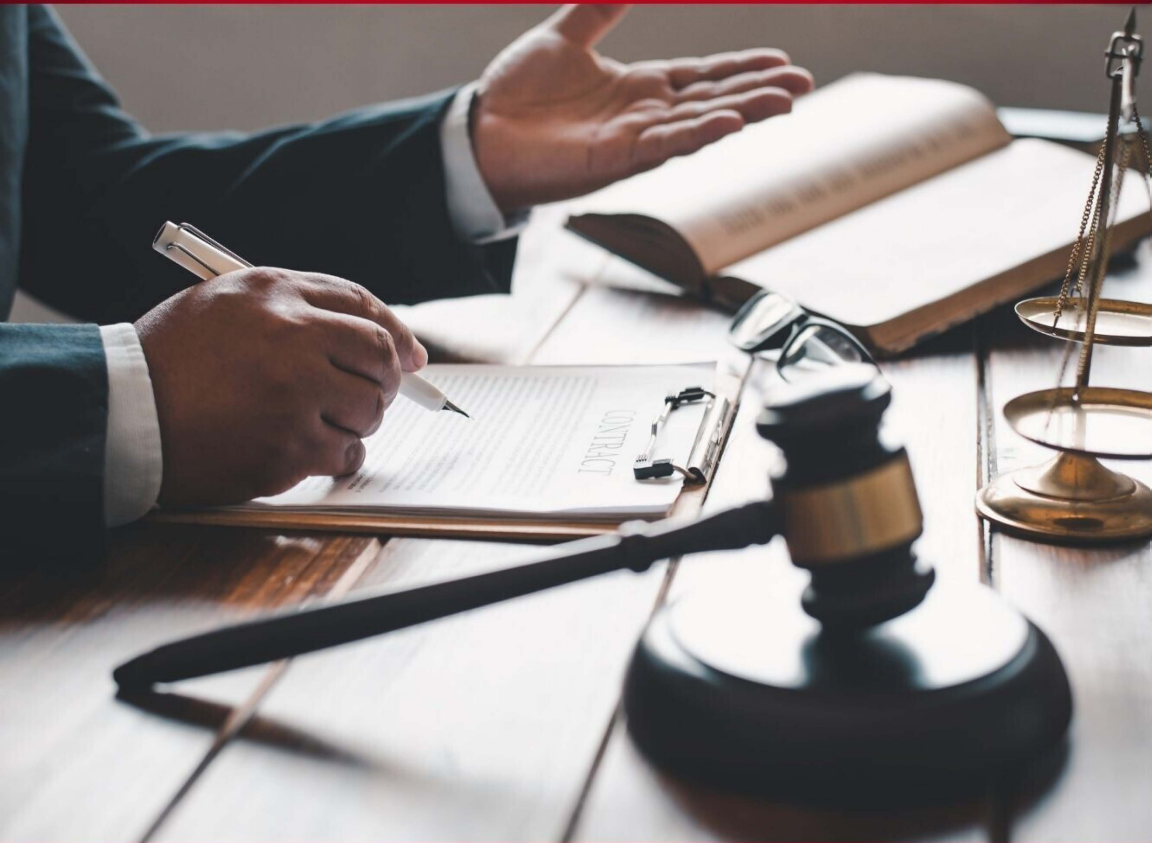


# HOA DESIGN REVIEW THE AOA PROTOCOL

FROM NATIONAL BUILDING EXPERT &  
INTERNATIONAL BEST-SELLING AUTHOR

THE CONDO ARCHITECTURAL DESIGN REVIEW GUIDEBOOK



LANCE LUKE, CCC, CCI, CCPM

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**Lance Luke, CCC, CCI, CCPM**

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"The Word According to Luke" Series

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# INTRODUCTION

This is Lance Luke, the National Building Expert. This is part of our *Ask the Building Expert* series. This series on building and construction topics is to help building owners, condo associations, property managers, and more.

When we talk about condo associations, we're talking about what is commonly known as homeowner associations, community associations, or any kind of real estate or property that's governed by its own private government.

It doesn't have to be a high-rise building; it could be a whole townhouse, or it could be an entire subdivision. That's actually part of a community or homeowners association.

