

Penalties. Owner-builders who fail to comply with owner-builder requirements can be fined up to \$5,000 or 50% of the permit value of the work to be performed, whichever is greater. Subsequent violations could result in a \$10,000 fine or 60% of the permit value of the work to be performed, whichever is greater. Owner-builders who violate the owner-builder requirements are prohibited from applying for new owner-builder permits for three years. If you obtain an owner-builder permit more than once in two years, you are presumed to have violated the owner-builder exemption.

What should you do? You should read the owner-builder permit application carefully. You should review Chapter 444 of the Hawaii Revised Statutes for details. A link to the Hawaii Revised Statutes can be found at cca.hawaii.gov/hawaii-revised-statutes/.

Know the responsibilities and risks of being an owner-builder...

Read the owner-builder permit application and all applicable laws

Talk to your insurance company or agent about coverage for both worker's compensation and general liability issues

Monitor the job and keep required records...remember, you're responsible for every phase of your project and its integrity

Unlicensed contracting and violations of Hawaii's licensing laws are investigated by the Regulated Industries Complaints Office (RICO). To check licensing status or for information about hiring a licensed professional, call the Consumer Resource Center at 587-4272 or visit the State's website at cca.hawaii.gov/rico.

RESOURCES

The Department of Commerce and Consumer Affairs (DCCA), and its Regulated Industries Complaints Office (RICO), offer tools, tips, and services you can use to check out an individual or business. Information is available by calling (808) 587-4272 or online at cca.hawaii.gov/business-online.

For information about filing a complaint or to report unlicensed activity, call RICO's Consumer Resource Center at (808) 587-4272 or visit us online at cca.hawaii.gov/rico.

Neighbor island residents can dial the following numbers then 7-4272 followed by the # sign:

Kauai.....	274-3141
Maui.....	984-2400
Hawaii.....	974-4000
Lanai & Molokai.	1-800-468-4644

RICO is the enforcement arm for over forty-five professional boards, commissions, and programs that are administratively attached to the Department of Commerce and Consumer Affairs. RICO receives complaints, conducts investigations, and prosecutes licensing law violations. RICO also prosecutes unlicensed activity through the issuance of citations and by filing civil lawsuits in the Circuit Courts. RICO works to resolve consumer complaints where appropriate and provides consumer education about various issues relating to licensing and consumer protection. RICO also administers the State Certified Arbitration Program (SCAP) for "lemon" motor vehicle claims.

This brochure is for informational purposes only and not intended for the purposes of providing legal advice. Information provided is subject to change. Printed material can be made available for individuals with special needs in Braille, large print or audio tape. Submit requests to the RICO Complaints and Enforcement Officer at 586-2666.

RISKS AND RESPONSIBILITIES OF BEING AN OWNER-BUILDER



Regulated Industries Complaints Office

235 S. Beretania Street, Ninth Floor
Honolulu, Hawaii 96813
cca.hawaii.gov/rico

(rev. 2/2014)

Who is an owner-builder? An owner-builder is a property owner who has an owner-builder permit from the county to build or improve residential or farm structures for use either by the owner or his/her grandparents, parents, siblings or children. The owner-builder law applies to people who lease property too. Owner-builder permits are not available for industrial or commercial buildings.

What does an owner-builder permit allow me to do? With an owner-builder permit, you are the general contractor for your project and you can proceed on construction of your project without a licensed general contractor.

YOUR RESPONSIBILITIES...

What does the owner-builder permit require me to do? When you sign the owner-builder permit, like a general contractor, you assume full responsibility for every phase of your project and its integrity. In short, the law requires you to comply with all of the laws and rules a licensed contractor must follow.

Among other things, as an owner-builder...

