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Like so many things in life, our computers can be both blessing and curse. The convenience of email and the benefits of having a world of information at your fingertips are too easily ruined when you're hacked. As I discovered last year. Even after a "decontamination" procedure, the machine was still running slow, which resulted in having to purchase a new computer.

So I was excited to attend a seminar sponsored by Atlas Hawaii, focused on AOA's and the threats they face from cybercrooks. The seminar was so good, it turned into this month's cover story. This is a serious subject, requiring serious action by all condo boards. And it got even more serious as *BMH* was going to press with the release of a study that found Hawaii ranks first in the nation for the likelihood of suffering financial loss from cyberattack. It also reported Isle residents lost \$3.4 million to hackers in 2017.

In addition, *BMH*'s new series "Meet a Manager" continues with John Pampalone of The Villa on Eaton Square. The 2017 IREM building manager of the year shares his experiences and practical advice for fellow managers.

If you're a building manager or board member, chances are you've had to deal with destructive tenants who trash their units and/or common areas. Samantha Kawelo of Crosspointe details some of the difficulties she's faced, and how she

handled them.

Attorney Jane Sugimura delves into the latest iteration of the city's fire safety bill, and what it means for boards.

We also have stories on the conversion of downtown Honolulu's largest office tower into condominiums, what AOA's can do in the event another federal government shutdown impacts residents, and the rise of Neighbor Island condo sales.

And experts in painting, roofing and legal matters offer helpful advice.

Regardless of what sort of job you do in building management, our goal is to make your life easier, so if there's a topic you'd like to see us cover, or to nominate someone for "Meet a Manager," please shoot me an email.

Mahalo,

**Don Chapman**

Editor | *Building Management Hawaii*  
don@tradepublishing.com



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# *E Komo Mai!*

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Hawaiiana Management Company, Ltd. partnered with Developer SamKoo who created an attractive and well purposed building offering 292 affordable units. Prior to purchase, future residents were invited to Homebuyer Education Seminars sponsored by SamKoo, Hawaiiana and the Hawaii Home Ownership Center. The seminars helped new buyers understand the responsibilities in homeownership and successful condominium living.



Donald Davis leads the Building management team with over 33 years’ experience. “I love people, and humor is high on the list of things that keep me going.”



Shown (l. to r.) are Spencer Lee of Central Pacific Bank, Mele Heresa of Hawaiiana Management Company, Sandy Lau of Locations LLC, Jenny Lee of Old Republic Title & Escrow and Reina Miyamoto of Hawaii Home Ownership Center.



Craig Richter serves as the association’s management executive. His expertise will be an asset to support the board to best represent the interests of the new homeowners.

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TownSq formalized the communication process so that all the information we needed was in one location and was current with the latest information and updates. A big thanks to Associa and Marin for bringing TownSq to our community and empowering us to tackle any adversities that come our way."



**- WILLIAM GUM, BOARD PRESIDENT  
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# Cybercrime Firms Seek More Space

**A**n escalating risk for businesses everywhere, cybercrime has nevertheless created opportunities for realtors and building managers. According to a 2018 report from a leading global real estate services firm, increases in leasing to cybersecurity companies is on the upswing, with 1.2 million square feet in new leases reported in 2017, up more than 15 percent from the previous year.

As our business and personal lives are increasingly stored and logged online, the need for cybersecurity has never been more critical. According to the Cushman and Wakefield report, damages stemming from cybercrime are estimated to surpass \$6 trillion globally by 2021, doubling the total for 2015. Attacks over the past three years have released hundreds of millions of personal records to the Internet, including credit ratings, social profiles, health information and even government-held data.

Few statistics relating to cybercrime in Hawaii are available, but the Honolulu Police Department posts warnings and advice for online work and play on its official website:

## Emails

Never click a link in an email and then enter personal information, username or a password

If you receive an email from a company like Google or Microsoft Outlook and it states that you must click the link and login, this is most likely a “phishing” scam to get your log-in information.

## Passwords

Never use your password for more than 1 website or program.

Pick a password that has at least 8 characters and includes numbers, symbols and capital letters

You may have personal information in your email account and you must protect this from anyone who may try to access it for nefarious reasons.

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# Explaining Proposed Revision to City's Fire Safety Code

*Bill 96 seeks to reduce confusion for AOAOs as well as life safety evaluators*



**B**ill 96 relating to fire safety is the second attempt to revise and clarify Ordinance 18-14, which was enacted on May 3, 2018, in response to the Marco Polo fire in July 2017. The first, Bill 72, was vetoed by Mayor Kirk Caldwell.

The ordinance requires all residential high-rise buildings to install fire sprinklers throughout *unless* the building is exempt or it gets a passing score in a Life Safety Evaluation (LSE). Buildings are exempt if they are under 10 stories or have open exterior corridors. All buildings—even though exempt from installing fire sprinklers—must pass an LSE. A LSE is an inspection by a licensed professional to determine that the building is relatively safe from fire hazards. The licensed professionals are required to record their findings on an Excel spreadsheet called the “Matrix” that was developed by the Honolulu Fire Department (HFD).

Before negotiating a proposal to do a LSE, building managers should familiarize themselves with the Matrix by reviewing it or downloading it from the HFD’s website, [honolulu.gov/hfd/resourceslinks.html](http://honolulu.gov/hfd/resourceslinks.html).

After the ordinance was passed, there were questions and uncertainty among associations that wanted to do a LSE. Likewise among licensed professionals as to how an LSE would be conducted.

There also were issues—and differing interpretations—regarding the items that were part of the Matrix. For example, mobility of residents is a risk factor in the Matrix and, depending on which licensed professional you speak to, that factor could have a negative or neutral effect on scoring your building. HFD has taken the position that mobility should be disregarded for most buildings, although the department has



indicated that the Matrix will not be revised to remove that factor.

Bill 96 was introduced to provide clarification to the ordinance on two issues: who can assist the licensed professional in conducting the LSE and how can the deadlines for compliance be extended?

In **Section 13.3.2.26.2**, language has been inserted to provide that the LSE can be done “by or under the supervision of a Licensed Professional.” This means that association staff can assist the licensed professional gather information to be used in the LSE. This is important because associations should not be paying hourly rates for the licensed professionals to inspect units and count smoke detectors and fire doors with metal closures—two of the 17 items that are listed on the Matrix. Associations should consider scheduling their LSE after completing a high-risk component inspection (HRS514B-138) or dryer vent cleaning. They should use that opportunity to send an association employee to ac-

company the plumber/contractor when they access the units to inspect and document the location/presence of smoke alarms in units and unit fire doors with metal closures so that that information can be provided to the licensed professional to input into the Matrix for purposes of scoring the building.

In **Section 13.3.2.26.2.7**, the ordinance sets out various deadlines for building compliance, including deadlines for installing automatic fire sprinkler systems depending on the height of the building, and common areas in a building with 20 floors need to be completed within eight years of May 8, 2018. Bill 96 includes an exception that would extend these deadlines for compliance by suspending or extending them where the building has applied for a building permit and the approval of the application resulted in a delay in compliance. A suggestion has been made to require this exception to apply to the deadline in **Section 13.3.2.26.2** that requires buildings to get a passing score in a LSE within six years of May 8, 2018, since repairs needed to get a passing score in an LSE may require permits. This issue will hopefully be addressed and resolved in the third committee hearing on Bill 96.

If you want to comment on Bill 96 or submit testimony regarding the bill, you can do so online at the city’s website, [honolulu.gov/ccl-testimony-form.html?view=form](http://honolulu.gov/ccl-testimony-form.html?view=form). It received its first two readings in February and was expected to have the third reading in time for the amended bill to be heard before the City Council for final passage in March.

*Jane Sugimura is an attorney with Bendet, Fidell and Sugimura, specializing in condo law. Reach her at [Hccaa@hcaao.com](mailto:Hccaa@hcaao.com)*



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# Is There a **HOLE** in Your Cyber Insurance?

## Seminar sheds light on how vulnerable AOAOs are to cyberattack and theft

BY DON CHAPMAN

**A**lan Crandall and Kevin Davis don't look like scary guys, but together they put on a real fright fest for AOA board members, building managers and property managers at a breakfast seminar sponsored by Atlas Insurance at the Japanese Cultural Center's Grand Manoa Ballroom Feb. 6.

Titled "Surprise, You've Been Hacked!: Cyber Theft and Liability in Community Associations," it was an eye-wide-opener for most attendees to hear how vulnerable homeowners' associations are to having their reserve funds wiped out and identities and personal information stolen from residents, employees, vendors, even those who once applied for a job but were never hired.

"You are," Crandall said, referring to



Alan Crandall

AOAOs, "a puzzle waiting to be solved by cyber criminals." A puzzle, and a pay day. Crandall is senior VP of Mutual of Omaha. Former owner of a community management firm in Northern California, he's been in banking for 30 years, 28 of them working with community associations. He previously served as an Army electronic warfare specialist.

Davis is president of his eponymous insurance company, affiliated with Travelers. He insured his first condo in 1981 and today insures 40,000 community associations across the country.

While many involved with community associations believe they're low-risk for cyberattacks, just the opposite is true, Crandall said. Why? Because

AOAOs "have access to large amounts of money, are overseen by people with a general lack of sophistication about cyberattacks, and thus believe they are secure."

The bigger your cash reserves, the bigger target you are, Crandall said. He mentioned a large Mainland building management company that advertised on its website that it oversaw \$15 million in funds, making itself an instant cyber target.

Likewise, boards should be careful about posting all minutes online, redacting financial information but inviting owners to come read the full minutes in the office. That is especially true for anything that includes people's signatures, which can easily be copy-pasted on a bogus funds transfer form.

It's nice to be transparent, they agreed, but anything online is as transparent to cyber crooks as it is to association members.



Kevin Davis

Both men also emphasized that even if a management company is involved, ultimate responsibility for theft of data and/or money falls to the AOA board.

"Who possesses the data owns the data," Crandall said.

Davis concurred, citing the big Target cyber breach in 2013. The criminals actually "came in through the back door" via a Target vendor, and from there got inside Target's system. "Target was still responsible."

And once data or money is gone, "it's gone," Crandall emphasized. "It's not coming back," because much cybercrime originates in Russia, China and Eastern Europe. Even if a criminal could be identified, extradition—and return of funds—is near impossible.

"These guys are smart," Davis said, mentioning the case of a large national corporation announcing a new president would be taking over. On his first day on the job, awaiting him was his new computer password—which had not been issued by the company but sent from hackers.

All of this presents a problem for associations. "Most of this stuff didn't exist just a few years ago," Davis said of criminal tactics, and it's gone way beyond emails from Nigerian princes with money to give away.

Also new is the speed with which money can disappear from so-called secure accounts, thanks to pre-programmed "bots." Crandall mentions an

industrial product company that lost \$1.2 million in 42 separate transactions that took just 30 minutes.

The good news is that new kinds of insurance policies can cover cyberattacks. But these require certain standards be maintained, including regularly changing passwords and training of staff.

(Regarding passwords, by the way: The password for the Democratic National Committee computer that was

*"You are a puzzle waiting to be solved by cyber criminals."*

hacked and caused Hillary Clinton's 2016 campaign so much trouble was ... according to myth ... "Password.")

And even if you have cybercrime insurance now, it may not be adequate to cover modern realities. Just as there are "holes" in every computer operating system and apps that allow bad guys to enter, so there are holes in many AOA cyber insurance policies. Most existing association policies, Davis said, do not cover computer crime, funds

transfer and "social engineering," such as employees accessing their personal Facebook account on a work computer and giving hackers a way in.

Two other notes: No two policies are alike, Davis said, with Crandall adding that even the definition of what constitutes a "cybercrime" can vary from policy to policy.

"And you need to know what kind of insurance your vendors have," Davis said, referring to the Target case.

Board members especially have to be proactive in both prevention and insurance.

"Liability," Crandall said, "falls to those who didn't protect the information."

Davis recommends shopping around for the best policy:

"Choose an insurance company that does condo insurance, not your brother-in-law."

One final scare, from Crandall:

"If they can break into the Pentagon and Sony, they can break in anywhere."

A postscript observation: This was one of the best seminars I've ever attended, and was shocked that barely half the seats in the ballroom were filled. If you're involved in building management, the next time you hear of a cybercrime seminar focused on building associations and led by experts as qualified and personable as Crandall and Davis, it would be nuts, not to mention irresponsible, to miss it.

## A Sweetheart of a Security Problem

A community association requires multiple kinds of security, and it falls to the board to assess the needs of its residents.

But community members have to be diligent about security too.

While it may seem counterintuitive, "the real challenge with security is the people in a building," says Martin Kera, a real estate attorney and president of Bren Management Corp. in New York City.

A recurring issue is who gets key fobs that allow access.



