

REQUEST FOR ACTION

Subject	Revised Code of Conduct for Board and Committee Members Policy				
Preparer	Howard Kam, Jr.	AOUO Title	President		
Date	February 10, 2018	For Board	x	Action	Info

EXECUTIVE SUMMARY

The attached Code of Conduct for Board and Committee Members Policy, as revised and unanimously approved by the Executive Committee on February 9, 2018 with certain subsequent grammatical and format modifications, is submitted for Board review and approval.

The approved and adopted policy by the Board on February 21, 2017 revisions primarily include: (1) Revising the title of the policy to simply “Code of Conduct for Board and Committee Members” from “Code of Professional Ethics and Responsibilities for Board and Committee Members;” (2) Revising the “Conflict of Interest” language in consultation with legal counsel to be more consistent with section 3.2 of the Association’s Bylaws and section 514-125(g); and (3) Adding a required reading and acknowledgement provision for Board and Committee Members.

RECOMMENDATION

Move that the Board, adopt and approve the proposed revised Association Policy 120 – Code of Conduct for Board and Committee Members (attached as Exhibit A to this RFA), and that this revised policy become effective on February 15, 2018.

RATIONAL

Adoption of this revised policy results in: (1) consistency with section 3.2 of the Association’s Bylaws and section 514-125(g); and (2) better administration and monitoring of the required reading and acknowledgement certification by Board and Committee Members.

Exhibits <small>(If applicable)</small>	Index	Title
	A	Association Policy 105 – Code of Conduct for Board and Committee Members (as Revised)
	B	Code of Professional Ethics and Responsibilities for Board and Committee Members (as Original Approved in Feb 2017)

FOR BOARD USE ONLY

CERTIFICATE OF BOARD ACTION

X	Approved		Declined		Noted		Returned		Deferred		Withdrawn
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Stipulations

The Board approved to adopt the revised policy at the Board meeting held 2/15/18.

Coordinating Instructions

Distribution Instructions

Recording Secretary	Ryan Kamo	Action Date	2/15/18	RFA No.	8-2018
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ASSOCIATION POLICY 105 – CODE OF CONDUCT FOR BOARD AND COMMITTEE MEMBERS

Purpose

The purpose of this Code of Conduct for the Directors and Committee Members of the Association of Unit Owners of The Collection (“Association”) policy is to establish and set forth certain rules of conduct for the Board of Directors and Association Committees in carrying out their duties and responsibilities consistent with the governing documents and committee charters. This Board policy shall be applicable until such time as it is amended or rescinded by the Board of Directors.

Policy

1. General Standards

a. Representation

(1) Directors and committee members shall represent the interests of the entire community in exercising his/her duties. All decisions made on behalf of the Association must be made with the best interests of the Association in mind.

(2) Directors and committee members may not misrepresent facts in order to achieve any measure of personal gain, or gain for any other person or special interest group.

(3) Directors and committee members may not represent the Board or committee they serve in written or verbal communications with members or other entities unless authorized by an affirmative vote of the majority of the Board or committee.

(4) Directors and committee members may make no promise or representation to any person, contractor, subcontractor or supplier of any future action by the Association that is not approved by a majority of the Board of Directors.

(5) Directors and committee members may never exercise authority as a Board member or committee member except when acting in a Board or committee meeting or as delegated by the Board or its President.

b. Due Professional Care

(1) Directors and committee members must exercise due professional care in the performance of duties.

(2) Directors and committee members must observe the business judgment rule by exercising the same degree of care and skill as normally used by others in a similar position and business.

(3) Directors and committee members shall undertake only those responsibilities and assignments that they can reasonably expect to perform with competence.

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(4) Directors and committee members must endeavor to familiarize themselves with Association business, have a working knowledge of the governing documents and rules and regulations, and regularly attend scheduled meetings. Directors or committee members shall participate by voting on issues before the Board or committee.

