



REPLY TO HAWAII

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KASDANCDLAWHAWAII.COM

July 29, 2022

BY PERSONAL SERVICE

Alexander & Baldwin Inc.
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The Collection LLC, A Hawaii Limited
Liability Company
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Joseph P. Majkut
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Hawaiian Dredging Construction Company, Inc.
605 Kapiolani Boulevard, 11th Floor
Honolulu, HI 96813

RE: Association of Unit Owners of The Collection
Initial Notice of Claims of Construction Defect - (HRS) §672E-3(a)

To whom it may concern,

Pursuant to Hawai‘i Revised Statute (HRS) §672E-3(a), the Association of Unit Owners of The Collection (“Association”) hereby provides its initial written Notice of Claims for Construction Defects in The Collection Condominium Project, designated as TMK (1) 2-1-55-4, -9 & -17 (referred to hereafter as “the Project”) as against The Collection LLC, A Hawai‘i Limited Liability Company, and A&B Properties Hawai‘i, LLC (“Developers”) and Hawaiian Dredging Construction Company, Inc. (“Contractor”). To the extent that any notice of claims are required by contractual agreements governing the Project, let this letter further serve as notice of claims such as breach of contract, breach of express warranty, breach of implied warranty, negligence, unfair business practices, and breach of fiduciary duty asserted by the Association against the Developers and the Contractor. Also provided with this letter is a thumb drive containing lab photos and any test results taken during the investigative process.

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*KASDAN TURNER THOMSON BOOTH LLLC PRACTICE IS IN AFFILIATION WITH KASDAN TURNER THOMSON BOOTH LLP

Itemization of Claimed Defects

1.0 Roof

- 1.1 Excessive corrosion of rooftop mechanical equipment including fan motor mounts, springs and air chiller. For example, attached as Exhibit “A” are photos of corrosion at rooftop mechanical equipment.
- 1.2 Improper drainage of pool deck maintenance roof. Water ponding on roof. For example, attached as Exhibit “B” is a photo of ponding on the pool deck maintenance roof.

2.0 Plumbing

- 2.1 Premature deterioration of PEX pipe. Inappropriate selection of PEX pipe for site condition and usage. Defective PEX have led to at least 19 leaks in the building. Attached as Exhibit “C” are documents related to PEX leaks, including incident reports with photos.
- 2.2 Inappropriate installation of suds producing laundry stack. According to the plans, the laundry stack diminishes in size from top to bottom. For example, Drawing P5.07 shows diminishing laundry stack in size from top to bottom.
- 2.3 Failure to plumb pool patio drain to suitable location. The drain is piped to discharge off of the side of the building to an area without proper drainage. For example, attached as Exhibit “D” is a photo showing the pool patio drain pipe draining over the side of building.
- 2.4 Failure to plumb main garage storm drain lines to suitable location. The main garage storm drain lines discharge to grade where it is not adequately sloped to drain. For example, attached as Exhibit “E” is a photo showing ponding in the parking lot due to a failure to properly plumb main garage storm drains.
- 2.5 Failure to properly install Provent Proset at Sovent Aerator Box pipe penetration assemblies. A box cut out at least 3.5” deep in the slab results in a fire rating of the slab area, which is less than the required 2 hours. For example, attached as Exhibit “F” is a photo showing at least a 3.5” deep cut out in the slab observed through a corridor wall cut between Units 2404 and 2406.
- 2.6 Improper obstruction of Sovent vents on roof with wire mesh affixed to outlets, which can restrict air movement causing buildup on the piping and backups. For example, attached as Exhibit “G” is a photo showing wire mesh obstructing Sovent vents on the roof.

3.0 Exterior Window and Wall Assembly

- 3.1 Failure of exterior wall assembly glazing system, including damaged, deteriorating, missing or displaced exterior gaskets, louvers, and seals. This defect has been observed by Curtainwall Design Consulting and discussed in the CDC Glazing Systems Observations Report (“CDC Report”) attached as Exhibit “H”. The CDC Report is attached here to illustrate exterior window and wall assembly issues identified at the Project. The Association does not adopt the findings of the CDC Report.
- 3.2 Excessive corrosion on assembly including head of window wall glazing system. This defect has been observed by Curtainwall Design Consulting in the CDC Report attached as Exhibit “H”. The CDC Report is attached here to illustrate exterior window and wall assembly issues identified at the Project. The Association does not adopt the findings of the CDC Report.

