



# Hawaiian Properties, Ltd.

Annual Seminar for Board Members

Wednesday, August 26, 2026



# Employment Law for Condominium Associations:

Practical Guidance and Recent Updates

AUGUST 26, 2026

Presented By:

**D. Elliot Gonzalez, Esq.**  
**Director, Torkildson Katz A Law Corporation**



# Minimum Wage Update and Overtime Exemptions

☒ Minimum wage = \$16/hr

- Increase again to \$18/hr (minimum wage) in 2028

☒ Employees with guaranteed \$4,000/month salary are exempt



# Changes to FLSA “White-Collar” Exemptions

Executive, Administrative, Professional (“EAP”), which include computer and outside sales positions and highly compensated employee (“HCE”).

**Employees who meet requirements** of exemption tests in addition to minimum salary and salary basis tests are exempt.



**April 2024, the DOL published a final rule that would have:**

Raised the minimum salary threshold for the EAP exemptions to \$844 per week on July 1, 2024, and then to \$1,128 per week on January 1, 2025.

It also would have increased the HCE salary threshold to \$132,964 and to \$151,164 on the same respective dates.



**May 2026, the DOL formally rescinded the 2024 OT rule that increased the minimum salary levels.**



**Restores the 2019 salary levels: \$684/week for EAP exemptions and \$107,432 for HCE.**

# Equal Pay (HRS § 378-2.3)

## Equal Pay for Substantially Similar Work

No disparity based on a  
protected category

## Permissible Differentials

Seniority, merit,  
production-based  
systems, BFOQ, or other  
non-protected factor

## Pay Transparency Protected

Can't retaliate against  
employees for  
discussing wages

# ***Gima v. City & Cnty. of Honolulu (Haw. Jun. 2025)***



Employee alleges her supervisor verbally harassed and abused her, causing her major depressive disorder and anxiety disorder.



She was “medically restricted” from working with her supervisor.



Employer places Employee on worker’s compensation leave, which she took intermittently for four years.



Employee asked but Employer denied request for a new supervisor.



She returns to work after her supervisor retires but new supervisor issues unsatisfactory performance review and demotes her.



# ***Gima v. City & Cnty. of Honolulu*** **(Haw. Jun. 2025)** **(continued)**



Employee alleges demotion based on new supervisor's knowledge of her disability and conflict with previous supervisor.



Hawaii Supreme Court held Employee's request for an alternate supervisor was not unreasonable as a matter of law.



Employer needed to show it could not have assigned her to a new supervisor without undue hardship.

# Review of Protected Categories

State law protects more groups than federal law

Race  
Color  
Ethnicity  
National Origin  
Citizenship  
Ancestry  
Union Affiliation/  
Support

Sex  
Sexual Orientation  
Gender Identity  
Religion  
Age  
Work Injury Status  
Military/Veteran  
Status

Disability  
Marital Status  
Reproductive Health  
Decisions  
Genetic Information  
Pregnancy  
Victim of DV or  
Sexual Violence

## Other protected categories

Credit History – requires consent to  
obtain and disclosure of use

Arrest and Court Record – exceptions  
for rationally related





# ***Ames v. Ohio Dep't of Youth Svcs. (2025)***

No higher standard  
for proving  
discrimination against  
majority groups

Impliedly affirmed  
"sex" includes sexual  
orientation for  
purposes of federal  
sex discrimination laws



## HRS § 378-32

Prohibits an employer from suspending, discharging, or otherwise discriminating against an employee **solely** because of a work injury.

However, the employer may suspend or discharge an employee who has suffered a compensable industrial injury when:

- The employee is no longer capable of performing the employee's work as a result of the work injury; and
- Employer has no other available work the employee is capable of performing.

Employer is obligated to offer the employee 1st preference of reemployment in any position the employee is capable of performing that subsequently becomes available.

This duty of the employer expires upon the employee's subsequent employment.

Employers should exercise **great caution** and speak with legal counsel before proceeding with discharge.

Ability to discharge the employee may be further limited by disability law and/or the FMLA.

Does not apply to any employer in whose employment there are less than 3 employees at the time of the work injury or who is a party to a CBA which prevents the continued employment or reemployment of the injured employee.

# ***BCI Coca-Cola Bottling Co. of L.A., Inc. v. Murakami*** (Haw. Sup. Ct. 2019)



## **Facts**

An injured employee took a leave of absence due to a compensable work injury. After 10 months of leave, BCI hired a permanent replacement. When cleared to return to work, BCI failed to reinstate employee to her prior position, offering only lesser roles.



## **Holding**

HRS § 378-32(2) prohibits employers from discriminating against an employee who suffers a workplace injury. BCI failed to prove it had a legitimate business necessity for permanently filling Josue's job. The Court affirmed the DOL's finding of unlawful discrimination.



# ***BCI Coca-Cola Bottling Co. of L.A., Inc. v. Murakami*** (Haw. Sup. Ct. 2019) (continued)



## **Analysis**

- To show business necessity, the employer must prove the worker's absence caused a business impairment that could not be overcome through other means, such as hiring a temporary worker to fill the position until the employee could return.
- The discharged employee remains entitled to 1st preference of reemployment in any position which the employee is capable of performing and which becomes available after the discharge until the employee finds new employment.
- An indefinite leave or leave expected to be of a significantly prolonged duration will impact the feasibility of alternatives to replacement.



## **Key Takeaway**

Employers should document the business impairment and establish why alternatives to replacement such as overtime, temp hires, transfers and holding open another position are not "feasible" alternatives.

# Use Your Playbooks Consistently

## Internal Documents

Employee Handbook

Company Policies and  
Procedures

Job Descriptions and  
Job Postings

## Pre-Hire Checklist

Job Description  
Accurate?

Internal Procedures/SOP  
Compliant/Current?

Arbitration Agreements  
Compliant/Current?

Non-Competes Current?

