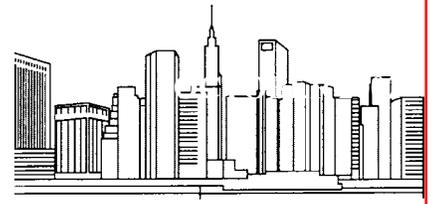
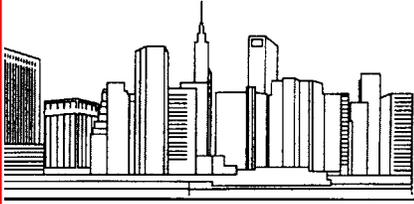


# HAWAII CONDOMINIUM BULLETIN



VOLUME 10 NO. 4

OCTOBER 2002

## Alert!—Re-registration Deadline

November 30, 2002, is the deadline for Condominium Hotel Operators (CHO) to re-register for the 2003/2004 biennial re-registration period. This re-registration applies to “broker-exempt” condominium hotel operators. As of June 14, 2001, licensed active brokers are no longer required to register.

Condominium Managing Agents (CMA) are also reminded to renew their real estate licenses by the November 30, 2002 deadline for the 2003/2004 license renewal period. Although licensees are no longer required to register as a condominium managing agent, their real estate license shall be current and active to engage in any real estate activity including managing the operation of the condominium property. Further, it is the association’s responsibility to check the status of the real estate broker.

Application forms for real estate license renewals (CHO included) were mailed around the middle of October 2002. The filing deadline is to ensure that registrants who submit com-

*See Re-registration Deadline on pg. 7*

## Recodifying Hawaii’s Condominium Property Regimes Law

The 2000 Legislature recognized that “[Hawaii’s] condominium property regimes law is unorganized, inconsistent, and obsolete in some areas, and micromanages condominium associations.”

Consequently, the Legislature directed the Hawaii Real Estate Commission to examine Hawaii’s condominium property regimes law and submit draft legislation to the 2003 Legislature to “update, clarify, organize, deregulate, and provide for consistency and ease of use of the condominium property regimes law.” (Act 213, SLH 2000.)

In January 2001, the Commission embarked on its ambitious effort to rewrite Hawaii’s Condominium Property Act (HRS Chapter 514A).

### Current Status

Tiger Woods frequently uses a term that describes

*See Recodifying pg. 7*

## Condominium Mediation on the Rise

On June 13, 2001, Section 514A-121.5, Hawaii Revised Statutes, was enacted. This law requires a condominium owner or the board of directors to mediate if either requests mediation of a dispute involving:

The interpretation or enforcement of the declaration, bylaws, and/or house rules; removal of board members; amendments of bylaws; notices of association meetings; solicitation, voting and distribution of proxies; director’s conflict of interest; right of access to apartments; owners acting as officers and employees of managing agents; association employees selling/renting apartments; notice

and board meetings; expending association funds for director travel/fees/per diem; providing board members with declaration, bylaws, house rules and Section 514A, HRS, Association expenses to educate directors; enforcing liens; background check on condominium employees; board representation in mixed use condominiums; Association borrowing money; pet bylaws applying equally to owners and tenants; pet replacement and prohibition; purchaser’s right to vote; board meeting requirements; proxy requirements; membership list requirements; minutes of meetings; documents of the association; management of the as-

sociation and contracts; and availability of project documents.

Mediation is an effective method of resolving disputes, and has been reputed to be less costly

*See Mediation on Rise pg. 5*

### ALSO IN THIS ISSUE

Letter from the Chair . . . . .	2
Defining the Condo Unit . . . . .	2
Condominium Boards . . . . .	3
Ask the Condominium Specialist . . . . .	5
Healthy Communication . . . . .	6
Condominium Education Calendar . . . . .	8

**This material can be made available for individuals with special needs. Please call the Senior Condominium Specialist at (808) 586-2644 to submit your request.**

The Hawaii Condominium Bulletin is funded by the Condominium Education Fund, Real Estate Commission, Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs, State of Hawaii.

## A condo unit is not a single family dwelling

By Iris Okawa, Esquire

A condominium unit is *not* a single family dwelling. Real estate licensees know this. How best to communicate this message to the prospective condo purchaser? That is the question.

