

# HAWAII CONDOMINIUM



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## Registration Required by January 1, 1994

Condominium associations with six or more apartments, condominium managing agents, and condominium hotel operators are reminded that state law requires them to register each year with the Real Estate Commission.

Registration forms together with instructions for completing them were mailed to those previously registered with the Real Estate Commission. Unregistered condominium associations, condominium managing agents, and condominium hotel operators may request forms and instructions by telephoning 586-2644 (or from the Neighbor Islands, 1-800-468-4644, extension 6-2644)

Section 514A-95.1, Hawaii Revised Statutes, requires that all condominium associations with six or more apartments register with the Real Estate Commission. The section further provides in pertinent part that: "... Any association which fails to register as required by this section or whose registration is rejected or terminated shall not have standing to maintain any action or proceeding in the courts of this State until it registers. . ."

This means that an unregistered association does not have standing to file any lawsuit in any state court, for example, against an owner to comply with the bylaws or to pay delinquent maintenance fees. In addition, an unregistered association may be subject to imposition of a late registration fee or a fine of \$10,000 or less.

## What is a Condominium Hotel Operator?

Any person(s) or entity providing transient lodging in condominium apartments for periods of less than thirty days are required to register as a condominium hotel operator. "Hotel-type pools" are considered condominium hotel operators.

Any operator failing to register shall be subject to a fine not exceeding an amount equal to \$25 multiplied by the aggregate number of apartments utilized as a condominium hotel. Each month or fraction of a month of non-compliance shall be deemed a new and separate violation.

## New Features Added to Condominium Association Registration

In response to changes to the condominium statute and to provide more information to consumers, the 1994 condominium association registration application includes several new features. First, all of the information will be

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## Letter from the Vice Chair. . .

*Dear Condominium Owners:*

*As year-end approaches, many of you are pausing to reflect on the events of the past year and to anticipate what the new year holds. During this past year, I am sure many of you attended a seminar which discussed such topics as annual meetings, reserves or other aspects of condominium governance.*

*One such seminar, intended for condominium owners on the Big Island, is scheduled for December 4th in Kona. Some of its costs will be subsidized by the Condominium Management Education Fund. The seminar will be presented with the assistance of the Hawaii Real Estate Research and Education Center (College of Business Administration, University of Hawaii at Manoa) and the Hawaii Chapter of the Community Associations Institute.*

*Other organizations — such as the South Maui Condominium council, Hawaii Council of Associations of Apartment Owners, and the Institute of Real Estate Management, Hawaii Chapter — have also presented informative seminars for condominium owners, board members, and condominium managing agents.*

*Since board members are responsible for overseeing the operation of the property, the more they know, the better they will be able to exercise their fiduciary duty. If you attended a seminar, applaud yourselves; if you did not, resolve to attend one during the coming new year.*

*Please feel free to write or call (586-2646 or from the Neighbor Islands, 1-800-468-4644, ext. 62646) the Commission's condominium specialists.*

*Very Truly Yours,*

*Carol Mon Lee, Vice Chair,  
Condominium and  
Cooperative Review Committee*

## Ask the Condominium Specialists

**Q.** My association's annual meeting is coming up soon and I am considering running for a seat on the board of directors. What responsibilities would I have as a director?

**A.** Congratulations on your willingness to serve as a director. As a director, you would owe a fiduciary duty to the association which means that you represent the interests of the association as a whole, to protect, preserve and enhance the value of the property. You cannot promote any special interest (including any interest that might provide you or your family personal, social, or financial gain). You should carefully read your associations governing documents as well as the condominium property regime statute, Chapter 514A, Hawaii Revised Statutes. In your new role, you should also be prepared to learn as much as possible by attending seminars, consulting with professional persons as needed, and reading publications such as the condominium management education materials issued by the Real Estate Commission, the Hawaii Real Estate Research and Education Center, or those included in the Condominium Reference Library. Naturally, you should prepare to regularly attend and participate in all board meetings.

**Q.** Where is the next Condominium Specialists' Office for the Day?

**A.** Tentatively, Maui. At the next Office for the Day, the Real Estate Commission's condominium specialists plan to set up an office for the day to discuss condominium governance concerns with interested parties.

Be on the look out for further information or call 586-2646 in Honolulu (or 1-800-468-4644, extension 6-2646).

# Condominium Reference Library

## List of Titles

REFERENCE FILE

As part of its education program, the Real Estate Commission has provided kits of the following publications to the Hawaii State Library and its branches on all major islands. If you wish to consult these reference materials, please telephone the branch library to confirm hours of operation and availability of the publications.

A set is also available for reference at the Real Estate Branch, 250 South King Street, Room 702, Honolulu, Hawaii.

