



HAWAIKI TOWER

ASSOCIATION OF APARTMENT OWNERS OF HAWAIKI TOWER, INC. BOARD RESOLUTION ON DEDUCTIBLES AND INSURANCE

WHEREAS:

Section M of the declaration requires the board of directors, on behalf of the association, to obtain insurance for the project and to use all insurance proceeds for rebuilding, repairing or otherwise restoring the buildings to their original condition.

Section 514B-143(d), Hawaii Revised Statutes, states:

- (d) *The board, in the case of a claim for damage to a unit or the common elements, may:*
- (1) *Pay the deductible amount as a common expense;*
 - (2) *After notice and an opportunity for a hearing, assess the deductible amount against the owners who caused the damage or from whose units the damage or cause of loss originated; or*
 - (3) *Require the unit owners of the units affected to pay the deductible amount.*

The association's insurance policy does not cover the personal property and the contents of an owner's apartment, nor any additional upgrades or improvements made to the owner's apartment, but Section M of the declaration permits each apartment owner to insure his apartment for his own benefit and to obtain increased coverage for his apartment if he chooses.

The association's insurance premiums and deductible have increased substantially, forcing the board to try to minimize the association's insurance claims and to develop a means to pay the deductible for the association's policy.

Excessive claims against the association's policy may further increase the association's insurance premiums or cause the association's insurance company to refuse to renew the association's policy.

Requiring owners to pay at least part of the deductible on the association's policy provides an incentive for owners to properly maintain their own apartments, to minimize claims against the association's policy.

Allocating the association's deductible to the owners allows the association to take advantage of the coverage owners can obtain under their individual policies for the association's deductible, thereby eliminating the need for the association to assess the owners to establish a large reserve to pay the deductible on the association's policy.

The board, in light of those and other relevant factors, and based on the board's business

judgment, has agreed to a \$25,000 deductible for the association's policy for the current year. This deductible may change from time to time.

The requirements outlined below on payment of deductibles are intended to encourage owners to properly insure, maintain and repair their own apartments in accordance with the declaration and bylaws, while apportioning the deductible for the association's policy in a fair and reasonable manner.

The requirements outlined below are also intended to clarify the insurance needs for individual apartment owners by: (1) furnishing them with guidelines to ensure that they have the appropriate coverage for their apartments, (2) outlining the additional insurance coverage that owners need to purchase for themselves, and (3) stating procedural guidelines for owners when there is a damage claim affecting the owners' apartments.

RESOLVED:

The following policy is hereby adopted by the Board of Directors on behalf of the members of the Association:

I. Deductibles

If loss or damage is covered by the association's insurance policy, the association's insurance policy deductible will be allocated and paid as follows:

(i) **If the loss or damage is caused by the owner or the owner's family members, tenants, or guests; or originates from the owner's apartment or limited common elements.** *(For purposes of this policy, the definition of apartment and limited common elements in the declaration and bylaws will apply. In addition, any water pipe or drain pipe serving only one apartment will be deemed the apartment owner's responsibility.)* After being given notice and an opportunity for a hearing, the owner shall be responsible for paying the full deductible of the association's insurance policy, unless otherwise determined by the board. The owner must submit a claim to his or her own insurance carrier for the amount of the deductible.

(Example 1: As part of a risk management plan, the board notifies all owners that the owners should replace their washing machine hoses to avoid burst hoses and flooding of apartments. If the owner of a unit fails to do so, and his washing machine hose bursts and floods the apartments below, the owner will be required to pay all of the deductible.

(Example 2: An owner's toilet tank unexpectedly cracks and floods two apartments below. The owner will be required to pay all the deductible, without regard to whether the owner was negligent or at fault.)

(ii) **If the loss or damage is caused by or arises from any part of the common elements and no owner is responsible for the damage.** If the association is negligent and no owner is responsible for the damage, the association may, at the discretion of the board, pay the full deductible of the association's insurance policy or allocate all or part of the association's deductible to the affected owners. If the association is not negligent and no owner is responsible for the damage, the deductible shall be paid by the apartment owners to the extent covered by the insurance on the owner's apartment. The uninsured portion of the deductible shall be paid by the association.

(Example 1: The association's roofing contractor informs the board that the roof should be replaced as soon as possible because it will probably leak in the next big storm. The board does nothing, and six months later a big storm hits, and three apartments are flooded by a roof leak. The association pays the whole deductible.

(Example 2: The association's roofing contractor informs the board that he has inspected the roof and it should be serviceable for at least three more years before it needs to be replaced. A "100 year" storm hits six months later, and three apartments are flooded. The association is not negligent. The deductible is divided between the three owners and the owners pay the portion of the deductible that is covered by their insurance. If any portion of the deductible is not covered, the association pays that portion.)

(iii) **If more than one condominium apartment is affected by an insured loss and the cause of the damage cannot be attributed to the association or any one apartment or resident.** The deductible shall be paid by all apartment owners who receive payment from the association's insurer in proportion to the payment each owner receives under the association's policy.

(Example: The amount of the claim is \$60,000.00 and two owners suffer damage. The association's insurer pays \$35,000.00, \$20,000.00 to the first owner and \$15,000.00 to the second owner. The association's deductible of \$25,000.00 will be allocated \$14,286.00 to the first owner and \$10,714.00 to the second owner.)

(iv) **If the loss or damage appears to be caused by or to arise from any part of an owner's apartment or limited common elements, but the apartment owner or occupant refuses to permit an association representative to enter the apartment or limited common element to investigate.** The apartment owner shall be responsible for paying the full deductible of the association's property insurance policy.

II. Collection

If an owner is required to pay the association's deductible under the rules stated above, the board will collect the deductible from the owner as a special assessment under Section K of the declaration.

III. Claims Procedures

Owners must file claims against the association's insurance policy with the association's managing agent, not with the association's insurance agent. The managing agent will not refer a claim to the association's insurance agent until the owner provides proof that the claim exceeds the deductible of the association's insurance policy.

Only licensed and insured contractors shall be authorized to perform reconstruction or repair work necessitated by insurance claims. All work must have the necessary permits and meet all building codes.

The association shall disburse insurance claim proceeds directly to the licensed contractor(s) performing the repair or renovation work. Owners must submit all required permits and licenses, along with original receipts, in order for their contractors to receive payment for work performed.

IV. Insurance To Be Maintained By Owners

Pursuant to the “Resolution of the Association of Apartment Owners of Hawaiki Tower, Inc. Authorizing the Board to Require Members of the Association to Purchase Their Own Insurance”, each owner must maintain insurance to cover: the owner’s personal property; improvements and upgrades to the owner’s apartment; and the owner’s personal liability. In addition, owners should obtain insurance to cover assessments by the association for association deductibles and uninsured losses. All coverage should be on a replacement cost basis.

V. General Conditions

Owners and tenants shall comply with all insurance risk management programs established by the board.

CERTIFICATE

I hereby certify that the above resolution was adopted pursuant to the law and the above Sections of the DECLARATION OF CONDOMINIUM PROPERTY REGIME OF HAWAIKI TOWER, by the Board of Directors of the Association, at a Board meeting on February 28, 2022.

DATED: Honolulu, Hawaii, May 23, 2022.



Print Name: Patricia Kawakami
Its President