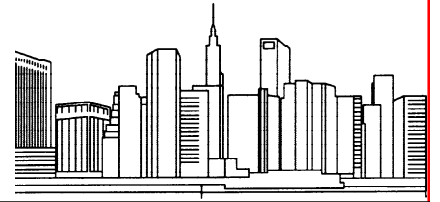
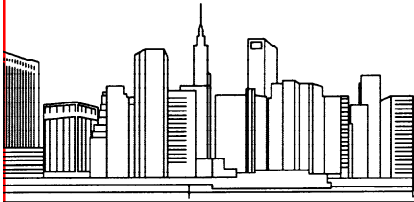


# HAWAII CONDOMINIUM BULLETIN



VOLUME 8 NO. 2

NOVEMBER 1999

Funded through the Condominium Education Fund

## Reserves Deadline of January 1, 2000 Is Just Around the Corner

January 1, 2000 is just around the corner. Prior to that deadline date, condominium associations of apartment owners (AOAOs) are required to assess and collect from apartment owners to fund either a minimum of fifty per cent of the estimated replacement reserves or one hundred per cent of the estimated replacement reserves using a cash flow plan. "Estimated replacement reserves" means the amount of funds, which a reserve study has indicated, is required to be collected during a budget year to establish a full replacement reserve (total year reserve amount) by the end of a bud-

get year. The budget and reserves law was enacted in 1991.

The legislative history indicates that the law was enacted in response to the failure of many AOAOs to set aside adequate funds for future repairs. The failures resulted in reported record high special assessments for some owners. Thus, the then legislature enacted the reserves requirement to ensure that AOAOs properly fund their maintenance replacement reserves; and to minimize the owners being charged with high unexpected fees for maintenance and repairs of common elements

*See Deadline on pg. 5*

## New Educational Opportunities for Condominium Apartment Owners—Update

The Real Estate Commission approved the Community Associations Institute's September 16, 1999 seminar entitled "Minimize Your Losses. . . Collections, Foreclosures and Bankruptcy" as a Condominium Education Fund subsidized seminar.

The subsidy pays a portion of a condominium apartment owner's registration fee and is limited to condominium apartment owners from registered associations of apartment owners (AOAOs). Approved seminars are targeted to educate condominium apartment owners about condominium governance and management. Subsidies are paid with funds from the Condominium Education Fund. Develop-

ers and AOAOs contribute to this fund.

This luncheon seminar at the Hale Koa Hotel consisted of three sections presented by speakers Milton Motooka, Esq., Steven Iwamura, Esq. and Arlette Harada, Esq.

First, Mr. Motooka discussed "Steps in the Collection Process," including the authority for the collection of maintenance fees and special assessments, the adoption of a collection policy, and five steps in the collection policy.

Second, Mr. Iwamura explained the "Judicial Foreclosure Process," consisting of the demand letter, the lien for unpaid assessments, the complaint, the motion for summary judgment and interlocutory

*See Update on pg. 5*

## Termination of CMA, CHO & AOAO Registration for Failure to Maintain Fidelity Bond

The law requires condominium managing agents (CMAs), hotel operators (CHOs), and associations of apartment owners (AOAOs) to provide the Commission with evidence of obtaining and maintaining a current fidelity bond.

Failure to provide evidence to the Commission of continuous fidelity bond coverage prior to the expiration date of the fidelity bond currently on file with the Commission shall result in termination of registration without notice.

Once a registration has been terminated, CMAs, CHOs, and AOAOs must register as a new applicant, including the submission of all required fees and documents. Simply submitting proof of bonding after the expiration date on file with the Commission is insufficient to update the registration record.

To avoid the possibility of ter-

*See Termination on pg. 7*

### ALSO IN THIS ISSUE

Letter from the Chair . . . . .	2
Ask the Condominium Specialist . . . . .	2
Reserves Update . . . . .	3
Commission Meetings . . . . .	7
AOAO Registration . . . . .	7
Education Calendar . . . . .	8

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.

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.



## Letter from the Chair . . .

Dear Condominium Owners, Board Members, and Managing Agents:

In the last bulletin, I reported that the Commission is increasing its efforts to minimize government involvement in condominium governance matters since the intent of the law, in the governance areas, is self-governance. In this bulletin, the Commission continues on this mission by providing association of apartment owners with more self-help information and references.

Realizing that associations of apartment owners (AOAOs) must satisfy the reserves requirement by January 1, 2000, the Commission has included in this bulletin a reference file on reserves. In addition, the article "Reserves Deadline of January 1, 2000, is Just Around the Corner" provides AOAOs with a small, non-statistical sampling about the progress of AOAOs in this area.

The listing of registered condominium managing agents (CMAs) and condominium hotel operators (CHOs) on pages 6 and 7 is a handy self-help reference for AOAOs. Associations and apartment owners may use the list as a beginning point to ensure that whomever the AOAO has retained is registered with the Commission. Certain consumer protective measures are unavailable when dealing with unregistered CMAs and CHOs.