"It doesn't matter what kind of locking system you have," Kera says. "If residents are giving keys to people willy-nilly, you're in trouble. We'll typically have people calling management to say they lost their key, or they have family

coming to visit, and they need three more keys. The fobs cost \$50 to \$60 a pop, but they're willing to pay.

"We once had a building resident who was dating someone new every month. And he kept giving these paramours key fobs, only to tell us that the fob was lost once they eventually de-coupled. This person owns his apartment, so what can you do? Tell them they're a liar, and that they can't have another fob? Clearly not. But every jilted sweetheart with access represents a potential vulnerability for the building and everyone in it."

Put another way, security is nothing to just kiss off.

—**The Cooperator of New York**





# A Rising IREM Star Shares a Few Secrets

John Pampalone went from running military housing to managing The Villa on Eaton Square, and quickly won IREM's manager of the year award

**W**hen John Pampalone was named IREM-Hawaii's 2017 Building Manager of the Year in the large building category, it was no accident.

"That was a goal of mine," he says.

He carries an alphabet soup of acronyms behind his name: ARM, CAI, CMAC, CAM, and he's working on his PCAM. He also holds a real estate broker's license.

"I believe in keep learning," says the second person to be featured in *BMH's* new series "Meet a Manager."

## Title, building:

General manager, The Villa on Eaton Square, 38 floors, 428 residential units.

We have mostly fulltime local residents, but also some snowbirds who come here for a few months—Japan, Canada, Europe and of course the Mainland.

## Years in building management:

I've been here for the past three and a half years.

Before that, I worked in military housing with Forest City for 11 years, left as general manager of housing at



The Villa on Eaton Square

Marine Corps Base Hawaii in Kaneohe—2,400 family units—as well as Camp Smith and Manana (Pearl City).

## How did you get into the business?

I'm from New York City, and my parents had a small property management company in Manhattan. My father was a master licensed plumber with the city of New York. He was by trade handy, and some of that rubbed off on me.

He wanted me to go to school because he never had the opportunity to finish elementary school. By the age of 8 or 9 he had to make money to support

the family. I came out here to attend UH-Manoa, majored in communications, served on the student senate.

(Small world aside: Roy Shimonishi, the first person featured in Meet a Manager, was also a UH student senator.)

I returned to New York and was working for the city of New York's sanitation department, assistant director for the public information office. I was there for about five and a half years. I was there during the whole World Trade Center event and was part of the recovery, documenting what the department was doing. Some of the annual reports you see from the city, a lot of the photography, was done by me.

That changed a lot of things, perspective on life. I was actually at the World Trade Center area the day before with my boss for a city meeting. It was a rainy day, a miserable day, and the next day was sunny and bright. I saw the dust plume of the first tower as I was coming out of the subway by city hall. And then when I evacuated that area, just past Canal Street, I turned around and saw the second tower fall. And then being down at Ground Zero two days later, seeing the aftermath, and then being at the landfill while the FBI and the others were combing debris for bone fragments of people. (pause) I saw all that, I was part of that department. It changes your perspective.

But I was keeping up on the real

*"Just listen, especially if someone is not happy about something. Just listen to them. We all want to be heard."*

estate market in general, and I saw that privatization was coming to Army housing in Hawaii, and I'd always wanted to move back to Hawaii. So in 2004 I decided to take a leave of absence.

### How did you come to The Villa on Eaton Square?

I have to give credit to Jeff Dickinson, Hawaiian Properties VP. (Pamalone's wife, Connie Yu-Pamalone, is a VP and senior property manager with Hawaiian Properties.) I reached out to him, said I wanted to segue from military housing to Class A high-rise management. We were talking, and an opportunity came up a couple of months later.

### Current or planned building projects at The Villa?

We're just finishing painting the building. It was due for a repaint and spalling work, which is normal for a building of this size, built in 1972-73. We hired a consultant, which is real important to have an expert on your side when you do this. As much as boards like to think their manager is an expert in everything, there are times you want an expert, like an architect or structural engineer, to help do a project this size.

It's been just over a year and we're about 90 percent done.

Right now we're in the process of modernizing the fire system within the building, bringing it up to code. In order to modernize your elevators, you need to have your fire system done first, so that when you modernize your elevators, in the event something happens, they operate correctly. Some people modernize backwards.

Please see page 18



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## Does that include a sprinkler retrofit?

No. We're going to follow the city's "matrix." We were going to be modernizing the fire system, regardless of what the city was going to do. This is the original system for the building, so it just needed an upgrade.

## Did the Marco Polo fire play a part in that decision?

That's a sensitive subject. Let's just say having a modern life safety system is always a good idea.

## Any other big projects?

We did a complete renovation of our pool and recreation deck on the roof. We're updating camera systems, and this year we'll finish the resurfacing of the garage.

And we did a high-risk inspection, components that tend to break in owners' units. You just need to fix them. Every condo experiences that. Even the new ones being built, eventually their components will break down and need to be replaced.

## How has your board been about signing off on multiple big-ticket items?

When I came over, it was a fairly new board, and I saw an opportunity to do a lot of great things together. Kirk Hummel is the chair, he's really good. Between him and the board and Hawaiian Properties, we prioritized what needed to be done, a 1-2-3 system. They're all important, but you go with the life safety issues first, make sure those are corrected. Any manager should seriously inspect their property, and break it into priorities—life safety, quality of life, delivery of essential services like your hot water and the trash compactor is working, make sure they're reliable. Then go from there, cosmetic stuff.

It's basically having good synergy between the three entities—myself, the board, the management company—and being on the same page, working together for ownership and what's in the best interests of the building. I've been fortunate, the decisions the board has made allowed us to do some great things.

## How do you see your role with the board?

As general manager, my role is, first, I'm not an expert in everything. But I need to gather that information, decipher it, and then work with my property manager and board president and put together what would be in the best interest of the building. But in the end it's just a recommendation. It's up to the board to do what they want to do. We just put together the most accurate information, and good information usually ends up with good results and good decisions.

## We read in The Villa newsletter that you were able to save the association a lot of money by changing purchasing practices, 12 percent in monthly energy costs and 50 percent in maintenance.

I did not "reign in spending," but made smart decisions on what to spend association dollars on. Because as an association director myself where I live, I'm very conscious of spending other people's money, and my own. I take that responsibility very seriously. So building supplies, for example, just looking at not buying things on a recurring contract. It's small stuff, but it adds up, several thousands of dollars.

That kind of thing—going through the building and replacing bulbs with LED—simple stuff, low-hanging fruit. You don't need anyone to tell you to do that.

## How has your experience been as an AOA board member?

I live at Capitol Place downtown. Being on the board was a personal goal, to gain better perspective in my job here. And it has given me a broader perspective. It's a volunteer position, but there's stress and responsibility with it. But it's worth it. Personally, you have to temper your expectations. You can't expect other directors to know it as well as you do. But that's what makes a board special, you have people from all different backgrounds.

## How do you stay on top of potential problems in such a big building?

I walk the property daily, various parts. I try to walk the whole tower daily, up the stairs, down the hallways. And I try to take different paths, so I see different things. If you walk the same path every day, you get horse blinders on. So if you switch up how you walk your property, you'll say, oh, I never noticed that, because you're looking at it from a different angle. Even the most experienced manager will see things they haven't seen before.

## Some people say a condo is like a small city. What's your role, mayor?

Could be.

## Sheriff?

Sometimes.

## Any advice for up-and-coming building managers?

Keep people happy where they live, maintain the building.

It's important to know who lives in your building. A lot of residents come up to me, they say we feel like this is our own. I have to look at it that way. It's pride. Be visible, know your residents' names.

And, really, just listen, especially if someone is not happy about something. Just listen to them. We all want to be heard. And I have no problem coming to your unit, you don't have to come to me. That's important.

It's simple customer service. I learned that from my father. Growing up, I used to go with him to visit his clients, and I'd watch how he interacted, and I realized that knowing who they are, having a good attitude and being genuine went a long way. My father never had to advertise for work as a plumber because it was all referrals. I'd be remiss if I didn't say that, because it comes from him.

If there is a piece of litter on the ground, I'm going to pick it, not call somebody else to do it. Nothing is below or above me to do.

And it's important to get permits for work you do. Everything we do, we permit.

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Destructive tenants come in many forms, creating disturbances, and breaking all of the rules

# The Challenge of Destructive Tenants

Samantha Kawelo of Crosspointe shares experiences and tips for dealing with residents who trash their units and common areas

**T**hese tenants come in many forms, but they have one thing in common: They destroy both personal and association property. Sooner or later, their anti-social behavior begins to impact their neighbors. Sooner or later, the board will need to get involved. But the first line of response usually falls to the building manager.

Just ask Samantha Kawelo, ARM, resident manager at Crosspointe for what she calls the past 29 “blessed” years:

“Destructive tenants can be a very challenging job for all resident managers, and a nightmare,” she says. “I’ve had the hardship of going through the process of dealing with these types of



**Samantha Kawelo**

tenants, including going so far as to have them removed from the property.

“Their behavior includes direct harassment toward management, destroying their apartments, breaking all

the rules, having to report them to HPD and getting reports, going to court to request eviction and TROs.

“Destructive tenants affect the whole community, create disturbance and unnecessary annoyances, and cost the association additional expenses in having to take legal action. They also jeopardize the health and safety of all.

“I’ve had to deal with some real serious evictions involving immediate removal of tenants who would stir up episodes on a daily basis, from setting the manager up by calling HPD and accusing me of stealing their food from the recreation center refrigerator, spreading false rumors, threatening my safety, damaging my property, violating house rules, harassing security, destroying and trashing their entire units, annoying their neighbors by using their garden tools, dumping trash and dog poop in yards, stealing items from other residents’ yards. The list just goes on.

“The role of landlords in doing background checks and screening the type of tenants they bring onto the property plays an important role. Some things

can't be fully guaranteed, but this is one way to help with weeding out bad tenants.

"Also, property managers who manage individual units can also do a once-a-year property check to assure their tenants are maintaining the property according to house rules and regulations, and to service their units for things such as plumbing, dryer vent cleaning and general maintenance.

"A huge support during this process comes from your board, property manager and legal advisers working together to remove destructive tenants as promptly as possible, which helps relieve stress and unnecessary annoyances for everyone.

"We all have to live in harmony, and work together to keep our community values up, maintain aesthetic appearance, keep peace and a safe environment for all of us to come home to.

*"Destructive tenants affect the whole community, create disturbance, unnecessary annoyances, and cost the association additional expenses in having to take legal action. They also jeopardize the safety of all."*

"Here's a tale I call 'The Bucket Story.' It goes like this:

"There was a family of more than 10 living in a two-bedroom unit. We were receiving reports from neighbors about constant domestic disputes coming from the unit, with yelling and screaming.

"Security had to respond, and each time they found one of the family members outside behind the trash corral going to the bathroom—while sitting on a bucket. Security inquired why they weren't using their own bathrooms, and was informed all the unit's toilets were broken. So they were making do like the old days in an outhouse.

"Using a makeshift toilet bucket to relieve their bowel movements is a health hazard for the entire community. We put an end to it.

"What's the moral of the story? At the very least, keep a toilet plunger handy to minimize the risk of a clogged toilet."

## When a Tenant Damages Rental Property

You rent out a condo unit and receive a call from the resident manager that neighbors say they hear loud noises coming from inside that sound as if your tenant is destroying the unit.

First, take a moment to get your emotions in check so you can follow the proper procedures. Then it's time to deploy the ICE Method.

**1. Identify.** The first step is to identify the situation. Do you actually know 100 percent that the tenant is destroying the property? Are you upset and susceptible to emotional decision making? Have you had any past issues with the tenant in question and how will that change the way you approach the tenant?

**2. Categorize.** Is this situation something you can control or not? In this particular case, it depends on the landlord.

Many times, landlords get upset but they don't actually take control of the situation. Don't waste time worrying about the situation, but take action to

take control of the situation.

A great first place to start is to get into the rental unit to inspect it. You'll need to give the tenant a 24-hour notice. I'd suggest posting the notice on their door and call them 24 hours in advance.

When you go through the rental, document any damages and assess the situation. Your lease is going to be crucial to moving the situation into the "circle of influence." If you're unsure on how to use your lease in this situation you can consult with a lawyer, which again is a way of taking action and categorizing into the circle of influence.

**3. Eliminate.** You want to eliminate this issue. That doesn't necessarily mean eviction in this hypothetical scenario. It means getting to the bottom of the situation and

eliminating the actual issue.

Is the tenant causing damage?

Perhaps they're playing Grand Theft Auto really loud and the neighbors thought they were smashing things.

Or maybe they are damaging the property. If this is the case, commit to taking care of the issue.

The hardest situations are the ones we tend to avoid the most. A situation with a destructive tenant certainly classifies as a difficult situation.

It's natural to want to avoid this, but you need to commit to a time you'll take care of it. In this instance the best time is ASAP because you don't want further damage being done to your property.

