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Fighting a condo association can be futile

'You have to be rich, crazy or damn sure you're right'

By **Rob Perez**
Advertiser Staff Writer

Taking your condo association to court isn't for the faint of heart.

"You have to be rich, crazy or damn sure you're right," said attorney Terry Revere, who represents Bluestone condo owner Paula Osawa in her legal fight with her homeowners' association.

Osawa recently was awarded nearly \$433,000 in damages and attorney fees in that case. She had sued Bluestone for failing to properly maintain the common elements at the Lanikai project, a condition leading to water damage in her condo.

One major reason few people sue their homeowner associations is because of the cost. If you lose, you're not only stuck paying your own legal bills but could be forced to cover the winning side's as well.

In the Osawa case, an arbitrator ordered the Bluestone association to pay her legal tab of nearly \$318,000. Had Osawa lost, she would have been on the hook for that bill and possibly the association's legal fees, too.

Another barrier, attorneys say, is that the system is stacked in favor of homeowner associations and property management companies, largely because their legislative lobbying clout has led to state laws that tilt their way. No one regularly lobbies on behalf of individual condo owners.

"The scales have tipped so dramatically in favor of associations and their management companies," said attorney Ed Bybee, who used to represent individual condo owners but no longer does. In 2004, he successfully sued a Kā ne'ohe condo association on behalf of a homeowner, who was awarded \$470,000 for a mold and mildew problem at her unit.

Because of the steep odds and costs, few attorneys are even willing to represent homeowners seeking to take their associations to court.

But state law provides alternatives. Less costly mediations are available, but both sides have to agree to that route and the findings aren't binding. The Mediation Center of the Pacific, a nonprofit, does such cases on O'ahu.

If the mediation option doesn't work, a homeowner can pursue binding arbitration or go to court. Both can be costly.

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Yet another option is through the Department of Commerce and Consumer Affairs. A pilot program allows unresolved disputes that went through mediation to be heard in an administrative process

The cost is only \$25 for each party, and the parties usually pay their own attorney fees.

But because it's a pilot program, the agency only can handle a maximum of 30 cases a year, according to Rod Maile, the agency's senior hearings officer.

Reach Rob Perez at rperez@honoluluadvertiser.com.

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The advertisement features the USA TODAY logo at the top left. Below it, the word "AutoPilot" is written in a large, bold, black font, followed by a blue airplane icon. To the right of the title, it says "The new travel app for iPhone® and iPod touch®". Below this, it says "Presented by:" followed by the Hampton logo, which is a blue shield with a white anchor and the word "Hampton" in a script font. At the bottom right, there is a blue button with the text "SEE HOW IT WORKS »". On the left side of the advertisement, there is a smartphone displaying the app's interface. The screen shows a "USA TODAY Meeting" for "Sep 21, 2009" with a list of items: "A6 BNA to IAD Landed 09-21-2009 11:48 AM", "73* Washington (IAD) Partly Cloudy", "View a Flickr gallery of Washington", and "Articles: Hotel Check-in Hilton Hotels plucks".

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