

CHRISTOPHER SHEA GOODWIN, AAL LLLC
CHRISTOPHER SHEA GOODWIN 5925
Pacific Guardian Center, Mauka Tower
737 Bishop Street, Suite 1640
Honolulu, Hawaii 96813

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N. ANAYA
CLERK

CASE LOMBARDI & PETTIT
JOHN D. ZALEWSKI 4718
JANA M. NARUSE 8966
Pacific Guardian Center, Mauka Tower
737 Bishop Street, Suite 2600
Honolulu, Hawaii 96813

Attorneys for Plaintiff
ASSOCIATION OF OWNERS
OF KALELE KAI

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

ASSOCIATION OF OWNERS
OF KALELE KAI,

Plaintiff,

vs.

HITOSHI YOSHIKAWA;
DOE DEFENDANTS 1-10,

Defendants.

CIVIL NO. 15-1-0102-01 KTN
(Declaratory Judgment)

MOTION FOR DETERMINATION AND
ISSUANCE OF A STAY; MEMORANDUM
IN SUPPORT OF MOTION; DECLARATION
OF COUNSEL; EXHIBITS A-F; NOTICE OF
HEARING ON MOTION; CERTIFICATE OF
SERVICE

HEARING:

Date: April 15, 2015

Time: 9:00am

Judge: The Honorable Karen T. Nakasone

No Trial Date

PLAINTIFF'S MOTION FOR DETERMINATION AND ISSUANCE OF A STAY

COMES NOW, Plaintiff ASSOCIATION OF OWNERS OF KALELE KAI

("Association"), by and through attorneys, CHRISTOPHER SHEA GOODWIN, ATTORNEY

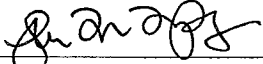
AT LAW, LLLC, and CASE LOMBARDI & PETTIT, and hereby respectfully moves this Honorable Court for an order determining whether pre-judgment collection efforts threatened or conducted by Defendant HITOSHI YOSHIKAWA are improper, and for a stay which precludes any collection measures until entry of final judgment in this civil action.

Counsel for Defendant HITOSHI YOSHIKAWA have threatened on two occasions to date, to pursue garnishment of the Association's assets, predicated on a non-binding arbitration award despite the Association having made timely demands for trial de novo and timely filing herein its Complaint and First Amended Complaint, in accordance with the applicable Hawaii statute controlling this condominium dispute.

These threats by Defendant's counsel, if carried out, would interfere with the Association's ability to conduct its affairs on behalf of its membership, and would have potentially enormous negative implications on the Association and its membership, financial and otherwise.

This Motion is made pursuant to HRCP Rule 7, HRCC Rule 7, the attached Memorandum in Support of Motion, Declaration of Counsel, and Exhibits A-F, the records and files of this action, and upon any information that may be adduced at a hearing on this Motion.

DATED: Honolulu, Hawaii, February 24, 2015.



CHRISTOPHER SHEA GOODWIN
JOHN D. ZALEWSKI
JANA M. NARUSE
Attorneys for Plaintiff
ASSOCIATION OF OWNERS OF KALELE KAI

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

ASSOCIATION OF OWNERS
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Defendants.

CIVIL NO. 15-1-0102-01 KTN

MEMORANDUM IN
SUPPORT OF MOTION

MEMORANDUM IN SUPPORT OF MOTION

I. BACKGROUND

This action involves a dispute between Plaintiff ASSOCIATION OF OWNERS OF KALELE KAI (“Association”) and Defendant HITOSHI YOSHIKAWA (“Yoshikawa”). Yoshikawa has moored a boat at the condominium project Kalale Kai, located in Hawaii Kai, that is approximately twice the length of that permitted by the express language of the Association’s Declaration.

Pursuant to Yoshikawa’s demand, the parties participated in statutory **non-binding arbitration** conducted in accordance with HRS §514B-162.

On December 12, 2014, the Arbitrator, Keith Hunter, issued a Partial Final Award.

On December 22, 2014, the Association made a written demand for trial de novo upon Yoshikawa in accordance with HRS §514B-163. Exhibit A.

On January 21, 2015, the Association filed herein its Complaint for Trial De Novo in accordance with the same statute. Exhibit B.

On February 11, 2015, the Arbitrator issued a Final Award of Arbitrator, which was served on February 12, 2015.

On February 13, 2015, Yoshikawa's counsel threatened to "***initiate garnishment proceedings of the Association's account***" unless payment of the Final Award was not received by February 20, 2015. Exhibit C.

On February 20, 2015, the Association made a written demand for trial de novo upon Yoshikawa in accordance with HRS §514B-163, which also addressed the threat by Yoshikawa's counsel, as follows:

It would be unlawful and highly improper to engage in "garnishment proceedings" or other collection attempts, predicated on a non-binding award that is the subject of a de novo civil action in First Circuit Court.

NOTICE is hereby provided to you and Mr. Yoshikawa that engaging or attempting to engage in any such conduct is likely to cause our client to sustain compensatory and consequential damages, and other harm. We urge you and your client to consider and adhere to Hawaii law prior to taking any action.

Exhibit D.

Later that same day, the Association filed its First Amended Complaint for Trial De Novo, pursuant to the same statute. Exhibit E.

On February 22, 2015, Yoshikawa's counsel stated in part: "***Unless someone says otherwise from your side of the ledger before the close of business tomorrow, we will indeed begin collection efforts.***" Exhibit F.

II. DISCUSSION

At no time has judgment been entered in connection with this dispute, pursuant to HRS §636-4 or otherwise. Only a non-binding arbitration award has been issued, which has been timely appealed by filing of the present trial de novo action before in this Court.

Nor can judgment be issued under HRS §514B-162(f) where, as here, trial de novo has been timely demanded, and this action for trial de novo timely ensued.

Detrimental and potentially devastating effects could occur from an attempted garnishment or other judgment collection measures, which indeed, may be the reason why Yoshikawa's counsel has resorted to making such threats.

The Association requests that the Court determine any garnishment or other judgment collection activities would be improper and stay any such activity from commencing or occurring.

A. Garnishment Is Improper Where, As Here, the Association Timely Demanded Trial De Novo and Timely Filed a Complaint for Trial De Novo

The Association's written demands for trial de novo and its Complaint and First Amended Complaint for Trial De Novo (filed herein on January 21, 2015 and February 20, 2015, respectively) were timely made in accordance with HRS § 514B-163.

HRS § 514B-163 states in part (emphasis added):

- (a) The submission of any dispute to an arbitration under section 514B-162 **shall in no way limit or abridge the right of any party to a trial de novo.**
- (b) Written demand for a trial de novo by any party desiring a trial de novo shall be made upon the other parties within ten days after service of the arbitration award upon all parties and the trial de novo shall be filed in circuit court within thirty days of the written demand. Failure to meet these deadlines shall preclude a party from demanding a trial de novo.
- (c) The award of arbitration shall not be made known to the trier of fact at a trial de novo.

The Association made timely written demands for trial de novo upon Defendant's counsel within 10 days of service of the partial award and final arbitration award.

Likewise, the Association filed its Complaint and First Amended Complaint timely within 30 days of the Association's written demands for trial de novo.

To garnish the Association's financial accounts, Yoshikawa must first obtain a *judgment* and thereupon request the Court to issue a garnishee summons.

