

Learn more about the Real Estate Branch (REB) of the Department of Commerce and Consumer Affairs

Check out the REB website www.hawaii.gov/hirec for more information and some frequently asked questions.

- What services does the REB provide to the condominium community?
- Where can I get help with association disputes?
- What laws apply to my condominium association?
- How do I get a copy of my association documents?
- How do I obtain a real estate license?
- What are the laws and rules for real estate licensees?

Real Estate Branch

About Us

The Real Estate Branch, as part of the Professional and Vocational Licensing Division, assists the Real Estate Commission in carrying out its responsibility for the education, licensure and discipline of real estate licensees; registration of condominium projects, condominium associations, condominium managing agents, and condominium hotel operators; and intervening in court cases involving the real estate recovery fund.

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Contact Us

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Web: www.hawaii.gov/hirec

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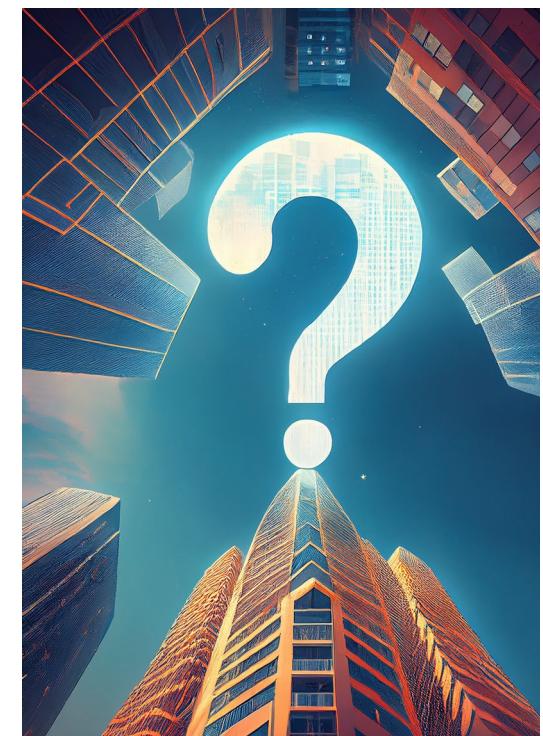


**CONDOMINIUM:
COMMON MYTHS AND
QUESTIONS IN DEVELOPMENT**
Real Estate Branch
335 Merchant Street #333
Honolulu, HI 96813

CONDOMINIUM: COMMON MYTHS AND QUESTIONS IN DEVELOPMENT

*Real Estate Branch
Department of Commerce and
Consumer Affairs*

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Complex Process

Developing and marketing a condominium can be a complex process. This brochure will clarify common development myths and questions.

My Property is X Square Feet and Y Zoning, Can I Condo?

Condominium is an ownership law and except for properties containing Ohana, ADUs, ARUs, or guest houses on Oahu and Kauai, there are no general governmental zoning, size, or structural restrictions on what can be turned into a condominium or condominium unit. However, review any private conditions, covenants, or restrictions on the property.

As the condominium law is primarily an ownership law, rather than a development law, developers and owners must comply with all county ordinances, rules, and regulations pursuant to §514B-5, HRS. Types of condominiums include harbor slips, parking stalls, farmland pastures, warehouses, storage closets, residential towers, townhomes, and many more.

Are Condominium and Subdivision Different?

Subdividing a property and submitting a property to condominium are two distinct processes with different outcomes. They are not the same, do not



follow the same processes, and do not confer the same development rights.

Subdivision, which is a county process, divides a property into lots that, other than sharing a boundary line, have no relationship to adjacent properties. Condominium, which is a State process, creates separate limited common elements within the original property that all the unit owners share a common interest in.

Subdivision often requires the developer to build infrastructure, sets minimum lot sizes, and generally grants each lot certain development rights. Counties maintain authority over approving the subdivision application.

Condominium does not require infrastructure, nor has a minimum lot size, and does not automatically grant development rights. Permitting outside of P-1 zoned properties, is a county process. Counties typically look at the entire condominium project to determine how many structures can be permitted, rather than the number of units. Owners and developers cannot use a condominium to circumvent county development requirements.

Does the Real Estate Commission Approve Condominium Projects?

The Hawaii Real Estate Commission (“Commission”) issues effective date for a developer’s public reports, it does not approve condominium projects. Approval implies that there is merit or value to the condominium project, something the Commission will not opine upon. Instead, the developer’s public report is the mandatory disclosure document required for the

sale of most condominiums. The Commission issues an effective date for a developer’s public report. The effective date means that the developer can proceed to sell units as they have properly disclosed the material and pertinent facts for prospective buyers’ information and protection.

Can A Developer Sell Prior To An Effective Date?



Developers cannot legally sell most units until an effective date has been issued. They can advertise pursuant to §514B-85, HRS, but developers and their agents are strictly prohibited from accepting any monies and entering into binding contracts with non-developer buyers. §514B-69, HRS, details significant penalties for any violations. A developer may take a non-binding reservation that cannot become a sales contract where the prospective buyer and developer can back out at any time without any penalties.

What Documents Can Developers Transmit Electronically?

§514B-86, HRS, provides guidance. Buyers can elect to receive the bylaws, house rules, letter-sized condominium map, and all amendments electronically. They can also send and receive cancellation rights, waiver of cancellation rights, and rescission right notices by electronic means. However, buyers cannot elect to receive the developer’s public report electronically and the developer must provide a true printed copy.