Run through the ICE Method in your situation and figure out how you can take control.

—RentPrep





# Deciphering the Intermediate Court of Appeals Sakal Decision

Despite a recent court decision limiting non-judicial foreclosures, the issue is not dead at the legislature



John Morris

**T**he recent decision of the Intermediate Court of Appeals (ICA) in *Sakal v. Association of Apartment Owners of Hawaiian Monarch* (143 Hawaii 219, 426 P.3d 443-2018) significantly changes Hawaii's foreclosure law for associations. Essentially, the Sakal decision undermines the efforts of associations since 1999 to have an effective foreclosure remedy against delinquent owners.

In 1999—20 years ago—the legislature recognized that, after years of losses from delinquencies, non-judicial foreclosure allowed associations to make the best of a bad situation. The courts were clogged, so lender judicial foreclosures were taking 12 to 18 months, sometimes longer (which, in turn, meant that it often took 18 months to 2 years before a paying owner took possession of the unit). Hawaii's "first in time, first in right" foreclosure law also meant that if associations foreclosed judicially, they spent just as much time and money as a lender for a more questionable result.

More specifically, the "first in time" principle meant that if the association foreclosed, it could do nothing to affect the lender's first lien and would have to sell the property subject to the mortgage—i.e., the mortgage would remain as a lien on the property after the association's foreclosure. Falling property values often put the association in the position of, for example, trying to auction a property worth \$400,000 that remained subject to a mortgage of \$500,000. Since the mortgage would remain on the property despite the association's foreclosure, there often were very few buyers.

Despite these disadvantages, associations could sometimes foreclose, buy



The non-judicial process also allowed the association to put cost-effective pressure on a delinquent owner to pay

the property at the auction and rent out the property while the lender conducted its own collection efforts. Since non-judicial foreclosures typically were one-third the cost and took one-third the time of a judicial foreclosure, the right to conduct a non-judicial foreclosure provided a significant benefit to an association. The non-judicial process also allowed the association to put cost-effective pressure on a delinquent owner to pay, which is the main purpose of the non-judicial foreclosure process in the first place.

The state legislature recognized that prolonging the collection process against delinquent owners severely impacted an association's financial viability. In other words, the rights of owners who were not paying had to be balanced against the rights of all owners who were. Therefore, in 1999, the legislature authorized condomini-

um associations to conduct non-judicial foreclosures. In the same year, the legislature also authorized associations to demand rent from tenants of delinquent owners and to terminate common services and utilities to delinquent owners.

Ultimately, however, non-judicial foreclosure became the most effective remedy for associations. In recognition of that fact, in 2012, the legislature amended Hawaii's foreclosure law to establish a new non-judicial foreclosure process—"Part VI"—solely for condominiums and other types of homeowner associations. The decision in Sakal has now significantly undermined those efforts.

At issue, Mr. Sakal had failed to pay his maintenance fees and the association had non-judicially foreclosed on his unit. The circuit court rejected Mr. Sakal's challenge to the non-judicial

foreclosure. Nevertheless, upon appeal, the ICA reversed that decision.

Relying on a provision in the foreclosure law relating to mortgage contracts, the ICA determined that the legislature had not intended that condominium and other associations could conduct non-judicial foreclosures of an owner's unit unless: (1) the association had an agreement with the owner, or (2) the declaration and bylaws of the association specifically permitted non-judicial foreclosure. The ICA noted that section 667-1 of the foreclosure law states:

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*"Power of sale" or "power of sale foreclosure" means a non-judicial foreclosure when the mortgage contains, authorizes, permits or provides for a power of sale, a power of sale foreclosure, a power of sale remedy, or a non-judicial foreclosure. (Emphasis added.)*

*Applying that definition for mortgages to the Hawaiian Monarch Association in the Sakal case, the ICA concluded that:*

*(A)t no point did the legislature take up the issue of whether to enact a blanket grant of powers of sale over all condominium properties in Hawaii. Accordingly, we conclude that a power of sale in favor of a foreclosing association must otherwise exist, in the association's bylaws or other enforceable agreement with its unit owners, in order for the association to avail itself of the non-judicial power of sale foreclosure procedures set forth in Hawaii Revised Statutes (HRS) chapter 667.*

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As a result, since the association had no agreement with Mr. Sakal and the governing documents of Hawaiian Monarch only authorized "foreclosure" but not "power of sale" or "non-judicial" foreclosure, the ICA concluded that the association lacked the authority to non-judicially foreclose on Mr. Sakal.

In fact, however, a thorough review



As part of the changes made in 2012, the legislature prohibited associations from non-judicially foreclosing only to collect fines, penalties, legal fees or late fees

of the legislative history outlined above indicates ample evidence that the legislature did intend to enact a "blanket grant of powers of sale for all condominium properties in Hawaii." For example, back in 1999, the legislature actually added additional language to Chapter 514A to ensure that, by operation of law, the right to conduct non-judicial foreclosures was incorporated into the bylaws of every condominium association in the state. Other changes made in the same act confirmed that if the legislature had intended to require associations to obtain owner permission to conduct non-judicial foreclosures, the legislature would easily have done so.

Moreover, when the legislature enacted Chapter 514B, it included language in the legislative history indicating that authority to conduct non-judicial foreclosures was to continue on into chapter 514B. That intention was confirmed and extended to non-condominium associations in 2012, when the legislature enacted Part VI of the foreclosure law to create the non-judicial foreclosure process specifically—and only—for homeowner associations.

In 2012, the legislature did not ignore the difficulties faced by delinquent owners. As part of the changes made in 2012, the legislature prohibited associations from non-judicially foreclosing only to collect fines, penalties, legal fees or late fees. The legisla-

ture also required the association to: 1) after commencing a non-judicial foreclosure, give the owner 60 days to cure the default before proceeding with the non-judicial foreclosure, and 2) accept a "reasonable payment plan"—defined as a payment plan that would last up to 12 months—from the owner. The 2012 legislation also required that notice of intent to begin foreclosure must also include contact information on approved housing counselors and approved budget and credit counselors.

In the 2019 legislative session, several bills have been introduced to re-affirm the right of associations to conduct non-judicial foreclosures and to confirm that the ICA's decision in Sakal does not reflect the original legislative intent in allowing associations to conduct non-judicial foreclosures. Many associations are actively supporting these bills.

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*John A. Morris is co-manager of Ekimoto & Morris LLC, which represents many condominiums and other types of homeowner associations. He first became involved with condominiums and homeowner associations when he served as the first condominium specialist for the Hawaii Real Estate Commission (1988-1991). Every year, he participates in legislative hearings on changes to the condominium law and provides testimony on proposed bills. Reach him 599-7226 or [jmorris@hawaiicondolaw.com](mailto:jmorris@hawaiicondolaw.com).*



# Simple Board Steps for a Life Without Lawyers

It's important for AOAO directors to remember they were elected, not anointed



Milton M. Motooka

**T**he volunteers who are willing to serve on the board of directors of community associations undertake a difficult and often thankless job. The following are some steps directors may consider to guide them in fulfilling their duties.

## **1 Do not become a director unless you have and are willing to spend the time required to do the job.**

Directors are often running multi-million-dollar organizations. In addition, each community association is a mini-municipality. Boards are tasked with running the executive, legislative and judicial branches of the mini-municipality. To do a good job to fulfill the many demands on boards takes time and commitment. If you do not have—or are unwilling—to devote the time to fulfill the foregoing duties, you should not agree to serve on the board. You would be doing yourself and the association a disservice if you did.

## **2 Be involved in the operation of the association and treat its operation as the operation of a business.**

It's important to remember that each community association is a business and should be run as a business. The budget of community associations often exceeds a million dollars. For a business to operate efficiently, it must make prudent financial decisions and gather as much information as possible before making decisions.

## **3 Be familiar with the project documents and understand the association's responsibilities, authority, and limitations.**

Although reading the project's



When appropriate, the board should consult experts before making any decisions

declaration, bylaws and house rules can be boring—and often a cure for insomnia—it's something that all directors should do. If you are in charge of the operation of the association, you need to know what the association is required to do. Just as importantly, you need to know what the association is not responsible for doing.

Example: A common problem arises when a board adopts a house rule which has no basis in either the declaration or bylaws. In one case, a board adopted a house rule that prohibited rentals for less than 6 months. The bylaws and declaration were silent on the length of time that owners could rent their units. An owner challenged the validity of the house rule and prevailed.

## **4 When making decisions, carefully review the information provided before proceeding. Do not blindly accept information. If necessary, the board should do independent investigations.**

At each meeting, the board must make a myriad of decisions. In most

cases, the information provided is accurate. It is, however, important that directors remain vigilant. If there is any doubt as to the accuracy of the information provided, the board should ask to see how the information was gathered and, if necessary, independently confirm the information.

## **5 When appropriate, seek the advice of professionals.**

We live in a highly technical society that is evolving rapidly. It is virtually impossible for any director to be competent in the engineering, architectural or legal fields. When appropriate, the board should consult experts before making any decisions.

**Example:** A project had experienced numerous problems with the roofs in their project.

One of the board members, with no experience in roofing, went on the Internet and extracted specifications he thought would be appropriate for the job, and used that to obtain bids from contractors. As a result, the board had no recourse to recover subsequent damages. The proper way was to have a roofing consultant inspect the existing roofing problems and to then prepare the specifications and to administer the bidding process. When board members attempt to “save” the association money by venturing into areas they are not equipped to handle, they expose themselves to personal liability.

## **6 Decisions should be based on what is in the best interest of the association, not what is “popular” or what is best for you personally.**

In making any decisions, board members must put aside personal interests and do what is in the best interest of the association. This will often require boards to make “unpop-

ular” decisions, such as increasing the maintenance fees or terminating the beloved resident manager who is no longer fulfilling the job responsibilities. Many boards are reluctant to increase maintenance fees because the directors know that it will be unpopular with owners. When insurance premiums, fuel costs and labor costs are all escalating, boards have no choice but to increase maintenance fees in order to have an appropriate budget. The most effective manner of having the maintenance fee increase accepted by a majority of the owners is to provide a simple explanation of the reasons the maintenance fees are being increased. Owners are experiencing all of these increases in some form and can therefore understand the necessity of the increase in the maintenance fees. It is far better to have some owners unhappy with a reasonable maintenance fee increase than to have most owners unhappy with an under-funded budget, which exposes them to special assessments.

## **7 Select and then support good management.**

Selecting good management to help the board fulfill all of its obligations in operating the association is a crucial step. When interviewing management companies, the board should have a list of questions for them before beginning the interview process and each candidate should be asked the same questions.

Also, after the board has selected good management, they should support them. The board and the managing agent should work as a team to operate the association as efficiently and economically as possible.

## **8 Do not accept or expect special treatment.**

It is important for directors to remember that they were elected, not anointed. Although directors provide an invaluable service to the association, this does not entitle them to any special favors or treatment from the association’s staff or contractors doing work for the association. Directors should not accept any special treatment from the association’s staff and, in particular, should not accept any gifts from contractors that have a business relationship with the association.

## **9 Avoid even the appearance of impropriety.**

Directors should hold themselves to high standards of conduct. They should set the example for other members of the association to follow. A director who may have any potential conflict on any issue should fully disclose the potential conflict and refrain from participating on any board action on the issue.

**Example:** If the director’s brother-in-law runs a painting company that is bidding on the painting of the association’s buildings, the director should disclose this potential conflict and refrain from any discussion on the selection of a painting contractor.

## **10 Do not serve as a director unless the project documents have adequate indemnification language and directors’ and officers’ liability coverage in place.**

Directors serve as volunteers. In order to attract the best qualified owners to serve as directors, it is important that the project documents provide adequate protection for them. Also, it

is important for the association to have a good directors’ and officers’ liability policy in place. Some boards have been lulled into selecting the company with the lowest premium. This is usually an unwise decision. Directors should have the best coverage available and the coverage amount should be adequate. Depending on the size and type of the association, the insurance agent can recommend the appropriate coverage. It is recommended that boards also have substantial umbrella insurance coverage to augment the coverage provided by the directors’ and officers’ liability insurance.