The Commission also makes available self-help information that is community-based. It has scheduled several Condominium Specialist Office of the Day on various islands. A report about the Kauai Specialist Office of the Day is included in this bulletin. In addition, since the latter part of 1990, the Commission has utilized the Condominium Education Fund to sponsor the direct delivery of mediation services for eligible disputes arising between and among condominium apartment owners of registered AOAOs, officers, directors, employees of the associations, and registered CMAs. In this bulletin, we begin another feature article of reporting in generalities types of cases which have been mediated.

Finally, I want to remind the condominium community of the Commission's open invitation to participate in the Commission's ongoing planning of its program of work. The program of work is always discussed at the Commission's monthly standing Condominium Review Committee meetings. We look forward to your input. See page 7 for the dates, times, and locations of the meetings.

Sincerely,

*Alfredo Evangelista*

Alfredo Evangelista, Chair  
Condominium Review Committee

## Ask the Condominium Specialist

**Q** Our condominium is 25 years old. Recently, I have been getting the runaround from the board, resident manager, and the condominium managing agent about whose responsibility is it to fix the water damage to my bedroom wall and carpet. The source of the water leak is undetermined. A plumber, called by the resident manager, has inspected the project and my particular apartment and the plumber cannot determine the source of the water leak. I need to get the damaged wall fixed and my carpet removed. Mildew is starting and the "stench" from the wet carpet is unbearable. What can be immediately done? The board, the resident manager, and the condominium managing agent have not said anything about taking care of fixing or replacing the wall or my carpet. Whose responsibility is it to fix the damage?

**A** The answer may not be that simple and may take some time. In resolving this matter, a good place to begin is with a review of your condominium's declaration, bylaws, insurance policies; as well as soliciting the assistance and expertise of the condominium project's managing agent (CMA), resident manager, licensed contractors, insurance agents, attorney etc. The answer may depend largely on determining the cause of the water leak.

Generally, if the leak is the cause of the water damage and is coming from a pipe or other source which the association of apartment owners (AOAO) has the obligation to maintain, upkeep, or repair, then the AOAO may have the responsibility to take care of your damaged bedroom wall and carpet. If the leak is coming from a pipe under the control and maintenance of and within the confines of another apartment owner, then that apartment owner may be the responsible party. That apartment owner may have a homeowner's insurance policy that may cover this situation. If the leak is from a pipe under your maintenance and control and is not under the control and maintenance of the AOAO, then you may have to bear the burden of repairing the damage.

A review or check of your condominium's declaration, bylaws, and insurance policies may provide you with information as to what property the AOAO has the responsibility to maintain, upkeep, and replace. Should it be determined that your damage is caused by any of these properties, then your AOAO may have the responsibility to do the repairs and replacement of the damaged bedroom wall and carpet. In this case it may be possible that the AOAO's insurance policy may provide the coverage. You may request to see a copy of your AOAO's insurance policy pursuant to the condominium law (§514A-83.5 (c), HRS).

*See Q & A on pg. 5*

*Prior to January 1, 2000, the condominium law (§514A-83.6, HRS) and the rules adopted pursuant thereto requires that an association of apartment owners (AOAO)*

... assess the apartment owners to either fund a minimum of fifty percent of the estimated replacement reserves or fund one hundred percent of the estimated replacement reserves when using a cash flow plan; provided that a new association created after January 1, 1993, need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting. For each fiscal year, the association shall collect the amount assessed to fund the estimated replacement for that fiscal year reserves, as determined by the association's plan, except:

(1) the commission shall adopt rules to permit an existing association to fund its estimated replacement reserves in increments after January 1, 1993 and prior to January 1, 2000; . . .

This article is included here to provide general information about reserves. It is not intended to provide nor is it a substitute for legal, accounting, or other professional advice on the subject. Neither does it represent the official position or interpretation of the Real Estate Commission or the State of Hawaii.

The information is informal and non-binding on the Commission. AOAOs and their boards and other readers are advised to consult with competent professionals on the subject matter.

## Reserve Funding in Year 2000

As Year 2000 approaches, many Boards of Directors are concerned with their Associations' Reserve funding. Two calculation methods are acceptable in determining your reserve funding requirements.

Under the Percent Funding Calculation method, your Association should be 50% funded by the year 2000 and maintain that level from there on. To look into this concern, we first need to understand the definition of Percent funding.

According to Community Association Institute (CAI) Reserve Study Standards, Percent Funding is defined as "the ratio, at a particular point of time (typically the beginning of the Fiscal Year), of the actual (or

projected) Reserve Balance to the Fully Funded Balance, expressed as a percentage."

For this to have meaning, you must know the definition of fully Funded Balance (FFB). FFB is total accrued appreciation. An indicator against which Actual (or projected) Reserve balances can be compared. The reserve balance is in direct proportion to the fraction of life "used up" of the current Repair or Replacement cost. This number is calculated for each component, then summed together for an Association total.