This subject has been a hot topic for many years and I've received numerous requests from people to do some talk about it so I put together this book. Of course AOAO means Association Of Apartment Owners, but it also could be for AOOU or Association Of Unit Owners.

It doesn't matter whether it's a condo or a co-op or any kind of legal structure, regarding the ownership, the design review applies.

Let's get right into it, the rules to protect your building.

## CHAPTER I

# Rules to protect your Building

If you live in a single-family house that's not part of a homeowner's association, you don't have to worry about these things. However, if you live in a community association, like thousands of homeowners across the United States, including those in Hawaii, you will need to follow specific rules and guidelines. Additionally, many new properties being built today are part of homeowner associations.

Most new buildings are constructed for community associations, whether in Las Vegas or elsewhere. Many single-family dwellings are part of community associations, and there are hundreds of thousands of them.

Somewhere, there could be sub-associations and a master association. All the residential buildings built that are not rentals in Kaka'ako are all part of the homeowner association.

If you hear the terms architectural committee, architectural design review committee, or design review committee, those are all related to the same thing. What it means is that if you're in an association, and I like to mention condo associations, they have governing documents.

It's not like you can do whatever you want. There are certain guidelines. This is pertaining to Hawaii, but it could also pertain to whatever state you are in. You just have to look up your state's condo and homeowner association laws.

In Hawaii, there is a state condo law. It's HRS Hawaii Revised Statutes 514B. Basically, that's the law of the land regarding condominiums and condo associations. It even governs property managers.

The rules for designing any kind of upgrade or renovation are state law HRS 514B and the governing documents pertaining to your specific condominium, such as By Laws, Declarations, and House Rules.

You're lucky if your condo has specific condo design guidelines. I've seen newer condos, including luxury condos, where the design guidelines for replacing the flooring are 20 pages, and I've also seen other condos that were built in the 70s where the entire design guidelines for everything are 15 pages. So there's a difference.

The governing document that pertains to the design guidelines is mainly your condo Declaration. Regardless of whether you're a condo homeowner, looking at buying a condo, or a property manager, please review the Declaration. Because if the House Rules say one thing, the Declaration may say something else. Or may be even stricter than what the House Rules say. Don't only go by what the House Rules say.

Remember all these different things; there is not only one document that gives you guidance. The specific condo design guidelines are the main document that you need to follow for certain things.

But the question is, what happens if something is not covered in the design guidelines per se? Let's say you're a condo owner and you want to put in a split system and an air conditioner, but it's not listed on the condo design guidelines.

Does the fact that it's not listed tell you that, "since it's not listed, I can just go ahead and do it?" No. You have to ask your management company, the resident, or the site manager. "Hey, are there any guidelines for air conditioners? Because I notice it's not in the design guidelines, can I just install it?"

They may say, "Oh, well, here's a separate sheet on air conditioning; that's not specifically in the condo design guidelines package." Or if you review the House Rules, it may say, "You cannot install a split system AC without board approval." Or if you go to the Declaration, it may say, "You cannot do anything without board approval." Make sure you do your research, because you may regret it later.

If you do something, then later on, you sell your unit, and the buyer goes, "Where's your approval for the air conditioner?" and you go, "Well, it wasn't in the guidelines or House Rules. I just installed it." Then the buyer may ask the board or property management company, "What are their guidelines?" and they go, "Oh yeah, we've got specific guidelines." Then you're in a difficult position at that point.

## CHAPTER II

# **Building Code and Contractor Licensing**

Why do we have to worry about the building code? Well, we have to worry about the building code because that's the law of the land with respect to construction and building.

Why do we need to worry about contractor licensing? You might say, "Well, it's in my own condo unit. Why does a board care or anybody care what I do in my own unit?" Well, there are guidelines for that.

Each condo has its own guidelines; some are very strict, some are loose, and some older condos are like the wild west, where there are no guidelines and people just do whatever they want. There are reasons why it shouldn't be that way.

The IBC, or International Building Code, is the law that is based on building and construction. The date is 2021, but in the state of Hawaii, we're going by the 2018 building code.



Contractor licensing is the assurance that the contractor has complied with all the regulations needed to get a contractor's license.