*Milton M. Motooka, senior partner at Motooka Rosenberg Lau & Oyama, has practiced law in Hawaii for more than 40 years. One of the founders of CAI Hawaii, he was inducted as a member of the charter class of the College of Community Association Lawyers, comprised of attorneys who have distinguished themselves in the field of community association law. Reach him at [Milton@MyHawaiiLaw.com](mailto:Milton@MyHawaiiLaw.com).*



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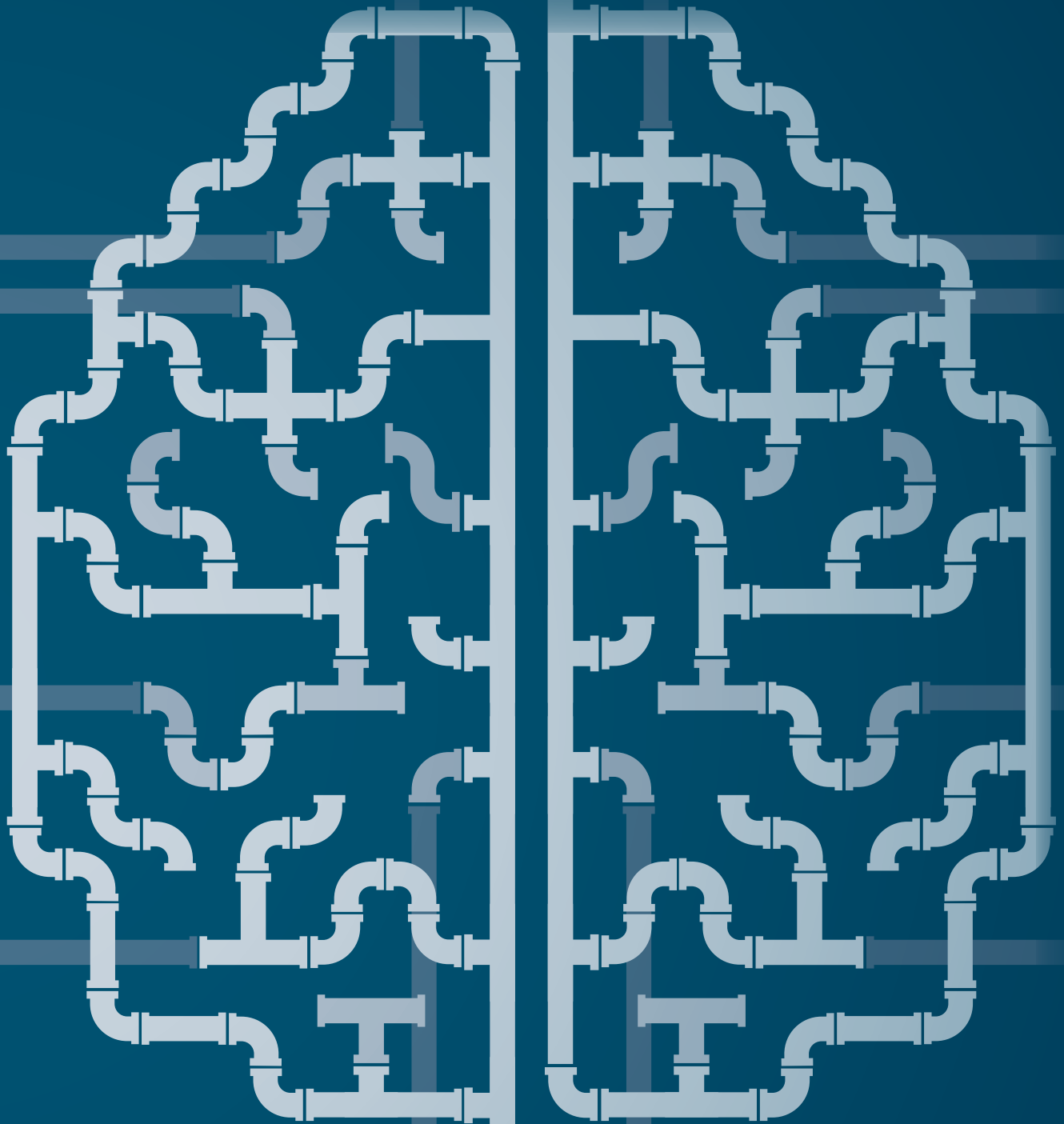
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# Collection and Foreclosure 101

Practical tips for new directors and property managers serving community associations



Na Lan

**M**ost associations need to deal with assessments delinquencies. The attorneys usually work with property managers to collect or foreclose on behalf of associations. Directors need to know the basics to fully understand your project's collection progress reports and fulfill your fiduciary duty of care. In 2018, we had major changes to the law governing associations' collection and foreclosure. Here is the scoop for new directors and property managers.

An association needs to follow procedural steps set forth in the declaration, bylaws or adopted collection policies before turning over any delinquent account to its attorney. The attorney can advise you if any relevant project document provisions are outdated and help the board adopt or update the collection policy.

The attorney or managing agent, as a debt collector, is bound by federal law to send a 30-day written notice meeting specific requirements to a delinquent owner, and shall hold on collection and verify the debt in writing if an owner disputes the debt. The association collection process is also subject, once a debtor files for bankruptcy, to the automatic stay and other mandates under the federal bankruptcy law. Military active-duty debtors may have special debtor rights protection.

If your association has properly adopted relevant written policies under the statutes, you may also collect rents from the tenant of a delinquent unit after giving advance written notice to the unit owner, and terminate the delinquent owner-occupant's access to common utilities or amenities depending on the circumstances, but only after giving required notices to the unit owner and the first mortgage lender.

Associations have a statutory lien right against a delinquent unit for unpaid



Military active-duty debtors may have special debtor rights protection

assessments and can hold such unit responsible for its collection costs and reasonable attorney's fees. An association should timely record its lien in the Bureau of Conveyances to further protect its creditor's rights. A condominium association's lien has priority over all other creditors' liens except for government liens for real property taxes and liens for any mortgage of record with an earlier recordation date. A community association's lien priority is usually determined based on the lien recording date as compared with other creditors.

A lender or third-party purchaser who obtains title to a delinquent unit as a result of lender's foreclosure has a statutory obligation to pay the association a special assessment in an amount up to six months' regular monthly common assessments during the period immediately preceding completion of the lender's foreclosure. In the case of a voluntary conveyance, the grantee of a delinquent unit shall be jointly and severally liable with the grantor for all unpaid association assessments.

Like a mortgage lender, an association can foreclose on its lien by judicial action, or the alternate power of sale process (non-judicial foreclosure), but only if its declaration or bylaws express-

ly provides for such power of sale. The latter is usually cheaper and faster, but no association may use non-judicial foreclosure if the delinquency arises solely from fines, penalties, legal fees or late fees.

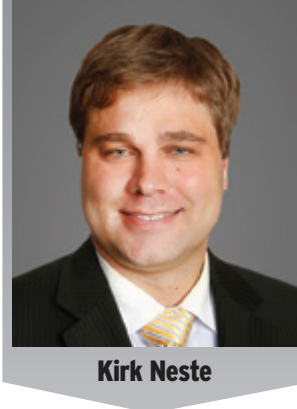
The old "pay first, dispute later" principle now applies only to common assessments. A unit owner who contests the delinquent amounts for fines, late fees, legal fees and other charges may request a written verification statement from the association, and has 30 days upon receipt of such statement to demand for mediation before paying such contested amounts. After receiving the owner's mediation demand, the association shall cease collection and participate in mediation. If the parties are unable to resolve the dispute in mediation within 60 days, the association may then resume collection.

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*Na Lan is with the law firm Damon Key Leong Kupchak Hastert. She is skilled in general-matter consulting, collection/foreclosure and dispute resolution/litigation. With years of experience, she understands the legal issues impacting today's associations. Reach her at 531-8031 or [nl@hawaiiilawyer.com](mailto:nl@hawaiiilawyer.com).*

# The Perils of Contemplating a Self-Help Eviction

Different rules apply for commercial, residential properties



Kirk Neste

One of the most common questions I receive from landlords is whether they can—without going to court—change the locks and take back their premises when a tenant has failed to pay rent or has otherwise defaulted on a lease. Lawyers commonly refer to a landlord taking back its own property from a tenant without using the legal process as a “self-help eviction.” Whether a landlord may do so is a more complicated question than most landlords expect. The short answer is that it is only advisable in the rarest of circumstances.

In Hawaii, eviction lawsuits are referred to as “summary possession” cases. Unless the term of the lease is exceptionally long (the exact demarcation has not been established by the courts), a landlord can take back their property through a summary possession lawsuit. These lawsuits are filed in state district court and proceed on an expedited basis. When a landlord prevails in the first phase of a summary possession lawsuit, the landlord receives a “Writ of Possession” and “Judgment for Possession” issued by a judge. Damages and a potential money judgment are dealt with in a subsequent phase of the lawsuit if the landlord elects to pursue it.

The primary benefit of obtaining a Writ of Possession is that doing so immunizes the landlord from wrongful eviction claims. It is difficult to overstate the value of this immunity. Commercial tenants claiming wrongful eviction may seek substantial damages for lost revenues and business interruption. Wrongfully evicted residential tenants can obtain at minimum two months of free rent by statute as well as other damages such as moving



Residential landlord engaging in a self-help eviction has signed up for a lawsuit in which the tenant will have the upper hand

expenses. Even if a landlord who has carried out a self-help eviction prevails in a subsequent lawsuit brought by the tenant, such a victory will feel hollow because the landlord will have spent substantially more in attorneys’ fees than if they had just done the eviction through the court process from the start.

In short, although the question of whether a landlord may legally engage in a self-help eviction is a nuanced and interesting issue, the practical answer is that it is never a good idea. The only exception to this is when a tenant is engaging in conduct that is so dangerous or destructive that the benefits of immediate removal outweigh the subsequent headaches of a wrongful eviction claim. The rule of thumb I share with landlords is that if the conduct is not serious enough for the landlord to dial 911, then it is not serious enough for a self-help eviction.

Although rarely advisable, the pro-

priety of a self-help eviction depends on a number of considerations. The first important distinction is whether the rental property is commercial or residential. Residential landlords are prohibited by the Hawaii Landlord-Tenant Code from engaging in a self-help eviction. Residential tenants who have been evicted without cause or a court order are entitled to minimum statutory damages of two months’ rent. At best, a residential landlord engaging in a self-help eviction has signed up for a lawsuit in which the tenant will have the upper hand.

The issue is more complex in commercial leases and remains an unsettled question in Hawaii. Commercial leases commonly contain provisions expressly authorizing the landlord to engage in a self-help eviction. If a lease does not contain such provisions,

Please see page 50



# Can Your Condo Lease Out Common Areas?

The board should first check the lease and zoning laws



Lance Fujisaki

**D**irectors and managers of condominium or planned community associations are faced with many financial challenges in the operation of their projects. In light of rising costs for repairs, maintenance, insurance and professional services, community association leaders may wonder whether they can generate income to offset operating expenses by leasing space within their projects. This article provides an overview of some of the issues these leaders must consider before leasing unused space in their projects for commercial purposes.

■ The first (and last) point is that association leaders should never enter leases of space within their project without first consulting with legal counsel. Leases are complex legal instruments with potentially significant financial, legal and other consequences.

■ Directors of community associations have a fiduciary duty to their associations. A fiduciary relationship is a special type of relationship which arises when the confidence, trust and reliance of one party is placed upon the judgement and advice of another. A fiduciary is bound to protect the interests of the parties relying on it. In exercising their fiduciary duties, board members must act in good faith in the best interests of the association, exercising the same degree of care and skill in making decisions or taking actions that would be expected of an ordinarily prudent person in a similar situation (Hawaii Revised Statutes 414D-149-a).

■ Leaders should ask several fundamental questions. Do we have the right to lease space within our project? Check your governing documents for authority to lease space.

■ Will the leasing of space for commercial purposes comply with zoning laws? Will we be required to obtain a variance?



Association leaders may wonder whether they can generate income to offset operating expenses by leasing space within their projects

■ Under Section 514B-38(5) of the Hawaii Revised Statutes, condominium associations may lease common elements that the board determines are not actually used by any of the unit owners for a purpose permitted in the declaration. But the lease must not have a term of more than five years and must be terminable by the board on not more than 60 days prior written notice. Otherwise, the lease will require the approval by owners of at least 67 percent of the common interest.

■ Under HRS Section 514B-38(6), if the board intends to lease common elements that are actually used by unit owners for a purpose permitted in the declaration, the lease must be approved by owners of at least 67 percent of the common interest, including all directly affected unit owners that the board reasonably determines actually use the common elements, and the owners' mortgagees. In many instances, these approval requirements are probably impossible to satisfy.

■ There is an exception to the two

preceding approval requirements. Leases, licenses or other agreements entered into for the purposes authorized by Section 514B-140(d) do not require owner approval. It gives boards the authority to install antennas, conduits, chases, cables, wires and other television signal distribution and telecom equipment on the common elements.

■ If the leasing of space for commercial purposes means that your project will be open to the public, how will that affect your project? Most condominium projects and planned communities are not open to the public and are subject to the Fair Housing Amendments Act. If spaces are open to the public, they will likely be deemed places of public accommodation, meaning that your association will be subject to the requirements of the Americans With Disabilities Act, which may impose a duty upon your association to remove barriers that impair disabled or handicapped persons from using the public facilities.

■ If physical alterations and ad-

ditions will be made to the project, owner approval may be required by the governing documents of the project. The common elements of condominium projects are owned in common by all apartment owners. Most project documents have detailed restrictions on changes to the common elements. Planned community associations typically own the common facilities and have more latitude regarding alterations and additions.