As this method is fairly easy to understand and calculate, the typical disadvantage is an overabundance of cash. This can be seen in the beginning and/or ending Reserve balances throughout the reporting period.

The Percent Funding method of calculation was mandatory in Hawaii until June 16, 1997, when the Cash Flow Method of calculation was accepted as an alternative method for Reserve calculations.

Cash flow is a method of developing a Reserve Funding Plan where contributions to the Reserve fund are designed to offset the variable annual expenditures from the Reserve fund.

Different Reserve Funding Plans are tested against the anticipated schedule of Reserve expenses until the desired Funding Goal is achieved.

Hawaii's Amendment (Act 133 [SLH 1997]) to allow cash flow analysis reads "Cash flow plan" means a minimum twenty-year projection of an association's future income and expense requirements to fund fully its replacement reserve requirements each year during that twenty-year period, except in an emergency; provided that it does not include a projection of special assessments or loans during that twenty-year period, except in an emergency."

Cash flow method of reserve calculation enables fine-tuning of reserve contributions with existing reserves balances and interest earned on reserve account investments to offset projected annual reserve expenditures.

However, the Association must allow for variables in their projections, such as delinquencies in maintenance fees, premature failure of components, sudden increases in contractor or supplier fees and fluctuations in investment returns.

This may be addressed in several ways. One way is

not using current year contributions to pay for current year expenditures. This allows one year of contributions in reserve. Another way is maintaining a minimum ending year reserve cash balance.

The Association's Board of Directors, property manager and/or its reserve provider should tailor a funding plan to meet the particular needs of the Association. No matter who performs your Reserve Study you must disclose which calculation method, Percent Funding or Cash Flow, was used.

As a Reserve Study provider since 1993, we have watched the Reserve Study industry develop and mature. Our observations conclude that most of the larger condominium associations and homeowners associations have performed reserve studies. But a fewer number are updating their studies in a timely manner. We recommend an update to the funding analysis on an annual basis and an on-site visit to determine component depreciation every three years.

Many associations have experienced a fluctuation in reserve funding demand from relatively high, during the days of Percent Funding, to present day, relative ease due to Cash Flow calculations. We are experiencing a change from educating Associations on why to reserve to fine tuning existing funding plans and Reserve Studies.

During recent on-site visits to projects, we have generally observed less deferred maintenance in comparison

to the early 90s. The heyday of development is past, and many projects are now experiencing major 20-year and 30-year renovations. Properly performed Reserve Studies with conservative funding plans will help ensure that funds will be available for these major renovations.

For additional information on reserves you can visit CAI's Web site nationally or locally at [www.caionline.org](http://www.caionline.org) or [www.caihawaii.org](http://www.caihawaii.org) or call Armstrong & Associates at 941-7732.

### Note about the Contributing Author

Dale Armstrong is President of Armstrong & Associates. A resident of Hawaii since 1981, Dale has been in the construction industry for more than 25 years. He is qualified by the U.S. Army Corps of Engineers Contractor Quality Control, holds a Special Inspectors License (#SI 87 City & County of Honolulu), is a CAI member serving on their National Reserve Study Designation Committee, Chairs the CAI Hawaii Reserve Study Committee, and is a director of CAI local chapter. Dale was first in the nation to receive his Reserve Specialist (RS) designation. He has performed consulting worldwide for projects ranging up to \$1.5 billion. Recently, Dale was instrumental in revising Hawaii State reserve laws to include cash flow funding. He has inspected more than 1,500 single family and multi-family units.

### Condominium Dispute Mediation Program

The Real Estate Commission encourages amicable resolution of condominium-related disputes between and among: owners (including tenants but excluding landlord tenant disputes), officers, directors, boards of directors, employees of registered associations of apartment owners (AOAOs), and registered condominium managing agents (CMAs) of registered associations of apartment owners, by subsidizing the cost of mediation from the Condominium Education Fund.

For the quarter ending September 30, 1999, the Neighborhood Justice Center and Mediation Services of Maui, Inc. provided mediation services under the program.

Four cases were subsidized under the program during the quarter. Owners seeking to compel their respective boards to enforce the association's by-laws or house rules initiated all four cases. The board of directors of the AOAO declined to participate in mediation in two of the cases. In one case, the complaining owner withdrew from mediation.

### Specialist Office for the Day Held on Kauai

On Friday, October 15, 1999, the Real Estate Commission held its Specialist Office for the Day at the offices of the Kauai Board of Realtors in Lihue, Kauai.

One condominium specialist and one real estate specialist met with members of the respective communities. The Condominium Education Fund and the Real Estate Education Fund fund this outreach program.

Members of the condominium community were invited to schedule appointments to discuss questions regarding boards, associations of apartment owners (AOAOs), meetings, condominium managing agents (CMAs), condominium association registration, condominium hotel operators (CHOs), fidelity bonding, condominium property regime statute, public reports, project registration, new legislation, reserves, and other condominium-related topics. Nine people met with Condominium Specialist Morris Atta and discussed issues relating to agricultural condominiums, two-unit condominium projects, condominium property regime development and registration, public reports, condominium hotel operator registration, and legislative updates.