Buck, Gordon H. *Drafting Association Rules.*

Burgess, Thomas. *Selecting an On-Site Manager.*

Burns, M. Edward, Jr. *Pet Peeves (And What To Do About Them).*

Community Associations Institute. *Association Management.*

Community Associations Institute. *Association Security: Selecting the Contractor.*

Community Associations Institute. *Bid Specifications and Contract Negotiations.*

Community Associations Institute. *Collecting Assessments – Operational Guide.*

Community Associations Institute. *Understanding Association Insurance.*

Community Associations Institute. *Writing and Enforcing Parking Rules for Community Associations.*

Community Associations Institute Research Foundation. *Buying Professional Services.*

Community Associations Institute Research Foundation. *Community Association Leadership Handbook: A Guide for Volunteers.*

Community Associations Institute Research Foundation. *Reserve to Preserve.*

Cranford, James B. *Selecting the Landscape Maintenance Contractor.*

Dennistoun, Robert T. *The Role of the Association President.*

Goldklang, Howard. *The Role of the Association Treasurer.*

Hanke, Byron R. and Kenny, Thomas S. *Architectural Control – Design Review*.

Hindman, Thomas J. *Assessment Collection – Legal Remedies*.

Jackson, F. Scott and Baratti, David G. *Strategies for Successful Enforcement of Rules and Deed Restrictions*.

Nagle, P. Michael. *Guide to Annual Meetings, Special Meetings, and Elections*.

Packard, Michael E. *Choosing a Management Company*.

Paul, Carol. *Revitalizing Apathetic Communities*.

Phagan, Janice. *Communications for Community Associations*.

Porter, Gary, ed. *Accounting Guide for Common Interest Realty Associations: An Analysis of the AICPA Guidelines*.

Property Management Association of Metropolitan Washington. *Swimming Pool Management: A Guide to Specifying and Obtaining Services by Contract*.

Property Management Association of Metropolitan Washington. *Pest Control: A Guide to Specifying and Obtaining Services by Contract*.

Property Management Association of Metropolitan Washington. *Painting: A Guide to Specifying and Obtaining Services by Contract*.

Sellers, Tonia C. and Lazega, Jay S. *Conflicts of Interest*.

Walker, Vivian G., ed. *Resolving Association Disputes*.

Weseman, Bette. *Grounds Maintenance for the Community Association*.

The following three books are shelved separately.

Institute of Real Estate Management. *Owners and Managers Guide to Condominium Management*.

Stewart, William E. *Personnel Law for Community Associations and Practitioners*.

Wyndhamsmith, Richard. *Reserve Study Guidelines for Community Associations, Planned Developments, and Condominiums*.

## Ex Parte Communications with Commissioners

It is sometimes tempting for an applicant for registration (as a condominium managing agent, a condominium hotel operator, or a condominium association), to attempt to circumvent usual application or registration decision making procedures, or to seek information on a pending application by directly contacting one of the nine commissioners. It may also be tempting to a registrant to call to discuss a pending complaint or disciplinary action. Occasionally, an individual with an issue or other matter before the Commission may also be tempted to seek to influence a decision by directly contacting one of the nine commissioners.

However, such ex parte communications are improper, and will result in the commissioner who is contacted having to excuse himself or herself from discussing, participating, or voting on the application, registration, or disciplinary case.

Generally, the individual does not have any ill intent, but just wants to discuss the matter with a commissioner, or wants to get a feel of how the commission will decide, or calls just to confirm that the commissioner has all the facts.

The caller should understand that the Real Estate Commission is composed of nine individuals who, when acting as individuals, have no authority to act on an application, make any

decisions, receive information on behalf of the Commission, or direct staff to take specific action. The Commission's authority and power to act exists only during lawfully convened commission meetings and while performing adjudicatory functions in contested cases.

The caller risks having a commissioner who might have been favorable not being able to participate in the discussion or vote on the application.

It is very appropriate, however, if any individual has an application or other matter before the commission and desires general information, to contact one of the condominium specialists on the Commission's staff, not a commissioner.

Obviously, when the caller contacts one of the condominium specialists, the condominium specialist won't be able to tell you how the Commission will vote, but can provide general information, historical information, possible alternatives, and information on procedural steps (e.g., time to submit documents, meeting dates and location, number of copies, and documents required).

Except during executive sessions, commission meetings are open to the public, and applicants may present oral testimony at the meeting at which their application is discussed (subject to some procedural constraints.)

