By Christopher S. Goodwin, Esq.

There is no doubt that in this day and age technology can have an impact on community association law. However, the proper use of technology can actually assist homeowner associations in not only efficient property management, but alleviate many legal disputes, and the expenses that inevitably accompany them.

First, homeowner and community associations should consider establishment of at least a basic website. An expensive and elaborate website is not required. From a legal perspective, it need only include the association's controlling documents (i.e. Declaration, Bylaws, and Rules), in an easily accessible and printable format.

While all owners should be provided a copy of these important documents prior to, or at the time they purchase their unit, many times these documents are misplaced by owners shortly after moving in.¹

As these important documents are revised over time, a website also provides access to the most current versions, which can be posted immediately upon their recording.

A large number of owner and/or resident inquiries to both management companies and association legal counsel involve simple requests for these documents.

Also, along these same lines, an association should also make its architectural and/or design standards available on its website.

Numerous lawsuits are filed each year by associations seeking the modification and/or removal of owner improvements undertaken in alleged violation of applicable architectural and/or design standards.

An owner's common response to these lawsuits is a claim of ignorance as to the existence of such standards or procedures for review of proposed plans, and/or their applicability to a particular project.

An Internet website is the perfect medium to communicate applicable current standards and procedures to all homeowners. Further, there is nothing in the law to prevent an association from accepting proposed improvement plans and specifications, as applicable, via e-mail.

This would appear particularly appealing to larger associations, which maintain a separate design committee to assist the Board of Directors in this area.

Such a streamlined procedure may also reduce the time needed to consider such proposals at board meetings, as well as the paperwork related thereto.

In addition to the submission of proposed plans and drawings, a website can also be a valuable communications tool between the Board and owners.

An e-mail link to the board can permit owners to communicate and interact with board members. Supplementing the statutorily required posting of board meeting notices, a more advanced website may also include meeting minutes and agenda items, as well as a monthly project newsletter.

Boards that actively communicate with owners, and keep them informed of developments at the project are much less likely to be embroiled in intra-community litigation.

An association website provides a potential valuable tool in expanding such communication.

Finally, an association should also consider including links to applicable legal statutes within its website. For example, no condominium association website in Hawaii would be complete without a hyperlink to Chapter 514A of the Hawaii Revised Statutes ("H.R.S"), entitled as the Hawaii Condominium Regime Act.

Chapter 514A can be found in varying forms on websites hosted by many entities, including law firms and property management companies. However, the State of Hawaii official website home for this important statute is the somewhat lengthy www.capitol.hawaii.gov/hrscurrent/Vol12_Ch0501-0588/HRS0514A/HRS_0514A-.htm, which opens the first page and table of contents of the H. R. S. Chapter 514A.

Since Chapter 514A controls many aspects of virtually all condominium projects in the state of Hawaii, it should be made available to all owners as an important reference tool.

Of course, financial constraints, as well as the size of a particular association may limit to what extent it is able to invest in a website.

However, as the cost of establishing and maintaining a website continues to drop, it is apparent such technology will play an ever-increasing role in both community association management and the legal issues related thereto.

Footnote

¹ Important Note: The posting of these documents on a website does not (yet) fulfill the legal requirement of making copies of such documents available to prospective buyers.

Christopher Shea Goodwin is a Honolulu attorney representing condominium and community associations in Hawaii.

New Laws from pg. 1

copies of the Acts. For specific advice as to how the provisions of the new Acts apply to a particular circumstance, readers should seek the advice of a licensed Hawaii attorney familiar with condominium law. The new Acts:

Act 053 (SLH 2003) SB 373 SD1 HD2 amends provisions relating to condominium property regimes by providing that the mortgagee of record or other purchaser of the apartment shall be deemed to acquire title and shall be required to pay the apartment's share of common expenses and assessments beginning 30 days after the public sale in a non-judicial power of sale foreclosure, or upon the recording of the instrument of conveyance, whichever comes first.