We don't want, as a condo board, to have unlicensed contractors come in, and they may not have insurance. They may not have the proper experience and all that, and who knows if they do good work? But what if they don't? Then there's liability involved, right?

What if they do electrical work and it starts a fire? What if they do plumbing work in a high-rise condo and do bad work and it starts a leak? That's not good. Right?

## CHAPTER III

# Building Codes/Permits

The building code actually dictates when to get a permit, and basically every state in the United States has a building code.

For the most part, they follow the IBC, the International Building Code. There is also the IFC and the IRC. The IFC is the International Fire Code, and the IRC is the International Residential Code. Both of those codes are actually referenced in the International Building Code. It's all connected.



When do you need a permit? Well, you need a permit for basically every single thing that's done.



The reason why I am explaining all this stuff in a design review for condos is that many condos require you to comply with the law, and what is the law?

## **The State law and City and County law**

Basically, the condo association is telling you that in order for us to approve your design review application, you need to follow the regulations.

If you need a permit for the work, then you're supposed to get one. And if you need a permit, you have to use a licensed contractor. Those things go hand in hand. That's the reason why I'm telling you this.

## CHAPTER IV

# **Contractor License Law**

There are about 64 different specialties of contractors, for example, for drywall, painting, electrical plumbing, ceramic tile, asphalt, and more. As you can see from that statement, almost everything is governed by a contractor's license. That is why condos should be very strict because they carry their own master insurance policy.

If you check with your insurance company and ask them, "As a board or association, can we allow unit owners to hire their own contractor?" They'll go, "Yeah." What if they're unlicensed? That's not allowed because the master insurance policy has guidelines for contractors. And that's the common area, and that's an association guideline. It should carry over to a unit owner's guideline when they're doing work inside their unit; it's all connected.

The building code, the building permit, and the contractor's license law are all connected. And sometimes they're referenced in the condo design guidelines.



## CHAPTER V

# Kitchen & Bath Renovations

This is pretty big because of the aging condo buildings that were built in the sixties and seventies. It's time for an upgrade. People get tired of their outdated kitchen or bathroom, or maybe they're intending to sell and want to get a higher price. They want to make it look a lot better.

Kitchen remodeling includes cabinets, countertops, a sink, flooring, and maybe appliances. This is just a short list.



Then bath remodeling is the same as in the kitchen: your cabinets, countertop, sink, and flooring. And then what's happening recently is a tub-to-shower conversion, where they remove the tub.

Instead, they build a walk-in shower, and these are good for the elderly because it's hard when you're not that mobile to climb from the floor to the high tub to get in the tub. The walk-in shower is very easy; just open a door, walk right in, take a shower, and walk out. That's what is happening with the kitchen and bath renovations.



Remember when I mentioned that there are certain things you don't need a permit for? You do not need a building permit to change out your cabinets. No permit for countertops. When you're doing your flooring, and when you're doing your painting, you don't need a permit for those. But here's the caveat:

If you combine all these things into one project and add up the cost, it's thousands of dollars. In fact, you don't have to totally remodel your bathroom. A tub-to-shower conversion could cost \$10,000, \$15,000, or \$20,000. Right?

The dollar amount triggers the need for a building permit. And what is that dollar amount? It's \$1,500. The code reads that for any construction work that is over \$1,500, you need to get a building permit.

When I said you don't need a permit for cabinets, countertops, or flooring, let's say you are rich and you decide to renovate your kitchen, and you put all new high-end kitchen cabinets in it, which are worth \$20,000 each. Technically, you don't need a permit.

But if you decide to renovate your whole kitchen and install your cabinets, countertops, new sink, and new flooring, and it costs \$50,000, then you actually need a permit. Why? Because you're combining all these different components together. And the cost is over \$1,500. Right?

If you only do one thing, you can get away with it, and you can't say, "Oh, I'll have the contractor do my cabinets first, and after that, do the flooring, and I'll sign separate contracts." That doesn't work because it's \$1,500 over a 12-month period.

It doesn't make sense to have the contractor come back just to evade the building permit requirements.

If you're not clear on that, go and read my books that I wrote on building codes and permits and contractor licensing, and maybe you'll get a better idea. If you still don't know, call us, and we'll fill you in on the details. We are giving you the true facts of the matter.