Hawaii's condo history is now 40 years old, dating from the first condominium registered in Hawaii in December 1961. Since then condominium lifestyles and regulations have evolved, many more condominiums have been built and Chapter 514A of the Hawaii Revised Statutes (Condominium Property Regimes) is in the midst of recodification to more accurately reflect the needs and practice of CPRs.

Condominium governance issues are increasingly affecting the lifestyle and quality of life of condo owners.

Some owners find it difficult to conform to community living and soon after moving in, treat their unit as a single family dwelling. Some may even begin to expand out into common areas. Some welcome grown children and their families (affected by changing circumstances such as illness, divorce, or job loss) into the condo.

Where do two more cars suddenly get parked? What happens when single owners suddenly get sick or develop eccentricities and turn their units into "trailer homes"? These changes place stress on the common elements and eventually affect the quality of unit owners. Neighbors try to be tolerant but when one rule is relaxed, where do you draw the line?

The Real Estate Commission meetings at neighbor island outreaches are well attended by owners who bring their complaints and concerns to the Commission.

The Real Estate Branch also receives complaints regarding governance issues at condo associations. Unfortunately, the REC and the REB are not arbiters of such disputes.

On the other hand, legislation has responded by compelling mediation as a means of dispute resolution. An early resolution by mediation can be helpful in avoiding acrimony and bad feelings between neighbors which could result from a long, protracted dispute.

As projects welcome buyers who are not original owners but perhaps third and fourth down the chain, the restrictions of condominium living may not be as apparent. They sign documents agreeing to the condominium structure and to be in compliance with the Declaration, Bylaws and Rules of the Association.

Recognizing the need for education and understand-

*Iris Okawa was recently sworn in for a second term as a Real Estate Commissioner, public member. Iris is an attorney with the Pacific Law Group, and is the Chair of the Commission's Laws and Rules Review Committee.*

ing, the Real Estate Commission has provided funds for condominium education, including seminars sponsored by the Community Associations Institute, Hawaii Chapter.

Topics are current and track the issues facing condominium managers and owners. Condominium owners, especially board members, managing agents, and interested others are encouraged to attend.

The information from these seminars may be helpful in better marketing condominium units!



### Letter from the Chair . . .

As the holiday season approaches and we begin to reflect on family and friends, it is also important to reflect on the communities in which we live.

The article entitled "Healthy Communication – Putting the 'Community' back into Community Living" serves as a reminder of what it takes to belong to a condominium association. The article, as well as the article entitled "A Condo is Not a Single Family Dwelling," places emphasis on the need to communicate. The success of every association is ultimately based on its ability to communicate.

Throughout the year condominium specialists remind callers that the legislative intent of the condominium law is based on self-governance. When communication between boards and owners become an issue, mediation can play a vital role in the self-governance process. It is often through mediation that lines of communications are re-opened.

With the 2003 Legislative Session just around the corner, an update about the recodification of Chapter 514A, Hawaii Revised Statutes, Condominium Property Regime is included in this issue. We welcome your comments and suggestions regarding this program. You may review the program on our website: [www.state.hi.us/hirec](http://www.state.hi.us/hirec). I invite you to attend our monthly standing committee and Commission meetings. The meeting schedule is provided on our website. A list of informational seminars is also provided on the site under the Education Calendar.

Finally, November 30, 2002 is the deadline for real estate licensees to renew their licenses. This year is the first that renewals can be completed on-line. Spread the word to your condominium managing agent that their real estate broker's license can easily be renewed on-line. The address for on-line renewals is <http://www.ehawaii.gov/org/pvlrenew>.

Wishing you a safe holiday season,

**Mitchell A. Imanaka**

Mitchell A. Imanaka, Chair  
Condominium Review Committee

# Statutory Provisions Related to Condominium Boards

## Part 2

By M. Anne Anderson, Esq.

E. Section 514A-82(a)(13), Hawai'i Revised Statutes - Conflict of Interest and Voting by Proxy at Board Meetings.

1. Conflict of Interest - Condominium Projects Created Since May 24, 1975.

Section 514A-82(a)(13), Hawai'i Revised Statutes, deals with voting on matters in which a director has a conflict of interest and voting at board meetings by proxy. Since May 24, 1975, the law has provided that a director shall not vote at any meeting on any issue in which the director has a conflict of interest. Condominiums created prior to that date are not required to have such a provision in their bylaws. However, this does not mean that directors in projects created prior to May 24, 1975, are free to vote on matters in which they have a conflict of interest. They must examine the issue of whether to do so would be in breach of their fiduciary duty to the association and if it would, they should not vote on such matters. Additionally, there may be common law concerns.