Act 080 (SLH 2003) SB 394 HD1 extends the sunset date for Act 39 (SLH 2000), to December 31, 2007. This act allows associations to specially assess delinquent common expenses against a purchaser who purchased a delinquent apartment from a seller who holds the mortgage on a delinquent apartment. The association of apartment owners is to provide at no charge a notice of their intention to place a lien against the delinquent apartment. The notice shall state the amount of the special assessment, how it was calculated, including but not limited to the month or months of unpaid assessments, and the legal description of the apartment.

Act 087 (SLH 2003) SB 1630 HD1 CD1 authorizes board of planned community association with no fewer than 2,500 members to allow election by mail. It allows other nonprofit corporations to conduct election by mail if authorized by their bylaws or articles of incorporation.

Act 095 (SLH 2003) SB 830 SD1 HD3 CD1 requires applicants for employment as security guard, manager or a position which allows employee access to the keys of or entry into units in the condominium project or access to association funds to provide the Hawaii criminal justice data center with personal identifying information to be used only for the purposes of conducting the criminal history record check. This act also amended §831-3.1, HRS, by clarifying among other provisions that "A person shall not be disqualified from public office or employment by the State . . . or agencies . . . or be disqualified to practice, pursue, or engage in any occupation, trade, vocation, profession, or business for which a permit, license, registration, or certificate is required by the State or . . . agencies, solely by reason of a prior conviction of a crime;" provided that employment, permit, license, registration or certificate may be denied to a person who within the past ten (10) years excluding any period of incarceration has been convicted of a crime that "bears a rational relationship" to the duties and responsibilities of a job, occupation, trade, vocation, profession or business.

The State or agencies may "consider justification for the refusal, suspension or revocation of any employment or of any permit, license registration, or certificate, any conviction . . . when that crime bears a rational relationship" to the duties and responsibilities of the job.

Act 131 (SLH 2003) HB 75 SD1 HD2 amends Act 213 to extend the deadline, staffing, and funding for the Real Estate Commission's review. It recommends recodification of Hawaii's condominium law; expanding the membership of the recodification advisory committee to include representatives of the Hawaii Council of Association of Apartment Owners, Hawaii Independent Condominium and Cooperative Owners, Community Associations Institute-Hawaii Chapter, Hawaii Association of Realtors, Condominium Council of Maui, along with public hearings in all counties. The recodification project involves updating, clarifying, organizing, deregulating, and making the project more consistent and easier to follow.

Act 194 (SLH 2003) HB 373 SD1 HD2 amends Chapter 521, HRS, by allowing tenants to exercise reasonable political speech. When permissible in a rental agreement for a single family residence, a landlord shall not prohibit or require a tenant from erecting, maintaining, or displaying a legal sign or outdoor advertising device, provided that reasonable restrictions are permissible for compliance with applicable building and housing laws affecting health and safety. It also repeals prohibition against displaying campaign signs more than 45 days prior to and ten (10) days following an election.

Act 185 (SLH 2003) SB 1492 SD1 HD2 CD1 requires the Department of Health and the Real Estate Commission to conduct a study and report to the legislature on the impact and feasibility of allowing condominium and cooperative housing corporation projects to become licensed as assisted living facilities to provide assisted living services for its residents.

It prohibits the Department of Health from issuing any new license for any condominium or cooperative housing corporation project as an assisted living facility until the legislature acts on the report or until July 1, 2004, whichever occurs first.

Administrative Actions

Kamaole Management Systems, Inc. dba KMS Realty, R. Paul Grant and Jack T. George – REC 2001-23-L

On October 28, 2002, RICO filed a Petition for Disciplinary Action alleging that Respondents violated HRS §467-14(13) (violating the rules adopted pursuant to HRS §467, to wit, HAR §16-99-3(f) (licensee shall see that financial obligations and commitments regarding real estate transactions, including real property rental management agreements, are in writing, expressing the exact agreements of the parties and setting forth essential terms and conditions, and that copies of those agreements, at the time they are executed, are placed in the hands of all parties involved); and HRS §436B-19(16) (utilizing any person not licensed under the licensing laws where licensure is required).