Many contractors will argue, but those are the true facts. If you're interested, you go to our website, [askbuildingexpert.now.site](http://askbuildingexpert.now.site), and then you click the OnDemand webinars and choose the one you want to watch.

## CHAPTER VI

# Other Condo Upgrades

Other condo upgrades are window replacement, lanai enclosures, lanai flooring, structural modifications, walls removed or added, that kind of thing.

So you have an old window, and you want to replace it with a new one. Does that need condo approval or Design board approval? Yes, it does, especially if you're in a high-rise building.

If you're in New York and you want to change your windows to get a better view of Central Park, you still need an approval.

There could be other upgrades, and speaking of lanai flooring, if you have an open lanai, they may not allow you to upgrade the tile, carpet, or anything else on your lanai floor. It's all bare concrete and has to be waterproofed.

Some condos allow you to put something on top of the waterproofing, but then you may be responsible for any damage or concrete spalling it may cause because you want to install your selected flooring.

## CHAPTER VII

# **New Flooring Considerations**

You can't just go in and remodel your floors and put in whatever floors you want, especially in some older buildings. The carpet has padding, which has better insulation for sound as compared to hard tile or laminated flooring.

### **SOUND AND IMPACT CLASSES (IIC & STC)**

Nowadays, there is LVT, or Luxury Vinyl Tile flooring, and you have to take into consideration the sound and impact classes.

There's an IIC and a STC. IIC is an impact isolation class, and STC is a Sound Transmission Class. Impact is something where you either drop something on the floor or you're walking on the floor, and it makes a noise so the condo unit owner that's down below in the next unit can hear it.

The STC has a Sound impact. So if you're bouncing a golf ball on your hard tile, the guy down below is going to hear it, and if you're in the middle unit, the two guys next door to you may hear it too. There are different sound ratings.

Now, keep in mind that the building code sound ratings may differ from the condo guidelines.

If you have condo guidelines that say, "For flooring, follow the building code," Well, good luck. You know why? Because the building code is 50 minimum IIC, and 50 is hardly anything as far as sound. So that's why, as a consultant, I always tell my clients, "You've got to go higher than what the building code specifies. You've got to go 60, 65, 70."

In the luxury condos that are built nowadays, they specify 70, and 70 is easy to get if you have a thick concrete floor. But what happens if you own a townhouse that's wood-framed? There's no way you can reach 70. It's very tricky.

## CHAPTER VIII

# Electrical Upgrades

In the design guidelines, they should specify new replacement air conditioning, either split, central, window wall, or solar and PV systems.

If you look at the image, this is a townhouse building that did not approve air conditioning. As you can see, they installed one on the outside.



This image is a super old electrical panel that needs to be replaced. So electrical upgrades are needed.



## CHAPTER IX

# Plumbing Upgrades

Let's talk about unit owned plumbing versus common area plumbing.

Unit-owned plumbing includes your angle stops, shutoff valves, laundry, dishwasher, refrigerator, and ice maker. All these things could leak.



Remember, the walls are not the dividing line. What that means is that if you are in your condo unit and your plumbing pipe goes into the wall, that doesn't mean it's common area piping.

If you are the only one who uses that pipe, then you're responsible for that pipe, even if it's inside the wall.

What the protocol and the declaration usually spell out is that if it's a plumbing line that's shared by two or more units, then for the most part, it becomes a common area plumbing line.

This applies for electrical as well; if it's a single line, it doesn't matter if it's inside the wall or not inside the common area; it's still the unit owner's responsibility. So just because it's hidden and you can't see it, maybe it's still the unit owner's line.

That is something very important to consider because there are problems where there's a water leak but there's nothing leaking inside the unit, and the unit owner goes, "I'm calling the manager because it's not my line," but how would they know? The plumber has to cut out a hole in the wall or ceiling to determine whether it's a unit owner's responsibility or whether it's a common area.



## CHAPTER X

# Hazmat Issues

If the unit owner in a condo starts doing construction work without design approval, how do you know he's not causing more damage with Hazmat issues?