- Consult with your insurance professional regarding insurance requirements for the lessee.
- Other than the issues discussed above, the lease provisions for leases by community associations are similar to those in standard commercial leases.
- Carefully define and describe the premises' location, condition, the terms for payment and calculation of rent and taxes, length of the term and grounds for termination.
- Clearly describe the tenant's duties to maintain and repair the premises and describe the tenant's duties upon termination.



Spaces that are open to the public will be subject to the requirements of the Americans With Disabilities Act, which may impose a duty upon your association to remove barriers that impair disabled or handicapped persons from using the public facilities

- Require the tenant to indemnify the association for any claims that arise out of the use of the premises.
- Describe the duties of the association and tenant to comply with the Americans with Disabilities Act and fire or building code requirements.
- As stated at the outset, it is critically important that leaders consult with legal counsel before entering into leases of common areas.

This article is intended to address issues of general interest and is not intended to

constitute legal advice or to substitute for the advice of legal counsel.

---

*Lance S. Fujisaki is an attorney with Anderson Lahne & Fujisaki LLP, A Limited Liability Law Partnership. His exclusive field of practice is in the representation of community associations, including counseling, contract negotiations and documentation for renovation projects. Reach him at LFujisaki@alf-hawaii.com or 697-6005*

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# Let Hawaii Energy Help Upgrade Your Building's Transformers

Savings can be significant by improving your energy efficiency



Hoang Tran

Owners and managers of large commercial properties can readily find ways to save a significant amount of money if they just know where to look. In areas of buildings that are easily forgotten, electrical power distribution transformers are large, behind-the-scenes pieces of equipment critical to powering your commercial facility. They also represent hidden opportunities for energy savings.

Transformers run around-the-clock, providing important power to the building's electrical equipment,

but also continually consume energy. Upgrading them to more energy-efficient models could mean a major boost to your bottom line, reduced costs or added value for tenants.

Increased energy efficiency of these units should result in significant energy savings, which is vital from both an economic and an environmental standpoint. The key to saving energy here is the 24/7 nature of a transformer's use. Unlike most electronic products—large or small—transformers are designed to run for an estimated 30 to 40 years. This long lifespan means great potential for

substantial, cumulative energy savings over time. Even small improvements in efficiency could impact your bottom line for the better.

State-of-the-art, high-efficiency transformers being manufactured today feature advanced technology and are designed to stay cooler, run quieter and are more energy-efficient, not to mention they're friendlier to the environment and reduce your carbon footprint. Now might be the right time to take a close look at your transformers to see exactly how old they are and whether the time is right to upgrade to an energy-efficient model.

Financial incentives are currently available on Oahu, Hawaii Island and Maui County that can help a company cover the cost of purchasing new energy-efficient transformers for your facility. Rebates are available for single-phase transformers sizes 10kVA to 750kVA, and three-phase units, sizes 15kVA to 1,000kVA.

Energy Star-certified commercial and industrial transformers are readily available and highly recommended. Statistics show that even modest improvements in efficiency levels of 2 to 3 percent still deliver vital savings.

*Hoang Tran is an energy efficiency advisor with Hawaii Energy. He is primarily responsible for assisting building managers in identifying energy-saving opportunities and implementing efficiency and conservation initiatives to reduce utility and operational costs. For more information on electrical power distribution transformers and the above-mentioned rebates, reach him at 848-8524 or [hoang.h.tran@leidos.com](mailto:hoang.h.tran@leidos.com), or go to [hawaiienergy.com/transformers](http://hawaiienergy.com/transformers).*

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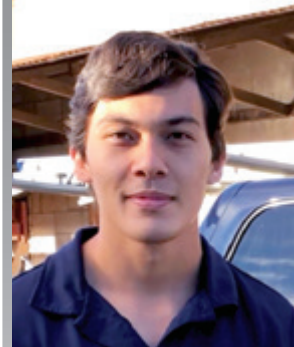
## MAHALO TO OUR SPONSORS





# The Many Problems a Roof Can Experience

How being proactive can help maximize your return on investment



Brennan Leong

**H**aving a proactive roof maintenance plan will help you maximize the service life and performance of your roof. We recommend at minimum a semi-annual roof inspection. For areas with more extreme conditions or use, a quarterly inspection may be desired. This allows a qualified professional to address areas of deficiency before they become larger and more costly problems. A proper roof maintenance program will consist of a thorough inspection, comprehensive reporting and identification of deficiencies present, remedial repair work and assistance in budgeting for the inevitable roof replacement. Most roofing material manufacturers require regular maintenance to uphold their roof warranty, and some will even extend your warranty up to 25 percent by having a regular maintenance program by a qualified maintenance professional.

Generally, low-slope roofs require more maintenance due to the nature of construction. Moisture and debris will accumulate on low-slope roofs easier and more frequently than steep-slope roofs. Oftentimes low-slope roofs have drains or scuppers as the only exit points for water. Checking that these have adequate flow helps ensure you do not allow water to back up into areas or to pond, which will accelerate deterioration on your roof. Loose laps and ponding conditions can allow moisture to enter a roofing system. Many flat roofs have a rigid insulation system beneath it. Water can severely impact a roof's insulation "R-Value" and cause a loss of energy efficiency. Over the long term, a leaky roof can not only affect maintenance cost, but can also impact your energy bill as well!

Steep-slope roofs also have their



Before and after: Liliha Bakery office building, from pitch and gravel to tapered insulation single ply

weak points. Flashing details, skylights, valleys and pipe boots are all common areas of deficiency on a steeper-pitched roof. Oftentimes these areas will give out well before the actual roofing material does. Addressing these areas helps you prolong the life of these weak points and help you get the most of out of your roof.

Here are some common areas that a qualified roofing professional should assess:

Gutters, drains, scuppers, downspouts, skylights, flashing, pipe boots, missing shingles, deteriorated roof membrane, moisture in the deck/insulation, accumulation of debris, loose laps, punctures/tears in roof membrane,

low-hanging trees or other hazards that can prematurely deteriorate your roof.

A good roof maintenance program will include a minimum inspection of these areas, if applicable. After a thorough inspection is done, a proactive roof maintenance program will include a comprehensive report to building management. Any repairs and maintenance mentioned in this report should be considered to ensure you minimize overall maintenance costs.

Very often, when a problem is caught early it can be addressed for a fraction of the cost a full roof replacement would require. A good roof maintenance program allows you to benefit from repair work, while preventing



your roof from deteriorating into disrepair. Oftentimes when a roof falls into disrepair, more extensive repairs to the building are required. Interior drywall repair, mold abatement, carpentry/spall repair work and insulation replacement are all problems that can be prevented by being proactive on your roof maintenance.

Most times, repair work is a viable option to address roof deficiencies, although we generally recommend consideration of roof replacement when repair costs exceed 35 percent of reroofing budget. Providing these numbers is also something a good roof maintenance program should include. These reference points allow building management to know what their options are, and helps them make informed decisions.

Selecting the right material for the building construction, use type and budget are all things that a qualified roofing professional can assist with.

With any type of roof, once moisture permeates the system your number of options go down and maintenance costs go up. It will also lead to more costly building repairs. It pays off for building management and building owners to be proactive in maintaining their roof. Your roof is the only thing protecting your building from the elements. Having your roof regularly inspected is a great way to reduce the overall cost of building ownership, in turn helping maximize your return on investment. Seeking out a qualified maintenance professional to perform regular inspection and maintenance helps you minimize building expense, and keeps your clients, building users and tenants happy!

***Brennan Leong** is vice president of Kapili Roofing & Painting, working with hundreds of clients throughout the state annually. He has experience from the smallest roof repairs to large-scale commercial contracts. He understands the importance of informing building owners, and putting their best interest first. Brennan is a third-generation state-licensed roofing contractor, and takes pride in his ability to assist clients and uphold the family business and name. Reached him at 621-7663 or [brennan@kapiliconstruction.com](mailto:brennan@kapiliconstruction.com).*





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# A New Perspective for Infrared Roof Scanning

Technology allows a look at moisture lurking below your roof's surface

**S**ir William Herschel, an amateur astronomer, discovered infrared in the early 19th century. Since then, infrared has become a valuable technology for many industries. It has become an industry standard and is the *preferred* nondestructive method to identify water intrusion in flat, insulated and low-sloped roof assemblies.

## How It Works:

To understand the methodology for infrared roof evaluations, it is important to first comprehend how thermal differences are detected and analyzed in relation to wet and dry areas of insulation. During the day, the sun radiates energy onto the roof surfaces. This is referred to as “solar loading.” As the day continues, the sun continues to “load” energy into the roof. Wet insulation can retain more energy than dry insulation. After the sun has set and the roof surface starts cooling down, the areas of wet insulation will radiate the stored energy for a period. Thermal imaging is an infrared photo that will show these areas of stored energy which indicate “probable” or “possible” moisture. (See Figure 1)

## Infrared Meets Drone:

The merging of technology (sUAV/drones coupled with infrared) has become particularly valuable in commercial/institutional infrared thermal roofing evaluations. It is now possible to capture much larger roof areas in a single image. It is also easier to get better “angles of view” in order to capture clear infrared imaging of the underlying wet roof insulation. (See Figure 2)

## Why isn't EVERYONE providing this service?

Aerial Infrared thermal imaging is a technology that requires proper training and experience. Almost anyone can fly a drone (they practically fly themselves). Anyone (who can afford it) can purchase a thermal imaging camera and attach it to their drone. Anyone willing to study hard can get a “remote pilot’s license” from the FAA. However, obtaining a “waiver” from the FAA to legally fly at night is not easy (and roof thermal imaging must be done after sunset). sUAV insurance/liability insurance is available, but costly. Understanding roof systems, roofing components and building construction

takes years of experience. Example: Every roof type has different “reflectivity” and “emissivity” properties, both of which affect thermal imaging. Various insulation types have different moisture absorption rates and thermal patterns. Heat sources from mechanical units and reflections can be misinterpreted as moisture presence. In short, obtaining meaningful/useful thermal imaging requires experience.

## Weather constraints:

Weather, especially in Hawaii, makes thermal imaging more difficult. The standard practice for location of wet insulation in roofing systems (ASTM C1153-10) lays down the following parameters related to thermal imaging and weather:

1. No rainfall for 24 hours prior to thermal imaging. In some geographic locations, this can be difficult. Not impossible, just difficult.
2. Wind speed must be less than 15 mph. Too much wind will cool the roof surface and will “wash away” the heat signature emitting from the underlying wet insulation.
3. Sunny day, clear night. The roof needs a good “solar charge” during the day and preferably clear skies during the evening of the infrared survey.

**Note:** Weather conditions before and during an infrared survey should be verifiable, recorded and integrated into the thermal imaging report.

## Thermal Tuning:

Capturing good thermal imaging is only the beginning. The imaging must then be “tuned” (adjusted). This tuning process is challenging, even for the experienced thermographer. Thermal imaging is “tuned” by adjusting the temperature range of the image. Each pixel has a temperature signature. Just



Kim Beattie

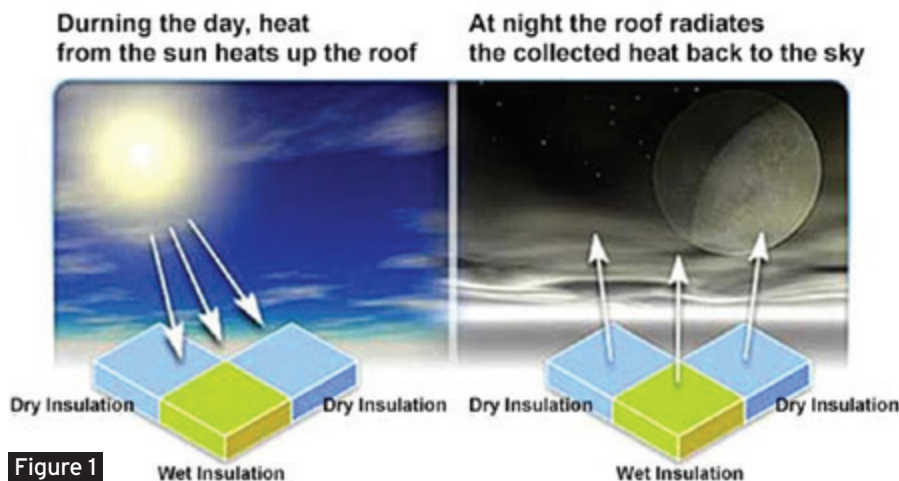
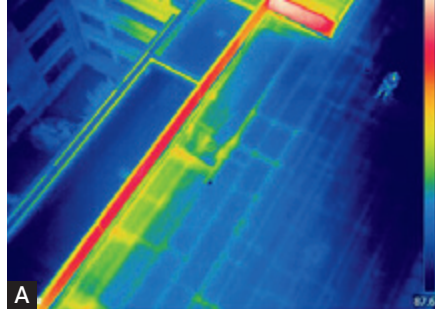
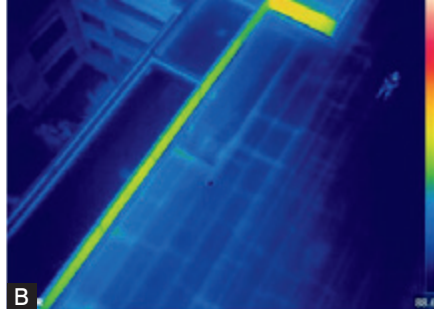


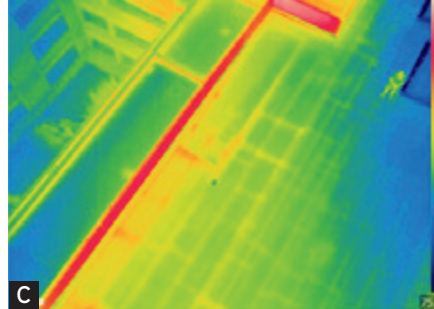
Figure 1



Properly "tuned"



Improperly tuned to look "dry"



Improperly tuned to look "wet"

one degree of adjustment (up or down) will change the thermal image. The goal of the "tuning" process is to eliminate "noise" within the image and emphasize only the possible/probable moisture contained in the underlying insulation.

