

ASSOCIATION OF APARTMENT OWNERS
MAUI HILL
BOARD OF DIRECTORS REGULAR MEETING
CONFERENCE CALL
April 22, 2020

I. Call to Order

President Dick Endean called the meeting to order at 9:10 a.m. HST.

II. Establish Quorum

Members Present: Dick Endean, CJ Law, Carl Carlson, Loren Knott, Alex Cordas.

Maui Lea Board: Bill Petro, Bob Jacalone, Tim Ohm, Paul DiMarchi, Dick Endean, CJ Law, Loren Knott.

By Invitation: Rising Sun, Matias Besasso, CEO, Chauncey Brown, Chief Technology Officer, Melany Coyne, Sales Dev Coordinator (present for a portion of the meeting); Dennis Costa, General Manager; Frank Robar and Mike Robar, Condominium Fiscal Management Inc. Maui Lea Co-Plan Manager; Ruth Okada, Aqua-Aston Hospitality, LLC, Managing Agent.

III. Approval of Agenda

MOTION #1: CJ Law moved to approve the agenda with the following changes:

- **Change in Agenda – 9:30 a.m. Presentation by Rising Sun**
- **Unfinished Business – Activity Desk re Payment for May**
- **New Business – Land Rent Obligation**
- **New Business – Bob Jacalone Petition re Stored Parking**
- **New Business – AOA Solar Ballot Status**

The motion was seconded by Carl Carlson and passed by unanimous consent.

IV. Approval of Board Meeting Minutes – 1/16/20 Regular Meeting

MOTION #2: Alex Cordas moved to approve the minutes of the 1/16/20 as circulated with no changes. The motion was seconded by CJ Law and passed. Abstained: Knott.

V. Treasurer's Report

1. Financial Review

A. March Financials – Carl Carlson reviewed the March 2020 financials, noting that cash flow may be tight as amount of future delinquencies are unknown. Ruth Okada also explained that a portion of the conveyance tax paid is offset by the owner's special assess for the lease extension. There were no questions.

B. FYE 6/2020 – Ruth Okada also reviewed the forecast prepared by Dennis and her through the end of this fiscal year, noting that the Board should review protentional reductions due to the COVID situation. General discussion followed. The Board agreed that they will meet mid-June to discuss this possible savings once more information is available on the actual COVID impact.

2. Delinquencies/Collections

a. Delinquency Status – (if any, to be discussed in executive session)

b. Collections (if any, to be discussed in executive session)

3. Investments

A. Recommendation – Ruth Okada explained that interest rates have dropped with the COVID situation and that capital replacement reserve funds should remain liquid. General discussion followed and the Board agreed to keep funds in money market for now.

4. Collection Policy/Act 192 – Ruth Okada distributed the resolution and collection policy drafted by Shannon Sheldon, AOA legal counsel. General discussion followed.

MOTION #3: CJ Law moved to approve the resolution and collection policy, a copy of which is attached and made a part of these minutes. The motion was seconded by Loren Knott and passed by unanimous consent.

Rising Sun representatives Matias Besasso, Chauncey Brown and Melany Coyne joined the meeting at 9:35 a.m.

VI. Change in Agenda

Due to the presence of Rising Sun representatives, a change in the agenda was made.

1. Rising Sun Presentation - Matias Besasso, Chauncey Brown, and Melany Coyne distributed and reviewed their presentation. It was noted that the PPA would be flexible enough to allow for changes to the agreement if there is a benefit to the AOAO. A question and answer period followed.

Rising Sun representatives disconnected from the meeting at 10:51 a.m.

The meeting was recessed at 10:51 a.m. and resumed at 11:00 a.m.

General discussion followed on the presentation and continuing to pursue with Rising Sun. Dick Endean noted that there are 2 big companies on Maui and which the committee is working with. The Board agreed that the Committee continue to work with Rising Sun to the PPA system.

VII. Treasurer's Report (cont.)

1. Budget & Reserve Study Approval FYE 6/30/21 – The proposed budget and reserve study was distributed to the Board for review.

MOTION #4: Carl Carlson moved to approve the budget & reserve study effective 7/1/20 with a 0% overall increase in Association fees with the following annual amounts:

Operating:

Maintenance Fees - \$1,404,564
Total Revenues & Expenses - \$2,096,244
Wages – 0% increase on 4/1/21
Major Repairs & Replacement (\$8,040):

- Hallway Carpet - \$1,560
- Irrigation Well Repairs - \$3,000
- Walkway Repairs - \$480
- Upgrade Landscaping - \$2,520
- Parking Repair - \$480

Transfer to Operating Reserves - \$16,404

Capital:

Capital Contribution - \$140,280
Total Revenues & Expenses - \$146,280
Capital Reserve Expenditures Budget \$160,080 (subject to approval of actual bids)

- Roof Phase 1 - \$70,080
- Unit Entry & Storage Frames - \$45,000
- Waterproof Unit Entry & Storage Frames & Doors - \$45,000

Reserve Study – Funded at 70% as of 7/1/20

Discussion: Carl Carlson thanked everyone who worked on the budget and gave a brief overview. Recommended that the Board approved the budget as presented noting that they may have to revisit it during the year as a very aggressive approach was taken.