HRS § 636-4, which recites post-judgment procedures, states in part (emphasis added):

Any creditor who has obtained a judgment in any court, or the creditor's successor in interest when that interest appears of record, **may apply to the court for the issuance of orders, summons, or subpoenas**, in order that the judgment debtor, and any other person having any knowledge about the affairs or property of the judgment debtor, may be examined orally before, or as directed by, a judge of the court as to any and what property the debtor owns or has an interest in and what debts are owing to the debtor, and the court may issue such orders, summons, or subpoenas, for the examination of the judgment debtor and any other person having any knowledge about the affairs or property of the judgment debtor, and for the production of any books or documents.

The plain language of the statute demonstrates that a "judgment" is necessary for a "creditor" to obtain or the court to issue any orders, summons or subpoenas relating to the judgment debtor. To obtain a judgment, Yoshikawa must obtain *confirmation* of the non-binding award pursuant to HRS §514B-162.

HRS §514B-162, subsection (f), states as follows (emphasis added):

The award of the arbitrator shall be in writing and acknowledged or proved in like manner as a deed for the conveyance of real estate, and shall be served by the arbitrator on each of the parties to the arbitration, personally or by registered or certified mail. At any time within one year after the award is made and served, any party to the arbitration may apply to the circuit court of the judicial circuit in which the condominium is located for an order confirming the award. **The court shall grant the order confirming the award pursuant to section 658A-22, unless** the award is vacated, modified, or corrected, as provided in sections 658A-20, 658A-23, and 658A-24, or **a trial de novo is demanded under subsection (h)**, or the award is successfully appealed under subsection (h). The record shall be filed with the motion to confirm award, and notice of the motion shall be served upon each other party or their respective attorneys in the manner required for service of notice of a motion.

B. Requested Relief

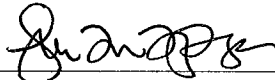
Yoshikawa and his counsel have threatened to commence immediate collection activities against the Association, yet they have failed to obtain – or even request – confirmation of the non-binding arbitration award in this action. Importantly, HRS §514B-162 does not allow for confirmation of the award even if Yoshikawa made such a motion, because confirmation was no longer available when Plaintiff timely made its demands for trial de novo and timely filed its Complaints trial de novo in the present action.

Given that Yoshikawa's threats are improper, and the potentially devastating implications if they are carried out, Yoshikawa should be ordered to refrain from carrying out his threats, to wit: any judgment collection activity of any nature.

III. CONCLUSION

The Association respectfully requests that this Motion be GRANTED.

DATE: Honolulu, Hawaii, February 24, 2015.



CHRISTOPHER SHEA GOODWIN
JOHN D. ZALEWSKI
JANA M. NARUSE
Attorneys for Plaintiff
ASSOCIATION OF OWNERS OF KALELE KAI

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

ASSOCIATION OF OWNERS
OF KALELE KAI,

Plaintiff,

vs.

HITOSHI YOSHIKAWA;
DOE DEFENDANTS 1-10,

Defendants.

CIVIL NO. 15-1-0102-01 KTN

DECLARATION OF COUNSEL;
EXHIBITS A-F

DECLARATION OF COUNSEL

I do hereby declare under penalty of law that the following is true and correct:

1. I am an attorney of the law firm Case Lombardi & Pettit (“CLP”), and licensed to practice law before all courts in Hawaii, and an attorney of record for Plaintiff ASSOCIATION OF OWNERS OF KALELE KAI (the “Association”).

2. Attached hereto as Exhibit A is a true and complete copy of the Association’s written demand for trial de novo dated December 20, 2014 and served on counsel for Defendant HITOSHI YOSHIKAWA (“Yoshikawa”) via fax and email on December 22, 2014.

4. Attached hereto as Exhibit B is a true and complete copy of the Association’s Complaint for Trial De Novo; Summons filed herein on January 21, 2015.

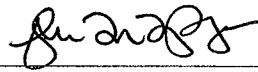
5. Attached hereto as Exhibit C is a true and complete copy of an email sent February 13, 2015 from Lauren McDowell, Esq., on one of Yoshikawa’s counsel, to counsel for the Association.

6. Attached hereto as Exhibit D is a true and complete copy of the Association’s written demand for trial de novo dated February 20, 2015.

7. Attached hereto as Exhibit E is a true and complete copy of the Association's First Amended Complaint for Trial De Novo; Summons filed herein on February 20, 2015.

5. Attached hereto as Exhibit F is a true and complete copy of an email sent February 20, 2015 from Terry Revere, Esq., on one of Yoshikawa's counsel, to counsel for the Association.

DATED: Honolulu, Hawaii, February 24, 2015.



Jana M. Naruse

CASE LOMBARDI & PETTIT
A LAW CORPORATION

Lissa H. Andrews
James M. Cribley
Stacey W.E. Foy
Adelbert Green
Michael L. Lam
Dennis M. Lombardi†
Michael R. Marsh

Jon M.H. Pang
Ted N. Pettit, Ph.D.
Esther H. Roberts
Lauren R. Sharkey
Mark G. Valencia
Nancy J. Youngren
John D. Zalewski

PACIFIC GUARDIAN CENTER, MAUKA TOWER
737 BISHOP STREET, SUITE 2600
HONOLULU, HAWAII 96813-3283

TELEPHONE: (808) 547-5400
FACSIMILE: (808) 523-1888
E-mail: info@caselombardi.com
<http://www.caselombardi.com>

David G. Brittin
Harrison K. Goo
Ryan M. Hamaguchi
Lisa K. Johnson
Samuel W. King II

Michael G. Kozak
Angela S. Kuo
Dana R. Lyons
Jana M. Naruse

Of Counsel
John R. Dwyer, Jr.
Gregory M. Hansen
Frederick W. Rohlfing III

† A Law Corporation
Daniel H. Case (Retired 2012)

December 20, 2014

Terrance M. Revere, Esq.
Lauren C. McDowell, Esq.
Pali Palms Plaza
North Kalaheo Avenue, Suite A301
Kailua, Hawaii 96734

VIA EMAIL ATTACHMENT
& FACSIMILE 808 791-9551

Re: Yoshikawa vs. Association of Owners of Kalele Kai

Dear Counsel:

In accordance with HRS §514B-163(b),¹ please be advised that Association of Owners of Kalele Kai hereby makes its written demand for a trial de novo in connection with any and all claims, counterclaims, and defenses asserted in the non-binding arbitration proceeding between your client, Hitoshi Yoshikawa, and our and Mr. Goodwin's client, the Association of Owners of Kalele Kai, in DPR Arb. No. 13-0496-A, including but not limited to the "Arbitrator's Partial Final Award" dated December 12, 2014,² and any other rulings made therein or which may be made in that proceeding.

¹ HRS §514B-163 is entitled "Trial de novo and appeal" and provides as follows:

- (a) The submission of any dispute to an arbitration under section 514B-162 shall in no way limit or abridge the right of any party to a trial de novo.
- (b) Written demand for a trial de novo by any party desiring a trial de novo shall be made upon the other parties within ten days after service of the arbitration award upon all parties and the trial de novo shall be filed in circuit court within thirty days of the written demand. Failure to meet these deadlines shall preclude a party from demanding a trial de novo.
- (c) The award of arbitration shall not be made known to the trier of fact at a trial de novo.
- (d) In any trial de novo demanded under this section, if the party demanding a trial de novo does not prevail at trial, the party demanding the trial de novo shall be charged with all reasonable costs, expenses, and attorneys' fees of the trial. When there is more than one party on one or both sides of an action, or more than one issue in dispute, the court shall allocate its award of costs, expenses, and attorneys' fees among the prevailing parties and tax such fees against those nonprevailing parties who demanded a trial de novo in accordance with the principles of equity. [L 2004, c 164, pt of §2]

² The caption of the Partial Final Award refers to the "Association of Apartment Owners of Kalele Kai" as "Respondent," which is erroneous in two respects: (1) the correct name of the entity is Association of Owners of Kalele Kai; (2) its capacity in the non-binding arbitration has been that of both a Respondent and a Counterclaimant.