Note: It is possible to make a dry roof look wet and a wet roof look dry, intentionally or non-intentionally, by adjusting the "thermal span" of the image. For this reason, a thermal imaging scan should be conducted by a third party/independent thermographer who has no ties to the contractor or manufacturer involved in the project. The expression "fox watching the hen-house" comes to mind. In other words: The thermographer should have no stake in the project or conflicts of interest. Following is an example of how the same infrared image can be "tuned" to show completely different results. (See Image A, B & C above.) These are all the same image, just "tuned" differently.

## Validation/Verification:

Infrared thermal imaging always needs verification. According to ASTM C1153-10, all thermal imaging needs to be closely evaluated by a qualified thermographer and the information must be further verified by "cores" or "cores and moisture meter probe." Each core sample must then be tested for quantity of moisture (percentage of moisture by weight). (See Figure 2 & 3 opposite)

## When to Have an Infrared Thermal Imaging Scan:

1. Building Envelope Commissioning
  - identify deficiencies with installation work in progress (insulation board fastening patterns are visible)
  - identify puncture damage by other trades trafficking on the roofing membrane
2. Substantial completion prior to the installer leaving the project (after a significant rainfall)
3. Near the termination of the

installer's warranty (generally one or two years)

4. When the roofing system nears the end of its satisfactory service life (near the end of the manufacturer's warranty)
  - an inexpensive, accurate infra-red roof scan near the termination of the membrane manufacturer's warranty coverage makes a lot of sense. It is a lot less costly to spend the membrane manufacturer's money remedying moisture intrusion deficiencies under warranty leak coverage than spending scarce capital resources
5. When the existing roof is being considered for over-lay/recover roofing (such as a coating system), or is the much costlier removal and replacement option required?
6. Following weather events and known or possible storm damage are two milestones for obtaining an accurate roof infrared scan

## What to ask for before allowing aerial thermal imaging on your property:

- FAA remote pilot license?
- FAA waiver to fly at night?

- Certified thermographer?
- Are your infrared thermal imaging reports in accordance with ASTM C1153-10?
- Years of experience in commercial/institutional roofing?
- Certificate of Insurance?
- LAANC/FAA-approved flight log (site specific)?
- Proposed flight plan on property (site specific)?

**Note:** Infrared can't see through windows (for those concerned about privacy issues).

*Kim Beattie has been a roofing professional in Hawaii for 36 years. He has evaluated and diagnosed thousands of commercial/institutional roofs throughout the Hawaiian Islands. He has been performing infrared thermal scans in Hawaii since 2008 as a Level 2 Thermographer. In 2017, he started Drone Vantage, which specializes in aerial infrared thermal roofing scans for commercial and institutional roofing. He is currently a certified Level 1 sUAV Thermographer, Licensed sUAV pilot (with FAA waiver to fly at night) and is fully insured. Reach him at 674-9499 or [info@dronevantage-hawaii.com](mailto:info@dronevantage-hawaii.com).*





# How to Beat the Leak

Proactive roof maintenance keeps you covered



Dana Akasaki-Kenney

## Did you know:

- Less than 1 percent of roof failure is due to defective roofing materials
- 25 percent or more of roof leaks are caused by roofing membrane penetrations
- More than 80 percent of roofs are replaced prematurely due to poor installation, severe weather and lack of maintenance.

These were just a few fun facts gathered by national roofing associations based upon actual trended and archived historical data. That being said, consistent roof maintenance just makes sense to extend the life of your roof and keep leaks at bay.

As with any other building maintenance item, regularly scheduled maintenance and reporting keeps owners updated of the present status as well as future precautionary needs to consider. Regular roof maintenance can help you prioritize and address minor issues before they become expensive repairs.

Here are a couple of tips to consider for your building's rooftop:

### 1 Avoid the common pitfalls.

Improper materials used, poor workmanship and lack of preventative maintenance commonly lead to leaks and premature roof failures.

### 2 A temporary emergency fix is exactly that.

Temporary, that is, until the weather allows for a quality repair to take place. It does not suffice for a quality repair.

### 3 Rooftop data is perishable. Every day buildings expand and contract with the heat and UV exposure impacting the roof system.

Debris and seeds can cause blockage and damage to the existing roof systems and the water exit points if left unaddressed. Various contractors are also



constantly accessing the rooftop platform and maintaining equipment, all which impact the roof deck. Annual or semi-annual reports keep owners aware of current roof conditions.

**4 Regular maintenance will help to ensure your roof and water exit points are clear.** That's how they'll be ready to remove water off the roof deck to prevent water-weight buildup.

**5 Unexpected changes in weather can aggravate poorly maintained roofs.** Loose roofing material can become dangerous projectiles to passerby.

**6 As of March 31, the Hawaii Energy Code is in effect across all counties.** Be sure that you factor the additional costs into future re-roofing costs. If you need to buy some time to build up your reserves, put your roof on a maintenance plan.

**7 Contractor selection: Do your due diligence.** Selecting a roofing contractor to install and maintain your roof is a top priority. We highly recommend that the contractor is professionally licensed in the state of Hawaii. To verify that the company is insured and bonded, check their financial status and reputation (check references), and whether they are certified by the manufacturer. The NRCA is another

great resource for guidelines on selecting a roofing contractor.

If an emergency leak does occur, call your trusted contractor, and have temporary repairs made until the appropriate parties can inspect and perform permanent repairs.

- Take photos of damaged areas prior to making temporary repairs
- Make temporary repairs to prevent further damage
- Gather two or three quotes with detailed estimates for permanent repairs

Common, costly and preventable roof issues—these are the stories we see too often. The great news is that they can be eliminated through the implementation of a regular roof maintenance plan for your facility.

*Dana Akasaki-Kenney is the corporate marketing director at Commercial Roofing & Waterproofing, the second largest roofing contractor in Hawaii. With 25 years of service in the industry, CRW continues to integrate new technology to enhance and advance tested and proven industry best practices in order to continue its mission to "exceed client expectations." For more information about a proactive roof maintenance program for your building, please contact our CRWDIRECT Roof Maintenance and Repairs Division. Call 748-8423 or email service@commercialroofinginc.com.*

# ASTON KAAPALI SHORES

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## ABOUT THE PROJECT

The Aston Kaanapali Shores Resort had been dealing with leaks, blistering, tears and wet insulation that merited its full replacement. The roof deck to be replaced was approximately 60,500 square feet. The scope of work included a total tear off of the existing roof accessories including close to 100 roof vents that had to be replaced. A new Sika Sarnafil PVC membrane roof was installed along with the flashing, walk pads, sealant and roof accessories.

## PAST PROJECTS FOR LOW SLOPE SINGLE-PLY ROOFING

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- Harbor Court
- Turtle Bay Resort
- Hawaii National Bank
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- Unicold Cold Storage
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# Ready for the Rain

Regular maintenance is the only way to assure your gutters are moving water safely away from the building



Charles Beeck Jr.

**R**ain is going to happen, and it can cause damage. The good news is that there are ways to control the runoff of rainwater.

That's why a gutter and downspout system are very important to have on structures. The gutter-downspout system's job is to channel rainwater coming from the roof away from the structure and foundation. Too much water falling too close to the structure can erode the soil around it, and compromise the foundation. The benefits of the gutters and downspouts can prevent erosion and preserve landscaping and turf. Foundation problems can be avoided and water damage to walls and siding can be prevented. Without fully functioning gutters and downspouts to control runoff in a safe manner, rainwater could cut pathways through lawns around the structure, creating ditches, pooling in low-lying areas, and even killing lawns, flowers and other vegetation.

Hawaii has experienced heavy rains recently and the result is many properties are having issues with rain gutters. To determine what can contribute to the cause of the problems, the first step would be to look at gutters for common issues. For gutter systems that are installed on multilevel structures, it is best to call a licensed gutter contractor to do an inspection. They will be able to properly and safely inspect the gutter and downspout system to determine what will be required to correct the problems.

## Common Gutter Problems:

**Clogging:** Debris, vegetation, leaves or other foreign objects can be the source of clogging. When the gutter gets clogged, it can cause water to overflow over the edges and down alongside the walls. Additionally, a gutter full of



water can actually flow under some types of roofing, which can contribute to roof leaks. The amount of debris that can build up in the gutter can add a significant amount of weight that can cause the gutters to sag, get damaged at the joints and even become disconnected and fall off. When a gutter gets clogged, it can stop or slow the drainage of water off your roof, causing more damage than you may know. Clogged gutters can rot fascia boards, thereby making it easier for water to enter the structure, causing wall and ceiling damage.

**Poor gutter pitch:** Gutters need to be pitched toward the downspouts for the water to flow. The standard is a quarter-inch downward slope per 10 feet of horizontal run. The pitch of a gutter heading toward a downspout can also cause overflow if it's too steep. Inadequate pitch will cause the water to gather in one spot, rather than flowing toward an exit. A visual inspection of your gutters will also let you know if you have a pitch issue. Corroded gutters indicate water is not draining as quickly and efficiently as it should. Standing water could not only be corroding the gutter but allowing unwanted moisture into the underlying roof deck.

**Gutter-Joint Separation:** This is a common problem that is typically

caused by clogs and debris accumulation. The joint areas of the gutters are vulnerable to separation due to the weight of water (8 pounds per gallon) and clogs in the system. A slow drip can quickly escalate, and the resulting water flow can damage the wall directly beneath the gutters and rot the fascia boards at the area of the joint.

**Overflowing Gutters:** If the gutter overflows, check the alignment of each gutter from ground level. If any appears to be sagging or uneven, this may be a sign the gutter is not strong enough to handle the weight of the water draining off the roof. Gutters may begin to buckle or pull away from their original positions. Additionally, if the gutters have no clog, the pitch and tilt are correct, and everything looks well balanced, then the gutter is simply too small and can't handle the amount of rainwater flowing down the roof.

## How to Avoid Gutter Problems:

The best way to keep these common gutter problems from happening and causing damage is to keep the gutters clean and maintained. Gutters should be cleaned out a couple times a year, more often if you have lots of trees or vegetation near your structure. Do visual inspections of the gutters and downspouts. Confirm that there are no loose fasteners, joint separation, sagging or tilting, or corrosion. Should there be questionable conditions, consult a licensed gutter contractor to inspect and make the corrective measures required.

## Time for New Gutters:

Whether it's time to replace faulty gutters or time to renovate, determine the size and type of gutters needed. The size of the gutter is based upon the

Please see page 50

# Options to Consider Before Painting

Are lead paint or asbestos involved, and what about a building permit?



Dean M. Nagatoshi

**R**esidential and commercial property managers and building owners have the same goals in mind when thinking of a painting project for their buildings: Provide protection of the building's surfaces and provide an aesthetically pleasing appearance that will last as long as possible.

Options to consider include engaging a paint manufacturer's representative, contracting a consultant or dealing directly with contractors with whom they may already have relationships—or a combination of the above. But before the procurement of bids from competing paint contractors, there are some concerns that need to be explored with possible action required before the procurement process begins.

Is a lead paint and asbestos survey, and test of the existing paint and building surfaces, required? Depending on the age of the building, lead-based or lead-containing paint may have been used. Asbestos also may be present. A lead and asbestos survey and test report can alert the building owner to possible risk and liability. A lead paint and asbestos survey should be performed by an environmental engineer who can provide a report that is acceptable to the Department of Health. The report should be kept for future reference and when work needs to be done to maintain the building. There is current legislation being considered for addressing exterior structures that have existing lead-based paint, Senate Bill 258, Relating to Lead-Based Paint.