Respondents entered into a Settlement Agreement After Filing of Petition for Disciplinary Action. They denied they violated HAR §16-99-3(f) but admitted they could not locate an executed rental management agreement covering the condominium units specified in the Petition for Disciplinary Action.

Respondents admitted they violated HRS §436B-19(16) by hiring an unlicensed person to perform tiling work but denied they knew he was not licensed as a contractor. Under terms of the Settlement Agreement, Respondents agreed to pay a \$2,000 fine and to pay \$1,000 restitution to the owners of the condominium units specified in the Petition for Disciplinary Action. The Commission accepted the Settlement Agreement on February 28, 2003.

Update on Recodification of Hawaii's Condominium Law

I. Extension of HRS Chapter 514A Recodification Project

Many people have worked very hard over the past two years to get the recodification of Hawaii's condominium law to this point. The Commission would particularly like to thank the volunteer attorneys of the Blue Ribbon Recodification Advisory Committee for the hundreds of volunteer hours they have spent on the project.

In order to craft a law with the best chance of meeting its many (sometimes competing) goals, however, the Commission sought more time to work on refining the condominium law recodification with input from the broader community.

Therefore, the Commission recommended to the Legislature that the position and funding for the recodification project be extended to complete the project. It is anticipated that over the course of the next year, further public input will be sought and obtained.

II. Public Hearings

The Commission will hold public hearings on the proposed recodification in each of Hawaii's counties. After the public hearings, the Commission will incorporate appropriate changes and submit a final draft of the proposed condominium law recodification to the 2004 Legislature.

If you would like to receive notice of the hearings, please send your mailing address information to: Gordon Arakaki, DCCA – Real Estate Branch, 250 South King Street, Room 702, Honolulu, HI 96813.

If you prefer receiving electronic notice, please send your e-mail address to: Gordon.M.Arakaki@dcca.hawaii.gov.

III. Contemplated Changes

Some of the more interesting things in the recodification include elimination of the owner-occupant presale notice requirement, streamlining the public report process to provide for one public report (rather than multiple public reports), and permitting the owners of single-family condominium units to obtain their own casualty insurance coverage.

The law will also be reorganized, and be more user-friendly.

IV. Reference Material Available on Commission Website

The Commission has tried to make the recodification process as accessible and transparent as possible for everyone affected by Hawaii's condominium property regimes law. We want to make sure that everyone can understand what we are doing and why at every step in the process.

To that end, the Commission has posted drafts of the recodified condominium law (preliminary draft #2 is contained in our 2002 Progress Report), its recodification work plan and timetable, list of relevant laws, resource list, base working document (a comparison of the UCIOA, UCA, and HRS Chapter 514A), and other related documents on our website (<http://www.hawaii.gov/hirec/>).

Wherever possible, we have provided hyperlinks to our source materials for easy access by all interested parties.

We hope that this will help people understand how and why the recodification takes its ultimate form.

Kona Meetings from pg. 1

issues including the new Hawaii Nonprofit law and its impact on incorporated association of apartment owners.

Following the adjournment of the Condominium Review Committee meeting, the Senior Condominium Specialist met with individuals and their individual condominium concerns as part of the Commission's Condominium Specialist Office for the Day.

The Condominium Specialist Office for the Day is part of the Commission's Program of Work which sends staff members to a neighbor island for a day to be available to meet with condominium owners, managing agents, real estate licensees and other related individuals, professionals, and organizations interested in condominium issues.

Advice, Education and Referral Provided

Some of the condominium concerns and issues raised and courses of action discussed with owners from a participating condominium association of apartment owners included conflicts of interests in mixed use condominium projects where three board members of a five member board were allegedly financially beholden to one board member; owners' good faith efforts of dealing directly with the board to resolve issues and concerns including documentation of any efforts; changes to declarations and bylaws of condominium property regimes to increase board membership; option of removing and electing new board mem-

bers when an impasse does occur; alternative dispute resolutions and the mediation services available at the West Hawaii Mediation Center; the role of the regulated industries complaints office; seeking the advice of experts including attorneys; suspected criminal activities; recodification of Chapter 514A, HRS, and education of condominium apartment owners.