Terrance M. Revere, Esq.
Lauren C. McDowell, Esq.
December 20, 2014
Page 2


Please be advised that the Association of Owners of Kalele Kai will, absent a resolution in the interim, file a Complaint for Trial De Novo in the First Circuit Court of the State of Hawaii within 30 days of this written demand, pursuant to HRS §514B-163(b).

Please be further advised that it is the preference of the Board of Directors to resolve this dispute on terms that are reasonable and mutually acceptable to both the Association and Mr. Yoshikawa. Toward that end, on December 12, 2014, you suggested via email that an effort be undertaken to resolve this matter. We replied to your e-mail, and requested specificity or suggestions regarding a proposed resolution. On December 18, 2014, we followed up again, by sending a Rule 408 proposal letter to you and your client's review and response. Our client remains interested in any specific proposals and/or a productive dialog aimed at reaching a reasonable resolution in lieu of further litigation.

As both the undersigned and Mr. Goodwin are prepared to recommend our client participate in mediation, please advise whether your client is willing to participate in mediation in an attempt to reach a permanent resolution of this dispute.

Thank you for your attention to this matter.

Very truly yours,
CASE LOMBARDI & PETTIT



John D. Zalewski
Jana M. Naruse

c: Chris Goodwin, Esq.
Client

CHRISTOPHER SHEA GOODWIN, AAL LLLC
CHRISTOPHER SHEA GOODWIN 5925
THOMAS D. SANDS 9682
Pacific Guardian Center, Mauka Tower
737 Bishop Street, Suite 1640
Honolulu, Hawaii 96813

FIRST CIRCUIT COURT
STATE OF HAWAII
FILED

2015 JAN 21 PM 3:39

H. CHING
CLERK

CASE LOMBARDI & PETTIT
JOHN D. ZALEWSKI 4718
JANA M. NARUSE 8966
Pacific Guardian Center, Mauka Tower
737 Bishop Street, Suite 2600
Honolulu, Hawaii 96813

Attorneys for Plaintiff
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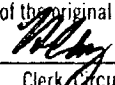
CIVIL NO. 15-1-0102-01 KTN
(Declaratory Judgment)

COMPLAINT FOR TRIAL DE NOVO;
SUMMONS

COMPLAINT FOR TRIAL DE NOVO

COMES NOW, Plaintiff ASSOCIATION OF OWNERS OF KALELE KAI
("Association"), by and through attorneys, CHRISTOPHER SHEA GOODWIN, ATTORNEY
AT LAW, LLLC, and CASE LOMBARDI & PETTIT, and files its Complaint for Trial De Novo
pursuant to HRS §514B-163 against Defendant HITOSHI YOSHIKAWA ("Yoshikawa") and
avers and alleges as follows:

I do hereby certify that this is a full, true and
correct copy of the original on file in this office.


Clerk Circuit Court, First Circuit

PARTIES

1. The Association is a Hawaii nonprofit condominium association existing pursuant to Hawaii Revised Statutes Chapter 514B, formed in accordance with and governed by the Declaration of Condominium Property Regime recorded in the State of Hawaii Bureau of Conveyances as Document No. 93-089469 on June 1, 1993, as amended (“Declaration”) and the Bylaws of the Association of Owners of Kalele Kai in the State of Hawaii Bureau of Conveyances as Document No. 93-87470 recorded on June 1, 1993, as amended (“Bylaws”).

2. Yoshikawa is a member of the Association, and owns Apartment No. 106, also known as TH1006, and Boat Moorings Nos. 28-33 appurtenant thereto, at the residential condominium project known as Kalele Kai, located at 1 Keahole Place, Honolulu , Hawaii 96825 (“Property”), by virtue of the Apartment Deed (With Boat Moorings), recorded in the State of Hawaii Bureau of Conveyances as Document No. 2010-165562 on November 1, 2010.

3. DOE Defendants 1-10 are persons, corporations, entities or governmental units which in some manner presently unknown to the Association are liable to the Association, have engaged or involved in the activities alleged herein and/or were in some manner responsible for the injuries or damage to the Association, and whose true names, identities and capacities are presently unknown to the Association or its attorneys. The Association will substitute the true names, identities, capacities, activities and/or responsibilities when the same are ascertained.

4. The acts and omissions alleged herein occurred in the City and County of Honolulu, State of Hawaii. The amount of damages suffered by the Association as a result thereof is in excess of the jurisdictional requirements of this Court.

FACTS

5. The Declaration and Bylaws run with the land.
6. The Declaration and Bylaws are restrictions stated in to Yoshikawa's Apartment Deed.
7. As a member of the Association and an owner of a unit at Kalele Kai, Yoshikawa is obligated to comply strictly with the Declaration and Bylaws.
8. Declaration §5 restricts the use of the boat moorings to **boats no larger than twenty-three (23) feet in length.**
9. Pursuant to Declaration §5, all boat moorings at Kalele Kai are limited common elements, with the exception of Boat Moorings Nos. 7 and 8, which are common elements.
10. Declaration §5 provides in part (emphasis added):

Common Elements. One freehold estate is hereby designated in all of the remaining portions and appurtenances of the Project (hereinafter referred to as the "common elements"), including specifically, but not limited to:

 - (a) The Land in fee simple;
 - (b) All structural components [...];
 - (c) All walkways, including the boat mooring walkways, and interior roadways located upon the Land; [...]
 - (j) Two (2) boat moorings (designated B7 and B8 on the Condominium Map). The boat moorings shall be restricted to use by boats no larger than twenty-three (23) feet in length and shall be subject to that certain Declaration of Protective Provisions dated January 30, 1991, recorded in the Bureau as Document No. 91-026955, as amended (hereinafter referred to as the "Declaration of Protective Provisions (Hawaii Kai Marina)") and any rules and regulations promulgated thereunder, this Declaration, the Bylaws and any house rules adopted by the Board. **All remaining boat moorings of the Project shall be designated as "limited common elements" appurtenant to designated condominium units as described in more detail herein below; [...]**

11. Declaration §5 further provides in part (emphasis added):

Limited Common Elements:

The following common elements, (hereinafter referred to and designated as "limited common elements"), are hereby set aside and reserved for the exclusive use of certain condominium units, and such condominium units shall have appurtenant thereto exclusive easements for use of such limited common elements. **The limited common elements so set aside and reserved are as follows:** [...]

(b) **All boat moorings shall be identified by the letter "B" and a number. Condominium unit 3110 initially shall have appurtenant thereto boat moorings B1 through B6, inclusive, and B9 through B60, inclusive,** as designated on the Condominium Map. Notwithstanding any provision of this Declaration, the Developer, as the initial owner of condominium unit 3110, shall have the right to amend this Declaration (1) prior to the conveyance of condominium unit 3110, to transfer and redesignate any unsold boat moorings from condominium unit 3110 to any other condominium unit(s), and (2) as often as is necessary thereafter, to transfer and redesignate any unsold boat moorings from any condominium units owned by the Developer to any other condominium unit(s). Such transfers and redesignations shall be effectuated by amendments to the Declaration signed by the Developer and recorded in the Bureau. Such condominium units shall enjoy the exclusive use of the boat moorings appurtenant thereto, subject to that certain Declaration of Protective Provisions (Hawaii Kai Marina) and any rules and regulations promulgated thereunder, this Declaration, the Bylaws and any house rules adopted by the Board. **The relocation and/or removal of boat moorings may be undertaken only in accordance with such rules and regulations as may be adopted by the Board.**¹ Notwithstanding any provision of this Declaration, owners shall have the right to transfer and change the designation of boat moorings which are appurtenant to their respective condominium units by recordation in the Bureau of an amendment to this Declaration and appropriate conveyance document, both signed by the seller and the buyer of the boat mooring, and their respective mortgagees, if any.