You must supervise the construction yourself

You're responsible for ensuring your project passes codes and building inspections

You're responsible for ensuring any contractors working on your project are properly licensed

You're responsible for complying with employment and tax laws for all of the employees you hire

Can I hire anybody to work on my project? If you enter into contracts with contractors who will act as your subcontractors on the project, it's your responsibility to make sure they're properly licensed. You're also responsible for supervising, scheduling, and paying them. Any person working on your project who is not working as a subcontractor must be your employee. As the employer, you must comply with employment and tax laws, which include deducting Federal Insurance Contributions Act (F.I.C.A.), withholding taxes, and providing workers' compensation. Electrical or plumbing work must be performed by contractors licensed under Chapters 444 and 448E of the Hawaii Revised Statutes.

Can I hire someone to manage my project? Be wary of "consultants," "construction managers," and other unlicensed individuals who may try to talk you into becoming an owner-builder as a way to save money. If they are, in effect, managing your project, you may be aiding and abetting an unlicensed contractor. As the permit holder, you are responsible for the project and must supervise the construction yourself.

What kind of records am I required to keep? Hawaii law requires owner-builders keep and maintain certain records for up to three years after project completion, including copies of building permits and applications, copies of contracts with the names of all persons who performed work on the project, and proof of payment to employees, subcontractors, and the like.

YOUR POSSIBLE RISKS...

Mistakes can be costly. Like anything in life, there's a lot to be said for experience. Unless you're knowledgeable about construction, mistakes can be costly and can result in delays and additional expense.

Avoid liens. Subcontractors or suppliers who don't get paid on time may file mechanics liens against your property. Educate yourself about mechanic's liens and learn how to prevent them.

Ouch that hurts. If an employee is injured, you may be required to pay for medical care and rehabilitation costs. You may also be responsible for any injuries sustained by an employee of an unlicensed subcontractor.

Insurance. Lots of things can happen on a construction project - accidents on the premises, falling objects - not to mention fire, vandalism, malicious mischief, and theft of building items. As an owner-builder, you should be aware of the requirements and legalities involved in properly insuring your project, including injuries to employees and subcontractors working on your job.

You are restricted from selling or leasing the structure for one year. If you build under an owner-builder permit, you cannot sell or lease (or even offer to sell or lease) the structure for one year after it's completed. (You can sell or lease a structure within one year if the estimated value of the work performed was less than \$10,000. You can sell or lease a residential property within one year to your employee. Owner-builders can also apply to the Contractors License Board for an exemption based on unforeseen hardships. For information about the hardship exemption, contact the Contractors License Board at [808] 586-2700.)

Contractors Recovery Fund. The Contractors Recovery Fund helps to compensate homeowners if something goes wrong with their project. The Contractor's Recovery Fund is only available to consumers who have hired a licensed general contractor. The Fund is not available to owner-builders.

WHAT DO YOU NEED TO KNOW?

Hawaii's Residential Landlord-Tenant Code. Hawaii's Residential Landlord-Tenant Code covers the rights and obligations of landlords and tenants who rent on a month-to-month, week-to-week, or other term lease basis. A property owner who rents or leases his/her own property *must* comply.

Housing discrimination in Hawaii. Hawaii law prohibits, among other things, discrimination when renting or leasing property. Protected categories include race, sex, disability, familial status, religion, color, ancestry/national origin, age, marital status, and HIV infection.

State and county tax laws. Property owners must also comply with applicable state and county tax laws, including Hawaii's Transient Accommodations Tax law.

What should I do? To start, read and review Chapters 237, 467, 515, and 521 of the Hawaii Revised Statutes (and their related rules). A link to some of the Hawaii Revised Statutes can be found at hawaii.gov/hirec.

RICO is the enforcement arm for over forty-five professional boards, commissions, and programs that are administratively attached to DCCA. RICO receives complaints, conducts investigations, and prosecutes licensing law violations. RICO also prosecutes unlicensed activity through the issuance of citations and by filing civil lawsuits in the Circuit Courts. RICO works to resolve consumer complaints where appropriate and provides consumer education about various issues relating to licensing and consumer protection. RICO also administers the State Certified Arbitration Program (SCAP) for "lemon" motor vehicle claims.