## Deadline from pg. 1

and other association property. Supposedly, seven years later, associations of apartment owners (AOAOs) have had ample time to set aside reserves.

In 1992, in anticipation of the seven year reserves deadline, concerned organizations and entities including the Commission began educating the condominium community about reserves. Now approximately seven years later as the deadline looms around the corner, a small representative, non-statistical, sample of the 1,400 registered AOAOs (sample includes a cross section of condominium projects by size), report that they will be meeting the reserves deadline.

However, a small number of the AOAOs sampled reported that they would not be meeting the reserve deadline. This bulletin's reference file provides these AOAOs with information for meeting the reserves deadline.

As a forethought, policing and enforcement of the reserves requirement remains with each owner (§§ 514A-83.6, HRS, and 16-107-75, HAR). However, an owner may collect the costs and fees of enforcement pursuant to 514A-94, HRS.

Where a judge or arbitrator determines that a board member has breached a fiduciary duty by intentionally ignoring the reserve requirements, the judge or arbitrator may award the owner's fees and costs of enforcement against the board or board members, rather than against the AOAO.

Of interest, the registered AOAOs sampled reported the following:

For the 1999 Biennium Registration

- Percentage levels of i.e. 50, 60, 75, 78, 93 and 100 at which the AOAOs have decided to fund its estimated replacement reserves;

## Update from pg. 1

decree of foreclosure, the auction, the motion for confirmation of sale, title conveyance to the successful bidder 35 days after the order confirming sale, and the ex parte motion for deficiency judgment.

Finally, Ms. Harada addressed "Post-Judgment Collection and Bankruptcy," including the deficiency judgment, judgment debtor examinations, garnishment, and bankruptcy (what to do when an owner threatens to file for bankruptcy, what to do upon receipt of a bankruptcy notice, types of bankruptcy petitions and exception to discharge under 11 U.S.C. §523(a)(16).

The seminar closed with a question and answer session in which the audience was encouraged to submit written questions addressed to a specific speaker. In the future, the Commission looks forward to subsidizing more approved seminars, and also welcomes proposals by interested seminar providers.

- About 83% of the AOAOs sampled reported that they will fund its estimated replacement reserves by the deadline of January 1, 2000;

- More AOAOs reported funding the estimated replacement reserves at the 50 percent level; and about less than half-reported funding at 100% level using a cash flow plan.

For the 1997 Biennium Registration

- Most reported collecting the required statutory reserves of 25%; and

- Wide variations in the percentages collected towards the required reserve amount of 25% i.e. 0, 14, 25, 31, 36, 37, 50, 51, 60, 77, 86, 94, 100.

For the 1996 Biennium Registration

- Varying amounts of reserves collected i.e. \$0 (1000 + apartments), \$12,279 (10 apartments), \$29,600 (30 apartments), and \$763,723 (800 + apartments).

## Q & A from pg. 2

All this investigation may take some time. Perhaps it may be advisable to fix the damage yourself and seek reimbursement or recovery of the cost from the responsible party. After all, this may be the situation where to do nothing, may increase the damage to your bedroom wall and carpet. Should the situation result in a difference of opinion between yourself and the board or with another condominium apartment owner, about your condominium declaration, bylaws, or house rules and the responsibility for the damage, a number of options are available.

For a nominal fee, you may arrange to have the difference of opinion mediated by an impartial 3<sup>rd</sup> party. The arrangements may be made with the *Neighborhood Justice Center*, Honolulu, Hawaii, Telephone: 521-6767, or the *Mediation Services of Maui, Wailuku, Maui*, telephone 244-5744. The cost of mediation is paid with funds from the Condominium Education Fund (CEF). Registered AOAOs and developers contribute to the Condominium Education Fund.

Arbitration is another option. Unlike mediation, arbitration is mandatory when one party makes a request to arbitrate a qualified dispute. The yellow pages of the telephone book list a number of arbitration providers including: the *American Arbitration Association*: Tel. 531-0541; *Dispute Prevention & Resolution*, Tel. 523-1234; and *ADR Hawaii*, Tel. 531-6789.

Arbitration involves some costs. The amount arguably is less than filing a court proceeding. However, without an agreement that the arbitration be binding, arbitration is subject to a "trial de novo" (being presented all over again in a court of law necessitating additional costs). Another option always available is consultation with an attorney familiar with condominium laws and issues.