Obtaining a lead-paint and asbestos survey test takes time to perform and obtain the results. Your painting contractor should have this information prior to bidding on the project. This will allow them to include providing protection for



A lead and asbestos survey and test report can alert the building owner to possible risk and liability

the building occupants and contractor's workers if required.

Will a building permit be required? A building permit may not always be considered, but can impact the project by stopping the work and creating added costs should one be required.

It is most common to have concrete spall repairs or wood replacement associated with a painting project. To determine if a permit is required, reference the Revised Ordinances of Honolulu, Chapter 18, Section 18-3.1 (10): "Repairs which involve only the replacement of component parts of existing work with similar materials for the purpose of maintenance, and which do not aggregate over \$1,000 in valuation in any 12-month period, and do not affect any electrical, plumbing or mechanical installations" are exempt for requiring a permit. Most repairs that are required prior to repaint will exceed the \$1,000 valuation and therefore require a permit.

Obtaining a building permit will require contracting an architect or engineer (AE), depending on the type of repairs required prior to repainting. Drawings are required to be submitted to the building department by AE for approval. Due to the extended time it takes to obtain a permit, managers and owners should determine if a permit will be required and start the process as soon as possible.

Residential and commercial property managers and building owners should make sure to find out if there is potential for any possible exposure to

lead-paint and or asbestos on their project and acquire a building permit if required to prevent added costs and project delays. These should be the first steps towards ensuring a successful project.

---

*Dean M. Nagatoshi is executive director of the Painting and Decorating Contractors Association of Hawaii. Members includes active unionized painting, decorating, waterproofing and industrial coating contractors, associate manufacturers, wholesalers, distributors and dealers and affiliate contractors with a multitude of skilled and bonded employees across the state. PDCA of Hawaii promotes the unionized painting industry and its commitment to give back to the community by helping with beautification of buildings as community service projects. Reach him at 479-6825 or [pdcaofhawaii@gmail.com](mailto:pdcaofhawaii@gmail.com).*



# Your Paint Job Still Looks OK. Can it Wait?

Signs your property may be ready for a new paint job



Corey Haitsuka

I've been in the paint industry selling paint jobs for more than 25 years and have always advised people to have their structure assessed by an industry professional. To make a paint project run smoothly, it takes a team of experts. Watching paint deterioration is like observing hair grow. You just don't notice it until it's in your eyes. As a resident manager or resident board member, it is very difficult to notice the wear of paint over days, weeks and years. In my career, I've had the experience of being a specification writer, a paint manufacturer supplier, a contractor and an AOA board member. Each role has an important part from budgeting to specifying, and from supplying to application.

There are two main purposes for painting: aesthetics and substrate protection.

From a maintenance standpoint, the protection of the substrate is the most important. The color of the coating shouldn't factor how long the structure will stand—it won't matter if it's white, pink or rainbow. There are, however, factors such as neutral or dark colors that could factor into how hot the structure gets, as well as how fast the color fades.

Coatings can degrade in several ways, especially in Hawaii's climate. The sun is very intense and the ultraviolet rays can age the coating, just as excessive exposure on your skin causes wrinkles and worse. Other natural factors that can decline a coating are rain and wind. The paint sheen plays an important role in how long the coating lasts and is the first line of defense. Most will not use a high gloss, due to its reflectiveness. Rather, a semi-gloss is most popular. Depending on the quality of material, it may take years for a sheen to completely wear off. When that's gone, the resins



Hawaii's climate is very intense and the ultraviolet rays can age the paint coating

will start to degrade into chalk.

When a professional assesses the project, he or she will determine the condition of the existing coating and that will factor into what prep work is needed. Generally, a good paint job should last anywhere from eight to 10 years. If done properly with a premium paint and with favorable conditions—minimal rain, wind and sun—it could last even longer.

If it is determined that there is excessive chalkiness, spalling, rust, wood rot or erosion of the substrate, it will surely raise the cost of the project. Often, it could double or even triple the cost. Ideally, a perfect paint job would be to simply clean the surface and paint.

Coating over unrepaired spalls will only get worse by allowing your concrete to finally dislodge and fall off the structure. Painting over chalky surfaces without washing or properly priming could factor into any delaminating issues.

If there is too much prep work to be done, you've probably waited too long. A good specification writer or contractor should be able to identify these conditions and bring them to light. They will also use various testing procedures such as adhesion and thickness testing to determine conditions. Tread lightly when prep work is skipped to save money. A lot of times, you'll end up paying more in the end.

Staying on schedule can save you some headaches. Having a good property manager who keeps up with records like the last time it was painted, by who and with what system can play important roles in the next one. Make sure a reserve study is done to ensure enough money is saved to start and complete the job on time. Implementing a special assessment will make you very unpopular. I'd advise that by year seven you should have a specification writer come out and inspect the structure. If it still looks good, they'll say so and we can move on to the next assessment. Most will do it at little or no cost.

As stated earlier, knowing a typical paint job lasts eight to 10 years is vital. Have a relationship with an industry professional like a specification writer, paint supplier or contractor. Having done all three jobs in my career, I understand the importance each of these roles play. Having a specification written, implementing a bid process with qualified contractors, will give you the best system and a competitive price. Do your homework in finding a good group of contractors and check that they are properly licensed to paint or do any other repairs that are needed, including spalling repair and waterproofing. Consult with your peers in the industry and get their opinion on who can do the job properly, safely and professionally. Keep in mind that no job goes smoothly, so there will be issues that arise. Another aspect of a good contractor is one who can work out these issues in a professional manner.

To conclude, maintaining a property is a collective team effort, including owners, property managers, suppliers, specification writers and contractors. Not only does each keep the other in check, but also makes sure the project is run as smoothly and as cost-effectively for owners as possible.

*Corey Haitzuka is the business development manager with Kawika's Painting. He has 27 years of experience in the paint industry as a consultant, specification writer and contractor. He also serves as a board member at Country Club Village, Phase 1. Reach him at 255-8651 or corhai808@gmail.com.*



Excessive chalkiness, spalling, rust, wood rot or erosion of the substrate, it will surely raise the cost of the project. Often, it could double or even triple the cost



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# The Practical Aesthetics of Paint

The quest to create vibrant new colors with more protectivity and less environmental impact keeps industry scientists busy



Joni McGinnis

**A**rchitectural coatings or paints can be summed up as paints used to coat buildings and homes. Some are specialized, such as deck coatings, bathroom paints or roof coating, but no matter its use each architectural coating provides certain decorative, durable and protective functions.

Paint is the final touch to a new home, condo or commercial building. It shows the personality of the owner's property and projects beauty, with the added responsibility of protecting the investment. We demand so much from a few coats of paint. We expect the finish to look fresh for as long as possible, not to fade, not to crack, not to blister. We want paint that can be easily cleaned, hide flaws and resist staining, and above all be able to protect our precious investment. Architectural paints have strived to meet the demands of the building and decorating industry, and continue to improve on application, durability and even our environment.

The market for low-solvent, low-VOC paint technologies continues to expand. Increasing awareness from end-users and consumers seeking highly sustainable products with low toxicological profiles and low environmental impact are part of the reason. Governmental regulations are also contributing to this momentum to limit air pollution. The early low-VOC formulations were often lacking in application and performance, but today's generation of low-to zero-VOC products have become the benchmark of premium paint products available in the market. Products such as C2 Guard, a water-proofer and sealer designed for unsealed wood and concrete surfaces, is a non-toxic, zero-VOC formulation. From exterior clear finish-



Paint is the final touch to a new home, condo or commercial building. It shows the personality of the owner's property and projects beauty, with the added responsibility of protecting the investment

es to high-performance acrylic DTM paints, the paint industry's chemists and engineers must be applauded for their ingenuity in meeting this high demand.

Most paint manufacturers offer a good, better and best paint line selection. Premium paints with a higher price tag are formulated with advanced quality ingredients that improve application like better flow, leveling and hide. Premium paints may also feature special properties such as improved mildew resistance, better scuff-resistance and superior resistance to extreme weather. Hawaii's homes and buildings are exposed to higher UVs, coupled with a harsh marine environment. For this reason it is recommended to use a good quality exterior paint such as Pittsburgh

Paint's Regency Exterior Paints. Avoid choosing an economy paint simply to save a few bucks. It won't pay off in the end when the paint is deteriorating faster than expected. Don't dismiss using a primer on problem areas even if you're using a paint-and-prime in one product. There are limitations for these "paint-and-prime in one" products, so be careful not to skimp especially on problem areas that may require a primer.

For interiors, an eggshell finish with semi-gloss trims is a popular combination. A dash of color with an accent wall can also add interest and character to a room. Semi-gloss or gloss paints are often selected for high-usage areas such as bathrooms and kitchen for better wear and cleanability.

The most exciting feature of paint



is color. Every year major paint manufacturers embark on the search for the perfect hue that encapsulates color trends emerging around the globe. They are looking for a color that embodies the mood and spirit of the time. They are looking for the “color the year.” Colors are typically announced at the end of the previous year in anticipation of launching the newest color trends.

Pantone’s color of the year is “Living Coral 16-1546,” a soothing orange with gold undertones. It is described as soft and vibrant, energizing and mellow, warm and spirited. The nurturing yet playful coral color was chosen to represent the fusion of nature and technology in modern life. The Pantone Color Institute plays an important trendsetting role for design, fashion and commercial industries.

PPG Paint brand’s 2019 color of the year is Night Watch (PPG1145-7), a rich, luxurious and classic shade of green. “Night Watch evokes a soothing feeling when incorporated into any space in the home. The dark green hue pulls our memories of the natural environment to the surface to recreate the calming, invigorating euphoria we feel when in nature,” says Dee Schlotter, senior color marketing manager at PPG.

Benjamin Moore’s 2019 color of the year, Metropolitan AF-690, is a silvery gray that exudes beauty and balance. “It’s comforting, composed and effortlessly sophisticated,” says Hannah Yeo, color and design expert at Benjamin Moore. “The versatility of this hue makes you feel right at home regardless of your personal style.”

Behr, Home Depot’s brand, selected Blueprint S470-5, a neutral blue shade

the company calls “warmer than denim and softer than navy.” Behr’s color of 2019 aims to be timeless, modern, approachable and calming.

Sherwin Williams’ color of the year is Cavern Clay SW 7701, an earthy, warm tone. “Cavern Clay embodies renewal, simplicity, and free-spirited, bohemian flair,” says Sherwin Williams’ Sue Wadden.

The fresh colors of 2019 range from subtle to bold, from earthy warm to steel cool. The color experts look at different industries, including automotive, consumer, electronics and fashion around the world to assemble and forecast color schemes to reflect the mood, mindsets and design for various industries. *Elle Décor* magazine’s Lucia Tonelli notes: “Unlike 2018’s color trends, 2019 is taking a more mindful, lifestyle-based approach to the development of new shades. From powerful aquas to soft terracottas, companies are connecting the dots between consumers’ home lives, mental demands and digital engagement, which inspired many of the color picks this year.”

*Joni McGinnis is sales representative with Ameritone Maui, a locally owned and operated paint and supply dealer that has been serving the Valley Isle for 45 years, with stores in Kahului and Lahaina. She has 28 years in the paint industry business, including specification writing, paint consulting and color consulting. She is NACE Coating Inspector Level 2, PDRA Industrial Paint and Coating Consultant, and NACE and SSPC member. Reach her at 871-7734 or [joni@ameritonemaui.com](mailto:joni@ameritonemaui.com).*

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# For Women, By Women

## New companies are offering hard-wearing apparel with a feminine spin

BY BRANDON BOSWORTH

Landscapeers, maintenance staff and pretty much anyone getting down and dirty and working with their hands need proper clothing and equipment. For women, gear can sometimes be hard to find, as so much of what's commonly available is made for men. But things are changing, and companies are stepping up to fill this growing niche.

Launched last year, SeeHerWork specializes in workwear and safety equipment designed specifically for women, including gloves, vests, bags and work shirts.

SeeHerWork is the brainchild of **Jane Henry**. Some manufacturers did try to offer items for women, but Henry says more often than not "they just shrunk men's stuff down and colored it pink. I was tired of the 'pink it and shrink it' approach."

Safety gloves are a big part of SeeHerWork's lineup and have a unisex appeal. Other products are a bit more gender-specific. "Women especially love our DebrisProtect Bra," Henry says. The DebrisProtect Bra shields wearers from flying scraps and embers that can fall into sensitive areas while working. The sweat-wicking fabric with four-way stretch helps keep users dry and is engineered to retain shape and not shrink.

