

REQUEST FOR ACTION

Subject	Association Strategic Plan and Tactical Plans			
Preparer	Howard Kam	AOUO Title	President	
Date	August 1, 2018	For Board	x	Action
				Info

EXECUTIVE SUMMARY

Takeaways from the Board, Management & Supervisors Retreat held on June 28, 2018, were:

- A. Discussions regarding the Board, Management & Supervisors duties and responsibilities to the Association led by Christopher Goodwin, Esq., including the appropriate venue in which Board members are to discuss Board matters, etc. (see attached Model Code of Ethics for Community Association Board Members, and Responsibilities of Email Communications between Board Members).
- B. The Association's policies adopted by the Board in 2018.
- C. List of agreed upon critical risks to the AOUO [strategic risks](not prioritized) to achieve the vision for The Collection:
 1. Adequacy of reserves [AOUO financial viability to meet its short-term & long-term fiscal needs consistent with the Hawaii Property Condo Act];
 2. Maintaining safety [AOUO safety & security is consistent with comparable Honolulu associations];
 3. Facilities maintenance [AOUO facilities maintenance is consistent with comparable Honolulu associations];
 4. Fiscal efficiencies [AOUO is administered & managed economically efficient consistent with comparable Honolulu associations];
 5. Staff retention [AOUO human resources practices are consistent with the top 25% of comparable Honolulu associations];
 6. Better communications [AOUO improve communication methodologies consistent with best practices]; and
 7. Protecting and enhancing property values [Pursuant to the AOUO vision and values statements].

RECOMMENDATION

1. Suggest the Board, Management & Supervisors consider the retreat takeaways as overarching consideration in their decision-making processes and respective endeavors.
2. Suggest the Board develop a strategic plan to mitigate these critical risks by December 2018, if not earlier; and have Management develop tactical plans thereafter. Engaging the assistance of a third-

party expert, if necessary.

- Suggest the Association's Town Hall meeting in late August 2018 discussions focus on these critical risks to the Association and secure Owners' thoughts, including the means to best collectively and economically overcome or minimize these risks.

RATIONALE

It is imperative that the Board collaborate with Management & Supervisors to develop a strategic plan to address the risks, secure Owners' buy-in of the strategic plan. Thereafter oversee Management & Supervisors development and implementation of tactical plans and ensure that adequate resources are available to Management & Supervisors to deploy the tactical plans and fulfill the strategic plan.

As the strategic plan for the Association serves as the beacon to assist the Board in best fulfilling its duties and responsibilities holistically in accordance with the governing documents, and provide Management & Supervisors with the appropriate guidance to embark on developing tactical plans and having Supervisors execute such plans in furtherance of achieving the Association's mission pursuant to the values proposition.

The Association's strategic plan is overdue and perhaps, in part, the root of the current state of affairs of the Association. As the Board previously and continues to be distracted by proposed revisions to the Association Rules bent on stripping away the rights and privileges of Owners (which were probably critical in their decision to buy into this new project) without first giving due consideration to the existing processes for administering these rules and policing measures with additional guidance provided by the Board to Management.

Exhibits <small>(If applicable)</small>	Index	Title
	A	Model Code of Ethics for Community Association Board Members
	B	Responsibilities of Email Communications Between Board Members

FOR BOARD USE ONLY

CERTIFICATE OF BOARD ACTION

x	Approved	<input type="checkbox"/>	Declined	<input type="checkbox"/>	Noted	<input type="checkbox"/>	Returned	<input type="checkbox"/>	Deferred	<input type="checkbox"/>	Withdrawn
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Stipulations

Coordinating Instructions

Distribution Instructions

Recording Secretary	Joe Krahulik	Action Date	9/24/18	RFA No.	29-2018
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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

Joe Krueger 2/21/2017
Signature Date

RESPONSIBLE USE OF E-MAIL COMMUNICATIONS BETWEEN BOARD MEMBERS

Directors should refrain from engaging in substantive discussions and/or debates regarding Association business via e-mail.

Hawaii Revised Statutes ("HRS") §514B-125(a) provides:

All **meetings of the board**, other than executive sessions, **shall be open to all members of the association**, and association members who are not on the board **shall be permitted to participate in any deliberation or discussion**, other than executive sessions, pursuant to owner participation rules adopted by the board.

See, HRS§514B-125(a), emphasis added.

The exchange of e-mails between Directors engaged in the **deliberation or discussion** of Association business is not contemplated by HRS§514B-125(a). Simply put, HRS§514B-125(a) expresses a clear intent that **owners be permitted to hear and participate with the Board in its deliberation or discussion of Association business**.

The conducting of condominium association Board Meetings **via e-mail** is not specifically mentioned in HRS Chapter 514B, although HRS§514B-125(d) does specify numerous methods the Board **may** use to conduct meetings:

All board meetings shall be conducted in accordance with the most recent edition of Robert's Rules of Order Newly Revised. Unless otherwise provided in the declaration or bylaws, a **board may permit any meeting to be conducted by any means of communication through which all directors participating may simultaneously hear each other during the meeting**.

See, HRS§514B-125(d), in part, emphasis added.

The conducting of Board Meetings via e-mail likely does not comply with the above quoted statutory requirement that all Directors **simultaneously hear each other during the meeting**.

Condominium associations also organized as non-profit corporations, are also governed by HRS Chapter 414D, the Hawaii Non-Profit Corporation Act which does permit the Board to take action without a meeting, but only with the unanimous consent of all Directors:

Action without meeting. (a) Unless the articles or bylaws provide otherwise, action required or permitted by this chapter to be taken at a board of directors' meeting **may be taken without a meeting if the action is taken by all members of the board**. The action must be evidenced by one or more written consents describing the action taken, **signed by each director**, and included in the minutes filed with the corporate records reflecting the action taken.

See, HRS§414D-144, emphasis added.

In light of the above language, a Board could take action (i.e. deliberate and vote) regarding Association business via e-mail without a meeting if **all Directors** agreed to such in a **document signed by each Director**.

However nothing stated herein should be construed from **prohibiting** a Board from using e-mail, as when properly used, e-mail is a valuable and recommended tool for distribution of information in advance of or in preparation for a Board Meeting. Distribution of the agenda, proposed motions, drafts of minutes, policies, rules and procedures, vendor proposals, bids, contracts, correspondence to the Board from owners and/or third-parties are just some of the examples of the recommended use of e-mail in preparation for a Board Meeting, but the **deliberation or discussion** of Association business should be conducted at the Meeting, not via e-mail.

Finally, the use of e-mail by Directors to engage in **personal attacks** against owners, directors, AOA staff members (or anyone else) is never recommended, and risks imposition of legal liability upon individual Directors and/or the AOA for such conduct.