



HAWAII COMMUNITY
DEVELOPMENT AUTHORITY



Ref. No.: PL GEN 1.19

December 29, 2015

Mr. Paul McCurdy
Resident Manager
AOAO of Hawaiki Tower, Inc.
88 Piikoi St.
Honolulu, HI 96814

Dear Mr. McCurdy:

Re: Transient Accommodations

This is in response to your request for confirmation that vacation rentals in the Mauka Area of the Auahi Neighborhood are prohibited and that the minimum period of time for letting an apartment is 180 consecutive days.

Vacation rentals, otherwise known as 'transient accommodations', are not considered Residential Use and is not permitted under the Mauka Area Rules, Chapter 217, Hawaii Administrative Rules ("HAR"). The definition of transient accommodations is provided in §18-237D-1-07, HAR. Transient accommodations is defined as, *the furnishing of a room, apartment, suite, or the like which is customarily occupied for less than one hundred eighty consecutive days for each letting by a hotel, apartment hotel, motel, condominium property regime or apartment as defined in chapter 514A, Hawaii Revised Statutes, cooperative apartments, or rooming house that provides living quarters, sleeping, or housekeeping accommodations, or other place in which lodgings are regularly furnished to transients for a consideration.* In addition, the Chapter 130-2, Classification of Condominiums, City and County of Honolulu Rules and Regulations of the Department of Budget and Fiscal Services, further clarifies that Residential Use specifically excludes the use of the unit as a transient vacation unit or for time sharing.

We note that 'Group Home', a use classification pertaining to the use of any single-family residence or dwelling unit for a group residence where residents pay a fee or other consideration to the group home operator in return for residential accommodations is a permitted use. A group home includes a boarding home, a rooming house, as well as a group residence for the elderly, or mentally or physically disabled or handicapped persons, or other persons in need of care and supervision.

David Y. Ige
Governor

John Whalen
Chairperson

Anthony J. H. Ching
Executive Director

547 Queen Street
Honolulu, Hawaii
96813

Telephone
(808) 594-0300

Facsimile
(808) 587-0299

E-Mail
contact@hcdaweb.org

Web site
www.hcdaweb.org

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Notice of violations (“NOV”) and administrative penalties relating to the enforcement of the HCDA’s community development districts are administered pursuant to the Rules of Practice and Procedure, §15-219-99, Issuance of Notice of Violation and Intent to Impose a Citation. Complaints or violations can be submitted via letter, email or phone call to HCDA for verification. If possible, please provide the following information when filing a complaint or potential violation:

1. Description and Nature of Violation
2. Address of Violation
3. Any other pertinent information, including dates of violation and names of violator.

Upon determination of a violation, the Executive Director may issue a NOV and intent to impose a citation. Information on NOVs is attached for your reference.

Should you have any questions, please contact Deepak Neupane, Director of Planning and Development at 594-0300.

Sincerely,



Anthony J. H. Ching
Executive Director

AJHC/DN/ST:ak
Enc.



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Notice of Violation and Citation EXPLANATION & INSTRUCTIONS

You have received a **NOTICE OF VIOLATION AND CITATION** (“Notice”). The structure and/or premises referenced on the Notice as **Address of Violation** and **Tax Map Key** was inspected by the Hawaii Community Development Authority (“HCDA”) and a violation of the Kakaako Community Development District Mauka Area Rules, Chapter 217, Hawaii Administrative Rules, was found. The violation will be enforced pursuant to Section 206E-22, Violations and penalty, Hawaii Revised Statutes, as amended.

You are ordered to cease and desist from the violation and immediately correct the violation, at your own expense, as indicated in the **How to Correct Violation** and before the **Deadline Date** as specified in the Notice.

If the Notice is issued to more than one person, each person shall be jointly and severally liable for the full amount of any fines imposed by the Notice and any additional penalties as described below.

Corrective action must be completed by the **Deadline Date**. On completion of corrective action, you are responsible for contacting the HCDA Contact Person listed on the Notice at 594-0300 to verify the corrective action.

If corrective action has not been completed by the **Deadline Date**, a **Fine** will be assessed, as indicated on the Notice. In addition, a **Daily Penalty** will be assessed from the **Deadline Date** until corrective action is completed.

Additional **Daily Penalties** shall be determined from the following schedule:

	Penalty for Each Day after Deadline to Correct Violation					
	1-90 Days	91-180 Days	181-270 Days	271-360 Days	361-450 Days	More than 450 days
Daily Penalty	\$50	\$100	\$200	\$300	\$400	\$500

Violators shall be liable for all administrative costs incurred by the HCDA in processing and levying the penalties set forth in Subchapter 6 of Chapter 15-219, Administrative Procedures Relating to the Enforcement of the Administrative Rules of HCDA’s Community Development Districts. Costs shall include but not be

limited to the cost incurred in the preparation of notices, the collection of fines and the appeal of violations.

Checks are payable to the HCDA and should be mailed or delivered to:

**Hawaii Community Development Authority
547 Queen Street
Honolulu, Hawaii 96813**

Appeal Procedures:

The Notice of Violation and Citation shall become final on the **Deadline Date** for corrective action. On or before the date, any person(s) served with the Notice may appeal the Notice to the HCDA in accordance with Subchapter 2 of Chapter 15-219, Hawaii Administrative Rules. However, an appeal to the HCDA does not stay any provision of the Notice, including the imposition of the **Fine, Daily Penalties** and administrative costs.

The appeal must be received within 30 calendar days from receipt of the Notice, and must be made in accordance with the Subchapter 2 of Chapter 15-219, Hawaii Administrative Rules. Failure to comply with the Subchapter 2 of Chapter 15-219, Hawaii Administrative Rules, may result in the dismissal of the appeal. Copies of the applicable Hawaii Administrative Rules are available for inspection at the HCDA. Essentially, Subchapter 2 of Chapter 15-219, Hawaii Administrative Rules, require that a petitioner must demonstrate that the Executive Director's action was based on an erroneous finding of a material fact or that the Executive Director had acted in an arbitrary or capricious manner or had manifestly abused his discretion.

Address the appeal to:

**Hawaii Community Development Authority
547 Queen Street
Honolulu, Hawaii 96813**

Variance Procedures:

Variance procedures are also available as prescribed in Section 15-217-82 Mauka Area Rules. An application for variance shall not affect, delay any administrative proceedings or suspend the imposition of the **Fine and Daily Penalties** initiated under Subchapter 6 of Chapter 15-219, Hawaii Administrative Rules.

Repeated Violations:

Please be advised that in the future, if there is a violation of the Mauka Area Rules and the same violation as indicated on the Notice, the violation will be considered a repeated violation and you will be subject to an immediate **Fine** in excess of the amount indicated above, pursuant to Section 15-219-101, Administrative Fines.

This matter may be referred to the Department of the Attorney General of the State of Hawaii for civil remedy and/or criminal prosecution.

If there are any questions regarding the meaning of the Notice of Violation and Citation or the corrective action required, please contact the HCDA at 594-0300.