

Condominium Association and Contractor Reach Settlement Addressing Dispute Over Sewer Line Repair

Challenge: A large-scale sewer line repair project at a 60-unit townhome development is delayed for 3 years due to defective workmanship and unresolved sewer backups, requiring emergency repairs and tens of thousands in additional expenses for the condominium association.

Solution: Porter McGuire Kiakona & Chow, LLP (PMKC) worked closely with the AOA board to identify and overcome obstacles, such as the contractor's financial troubles and insurance coverage challenges in order to expedite a resolution to ongoing litigation that had stalled for several years. PMKC guided the AOA through three mediation sessions and two settlement conferences between the AOA, the contractor, and the contractor's insurance company, resulting in a favorable settlement.

Result: The contractor's insurance company repaid a significant amount of money to the AOA. In addition to paying the AOA for its damages, the contractor also dropped a separate claim against the AOA for breach of contract related to unpaid fees. The settlement will allow the AOA board to move forward with the repairs it thought it had bargained for back in 2010

Detailed Situation: In 2010, the board of directors for the Aiea Lani Estates Project initiated a major maintenance project to repair 35-year-old external underground sewer lines on the 10-acre property that were causing unit backups. After a plumbing contractor finished its repair, the board noted workmanship issues, such as faulty asphalt repair, in addition to continuing sewer backups. Accordingly, the AOA, which had already paid out the initial \$110,000 project cost to the contractor, stopped paying on the \$90,000 in additional fees, leading to a claim against the AOA for breach of contract. In 2013, the AOA initiated emergency sewer line repairs on a few of the same lines repaired by the plumbing contractor and retained a project management firm that identified numerous issues with the sewer lines, including unrepaired breaks, improper soil replacement, and waste leaks, in addition to a lack of proper permitting. The original counsel for the AOA filed a counterclaim for defective work, but the case stalled. PMKC was retained by the AOA in 2013, and immediately amended the AOA's counter claim to add a claim based upon the contractor's failure to add statutory required disclosures in its contract and focused on the contractor's insurance liability coverage for consequential damages (defective work that causes injury or damage). PMKC worked with a new project consultant to evaluate the sewer lines and identify specific damages, leading to a settlement for the AOA in June 2015.

"We had heard about Christian Porter and the team at Porter McGuire Kiakona & Chow through a word-of-mouth recommendation and were so impressed that we switched counsel during the case. Throughout the process, we were incredibly impressed by PMKC's responsiveness and proactive approach. We were always extremely confident with their counsel."

Jaime Kurosawa, Association Board President, Aiea Lani Estates

These case studies are actual examples presented to illustrate successful PMKC strategies and resolutions; however, results may vary depending on individual circumstances.