The motion was seconded by CJ Law and passed unanimously by written consent.

MOTION #5: Carl Carlson moved to approve a 0% increase in Aqua-Aston (managing agent) management fee effective 7/1/20. The motion was seconded by CJ Law and passed by unanimous consent.

VIII. Standing Committee

1. Unit Rental Interface Program – Carl Carlson stated there are only 4 units rented (VRBO). General discussion followed.
 - A. Pool Towels – Dennis Costa reported that the process is working fine for the resort and timeshare guests. Compliments have been received on the new towels. This topic will be removed from the agenda.
2. Architectural Review – CJ Law reported that there were no requests however an owner will be requesting approval to install a spit AC system in their unit.

IX. Ad Hoc Committee

1. Energy Conservation – Alex Cordas provided a status report on the following:
 - A. HNU Phase I – Installation of a battery and inverter will be completed once approval is received from MECO on the modification of the original permit and an electrical permit to connect from the County is obtained.
 - B. Phase II – Shannon Sheldon confirmed that there is default on the Memorandum of Understanding for Phase II and there is now no obligation with HNU. Dick Endean will confirm with HNU.
2. Lease Extension – CCD Recording – Ruth Okada reported that the CCD has not yet been fully executed by the Board.

X. Manager's Report

Dennis Costa reviewed the following:

1. Status – reported on what is being done on property by grounds and maintenance.
2. COVID-19
 - A. Timeshare Closure May 2020 – Will know by 2nd week of May if the timeshare will be closed for June also. General discussion followed on the AOAO inability of not being able to prohibit occupancies noting that the restriction is to the owners and operators.
 - B. SBA Loans – Ruth Okada reported that she can assist with the application, but solely at the direction of the AOAO if the Board decides to apply. Majority approval of the owners' is necessary for the loan.
3. Projects Status
 - A. Stucco on Open Issues – This topic will be removed from the agenda as the Board will not pursue this issue. Dennis confirmed that he did communicate with Mark Soon and the contractor never returned Dennis' calls.
4. Projects Status – FYE 2020
 - A. Signage (Whales) Approved \$3,500 – Ongoing.
 - B. Unit Entry & Storage Frame Repairs \$22,500 & Waterproofing \$23,500 – In house staff is proceeding with this project.
5. Monitor Telephone System (PBX) – The system is still being maintained under a maintenance contract. This topic will be removed from the agenda until there is issues that has to be addressed.

XI. Unfinished Business

1. Zoning Impacting Maui Hill – Dick Endean had no further updates on the following.
 - A. Kahoolawe Research Center
 - B. Affordable Income Housing
2. Smart Property Reserve Study – Ruth Okada presented the updated proposal for the reserve study with an inspection. General discussion followed. The Board asked that this be deferred to September until other bids can be obtained.
3. Activity Desk re Payment for May – Dennis Costa received an email from the owner asking for a waiver in rent as their SBA loan (PPP) was not approved and there are no customers.

MOTION #6: Loren Knott moved to waive the rent for May 2020 for the activity desk. The motion was seconded by Carl Carlson.

Discussion: General discussion following on approving additional waivers or reductions. It was agreed that the Board should review each month.

The motion was seconded by Dick Endean and passed by unanimous consent.

XII. New Business

1. Bob Jacalone Petition re Stored Parking – Bob presented his petition regarding the charge for stored vehicles to the Board. No discussion was held as no motion was brought to the floor. The policy will remain as is.
2. AOAO Solar Ballot Status – Ruth Okada provided an update as follows (without Maui Lea's vote):
In Favor: 31.5570%
Opposed: 3.5195%
3. Land Rent Obligation – General discussion followed on paying of the land rent to the Lessor as the obligation of the AOAO. It was noted that delinquencies are carried by the AOAO.

XIII. Next Meeting

1. Board
 - A. Mon, 9/14/20 4:00 p.m. MLE Joint Executive Session; Wed, 9/16/20 Open Session, Maui (to follow Annual Owners meeting)
 - B. Tue, 1/26/21 (Tentative) - Maui
 - C. 4/14/21 – Vegas and if unavailable, then 4/21/21
2. Annual – Wed, 9/16/20 9:30 a.m. (Registration 9:00 a.m.) Maui

The Maui Lea Board disconnected from the meeting at 12:48 p.m.

XIV. Executive Session

MOTION #7: Loren Knott moved to go into executive session. The motion was seconded by Carl Carlson and passed by unanimous consent.