Condo buildings built in the sixties and seventies, for the most part, may have Hazmat issues or environmental concerns. Usually, the cutoff threshold year is 1977–1978 for asbestos and lead paint.

So the hazmat issues I'm talking about are asbestos. And it could be in your flooring, walls, or ceiling. There could also be lead paint on your walls and ceiling. If your ceiling is painted, be aware of the dreaded four-letter word—mold.



Let's say a contractor cuts open a dry wall because he wants to remodel something, and all of a sudden there's mold on the wall. What do you do then? That's an environmental concern and a Hazmat issue. If it's only in that one unit, you may say, "Well, who cares? It's only in my unit. I'm going to have the contractor fix it."



But what if that wall is joining another neighbor's wall? Now you have mold spores growing into the next-door unit, and guess who's fault it's going to be? It's going to be your fault because you didn't take the proper steps.

Now you've got to call a Hazmat specialist to test the mold, take air samples, and all that. It's kind of crazy stuff, but it has to be done. Otherwise, you're going to be liable.

## CHAPTER XI

# Advice from the Building Expert

There are situations where you probably aren't aware of them, but if a unit owner does his own electrical work and covers it up, I've seen situations where they never applied for design review approval from the condo board; they did their own work, and they're thinking that it's covered under the owner-builder permit.

But guess what? An owner-builder permit doesn't cover doing your own electrical and plumbing. You still need to use licensed contractors unless you have a license yourself.

The worst story was that this guy was selling his unit; it was a townhouse, and he's nice. He said, "Hey, I'm selling my unit, and I did the work all by myself. I didn't apply for a permit." I said, "Okay, apply now." And then he applied.

I said, "Well, how did you do all your electrical?" He says, "I did it myself." And I go, "Oh, I need to inspect it because the walls are closed." So I said, "Okay, you need to hire an electrician to inspect it and then give me the report before I sign off."

The electrician came, and he said, "Well, I can't tell because I removed some outlets, but I don't see any connection." I said, "Okay, good. So cut open some walls and look," he said, and he cut open walls, and sure enough, the guy never used junction boxes and pigtail wires together. It may have caused a fire hazard, and this is a townhouse unit in a townhouse building. The whole building could have burned down.

Similarly, he did his own plumbing work. I had the plumber cut open walls, and his connections weren't that good, which was subject to leaking in the near future.



The unit owner wasn't too happy because he had to spend maybe \$8,000 to redo everything, including the drywall repair. But in the end, the buyer was happy because now he had the assurance that everything was done properly.



Also in a townhouse building, they're changing flooring without approval. If they're on the second floor and they're removing their carpet and putting in luxury vinyl or laminate flooring, They weren't cognizant of the fact that the plywood floor decking has almost an inch of gypsum soundboard, and that is for fire. It's a fire-retardant product.

So while they rip out their carpet, they are also pulling up tax strips, and now they're damaging the gypsum soundboard. And if they're laying their laminate flooring over that, now it's laid over a damaged soundboard.

What happens if there's a fire, or the flame could go right through and then burn the whole building down? That's the reason we're strict on that.

Another situation is where people redid their flooring in a high-rise condo, and then they never got approval. Then the unit owner below complained, which resulted in a lawsuit. What happened was that the unit owner who put the flooring in spent \$50,000 on cherry wood flooring.

He had to rip it all out, and he wasn't too happy with that. But he never followed the rules in the first place.

Here's a photo of some bad electrical work.



I think the image below is in New York. What happened was that a unit owner converted his condo into part of his living room. And he built additional rooms to rent. Of course it was illegal; everything was illegal. So he got cited for that.



So overall, pay attention regardless if you're a resident manager, site manager, or property manager of a condo association, if you're on the board, if you're a condo owner, if you're going to buy a condo, or if you're a Realtor selling a condo. These are the things you got to know and be concerned about because it could backfire on you.

If you're on the board or you're a property manager and some owner submits for design review, get serious about it because there have been legal cases, especially for disabled people who need access.

If they live on the ground floor of a condo building and they want to put a ramp for wheelchair access and the condo board says, "No, you can't do it, Look around. No one has that. That's gonna look ugly." And so they refuse.