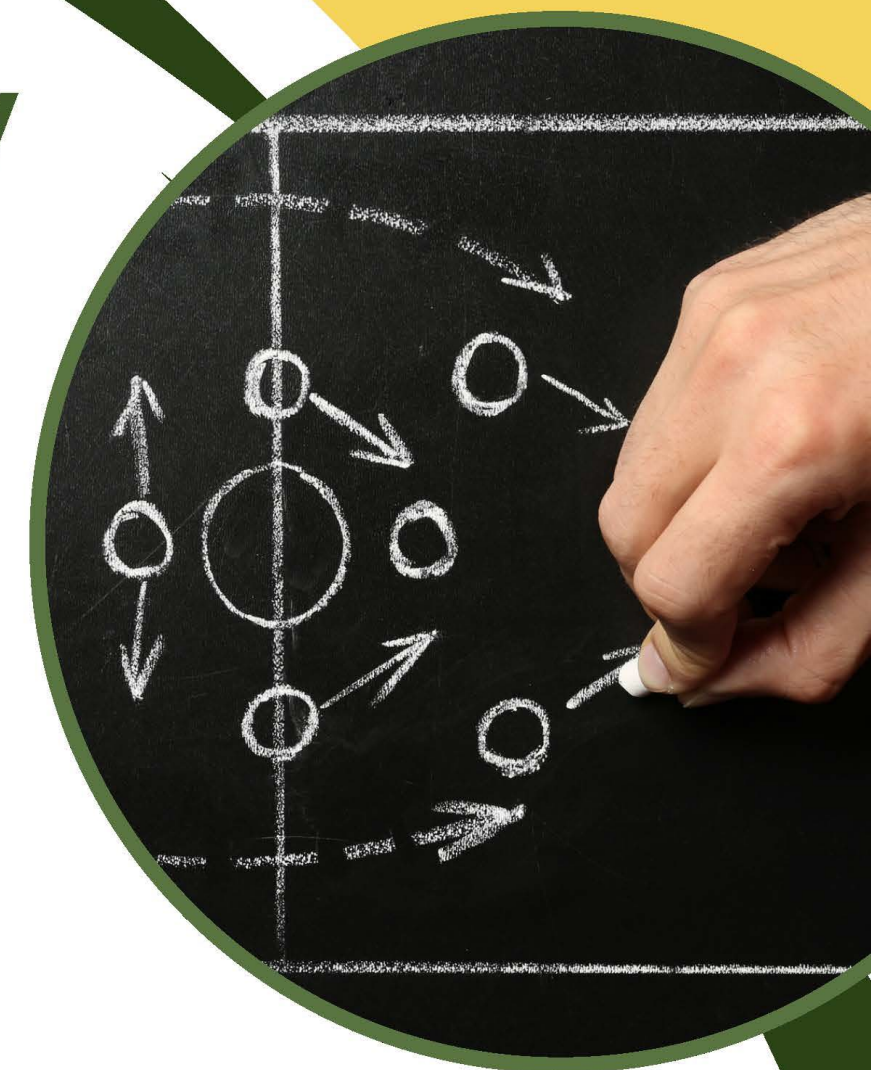
Job Listing Accurate?  
Salary Range Accurate?

Application Paperwork  
Compliant/Current?

Other Employment  
Agreements  
Compliant/Current?

Employee Handbook  
Current?

Onboarding Documents  
Compliant/Current?  
(Disclosures/Consent  
Forms)



# The Interactive Process

Once a request is made, employer must engage in the interactive process.



The process involves determining whether the employee has a disability, what accommodations are possible, or both.



Primary consideration should be given to the employee's choice.



Employer may ultimately choose from among accommodations, as long as the one provided is effective.



Requires documentation.



# The Interactive Process (continued)

Requires communication and good-faith exploration of possible accommodations between the employer and employee

**No fixed amount of time  
and process can be lengthy.**



***Hamilton v. GlaxoSmithKline, LLC***  
**(D. Mont. 2019):**

Approximately 7 months of interactive process



***Alejandro v. ST Micro Elecs., Inc.***  
**(N.D. Cal. 2016):**

Approximately 8–9 months of interactive process



***Cooper v. Dignity Health*** **(D. Ariz. 2020):**

Approximately 8–9 months of interactive process



**Patience can be a virtue**

In each of these cases, the Court granted summary judgment in the employer's favor and found the employer satisfied its interactive process obligations.

# How Long is a “Reasonable” Leave?



A lengthy leave of absence may be found reasonable

An indefinite leave of absence, on the other hand, may not be a reasonable accommodation



***Norris v. Allied-Sysco Food Servs., Inc.*** (N.D. Cal. 1996): 14-month leave found potentially reasonable

Jury verdict of \$300,000 for the Plaintiff and \$247,840 in attorneys’ fees; affirmed on appeal



***Chan v. Wells Fargo Advisors, LLC*** (D. Haw. 2015): 22-month leave was not unreasonable

The matter proceeded through another year of litigation and eventually settled shortly before trial

# Workplace Investigations

- Maintain clear complaint reporting channels and procedures before problems arise.
- Act promptly after receiving a complaint or learning of possible misconduct.
- Evaluate conflicts of interest on the Board and consider creating a special committee to handle the investigation.
- Define the investigation's scope, timing, and methods at the outset.



- Choose the investigator carefully.
- Review relevant documents and interview all material witnesses, including the complaint, accused and any other witnesses.
- Conduct interviews in a fair, professional, and thorough manner.
- Protect confidentiality appropriately, but do not promise absolute secrecy.
- Reach findings and conclusions, including remedial and corrective action.
- Prepare investigation report.
- Communicate the outcome, and monitor for retaliation or recurrence.

# Discharge: Separation Agreements

**When to use?**

**How much to  
offer?**

**What if they  
refuse?**

**What should be included?**

Return of Property

Release and Waiver of all claims

Representation that no charges, complaints, or lawsuits filed;  
wages and compensation have been received