2. Disclosure Requirements - Conflict of Interest.

The law was amended effective June 25, 1987, to require that a director who has a conflict of interest to disclose such conflict prior to a vote at the board meeting and that the minutes of the meeting record the fact that such disclosure was made. That provision was moved to Section 514A-82(b)(5), Hawai'i Revised Statutes, effective May 14, 1988, and is now applicable to all condominium projects subject to Chapter 514A, Hawai'i Revised Statutes. This would include all condominium projects created on or after May 29, 1963. It would also include condominium projects created prior to May 29, 1963, whose owners (and lien holders) have elected to be subject to Chapter 514A, Hawai'i Revised Statutes, in accordance with the procedure established by Section 514A-1.5, Hawai'i Revised Statutes.<sup>2</sup>

3. Proxy Voting at Board Meetings - Changes in the Law for Condominium Projects Created Between June 2, 1978, and Present.

Section 514A-82(a)(13), Hawai'i Revised Statutes, was amended effective June 2, 1978, to provide that "[a] director shall not vote or cast proxy [sic] at any board meeting on any issue in which he has a conflict of interest." Effective as of September 1, 1981, the reference to "proxy" was changed to "any proxy vote" for clarification. This provision was further amended effective May 18, 1984, to state that "[a] director shall not cast any proxy vote at any board meeting, nor shall a director vote at any board meeting on any issue in which the director has a conflict of interest." The change clarified that proxy voting is prohibited on all matters, not only those in which a director has a conflict of interest. Boards of directors

of condominium associations whose projects were created prior to the effective date of these sections and whose bylaws do not contain a prohibition against proxy voting at board meetings should consult with their association attorneys before permitting proxy voting at board meetings.

F. Section 514A-82(a)(14), Hawai'i Revised Statutes.

Section 514A-82(a)(14), Hawai'i Revised Statutes, was amended effective June 9, 1976, to provide that no resident manager of the condominium shall serve on the board of directors. Projects created prior to June 9, 1976, are not subject to this restriction.

The language was clarified effective as of May 18, 1984, to provide that no resident manager of a condominium shall serve on its board of directors.

G. Section 514A-82(a)(15), Hawai'i Revised Statutes.

Since June 9, 1976, the law has required condominium association boards of directors to meet at least once a year.

H. Section 514A-82(a)(16), Hawai'i Revised Statutes,.

Section 514A-82(a)(16), Hawai'i Revised Statutes, deals with the rules of order to be followed at board meetings. For condominium associations whose projects were created prior to June 9, 1976, the law did not address the issue. For projects created between June 9, 1976, and May 27, 1983, the bylaws were required to provide that all board and association meetings shall be conducted in accordance with Robert's Rules of Order, or other accepted rules for the conduct of meetings. Since May 28, 1983, the law has provided that the bylaws shall provide that board and association meetings shall be conducted in accordance with the most current edition of Robert's Rules of Order.

I. Section 514A-82(b), Hawai'i Revised Statutes.

A 1987 amendment to Chapter 514A, Hawai'i Revised Statutes, served to move selected provisions from Section 514A-82(a), Hawai'i Revised Statutes, to a new section known as Section 514A-82(b), Hawai'i Revised Statutes. The 1987 law provided that the provisions of Section 514A-82(b), Hawai'i Revised Statutes, were deemed incorporated into the bylaws of all condominium projects existing as of January 1, 1988, and all condominium projects created thereafter. Since 1987, a number of subsections have been added to Section 514A-82(b), Hawai'i Revised Statutes, related to boards of directors and board meetings (e.g., requirements re-

## Statutory Provisions from pg. 3

garding the removal of directors, posting of notices, directors' fees, reimbursement of expenses, documents to be made available to directors, etc.). Section 514A-82(b), Hawai'i Revised Statutes, is applicable to all condominium projects subject to Chapter 514A, Hawai'i Revised Statutes.<sup>3</sup>

### J. Summary.

In summary, condominium association boards of directors need to be aware of the fact that the requirements of Section 514A-82(a), Hawai'i Revised Statutes, are prospective only and may not be applicable to their respective associations. The effective date of each subsection must be analyzed to determine whether the law is applicable to a particular condominium association. If the provisions found in the bylaws of an existing condominium association conflict with provisions currently found in Section 514A-82(a), Hawai'i Revised Statutes, research should be conducted regarding the law in effect at the time the project was created, as there is a good chance that the existing bylaw provisions are controlling due to the prospective nature of Section 514A-82(a), Hawai'i Revised Statutes.

