

ISSUE #1

MARKUP #1 ->

- (n) Keep accurate records of board meetings, making reports and disclosures as required by law, and taking reasonable measures to prevent public disclosure of confidential records.
- (i) Ensure that adequate insurance protection is provided, including but not limited to liability, hazard, fidelity, and Directors and Officers liability insurance. Insurance, except for Fidelity Bond, may be waived for good cause by a two-thirds vote of the board.
- (j) Ensure that finances are protected and managed in the best interests of the Association. To accomplish this purpose, the board shall establish reasonable formulas, policies, and procedures by which administrative costs are to be divided between restricted funds and the non-road fund. Such policies may include but are not limited to issuing checks drawn on separate bank accounts or the creation of one or more administrative operating accounts. Funds may be transferred into such operating accounts as budgeted by the board. Nothing in this section shall be interpreted in such a way as to relieve the board of the responsibility to account for all road funds separately in accordance with generally accepted accounting practices nor to empower the board to expend road maintenance funds for any purpose other than road maintenance activities
- (k) Designate or appoint committees, which shall report and make recommendations to the board.
- (l) Review and approve an annual budget and Capital Improvement Plan and ensure an annual report reflecting the Association's financial status (unaudited) and the Capital Improvement Plan is mailed to the membership and posted on the Association website within 60 days after fiscal year end.
- (m) Approve the annual mandatory road maintenance assessment. Any increase in excess of 10% over the prior year's assessment must be approved by a majority of the membership.
- (n) Collect all assessments and fees levied by the Association, including the road maintenance assessments. The Association shall be charged with the duty of retaining custody and control of all funds, maintaining full and accurate account records of said funds, and preparing regular financial reports thereof. All funds generated by the collection of road maintenance assessments must be deposited into a separate bank account, and shall not be commingled with any other Association funds. Said road maintenance funds shall be expended solely and exclusively for expenses arising from the actual operation and administration of road maintenance activities and compensation to the Association for the use of its non-road maintenance assets as per Article XI.
- (o) Voluntary Association Donations. An annual donation may be solicited by the Association to be paid by the members on a voluntary basis. Suggested annual Association donations may be established by a majority vote of the board.
- (p) Delegate the authority to issue and sign checks and drafts to cover the day-to-day operating expenses of the Association in accordance with the corporate policies on purchases and contracts to the general manager.
- (q) Approve standards and policies and procedures for member communication platforms to include:
1. Website design, content, and links
 2. Mass mailings, electronic and printed
 3. Newsletter
 4. Official notices
 5. Media releases
 6. Signage.
- (r) Cause an independent certified public accountant, which may be an individual, firm, partnership, or corporation, to conduct a mandatory annual audit of the financial records of the Association. Copies of the audit shall be available to members upon request.
- (s) The board shall have additional powers as necessary for the administration of the affairs of the Association and may act accordingly as prohibited by law, the Charter, or these Bylaws.

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 11 (p. 12): Records provision restricts owner inspection of financial statements, budgets, or association records, or delays production beyond the 30-day statutory deadline under Hawaii law.

Statutory / Legal Reference: HRS § 421J-7 & HRS § 514B-154.5

Statutory Comparison: Under HRS § 421J-7 (Planned Community Associations) and HRS § 514B-154.5 (Condominiums), financial statements, general ledgers, approved budgets, reserve studies, contracts, and board/association meeting minutes must be kept and made available to any owner or owner's authorized agent within 30 calendar days after receipt of a written request.

CURRENT WORDING IN DOCUMENT:

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- (h) Keep accurate records of board meetings, making reports and disclosures as required by law, and taking reasonable measures to prevent public disclosure of confidential records.
- (i) Ensure that adequate insurance protection is provided, including but not limited to liability.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to HRS § 421J-7 and HRS § 514B-154.5, the Association's financial statements, approved budgets, reserve studies, meeting minutes, and governing documents shall be open to inspection by any owner or authorized agent and furnished no later than thirty (30) days after receipt of a written request.