

**HAWAIIANA  
MANAGEMENT COMPANY,  
LTD.  
BOARD OF DIRECTORS  
HANDBOOK**

**AWARD WINNING**

Hawaiiana has received the coveted designations of Accredited Association Management Company (AAMC) from the Community Associations Institute (CAI) and the Accredited Management Company designation from the Institute of Real Estate Management (IREM)

Dear Director,

Welcome to the Hawaiiana Management Company, Ltd. Ohana. We are truly family and work with you to assure the most effective, efficient and owner-friendly operation of your community.

Hawaiiana Management Company, Ltd. will provide you with professional guidance to help you fulfill your responsibilities to your neighbors in dealing with the management of your community. We appreciate your sacrifices in serving your community and pledge to work with you to make your job as pleasant as possible.

This handbook is designed to provide a very basic overview of community Association management. Your Management Executive will work with you to assure your successful term as a Director.

Congratulations on your commitment of time and talent for the management of your Association.

Sincerely,

HAWAIIANA MANAGEMENT COMPANY, LTD.

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BOARD OF DIRECTORS HANDBOOK

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## ANNUAL MEETINGS

The governing documents of the Association establish requirements for calling and conducting meetings of the owners. These meetings generally fall into two categories: Annual Association Meetings and Special Association Meetings. Procedures for meetings of the Association will customarily be found in the By-Laws.

The function of the Annual Meeting is to present certain important matters that must be addressed by all Association owners for their consideration and/or approval. Items such as the Election of Directors, review of the annual Auditor's report, report of Board Officers and Association committees, and status of projects proposed which require Association approval are a few of the items that need to be reviewed at these Annual Meetings.

A Special Association Meeting may be held from time to time to address one or more specific items that require membership consideration and approval. Special meetings usually are called by the President of the Association; however, in many governing documents and Hawaii Condominium Law, there are provisions allowing a meeting to be initiated by a petition of a specified percentage of homeowners.

Although most Associations allow attendance and voting at the Annual Meeting by proxy, it is essential that as many owners as possible attend the meeting in person. A primary goal for every Director should be to persuade the owners that they are needed and wanted at Association Meetings.

## ASSOCIATION DOCUMENTS

In Hawaii, Condominium Associations are governed by Chapter 514B of the Hawaii Revised Statutes. This law governs all aspects of the development, creation, management, and conduct of the Association. The Declaration of Horizontal/Condominium Property Regime (Declaration or DCC&R) is the basic document that defines the individual units, or homes in the case of a Community Association, the common elements, and the limited common elements of the project. It should clearly establish the areas of responsibility for the Association and for each individual unit owner.

The Declaration established the Association's authority to levy assessments, late fees, and to generate the revenue necessary to operate the project. It establishes the percentage of common interest for each unit as the basis for determining how much each apartment owner must contribute to the assessment, and establishes the percentage of voting for each unit in Annual or Special Meetings.

The Declaration will define how a unit may be used, provides information such as limitations on pets, and provides limitations on modifications that may be made by an individual apartment owner.

The By-Laws are a companion document to the Declaration which establish the rules for governance of the Association. They enumerate the Officers of the Association, how they are elected, and the responsibilities of the Officers and Directors. They describe the method and requirements for Association meetings and Board of Directors' meetings. They define the frequency and notice requirements for meetings.

House Rules, which are usually established by the Board of Directors, define in detail rules of conduct for all residents of the project. The House Rules may define hours of operation of the amenities, guidelines for controlling noise, guidelines for use of the common areas, and in general, rules which are intended to assure all residents of their right of quiet enjoyment of the property. Many House Rules describe the Architectural Standards in place at the project.

Conditions, Covenants, and Restrictions (CC&Rs) are found on some projects, particularly planned unit developments or cluster developments and single family Community Associations. CC&Rs provide the same basic foundation for the establishment of these organizations as the Declaration of Condominium Property Regimes does for condominiums. CC&Rs are often used for large residential projects for which there are overriding architectural controls for the design and construction of all homes within the Community Association.