(5) Directors and committee members agree to abide by all published policies, rules and regulations of the Association and are responsible for setting a standard and a tone for behavior that is in the best interest of the Association.

(6) Directors and committee members will not divulge confidential matters discussed in executive session or relating to attorney/client privilege. Note that by definition they are confidential.

(7) Directors and committee members will not interfere with or attempt to direct a contractor implementing a contract in progress. All communications with contractors will go through management or be in accordance with policy.

(8) Directors and committee members will not interfere with the system of management established by the Board, to which day-to-day supervision of the General Manager is performed by the Managing Agent or Property Manager, the General Manager supervises all employees.

(9) Directors and committee members will respect and maintain the confidentiality of a property owner's file and the personnel records of any employee.

c. Professional Courtesy

(1) Board and committee members will exhibit professional courtesy to all Association members and management, and shall not engage in any writing, publishing or speech that defames any other member of the Board, committees, management, staff or owner/resident of the Association.

(2) Board and committee members shall not interfere or supervise association or management company employees, unless a contract exists with a management company that authorizes such actions.

(c) Board and committee members may not interfere with contractual relationships between management professionals and contractors.

(3) Board and committee members will protect the confidentiality of the personal information of other Board members, committee members, owners/residents, management and employees.

d. Use of Association Funds

(1) No director or committee member may use or encumber Association funds or property for their personal use or benefit.

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(2) Directors and Committee members may be reimbursed for expenses incurred on behalf of the Association provided, the expenses are approved by the Board of Directors, and receipts are submitted by the party seeking reimbursement.

2. Conduct at Meetings

a. Communication

(1) The language used at Association and committee meetings will be considerate and professional at all times. Personal attacks or use of profanity is prohibited.

(2) Board and committee members will respect and support the majority decisions of the Board and committees.

(3) Approach all Board and committee issues with an open mind and make the best decisions for the Association which is consistent with the Association's mission and vision.

(4) Do nothing to violate the trust of those who elected or appointed you to serve the Association.

b. Rules of Order

(1) Board and committee members will follow parliamentary procedure as set forth in Robert's Rules of Order and Special Rules for Small Boards, as the President or Committee Chair deems appropriate.

c. Attendance

(1) Any member of the Board or committee who has three (3) consecutive unexcused meeting absences shall automatically resign their position on the Board or committee.

3. Conflict of Interest

a. General

(1) No member of the Board or committee shall derive any personal profit or gain, directly or indirectly, by reason of his or her service as a Board or committee member with the Association. Members of the Board and committees should conduct their personal affairs to avoid any possible conflict of interest with their duties and responsibilities as members of the Board or committees. Nevertheless, conflicts may arise from time to time.

(2) In accordance with Section 3.2 of the Association's Bylaws and Section 514B-125(g) of the Hawaii Revised Statutes, Directors and committee members shall not cast any proxy vote at any Board meeting, nor shall they vote at any meeting on any issue in which they have a conflict of interest. The Director or committee member shall disclose the nature of any conflict of interest prior to a vote at the meeting, and the minutes of the meeting shall record the fact that a disclosure was made.

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b. Related Entities

(1) Any engagement of a company or individual that is related to any Board or committee member, or any relative of a Board or committee member, must be properly disclosed prior to any such engagement. The disclosure shall be duly noted in the minutes and the related member shall abstain from voting on issues affecting the company or individual.

(2) A Board or committee member who is also engaged in the practice of another profession shall not provide these other professional services to the Association while serving as a Board or committee member, if the performance of such services is likely to result in a potential or actual conflict of interest.

4. Gifts and Contributions

a. Gifts

(1) It shall be the policy of the Association to discourage the acceptance by directors and committee members of gifts, entertainment, or other favors from existing or prospective customers, vendors, or suppliers.

(2) Gifts of nominal value (worth less than \$150.00) given as a token of friendship or upon special occasions such as a Holiday are acceptable.

(3) Cash gifts of any amount are not acceptable.