The Board went into executive session at 12:48 p.m. Upon coming out of executive session, the regular meeting resumed at 1:02 pm. During the executive session, the Board discussed legal and personnel matters.

XV. Adjournment

MOTION #8: Loren Knott moved to adjourn the meeting. The motion was seconded by CJ Law and passed by unanimous consent.

The meeting was adjourned at 1:02 p.m.

Approved by: 
Alex Cordas, Secretary
Board of Directors


Ruth Okada
Recording Secretary

Approved by the Board of Directors on 9/16/20.

Attachment: Resolution & Collection Policy

Attachment: Resolution & Collection Policy

ASSOCIATION OF APARTMENT OWNERS OF MAUI HILL

RESOLUTION OF BOARD OF DIRECTORS REGARDING COLLECTION POLICY

The Board of Directors (the "Board") for the Association of Apartment Owners of Maui Hill (the "Association") does hereby consent to the taking of the following actions and adopts the resolutions set forth below.

BACKGROUND:

To properly maintain the Association's common areas, it is imperative that all assessments be paid in full and on time.

The governing documents of the Association and Chapter 514B, Hawaii Revised Statutes ("HRS"), provide that the duties of the Association shall include levying and collecting assessments from owners. The Board owes a duty to all owners to ensure payment of assessments to the extent allowable by law.

The Board has reviewed the Association's Collection Policy to allow the Association to take legal action in order to collect assessments and protect the interests of the Association.

NOW, THEREFORE, IT IS RESOLVED:

1. The Collection Policy ("Policy") as attached hereto is hereby adopted.
2. The Policy shall be binding upon and inure to the benefit of the all present and future owners of any apartments of Maui Hill and all other persons who shall at any time use Maui Hill.
3. The secretary be and the same is hereby directed to include this consent with the corporate records.

Dated: April 22 ____, 2020.



Signature

Printed Name: Alex Cordas

By Its: Secretary

ASSOCIATION OF APARTMENT OWNERS OF MAUI HILL
COLLECTION POLICY

RECITALS

WHEREAS, the Association of Apartment Owners of Maui Hill (the "Association") is charged with certain responsibilities regarding the care, maintenance, and service of certain portions of the community; and

WHEREAS, the Association must have the financial ability to discharge its responsibilities; and

WHEREAS, the payment of common expense assessments is necessary for the proper operation and management of the Association; and

WHEREAS, the governing documents of the Association and Chapter 514B, Hawaii Revised Statutes ("HRS"), provide that the duties of the Association shall include levying and collecting assessments from Owners; and

WHEREAS, the Board of Directors (the "Board") is charged with pursuing collection of assessments and other charges from delinquent Owners; and

WHEREAS, the Board of the Association desires to adopt a uniform and systematic procedure to collect assessments and other charges of the Association;

NOW, THEREFORE, BE IT RESOLVED that the Association does hereby adopt the following procedures and policies for the collection of monies from Owners.

TERMS OF POLICY

1. **Common Expenses.** Assessments shall be made for common expenses based on a budget adopted at least annually by the Board. The term "common expense" means expenditures made by, or financial liabilities of, the Association for operation of the property, and shall include the charges and expenses identified in the Declaration. No Owner shall withhold any common expense assessment claimed by the Association for any reason.

2. **Obligation to Pay Assessments.** All sums assessed by the Association but unpaid for the share of the common expenses chargeable to any property shall constitute a lien on the property. Each monthly assessment and each special assessment shall be separate, distinct and personal debts and obligations of the Owner against whom the same are assessed.

3. **Due Date.** Regular monthly assessments shall be due monthly in advance on or before the first day of each and every month and without notice of demand and received by the Association's bank by the 15th of each month. Special assessments shall be due and payable when directed by the Board.

4. **Late Assessment and Interest.** If an Owner shall fail to pay any assessment by the 15th of each month, then such Owner shall pay an additional assessment of Fifty Dollars and No/100

(\$50.00) on the sixteenth (16th) day of delinquency, One Hundred Twenty-Five Dollars and No Cents (\$125.00) on the forty-fifth (45th) day of delinquency, and One Hundred Fifty Dollars and No Cents (\$150.00) on or after the seventy-fifth (75th) day of delinquency and on the sixteenth (16th) of each month thereafter. In addition, all delinquent assessments shall bear interest at the rate of one percent (1%) per month from the assessment due date.

5. **Return Check Charges.** Due to the administrative time and costs incurred, up to a \$35.00 fee may be assessed against an Owner in the event any check or other instrument attributable to or payable for the benefit of such Owner is not honored by the bank or is returned by the bank for any reason whatsoever, including but not limited to insufficient funds. Such return check charge shall be due and payable immediately upon demand. If two or more of an Owner's checks are returned unpaid by the bank within any calendar year, the Association may require that all of the Owner's future payments, for a period of one year, be made by certified check or money order.