<sup>2</sup> Section 514A-1.5, Hawai'i Revised Statutes, provides: **§514A-1.5 Applicability of chapter. This chapter shall not apply to any condominium project or association of apartment owners created prior to May 29, 1963, pursuant to Act 180, Session Laws of Hawaii 1961, unless all of the owners and holders of liens affecting any of the apartments in the project have expressly declared that this chapter shall apply to the property, and shall govern the rights, interests, and remedies of all persons owning interests in**

**or liens upon the property;** provided that any condominium project or association of apartment owners created prior to May 29, 1963, pursuant to Act 180, Session Laws of Hawaii 1961, having seven or more apartments shall register with the commission and comply with the requirements pursuant to sections 514A-95.1 and 514A-132, except for the fidelity bond requirement. The express declaration shall be made through the execution and recordation of a declaration in form and content required to establish a condominium property regime pursuant to this chapter. (emphasis added).

<sup>3</sup> See Footnote 2 above. This includes all condominium projects created on or after May 29, 1963. It also includes condominium projects created prior to May 29, 1963, whose owners (and lien holders) have elected to be subject to Chapter 514A, Hawai'i Revised Statutes, in accordance with the procedure established by Section 514A-1.5, Hawai'i Revised Statutes.

### About the Contributing Author

M. Anne Anderson, Esquire, is a partner in the law firm of Neeley & Anderson, LLP, A Limited Liability Law Partnership. She is a past president of Community Association Institute Hawaii Chapter. She has practiced law in Hawaii since 1984. Her law practice is devoted almost exclusively to the representation of community associations.

## Real Estate Commission 2002 MEETING SCHEDULE

Laws & Rules Review Committee – 9:00 a.m.

Education Review Committee – 10:00 a.m.

Condominium Review Committee–11:00 a.m.

Real Estate Commission–9:00 a.m.

Wednesday, October 9, 2002–Kapuaiwa Room  
Wednesday, November 13, 2002–Kapuaiwa Room  
Thursday, December 12, 2002– Kapuaiwa Room

Wednesday, October 30, 2002–Kapuaiwa Room  
Friday, November 22, 2002–Kapuaiwa Room  
Friday, December 13, 2002–Kapuaiwa Room

All meetings will be held in the HRH Princess Victoria Kamamalu Building, located at 1010 Richards Street, Second Floor, Honolulu, Hawaii.

Meeting dates, locations and times are subject to change without notice. Please visit the Commission's website at [www.state.hi.us/hirec](http://www.state.hi.us/hirec) or 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 to individuals with special needs. Please call the Executive Officer at 586-2643 to submit your request.

*Mediation on Rise from pg. 1*

than settling disputes through litigation. The new law mandates that each party be responsible for its own costs of participating in mediation unless otherwise agreed to by the end of the mediation process. It also states that refusal to participate in mediation may result in payment of expenses, costs and attorney's fees if the dispute later ends up in court.

A review of mediation cases from January 2001 - September 2001 to January 2002 - September 2002, indicates there appears to be a 30% increase in mediation cases since mediation became mandatory. (see Mediation Case Summaries for 2002).

The Real Estate Commission encourages the use of mediation to resolve condominium disputes. The Commission subsidizes mediation for registered condominium associations, their

owners, tenants (excludes Residential Landlord-Tenant Code disputes), officers, directors, and employees acting in the scope of employment, and for registered condominium managing agents subject to availability of the Condominium Education Fund.

Mediation services are provided by:

The Mediation Center of the Pacific, Inc. (Oahu) 521-6767

Mediation Services of Maui, Inc. (Maui) 244-5744

West Hawaii Mediation Services (Kamuela) 885-5525; (Kailua-Kona) 326-2666

Kuikahi Mediation Center (Hilo) 935-7844

Kauai Economic Opportunity, Inc. (Kauai) 245-4077

## Mediation Case Summaries

**MCP**= Mediation Center of the Pacific, Inc.

**MSM**= Mediation Services of Maui, Inc.

**WHMC**= West Hawaii Mediation Center

**KMC**= Ku'ikahi Mediation Center

**RICO**= Regulated Industries Complaints Office

**KEO**= Kauai Economic Opportunity, Inc.

**BOD**= Board of Directors

**CMA**= Condominium Managing Agent

### Cases Handled by MCP (1/01/02 – 9/30/02)

Between January 1, 2002, and September 30, 2002, there were a total of 18 cases involving condominium disputes. Ten (10) of these cases were mediated, eight (8) were closed without mediating.