For More Information:

For questions about when a real estate license may be required, contact the Hawaii Real Estate Commission's Real Estate Branch at (808) 586-2643. Publications like "Working with a Real Estate Broker" and links to Department of Tax bulletins and more are available at hawaii.gov/hirec.

To report unlicensed real estate activity, call the Regulated Industries Complaints Office's Consumer Resource Center at (808) 587-4272, or visit the RICO website at cca.hawaii.gov/rico.

To check licensing status or for information about hiring a licensed professional, call (808) 587-4272, or visit the RICO website at cca.hawaii.gov/rico.

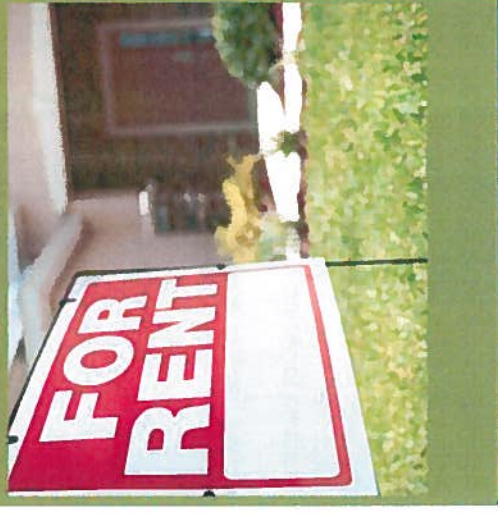
To obtain a copy of the Office of Consumer Protection's Handbook for the Hawaii Residential Landlord-Tenant Code, contact the Office of Consumer Protection at (808) 586-2634, or download it online at cca.hawaii.gov/ocp.

Neighbor island residents can call, toll-free, by dialing the following numbers, then the last 5 digits of the telephone number they wish to call, followed by the # sign. (Ex. To call the Real Estate Branch from Kauai, dial 274-3141, then 6-2643, then #.)

Kauai... 274-3141
Maui... 984-2400
Hawaii.. 974-4000
Lanai... 1-800-468-4644
Molokai. 1-800-468-4644

(rev. 140519RICORent)

INFORMATION FOR OWNERS OF RENTAL PROPERTY



Department of Commerce and Consumer Affairs

Regulated Industries

Complaints Office

235 S. Beretania Street, Ninth Floor
Honolulu, Hawaii 96813
cca.hawaii.gov/rico

WHAT ARE MY OPTIONS?

Property owners have some options when renting or leasing their property in Hawaii:

- ✓ Self-manage the property
- ✓ Employ a custodian or caretaker, or
- ✓ Hire a licensed real estate professional

Self-Manage the Property

In the State of Hawaii, a real estate license is required to sell, buy, lease, and manage real property. The law provides an exception for individuals, and an individual can sell, buy, lease, and manage his/her own property without a real estate license.

If you decide to self-manage your property, you will need to be familiar with, and comply with, all applicable Hawaii laws. For example, under Hawaii's Residential Landlord-Tenant Code, if you offer to rent your property and live off-island, you'll need to find an **on-island agent** to act on your behalf. The on-island agent doesn't have to be a licensed real estate professional, unless he/she is involved in real estate activities, like renting or offering to rent the property.

If you're off-island, you'll also need to designate a **local contact** to assist with the collection of taxes for your rental property(ies). The local contact also serves as the contact in case of an emergency or natural disaster, or to answer any questions, concerns, or property issues that arise. The on-island local contact doesn't have to be a licensed real estate professional, unless he/she is also involved in real estate activities, like renting or offering to rent the property.

Employ a Custodian or Caretaker

As an alternative, a property owner can hire a custodian or caretaker to manage or care for his/her property(ies). A "custodian" or "caretaker" doesn't need a real estate license, but must be *employed* by the owner, and can only work as a custodian or caretaker for a single owner. A custodian or caretaker can act as your on-island agent and/or the local contact, if one is required.