## Registered Condominium Managing Agents and Condominium Hotel Operators as of October 27, 1999

**THIS INFORMATION IS SUBJECT TO CHANGE WITHOUT NOTICE. CONTACT LBIS AT 587-3222 TO VERIFY CURRENT STATUS OF REGISTRATION.**

CMA NO.	Condominium Managing Agent	CMA NO.	Condominium Hotel Operator	CMA NO.	Condominium Managing Agent
00096	A-A MANAGEMENT CORPORATION	00248	LOWRY PROPERTIES INC	00192	C AND H PROPERTIES INC
00116	AALA REALTY & MANAGEMENT INC	00067	LOYALTY ENTERPRISES LTD, LOYALTY PROPERTY MANAGEMENT	00227	CAPITAL INVESTMENT OF HAWAII INC, MARINA APARTMENT RENTALS & SALES
00071	AGENT SYSTEM U.S.A. CORP	00155	MAIKAI & ASSOCIATES INC	00143	CASTLE RESORTS & HOTELS INC
00230	ALA KAI REALTY INC	00201	MAKAI MANAGEMENT LTD	00218	CBIP INC, COLDWELL BANKER ISLAND PROPERTIES
00128	ALII OHANA PROP MANAGEMENT INC	00027	MANAGEMENT INC	00132	CHASE 'N RAINBOWS REAL ESTATE INC
00186	ASSET PROPERTY MANAGEMENT INC	00260	MAP VISION INC	00021	CLASSIC RESORTS LIMITED
00238	AUGUSTINE REALTY	00191	MARCUS & ASSOCIATES INC	00152	CORWIN & ASSOCIATES INC
00166	BELLO REALTY INC	00218	MARRIOTT HOTEL SERVICES INC	00172	DEBEER, GERALDINE, DEBEER REALTY
00104	BILL RAMSEY INC	00265	MARYL REALTY INC, MARYL COMMERCIAL	00098	DESTINATION MAUI INC
00154	BOB KEOWN LTD, MAKAI ROPERTIES	00167	MAX SHERLEY & ASSOCIATES LTD, MSA PROPERTY MANAGEMENT SERVICES	00171	DESTINATION RESORTS HAWAII INC
00135	BOB TANAKA INC	00102	METROPOLITAN MANAGEMENT INC	00123	EQUITY ONE REAL ESTATE INC
00209	C & C REALTY INC, TURTLE BAY CONDOS	00012	MANAGEMENT CONSULTANTS OF HAWAII INC	00179	ESTATES AT TURTLE BAY INC, THE
00075	CADMUS PROPERTIES CORPORATION	00117	NAI'A PROPERTIES INC	00102	FRIENDLY ISLE REALTY INC
00212	CASTLE RESORTS & HOTELS INC	00005	NATIONAL MORTGAGE & FINANCE COMPANY LTD	00209	GIBRALTOR PACIFIC REALTY INC, THE PRUDENTIAL WEST HAWAII REALTY
00252	CB RICHARD ELLIS INC	00184	NETTLESHIP, RUTH V, RUTH REALTY	00084	GRANTHAM NANCY H, GRANTHAM RESORTS
00178	CBI INC	00087	OIHANA PROPERTY MANAGEMENT & SALES INC	00200	HALE KAI RESORT RENTAL INC
00047	CEN PAC PROPERTIES INC	00038	OISHI'S PROPERTY MANAGEMENT CORP	00163	HALEKALA SHORES RESORT
00099	CENTURION REALTY CORP	00223	OPERATING & MANAGING SERVICES INC, PROPERTIES PLUS MAINTENANCE CO.	00197	HANA KAI-MAUI RESORT
00062	CENTURY 21 REALTY SPECIALISTS CORP, MANAGEMENT SPECIALISTS COMPANY	00196	OUTRIGGER HOTELS HAWAII, OUTRIGGER HOTELS & RESORTS	00195	HANALEI ALOHA RENTAL MANAGEMENT INC
00169	CERTIFIED MANAGEMENT INC	00267	PACIFIC COMMERCIAL REALTY CORPORATION	00182	HANALEI NORTHSHORE PROPERTIES LTD
00020	CHANEY BROOKS & COMPANY	00125	PAHIO RESORTS INC	00169	HANORAI INC
00041	CITY PROPERTIES INC	00165	PALI KAI INC	00008	HARBOR SHORES APARTMENTS INC
00095	CLASSIC RESORTS LIMITED	00124	PAR MANAGEMENT INC	00186	HAWAII RESORT MANAGEMENT INC
00258	COLDWELL BANKER COMMERCIAL PACIFIC PROPERTIES LTD	00006	PARADISE MANAGEMENT CORP	00219	HAWAIIAN CONDO RESORTS INC
00070	COLLIERS MONROE FRIEDLANDER MANAGEMENT	00163	PATDI INC	00081	HCR ASSOCIATES
00227	COMMERCIAL PROP OF MAUI MANAGEMENT INC	00257	PREMIER RESORTS INTERNATIONAL INC	00017	HOTEL CORPORATION OF THE PACIFIC INC, ASTON PROPERTY MANAGEMENT
00231	COMMERCIAL REALTY CORPORATION	00101	PROFESSIONAL ISLAND MANAGEMENT LTD	00211	INTERSTATE HOTELS CORPORATION
00138	CONDOMINIUM FISCAL MANAGEMENT INC	00031	PROPERTY MANAGEMENT HAWAII INC, SUNQUEST VACATIONS	00168	IPM INC, ISLAND PROPERTY MANAGEMENT
00254	DAY-LUM RENTALS & MANAGEMENT INC, DAY-LUM RENTALS	00251	PRUDENTIAL LOCATIONS LLC	00226	ISLAND RESORT RENTALS INC
00114	DESTINATION MAUI INC	00149	PWI REAL ESTATE INC	00141	JOSEPHSON, K. DAVID, MAUI PROPERTY MGMT AND SALES