4.0 Parking Garage

- 4.1 Excessive cracking in concrete garage ceilings and unsealed cold joints, allowing for water intrusion through the concrete slabs. For example, attached as Exhibit “I” are photographs showing cracks in the 6th Floor garage lid.
- 4.2 Excessive corrosion of fire sprinklers and fittings in parking garage. For example, attached as Exhibit “J” are photographs showing corroding sprinklers and fittings on the 6th Floor of the parking garage.
- 4.3 Excessive corrosion on garage screen panel bolts. For example, attached as Exhibit “K” is a photograph showing corroding screen panel bolts. Attached as Exhibit “L” is a photo showing the garage panel.
- 4.4 Deterioration of concrete columns exposing steel supports. Attached as Exhibit “M” is a photo showing a deteriorating concrete column located on the 6th Floor of the parking garage.

5.0 Fire Protection Systems

- 5.1 Improper application of cement connecting CPVC pipes and fittings. Improper application of cement can cause the fire suppression system to be susceptible to leakage. For example, attached as Exhibit “N” is a photograph of a sprinkler pipe and fitting on the Floor 27 main water supply closet with improperly installed cement. Exhibit “O” is an example of a properly cemented sprinkler pipe and fitting.

- 5.2 Failure to adequately protect fire alarm panels from the elements. Fire alarm panels not adequate for use in outdoor environment. Failure and corrosion of fire alarm panels. For example, attached as Exhibit “P” are photographs showing corroding fire alarm panels.

6.0 Fire Rated Wall and Slab Defects

- 6.1 Failure to construct wall assemblies in Staircases in accordance with 2-hour rating requirements
- 6.1.1 Improper voids in the fire rated wall assemblies and fire rated sealant joint. For example, attached as Exhibit “Q” are photos showing voids in wall assemblies at the joint in the fire rated wall assembly on the 42nd Floor in Stairway 2.
- 6.1.2 Use of plastic trim at top and bottom of 2-hour rated assemblies in Stairways 1 and 2, with voids/lack of gypsum board behind the plastic trim resulting in an open gap at joint. Failure of wall assembly, including joints, to conform to any rated 2-hour assembly. For example, attached as Exhibit “R” are photos of the cross section of a 2-hour rated assembly at Staircase 2, between levels 10 and 11 showing a plastic trim piece with an open gap in the joint.
- 6.1.3 Failure to install two layers of gypsum board in fire rated wall assemblies in Stairways 1 and 2 in accordance with 2-hour rating requirements. Fire rated walls behind metal stairway stringer are constructed with one layer of gypsum board or no gypsum board. For example, attached as Exhibit “S” are photos of locations where one layer or no gypsum board was found at Floor 37, Stairway 1; and Floor 36, Stairway 1.
- 6.1.4 Lack of and/or improperly installed fire rated sealant at various horizontal pipe and conduit penetrations through fire rated walls. For example, attached as Exhibit “T” are photos showing failure to seal penetrations in the fire rated wall assemblies on Floor 6.
- 6.1.5 Excessive gaps and holes through fire rated walls. Holes and gaps too large for proper installation of fire rated sealants.
- 6.2 Failure to construct slab assemblies in accordance with 2-hour rating requirements
- 6.2.1 Lack of and/or improperly installed fire rated sealants in vertical pipe and conduit penetrations. For example, attached as Exhibit “U” are photos showing failure to seal penetrations in the fire rated slab.

In accordance with HRS §672E-4, the Developers and the Contractor have thirty (30) days to provide a written response to each of the alleged construction defects. The response may include either an offer of settlement or a request to inspect the premises. Within the parameters of the statute, the Developers and the Contractor are entitled to an inspection, including testing, to determine the nature and cause of the defects within the Project, and the nature and extent of any repairs or replacements. The Association will coordinate reasonable access. Please note that if the Developers and the Contractor request testing, you are required to give advance notice of the tests and required to return the premises to its pre-testing condition. Within fourteen (14) days of any inspection or testing, the Developers and the Contractor are required to provide a response to the claim.

The Association reserves all claims, rights, and remedies.

Regards,

/s/ Kenneth S. Kasdan

Kenneth S. Kasdan
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ENCLOSURES: Exhibit A - U