SheHerWork isn't the only company stepping up with offering designed by women for women. Rosies Workwear has been in business for more than 16 years. "Rosies Workwear was launched in 2002, after the



Jane Henry



PHOTO COURTESY ROSIES WORKWEAR

Hawaii renovator **Angel Kay Uherek** wears Rosies Workwear on the job

founder (my mother) **Sharon Moore** took a welding class," says **Kathleen Crawford**, marketing manager. "She was required to wear coveralls for the class. She searched everywhere and could not find any for women, so she ended up ordering a men's small. She was disappointed that it didn't fit her proportions right, even for a very average-size woman. She realized that the excess fabric was a flame hazard."

Moore concluded there must be other women working in various labor industries facing similar problems. "With a background in entrepreneurship and manufacturing, she set to work on designing a new type of coverall for women," Crawford says. "She included all the features that she knew women like, but are not often available in women's work wear, such as soft (but durable) fabrics, deep pockets to hold tools and kneepads that could be attached to the product."

Crawford says Rosies' most popular

Please see page 50

# Downtown Office Tower to Go Residential

A recent move by the owner of downtown Honolulu's largest office tower appears to provide a solution to two ongoing real estate problems in the state's business core: a shortage of residential units and a plethora of commercial space.

Bishop Place, the 25-story tower at the corner of Bishop and Hotel, also known as 1132 Bishop, is owned by Douglas Emmett, a California-based real estate investment trust, which estimates the cost of converting the office building into about 500 condos will cost \$80 to \$100 million. The first residential units are expected to open next year, with commercial tenants leaving as their leases expire.

"The Douglas Emmett team is focused on addressing the critical need for workforce rental housing in Hawaii, and we are working hard to get through the planning and permitting process so we can begin the conversion," company CEO Jordan Kaplan said in a released statement. "Bringing hundreds of new residents into the central business district will also contribute significantly to transforming downtown Honolulu into an active 24-hour community."

Units will include studios and one- and two-bedroom condos, and will be available to those earning between 80 and 120 percent of Honolulu's median income.

Mayor Kirk Caldwell was said to support the plan.

On the same day Douglas Emmett made its announcement, the commercial real estate brokerage firm CBRE released results of a report that found 18.5 percent of downtown office space was vacant at the end of last year, just off the record 19 percent in 2017. Bishop Place occupancy, Douglas Emmett said, was about 70 percent.

CBRE said it expects other commercial spaces to follow suit and enter the residential market.

Douglas Emmett holdings in Hawaii include the Moanalua Hillside Apartments. The company is also the largest single owner of downtown commercial space, including Harbor Court and twin-tower Bishop Square.



Kathleen Crawford

# In the Event of a Shutdown...

BY DON CHAPMAN

We got lucky last time—or as lucky as you can get with the December-January government shutdown costing the U.S. economy \$11 billion, according to the Congressional Budget Office—at least it ended. We got even luckier when a bipartisan Congressional deal appeared to end the threat of another shutdown as *BMH* was going to press. We were working on a story about how the shutdown could impact condominium associations—and because you never know what's in store with this president and Congress, the story remains relevant.

**Associa Hawaii**, one of the state's largest condominium and HOA



Neil Ross

management companies, aims to be helpful for affected federal employees, says **Neil Ross**, Associa senior vice president of operations:

"Associa extends its aloha to workers affected by the government shutdown. Affected owners have been asked to submit a simple written request via email or letter, which we will present to the association's board of directors for their consideration and approval."

Similarly, **Hawaiiana Management** policy is that deferring late payments or other leniency is a matter for individual boards, as association funds are involved.

**Michael J. Gordon**, vice president of **Hawaiian Properties**, says the company

"sympathizes with the families and individuals that were financially burdened by the recent federal government shutdown. Many affected government employees, including members of the Coast Guard, who



Michael J. Gordon

protect our shores, and other government agencies that serve the citizens of our country, are also homeowners and members of associations managed by Hawaiian Properties, thereby making them our clients. In the event of another shutdown, which would undoubtedly cause even greater strife due to its repetition, we would work with our association boards to develop and implement creative and suitable payment programs for common assessments, suspend late fee postings and other collection measures in order to soften the burden, without causing detriment to the associations. Although implementation of such measures must be approved by the association board of directors, we would present these options to boards for their consideration, in our effort to advocate on behalf of those affected."

For retired Navy chief master petty officer **Kevin Rathbun** of **Ewa Pointe Realty**, which manages more than 50



Kevin Rathbun

condos, townhouses and single-family homes, his first concern was members of the military—in this case, Coast Guard members who missed paychecks and could

thus miss rent payments.

"We didn't have any federal workers at our properties," he says of the earlier shutdown. "But my neighbor is Coast Guard. Fortunately, his landlord is ex-Coast Guard, and he was able (to defer payment)."

Rathbun, who volunteers as vice chair of U.S. Vets' advisory council, says he is "cautiously optimistic" that another federal shutdown can be averted, but if it does happen, he says Ewa Pointe will not charge late fees, and "hopefully the owner is in a position to go along" on deferred rent.

Rathbun says he's also heard of a nationally branded bank that caters to military members as being "not very cooperative" with Coast Guardsmen's loans. "Bank local," he says.



## Kauai, Maui Condo Sales Start 2018 Strong

BY BMH STAFF

What's up on Kauai?

The cost of a condo, for starters.

The median cost of a Garden Isle condominium rose 98 percent in January over the previous year, to \$570,000.

Some of the jump might be attributed to the housing shortage on Kauai, but more pertinent was the sale of several condos at Kiahuna Plantation in January 2018, some for as low as \$232,000, producing a median sale price of \$287,500 a year ago.

Overall, 31 condos sold on Kauai in January, compared to 34 in January 2018.

On the Big Island, the median condo cost dropped 2 percent, to \$341,000, over 2018. But sales volume was up 11 percent for the month, to 61.

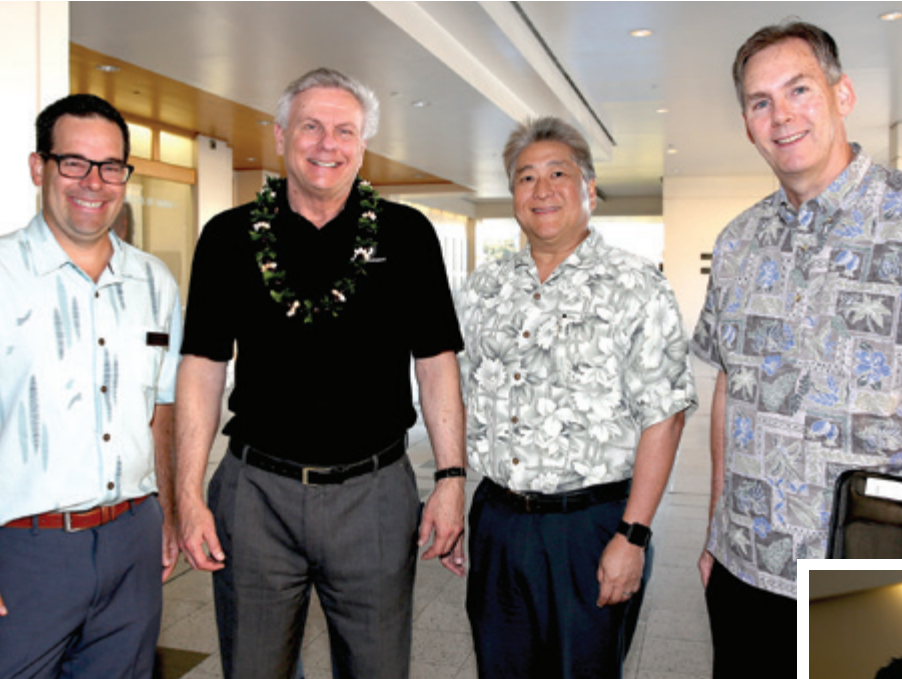
Above statistics are from the Kauai Board of Realtors.

On Maui, January was also good as condo sales were up 4 percent, to \$528,450—this despite the sale of single-family homes on the Valley Isle going down 28 percent compared to last year.

Maui statistics are from Realtors Association of Maui.

Median is the price point at which half of prices are above it and half below it.





Ryan Robertson, Alan Crandall, Chason Ishii and John Flanigan



Russell Doane, Carol Davis and Mike Ako

## AOAO Cyber Threats

PHOTOS BY NATHALIE WALKER

Board members and building managers turned out for a breakfast seminar on AOAO vulnerability to cyber attack, sponsored by Atlas Insurance at the Japanese Cultural Center's Grand Manoa Ballroom.



Slayde Omura, Joey Barroso and Elaine Gascon



Lou Jones, Naomie Ramos, Daniel Ken, Kristi Hiroto and Kanani Kaopua



Leslie Chang, Kevin Davis and Ron Tsukamaki





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products include eggplant overalls which can convert into shorts, lightweight denim overalls with extra tool pockets and traditional navy coveralls. “We have been introducing some more vintage looks recently that have been very popular including our greige (a beige grey) coveralls with turn out polka-dot cuffs, a nod to Rosie the Riveter.”

Dovetail Workwear also had humble origins. “Dovetail grew out of the experiences of two fed-up landscape gardeners from Portland, Oregon (Kyle Marie Begley and me), who were tired of wearing ill-fitting, unflattering work pants that were never designed with women’s bodies in mind,” says co-founder **Kate Day**. “Enter our client, Sara DeLuca, who happened to be an apparel



**Kate Day**

industry expert. We three decided to take things into our own hands, designing and producing Dovetail’s first offering—the Maven Slim—to fill the fit, function and durability gap in women’s workwear.”

Day says Dovetail’s 10-pocket Maven Slim in Power Stretch Denim “is a great all-around work-horse” for those working in building maintenance. “These jeans are tough but comfortable, with enough of our ‘secret stretch sauce’ to move with the body as you bend and flex in tricky spaces,” she says. “High-backed at the waist, there’s no chance of ‘plumber’s crack’ when you’re plumbing.”

Dovetail is releasing all-purpose and high-impact gloves this year, as well as kneepads. “We are also working on a lightweight and water-resistant apparel line appropriate for warmer climates,”



PHOTO COURTESY DOVETAIL WORKWEAR

**Dovetail Workwear co-founder Kyle Marie Begley**

Day says. “Fire-resistant and high-visibility Dovetail apparel is also in the works.”

“Rosies Workwear always has new products on the drawing board,” Crawford says. “We are hoping to release an insulated coverall next. Many of our new product ideas come directly from our customers, and we love hearing the feedback and what they need.”

then the answer remains simple and a landlord must use the summary possession process. But even when a commercial lease expressly authorizes a self-help eviction, that does not end the inquiry. The Hawaii Supreme Court ruled in *Watson v. Brown* (67 Hawaii 252-1984), that Hawaii’s summary possession statutes were not a commercial landlord’s exclusive remedy and do not in and of themselves prohibit a self-help eviction. The Court, however, expressly noted that it was not deciding whether lease provisions authorizing self-help evictions would be void as violating public policy. The Court also cautioned that there were “limitations to self-help.”

The enforceability of self-help provisions in commercial leases has not been ruled on by Hawaii courts, but courts in other states have held that self-help provisions in commercial leases violate public policy. Besides *Watson*, the last time a Hawaii appellate court allowed a self-help eviction was in *Gomes v. Perry* in 1922. I frequently tell landlords asking for a prediction about how Hawaii courts

would rule on this issue, that the answer to that question likely does not matter because they do not want to be paying lawyers to argue about a nearly 100-year old case in the Hawaii Intermediate Court of Appeals, or potentially the Hawaii Supreme Court. Such an endeavor would be more expensive by several orders of magnitude than proceeding with a simple and inexpensive summary possession case.

In most instances, obtaining a Writ of Possession in a summary possession case is quick and inexpensive. The immunity from claims for wrongful eviction provided by a Writ of Possession is valuable. Weighing this benefit against the potential risks, a landlord contemplating a self-help eviction should almost always decide against it.

*Kirk NESTE is a partner in the litigation department of Cades Schutte. He concentrates his practice in the areas of commercial litigation, primarily focusing on disputes involving construction, real estate, construction, bankruptcy and judgment collection. Reach him at 521-9361 or kneste@cades.com.*

pitch of the roof. Additionally, in areas of more rainfall, larger gutters should be considered. Although there are several types of sectional gutters made of aluminum and vinyl, the best option is seamless gutters, which are continuous. The coherence of seamless gutters from one end of the roof to the other minimizes the risk of water leaking through the eaves. They only have joints at the corners and where the gutters meet downspouts. Seamless gutters are stronger and more reliable than sectional gutters. One of the features of seamless gutters is their uniform appearance. Another benefit of having seamless gutters on your structure is the many options in terms of color and material choice. Most often made from aluminum, they can also be made of copper or painted steel. The gutter contractor will manufacture the seamless gutter on-site in the exact lengths required.

*Charles Beeck Jr. has over 30 years of experience with raingutter and roofing systems. He is the owner/president of Tropical Roofing and Raingutters. Reach him at 847-0030 or 864-8400.*



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