Parties	Complaint	Disposition
Owner vs. BOD, Property manager	Improper use of common area	Mediated
Owner vs. BOD	Responsibility of reimbursement	Mediated
Owner vs. BOD	Use of common area for additional parking	Mediated
BOD vs. BOD member/owner	Conflict of interest and discrimination of BOD eligibility	Mediated
Owner vs. BOD	Dispute regarding the management contract	Mediated
Owner vs. BOD	Dispute regarding the removal of louvers that were previously approved	Mediated
Owner vs. BOD	Dispute regarding BOD's responsibility in maintaining the common elements	Mediated
Owner vs. BOD	Dispute regarding "unsatisfactory maintenance	Mediated
Owner vs. BOD	Dispute regarding the enforcement of the House Rules & security for common areas	Mediated
Owner vs. BOD, Property manager	Dispute regarding the BOD's noncompliance with the bylaws, and house rules	Mediated
Owner vs. BOD	Noncompliance with Chapter 514A, HRS	No response from BOD
BOD President vs. BOD	BOD compliance with the bylaws, house rules and declarations	Declined to mediate
Owner vs. BOD	Dispute of the house rules and fines assessed for violations	Declined to mediate
Owner vs. BOD	BOD did not comply with rules and bylaws in maintaining the common elements	Closed. No mediation
Owner vs. BOD	Dispute regarding selective enforcement of the enforcement of the house rules	Closed. No mediation
Owner vs. BOD	Noncompliance with the declarations & Violation of the condominium law	Closed. No mediation.
Owner vs. BOD	Dispute regarding the enforcement of bylaws	Closed. No agreement
Owner vs. BOD	Dispute regarding the lack of "due process" in the BOD's decision and failure to inform owners of changes and decisions	Owner withdrew

### Cases Handled by MSM (1/1/02 – 9/30/02)

Between January 1, 2002, and September 30, 2002, there were a total of nine (9) cases involving condominium disputes. Four (4) of these cases were mediated, and five (5) closed and not mediated.

Owner vs. Property Manager	Discuss bylaws and common areas	Mediated
Owner vs. BOD	Discuss bylaws and structural changes to owner's unit	Mediated

Parties	Complaint	Disposition
Owner vs. BOD	Dispute regarding House Rules and noise	Mediated
Owner vs. BOD	Dispute regarding conditions, covenants and restrictions	Mediated
Owner vs. Property manager	Interpretation of the laws	Agreement not reached
Owner vs. BOD	Discuss construction in common areas	Agreement not reached
Owner vs. BOD	Discuss construction in common areas	Owner withdrew
Owner vs. BOD	Discuss construction in common areas	Owner withdrew
Owner vs. BOD	Discussion regarding House Rules	BOD declined

### Cases Handled by KMC (1/1/02 – 9/30/02)

Between January 2002 and September 30, 2002, there were two (2) cases involving condominium disputes. Both were closed because mediation was declined.

Owner vs. CMA & owner	Compliance with bylaw	CMA/owner declined
BOD & owner vs. CMA	Bylaws violation regarding election ballots	CMA declined

(No cases reported by WHMC, KEO, and RICO (1/1/02 – 9/30/02))

## Ask the Condominium Specialist

**Q** My association's bylaws state that 75 percent of the condominium owners must approve any bylaw amendments. But §514A-82(b)(2), Hawaii Revised Statutes, says only 65 percent is required. Which is correct?

**A** Only 65 percent is required. The legislature intended that the 65 percent requirement apply to all condominium associations irrespective of when it was created.

In order to minimize the risk of the confusion created between old bylaw provisions and new provisions required by statute, §514A-82(a), HRS, permits a board, by resolution to restate an association's bylaws to conform with any provisions of §514A, HRS.