The boat mooring shall be restricted to use by boats no larger than twenty-three (23) feet in length. **The owner of a condominium unit to which a boat mooring is appurtenant, at such owner's sole expense, shall maintain and repair the boat mooring in a good, safe and clean condition; provided, that if owner fails to maintain and/or repair the boat mooring in a good, safe and clean condition, the Association may arrange for the maintenance and/or repair work to be performed and the actual cost of such work plus a reasonable administrative fee as may be levied by the Board shall be charged to the owner so long as the Association (i) has provided the owner with written notice of the maintenance and/or repair work, the estimated cost of such work and the estimated administrative fee for arranging for such work on behalf of the owner, and (ii) the owner fails to notify the Association in writing within seven (7) days of owner's receipt of the Association's notice that owner has made arrangements for such**

¹ This sentence was added by the Tenth Declaration Amendment recorded in the State of Hawaii Bureau of Conveyances on August 28, 2009.

maintenance and/or repair work to be performed, the person or persons who will perform such work, and the date such work will begin.

12. The Declaration §13 provides in part (emphasis added):

Compliance with Declaration, Bylaws and the Act. **All owners,** their tenants, families, employees, servants, guests, and any other persons who may in any manner use the Project, **shall be bound by and comply strictly with the provisions of this Declaration,** the Bylaws, the Act, **all agreements, decisions and determinations by the Association as are lawfully made or amended from time to time,** that certain Declaration of Restrictive Covenant (Private Park) dated June 3, 1991 recorded in the Bureau as Document No. 91-119313 (hereinafter referred to as the “Declaration of Restrictive Covenant (Private Park)”), and the Declaration of Protective Provisions (Hawaii Kai Marina), **and failure to comply with any of the same shall be grounds for** an action to recover sums due for damages or **injunctive relief, and any other remedies available in law or in equity, maintainable by the Board** or managing agent **on behalf of the Association** or, in a proper case, by any aggrieved owner. [...]

13. In early 2011, the Association requested an assessment of the condition of its marina consisting of the boat mooring walkways and boat moorings for repairs and maintenance.

14. Pursuant to recommendations received from by two qualified consultants, the Association awarded a contract to Bellingham Marine to perform repairs and renovations to the Kalele Kai marina. These repairs and renovations were completed in 2012.

15. In 2012, the Association assessed each boat mooring owner a special assessment of \$2,000 per mooring, attributable to costs incurred to repair and renovate the marina. Yoshikawa was assessed \$12,000 pursuant to his ownership of six appurtenant boat moorings.

16. On or around November 30, 2012, Yoshikawa, through his representative Kazuhiko Udagawa, informed the Association of his intent to purchase a Riviera 43 Offshore Express, measuring approximately 49 feet and 4 inches in length.

17. Prior to Yoshikawa's purchase of a Riviera 43 Offshore Express, the Association, through both its Resident Manager and General Counsel, advised Yoshikawa of the Declaration's 23 foot boat length restriction, that Yoshikawa lacked approval to moor a boat in excess of 23 feet in length at Kalele Kai, and that the Board of Directors of the Association objected to Yoshikawa's intention to moor a boat in excess of 23 feet in length at Kalele Kai.

18. The foregoing communications by the Association were expressed in person and in writing to Yoshikawa, his agent, Mr. Udagawa, and his fiancé and now spouse, Maiko Sakata (Yoshikawa), and in writing to his legal counsel.

19. Notwithstanding multiple communications of the Association's objections and concerns made to Yoshikawa, and without Association approval, Yoshikawa proceeded to purchase the Riviera 43 Offshore Express which he named the "ROLA," and moored the ROLA for the first time at Kalele Kai on October, 28, 2013, one (1) day before Mediation was scheduled to commence between the parties.

20. The Association through its Resident Manager issued a written Notice of Violation to Yoshikawa, and made subsequent written demands upon Yoshikawa to remove the ROLA and comply with the Declaration, yet Yoshikawa remains in violation.

21. From October 28, 2013 to present, Yoshikawa continues to moor the ROLA Kalele Kai, in ongoing and material violation of the Declaration's 23 foot boat length restriction.

22. The ROLA is the only boat presently moored at Kalele Kai in violation of the Declaration's 23 foot boat length.

COUNT I
Declaratory and Injunctive Relief

23. The Association incorporates by reference herein all paragraphs in this Complaint as if fully set forth herein.

24. Pursuant to Hawaii Revised Statutes Chapter 632, and Rule 57 of the Hawaii Rules of Civil Procedure, the Association seeks declaratory relief and final adjudication as to the rights and liabilities of the parties herein, as follows:

(a) That Yoshikawa has materially, intentionally, and openly violated the 23-foot boat length restriction set forth in the Declaration §5.

(b) That the Kalele Kai boat dock area and boat moorings were and are designated properly as limited common elements in accordance with Declaration §5.

(c) That the special assessment for repair costs which was imposed on Yoshikawa, and all other appurtenant boat mooring owners, was and is valid, proper, and in accordance with Declaration §5.

25. The Association seeks injunctive relief and the issuance of a permanent injunction which compels Yoshikawa to immediately and permanently remove the ROLA from Kalele Kai, in accordance with the Declaration and Hawaii law.

COUNT II
Breach of Governing Documents

26. The Association incorporates by reference herein all paragraphs in this Complaint as if fully set forth herein.

27. Yoshikawa, as an owner at Kalele Kai and member of the Association, is obligated to comply strictly with the Association's governing documents, including the Declaration, Bylaws and House Rules pursuant to the Declaration §13 and HRS § 514B-112.

28. Yoshikawa has breached the Association's governing documents, which entitled the Association to damages, in an amount to be proven at trial.

PRAYERS FOR RELIEF

The Association respectfully prays that the Court GRANT the following relief:

- A. A declaration that Yoshikawa has materially, intentionally, and openly violated the Declaration's 23-foot boat length restriction, and he has failed to comply strictly with the restriction in accordance with his obligation owed as a member of the Association and an owner at Kalele Kai.
- B. A permanent and mandatory injunction that compels Yoshikawa to strictly, immediately, and permanently comply with the Declaration, remove the ROLA from Kalele Kai, and permanently enjoin Yoshikawa from mooring a boat at Kalele Kai over 23 feet in length.
- C. A declaration that the Kalele Kai boat dock area and boat moorings were and are designated properly as limited common elements in accordance with the Declaration.
- D. A declaration that the special assessment for repair costs imposed on Yoshikawa and all other boat mooring owners was and is valid, proper, and in accordance with the Declaration.
- E. A ruling that Yoshikawa breached the Association's governing documents and is liable to the Association for damages, including, but not limited to, general, compensatory, special and punitive damages, in an amount to be proven at trial;
- F. For an award in favor of the Association for its reasonable attorneys' fees and costs from Yoshikawa; and

G. For such other relief which this Court finds is just and equitable.

DATED: Honolulu, Hawaii, January 21, 2015.

A handwritten signature in black ink, appearing to read "C. Shea Goodwin", written over a horizontal line.

