

REQUEST FOR ACTION

Subject	Amendment to the Association Rules			
Preparer	Howard Kam	AOUO Title	Secretary	
Date	February 16, 2017	For Board	x	Action
				Info

EXECUTIVE SUMMARY

Purpose

The purpose of this RFA is to request that the Board approve and adopt the proposed amendments to Sec 11 of the Tower Recreation Facilities (“Tower”) and Midrise Resident Facilities (“Loft”), as recommended below, in lieu of the proposed Fitness Center Rules.

Rationale

The proposed amendments to the Association Rules should be adopted in lieu of the proposed Fitness Center Rules for the reasons as follows: (1) the proposed rules are too stringent and burdensome to enforce; (2) the number of Tower complaints regarding inappropriate use does not warrant the proposed rules; (3) many of the proposed rules are already stated in Sec 11 of the Tower Association Rules; (4) more time is needed to observe and study the impact of management’s intervention and fitness center’s demand cycle; (5) the proposed rules does not support our sense of community; and (6) management and the board have existing provisions of the Association Declaration and Rules which can be utilized to resolve the underlying complaints (see Sec 7.6 of the Declaration and Sec 2.6, 11.1, 11.14 & 11.16 of the Tower Rules and Sec 2.6, 11.1, 11.7 & 11,8 of the Midrise Rules).

The recommended amendments to the Association Rules are consistent with, and clarifies: (1) the intent of Sec 7.6 of Association Declaration (“create a nuisance or interfere with or unreasonably disturb the rights of other Owners and occupants”); and (2) Sec 514A-13 of the Hawaii Revised Statutes (“owner may use the common elements in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other apartment owners”).

The amendments better serve our community as policy statements rather than onerous rules.

RECOMMENDATION

Recommend that the Board amend the Association Rules, dated May 31, 2013, to read as follows (amendments are underscored):

A. Tower Rules

Section 11.1 - The Tower Recreation Facilities are for the personal use and enjoyment of Residents of the Units in the Tower. Commercial use of the Tower Recreation Facilities is prohibited. All persons using the Tower Recreation Facilities do so at their own risk. There will be no lifeguard at the swimming pool (the “pool”), or staff at any activity or exercise room. Therefore, anyone using those amenities does so at their own risk and is

fully responsible for his/her own safety. Residents [deleted Parents] are responsible for their children's & guest's safety and conduct at all times when using any of the Tower Recreation Facilities and other Common Elements of the Project.

~~Section 11.2 - The Tower Recreation Facilities may generally be used between the hours of 8:00 a.m. and 10:00 p.m. daily. The Board may establish other use hours for specific facilities and restrict the use of specific facilities for the exclusive use of Residents during certain hours of the day.~~

B. Loft Rules

Section 11.1 – The Midrise Resident Facilities are for the personal use only of Residents of the Units in the Midrise. Commercial use of the Tower Recreation Facilities is prohibited.
Midrise (Lofts)

Exhibits (If applicable)	Index	Title
	A	Tower Association Rules (not included)
	B	Midrise Association Rules (not included)

FOR BOARD USE ONLY

CERTIFICATE OF BOARD ACTION

<input checked="" type="checkbox"/>	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

Review of Section 11.2 as stated above was deferred back to Committee for further review and will be incorporated into a separate RFA.

Coordinating Instructions

N/A

Distribution Instructions

To be distributed to all owners via email notification.

Recording Secretary	Howard Kam	Action Date	2/21/17	RFA No.	002-2017
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