

# **ASSOCIATION OF APARTMENT OWNERS OF PUNAHOU ROYALE**

## **RESOLUTION REGARDING HIGH-RISK COMPONENTS**

### **WINDOWS AND WINDOW FRAMES**

**WHEREAS**, Hawaii Revised Statutes ("HRS") Section 514B-138(a) authorizes the Board, after notice to all unit owners and an opportunity for owner comment, to determine that certain portions of the units, or certain objects or appliances within the units pose a particular risk of damage to other units or the common elements if they are not properly inspected, maintained, repaired, or replaced by owners.

**WHEREAS**, Article II, Section 2 of the By-Laws of the Association of Apartment Owners of Punahou Royale, as amended (the "By-Laws") gives the Board broad powers to operate and manage the Punahou Royale condominium project ("Project") for the benefit of the Association and its members.

**WHEREAS**, windows are the responsibility of apartment owners pursuant to Paragraph 4(b) of the Declaration and Article VI, Section 2(a) of the By-Laws.

**WHEREAS**, jalousie window panes at the Project have fallen out on two separate occasions, indicating that the windows are at the end of their useful life and may cause a significant risk of harm to residents at the Project.

**WHEREAS**, Paragraph 8(c) of the Declaration and HRS section 514B-137(a) requires each unit owner to afford to the Association and its employees, independent contractors, and agents access – during reasonable hours – through the owner's unit reasonably necessary for the operation of the property.

**WHEREAS**, Paragraph 8(c) of the Declaration and HRS section 514B-137(b) gives the Association the irrevocable right, to be exercised by the Board, to have access to each unit at any time as may be necessary for making emergency repairs to prevent damage to the common elements or to another unit or units.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board of Directors of the Association of Apartment Owners of Punahou Royale, on behalf of the members of the Association, hereby adopts the following resolutions to designate high-risk components, and establish requirements for care and replacement of high-risk components:

- A. Designation of High-Risk Components. The windows and window frames on the southwest end of the building, in the '07 stack, are designated high-risk components.
- B. Replacement at Specific Intervals. Windows and window frames must be replaced at least every 30 years. Upon request by the Board, owners shall provide a copy of the contractor's invoice showing that the windows and/or window frames have been replaced as required.

- C. **Inspections.** The Association may conduct inspections of the high-risk components upon notice to the owners and residents. During the inspection, certain high-risk components may be identified as faulty. For purposes of this resolution, a high-risk component is faulty if: (1) the component has failed; (2) the component is near failure in the judgment of the inspector; or (3) the component's age is such that the inspector believes that it should be repaired or replaced even if not otherwise faulty. The Association is under no obligation to repair or replace the faulty high-risk component, but if it does so, the owner will be responsible for all costs and expenses of the repair or replacement. Nothing herein shall override the Association's authority to conduct emergency repair and replacements of unit components.
- D. **Repair or Replacement Generally.** If a high-risk component is identified as faulty during an inspection conducted pursuant to this resolution, the high-risk component shall be repaired or replaced by the owner of the unit within the time frame set forth in the inspection report. Within four business days of completion of the repair or replacement of the faulty high-risk component, the owner shall provide a copy of the contractor's invoice showing that the repair or replacement has occurred. Notwithstanding anything stated in this Section D, the Association may repair or replace a faulty high-risk component if the inspection determines that there is imminent or significant risk to person or property. If the Association undertakes the repair or replacement, the Association shall assess the owner of the unit the cost of the repair or replacement which, if unpaid, shall constitute a lien on the unit as provided by HRS Section 514B-146. The Board in its sole discretion may choose to have the cost of repairing or replacing faulty high-risk component(s) paid for as a common expense.
- E. **Windows Replacement Project.** The owners are responsible for the maintenance of their apartment's windows and window frames pursuant to Article VI, Section 2(a) of the By-Laws. The Association has concluded that the windows and window frames have reached the end of their useful life, unless they have been recently replaced. Accordingly, the windows will be replaced during the window replacement work scheduled to begin in 2014. The Association shall assess the owner of the unit the cost of the replacement which, if unpaid, shall constitute a lien on the unit as provided by HRS Section 514B-146. An owner may notify the Association in writing that the window(s) in the owner's apartment have already been replaced recently. The notice must be accompanied by a written report by a licensed window contractor or architect hired by the unit owner. The notice from the owner must be received by the Association by April 4, 2014. If any window is faulty as defined in Section C, the Association will replace the window in accordance with this Section E. If the Association determines that the replacement of the window(s) is unnecessary, the Association may require the owner to sign document(s) accepting responsibility for the window(s), waiving any claims against the Association relating to the window(s) and agreeing to indemnify and defend the Association for any claims arising from the window(s).
- F. **Failure to Comply with Resolution.** If an owner fails to comply with the requirements of this resolution within the time frame set forth in the inspection report or cover letter, the Association is authorized to enter the unit to perform the requirements with regard to such high-risk components at the sole cost and expense of the unit owner, which costs and expenses shall be a lien on the unit as provided in HRS Section 514B-146.

**BE IT FURTHER RESOLVED THAT** nothing in this resolution shall be deemed to limit the remedies of the Association for damages, or injunctive relief, or both.

I, JOYCELIN M. TURBEVILLE, Secretary of the Board of Directors of the Association of Owners of Punahou Royale, do hereby certify that the foregoing is a true copy of the resolution duly adopted at a meeting of the Board of Directors, duly held on APRIL 2, 2014 and duly entered in the book of minutes of the Association, and that this resolution is in full force and effect.

Joycelin M. Turbevill  
Secretary, ASSOCIATION OF APARTMENT OWNERS OF  
PUNAHOU ROYALE