CHRISTOPHER SHEA GOODWIN
THOMAS D. SANDS
JOHN D. ZALEWSKI
JANA M. NARUSE
Attorneys for Plaintiff
ASSOCIATION OF OWNERS OF KALELE KAI

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

ASSOCIATION OF OWNERS
OF KALELE KAI,

Plaintiff,

vs.

HITOSHI YOSHIKAWA;
DOE DEFENDANTS 1-10,

Defendants.

CIVIL NO. _____

SUMMONS

SUMMONS

STATE OF HAWAII

TO THE ABOVE-NAMED DEFENDANT

You are hereby summoned and required to file with the Court and serve upon Plaintiff's attorneys, Christopher S. Goodwin AAL, LLLC, whose address is at Pacific Guardian Center, Mauka Tower, 737 Bishop Street, Suite 1640, Honolulu, Hawaii 96813 and Case Lombardi and Pettit, whose address is Pacific Guardian Center, Mauka Tower, 737 Bishop Street, Suite 2600, Honolulu, Hawaii 96813, an answer to the Complaint that is attached. This action must be taken within twenty (20) days after service of this summons upon you, exclusive of the day of service.

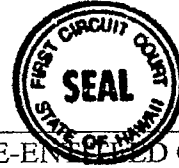
If you fail to make your answer within the twenty (20) day time limit, judgment by default will be taken against you for the relief demanded in the Complaint.

This summons shall not be personally delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the general public, unless a judge of the above-entitled court permits, in writing on this summons, personal delivery during those hours.

A failure to obey this summons may result in an entry of default and default judgment against the disobeying person or party.

DATE ISSUED: Honolulu, Hawaii, JAN 21 2015.

H. CHING



CLERK OF THE ABOVE-ENTITLED COURT

Jana M. Naruse

From: Lauren McDowell <lauren@revereandassociates.com>
Sent: Friday, February 13, 2015 11:14 AM
To: Jana M. Naruse; John Zalewski; Chris Goodwin
Cc: Terry Revere
Subject: Fwd: 13-0496-A: Yoshikawa v. AOA Kalele Kai
Attachments: winmail.dat

Dear Counsel,

Please pass on this Final Award and this email to the Board and the Association's insurer. We are requesting payment pursuant to the Arbitrator's Final Award within one week, on February 20, 2015. We respectfully request that you confirm that payment will be made on that date. In the unfortunate event that payment is not received on February 20, 2015 we will be forced to immediately file a motion with the Circuit Court and will initiate garnishment proceedings of the Association's account.

Thank you,
Lauren

Lauren C. McDowell, Esq.

Revere & Associates, LLC
Pali Palms Plaza
970 N. Kalaheo Avenue, Suite A301
Kailua, Hawai'i 96734

Direct Line: (808) 791-9554
Office: (808) 791-9550
lauren@revereandassociates.com

CONFIDENTIALITY: The information contained in this e-mail and any attachment is confidential and is intended only for the indicated recipient(s). This e-mail may be an attorney-client communication and, as such, is privileged and confidential. If the reader of this e-mail message is not the intended recipient (or the person responsible for the delivery of this e-mail message to an intended recipient), you are hereby notified that you have received this document in error, and that any reuse, review, printing, dissemination, distribution or copying of this message is strictly prohibited. If you have received this e-mail in error, please reply to inform the sender and delete it without printing or making any copies of it.

Begin forwarded message:

From: Coleen Tasaka <ColeenTasaka@dprhawaii.com>
Subject: 13-0496-A: Yoshikawa v. AOA Kalele Kai
Date: February 12, 2015 at 9:39:34 AM HST
To: "terry@revereandassociates.com" <terry@revereandassociates.com>, "Lauren McDowell (lauren@revereandassociates.com)" <lauren@revereandassociates.com>, "jnaruse@caselombardi.com" <jnaruse@caselombardi.com>,

"jzalewski@caselombardi.com" <jzalewski@caselombardi.com>,
"chris@christophersheagoodwin.com" <chris@christophersheagoodwin.com>
Cc: Keith Hunter <KeithHunter@dprhawaii.com>

Attached is the Final Award of Arbitrator in the above-referenced matter.

A hard copy will be put in the U.S. mail.

Coleen Tasaka
Case Manager
Dispute Prevention & Resolution
1003 Bishop Street, Suite 1155
Honolulu, Hawaii 96813
Phone: 808-523-1234
Fax: 808-599-9100
Email: coleentasaka@dprhawaii.com<<mailto:coleentasaka@dprhawaii.com>>

CASE LOMBARDI & PETTIT

A LAW CORPORATION

Lissa H. Andrews
James M. Cribley
Stacey W.E. Foy
Adelbert Green
Michael L. Lam
Dennis M. Lombardi†
Michael R. Marsh

Jon M.H. Pang
Ted N. Pettit, Ph.D.
Esther H. Roberts
Lauren R. Sharkey
Mark G. Valencia
Nancy J. Youngren
John D. Zalewski

PACIFIC GUARDIAN CENTER, MAUKA TOWER
737 BISHOP STREET, SUITE 2600
HONOLULU, HAWAII 96813-3283

TELEPHONE: (808) 547-5400
FACSIMILE: (808) 523-1888
E-mail: info@caselombardi.com
<http://www.caselombardi.com>

David G. Brittin
Harrison K. Goo
Ryan M. Hamaguchi
Lisa K. Johnson
Samuel W. King II
Michael G. Kozak
Angela S. Kuo
Dana R. Lyons
Jana M. Naruse

Of Counsel
John R. Dwyer, Jr.
Gregory M. Hansen
Frederick W. Rohlfing III

† A Law Corporation

Daniel H. Case (Retired 2012)

February 20, 2015

Terrance M. Revere, Esq.
Lauren C. McDowell, Esq.
970 North Kalaheo Avenue, Suite A301
Kailua, Hawaii 96734

VIA EMAIL ATTACHMENT
& FACSIMILE 808 791-9551

Re: Yoshikawa vs. Association of Owners of Kalele Kai

Dear Counsel:

In accordance with HRS §514B-163(b),¹ please be advised that Association of Owners of Kalele Kai hereby makes its written demand for trial de novo in connection with any and all claims, counterclaims, and defenses asserted in the non-binding arbitration proceeding between your client, Hitoshi Yoshikawa, and our and Mr. Goodwin's client, the Association of Owners of Kalele Kai, in DPR Arb. No. 13-0496-A, including but not limited to the "Final Award of Arbitrator" dated February 11, 2015, which was served on the undersigned counsel on February 12, 2015, and the "Arbitrator's Partial Final Award" dated December 12, 2014, which is referenced in and attached to the aforementioned Final Award of Arbitrator.²

¹ HRS §514B-163 is entitled "Trial de novo and appeal" and provides as follows:

- (a) The submission of any dispute to an arbitration under section 514B-162 shall in no way limit or abridge the right of any party to a trial de novo.
- (b) Written demand for a trial de novo by any party desiring a trial de novo shall be made upon the other parties within ten days after service of the arbitration award upon all parties and the trial de novo shall be filed in circuit court within thirty days of the written demand. Failure to meet these deadlines shall preclude a party from demanding a trial de novo.
- (c) The award of arbitration shall not be made known to the trier of fact at a trial de novo.
- (d) In any trial de novo demanded under this section, if the party demanding a trial de novo does not prevail at trial, the party demanding the trial de novo shall be charged with all reasonable costs, expenses, and attorneys' fees of the trial. When there is more than one party on one or both sides of an action, or more than one issue in dispute, the court shall allocate its award of costs, expenses, and attorneys' fees among the prevailing parties and tax such fees against those nonprevailing parties who demanded a trial de novo in accordance with the principles of equity. [L 2004, c 164, pt of §2]

² Similar to the Partial Final Award, the Final Award of Arbitrator is erroneous in many respects. Indeed, the captions erroneously refer to our and Mr. Goodwin's client as the "Association of Apartment Owners of Kalele Kai" and "Respondent." In fact: (1) the correct name of the entity is Association of Owners of Kalele Kai; (2) its capacity in the non-binding arbitration has been that of both a Respondent and a Counterclaimant.

