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Department of Commerce & Consumer Affairs
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July 31, 2007

CONDOMINIUM DISPUTE RESOLUTION PILOT PROGRAMS

Pursuant to Act 244 (July 2, 2007), the Office of Administrative Hearings (OAH), Department of Commerce and Consumer Affairs, State of Hawai'i, will once again administer the Condominium Dispute Resolution Pilot Program ("CDR Pilot Program") regarding condominium disputes arising under *Hawai'i Revised Statutes Chapter 514A-121.5*, until June 30, 2009. Additionally, pursuant to Act 242 (July 2, 2007) and Act 277, 2006 Session Laws of Hawai'i, OAH will also simultaneously administer a separate condominium dispute resolution pilot program for condominiums that were created under Hawai'i Revised Statutes Chapter 514B or that are otherwise subject to the provisions of Acts 242 and 277.

As part of these two CDR Pilot Programs, OAH will be conducting administrative hearings on certain kinds of disputes regarding condominiums, and will be reporting to the Legislature on the types and numbers of the requests for hearings filed with OAH (including cases that OAH is not able to accept because of the subject matter jurisdiction, or because of the maximum number of cases that OAH can accept per fiscal year).

The following is an overview of the administrative hearing portion of CDR Pilot Program:

1. Before a request for hearing can be filed with OAH, ***the parties must have attempted to resolve the controversy through mediation.***
2. If the dispute could not be resolved through mediation, any party that participated in the mediation may file a request for a hearing with OAH.
3. Only thirty (30) cases per fiscal year (July 1 – June 30) can be filed with OAH for each of the respective dispute resolution pilot programs.
4. Only the board of directors of a duly registered association of apartment owners, or an apartment owner that is a member of a duly registered association may file a request for hearing.
5. If the dispute involves a condominium created under HRS Chapter 514A ***and*** the dispute arose prior to June 30, 2006, then the request for hearing should be submitted pursuant to HRS §514A-121.5.
6. If the dispute involves a condominium created under HRS Chapter 514B ***or*** the dispute arose after June 30, 2006, then the request for hearing should be submitted pursuant to Act 242 (July 2, 2007) and Act 277, 2006 Session Laws of Hawai'i.
7. Requests for hearings:
 - a) must be filed with OAH ***within thirty (30) days from the final day of the unsuccessful mediation;***

- b) can only be initiated against a party that participated in the mediation; and
 - c) must identify the statutory provisions in dispute.
8. Every person requesting a hearing must each pay a filing fee of \$25.00 at the time the request for hearing is filed. Any request for hearing that is not accompanied by the required filing fee of \$25.00 per requesting person, will not be accepted for filing.
 9. Each responding party must file a response to the request for hearing within twenty (20) days from the receipt of the request for hearing, and each response must be accompanied by a filing fee of \$25.00 per respondent at the time the response is filed.
 10. Hearings must start within sixty (60) days from the date the request for hearing is filed.
 11. The hearings are governed by Acts 244, 242, and 277, 2006 Session Laws of Hawai'i, and Hawai'i Administrative Rules Title 16, Chapter 201. The hearings officers have the power to issue subpoenas, administer oaths, hear testimony, find facts, make conclusions of law, and issue written decisions that are final and conclusive, unless a party adversely affected by the decision files an appeal in the circuit court under HRS § 91-14. The burden of proof, including the burden of producing the evidence and the burden of persuasion, shall be upon the party initiating the proceeding. Proof of a matter shall be by a preponderance of the evidence.
 12. Each party to the hearing shall bear the party's own costs, including attorney's fees, unless otherwise ordered by the Hearings Officer.
 13. The hearing officer will issue written findings of fact, conclusions of law, and a final order as expeditiously as practicable after the hearing has been concluded.
 14. Any party adversely affected by the Hearings Officer's order can file an appeal pursuant to HRS §91-14.

Documents and pleadings may be filed by mail, or directly at the Office of Administrative Hearings, Department of Commerce and Consumer Affairs, 335 Merchant Street, Suite 100, Honolulu, Hawai'i 96813 (telephone: 586-2828). The parties may also request approval from the Hearings Officer to file and receive documents in electronic format, via fax or e-mail. However, all documents must be received by the Office of Administrative Hearings by the close of business on the day that the documents are due.

CONTACT INFORMATION

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