Consideration: a lump sum, a period of continuing salary, or  
benefits

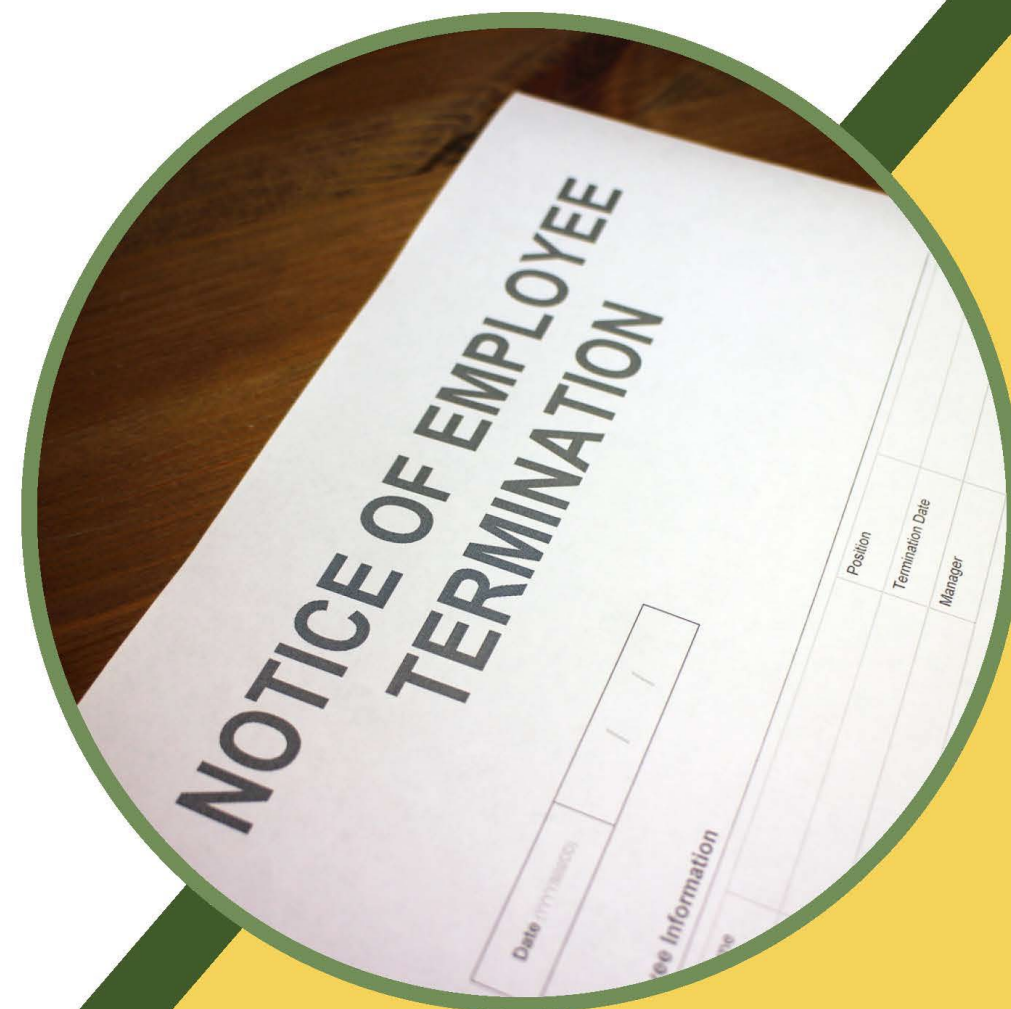
# Discharge: Delivering the Termination Notification

Written vs. Verbal?  
Who should do it?

Who should be present?  
Does day/time matter?

Should you give  
a reason?

Final paycheck  
Return of company  
property



# Mahalo!



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# Hawaiian Properties, Ltd.

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Vendor Giveaway



HAWAIIAN  
PROPERTIES  
SEMINAR  
AUGUST 26, 2026

# **Before The Breaking Point**

What Every Board Should Know About Building Safety  
& Reserves

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BERDING | WEIL



Bill McKeon  
Partner



Kyle Pineo  
Associate



# BERDING | WEIL

High quality, client-focused legal services from the largest and most experienced common interest development and construction defect law firm in California and Hawaii.

38

Years in Business

38

Attorneys

8k+

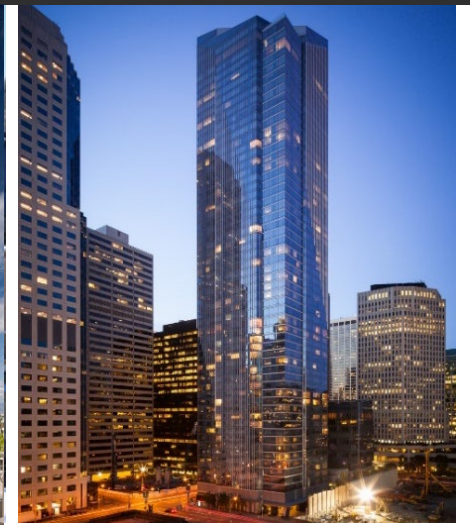
Clients Represented

\$2.2B

Recovered

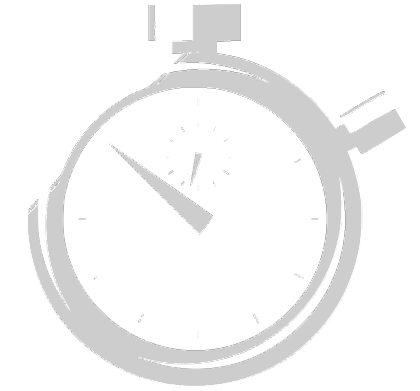
# Over \$2.2 Billion in Recoveries and Representative Cases

- Waiea Tower Honolulu
- The Watermark Tower Waikiki
- The Peninsula at Hawaii Kai
- The Point at Poipu
- Ku'au Bayview at Paia
- Kahului Ikena
- The Terraces at Manele
- Holo Holo Ku at Waimea
- Ho'olei at Wailea
- Kehalani Gardens
- The Villas at Kehalani
- Ho'ole'a Terrace
- Opukea at Lahaina
- Golf Villas at Kapalua
- Honokeana Cove
- Kamalani at Kihei
- Wailea Ekolu
- Millennium Tower
- The Ritz Carlton Bacara
- The Irvine Company
- Intuit
- Trinity Properties
- American Cemwood Class
- Cal Roof Shake Class Action
- Olen Residential
- Carmel Partners
- Laurels Apartments
- Redwoods Apartments
- North Star Tahoe
- Montclair HOA
- 270 & 280 Valencia St
- 17 Brosnan St Owners Assoc.
- Symphony Towers OA



# Agenda

- 1. Lessons from Failure**
- 2. Recognizing the Risk**
- 3. From Inspection to Reserves**
- 4. Taking Action Before the Breaking Point**



# Lessons from Failure

# Champlain Towers South, Surfside



**Surfside, Florida | June 24, 2021**

Champlain Tower South collapsed killing 98 people in the middle of the night

No previous signs of distress or damage

## **CAUSES:**

- Long-term degradation of reinforced concrete structural supports
- Water penetration and corrosion of reinforcing steel