They tell the person, No, guess what? The person sues and wins because there's a law that states that if a person has a disability and he applies for improvements, the condo board cannot arbitrarily say no. They have to allow it to a certain degree, but the condo board doesn't pay for the improvements. The unit owner pays for the improvements. The deal is that when the unit owner sells, he has to remove the improvements.

Also, there was another condo that was a townhouse, and the unit owner wanted to put in a chair lift. So it's connected to the railing, and then from the ground floor, you sit on the chair, and it takes you up. If you deny that and the person is handicapped, you can get sued and lose. So if you're on the board, do not discriminate. Everybody has to be treated the same way.

You can't approve somebody's unit and not approve another one if they're coming in for the exact same thing. It has to be fair to everybody.

Now, when I say fair treatment, I'm saying if your design guidelines allow that. In other words, if you're in a townhouse and you're on a board and the townhouse rule is that no central air conditioning is allowed, That's not discriminating. If you can't install central air, you can install a split system or window unit if you want.

So there are different things like that, but just be aware.

## Chapter XII

# Question & Answer

**"What should a consumer do if their contractor claims a permit isn't needed, but the building rules say otherwise?"**

That happens to me a lot. I'm on six boards; three of them are condo boards, and I'm the one in charge of reviewing every single design request. I'm also hired as a consultant and serve as an architectural design review engineer to review applications, and it came up just last week. I got one where the unit owner says my contractor says, "I don't need a permit. I said, Well, let me see it in writing."

Then I got something in writing from the contractor saying, "We don't need a permit." And I say, "That's not true; if you think you don't, then give me a letter from DPP, the building department, saying that you don't need a permit, and then I don't get anything."

I'm one of the few building code experts in Hawaii. So people challenge me all the time, and it's no fun proving that I'm right because I have all the code books that I need. I've been working with DPP for 43 years now, and I can talk to these guys. So there are all these myths. It's like when people say they don't need a permit, I say, "Is that the same guy that says that he saw the Lochness Monster or Bigfoot or something like that?" So it is all talk; they have to prove it.

I can prove that you need a building permit. Can they prove otherwise? In this particular instance, I would go back to the contract and say, "Show me the building code that says, "I don't need a permit." Let me see it. It's all talk, right?

Until you tell them to prove it in writing, And they're like, "Oh well, that's what somebody told me." "Oh, hey, I'm a contractor. I've been doing this for 30 years. I mean, we never get permits for these things." Well, then they've been doing it wrong for 30 years.

So my job is to tell people what the facts are. If the board tells me, "We don't want to get permits," I go, "Okay, fine." But here's what you should do:

Instead of requiring a building permit before you approve the design application, do a conditional approval and just throw it back at the unit owner and contractor, saying, "We're giving you a conditional approval.

If you need a building permit, then we expect you to get one." And of course they're going to go. "Oh, we don't need a permit."

They don't get one, and then what happens? Nothing may happen. But if something happens later, it's not going to be on the board. Right? Because the board told them, "You've got to follow what the regulations are."

That was a good question because, personally, that happens to me all the time. Then I have to get into argument mode, but instead of arguing, I just supply information and try to educate.

But then, if they really try to ruffle my feathers, I tell them, "You know what? Show me a section of the building code—the 2018 building code, which we're using now—that says you don't need a permit for that. Or give me a letter from DPP (Department of Planning and Permitting)." Guess what? DPP is not going to give out letters like that. They laugh when I tell them that. Then they call up DPP and say, "Oh, I need a letter."

And DPP responds, "Oh, well, we're not going to write a letter. Why should we give you a letter saying you do not need a permit when you do need a permit?" And then they say, "Oh, okay. Thank you."

Remember this: when it comes to the code, single-family dwellings may be under community associations, such as Hawaii Ridge and Mariners Ridge. They may have their own association that governs construction.

If you're in a condo or townhouse building and you have more than two units, you have to follow the International Building Code. The residential code does not apply in this case; for the most part, the residential code applies mainly to single-family dwellings. Sometimes you combine the two codes together and use the two codes.

**"Who actually sets the condo design guidelines, is it the local building department or the condo board?"**

If you're in a condo association, it's a separate private governing body. Nobody can tell you what to do for the most part because you're in your own separate governmental world, except that you still have to follow other rules and regulations.