00199	DESTINATION RESORTS HAWAII INC	00214	QUALITY RESORT MANAGEMENT INC	00224	KAANAPALI BEACH PROPERTIES INC
00023	DYNAMIC PROPERTY MANAGEMENT INC	00262	QUINTUS VACATION MANAGEMENT LLC	00190	KAHANA FALLS LIMITED PARTNERSHIP
00188	EQUITY ONE REAL ESTATE INC	00213	RCI MANAGEMENT INC	00220	KAMAOLE MANAGEMENT SYSTEMS INC, KMS REALTY
00085	EQUITY PROPERTIES INC	00253	RE3 LLC REAL ESTATE SERVICES	00189	KAPAA SANDS RESORT INC
00044	FIDELITY MANAGEMENT INC	00144	REALTY MANAGEMENT CORPORATION	00111	KAPALUA LAND COMPANY LTD, THE KAPALUA VILLAS
00200	FRED SANDS IWADO REALTY INC	00261	REGENCY PACIFIC REALTY LLC	00162	KAUAI PARADISE VACATIONS INC
00143	FURUTA, GARY S, HAWAII INVESTMENTS	00107	REP MANAGEMENT INC	00183	KAUAI VACATION RENTALS & REAL ESTATE INC
00142	GINOZA REALTY INC	00147	SHC-PROPERTIES INC	00159	KIHEI MAUI VACATIONS INC, QUALITY REAL ESTATE
00259	HARISMENDY, MICHAEL A	00266	SHORELINE PROPERTIES CORPORATION	00119	KIMBERLY, C J, C J KIMBERLY REALTORS
00224	HARRIS, FREDERICK O, HARRIS REALTY MANAGEMENT	00208	SKYBIRD PROPERTIES INC	00057	KLAHANI RESORTS CORPORATION
00221	HAWAII EQUITIES INC	00105	SOUTH KOHALA MANAGEMENT CORP	00107	KNUTSON, MARILYN S, KNUTSON & ASSOCIATES
00243	HAWAII FIRST INC	00182	SULLIVAN PROPERTIES INC	00201	KUMULANI VACATIONS AND REALTY INC, KUMULANI RENTALS
00220	HAWAIIAN ASSET MANAGEMENT & INVESTMENTS CORPORATION	00187	TEAM REAL ESTATE INC	00033	LEISURE PROPERTIES, INC
00049	HAWAIIANA MANAGEMENT COMPANY LTD	00264	TOSEI REALTY INC	00116	LOVE, MARY M
00157	HERITAGE PROPERTIES INC	00139	TOUCHSTONE PROPERTIES LTD	00204	LOWRY PROPERTIES INC
00060	HOTEL CORPORATION OF THE PACIFIC INC, ASTON PROPERTY MANAGEMENT	00256	TRADING PLACES INTERNATIONAL	00157	MARRIOTT HOTEL SERVICES INC
00004	IND-COMM MANAGEMENT INC	00094	TRIAD MANAGEMENT INC	00040	MAUI CONDO AND HOME REALTY INC
00064	INOUE-HAWAII REALTY CORP	00181	TURNER, JIM C, JIM'S INVESTMENT MANAGEMENT	00108	MAUI KAI RENTAL PROGRAM
00255	INTERSTATE HOTELS CORPORATION	00035	VILLAGE RESORTS INC	00205	MAUNA LOA VILLAGE RESORT INC, REMAX RESORT PROPERTIES
00066	INVESTMENT PROPERTIES CORPORATION	00263	VISION PROPERTIES INC	00041	MDR/JLB INC, MDR MAUI DIVERSIFIED REAL ESTATE
00226	IPM INC, ISLAND PROPERTY MANAGEMENT	00082	W E DENISON CORPORATION, MARINE SURF WAIKIKI HOTEL	00055	NAI'A PROPERTIES INC
00247	JAMES, BRYN, ALL COMMUNITY MANAGEMENT	00125	A A OCEANFRONT CONDO RENTALS INC	00006	NAPILI-KAI LTD
00133	JAMES, CHOON H, CJ REAL ESTATE INTERNATIONAL	00208	ACTION TEAM REALTY INC	00178	NORRIE, MARGARET J, MARGARET NORRIE REALTY
00211	JOSEPHSON, K. DAVID, MAUI PROPERTY MANAGEMENT AND SALES	00181	ALA KAI REALTY INC	00050	NOWELL, JACK H, RIDGE REALTY RENTALS
00239	KAHANA FALLS LIMITED PARTNERSHIP	00164	ALL WORLD INC, ALDRIDGE ASSOCIATES- REALTORS	00048	NOWELL, JOHNITA, J NOWELL REALTY
00026	KBR MANAGEMENT & REALTY LTD	00207	ALOHA INTERNATIONAL REALTY INC	00158	OCEANFRONT REALTY INTERNATIONAL INC
00136	KLAHANI RESORTS CORP	00187	AMERICAN RESORT MARKETING INC	00037	OIHANA PROPERTY MANAGEMENT & SALES INC
00177	LANI PROPERTIES CORP	00114	ASSET PROPERTY MANAGEMENT INC	00127	OUTRIGGER HOTELS HAWAII, OUTRIGGER HOTELS & RESORTS
00219	LIFE CARE SERVICES CORPORATION OF HAWAII INC	00128	BELLO REALTY INC	00139	PACIFIC PARADISE PROPERTIES CORP
00236	LIZAMA REALTY INC	00174	BIG ISLAND HAWAII REALTY INC, CENTURY 21 BIG ISLAND	00095	PAHIO RESORTS INC
00011	LOWELL D FUNK INC	00194	BIG ISLAND MANAGEMENT SERVICES INC	00045	PALI KAI INC
		00038	BLUE WATER DEVELOPMENT INC	00056	PANILO HALE RENTAL INC
		00203	BLUM, JEANIE, WAIKIKI BEACH CONDOMINIUMS	00002	PARADISE MANAGEMENT CORP
		00109	C & C REALTY INC, TURTLE BAY CONDOS	00082	PETAGNO, GAIL M H, GAIL PETAGNO REALTOR