Terrance M. Revere, Esq.
Lauren C. McDowell, Esq.
February 20, 2015
Page 2

This demand for trial de novo incorporates by reference our letter making demand for trial de novo dated December 20, 2014, sent in connection with the Arbitrator's Partial Final Award, which was timely transmitted to you.

Finally, Ms. McDowell's email of February 13, 2015 threatens to "*immediately file a motion with the Circuit Court and will initiate garnishment proceedings of the Association's account*" unless payment of the (non-binding) award is received by February 20, 2015, i.e., today.

It would be unlawful and highly improper to engage in "*garnishment proceedings*" or other collection attempts, predicated on a non-binding award that is the subject of a de novo civil action in First Circuit Court.

NOTICE is hereby provided to you and Mr. Yoshikawa that engaging or attempting to engage in any such conduct is likely to cause our client to sustain compensatory and consequential damages, and other harm. We urge you and your client to consider and adhere to Hawaii law prior to taking any action.

Very truly yours,

CASE LOMBARDI & PETTIT



John D. Zalewski
Jana M. Naruse

c: Chris Goodwin, Esq.
Client

*** Transmission Result Report (Feb. 20, 2015 9:22AM) ***

T T I CASE LOMBARDI (808) 523-5573

File	Mode	Option	Address (Group)	Result	Page
7083	SAF_TX		7919551	OK	P. 2/2

Reason for Error

1) Hang up or line fail
3) No answer

2) Busy
4) No facsimile connection

CASE LOMBARDI & PETTIT

A LAW CORPORATION

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Of Counsel
John R. Dwyer, Jr.
Gregory M. Hansen
Frederick W. Rohlfing III

February 20, 2015

Terrance M. Revere, Esq.
Lauren C. McDowell, Esq.
970 North Kalahoa Avenue, Suite A301
Kailua, Hawaii 96734

VIA EMAIL ATTACHMENT
& FACSIMILE 808 791-9551

Re: Yoshikawa vs. Association of Owners of Kalele Kai

Dear Counsel:

In accordance with HRS §514B-163(b),¹ please be advised that Association of Owners of Kalele Kai hereby makes its written demand for trial de novo in connection with any and all claims, counterclaims, and defenses asserted in the non-binding arbitration proceeding between your client, Hitoshi Yoshikawa, and our and Mr. Goodwin's client, the Association of Owners of Kalele Kai, in DPR Arb. No. 13-0496-A, including but not limited to the "Final Award of Arbitration" dated February 11, 2015, which was served on the undersigned counsel on February

CHRISTOPHER SHEA GOODWIN, AAL LLLC
CHRISTOPHER SHEA GOODWIN 5925
Pacific Guardian Center, Mauka Tower
737 Bishop Street, Suite 1640
Honolulu, Hawaii 96813

CASE LOMBARDI & PETTIT
JOHN D. ZALEWSKI 4718
JANA M. NARUSE 8966
Pacific Guardian Center, Mauka Tower
737 Bishop Street, Suite 2600
Honolulu, Hawaii 96813

Attorneys for Plaintiff
ASSOCIATION OF OWNERS OF KALELE KAI

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

ASSOCIATION OF OWNERS
OF KALELE KAI,

Plaintiff,

vs.

HITOSHI YOSHIKAWA;
DOE DEFENDANTS 1-10,

Defendants.

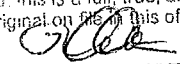
CIVIL NO. 15-1-0102-01 KTN
(Declaratory Judgment)

FIRST AMENDED COMPLAINT FOR
TRIAL DE NOVO; SUMMONS

FIRST AMENDED COMPLAINT FOR TRIAL DE NOVO

COMES NOW, Plaintiff ASSOCIATION OF OWNERS OF KALELE KAI
("Association"), by and through attorneys, CHRISTOPHER SHEA GOODWIN, ATTORNEY
AT LAW, LLLC, and CASE LOMBARDI & PETTIT, and files this First Amended Complaint
for Trial De Novo pursuant to HRS §514B-163 against Defendant HITOSHI YOSHIKAWA
("Yoshikawa"), and avers and alleges as follows:

I hereby certify that this is a full, true, and
correct copy of the original on file in this office.


Clerk Circuit Court, First Circuit

PARTIES

1. The Association is a Hawaii nonprofit condominium association existing pursuant to Hawaii Revised Statutes Chapter 514B, formed in accordance with and governed by the Declaration of Condominium Property Regime recorded in the State of Hawaii Bureau of Conveyances as Document No. 93-089469 on June 1, 1993, as amended (“Declaration”) and the Bylaws of the Association of Owners of Kalele Kai in the State of Hawaii Bureau of Conveyances as Document No. 93-87470 recorded on June 1, 1993, as amended (“Bylaws”).

2. Yoshikawa is a member of the Association, and owns Apartment No. 106, also known as TH1006, and Boat Moorings Nos. 28-33 appurtenant thereto, at the residential condominium project known as Kalele Kai, located at 1 Keahole Place, Honolulu , Hawaii 96825 (“Property”), by virtue of the Apartment Deed (With Boat Moorings), recorded in the State of Hawaii Bureau of Conveyances as Document No. 2010-165562 on November 1, 2010.

3. DOE Defendants 1-10 are persons, corporations, entities or governmental units which in some manner presently unknown to the Association are liable to the Association, have engaged or involved in the activities alleged herein and/or were in some manner responsible for the injuries or damage to the Association, and whose true names, identities and capacities are presently unknown to the Association or its attorneys. The Association will substitute the true names, identities, capacities, activities and/or responsibilities when the same are ascertained.

4. The acts and omissions alleged herein occurred in the City and County of Honolulu, State of Hawaii. The amount of damages suffered by the Association as a result thereof is in excess of the jurisdictional requirements of this Court.

FACTS

5. The Declaration and Bylaws run with the land.

6. The Declaration and Bylaws are restrictions stated in to Yoshikawa's Apartment Deed.

7. As a member of the Association and an owner of a unit at Kalele Kai, Yoshikawa is obligated to comply strictly with the Declaration and Bylaws.

8. Declaration §5 restricts the use of the boat moorings to **boats no larger than twenty-three (23) feet in length.**

9. Pursuant to Declaration §5, all boat moorings at Kalele Kai are limited common elements, with the exception of Boat Moorings Nos. 7 and 8, which are common elements.

10. Declaration §5 provides in part (emphasis added):

Common Elements. One freehold estate is hereby designated in all of the remaining portions and appurtenances of the Project (hereinafter referred to as the "common elements"), including specifically, but not limited to:

- (a) The Land in fee simple;
- (b) All structural components [...];
- (c) All walkways, including the boat mooring walkways, and interior roadways located upon the Land; [...]