Hire a Licensed Real Estate Professional

If vetting tenants and collecting rent isn't for you, you should consider hiring a licensed real estate broker or salesperson. Although a licensed real estate professional will charge for services, here are some things to consider:

- **Familiarity with Hawaii's laws & rules**
Licensed real estate professionals are familiar with the various laws and rules that relate to managing real property in this State, including Hawaii's Landlord Tenant Code, state tax reporting requirements for transient accommodation operators, and Hawaii's fair housing laws.

- **Experience**

Sometimes there's no substitute for experience. Marketing the rental, collecting rent, handling maintenance and repair issues, responding to tenant inquiries and complaints, and handling evictions, are all part of the property management process. Getting help from a professional may save time, money, and headaches, in the end.

- **Manage geographically distant properties**
Because of Hawaii's unique geography, property owners who rent and lease property have additional obligations under Hawaii law. A licensed real estate professional can act as both your on-island agent and your local contact, if one is required.

What to look for:

Who should you hire? To start, you may want to (1) get referrals, (2) ask to speak with other, current clients, and (3) ask to see a sample property management agreement. Be sure to check licensing and prior complaint history with the Regulated Industries Complaints Office.

DO I HAVE TO HIRE A LICENSED CONTRACTOR TO MAKE REPAIRS?

Yes. A contractor's license is required for any project valued at over \$1,000 for labor and materials, and, regardless of cost, whenever a building permit is required.

An electrician's license is required for electrical work. A plumber's license is required to perform plumbing work.

If you have questions about whether you need to hire a licensed contractor, a licensed electrician, or a licensed plumber, call the Contractor's License Board at (808) 586-2700 or the Board of Electricians and Plumbers at (808) 586-2698.

CAN I HIRE A "HANDYMAN"?

If the total cost of your project, including labor and materials, is less than \$1,000, and doesn't require a building permit, you can hire a handyman. "Handymen" usually perform minor repairs and projects that are typically described as "odd jobs" or "fix-up tasks."

Note: The so-called "handyman exemption" does not apply to electrical or plumbing work!

5. Documents related to member voting

Within 30 days of an association meeting, unit owners can request to examine proxies, tally sheets, ballots, check-in lists, and certificates of election

6. Fees, costs and good faith affidavits

Associations may charge reasonable fees and assess costs of up to \$1.00 per page for most copies. Associations may also require an owner to execute an affidavit that the information is being requested in good faith and in the interests of the association or its members or both.

7. All other association documents

Not all association documents are required to be provided to owners. However, owners may file a written request to the board to examine any document **not** required to be made available by law. The board must respond in writing to such a request within 30 days.

8. About RICO >>> We may be able to help with document disagreements.

The Regulated Industries Complaints Office (RICO) accepts complaints from owners who are refused access to association documents that are required by law to be made available. Copies of the written request to the association, and, the date and title of each document requested, are needed for RICO to evaluate & process a records complaint. Whether a RICO complaint has been filed or not, in the interest of self-governance owners are encouraged to resolve records disputes directly with their associations.

Certain records are also available to prospective purchasers and their agents...

RESOURCES

The Real Estate Branch provides general information and advice to condominium owners. A **condominium specialist** can answer general questions and refer you to helpful information. Oahu residents call 586-2643. Neighbor island residents can call, toll-free, by dialing the following numbers, then 6-2643, followed by the # sign:

Kauai... 274-3141;
Maui... 984-2400
Hawaii... 974-4000;
Lanai... 1-800-468-4644
Molokai. 1-800-468-4644

The Department of Commerce and Consumer Affairs (DCCA), and its Regulated Industries Complaints Office (RICO), offer tools, tips and services you can use to check out an individual or business. Information is available by calling (808) 587-4272 or online at cca.hawaii.gov/rico/business_online.