(4) Any gift intended to influence a decision by a Board or committee member, or to create an atmosphere of indebtedness toward the bearer is not acceptable.

b. Contributions

(1) The Association will not make any contributions to any political parties or political candidates.

5. Unlawful Activity

a. General

(1) Any Board or committee member under investigation for a felony offense shall request a leave of absence from their Association duties during the investigation or trial period.

(2) Any Board or committee member convicted of a felony offense will voluntarily resign from his or her position.

(3) Drug or substance use or abuse will not be tolerated prior to, or during meetings or anytime on the common areas of the Association.

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6. Enforcement

a. Complaints

(1) Complaints against any Board or committee member, which allege conduct inconsistent with the foregoing policy, must be made in writing to the President of the Board of Directors. If the complaint is against the President, complaints will be submitted to the Vice President or the Managing Agent.

b. Review Period

(1) The Board President, Vice President, or Property Manager, after ascertaining the validity of the complaint, shall convene an executive meeting within thirty (30) days of receipt of a complaint to discuss the alleged activity with the accused member.

(2) The Board shall attempt to gather all facts relevant to the alleged misconduct. Once satisfied that the information presented is sufficient to make a determination in the matter, the Board will excuse the accused member and decide what action, if any, may be appropriate to resolve the matter.

c. Findings

(1) The Board shall issue its written finding to the accused member with respect to the alleged misconduct within seven (7) days after the executive session held pursuant to Section b, above.

d. Sanctions

(1) Should the Board find that a breach of this Association policy was committed by a Board or committee member, the Board may impose appropriate sanctions, consistent with the Association's Bylaws. Such sanctions could include censure or removal of the member from the Board or committee. In the case of a Board member being considered for removal, the Board should consult with the Association's legal counsel before proceeding to remove the Board member for cause.

7. Required Reading and Acknowledgement

a. Board and Committee Members.

(1) All Board and committee members are responsible for reading this Code of Conduct for Directors and Committee Members Policy upon being elected or appointed.

(2) All Board members shall acknowledge in writing that they have read and understood this Code of Conduct for Directors and Committee Members Policy within thirty (30) days of being elected, and shall submit their written acknowledgement to the Secretary for the Association's records.

(3) All committee members shall acknowledge in writing that they have read and understood this Code of Conduct for Directors and Committee Members Policy within thirty (30) days of

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being elected, and shall submit their written acknowledgement to the Committee Chair, who shall submit it to the Secretary for records.

Delegation Authority

The Secretary may delegate the authority to maintain the written acknowledgements to the Association's Managing Agent.

Reporting

The Secretary or Managing Agent shall provide acknowledgement status report during the Board meeting subsequent to the Association's Annual meeting. The Board or committee member's written acknowledgement shall be consistent with the follow language:

I, the undersigned, recognizing the important responsibility I am undertaking in serving as a Member of the Board of Directors and/or Committee of the Association of Unit Owners of The Collection ("Association") and hereby acknowledge that I have read and pledge to carry out, and abide by, the duties and obligations associated with my role as a Board and/or Committee Member in accordance the Association's Code of Conduct for Board and Committee Members Policy ("Policy"). I understand that failure to abide by the Policy may result in sanctions as set forth in the Policy.

References

Hawaii Revised Statutes 514B, as amended
Declaration of Condominium Property Regime of The Collection
Bylaws of the Association of Unit Owners of The Collection
The Association's Mission, Vision and Values Statements

Tracking Information

Approved and Effective: February 21, 2017
Revision Approved and Effective: February 15, 2018

CODE OF PROFESSIONAL ETHICS AND RESPONSIBILITIES FOR BOARD AND COMMITTEE MEMBERS

WHEREAS, the Bylaws of the The Collection Association provides that the Board of Directors shall have all powers and duties necessary for the administration of the affairs of the Association; and