(j) Two (2) boat moorings (designated B7 and B8 on the Condominium Map). The boat moorings shall be restricted to use by boats no larger than twenty-three (23) feet in length and shall be subject to that certain Declaration of Protective Provisions dated January 30, 1991, recorded in the Bureau as Document No. 91-026955, as amended (hereinafter referred to as the "Declaration of Protective Provisions (Hawaii Kai Marina)") and any rules and regulations promulgated thereunder, this Declaration, the Bylaws and any house rules adopted by the Board. **All remaining boat moorings of the Project shall be designated as "limited common elements" appurtenant to designated condominium units as described in more detail herein below; [...]**

11. Declaration §5 further provides in part (emphasis added):

Limited Common Elements:

The following common elements, (hereinafter referred to and designated as "limited common elements"), are hereby set aside and reserved for the exclusive use of certain condominium units, and such condominium units shall have appurtenant thereto exclusive easements for use of such limited common elements. **The limited common elements so set aside and reserved are as follows: [...]**

(b) **All boat moorings shall be identified by the letter "B" and a number. Condominium unit 3110 initially shall have appurtenant thereto boat moorings B1 through B6, inclusive, and B9 through B60, inclusive,** as designated on the Condominium Map. Notwithstanding any provision of this Declaration, the Developer, as the initial owner of condominium unit 3110, shall have the right to amend this Declaration (1) prior to the conveyance of condominium unit 3110, to transfer and redesignate any unsold boat moorings from condominium unit 3110 to any other condominium unit(s), and (2) as often as is necessary thereafter, to transfer and redesignate any unsold boat moorings from any condominium units owned by the Developer to any other condominium unit(s). Such transfers and redesignations shall be effectuated by amendments to the Declaration signed by the Developer and recorded in the Bureau. Such condominium units shall enjoy the exclusive use of the boat moorings appurtenant thereto, subject to that certain Declaration of Protective Provisions (Hawaii Kai Marina) and any rules and regulations promulgated thereunder, this Declaration, the Bylaws and any house rules adopted by the Board. The relocation and/or removal of boat moorings may be undertaken only in accordance with such rules and regulations as may be adopted by the Board.¹ Notwithstanding any provision of this Declaration, owners shall have the right to transfer and change the designation of boat moorings which are appurtenant to their respective condominium units by recordation in the Bureau of an amendment to this Declaration and appropriate conveyance document, both signed by the seller and the buyer of the boat mooring, and their respective mortgagees, if any.

The boat mooring shall be restricted to use by boats no larger than twenty-three (23) feet in length. The owner of a condominium unit to which a boat mooring is appurtenant, at such owner's sole expense, shall maintain and repair the boat mooring in a good, safe and clean condition; provided, that if owner fails to maintain and/or repair the boat mooring in a good, safe and clean condition, the Association may arrange for the maintenance and/or repair work to be performed and the actual cost of such work plus a reasonable administrative fee as may be levied by the Board shall be charged to the owner so long as the Association (i) has provided the owner with written notice of the maintenance and/or repair work, the estimated cost of such work and the estimated administrative fee for arranging for such work on behalf of the owner, and (ii) the owner fails to notify the Association in writing within seven (7) days of owner's receipt of the Association's notice that owner has made arrangements for such maintenance and/or repair work to be performed, the person or persons who will perform such work, and the date such work will begin.

12. The Declaration §13 provides in part (emphasis added):

Compliance with Declaration, Bylaws and the Act. All owners, their tenants, families, employees, servants, guests, and any other persons who may in any manner use the Project, shall be bound by and comply strictly with the

¹ This sentence was added by the Tenth Declaration Amendment recorded in the State of Hawaii Bureau of Conveyances on August 28, 2009.

provisions of this Declaration, the Bylaws, the Act, all agreements, decisions and determinations by the Association as are lawfully made or amended from time to time, that certain Declaration of Restrictive Covenant (Private Park) dated June 3, 1991 recorded in the Bureau as Document No. 91-119313 (hereinafter referred to as the “Declaration of Restrictive Covenant (Private Park)”), and the Declaration of Protective Provisions (Hawaii Kai Marina), **and failure to comply with any of the same shall be grounds for** an action to recover sums due for damages or **injunctive relief, and any other remedies available in law or in equity, maintainable by the Board** or managing agent **on behalf of the Association** or, in a proper case, by any aggrieved owner. [...]

13. In early 2011, the Association requested an assessment of the condition of its marina consisting of the boat mooring walkways and boat moorings for repairs and maintenance.

14. Pursuant to recommendations received from by two qualified consultants, the Association awarded a contract to Bellingham Marine to perform repairs and renovations to the Kalele Kai marina. These repairs and renovations were completed in 2012.

15. In 2012, the Association assessed each boat mooring owner a special ~~assessment of \$2,000 per mooring, attributable to costs incurred to repair and renovate~~ the marina. Yoshikawa was assessed \$12,000 pursuant to his ownership of six appurtenant boat moorings.

16. On or around November 30, 2012, Yoshikawa, through his representative Kazuhiko Udagawa, informed the Association of his intent to purchase a Riviera 43 Offshore Express, measuring approximately 49 feet and 4 inches in length.

17. Prior to Yoshikawa’s purchase of a Riviera 43 Offshore Express, the Association, through both its Resident Manager and General Counsel, advised Yoshikawa of the Declaration’s 23 foot boat length restriction, that Yoshikawa lacked approval to moor a boat in excess of 23 feet in length at Kalele Kai, and that the Board of

Directors of the Association objected to Yoshikawa's intention to moor a boat in excess of 23 feet in length at Kalele Kai.

18. The foregoing communications by the Association were expressed in person and in writing to Yoshikawa, his agent, Mr. Udagawa, and his fiancé and now spouse, Maiko Sakata (Yoshikawa), and in writing to his legal counsel.

19. Notwithstanding multiple communications of the Association's objections and concerns made to Yoshikawa, and without Association approval, Yoshikawa proceeded to purchase the Riviera 43 Offshore Express which he named the "ROLA," and moored the ROLA for the first time at Kalele Kai on October, 28, 2013, one (1) day before Mediation was scheduled to commence between the parties.

20. The Association through its Resident Manager issued a written Notice of Violation to Yoshikawa, and made subsequent written demands upon Yoshikawa to remove the ROLA and comply with the Declaration, yet Yoshikawa remains in violation.

21. From October 28, 2013 to present, Yoshikawa continues to moor the ROLA Kalele Kai, in ongoing and material violation of the Declaration's 23 foot boat length restriction.

21. The ROLA is the only boat presently moored at Kalele Kai in violation of the Declaration's 23 feet boat length restriction.

COUNT I
Declaratory and Injunctive Relief

22. The Association incorporates by reference herein all paragraphs in this Complaint as if fully set forth herein.

23. Pursuant to Hawaii Revised Statutes Chapter 632, and Rule 57 of the Hawaii Rules of Civil Procedure, the Association seeks declaratory relief and final adjudication as to the rights and liabilities of the parties herein, as follows:

(a) That Yoshikawa has materially, intentionally, and openly violated the 23-foot boat length restriction set forth in the Declaration §5.

(b) That the Kalele Kai boat dock area and boat moorings were and are designated properly as limited common elements in accordance with Declaration §5.

(c) That the special assessment for repair costs which was imposed on Yoshikawa, and all other appurtenant boat mooring owners, was and is valid, proper, and in accordance with Declaration §5.

24. The Association seeks injunctive relief and the issuance of a permanent injunction which compels Yoshikawa to immediately and permanently remove the ROLA from Kalele Kai, in accordance with the Declaration and Hawaii law.

COUNT II

Breach of Governing Documents

25. The Association incorporates by reference herein all paragraphs in this Complaint as if fully set forth herein.

26. Yoshikawa, as an owner at Kalele Kai and member of the Association, is obligated to comply strictly with the Association's governing documents, including the Declaration, Bylaws and House Rules pursuant to the Declaration §13 and HRS § 514B-112.