## BOARD OF DIRECTORS' MEETINGS

One point of view regarding these meetings expressed by the Community Associations Institute (CAI) is that Associations are multi-million not-for-profit organizations. While open to the Association members, or limited to Directors (“Executive Sessions”) these meetings should be conducted in a business like manner. Directors should come to meetings prepared to vote on issues.

Research now shows that those Associations that meeting bi-monthly is often more productive than meeting monthly. Quarterly meetings are also efficient and productive, and not necessarily longer. Association Management Executives are trained to facilitate efficient Board meetings.

## BOARD OFFICER'S RESPONSIBILITIES

The key to successful and efficient conduct of Board business is the President. The President sets and established the agenda and must ensure that the conduct of business follows the agenda and the basic principles of Robert's Rules of Order. With a well planned and properly constructed agenda, no Board meeting should take more than two hours (hopefully only one). The President should ensure that enough information to make decisions is given to each Board member prior to the meeting; otherwise, the issue should not be on the agenda. Remember that the President is not a dictator, he or she is a facilitator.

The Secretary is responsible for the minutes of the meetings, and to authenticate Association documents and correspondence when required.

The Treasurer's responsibility is to ensure that the financial records of the Association are properly kept. The Association's decisions to approve expenditures and contracts should be granted and approved by the Board and entered into Minutes.

Interaction between the Board, through the President, the Management Executive and Resident or General Manager may best be illustrated by a triangle with these three people at the apexes. Board members should communicate through the President to the Resident Manager/General Manager and Management Executive to assure that all necessary parties are in the communication loop.

## CHAPTER 514B HAWAII REVISED STATUTES CONDOMINIUM PROPERTY REGIME

Chapter 514B is now the basic document adopted by the Hawaii Legislature which enables the creation of Condominium Associations. It has superseded 514A as the governing law for condominiums, except in some limited areas. The Act provides the requirements for creation, alteration, and termination of condominiums, registration and administration, protection for purchasers, condominium management requirements, pre-sale requirements for owner occupants, arbitration and mediation provisions, and the Condominium Education Fund.

The 1989 Hawaii Legislature considered Chapter 514A to be such an important document for condominium Board of Directors that it required that a copy with all amendments be provided annually to all Directors. This continues under 514B. Each Director is provided a copy of this law and should become familiar with its contents in order to perform effectively as an Association Director.

### CONDOMINIUM ASSOCIATION SERVICE

A common misconception of some Boards of Directors is that the Management Agent is responsible for everything with regards to the management and operations of the condominium community. This is not so. Although the Board may delegate particular responsibilities to the Managing Agent, Resident Manager, or Committees, they cannot delegate their authority as promulgated in the governing documents, state, and federal law. They must still supervise and ensure that the business of the Association is conducted in accordance with all documents, laws and regulations.

## COMMUNICATIONS AND COMMUNITY LIVING

A Condominium Association is a mini-government operating between individual unit owners and the municipal government. Depending upon the Association's By-Laws, the Board of Directors of a Homeowners Association may have the power over more aspects of their members' lives than any other level of government. Therefore, it is essential that there be continuous and effective communication between the Association's Board of Directors and its members.

In the event of violations of the Association's By-Laws or Covenants, the Board should make every possible effort to reach an accord with the offending member before taking any final or decisive action. On the other hand, homeowners in a Community Association must recognize that they have an inherent responsibility to cooperate and communicate with their neighbors, fellow Association members, and Board of Directors. Litigation involving owners and Board of Directors is far too common and often due only to failure to communicate effectively. When this occurs, it is costly to all members and the time wasted is to the detriment of the smooth and efficient operation and maintenance of the project. Alternative dispute resolution such as mediation or arbitration should be considered. A Board which keeps homeowners fully informed on the ongoing and future projects and the Association's financial status is less likely to be the subject of ill feeling and possible litigation.

## DEBT COLLECTION

The Federal Government has adopted a Federal Fair Debt Collection Practices Act to protect and assure that debtors are treated fairly. The definition of a debt collector includes firms and persons who regularly collect overdue rent on behalf of real estate owners or periodic assessments on behalf of Condominiums, Community Associations, and all Cooperatives, as well as attorneys who regularly collect debts.