For information about filing a complaint or to report unlicensed activity, call RICO's Consumer Resource Center at (808) 587-4272 or visit us online at cca.hawaii.gov/rico.

Helpful information and publications are available also at hawaii.gov/hirec.

This brochure is for informational purposes only and not intended for the purposes of providing legal advice. Information provided is subject to change. Printed material can be made available for individuals with special needs in Braille, large print or audio tape. Submit requests to the RICO Complaints and Enforcement Officer at 586-2666.



Got records?

**Information for
Condo Owners
About Access to
Information**



Regulated Industries
Complaints Office
235 S. Beretania Street,
Ninth Floor
Honolulu, Hawaii 96813
cca.hawaii.gov/rico



Getting all the information you can, will give you the big picture you need....

1. Got records or documents?

Condominium Associations are self-governing entities and the law provides for a condominium owner, or an authorized agent, to have access to select association information so that he/she can participate in managing the association. The documents required by law to be made available to owners and their agents are found in Chapter 514B of the Hawaii Revised Statutes. Some of the documents are listed in this brochure. The documents should tell you:

- what the condominium association is responsible for
- how members of the board are elected and may be removed
- the powers and duties of board members
- how the declaration or by-laws can be amended
- what can be done when a homeowner fails to meet an obligation, such as not paying maintenance fees

2. What must associations and owners do?

To facilitate the provision of information to owners, associations and their managing agents are **encouraged strongly** to maintain a list of documents, by title and date, which are available to owners. Or they should maintain a form "checklist," of documents available for review or copying, for use by an owner seeking records.

In general associations must provide the requested records by **no later than 30 days** after receiving an owner's written request.

If the association does not have a form to fill out, the owner should submit a request to the association in writing that specifies the date and title of each record being requested. The owner should keep a copy of the written request in his or her files.

3. Re-sale, foundational, and, docs affecting the common elements

Associations must maintain records that form the basis for the association, and, select information concerning common elements and re-sales. These include:

- **Resale Information.** Financial and other records sufficiently detailed to enable the association to comply with information and disclosures related to resale of units.
- **The Declaration.** It forms an association, and, governs its use and maintenance.
- **The Bylaws.** They govern and dictate the rules that residents must live by.
- **House rules.** An association may also have house rules.

- **A sample original conveyance document.**

- **All public reports and any amendments.**

- **All final, written agreements for managing the property.**

A managing agreement must include information about the services to be provided, compensation to be paid, and the managing agent's financial and accounting obligations.

- **An accurate and current list of association members.** The list of members is available to owners, but there may be a charge and limitations on use.

- **Detailed, accurate records (in chronological order) of receipts and expenditures** that affect common elements including select summary information of delinquent unpaid assessments for

4. Operational documents

Operational records are those used primarily by the board and managing agent to run the association on a day-to-day basis. They include:

- **The most current financial statement.** It shall be provided at no cost or on 24 hour loan.

- **Board meeting minutes** for the current and prior year. (Also available at no cost or on 24 hour loan.)

- **Association meeting minutes.**

- **Financial statements** (other than the most current one), **general ledgers, the accounts receivable ledger, accounts payable ledgers, check ledgers, insurance policies, contracts, and invoices.**



What are condo associations? >>>

Condominium Associations are designed to be, and operate as, self-governing entities. Condominium law is based on principles of (1) self-governance and (2) owner-enforcement, with little or no government intervention. In fact, the word "condominium" comes from Latin words meaning "common ownership and control."

5. Still not resolved? >>>

Mediation may be available through private providers contracted by Hawaii's Real Estate Commission.

- Oahu: Mediation Center of the Pacific 521-6767
- Maui: Mediation Services of Maui 244-5744
- Kauai: Kauai Economic Opportunity Offices 245-4077
- East Hawaii Island: Kuikahi Mediation Ctr. 935-7844
- West Hawaii Island: West Hawaii Mediation Ctr. 885-5525

6. Other Options and Avenues >>>

There are a number of options, avenues, and resources a condominium owner may take, including mediation, and arbitration. The Real Estate Branch can point you to some good resources. And, don't forget, a condominium is a "mini-government," with the board being elected by unit owners. With enough votes, board members may be removed or replaced and the by-laws and/or rules changed.