The condo board sets the design guidelines, and usually condo boards work with the property management company, or they may have their own construction committee, design review committee, and so forth. In the absence of a committee, they would hire a consultant. Somebody like me to help them make the guidelines, review the guidelines, and even approve applications, because sometimes a board may say, "It's not our job to do that. We don't know anything. We don't know what the code is. We just pay somebody to do it."

Either the association pays the fee or they tell the homeowner, "Here's the rule." The rule is that if you are applying, you have to have a consultant review your plans and make sure everything's kosher, and you have to pay a fee to do that and conduct inspections before, during, after, and so forth. So the owner ends up paying the fee for that.

But in answer to the question, the condo board sets the design guidelines, but the design guidelines are based on the building code. The design guidelines will say, "Do this, do that." The guidelines could even make a reference.

You need to follow the current applicable building code or whatever, and that will cover you. So in that way, it's not the board saying, "You can do this, but if it's not following the building code, that may be wrong. Right?"

So the condo association board is the one in charge of the design guidelines, but following the building code, they kind of work hand in hand. But if there's a reference to the building code, then you're kind of okay.

**"In the case where a structure (house, apartment, building, etc,) needs to be painted and it costs over \$1,500 then is a permit necessary?"**

No, according to the building code, you don't need a permit for painting. But listen to this: if the house or the condo, let's say, is a wood-frame townhouse building, and if you need wood repair because it's termite damaged, In the case of wood rot, if the repair costs more than \$1,500, that'll trigger the requirement to get a building permit. Then you combine it into a wood repair or painting project.

So, for just painting, you don't need a permit. But once you have repair work, that will trigger the permit requirement. Likewise, if you have a concrete building and you have concrete spalling and it needs to be repaired and it costs over \$1500 to do the spalling work, that will trigger the requirement for a building permit. Be careful out there.

In some cases, if you have drywall work, like if you're inside a unit, and you consider the drywall work necessary to paint, then there's an exception for that.

If the drywall work exceeds \$1,500, theoretically, by virtue of what the code says, you need to get a permit.

But there's a loophole where you can say, "Well, in order for me to paint, I have to patch the drywall; there were holes and all that, and so I did that as part of the painting project."

Well, then DPP says, "All right, you're good." Then you don't need a separate permit for the drywall repair. So it kind of has gray areas that you can play around with, but you just have to be careful and know what the regulations are.

**"With inflation and the rising costs of everything, is the \$1,500 code limit still reasonable? It feels like they've lowballed it for the current economic times, right?"**

I would agree that the number is way too low. You can't get anything done for that amount. What I'm saying is that if you try to call a contractor and say, "Can you come over? I got some repairs, and it's about \$1,500." They're like, "Hey, call somebody else. I don't have time for that. I'm looking for the big jobs."

Here's a history of what happened with the law: They wanted consumers and homeowners to increase that number to \$5,000 as a threshold. But the big construction union said, "No, we don't want that because we're going to have problems. We're going to lose jobs."

So it got into a political battle, and in the end, the big unions won. That's why it used to be a thousand dollars and then was commodified to \$1,500 instead of \$5,000. So you're right. And I agree, it should be like \$5,000, but there are pros and cons to that.

**"How can the condo board be sure that the owner's contractor does good work and why should the board care anyway, since all the work is being done inside the unit?"**

Well, like I mentioned before, the board should care because if the guy does shoddy work and does bad electrical and plumbing, it could lead to a fire or flood, which is not good. Let's say he's doing work on the 26th floor, he doesn't connect the pipe properly, and it springs a leak all the way down to the 10th floor. That's a huge insurance claim for shoddy work. That's why the board is concerned.

The other thing is that, remember, if you're buying a condo unit or living in a condo unit, you only own the airspace inside that space; you don't own the common area walls. Right? If there's an electrical fire and the fire burns down the next unit, you don't own the next unit, right? So there are a lot of things to be concerned about with liability.

In common area versus limited common, what's your own is your condo space. It's not like it's your own domain, and no one can tell you what to do. There are so many rules in a condo. People tell me they are never going to buy a condo because there are too many rules. That's what it is, though.