## CHO No Condominium Hotel Operator (cont)

00085	PLUTA AND ASSOCIATES INC, MAUI DESTINATION MARKETING
00130	POIPU OCEAN VIEW RESORTS INC
00214	PREMIER RESORTS INTERNATIONAL INC
00061	PROPERTY MANAGEMENT HAWAII INC, SUNQUEST VACATIONS
00118	PROPERTY NETWORK LTD
00144	PROSSER REALTY INC
00180	PRUDENTIAL MAUI REALTORS INC, THE
00150	QUALITY RESORT MANAGEMENT INC
00223	QUINTUS VACATION MANAGEMENT LLC
00092	R & R REALTY & RENTALS INC
00149	RCI MANAGEMENT INC
00210	RE3 LLC REAL ESTATE SERVICES
00176	REALTY RENTALS INC
00193	REALTY WEST LTD
00221	REGENCY PACIFIC REALTY LLC
00198	SHELL MANAGEMENT HAWAII INC
00019	SHERBOURNE MAUI INC, CONDOMINIUM RENTALS HAWAII
00039	SHORELINE PROPERTIES CORP
00032	SOUTH KOHALA MANAGEMENT CORP
00225	ST GERMAIN, JOHN B, MAUI SUNCOAST REALTY
00173	STARTS INTERNATIONAL HAWAII INC
00015	SULLIVAN PROPERTIES INC
00078	SUN CORP, SUN ESTATES
00199	SUNSEEKERS OF WAIKIKI INC
00202	TEITELBAUM, ROBERT J, SHALOM REALTY
00222	THOMAS, LISA G, THOMAS GUEST SERVICES
00212	TRADING PLACES INTERNATIONAL
00106	TRIAD MANAGEMENT INC
00215	TROUGHTON, JAMES E, MAUI DREAMS COME TRUE
00005	VILLAGE RESORTS INC
00154	VILLIERS REAL ESTATE, INC., RAINBOW RENTALS
00133	VISION PROPERTIES INC
00052	W E DENISON CORPORATION, MARINE SURF WAIKIKI HOTEL
00191	WACHLER, ANNE MARIE, POIPU CONNECTION REALTY
00166	WAIKOLOA REALTY INC
00167	WAILEA VACATION RENTALS INC
00121	WEST HAWAII PROPERTIES SERVICES INC
00018	WHALERS REALTY INC, WHALERS REALTY MANAGEMENT COMPANY
00216	WINSTON, PATRICK D, WINSTON'S WAIKIKI CONDOS
00067	YOUNG, SUE, SUE YOUNG REALTOR

## REAL ESTATE COMMISSION MEETING SCHEDULE 1999

Laws & Rules Review Committee - 9:00 a.m.  
Education Review Committee - 10:00 a.m.  
Condominium Review Committee - 1 p.m.

Wednesday, November 10, 1999

Wednesday, December 8, 1999

Real Estate Commission--9:00 a.m.

Wednesday, November 24, 1999

Thursday, December 9, 1999

All meetings (unless specifically noted) will be held in the *Kapua'iwa Room, Second Floor, HRH Princess Victoria Kamamalu Building, 1010 Richards Street, Honolulu, Hawaii.*

Meeting dates, locations and times are subject to change without notice. Please call the Real Estate Commission Office, at 586-2643, to confirm the dates, times and locations of the meetings. This material can be made available for individuals with special needs. Please call the Executive Officer at 586-2643 to submit your request.