7. Last Resorts >>>

Consider retaining an attorney. Many lawyers will attempt to resolve a matter through negotiation rather than litigation which can be costly and usually lengthy. Consider hiring someone with experience handling these types of cases.

RESOURCES

The Department of Commerce and Consumer Affairs (DCCA), and its Regulated Industries Complaints Office (RICO), offer tools, tips and services you can use to check out an individual or business. Information is available by calling (808) 587-4272 or online at cca.hawaii.gov/rico/business_online.

For information about filing a complaint or to report unlicensed activity, call RICO's Consumer Resource Center at (808) 587-4272 or visit us online at cca.hawaii.gov/rico.

To speak with a condominium specialist, with the Real Estate Branch, call (808) 586-2643. Helpful information and publications are available at hawaii.gov/hirec.

This brochure is for informational purposes only and not intended for the purposes of providing legal advice. Information provided is subject to change. Printed material can be made available for individuals with special needs in Braille, large print or audio tape. Submit requests to the RICO Complaints and Enforcement Officer at 586-2666.



Regulated Industries
Complaints Office
235 S. Beretania Street,
Ninth Floor
Honolulu, Hawaii 96813
cca.hawaii.gov/rico



(rev. 3/2014)

Resolution Tips

Condominium Associations & Condo Owners



What to do if you have a problem:

1. Get The Facts >>>

Start by studying the records for your association. This includes the declaration, by-laws, house rules, members' lists, financial documents, minutes of meetings, and the like.

These documents should tell you:

- what the condominium association is responsible for
- how members of the board are elected
- the powers and duties of board members
- how members of the board may be removed
- how the declaration or by-laws can be amended
- what remedies exist when a homeowner defaults on his or her obligations, such as not paying maintenance fees

All of the documents required by law to be provided to owners are listed in sections 514B-152, 153, and 154 of the Hawaii Revised Statutes (HRS).

The Regulated Industries Complaints Office (RICO) accepts complaints when an owner is refused access to association documents that are required by law to be provided to owners, and can discuss with you whether your complaint may fall within its jurisdiction.

2. Do Your Homework >>>

The Real Estate Branch, through its condominium specialists, provides information and advice to condominium owners.

Although a State condominium specialist cannot provide you with legal advice, he/she can answer general questions and refer you to helpful information.

To speak with a condominium specialist, Oahu residents call 586-2643.

Neighbor island residents can call, toll-free, by dialing the following numbers, then 6-2643, followed by the # sign:

Kauai... 274-3141
Maui... 984-2400
Hawaii... 974-4000
Lanai... 1-800-468-4644
Molokai. 1-800-468-4644

3. Strength in Numbers >>>

See if there are other owners concerned about the same problem and organize. Remember, a basic principal of the condominium law is majority rule by the condominium owners.

4. First Approach >>>

If the board is not complying with the declaration or by-laws, point it out. Express that you expect the matter will be corrected. If a simple oral request fails, you can send a letter. Try to be factual and brief. Try to avoid being hostile. Keep copies of any letters you send.

The Real Estate Branch provides great educational materials, including guides for board members and answers to questions most frequently asked by owners and board members.

Publications like...

- "An Introduction to Condominium Living in Hawaii"
- "So You Want to Go Condo"
- "Aging in Place: How to Cope"
- "Condominium Property Regimes: Owners Rights and Responsibilities"

and more are available at hawaii.gov/hirec.



What are condo associations? >>>

Condominium Associations are designed to be, and operate as, self-governing entities. Condominium law is based on principles of (1) self-governance and (2) owner-enforcement, with little or no government intervention. In fact, the word "condominium" comes from Latin words meaning "common ownership and control."