© splashnews.com



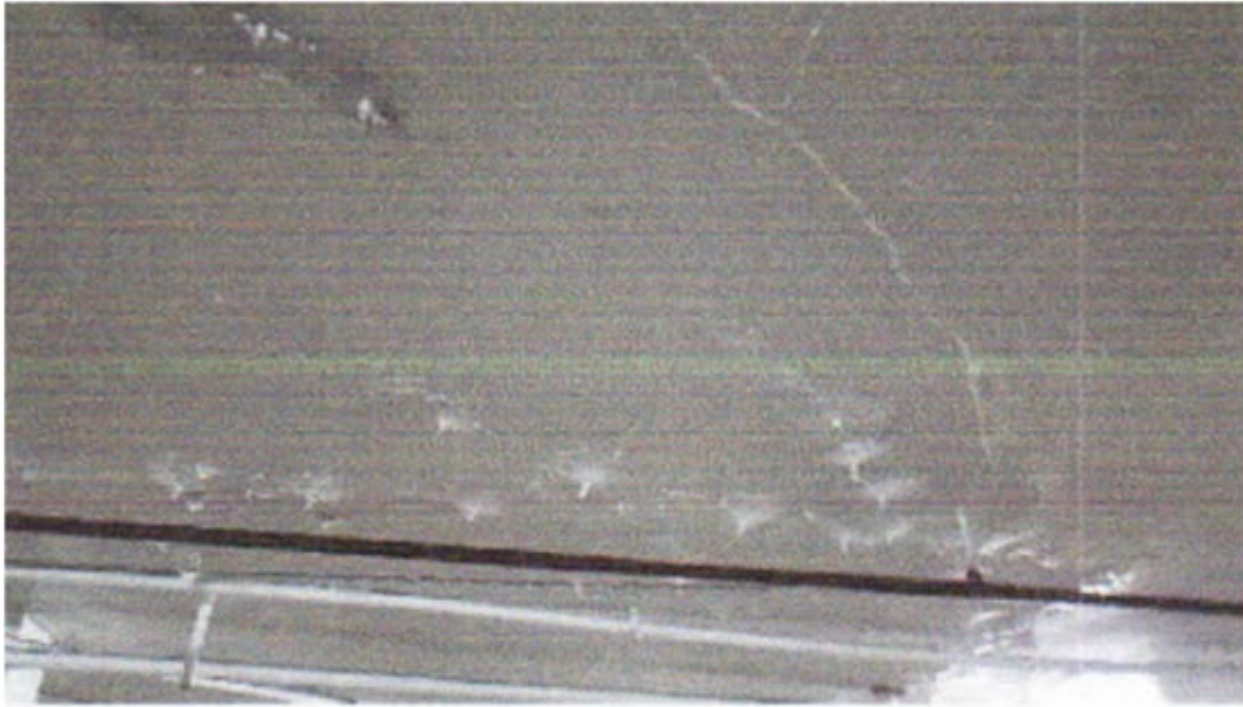


Figure K1: Previously installed failed injection repairs with leaching forming

# The Shores of Maui



**Kihei, Maui | June 14, 2026**

50 year old condominium

Balcony collapses injuring 6 people.

Second story lanai detached from the building.

Guest review from 2023 reported balcony was unstable.

Official cause still under investigation. Visible failure was sudden. Deterioration may not have been. Proximity to ocean may

# The Berkeley Balcony Collapse



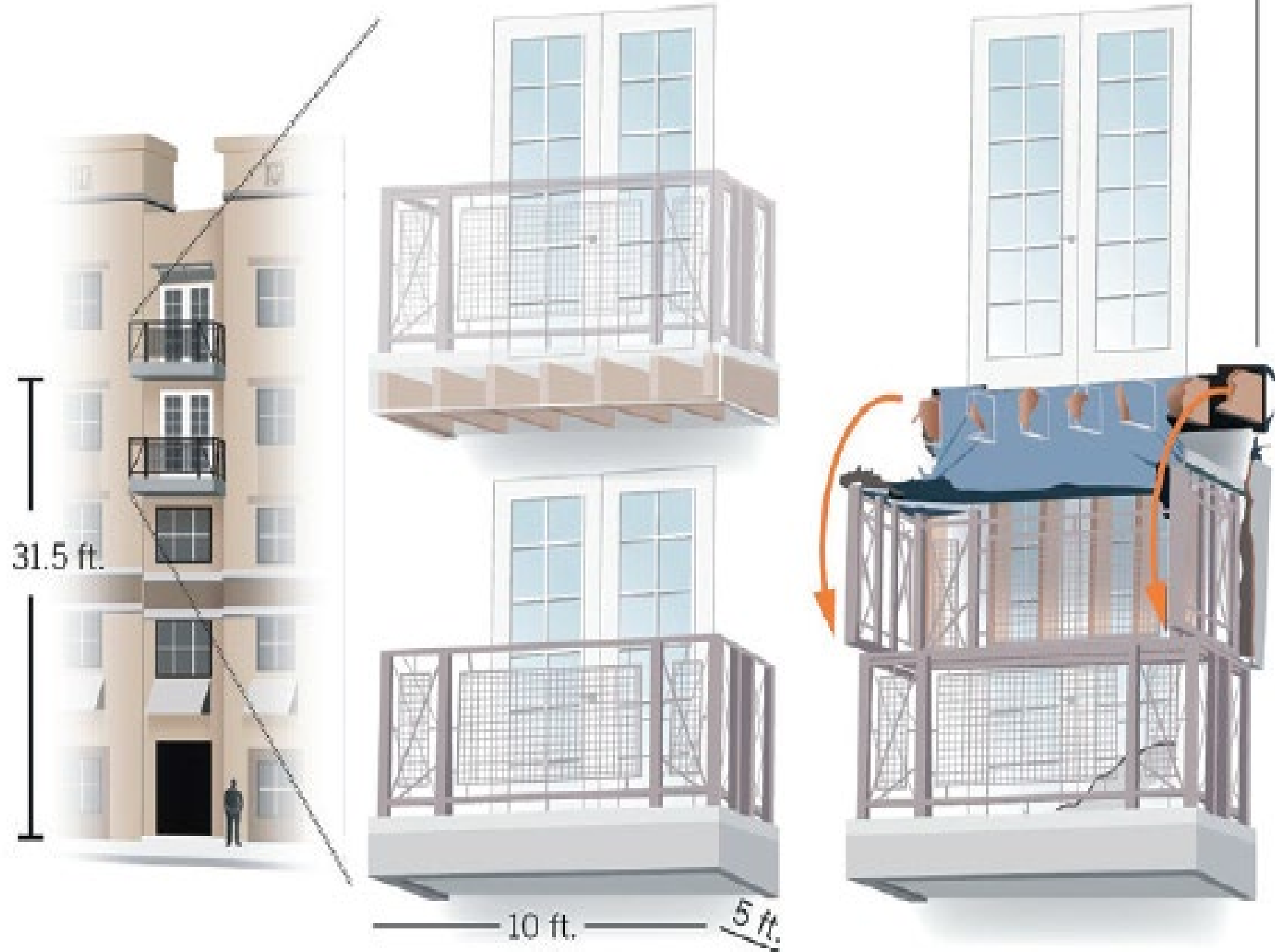
**Berkeley, California | June 16, 2015**

