

III. THE HPPOA IS NOT A "PLANNED COMMUNITY" WITHIN HRS 421J

- The Board has been told multiple times by members, that HPP does not qualify as a "planned community" under the law
- To be a "planned community" there must some condition or restriction **SHOWN ON OUR DEEDS**. *Kaanapali Hillside HomeOwner's Association v. Doran* (2007) 114 Hawai'i 361.
- There are no such covenants on HPP members – the Hawaii Supreme Court even said that there are no such covenants in the deeds in HPP. *Paradise Hui Hanalike v. Hawaiian Paradise Park Corp.* (1983).
- Why should the members care whether HPP is a "planned community" or whether HRS 421J applies?
 - o Because it allows for proxy votes, which means that the HPP member (or Board) with enough money to solicit votes from other members WINS and can change the bylaws to include restrictions on the use of your land, the color of your house, or how many and what kind of animals you can have. Currently, the Bylaws do not allow proxy votes, and it should stay that way.
 - o And the Board interprets HRS 421J to mean that it can make decisions in HPP that it believes are "in the common good", without a vote from its members. The Board needs to remember that they are a road maintenance association, and not an HOA. They work for us – the members.

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From –Owner of Parc 20

I agree that it would be great for everyone in HPP to have a mailbox. However, the Board HAS to go about it in the correct and legal way. The prior Board have gone beyond the powers granted by the Bylaws. If the current Board continues down this road, it will be wasting members' money on unnecessary lawsuits. In addition, HPP is NOT a planned community, and that resolution should be withdrawn. The Board should be willing to discuss these issues with its membership in a clear and transparent way so as not to force a money-wasting lawsuit.

I. FUNDS FOR THE MAILBOXES HAVE BEEN IMPROPERLY SIPHONED AND MUST BE RETURNED TO THE ROAD FUND

- Every year since FY 2017, the Board has automatically and improperly transferred approximately 5% of the restricted road maintenance fees into the non-restricted general fund.
- According to the Mail Park History on the website, this was being done in order to fund the cluster mailboxes.
- The reason these transfers are improper is because, per the Bylaws, the road maintenance assessments are only to be used for road maintenance. The only way that the Board can siphon off road assessment funds is to reimburse the general fund "for the use of the Association's non-road maintenance assets FOR ROAD MAINTENANCE PURPOSES." The mailboxes are not road maintenance expenses.
- Therefore, the Board needs to immediately transfer the money back to the road maintenance fund, and find another source of funds for the mailbox clusters. This money should be used for roads.

II. THE DEEDS FOR THE PROPOSED MAILBOX CLUSTERS DO NOT ALLOW FOR THE MAILBOXES

- The deed expressly says that the properties "shall always be used for park, playground, recreational or school uses only..." except for the 16th and Maku'u lot.
- The July 17, 2023 letter from prior Board President June Conant says that she was the one who talked to Mrs. Wattamull in 2013 AND Wattamull asked her to talk to her attorney. The attorney said that they had no interest in changing the deed to allow for the mailboxes. The Board and proponents of the mailboxes need to stop saying that Wattamull approved it, because they are misrepresenting the truth.
- In order for the mailboxes to go in, the Board needs to convince the Wattamull's to amend the deed to permit the use of the cluster mail boxes.
- ...and calling it a "mailbox park" is ridiculous – and a court will never accept that as a "park, playground, recreational area or school" and the Board knows it.

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