

RESOLUTION OF THE BOARD OF DIRECTORS
OF THE ASSOCIATION OF APARTMENT OWNERS OF
HAWAII TOWER REGARDING RESPONSIBILITY FOR PIPES, DRAINS,
FIXTURES, AND INSTALLATIONS LOCATED IN OR SERVING ONLY ONE APARTMENT

WHEREAS:

Plumbing fixtures, pipes, drains and other installations, including fire sprinkler heads, located in or serving only one apartment at the project have caused leaks and damage that has had to be repaired or replaced, forcing the Board to determine responsibility for repairing or replacing those items and any damage they cause.

Section D.1(a)(iii) of the declaration states that the residential apartments do not include "pipes... or other utility or service lines... running through or otherwise located within such apartment which are utilized for or serve *more than one* residential apartment, the same being deemed common elements..."

Section D.1(a)(iii) of the declaration further indicates that each residential apartment includes "all *fixtures* originally installed [in the apartment]"

Section D.2(j) of the declaration indicates that "All... pipes... which serve *more than one* apartment for services such as... water..." are part of the common elements.

Article VI, section 3(A) of the bylaws: (i) requires each apartment owner, at the owner's expense, to maintain and repair his apartment, "including without limitation all internal installations therein, such as water... and all other fixtures and accessories belonging to such apartment... in good order and condition"; (ii) makes the apartment owner "liable for all loss or damage whatsoever caused by his failure to perform any such work diligently ..."; and (iii) requires the owner to reimburse the association for all expenses the association incurs in performing any such work, including the cost of repairing or replacing any uninsured loss or damage to the common elements.

Sections F.3 and I.7 of the declaration and article V, section 8 of the bylaws give the association the right to enter an apartment to make repairs necessary to prevent damage to the apartments or any common elements.

Section K. of the declaration states that all charges, costs and expenses incurred by the association for any apartment, including the costs of maintenance, repairs, replacements, additions and improvements in the apartment, are the responsibility of the owner of the apartment.

Section M. of the declaration requires the association to insure the buildings and common elements, and except as provided in section N. of the declaration, use the insurance proceeds to rebuild and repair the buildings and common elements to their original condition.

Section N.3 states that any costs incurred in excess of the insurance proceeds for the repair and rebuilding of any apartment shall be specially assessed against the owner of the apartment.

Owners and occupants of apartments can better determine the condition of plumbing fixtures, pipes, drains and other installations, including fire sprinkler heads, located in or serving only their

apartments at the project, so owners and occupants should be primarily responsible for inspecting those items and reporting leaks and other problems to the association.

Any delay in taking action to: (i) eliminate water leaks in an apartment; or (ii) repair and replace any damage caused by water leaks may lead to mold problems and expensive remedial action.

Although the fire sprinkler heads and pipes serving them are the owner's responsibility, the fire sprinkler system is a high-pressure system which is essential for the safety of the whole project.

The board has decided to adopt a resolution, based on the law, the declaration and the bylaws, to allocate responsibility for the maintenance, repair and replacement of those items and any damage they cause.

The BOARD OF DIRECTORS OF THE ASSOCIATION OF APARTMENT OWNERS OF HAWAIIKI TOWER hereby adopts the following resolutions to allocate responsibility for plumbing fixtures, pipes, drains, and other installations, including fire sprinkler heads and pipes, serving only one apartment at the project:

I. RESOLVED:

A. Procedures for plumbing fixtures, pipes, drains and other installations located in or serving only one apartment, except fire sprinkler heads and any pipes servicing them:

Owners and residents of apartments shall be responsible for reporting any leaks or other problems with plumbing fixtures, pipes, drains and other installations located in or serving only their respective apartments.

Except as stated below, if plumbing fixtures, pipes, drains and other installations located in or serving only one apartment leak or require maintenance, repair or replacement, the apartment owner shall be responsible for the doing the work.

If a water leak from any plumbing fixtures, pipes, drains and other installations located in or serving only one apartment: (i) threatens other apartments or the common elements, or (ii) may result in the growth of mold, the association may enter the apartment and take immediate action to repair the leak and eliminate any conditions that are conducive to the growth of mold.

For other leaks from items located in or serving one apartment, if an owner or resident fails to begin the work within 72 hours of the discovery of a leak, the board may perform the work and assess the cost of the repair, maintenance and/or replacement to the owner of the apartment. Collection of any expenses incurred by the association shall be undertaken in the same manner as the collection of common expenses.

Each owner shall be responsible for the cost of repairing any uninsured damage to: (i) the owner's apartment, (ii) the common elements, or (iii) any other apartment caused by any plumbing fixtures, pipes, drains and other installations located in or serving only the owner's apartment, including the cost of any mold remediation.

B. Procedure for fire sprinkler heads and any pipes servicing them:

If a fire sprinkler head (or any pipe connected to it) that serves only one apartment requires maintenance, repair or replacement, the apartment owner or resident must report the problem to the association immediately. The association will repair or replace the fire sprinkler head or pipe, but each owner shall be responsible for repairing any uninsured damage to the owner's apartment, the common elements or any other apartment caused by the fire sprinkler head (or pipe servicing it), including the cost of any mold remediation.

II. RESOLVED FURTHER THAT:

If the association undertakes any remedial work in an owner's apartment, pursuant to this resolution, the apartment owner shall be responsible for restoring the decorated surface of any wall, floor, or ceiling of the apartment to its original condition. In addition, if the association must remove any items or covering, including paneling, mirrors, or tile, from any wall, floor or ceiling of the apartment to maintain, repair, or replace any plumbing fixtures, pipes, drains and other installations, including fire sprinklers, the apartment owner shall be responsible for restoring or replacing the item or covering.

III. RESOLVED FURTHER THAT:

The board, at its option, may conduct periodic inspections of apartments to determine the condition of any plumbing fixtures, pipes, drains and other installations located in or serving only the owner's apartment. The association and the apartment owners shall be responsible for maintenance, repair, and replacement of the items, as outlined in sections I and II, above.

IV. RESOLVED FURTHER, THAT:

The rights, obligations, and authority which this resolution provides shall become effective as of the date of the board's adoption of this resolution, and shall remain effective until this resolution is revoked in writing by the board or changed by an amendment to the association's declaration or bylaws.

CERTIFICATE

I hereby certify that the above resolution was adopted pursuant to the law and the DECLARATION and BY-LAWS OF THE ASSOCIATION OF APARTMENT OWNERS OF HAWAIIKI TOWER, by the Board of Directors of the Association, at a Board meeting on August 30, 2004.

DATED: Honolulu, Hawaii, August 30, 2004.

Alies Mohan, Secretary