## Healthy Communication

# Putting the 'Community' Back into Community Living

By Tracey Wiltgen, Esquire

What is community living at its best? Is it simply about co-existing in a common place? Or does it require something more such as feeling safe and supported enough to promote open communication to address issues, concerns and complaints? Most people, including owners and directors, will agree that community living requires more than mere physical co-existence. True community living fosters open and healthy communication that enable members to prevent and reconcile differences before they escalate. A breakdown in communication creates barriers and quite simply can turn community living from pleasurable to painful.

Implementing the practice of healthy communication requires sharpening a few key skills and establishing some basic procedures and policies to convey information in a variety of ways that ensures everyone receives and understands the information.

The key skill for healthy communication is effective listening. This requires focusing all of your attention on the person speaking, summarizing and restating what you've heard the person say and asking questions to insure you understand how that person views the situation. The Chinese symbol for listening captures the essence of effective listening, as it's comprised of the signs for ears, eyes, mind and heart. The symbol reinforces the fact that to truly "listen" and "hear" what another person is saying, it is necessary to give that person your undivided attention with you eyes, ears, as well as your mind and heart to grasp the person's underlying needs and perspectives. Without that understanding, the person will not feel heard.

While it sounds relatively simple, effective listening is often forgotten when the situation becomes "heated" or when confronted by a "challenging" personality. When engaged with someone with a "like" mind and ideas, effective listening can be automatic. However, when the other person has a very different style or ideas from your own, effective listening may be illusive.

Imagine a scenario in which a new board of directors has received numerous complaints about house rule violations and decide it's their duty to address the concerns and ensure all owners comply with the rules. Written notices of violations are promptly sent to offending owners. Upon receiving a notice after a particularly stressful workday, one owner confronts the board president loudly, "You have no right to do this. I paid a lot of money for my unit and I can decorate the lanai any way I choose!" The president, anxious to avoid an ugly scene responds, "look, I didn't make the rules and it's the board's job to enforce them." "We'll see what my lawyer says about that" are the owner's parting words.

How could healthy communication transform this confrontation? First, had the president applied effective listening skills, he might have acknowledged the owner's anger and frustration and invited him to talk in more detail about the notice, what prompted the board to take such action and what could be done to resolve the matter. Once the owner felt the board president was willing to listen and understand his needs and view of the situation, he most likely would have calmed down and been able to engage in a constructive discussion.

A healthy communication strategy could also have been initiated by the owner in the scenario, by taking a few minutes to

get past his anger, analyze the situation and develop a strategy for dealing with it rather than simply reacting. Once he had taken the time to "decompress" and focus on the problem, he could have approached the president in a calm manner to request an opportunity to discuss the notice of violation, why it was sent and what he could do about it. By inviting the president to talk, the owner would first need to "listen" to the president explain the board's perspective. The owner could then present his view.

Civility, the way people "talk" to one another is critical for healthy communication. Taking control of your own emotions and focusing on the problem rather than verbally attacking the other person, paves the way. Then through effective listening strategies, (i.e. eye contact, positive body language, summarizing the information back and asking questions), both people can engage in a conversation that will help them better understand their respective perceptions of the situation, their interests and possible ways of resolving the matter.

Finally, seeds for healthy communication should be planted in advance to prevent potential unhealthy confrontations. In a condominium association, it is critical that information is conveyed in a variety of clear, established processes and procedures. Such processes can include open meetings, news bulletins, letters and bulletin boards. In the above scenario, had the board taken steps to provide information such as offering the opportunity for owners to discuss potential violations at a meeting, posting general information about proposed board action in response to complaints, or even taking the time to speak privately to those owners before issuing the notices, the confrontation between the owner and president might have been avoided.

Conveying information through various methods facilitates quicker acceptance and understanding of that information. For example, a new, revised or amended bylaw or rule may be subject to interpretation by anyone who reads it. Therefore, such changes may require not only written notice and description, but also an open meeting to provide the opportunity for questions, discussions and face-to-face information sharing. When people are provided with the rationale, facts and process for making changes, they are more likely to understand and accept them.

Creating a culture of healthy communication takes time. While eliminating a problem may lead to good feelings and relations temporarily, it doesn't inherently create conditions for sustained change. Therefore, don't wait for a problem, start laying the foundation for healthy communication now. Establish a variety of methods for sharing information. Practice effective listening with the next person you meet. By fine-tuning and consistently using the skills in a positive environment, you'll be prepared the next time you're confronted with a challenge. When you meet that challenge, take control of yourself, invite the person to talk and listen to understand their needs and perspectives. Once you do, you'll have taken the lead in putting the community back into your community association.