WHEREAS, the Board of Directors deems it necessary and appropriate to establish a Code of Professional Ethics which sets forth certain rules of conduct for use by the Board of Directors and Association Committees in carrying out their duties and responsibilities consistent with the governing documents and committee charters; and

WHEREAS, it is the intent that this policy resolution shall be applicable to Board and Committee operations until such time as it is amended or rescinded by a majority vote of the Board of Directors;

NOW, THEREFORE BE IT RESOLVED THAT The Collection Association Board of Directors does hereby establish and adopt the Code of Professional Ethics as follows:

I. GENERAL STANDARDS

Representation

1. Directors and committee members shall represent the interests of the entire community in exercising his/her duties. All decisions made on behalf of the Association must be made with the best interests of the Association in mind.
2. Directors and committee members may not misrepresent facts in order to achieve any measure of personal gain, or gain for any other person or special interest group.
3. Directors and committee members may not represent the Board or committee they serve in written or verbal communications with members or other entities unless authorized by an affirmative vote of the majority of the Board or committee.
4. Directors and committee members may make no promise or representation *to any person, contractor, subcontractor or supplier* of any [thing] *future action by the Association that is* not approved by a majority of the Board of Directors [can be made to any person, contractor, subcontractor or supplier].
5. Directors and committee members may never exercise authority as a Board member or committee member except when acting in a Board or committee meeting or as delegated by the Board or its President.

B. Due Professional Care

1. Directors and committee members must exercise due professional care in the performance of duties.
2. Directors and committee members must observe the business judgment rule by exercising the same degree of care and skill as normally used by others in a similar position and business.

3. Directors and committee members shall undertake only those responsibilities and assignments that they can reasonably expect to perform with competence.
4. Directors and committee members must endeavor to familiarize themselves with Association business, have a working knowledge of the governing documents and rules and regulations, and regularly attend scheduled meetings. Members (***Directors***) shall participate by voting on issues before the board or committee.
5. Directors and committee members agree to abide by all published rules and regulations of the Association and are responsible for setting a standard and a tone for behavior that is in the best interest of the Association.
6. Directors and committee members will not divulge [confidential] matters ***discussed in executive session or*** relating to attorney/client privilege. ***[Note that by definition they are confidential.]***
7. Directors and committee members will not interfere with ***or attempt to direct*** a contractor implementing a contract in progress. All communications with contractors will go through management or be in accordance with policy.
8. Directors and committee members will not interfere with the system of management established by the Board, to which day-to-day supervision of the General Manager is performed by the Property Manager, the General Manager supervises all employees.
9. Directors and committee members will respect and maintain the confidentiality of a property owner's file and the personnel records of any employee.

C. Professional Courtesy

1. Board and committee members will exhibit professional courtesy to all Association members and community association management professionals, and shall not engage in any writing, publishing, or speech making that defames any other member of the Board, committees, staff or resident of the community.
2. Board and committee members shall not interfere or supervise association or management company employees, unless a contract exists with a management company that authorizes such actions.
3. Board and committee members may not interfere with contractual relationships between community management professionals and contractors.
4. Board and committee members will protect the confidentiality of the personal information of other Board members, committee members, residents, employees and management professionals.

D. Use of Association Funds

1. No director or committee member may use or encumber Association funds or property for their personal use or benefit.
2. Directors and Committee members may be reimbursed for expenses incurred on behalf of the Association provided, the expenses are approved by the Board of Directors in advance, and receipts are submitted by the party seeking reimbursement.

II. CONDUCT AT MEETINGS

A. Communication

1. The language used at Association and committee meetings will be considerate and professional at all times. Personal attacks or use of profanity is prohibited.
2. Board and committee members will respect and support the majority decisions of the Board and committees.
3. Approach all Board and committee issues with an open mind, prepared to make the best decisions for the Community.
4. Do nothing to violate the trust of those who elected or appointed me to the Board or of those we serve.