Failure to comply with the requirements of the Act may result in a costly award against the debt collector. Due to the complexity of the Act, Board of Directors who are provided with a list of the delinquent information should not disburse this list to anyone. Associations that need to collect debts require further consulting services of legal counsel to approve routine delinquent notices, demand letters, and other correspondence utilized in collecting debts. Legal fees will be incurred, which are normally chargeable to the delinquent owner.

## DIRECTORS' RESPONSIBILITIES

Each Director, Officer or not, owes every owner the duty to be careful with those assets placed in the Board's trust. This duty is a high duty that calls for the Director to place his personal benefit second to that of the Association. This means that the Director ensures that interests of the Association come first. It means that the Directors carefully examine the Association assets and make plans to ensure their protection. It does not mean hoarding reserves if maintenance is necessary, or automatically choosing the "cheapest" contractor. It does not mean neglect of the building(s) in order to keep the maintenance fee down to win friends and re-election. It does mean standing up against the pressures of special interest groups for the benefit of the Association.

It does mean taking the time to carefully consider a variety of approaches to each challenge facing the Board.

## FIDUCIARY DUTIES

Chapter 514B-5(c), Hawaii Revised Statutes [formerly Section 514A-95(c), Hawaii Revised Statutes], provides that every Managing Agent is a fiduciary with regard to any property which he or she manages. A fiduciary relationship is a special type of relationship which exists between certain persons. For example, such a relationship exists between attorneys, real estate agents, and their respective clients. Such a relationship exists when the faith, confidence, trust and reliance of one party is placed upon the judgment and advice of another. Fiduciaries are bound to protect the interests of the parties relying on them, and to act in good faith and with due regard toward the interest of the other party. Also, fiduciaries are subject to the utmost good faith and fair dealing, and are not permitted to take advantage of the fiduciary relationship to advance their own interests.

Due to the special type of relationship between the Board of Directors of a Condominium Association and its members, courts have held that such a fiduciary relationship exists, irrespective of any express statute on this point. Chapter 514B-106(a) merely makes clear a relationship which already exists between the Board of Directors and their members. It serves to underscore the importance of Boards acting in the best interest of the members of their Associations at all times, as well as the need for all Directors to avoid any temptation to act in their own best interests at the expense of the interests of any of the members of their Association.

## FINANCIAL REPORTING

Managing an Association's financial affairs is equal to that of running a business. The Association must have a financial reporting system which includes a Statement of Receipts and Disbursements. The Statement of Receipts and Disbursements informs the reader of how much money was taken in by the Association, what the sources of revenue were, and it provides the details of how the Association spent its money. It is incumbent upon Directors to be fully knowledgeable of the financial condition of the Association.

The financial statements are usually prepared by the Association's Managing Agent on a monthly basis. The report includes a detailed breakdown of all expenditures and should include a listing of all those unit owners who are not current in the payment of their assessments.

Chapter 514B, Hawaii Revised Statutes requires that most Associations have an annual audit and an unannounced cash verification on an annual basis. This requirement may be waived by projects with twenty or less apartments. The audit and surprise cash count are conducted by independent Certified Public Accountants and are intended to assure all members of the Association that the financial statements, as prepared, correctly reflect the financial condition of the Association.

## INSURANCE

Insurance needs in a condominium usually require that the Directors provide insurance for the common areas. The Association should carry a policy to protect the shared property for which the Association is responsible, such as recreational amenities, community walkways, and parking areas. The coverage should provide adequate protection from liability suits that may be the result of the use of common areas as well as acts of the Association or its Officers. The Association's master policy should also protect you against loss of common property by fire or other hazards. Unit owners should acquire their own H-O6 policies to dovetail coverage with the Association's policy in order to provide seamless coverage.

Because of the losses caused by Hurricane Iniki and others on the mainland Atlantic and Gulf coasts, coverage for hurricane losses has significantly increased premiums and the deductible for hurricane and, in some policies, for wind losses. These deductibles start at 2% of the total insured value up to 10%, depending on the insurance company.