### Proposed Real Estate Commission Meeting Schedule for 1994

#### Condominium & Cooperative Review Committee, 9 a.m.

January 12, 1994 – Kapuaiwa Rm.	July 13, 1994 – Kapuaiwa Rm.
February 9, 1994 – Kapuaiwa Rm.	August 10, 1994 – Kapuaiwa Rm.
March 9, 1994 – Kapuaiwa Rm.	September 14, 1994 – Kapuaiwa Rm.
April 13, 1994 – Ka Lanakila Rm.	October 12, 1994 – Kapuaiwa Rm.
May 11, 1994 – Kapuaiwa Rm.	November 2, 1994 – Kapuaiwa Rm.
June 8, 1994 – Kapuaiwa Rm.	December 15, 1994 – Kapuaiwa Rm.

Kapuaiwa Room, Second Floor — Ka Lanakila Room, Penthouse  
HRH Princess Victoria Kamamalu Building  
1010 Richards Street  
Honolulu, HI

*Subject to change. Please reconfirm dates, times and location with commission staff.*

# Directory of Services

## Chapter 514A, HRS and Chapter 107 HAR, Copies

**DCCA Cashier ..... 586-2832**

Available by mail or over the counter from the cashier. No telephone requests. Call only to verify availability or latest cost. Requests in writing or in person, must be accompanied by a check for the correct amount, made payable to Commerce and Consumer Affairs.

Mailing Address:

Cashier — DCCA,  
Post Office Box 541  
Honolulu, Hawaii 96809

Office Address:

1010 Richards Street, Third Floor, Honolulu

## Complaints

### Regulated Industries Complaints Office (RICO)

Filing complaints against real estate licensees, condominium managing agents, condominium hotel operators, specific provisions of condominium property regime (CPR), time share and unlicensed or unregistered regulated areas. .... **587-3222**

History and information about complaints against real estate licensees, condominium managing agents, and condominium hotel operators. .... **586-2677**

Office and mailing address:

828 Fort Street Mall, Suite 600A  
Honolulu, Hawaii 96813

## Condominium Arbitration Service

**American Arbitration Association ..... 531-0541**

Inquiries and requests for arbitration service.

Office and mailing address:

810 Richards Street, Suite 641  
Honolulu, HI 96813

## Condominium Mediation Service

Inquiries and requests for mediation service.

**Neighborhood Justice Center ..... 521-6767**

Office & mailing address:

200 North Vineyard, Suite 320  
Honolulu, Hawaii 96817

**Mediation Services of Maui ..... 244-5744**

Cameron Center, 95 Mahalani Street  
Wailuku, Hawaii 96793

## Housing Discrimination

**Hawaii Civil Rights Commission ..... 586-8636**

Inquiries and complaints of discrimination in real property transactions.

Office & mailing address:

888 Mililani Street, Second Floor  
Honolulu, Hawaii 96813

**Housing & Urban Development (HUD) ..... 541-1897**

Inquiries and complaints of discrimination in real property transactions.

Office & mailing address:

Seven Waterfront Plaza, Suite 500  
500 Ala Moana Boulevard  
Honolulu, Hawaii 96813

## Toll Free State Government Number

From the Neighbor Islands, dial the toll free number and request to be connected to state government offices on Oahu. .... **1-800-468-4644**

## Landlord-Tenant Code

**Office of Consumer Protection ..... 586-2634**

Landlord-tenant inquiries, complaints, and requests for copies of handbook.

Office & mailing address:

828 Fort Street Mall, Suite 600B  
Honolulu, Hawaii 96813

## Leasehold Disclosure

**Housing Finance Development Corporation ..... 587-0500**

Inquiries about leasehold disclosure or requests for leasehold disclosure booklet.

### Land Programs Branch.

Office & mailing address:

677 Queen Street, Suite 300  
Honolulu, Hawaii 96813

**Licensing Branch, DCCA ..... 586-3000**

Verification of license or registration status of real estate licensees, condominium managing agents, and condominium hotel operators.

Mailing address:

Post Office Box 3469  
Honolulu, Hawaii, 96801.

Office address:

1010 Richard Street, First Floor, Honolulu

## Real Estate Branch, DCCA

**Condominium Specialists ..... 586-2646**

Condominium governance/management inquiries, Chapter 514A, Condominium & Cooperative Review Committee.

**Condominium Specialists ..... 586-2644**

Condominium project registration/public reports, association registration, managing agent registration, applications/forms.

Office and mailing address:

250 South King Street, Rm 702  
Honolulu, Hawaii 96813

**Small Claims Court:** Inquiries about filing claims should be directed to the district court in your area. Consult the Hawaii State Government section of the telephone directory under the heading: "Courts — District"

## Time Sharing

**Inquiries and registration ..... 586-2709**

## Uniform Land Sales Practice Act (Subdivision), or Appraiser

**Registration, Certification, and Licensing ..... 586-2704**

Mailing address:

Post Office Box 3469  
Honolulu, Hawaii 96801

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considered public information. As associations complete registration, copies of the applications will be available for reference in the Commission's public viewing area.