Balcony collapses killing six college students

No previous signs of distress or damage

## **CAUSES:**

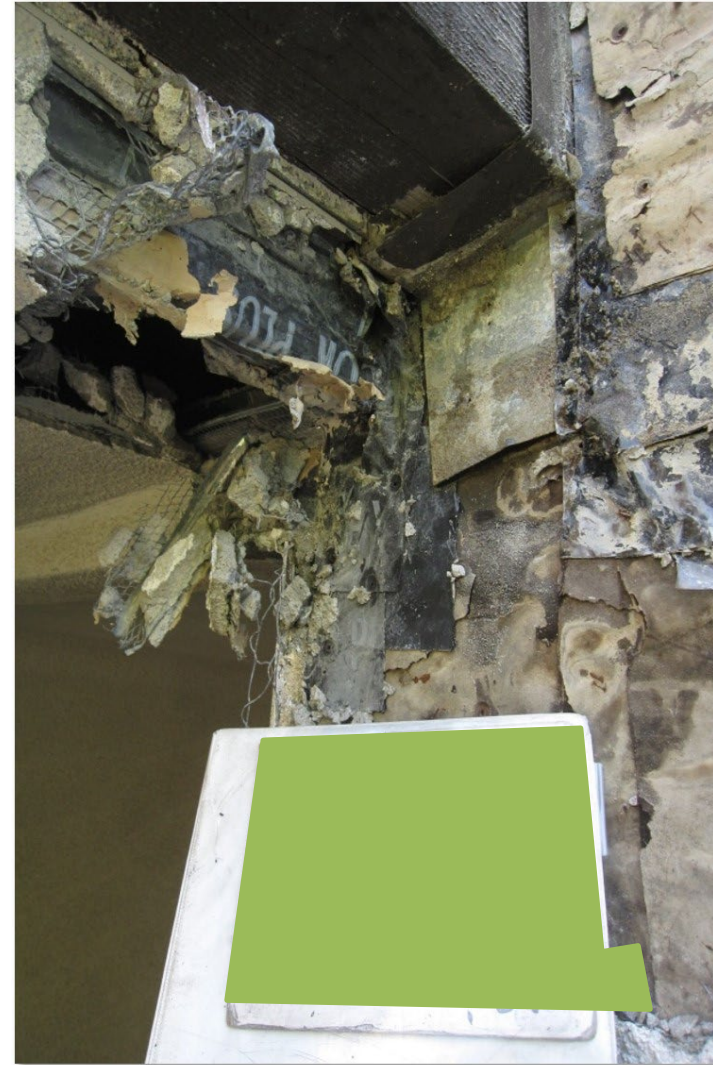
- Contractor used cheaper, weaker material than plans specified.
- Material became waterlogged after a sub-subcontractor failed to install waterproofing membrane to keep out moisture.







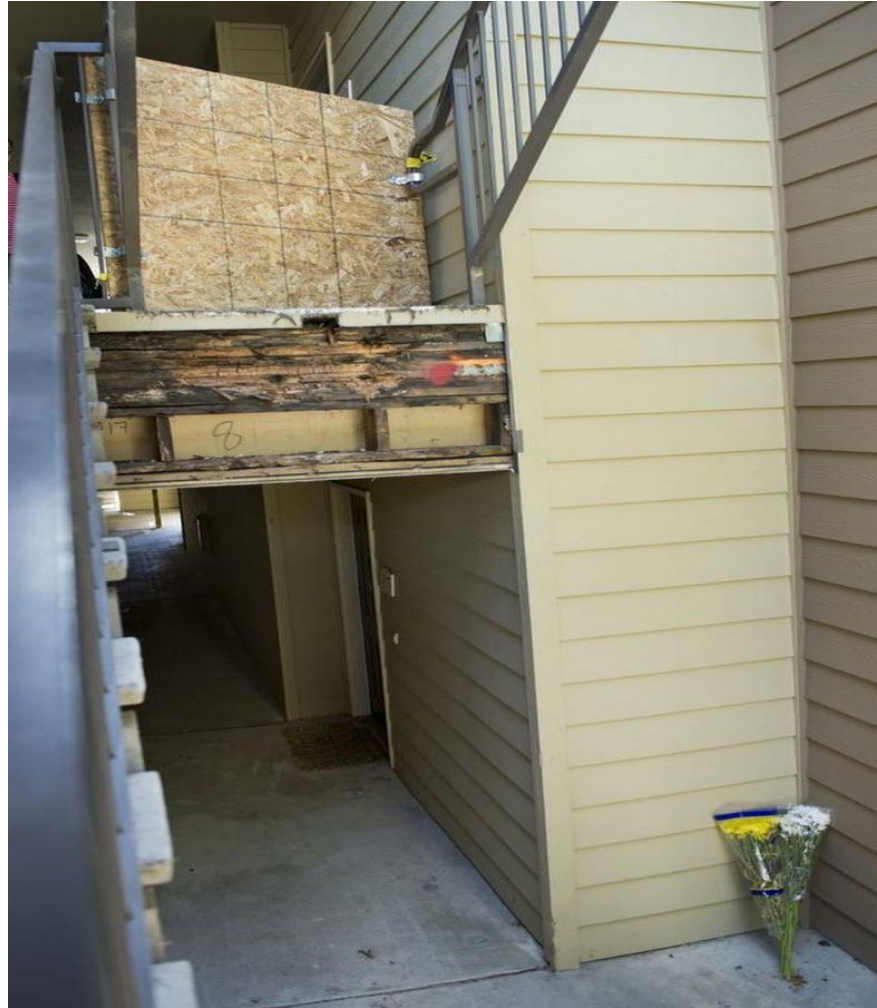
# Other Balcony / Deck Damage



# Other Balcony / Deck Damage



# Folsom Staircase Collapse



**Folsom, California | July 6, 2015**

Exterior staircase collapsed killing a 26 year old

Other staircases propped with temporary shoring

**CAUSES:**

- Dry rot from water intrusion





# Other Stairway / Landing Damage



# Recognizing the Risk



# What the Failures Have in Common

1

## WATER

Gets in.



2

## DETERIORATION

Develops over time.



3

## WARNING SIGNS

Can be hidden or overlooked.



4

## DELAY

Allows the problem to grow.



5

## FAILURE

Can happen suddenly.



Different structures. Different materials. The same governance problem: risk can stay hidden until the margin is gone.

# From Inspection to Reserves





# Safety & Reserves

A reserve study tells you what you expect to spend.

An inspection tells you what your building actually needs.