**Tracey S. Wiltgen, J.D., M.S.** – Ms. Wiltgen is currently the Executive Director of The Mediation Center of the Pacific, Inc., a community dispute resolution organization that provides direct mediation and facilitation services for a broad range of disputes including business matters, ADA issues, civil rights complaints, consumer/merchant, condominium, domestic disputes, community conflicts and disputes arising within Oahu's schools. Ms. Wiltgen is a licensed attorney, a member of the Society of Professionals in Dispute Resolution (both nationally and locally), the National and Hawaii State Bar Associations and past chair of the ADR section.

where we are with the recodification: “Grinding.” Things are not progressing as quickly as we’d like, but we continue to “grind it out” as we work to complete our proposed rewriting of Hawaii’s condominium law. Indeed, the Commission’s Blue Ribbon advisory committee is currently meeting for ½ day sessions, twice-a-week, in an effort to complete the second draft of the recodification.

By way of background, in January 2002, the Commission completed its initial draft of the recodification. The Uniform Condominium Act (1980), with appropriate changes incorporated from the Uniform Common Interest Ownership Act (1994), served as the basis for Recodification Draft #1. Where appropriate, we also incorporated provisions from HRS Chapter 514A, other jurisdictions’ laws, and the Restatement of the Law, Third, Property (Servitudes).

Recodification Draft #1 provides a starting point and framework from which to: 1) work on specific problems, and 2) continue our discussions on improving Hawaii’s condominium law. Some portions are more complete than others, with Article 3 (Management of Condominium) needing a lot more work integrating provisions of HRS Chapter 514A and suggestions from stakeholders.

Based on feedback we received from the advisory committee, realtors, property managers, and others, the Commission decided to use HRS Chapter 514A (rather than the uniform laws) as the base for most of the recodification (i.e., general provisions; creation, alteration, and termination of condominiums; protection of purchasers; administration and registration of condominiums; and condominium management education fund). At this point, the Uniform Condominium Act and Uniform Common Interest Ownership Act remain as the base for condominium governance matters.

As always, we are interested in learning what problems you have with HRS Chapter 514A and what solutions you might suggest. For your reference, Recodification Draft #1, our recodification workplan, timetable, base working document [a comparison of the Uniform Common Interest Ownership Act (UCIOA), Uniform Condominium Act (UCA), and HRS Chapter 514A], and other recodification materials are available on our website – <http://www.state.hi.us/hirec>

## **What Happens Next?**

As soon as we complete a second draft of the recodification, the Commission plans to hold public hearings on the proposed condominium law in each of the counties. We will consider the public hearing comments and work on a third draft of the recodification. The Commission should submit a final report and proposed recodification bill to the Legislature 20 days before the start of the 2003 legislative session. (The 2003 regular session convenes on January 15, 2003, so the recodification final report and proposed bill should be submitted by December 25, 2002.)

## **Guiding Principles (Part V—Management of Condominium)**

1. The philosophy guiding Part V (Management of Condominium) continues to be **minimal government involvement** and **self-governance** by the condominium community. Essentially, this means that we must ensure that the condominium community (both owner and management) has the tools with which to govern itself. We should enhance self-governance (e.g., conduct meetings, financial decisions). This does *not* mean that every problem and contingency should be addressed in state law (as happened too often in the past, resulting in our current need to recodify our condominium law). Addressing problems in state law is appropriate in some areas. Other problems may more appropriately be handled in condominium governing documents or through other private mechanisms. And some matters simply must be resolved in court.

2. The recodified condominium law should recognize the difficulty of a “one size fits all” approach to management provisions.

3. The recodified condominium law should enhance clarity of Condominium Property Act.

We should consolidate or group together provisions on a single issue (e.g., proxies, assessments). We should also eliminate the artificial approach regarding the contents of bylaws developed in HRS §514A-82(a) and (b).

4. The recodified condominium law should not result in an increase in the cost of government.

The Commission appreciates the commitment of time, interest, and energy that many people and organizations have put into this important effort. With everyone’s help and cooperation, we look forward to crafting a condominium property law that we can all live and work with for at least the next 40 years.