B. Rules of Order

1. Board and committee members will follow parliamentary procedure as appropriate for a small body or organization.

C. Attendance

1. Any member of the Board of Directors or committee who has three (3) consecutive unexcused meeting absences shall automatically resign their position on the Board or committee.

III. CONFLICTS OF INTEREST

A. General

1. Directors or committee members must not allow any outside influence to interfere with exercising their duties in the best interest of the Association.
2. Any director or committee member that may have a potential conflict of interest with regard to a business transaction must disclose, in writing, the potential conflict to the other directors or committee members.
3. Any director or committee member that has an actual conflict of interest with regard to a business transaction must disclose, in writing, the conflict to the other directors or

committee members and abstain from voting on the issue or exerting any influence on the other voting members of the board or committee.

B. Related Entities

1. Any engagement of a company or individual that is related to any board or committee member, or any relative of a board or committee member, must be properly disclosed prior to any such engagement. The disclosure shall be in writing and the related member shall abstain from voting on issues affecting the company or individual.
2. A Board or committee member who is also engaged in the practice of another profession shall not provide these other professional services to the Association while serving as a board or committee member if the performance of such services is likely to result in a potential or actual conflict of interest.

IV. GIFTS AND CONTRIBUTIONS

A. Gifts

1. It shall be the policy of the Association to discourage the acceptance by directors and committee members of gifts, entertainment, or other favors from existing or prospective clients, vendors, or suppliers.
2. Gifts of nominal value (worth less than \$150.00) given as a token of friendship or upon special occasions such as a Holiday are acceptable.
3. Cash gifts of any amount are not acceptable.
4. Any gift intended to influence a decision by a board or committee member, or to create an atmosphere of indebtedness toward the bearer is not acceptable.

B. Contributions

1. The Association will not make any contributions to any political parties or political candidates.

V. UNLAWFUL ACTIVITY

A. General

1. Any board or committee member under investigation for a felony offense shall request a leave of absence from their association duties during the investigation or trial period.
2. Any board or committee member convicted of a felony offense will voluntarily resign from his or her position.

3. Drug, alcohol, or substance use or abuse will not be tolerated prior to, or during meetings or anytime on the common areas of the Association.

VI. ENFORCEMENT

A. Complaints

1. Complaints against any board or committee member, which allege conduct inconsistent with the foregoing resolution, must be made in writing to the President of the Board of Directors. If the complaint is against the President, complaints will be submitted to the Vice President or the Property Manager.

B. Review Period

1. The Board President, Vice President, or Property Manager, after ascertaining the validity of the complaint, shall convene an executive meeting within thirty (30) days of receipt of a complaint to discuss the alleged activity with the accused member.
2. The Board shall attempt to gather all facts relevant to the alleged misconduct. Once satisfied that the information presented is sufficient to make a determination in the matter, the Board will excuse the accused member and decide what action, if any, may be appropriate to resolve the matter.

C. Findings

1. The Board shall issue its written finding with respect to the alleged misconduct within seven (7) days after the executive session held pursuant to Section B, Number 2, above.

D. Sanctions

1. Should the Board find that a breach of the Association's Code of Ethics was committed by a board or committee member, the Board may impose appropriate sanctions, consistent with the Bylaws of the Association. Such sanctions could include censure or removal of the member from the board or committee. ***[Note: Removal from the Board would require owner approval, but committees are okay.]***

This resolution is adopted this 21 day of February, 2017, at an open Board meeting where a quorum of the Board was present and is effective immediately.

Henry Lew 2/21/2017
Signature Date

Sunhyun Kim 2/21/2017
Signature Date

[Signature] 2-21-2017
Signature Date

Sandra Fullerton 2/21/2017
Signature Date

Ken Shinoda 2/21/2017
Signature Date

[Signature] 2/21/2017
Signature Date

[Signature] 2/21/17
Signature Date

[Signature] 2/21/2017
Signature Date

[Signature] 2/21/2017
Signature Date

[Signature] 2/21/2017
Signature Date