Second, new questions have been added. These questions were added in response to changes in the condominium statute and also to be able to provide information to consumers, owners, and the Legislature. For example, the application now asks:

- if apartments are rented for lodgings of less than 30 days,
- if a budget has been adopted and distributed to owners,
- whether maintenance fees have been increased,
- if a special assessment has been imposed,
- if a reserve study has been conducted,
- if the declaration or bylaws were amended in 1993,
- how many times the association held meetings (regular or special),
- how many times the board held meetings,
- whether board meetings are open to owners,
- if the association maintains a current list of owners,
- if pets are prohibited,
- if a reference binder (containing the condominium statute, declaration, bylaws, commission brochures, Hawaii Condominium Bulletin) is available to owners,
- if the association publishes a newsletter,
- whether newsletters and board and association meeting minutes are in a binder available to owners for review.

## **Condominium Managing Agent and Condominium Hotel Operator Registration**

All registrations as condominium hotel operators and condominium managing agents expire on December 31, 1993. Any registrant who does not successfully renew their registration by that date must cease operations or be subject to disciplinary action. For condominium managing agents, this includes possible conviction of a misdemeanor, imprisonment for one year or less, a fine of \$10,000 or less, and a civil penalty of \$10,000 or less. For condominium hotel operators, disciplinary sanctions include a civil penalty of up to \$1,000 for each violation or a fine of \$25 multiplied by the aggregate number of apartments utilized as a condominium hotel. Each month or fraction of a month of non-compliance shall be deemed a new and separate violation.

Associations or owners who transact business with unregistered condominium hotel operators or unregistered managing agents may wish to know that they may be denied access to the Real Estate Recovery Fund which sometimes provides restitution for financial losses resulting from misconduct by real estate licensees. In addition, complaints filed against unregistered condominium managing agents or unregistered condominium hotel operators are less likely to be resolved to the satisfaction of the complainant, especially as to restitution. This is because enforcement often focuses on the failure to register rather than on any misconduct by the unregistered party.

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## Association Law and Management from "A - Z"

**A Seminar to be presented on  
Saturday, December 4, 1993**

**8:30 a.m. - 1:30 p.m.**

**Kona Surf Resort, Alii Room  
Kailua-Kona, Hawaii**

**Cost: \$35.00**

For registration information contact -  
Lisa Fowler, CAI at 531-6836

- \*Understanding Community Association Law
- \*Unraveling the Mystery of Effective Budgeting
- \*Is Your Managing Agent Doing All It Can for Your Association?
- \*Preserving Property Values Through Regular Maintenance & Repairs
- \*Does Your Attorney/Managing Agent Speak a Foreign Language?
- \*Getting the Most from Your Insurance

Co-sponsored by the Community Associations Institute and the Hawaii Real Estate Research and Education Center, funded in part by the Condominium Management Education Fund.

## In Memoriam Richard Gourley

The Real Estate Commission and its staff extend their deepest sympathy to the Gourley family. The commission and staff also wish to express their appreciation for Richard Gourley's cooperation and assistance in the work of the commission for many years

We shall miss him.

### Do you have a condominium problem? Mediation may be the solution.

To support the condominium statute's provisions for owner enforcement and association self-governance, the Real Estate Commission sponsors a mediation program to bring disputing parties together to discuss their condominium problems. The program is operated through the Neighborhood Justice Center and through Mediation Services of Maui. Specially selected mediators assist the parties in communicating about the issues, exploring possible solutions, and negotiating mutually acceptable settlements. Mediators do not impose solutions on parties to a dispute but try to help them reach their own solutions. If necessary, mediation services are provided on the Neighbor Islands.

Mediation is very effective in settling disputes before they escalate to the point of arbitration or litigation. Anyone with an unresolved complaint or claim involving the condominium's board, management, or residents (owners or tenants), may use the mediation service. Parties pay only a small filing fee to participate. For further information, call the Commission at 586-2646 (Toll free from the neighbor islands only: 1-800-468-4644, ask for ext. 62646) or:

on Maui contact:

Mediation Services of Maui, Inc.  
Cameron Center, 95 Mahalani Street  
Wailuku, Maui,  
Phone: 244-5744.

for all other islands contact:

Neighborhood Justice Center  
200 North Vineyard Boulevard, Suite 320  
Honolulu, Hawaii  
Phone: 521-6767.