## Termination from pg. 1

mination of registration, CMAs, CHOs, and AOAOs are strongly encouraged to submit evidence of fidelity bond coverage spanning the entire registration period, or submit evidence of a fidelity bond having a "continuous" expiration date. See listing of registered CMAs and CHOs as of 10/27/99 on pages 6 and 7.

Concerned entities and individuals whose CMA or CHO does not appear on the listing should take steps to ensure that a registered CMA or CHO is retained.

Call Licensing Business and Information Section (LBIS) at 587-3222 to verify the registration status of a CHO or CMA.

Unregistered CMAs and CHOs that continue to operate will be considered for legal action and possible disciplinary action for all real estate licensees involved.

Unregistered AOAOs will be denied standing to maintain any action or proceeding in the courts of this state, and are precluded from filing any action to collect delinquent maintenance fees or foreclose a lien for common expenses.

Further, AOAOs that fail to register will also be considered for legal action.

## AOAO Registration Update

The Real Estate Commission administers the registration of condominium associations of apartment owners (AOAOs) consisting of 6 or more apartments (7 or more if condominium or AOAO was created prior to May 29, 1963). For the 1999-2001 biennium, 1,369 AOA registration applications have been received and 1,156 applications have been processed as of October 27, 1999..

The Commission is working with the remaining AOAOs to correct registration deficiencies and to pay late penalty fees. Unregistered AOAOs are advised to register immediately as required by HRS §514A-95.1.

The AOA that fails to register will be denied standing to maintain an action or proceeding in the state's courts and will be precluded from filing an action to collect delinquent maintenance fees or foreclose a lien for common expenses.

The board's failure to register on behalf of the AOA may be considered a breach of each director's fiduciary duty.

Further, AOAOs that fail to register as required by law are referred to the Regulated Industries Complaints Office for legal action.

## California Supreme Court Defers to Directors' Decision

The Community Association Institute (CAI) reports that the California Supreme Court sided with CAI in the case of *Lamden v. La Jolla Shores Clubdominium Home-owners Association* (decided August 9, 1999) in ruling that the Court will not second-guess a board's maintenance decision. In this case, the homeowner had sued her community association for spot-treating a termite infestation instead of having the whole building fumigated. Some of the court's reasoning for its holding:

Where a duly constituted community association board, upon reasonable investigation, in good faith and with regard for the best interest of the community association and its members, exercises discretion within the scope of its authority under relevant statute, cov-

enants and restrictions to select among means for discharging an obligation to maintain and repair a development's common areas, courts should defer to the board's authority and presumed expertise.

Additional explanation about the fiduciary duty principles cited by this California Supreme Court's decision may be found in the January 1994 Commission sponsored publication *Fiduciary Duty*. Commission sent each registered association of apartment owners then, and now, each newly registered association, a copy of this publication. The cost is paid from the Condominium Education Fund, to which developers and condominium apartment owners contribute.

## Condominium Education Calendar

This calendar lists upcoming educational events of interest to the condominium community. The Commission expresses **no opinion** about the quality or content of any event listed and the listing should not be construed as an endorsement or sponsorship of any event. Events may be subject to change; please check directly with the provider to confirm each event.

Date	Time	Event Title	Location	Provider
11/18/99	11:30 am	Educational Meeting	Hale Koa Hotel	HCAAO
11/20/99	9:00 - 12:00	Leg. Update, Collections, Foreclosures, Bankruptcy	Wailea Outrigger	CAI-H
01/15/00	TBA	Board Meetings and Operations*  Speaker: Richard Ekimoto	Hale Koa Hotel	CAI-H

\* Approved CEF subsidized seminar (see explanation on page one article "New Educational Opportunities for Condominium Apartment Owners—Update")

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

	Provider	Phone	Address
ADT	Association Development Technologies	947-7078 (Oahu)	1164 Bishop St, Ste 124 Honolulu, HI 96813
CAI	Community Associations Institute (National)	(703)548-8600	1630 Duke Street Alexandria, VA 22314
CAI-H	Community Associations Institute - Hawaii Chapter	488-1133 (Oahu)	P.O. Box 976 Honolulu, HI 96808
CCM	Condominium Council of Maui	879-5266 (Maui)	P.O. Box 647 Kihei, HI 96753
HAC	Oahu Arm Committee	523-6096 (Oahu)	1571 Piikoi St, #506 Honolulu, HI 96822
HCAAO	Hawaii Council of Associations of Apartment Owners	533-2528 (Oahu)	677 Ala Moana Blvd, #701 Honolulu, HI 96813
HICLE	Hawaii Institute For Continuing Legal Education	537-1868 (Oahu)	1136 Union Mall, PH 1 Honolulu, HI 96813
IREM	Institute of Real Estate Management Hawaii Chapter No. 34	737-4000 (Oahu)	1136 12th Ave, Ste 220 Honolulu, HI 96816
UH-SPP	Special & Professional Programs, College of Continuing Education, University of Hawaii	956-8244 (Oahu)	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 97813; Phone: 586-2644

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