## STRUCTURAL INSPECTION

- ✓ Current condition
- ✓ Safety concerns
- ✓ Repair priorities

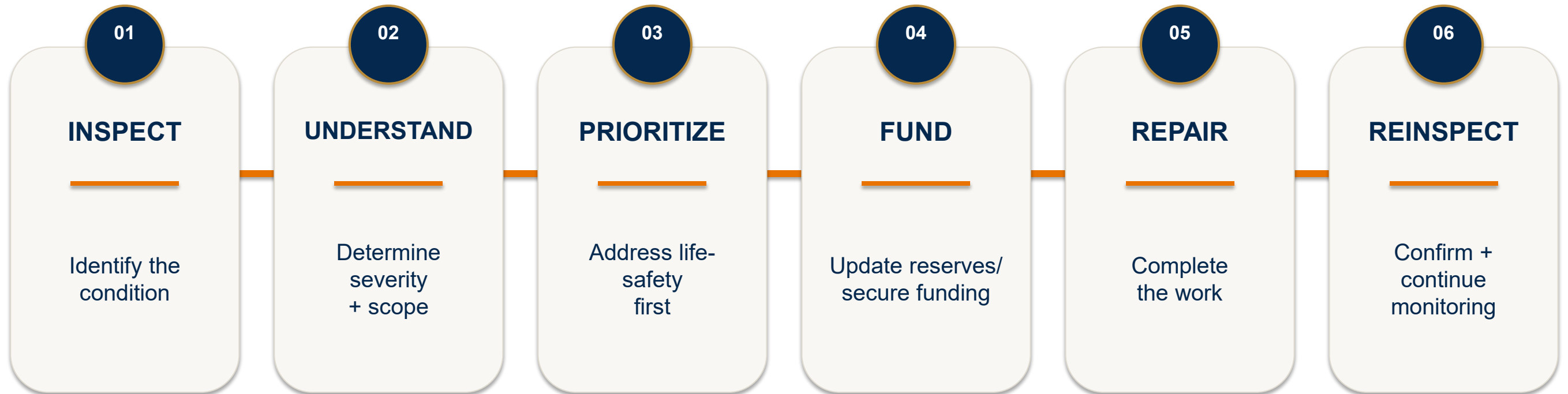
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## RESERVE STUDY

- ✓ Expected useful life
- ✓ Anticipated costs
- ✓ Funding plan

When conditions change, the reserve plan should change with them.

# From Finding → Fix



# Taking Action Before the Breaking Point



# Managers & Boards

Different Roles, Shared Responsibility

## Property Managers

- Document conditions
- Escalate safety concerns
- Preserve reports + photos
- Track recommendations
- Flag unresolved issues

## Board Members

- Authorize investigation
- Review professional findings
- Prioritize safety
- Fund necessary work
- Track decisions + completion

**SHARED DUTY: Keep the issue moving until it is responsibly resolved.**

# Avoiding a Catastrophe

## **Early Investigation and Detection**

Do not wait for catastrophic failure. Investigate early in areas that are not normally accessible or visible.

## **Consult the Right Professionals**

Include an engineer and/or architect in the inspection and review their reports carefully.

## **Be Proactive**

If the professionals identify a problem, do not delay in seeking a resolution. Continue periodic investigations.

# When a Warning Sign Appears

## Secure

Restrict access if there may be an immediate safety concern.

## Document

Photograph the condition and preserve reports/history.

## Escalate

Notify board leadership and appropriate professionals.

## Investigate

Get written findings and recommended next steps.

## Act

Address temporary measures, funding and permanent repairs.

## Track

Follow the issue through completion and reinspection.

# Five Questions Every Board Should Answer

- 1 What exterior elevated or structural common elements do we have?
- 2 When were they last inspected by an appropriate professional?
- 3 What recommendations remain open?
- 4 Are the necessary repairs adequately funded?
- 5 Who is responsible for tracking each item through completion?

**The goal is not to predict every failure. It is to prevent known risks from being ignored.**

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# Hawaiian Properties, Ltd.

Annual Seminar for Board Members

Vendor Giveaway

1. Collections - Adopt a Policy and Follow it!
2. Board Meetings - If they are lasting longer than 90 Minutes, what are you doing wrong?
3. Requests for Association Documents - How Boards and the Managing Agent can avoid the Minefield!
4. Fair Housing Act - Dog and Disabilities.

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# DISCLAIMER

- ▶ This presentation is intended only to provide a general overview of selected topics of interest to Hawaii condominium and community associations, and their respective directors, owners, employees and/or managing agents, and is not intended nor should be construed or relied upon as the providing of legal advice to any person or entity. Any person or entity seeking legal advice regarding any of the topics discussed herein should consult with an attorney of their choice, and/or if you are a director, employee, owner or member of a condominium or community association, it is recommended that you consult with your association's general legal counsel.

# COLLECTIONS

## ADOPT A POLICY REMOVING BOARD DISCRETION FROM COLLECTION DELINQUENCY COLLECTION PROCESS:

- ▶ Managing Agent typically sends up to 3 written notices to the delinquent owner (generally 15-30 days between each notice).
- ▶ Board should consider adoption of a policy, which may be part of Priority of Payment Policy (next slide) providing that 30-days after the Managing Agent sends the 3rd written notice, and if no payment has been received, nor a payment plan as not been requested by the owner, the Managing Agent is authorized to automatically refer the account to the Association's attorney for collection, unless the Board directs otherwise.
- ▶ Third Notice should inform owner that account will be referred to legal collection if no payment received by deadline stated therein.
- ▶ Applies to Condo, Community/HOA Associations.

# COLLECTIONS

## HRS 514B-105(c): PRIORITY OF PAYMENT POLICY:

- ▶ (c) Any payments made by or on behalf of a unit owner shall **first be applied to outstanding common expenses** that are assessed to all unit owners in proportion to the common interest appurtenant to their respective units, including commercial property assessed financing assessment expenses incurred for improvements financed pursuant to section 196-64.5. **Only after the outstanding common expenses have been paid in full may the payments be applied to other charges owed to the association,** including assessed charges to the unit such as ground lease rent, utility sub-metering, storage lockers, parking stalls, boat slips, insurance deductibles, and cable. After these charges are paid, other charges, including unpaid late fees, legal fees, fines, and interest, may be assessed in accordance with an application of payment policy adopted by the board; provided that if a unit owner has designated that any payment is for a specific charge that is not a common expense as described in this subsection, the payment may be applied in accordance with the unit owner's designation even if common expenses remain outstanding.
- ▶ HRS 421J does not mandate above, but HOAs may adopt a policy so all owners/members are advised how their payments are applied and does not conflict with governing documents (Declaration/Bylaws).