Association master policies cover the individual units as originally delivered to the first purchasers. Policies except for State Farm do not cover any upgrades that have been made to the apartment. Most policies do not cover any personal property contained in the apartment.

Individual owners should have a homeowner's policy (HO-6) which protects them from losses as a result of a covered peril for upgrades and personal property. This homeowner's policy will also provide liability coverage for incidents that occur within or are caused by events within the units. This policy should coordinate coverage and deductible amounts with the Association policy. For investor owners, this coverage can often be obtained by endorsement to the homeowner's policy on the investor's principal residence.

## MANAGEMENT AND BOARD OF DIRECTORS ROLES

- **Board of Directors.** The role of the Board of Directors is to govern the Association, establish policies and rules, ensure financial and administrative records are correct and current, maintain the common elements, and promote a quality community environment for all residents. Most Board members are non-paid volunteers, requiring them to hire Resident Managers, Maintenance Personnel, and a Management Company to handle the day-to-day operations of the condominium.
  
- **Managing Agent.** The role of the Managing Agent is to carry out all duties as contracted for in the Agency Agreement with the Association. These duties may range from fiscal management with preparation of monthly financial reports, to physical management requiring regular inspections by the Agent, to contracting for services and supplies and preparation for Board Meetings. Administrative support should also be included in this contract.
  
- **Management Executive.** The role of the Management Executive is to be the Association's representative from the Managing Agent. He or she should oversee all operations and responsibilities assigned to the Managing Agent as agreed upon in an Agency Agreement signed by the Board and report to the Board on the status of these items. He or she should advise the Board to the best of his/her knowledge what services and products are available to the Association and direct the Board to appropriate professionals who can assist them in specific technical, legal, and consulting matters.

- Resident (General) Manager. The role of the Resident Manager is to supervise, coordinate, and manage all on-site activities. The Resident Manager should oversee contracts and supervise all association employees. Enforcement of the House rules and governing documents is a primary responsibility of the Resident manager to ensure that all residents' rights of quiet enjoyment of the property and quality of life are preserved. A report of the Resident Manager's activities should be provided on a regular basis to the Board of Directors and Managing Agent.
  
- Committees. The roles and duties of the Association Committees are delegated by the President or the Board of Directors. Committees will commonly be responsible for one aspect of the condominium property such as landscaping, buildings, or mechanical systems. The range of their responsibility will be from acquiring information and proposals to handling all negotiations and supervision of these projects, depending on the desires of the Board. Committees can be an effective means of preventing the entire Board of Directors from having to conduct additional meetings or spending extensive periods of time at their meetings on a single issue.

## PARLIAMENTARY PROCEDURE ROBERT'S RULES OF ORDER

Parliamentary Procedure, specifically Robert's Rules of Order, is a set of rules which are normally mandated by an Association's documents. They are used to conduct orderly Board and Association meetings. This book can be obtained by anyone from a local book store. Robert's Rules of Order through Parliamentary Procedures allow everyone to be heard in order to conduct discussions and make decisions without confusion. Parliamentary Procedure has a long history. It originated in the early English Parliament and came to America during the colonial times, and

became standard in 1876 when Henry M. Robert published his manual on Parliamentary Law.

Today, Robert's Rules of Order, Newly Revised, is the basic handbook of operation for most clubs, organizations, and other groups and is the recognized standard for Parliamentary Procedures as prescribed by Chapter 514B of the Hawaii Revised Statutes. Organizations using Parliamentary Procedures usually follow a fixed agenda. The Agenda allows the meeting to flow from Call to Order to Adjournment in a logical sequence, which permits all business that needs to be addressed to be discussed. Any item outside of the Agenda can be ruled Out of Order, if appropriate for the orderly conduct of business.

Decisions must be made in a logical manner, which allows for debate, protection of rights, saves time, and promotes democratic rule and flexibility. Parliamentary Procedures helps get things done, but it works only if used correctly; by making proper motions that are in order, obtaining the floor properly, speaking clearly and concisely, obeying the rules of debate, and most of all, being courteous.