27. Yoshikawa has breached the Association's governing documents, which entitled the Association to damages, in an amount to be proven at trial.

PRAYERS FOR RELIEF

The Association respectfully prays that the Court GRANT the following relief:

A. A declaration that Yoshikawa has materially, intentionally, and openly violated the Declaration's 23-foot boat length restriction, and he has failed to comply strictly with the restriction in accordance with his obligation owed as a member of the Association and an owner at Kalele Kai.

B. A permanent and mandatory injunction that compels Yoshikawa to strictly, immediately, and permanently comply with the Declaration, remove the ROLA from Kalele Kai, and permanently enjoin Yoshikawa from mooring a boat at Kalele Kai over 23 feet in length.

C. A declaration that the Kalele Kai boat dock area and boat moorings were and are designated properly as limited common elements in accordance with the Declaration.

D. A declaration that the special assessment for repair costs imposed on Yoshikawa and all other boat mooring owners was and is valid, proper, and in accordance with the Declaration.

E. A ruling that Yoshikawa breached the Association's governing documents and is liable to the Association for damages, including, but not limited to, general, compensatory, special and punitive damages, in an amount to be proven at trial;

F. For an award in favor of the Association for its reasonable attorneys' fees and costs from Yoshikawa; and

G. For such other relief which this Court finds is just and equitable.

DATED: Honolulu, Hawaii, February 20, 2015.



CHRISTOPHER SHEA GOODWIN
JOHN D. ZALEWSKI
JANA M. NARUSE
Attorneys for Plaintiff
ASSOCIATION OF OWNERS OF KALELE KAI

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

ASSOCIATION OF OWNERS
OF KALELE KAI,

Plaintiff,

vs.

HITOSHI YOSHIKAWA;
DOE DEFENDANTS 1-10,

Defendants.

CIVIL NO. 15-1-0102-01 KTN

SUMMONS

SUMMONS

STATE OF HAWAII

TO THE ABOVE-NAMED DEFENDANT

You are hereby summoned and required to file with the Court and serve upon Plaintiff's attorneys, Christopher S. Goodwin AAL, LLLC, whose address is at Pacific Guardian Center, Mauka Tower, 737 Bishop Street, Suite 1640, Honolulu, Hawaii 96813 and Case Lombardi and Pettit, whose address is Pacific Guardian Center, Mauka Tower, 737 Bishop Street, Suite 2600, Honolulu, Hawaii 96813, an answer to the First Amended Complaint that is attached. This action must be taken within twenty (20) days after service of this summons upon you, exclusive of the day of service.

If you fail to make your answer within the twenty (20) day time limit, judgment by default will be taken against you for the relief demanded in the First Amended Complaint.

This summons shall not be personally delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the general public, unless a judge of the above-entitled court permits, in writing on this summons, personal delivery during those hours.

A failure to obey this summons may result in an entry of default and default judgment against the disobeying person or party.

DATE ISSUED: Honolulu, Hawaii, FEB 20 2015.

F. OTAKE



CLERK OF THE ABOVE-ENTITLED COURT

Jana M. Naruse

From: Terry revere <terry@revereandassociates.com>
Sent: Sunday, February 22, 2015 11:06 PM
To: Kitty Quach
Cc: lauren@revereandassociates.com; John Zalewski; Jana M. Naruse; Christopher Shea Goodwin
Subject: Re: Yoshikawa vs. Assn of Owners of Kalele Kai

Jana,

Your letter is not clear. Unless someone says otherwise from your side of the ledger before the close of business tomorrow, we will indeed begin collection efforts. We assume that your letter means no, the insurer paying your bills won't be complying with the award of fees and costs despite the fact that that part of the award is non-appealable. It is quite obvious that your office is placing the interests of the insurer paying your bill over the interests of your client, the AOA.

It is unfortunate that Mr. Goodwin and the Board are either unwilling or unable to advocate for the interest of the AOA over the insurer and are choosing to place the assets of the AOA.

If your office and Mr. Goodwin's both told the insurer to pay now, it would be doing so.

Rather than lecturing us about considering Hawaii law, or making bogus threats against our client, please read the arbitration provisions of 514B more carefully and start considering your ethical obligation to protect your client. If there isn't a letter in your file advocating to the insurer that it pay the fees and costs immediately I trust you and Mr. Zalewski will be prepared to explain that to the owners given the duty of undivided loyalty that you owe to them.

Please pass this on to the insurer and the entire Board.

Thanks,

Terry

Sent from my iPhone

On Feb 20, 2015, at 9:19 AM, Kitty Quach <KKQ@caselombardi.com> wrote:

Good morning:

Please see attached Ms. Naruse's letter dated February 20, 2015 (also faxed earlier today).

Kitty Quach, Secretary to
John D. Zalewski,
Michael G. Kozak
Jana M. Naruse
Case Lombardi & Pettit
Pacific Guardian Center, Mauka Tower
737 Bishop Street, Suite 2600
Honolulu, HI 96813
(808) 547-5400

(808) 523-1888 (fax)

E-mail: kkq@caselombardi.com

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Member of Lex Mundi, the World's Leading Association of Independent Law Firms.

<2104258_1_2015-02-20 Letter to Revere re_TDN.PDF>

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

ASSOCIATION OF OWNERS
OF KALELE KAI,

Plaintiff,

vs.

HITOSHI YOSHIKAWA;
DOE DEFENDANTS 1-10,

Defendants.

CIVIL NO. 15-1-0102-01 KTN

NOTICE OF HEARING ON MOTION

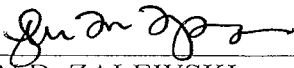
NOTICE OF HEARING ON MOTION

TO: TERRANCE M. REVERE, ESQ.
LAUREN C. McDOWELL, ESQ.
Pali Palms Plaza
970 N. Kalaheo Ave., Suite A301
Kailua, HI 96734

Attorneys for Defendant HITOSHI YOSHIKAWA

PLEASE TAKE NOTICE that the MOTION FOR DETERMINATION AND
ISSUANCE OF A STAY shall come on for hearing before THE HONORABLE KAREN T.
NAKASONE, Judge of the above-entitled Court, in her Courtroom at Kaahumanu Hale, 777
Punchbowl Street, Honolulu, Hawai'i 96813 on April 15, 2015, at 9
o'clock a.m., or as soon thereafter as counsel can be heard.

DATED: Honolulu, Hawaii, February 24, 2015.



JOHN D. ZALEWSKI
JANA M. NARUSE
CHRISTOPHER SHEA GOODWIN
Attorneys for Plaintiff
ASSOCIATION OF OWNERS
OF KALELE KAI

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

ASSOCIATION OF OWNERS
OF KALELE KAI,

Plaintiff,

vs.

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DOE DEFENDANTS 1-10,

Defendants.

CIVIL NO. 15-1-0102-01 KTN

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE


I hereby certify that the foregoing was served on the following persons by the following means on the following date:

TERRANCE M. REVERE, ESQ.
LAUREN C. McDOWELL, ESQ.
Pali Palms Plaza
970 North Kalaheo Ave., Suite A301
Kailua, HI 96734

Email Attachment
First Class United States Mail

Attorneys for Defendant
HITOSHI YOSHIKAWA

DATED: Honolulu, Hawaii, February 24, 2015.



JOHN D. ZALEWSKI
JANA M. NARUSE
CHRISTOPHER SHEA GOODWIN
Attorneys for Plaintiff
ASSOCIATION OF OWNERS
OF KALELE KAI