# COLLECTIONS

## TAKEAWAYS:

1. **Automate Delinquency Collection Procedures.** This saves time at Board Meetings and eliminates the Board's **subjective** exercise of discretion for the collection of delinquencies which is an **objective** duty of the Board.
2. **Priority of Payment Policy.** Consult with the Managing Agent or Association Attorney for drafting of a policy which complies with Hawaii law and addresses any unique circumstances applicable to your association, however, as **described in this subsection, the payment must be applied in accordance with the unit owner's designation even if common expenses remain outstanding.**
3. **HRS 421J Community/HOAs may adopt either or both of the above-described policies, **following consultation with your attorney** to advise whether such policies are appropriate for your project and do not violate governing documents.**

# BOARD MEETINGS

## ADOPT BOARD MEETING RULES!

§514B-125 Board meetings. (a) All meetings of the board, other than executive sessions, shall be open to all members of the association, and association members who are not on the board shall be permitted to participate in any deliberation or discussion, other than executive sessions, pursuant to owner participation rules adopted by the board.

(b) The board may establish rules for owner participation in any deliberation or discussion at board meetings, other than executive sessions. A board that establishes such rules pursuant to this subsection:

- (1) Shall notify all owners of these rules; and
- (2) May amend these rules at any regular or duly noticed special meeting of the board; provided that all owners shall be notified of any adopted amendments.

The board may make the rules available to owners on an association website.

# BOARD MEETINGS

## SAMPLE BOARD MEETING RULES

[inclusive of Owner Participation Rules pursuant to HRS §514B-125(b)]

1. All attendees (including those attending via web-conference or teleconference, if applicable) must register by providing their name (and representative capacity, if applicable) and unit number with the Property Manager or Secretary before the Board Meeting starts.
2. This is a private meeting and attendance is restricted to: (a) Owners, (b) Directors, (c) Property Manager and/or other representative(s) of the Managing Agent, (d) Association Staff, and (e) any other individual(s) who have been specifically invited by the Board or the Board President. All others are required to leave the Board Meeting or disconnect if attending via web-conference or teleconference.
3. At the discretion of the Board, a total time of [15/20/30] minutes may be allocated prior, during, or after the Board Meeting to conduct an Owners Forum whereby: (a) owners who are not Directors and desire to speak must stand (or request to be recognized by the Chair utilizing raised hand or similar command if attending via web-conference or teleconference) and be recognized by the Chair before speaking, (b) each owner will have [2/3] minutes per speech, and (c) owners must state their name and unit number each time before speaking.
4. The Chair may require motions and amendments to be in writing. (Only Directors are permitted to make motions and/or amendments to motions).
5. Seconds of motions are not required as stated in Robert's Rules of Order for small boards.
6. The Chair may permit informal discussion of a subject without a motion if there is no objection from the Directors. If an objection is raised by a Director a motion must then be adopted to permit informal discussion without a motion.
7. The Chair may permit discussion on a report or a specific subject without a motion for a maximum of 5 minutes unless extended by the Board.

## SAMPLE BOARD MEETING RULES cont'd

# BOARD MEETINGS

8. In accordance with Hawaii Revised Statutes Section 514B-125(a), owners shall be permitted to participate in any deliberation or discussion at Board Meetings, other than during executive sessions. In order to allow all owners and Directors an opportunity to speak, the debate limit is reduced to 2 minutes for each speech, unless extended by the Board.

9. Recognition of Owners: Only the Chair has the authority to call on owners present who wish to speak if they so choose. This ensures orderly and respectful communication during the meeting, allowing the Chair to manage the flow of discussion and provide equal opportunities for owners to express their views.

10. The total debate limit for any pending main motion and its amendments is 10 minutes, unless extended by the Board.

11. All remarks are only to be directed to the Chair, not directed to other members or attendees. The use of personal attacks, vulgarity, profanity or offensive language can result in loss of debate privileges and/or removal from the Board Meeting.

12. No video, audio or other recording of any meeting is permitted during any of the proceedings (except by the Chair, Association-retained parliamentarian, and/or the party producing the minutes) unless first approved by the Board.

13. Any recordings of meetings made by or at the direction of the Board for producing the minutes shall promptly be destroyed upon approval of such minutes by the Board.

14. New Items: Only the Board President or a Director with prior Board approval may introduce new items for discussion or consideration during the Board Meeting. This ensures that all Directors have sufficient time to review and research the new item before engaging in a meaningful discussion. No new items shall be addressed unless they are included on the current agenda. This rule promotes efficient and focused meetings.

# BOARD MEETINGS

## SAMPLE BOARD MEETING RULES cont'd

15. The following procedure applies to one or more Directors and/or owners attending in person, via web-conference or teleconference:

a. Directors (or owners) must identify themselves before speaking.

b. Recognition for debatable motions will: (1) begin with the Director who made the motion (if the Director wishes to speak first), (2) proceed with Directors who are physically present, (3) alphabetically by last name with those Directors present by web-conference followed alphabetically by last name by those Directors present by teleconference; (4) owners physically present, followed by owners present by web-conference, then owners present by teleconference, in such order within groups as owners desiring to speak are recognized by the Chair.

c. Upon conclusion of participation in discussion by owners, Directors who then wish to speak a second time on a debatable motion shall wait until other Directors who have not yet spoken have had an opportunity to speak.

16. Following issuance of one or more warnings in accordance with the latest edition of Robert's Rules of Order, the Chair is authorized to remove any non-Director attendee from a Board Meeting for any violation(s) of these Rules, whereby a non-Director attendee shall have no right to appeal the Chair's decision.

17. In accordance with Robert's Rules of Order, removal of a Director from a Board Meeting shall require a vote of the Board.

Note: These Rules are designed to ensure an orderly and fair decision-making process during Board Meetings. All attendees are expected to adhere to these Rules in accordance with the latest edition of Robert's Rules of Order.