With representatives from another participating condominium association of apartment owners, some of the condominium concerns and issues raised and courses of action discussed included the appropriateness of having two separate association of apartment owners in one condominium; process for changing and redesignating certain areas as limited common elements for purposes of maintenance and upkeep; location of board meetings, D&O insurance for board members; procedures for waiving the annual audit requirement of section 514A-96, HRS; the role of the regulated industries complaints office; communications with property managers and resident managers; education of condominium apartment owners and recodification of Chapter 514A, HRS.

The Commission is scheduling its next neighbor island committee meeting on Kauai.

Real Estate Commission Meeting Schedule

Laws & Rules Review Committee—9 a.m.
Education Review Committee—Upon adjournment of Laws & Rules Review Committee Meeting.
Condominium Review Committee—Upon adjournment of the Education Review Committee Meeting

Wednesday, July 9, 2003—Kapuaiwa Room
 Wednesday, August 13, 2003—Kapuaiwa Room
 Wednesday, September 10, 2003—Kapuaiwa Room
 Wednesday November 12, 2003—Kapuaiwa Room
 Thursday, December 11, 2003—Kapuaiwa Room

Real Estate Commission—9 a.m.

Wednesday, July 30, 2003—Kapuaiwa Room
 Friday, August 29, 2003—Kapuaiwa Room
 Friday, September 26, 2003—Kapuaiwa Room
 Wednesday, November 26, 2003—Kapuaiwa Room
 Friday, December 12, 2003—Kapuaiwa Room

All meetings will be held in the HRH Princess Victoria Kamamalu Building, located at 1010 Richards Street, Second Floor, 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 or call the Real Estate Commission's 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 contact the Executive Officer at 586-2643 to submit your request.

Condominium Education Calendar 2003

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
7/17/03	TBA	*Legislative Update	Hale Koa Hotel	CAI-H
7/22/03	8:00-10:00	Real Property & Business Law Legislative Update	HEI Training Center	HSBA-CLE
9/20/03	TBA	*Monies	Japanese Cultural Ctr	CAI-H
10/18/03	TBA	*Sprucing/Condos	Hale Koa Hotel	CAI-H
10/30/03	8:00-4:30	Real Property Insurance & Other Hot Topics	Sheraton Waikiki Hotel	HSBA-CLE
11/20/03	TBA	*Prostitutes, Pushers and Psychotics	Hale Koa Hotel	CAI-H

****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 Email: cmmmaui@hotmail.com	573-4231	PO Box 1362 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	488-2489	1132 Bishop Street, Ste 906 Honolulu, HI 96813
HSBA-CLE	Hawaii State Bar Association - Continuing Legal Educ.	537-1868	1136 12 th Ave, Ste 220 Honolulu, HI 96816
IREM	Institute of Real Estate Management Hawaii Chapter No. 34	733-7060	1136 12 th Ave., Ste. 220 Honolulu, HI 96816
ARM	Accredited Residential Manager	733-7060 x119	1136 12 th Ave., Ste. 220 Honolulu, HI 96816
UH-OC	Noncredit Programs, Outreach College, University of Hawaii	956-8244	2530 Dole Street Honolulu, HI 96822

HAWAII CONDOMINIUM BULLETIN, JUNE 2003 © Hawaii Real Estate Commission. All rights reserved. This Bulletin, or any part thereof, may not be reproduced without the written permission of the Hawaii Real Estate Commission, except permission is granted to registered Hawaii condominium associations to reproduce and distribute copies of this entire publication, but not for profit, as an educational service. This publication is intended to provide general information and is not a substitute for obtaining legal advice or other competent professional assistance to address specific circumstances. The information contained in this Bulletin is made pursuant to Hawaii Administrative Rules Section 16-201-92 and is not an official or binding interpretation, opinion or decision of the Hawaii Real Estate Commission or the Department of Commerce and Consumer Affairs. 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.