6. **Application of Payments; Full and Partial Payment.** All delinquent accounts remain delinquent until paid in full. No partial payments will waive the Association's right to pursue full payment and/or to enforce the provisions of this Policy. All payments shall be applied in accordance with HRS § 514B-105, as may be amended from time to time.

7. **Attorney's Fees and Costs on Delinquent Accounts.** The Association shall be entitled to recover all of its reasonable attorneys' fees and collection costs incurred in the collection of assessments or other charges due the Association from a delinquent Owner. The reasonable attorneys' fees incurred by the Association shall be due and payable immediately when incurred, upon demand.

8. **Notices.** Notices and letters will be mailed to the Owner's mailing address as shown in the Association's books and records. Owners have an obligation to provide their most current mailing address to the managing agent of the Association.

9. **Attorney Action.** Generally, the managing agent will first provide notice of the delinquency to the Owner prior to referring to Association's attorneys; however, the Association may, at any time after the Owner becomes delinquent, direct its attorneys to proceed with collection action, as certain circumstances may require. Once referred to the attorneys' office, the Owner shall communicate directly with the attorneys' office and will be responsible for all attorneys' fees incurred for such communication, unless informed otherwise. Upon referral of the delinquent account to the Association's attorneys' office, the Board authorizes the attorneys' office to take all actions allowable by the governing documents, this Policy, HRS Chapters 514B and 667, including but not limited to the following actions:

- (1) Send a demand letter;
- (2) Record a lien against the property;
- (3) Foreclose, by judicial action or nonjudicial/power of sale procedures, as set forth in HRS Chapter 667;
- (4) File an action to recover a money judgment;

(5) Negotiate and execute payment plans; and

(6) Mediate and/or arbitrate any dispute concerning the delinquency.

10. Suspend privileges and access to amenities. With the requisite approval of the Owners as may be necessary, if a property is Owner-occupied, the Association may, after sixty (60) days' notice to the Owner and to the property's first mortgagee of the nonpayment of the delinquency, terminate the delinquent Owner's access to the common elements and cease supplying the delinquent property with any and all services and utilities normally supplied or paid for by the Association. Any terminated services and privileges shall be restored upon payment of all delinquent assessments but need not be restored until payment in full is received.

11. Collection of Past Due Assessments from Tenants/Rental Agents. If an Owner shall at any time rent or lease the property and shall default for a period of thirty (30) days or more in the payment of the Owner's share of the common expenses, the Board may, at its option, so long as such default shall continue, may demand in writing and receive each month from any tenant occupying the property, or from any such Owner's rental agent who collects rentals from lessees on behalf of the Owner, an amount sufficient to pay all sums due from the property Owner to the Association.

(1) The tenant's payment shall not exceed the tenant's rent due each month.

(2) The tenant or rental agent's payment shall discharge the amount of payment from the tenant's rent obligation.

(3) The Owner shall not take any retaliatory action against the tenant for payments made to the Association.

(4) Before demanding any rent from the tenant, the Board shall give the Owner written notice that the Board intends to collect the rent from the tenant. The notice shall be sent to the Owner by first-class and certified mail at the Owner's address shown on the records of the Association.

(5) Demanding rent from a tenant shall not be deemed to prevent the Board from proceeding with foreclosure or any other means of collecting the Owner's delinquent common expenses.

12. Foreclosure special assessment. The Association may impose a special assessment for the amount of unpaid regular common assessments against a person or mortgagee who, in a judicial or nonjudicial power of sale foreclosure, purchases a delinquent property upon giving proper notice. This special assessment shall not exceed the total amount of unpaid regular monthly common assessments that were assessed during the six months immediately preceding the completion of the judicial or nonjudicial power of sale foreclosure, or other special assessment as provided by HRS § 514B-146.

13. Dispute of assessments. Owners may dispute assessments in accordance with the governing documents and HRS § 514B-146, as may be amended from time to time.

14. Notification to Owners. After execution of this Collection Policy, the Association shall cause all Owners to be notified of this Collection Policy. This Collection Policy shall supersede and replace any previously adopted collection policies.

IN WITNESS WHEREOF, the undersigned have executed this Collection Policy the 27th day of May in the year 2020.

ASSOCIATION OF APARTMENT OWNERS OF MAUI HILL

Signature: Richard D. Endean
Printed Name: Richard Endean
Title: President

CERTIFICATE

I, hereby certify that the foregoing is a true copy of the Collection Policy duly adopted at a meeting of the Board of Directors duly held on April 22, 2020 and duly entered in the book of minutes of the Association, and that this Collection Policy is in full force and effect.

ASSOCIATION OF APARTMENT OWNERS OF MAUI HILL

Signature: Alex Cordas
Printed Name: Alex Cordas
Title: Secretary