# BOARD MEETINGS

## TAKEAWAYS:

1. **Adopt Board Meetings.**
2. **Use a timer.** Preferably a **digital timer** the speaker (including Directors) can see while speaking so the speaker is aware of the remaining time and not need be interrupted by the Chair until time has expired.
3. **Enforce the rules.** Chair should call violators to order, and frequent violations (i.e., more than 2-3 violations) after the violator is provided clear warnings from the Chair, should result in removal of the violator from the meeting. Should the violator refuse to leave the meeting when removed by the Chair should consider adjourning the meeting.
4. **Solicit Agenda Items** from Directors and/or Distribute Draft Meeting Agenda to Board for Review. This procedure will assist Directors in preparation for the Board Meeting and reduce chances of an unanticipated agenda item being discussed or considered at the Board Meeting.
5. **Use Owners Forum.** Although not required by Hawaii law, nor should be part of any Board Meeting, but it can be a useful tool to limit consideration of matters not scheduled to be discussed at Board Meetings.
  - A. Conduct Prior to Board Meeting being Called to Order.
  - B. The Posted Notice of Meeting should advise owners that Owners Forum will be conducted **before** the Board Meeting is Called to Order.
  - C. Purpose of Owners Forum.
    - A. Opportunity for Owners to advise Board of concerns.
    - B. No Board action/decisions (i.e., vote) will be taken at Owners Forum, but the Chair may refer concerns to the Managing Agent, Resident/Site Menager and/or Vendor (if applicable) or simply advise that the Board will consider the matter at a future Board Meeting.
    - C. Advise Owners the **Board Meeting Rules will apply** at Owners Forum as this will allow the Board to hear from as many owners as possible.

# ASSOCIATION DOCUMENT REQUESTS

**Condominium Associations.** Owners in condominium associations (“AOAO”) organized pursuant to Hawaii Revised Statutes (“HRS”), Chapter 514B (“Condominium Property Act”) are entitled by law to **MANY** types of documents commonly maintained by a condominium association. The primary controlling statute is HRS §514B-154.5 accessible at:

[https://www.capitol.hawaii.gov/hrscurrent/Vol12\\_Ch0501-0588/HRS0514B/HRS\\_0514B-0154\\_0005.htm](https://www.capitol.hawaii.gov/hrscurrent/Vol12_Ch0501-0588/HRS0514B/HRS_0514B-0154_0005.htm)

**Community (HOA) Associations.** Members of community associations/HOAs organized pursuant to Hawaii Revised Statutes, Chapter 421J are entitled by law to association documents, the list and types of documents is **less extensive** than condominium associations. The primary controlling statute is HRS §421J-7 accessible at:

[https://www.capitol.hawaii.gov/hrscurrent/Vol08\\_Ch0401-0429/HRS0421J/HRS\\_0421J-0007.htm](https://www.capitol.hawaii.gov/hrscurrent/Vol08_Ch0401-0429/HRS0421J/HRS_0421J-0007.htm)

# ASSOCIATION DOCUMENT REQUESTS

30-day response deadline applies unless otherwise indicated.

- ▶ Disclosures related to the resale of units (documents typically provided by association/managing agent) to prospective purchasers and mortgage lenders.
- ▶ Declaration, bylaws, house rules, master lease (if any), sample original conveyance document, and all public reports and any amendments thereto.
- ▶ Receipts and expenditures for maintenance and repair of the common elements.
- ▶ Total current delinquent dollar amount of any unpaid assessments for common expenses.
- ▶ Records and the vouchers authorizing the payments and statements.
- ▶ All agreements for managing the operation of the property (financial and accounting services).
- ▶ Current list of names and addresses of members/owners. (Affidavit can be required—Check with your Managing Agent)
- ▶ Current financial statement.
- ▶ Board and Association Meeting minutes. 15-day response deadline applies
- ▶ Financial statements, general ledgers, the accounts receivable ledger, accounts payable ledgers, check ledgers, insurance policies, contracts, and invoices of the association. (Affidavit can be required—Check with your Managing Agent)
- ▶ Documents regarding delinquencies of 90 days or more. (Affidavit can be required—Check with your Managing Agent)
- ▶ Proxies, tally sheets, ballots, unit owners' check-in lists, and the certificate of election (may be destroyed 90 days after meeting unless unresolved contested election is pending).
- ▶ Management (Managing Agent) contract.
- ▶ Resident/Site/General Manager's employment agreement/contract including written job description and compensation (personal information may be redacted).

# ASSOCIATION DOCUMENT REQUESTS

## RECOMMENDED PROCEDURE:

### Calendar the response deadline(s) upon receipt of any Request:

- ▶ 15 or 30-day Deadline
- ▶ 20-day Deadline (generally) to advise owner of any charges
- ▶ Immediately refer any Owner's Request to Property Manager/Managing Agent.
- ▶ Association can charge the requesting owner for some Association documents, but the Association generally cannot charge for the first 8 hours of time incurred annually to responding to owner document requests—8 hr. limit applies per association **not** per unit owner).
- ▶ Owner must be provided not less than 10 days prior notice to being assessed any charges to produce some Association documents and may withdraw the request upon receipt of the notice of the charges.
- ▶ The Managing Agent/Association may also charge **administrative and duplicating costs** which cannot exceed \$1.00 per page.
- ▶ Failure to timely or properly comply with an Owner's Request for Association documents can result in filing of a Complaint with the DCCA (which regulates both Managing Agents and condominium associations) and/or the filing of a lawsuit.
- ▶ Some documents may warrant review by the Association attorney before they are produced, particularly Executive Session Board Meeting Minutes and attorney communications.

# FAIR HOUSING ACT - DOG AND DISABILITIES

The Fair Housing Act makes it illegal to discriminate or harass persons because of race, color, religion, sex (including gender identity and sexual orientation), **disability**, familial status, or national origin when renting or buying a home, getting a mortgage, seeking housing assistance, or engaging in other housing-related activities.

Associations typically get sued for alleged violations of the Fair Housing Act arising from denial of **disabled resident**'s right to use of assistance animal(s).

# FAIR HOUSING ACT - DOG AND DISABILITIES

- ▶ Denial of disabled resident's right to use of assistance animals often results in a Discrimination being filed against the Association.
- ▶ Assistance Animal: An assistance animal is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or that provides emotional support that alleviates one or more identified effects of a person's disability.
- ▶ Assistance Animals, including Emotional Support Animals (ESA) are **not pets**. Pet restrictions in governing documents **do not apply to ESAs**. This includes, weight, breed or size restrictions and/or a maximum number of **pets** in an apartment do not apply to ESAs.
- ▶ Association may require **written healthcare provider verification** of resident's disability need for Assistance animal(s), unless the disability is obvious (blind person). Obtain recommended forms from your Association attorney.
- ▶ Assistance Animals do not require special training.  
**Update:** On May 22, 2026, the US Department of Housing and Urban Development (HUD) issued new **guidelines** requiring ESAs used by disabled residents be **trained** service animals. Whether these new guidelines will be upheld by courts is not yet known.
- ▶ Bottom line: Do not deny any ESA request prior to consultation with your Association attorney.

THE END





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Q&A



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Vendor Giveaway