

Patricia Ruppert written statement

WHY HRS 421J DOES NOT APPLY TO HPPOA

Under HRS Section 607-14, an association's covenant(s) must "run with the land," meaning as follows:

1. It must touch and concern the land
2. The covenanting parties must intend to run with the land
3. There must be privity of estate

HPPOA has no stated declaration, other than a court ruling, which states what covenants "touch and concern the land." And those covenants are roads – and only roads

Second, the warranty deeds of some HPP landowners state that owners not only own their property but also the roads and easements which they share. There is no language about "covenants running with the land." Nor is there any mention of Hawaiian Paradise Park Owners Association.

Third, "privity of estate." HPPOA has no Declaration of Protective Covenants other than roads. Because, while HPPOA may have a 1972 charter of incorporation, which outlines the purpose and functions of Paradise Hui Hanalike (a voluntary club) not all of the voluntary club's functions ran with the land. In fact, that language does not appear in the charter of incorporation. And while the bylaws actually do incorporate this language, "running with the land," unless a court order can be produced that states, owners are obligated not only to pay for roads, but everything else HPPOA desires to do and/or fund, forcing landowners to do so is *ultra vires* (beyond one's legal power or authority).

Referring to 421J, it does state that an association is granted "requisite authority" under governing documents (meaning, the powers to charge and assess members) but while HPPOA bylaws address this, the charter of incorporation gives HPPOA no such power or authority (roads are not even mentioned) as the charter was written for PHH, and owners who did not want to join PHH, could not be forced to do so. As such, the reference to any "donations, subscriptions, assessments, dues or otherwise," in the charter have nothing whatsoever to do with roads and would have applied to voluntary members and their interests (the activity center, the athletic field, etc.).

HPPOA is flawed, and its purposes are conflicted, which is the result of bad history and a rushed fix. To try to band aid this, by applying state law that truly does not apply would be an even bigger mistake. I respectfully ask that you read HPPOA history, research the Paradise Hui Hanalike case, and think carefully about what you are doing.

Attachment 4
pg. 12

THE MOTION PROCESS

1. RAISE YOUR HAND

Wait for the Chair to acknowledge you

2. "I MOVE TO..."

Describe briefly and clearly the actions you want to pursue. You do not have to explain your reasoning yet.

3. "SECOND"

Wait for another member to second your motion. A second allows the discussion to occur. It does not signify approval. A motion without a second does not move forward.

4. "IT IS MOVED AND SECONDED THAT..."

The Chair briefly restates the motion.

5. MAKE YOUR CASE

You start the discussion arguing in favor of your motion.

6. DEBATE

The members who wish to participate raise their hands and speak in turn.

AMENDMENT

"I MOVE TO AMEND THE MOTION..."

A member can propose a correction or change to a motion.

Return to step 1 and go through the same process. The vote will be to **AMEND THE MOTION**, not to adopt it. Regardless of the result, the process goes back to the debate phase (step 6).

7. "THE QUESTION IS ON THE ADOPTION OF THE MOTION"

The Chair closes the discussion and restates the motion.

8. "THOSE IN FAVOR OF THE MOTION, RAISE HANDS"

The Chair provides the voting directions.

9. "THE AYES/NAYES HAVE IT"

The Chair announces the result of the vote and continues with the meeting.

OTHER ROBERT'S RULES

TO	YOU SAY	CAN INTERRUPT?	VOTE
End the debate	"I move the previous question"	No	2/3 Majority
Take a break	"I move that we recess until..."	No	Majority
Address non-debate issue (noise, temperature)	"Point of privilege"	Yes	Chair decides
Address process issue	"Point of order"	Yes	Chair decides
Ask an urgent question about the process	"Point of information"	Yes	Chair decides
End or suspend the meeting	"I move we adjourn"	No	Majority