Small Boards not need to use strict Parliamentary Procedures unless members get unruly. They usually can conduct business informally and much more effectively by using the small Board rules.

## RESERVE ACCOUNTS

The Board member's fiduciary responsibility includes prudent reserve fund management. Preservation of the Association's asset value and compliance with state regulations are primary issues in this process.

Future major repair and replacement obligations are to be adequately defined and funded. Reserve funds are accounted for separately from operating cash.

Long-term financial planning for major repairs and replacements is an integral part of the budgetary process. Originally mandated by the 1993 Hawaii Condominium Property Act, Chapter 514A, Hawaii Revised Statutes and currently dictated by 514B-148. The complete text and excellent summaries are available from your Management Executive.

The Act and its Administrative Rules require the following reserve information to be included in an annual operating budget that is distributed to the apartment owners:

- 1) Total replacement reserves and of the date of the budget.
- 2) Estimated replacement reserves the Association will acquire to maintain the property based on a reserve study performed by the Association.
- 3) General explanation of how the estimated replacement reserves are computed.
- 4) Amount that the Association must collect for the fiscal year to fund the estimated replacement reserves.

In addition, the following funding requirements apply and are now in effect:

- The Association must either assure that 50% of the Reserves are funded under the percent funded method or that it complies with the requirements of a 20 year cash-flow analysis.

A comprehensive Reserve Study will typically incorporate a twenty or thirty year financial plan with at least the following information:

- Identification of the Association's common area components, including in-service dates, life spans, remaining life, and replacement costs.

- Twenty or thirty-year expenditure schedules factored for estimated inflation.
- Long-term cash flow schedules with beginning cash balances, contributions, interest income, expenditures, and ending cash balances.
- Percent-funded information.
- Cash flow analysis

Reserves ensure that the Association will meet its obligations in the future as certain capital replacements or improvements are required. The reserve analysis, based on the updated inventory and realistic physical inspection report, will dictate the size and rate of growth of expenditures from the reserve fund(s) and project required increases in maintenance fees to ensure the fiscal stability of the Association.

## SECURITY

If the Association decides to provide security to owners, it is a decision to be made with some help from an Attorney and a Security advisor.

The level of security should be set by the Association after an examination of factors that exist or that might impact the level desired.

The Attorney is qualified to provide advice that might pertain in various situations. The Security advisor can provide a simple review of crime trends, protective devices, operating procedures and alternative considerations for the Board to consider.

Whatever the level of security the Association elects, the decision should be carefully studied and modified on a continuing basis. Changing

times, increasing risk, or a developing threat, could well warrant changes in the security posture of the Association.

## STANDARD OF CARE

What is the proper level of care that an Association must provide its owners? Community Associations Institute (CAI) defines the basic obligation of the Association to preserve, protect and enhance the value of the Association's assets. Certainly, the proper standard of care involves a variety of components. Legal decisions as well as statutory laws are very likely to impact this standard. Staffing should be considered along with the Association budget and reserves. In some cases, how other Associations function could be one of the components that constitute the proper standard of care.

The standard cuts across a number of Association concerns; governance, finances, security, and safety. Simply put, the Association must examine each phase of its operation. If it finds itself lacking in any area, it must then take measures to properly address the deficiency.

NOTES:

HAWAIIANA MANAGEMENT COMPANY, LTD.  
711 Kapiolani Boulevard, Suite 700  
Honolulu, Hawaii 96813

Frequently Called Numbers

Main Office Phone Number (808) 593-9100

A receptionist is available to personally answer your call during our normal business hours, 8:00 a.m. to 5:00 p.m. Monday through Friday.

Main Office Fax Number (808) 593-6333

Emergency After Hour Service Number (808) 593-6800

Emergency calls after hours should be made either to your Association's Resident Manager/General Manager who may be able to handle the emergency or our emergency service number. An Operator will answer and request information on the nature of the emergency, location, your name and telephone number. The Operator will then page the Community Association Manager on duty who will assist you.

Internet Home Page Address [www.hmcmgt.com](http://www.hmcmgt.com)

Maui Office (808) 270-3218

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