

So You Want To Go Condo?

This brochure is intended to provide general information on the process of creating and registering a condominium.

The first thing to understand when deciding whether real property should be submitted to a condominium property regime (“CPR”) is that a condominium is a form of ownership, not a structure or a building.

What is a condominium property regime or “CPR”?

CPR is a specific form of ownership and governing process created when real property is submitted to the condominium property regime, a process often referred to as CPRing a property. The creation and administration of CPRs are governed by Chapter 514B of the Hawaii Revised Statutes (“HRS”).

Condominium ownership is ownership of a unit and a percentage of undivided interest in the common elements. The unit owner is entitled to exclusive ownership of the unit, but the underlying land is a common element owned in common with other unit owners in the condominium project; for example, common elements are often lobbies, hallways, roofs, roadways, and recreational facilities. Limited common elements which provide for exclusive use by an owner (versus ownership) often include yard areas and parking spaces.

Condominiums can exist in many structural forms; for example, offices, single family dwellings, townhouses, commercial warehouses, agricultural plots, boat slips,

units in a low or high rise building, or parking stalls.

Condominiums also have a variety of uses. As permitted by local zoning and permitting laws, a condominium could be residential, office, commercial, industrial, agricultural, or a combination of uses such as a building with both residential and commercial condominiums.

CPRing a property is not the same thing as subdividing a property. CPRing a property will not determine what can be built on a property, how many units can be placed on a property, or change building, zoning, density, or usage restrictions imposed by local laws.

What property can be CPRed?

In Hawaii, the condominium project must contain two or more units as defined by statute. The number and type of units must meet zoning requirements and be allowable. Neither the Hawaii Real Estate Commission (“Commission”) nor the counties approve or disapprove what type of real property can be CPRed.



How is a CPR created?

Generally, the first step in creating a CPR is to contact the appropriate county agency, generally the county’s permitting/planning office, to ascertain the allowable uses of the

real property. The allowable uses are not dependent upon the form of ownership. Provide the county agency with the tax map key number or property address to confirm the number of units and allowable uses, and structures.

In Hawaii, only the owners (or lessees) can submit real property to a CPR.

A condominium is created when the following documents are recorded at either the Bureau of Conveyances or filed at the Office of the Assistant Registrar of the Land Court depending upon the specific real property:

- Declaration of condominium property regime;
- Bylaws of the association of unit owners;
- Condominium map (floor plans and elevation); and
- Master deed or lease.

It is strongly recommended that these documents be drafted with the advice of an attorney who specializes in this area of law. A Hawaii registered architect or professional engineer must certify the condominium map (or floor plan and elevation). How long it takes for a developer to create a CPR depends upon how long it takes to create and record or file the required documents.

The property owner(s) or lessee(s) may be the developer of the condominium project. If the developer is not the owner or lessee, then the owner must agree to the submission of the property to CPR by consent and joinder to the declaration of condominium property regime.

Hawaii Administrative Rules Chapter 107 also contains specific requirements for CPRs. Copies of statutes, rules, and informal Commission rulings are available on the Commission’s website.

How is a condominium project registered?

Before any unit is offered for sale or sold, the condominium project must be registered with the Commission. Condominium registration packet, including the developer’s public report form, instructions, checklists, and fee information, are available free from the Commission on its website.

A developer’s public report is a disclosure statement meant for prospective purchasers. The report provides a description of the condominium project, including permitted uses, restrictions, warranties, and encumbrances.

Once a developer’s public report is filed, the Commission may issue an effective date. On average, it takes from six to eight weeks from submission of a complete registration file to the Commission for the issuance of an effective date. Larger or more complex projects may take longer.

The issuance of an effective date is **not** an approval or ruling on the merits of the condominium project. The Commission does not approve or disapprove any condominium project. The issuance of an effective date means that project has disclosed the pertinent and material facts, and that units can be legally sold.

When a circumstance occurs that would render a public report misleading in any

material respect as determined by the Commission, the developer must submit an amendment to the developer's public report.

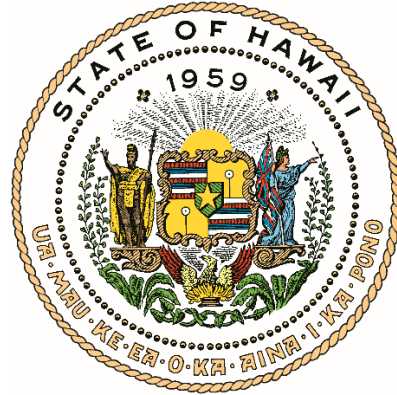
Prior to registration with the Commission and the issuance of an effective date for a public report, any attempt to encourage the acquisition of a legal or equitable interest in a condominium, including advertising, is prohibited by statute. Violators are subject to a fine of up to \$10,000 or imprisonment for up to one year or both. In addition, violators are subject to a civil penalty of up to \$10,000 for each violation.

How is a condominium association registered?

An association of unit owners ("AOUO"), formerly known as association of apartment owners, is the governing entity created by the CPR. Each AOOU of six or more units must register biennially, every two years, with the Commission. Please call the Real Estate Branch office to obtain a registration form.

Chapter 514A, HRS, condominiums

In the event a property was submitted to a CPR prior to July 1, 2006, and thus subject to Chapter 514A, HRS, please contact the REB for specific information on registration.



Learn more about the Real Estate Branch (REB) of the Department of Commerce and Consumer Affairs

Check out the REB website at www.hawaii.gov/hirec for more information and some frequently asked questions.

- What services does the REB provide to the condominium community?
- Where can I get help with association disputes?
- What laws apply to my condominium association?
- How do I get a copy of my association documents?
- And many more questions answered

Real Estate Branch

About Us

The Real Estate Branch, as part of the Professional and Vocational Licensing Division, assists the Real Estate Commission in carrying out its responsibility for the education, licensure and discipline of real estate licensees; registration of condominium projects, condominium associations, condominium managing agents, and condominium hotel operators; and intervening in court cases involving the real estate recovery fund.

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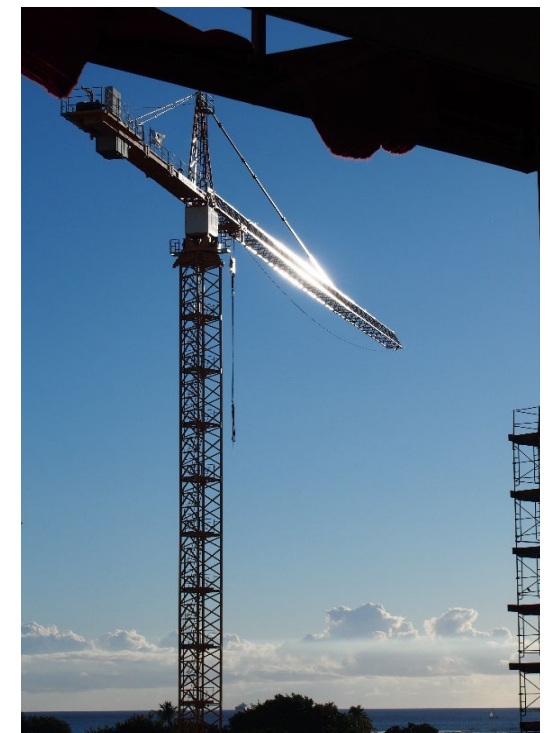
Condominium Hotline: 808-586-2644
Hours: 9 AM – 3 PM
Email: hirec@dcca.hawaii.gov
Website: www.hawaii.gov/hirec

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*Real Estate Branch
Department of Commerce and
Consumer Affairs*

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