Please address correspondence to: Mitchell Imanaka & Gordon Arakaki, DCCA—Real Estate Branch, 250 South King Street, Room 702, Honolulu, HI 96813. You may also call us at 586-2646.

---

## *Re-registration Deadline from pg. 1*

plete re-registration applications by the filing deadline will be successfully re-registered prior to the registration expiration date and will receive their registration pocket card before the start of the new biennial registration period. This will ensure that the real estate broker, managing agent, and condominium hotel operator can continue to engage in CMA and CHO activities.

Re-registration applications, fees, and other required documents should be mailed to DCCA, PVL Licensing Branch, P.O. Box 3469, Honolulu, Hawaii 96801; or delivered to 1010 Richards Street, 1st Floor, Honolulu, Hawaii 96813.

## Condominium Education Calender 2002

This calendar lists upcoming educational events of interest to the condominium community. The publishers express **no opinion** about the quality or content of any event they do not sponsor. This listing should not be construed as an endorsement or sponsorship of any event, unless expressly indicated. Events may be subject to change; please check directly with the provider to confirm each event.

Date	Time	Event Title	Location	Provider
10/17	11:30 am	*Firing Line – Terminating Association Employees – Do's and Don'ts	Hale Koa Hotel	CAI-H
10/24-26	8:00 am	CAI Community Leadership Forum	Orlando, Florida	CAI
11/1-11/10	8:00-4:30	Successful Site Management (For a registration form, go to <a href="http://www.iremhawaii.org">www.iremhawaii.org</a> )	Kihei, Maui	IREM (ARM)
11/19	11:30 am	How the New Nonprofit Corporation Act Affects the Way Your Association Operates	Hale Koa Hotel	CAI-H
11/20	10:00 am	Owners Forum	Kalama Heights	CCM
11/22	8:30-10:30	Annual Real Property Litigation Update	HEI Training Room	HSBA-CLE
1/2003	TBA	Landscaping Program	TBA	CCM
2/2003	TBA	Directors Training	TBA	CCM
3/2003	TBA	Annual Luncheon Seminar	TBA	CCM

*\*The seminar is partly funded by funds from the Condominium Education Fund, Real Estate Commission, Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs, State of Hawaii for condominium apartment owners whose AOA is currently registered with the Real Estate Commission.*

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

	Provider	Phone	Address
CAI	Community Associations Institute (National)	(703)548-8600	225 Reinekers Ln #300 Alexandria, VA 22314
CAI-H	Community Associations Institute - Hawaii Chapter	488-1133	P.O. Box 976 Honolulu, HI 96808
CCM	Condominium Council of Maui Email: <a href="mailto:cmmaui@hotmail.com">cmmaui@hotmail.com</a>	879-5266	PO Box 1362 Kihei, HI 96753
HCAAO	Hawaii Council of Associations of Apartment Owners	533-2528	677 Ala Moana Blvd, #401 Honolulu, HI 96813
HSAP	Hawaii State Association of Parliamentarians	488-2489	
HSBA-CLE	Hawaii State Bar Association - Continuing Legal Educ.	537-1868	1132 Bishop Street, Ste 906 Honolulu, HI 96813
IREM	Institute of Real Estate Management Hawaii Chapter No. 34	733-7060	1136 12th Ave, Ste 220 Honolulu, HI 96816
OAC	Oahu Arm Committee	523-6096	91-1030 Kaiheenalua Street Ewa Beach, HI 96706
UH-SPP	Special & Professional Programs, College of Continuing Education, University of Hawaii	956-8244	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 96813; Phone: 586-2644  
October 2002

HAWAII CONDOMINIUM BULLETIN, OCTOBER 2002 © Hawaii Real Estate Commission. All rights reserved. This Bulletin, or any part thereof, may not be reproduced without the written permission of the Hawaii Real Estate Commission, except permission is granted to registered Hawaii condominium associations to reproduce and distribute copies of this entire publication, but not for profit, as an educational service. This publication is intended to provide general information and is not a substitute for obtaining legal advice or other competent professional assistance to address specific circumstances. The information contained in this Bulletin is made pursuant to Hawaii Administrative Rules Section 16-201-92 and is not an official or binding interpretation, opinion or decision of the Hawaii Real Estate Commission or the Department of Commerce and Consumer Affairs. The Hawaii Condominium Bulletin is funded by the Condominium Education Fund, Real Estate Commission, Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs, State of Hawaii.