A lot of times early on, condos were cheaper than buying a house. So that's the reason why more and more condos are coming up, and they're coming up really fast. Condos are coming up faster than single-family houses. It's really not the trend for single-family houses because of the high cost.

**"My family owns an apartment building, this is not a condo. Can the owner regulate the inside of the apartment unit similar to if it was a condo unit?"**

Well, by virtue of the Residential Landlord Tenant Code, the tenant cannot make improvements to the inside of the unit without permission from the landlord. I don't know too many tenants who want to do renovations because they don't own the place. Right?

Although I've seen situations where that's what happened. Maybe the tenant was on a long-term lease, a 10-year lease, or a 15-year lease, or maybe the tenant was actually a relative of the owner of the apartment building. And did all this renovation work and stuff because it's family, and I guess at one point they didn't get along.

Actually, in this particular case, the apartment building was on the market for sale. The buyer hired me to do an inspection. I went into the unit and went, "Oh, what is this? This doesn't follow the plans." And then the guy that was living there was the son of the owner and said, "Oh yeah, I did this, I did that. I remodeled," and it was interesting because there was kind of a rift between the father and the son. The father said, "Hey, I didn't give you permission to do all this stuff". He goes, "Hey, look, I spent my own money doing it."

So anyway, it was kind of strange, and I basically told the buyers, "This is not following the code; take it out and redo it the right way." They have to replace cast iron piping anyway, throughout the whole building.

I said, "At the same time you do this, you might as well remodel your kitchen and bathroom." So, in some cases, it's like that.

But for the most part, the tenant doesn't have any right to do any remodeling, even painting. They don't have the right to paint the walls unless they get permission.

In fact, some landlord- tenant agreements say that "You can't even put holes in the walls to hang stuff. And if you do, you're responsible for patching it when you leave." So, it can be really strict.

**"I talked to DPP and they said, I don't need a building permit for painting, new flooring and new cabinets/countertops. But my board said that a permit is needed, who is right and who is wrong?"**

Due to the fact that it's a new countertop, flooring, and cabinets, we can presume that it's either a kitchen or bath. It doesn't matter that the fact remains if you combine the projects together. I don't care how small the unit is; if you're remodeling your kitchen or your bathroom, it's going to cost at least \$20,000, no matter how cheap you go. So, what is the threshold for getting a permit? It's \$1,500, right?

It's very clear that based on the information, without even telling me what the cost is, I could basically tell you that you need a building permit. So I don't know who's saying you don't need one. But that's the rule, and it triggers the need for a licensed contractor.

What happens is that when you add all these components together to do the construction work, it becomes a major project of different components, and you would need a general contractor that can do drywall.

He cannot paint, and you need a painting license. Cabinets and countertops are what a general contractor can do. If you're doing plumbing and electrical work, the general contractor cannot do that. You need a separate license for a plumber and a licensed electrician.

So if you look at the value of construction, if the value is over \$1,500, then that triggers the need for a permit. So I don't know who's saying you don't need a permit, but be sure you do things the right way, because if you do remodeling and somehow you sell your unit and the buyer asks if you got a permit for all that, and you say "No". Or you didn't even get approval from the architecture design review committee; that's already a problem that may come up, right?

I'm dealing with about eight of those situations now, where the unit owners never got architecture design review approval, and they're trying to sell their unit, and it becomes a problem because I'm trying to help them kind of get after-the-fact approval.

Sometimes it's hard if I can't see things inside the wall or underneath the floor. So it's just one of these things that is coming up. 10 years ago, 20 years ago, and all these things never came up. No one cared; there wasn't a problem, and now it's becoming a huge problem.

So the caveat is to review your state law, HRS 514B, your condo Declaration By Laws, House Rules, and your architectural design review and regulations. If it says nothing, then ask the property manager, management company, or board and get the answers you need.

If you get the letter saying "We reviewed everything and you don't need a design approval from our board and you don't need a permit," Then don't lose that letter, because it's going to be very important to you if you decide to sell or a problem comes up later.

Even if you applied for flooring and it met the standard that the architectural board set and the building code, the unit owner still complained down below. Guess what? You cannot go back and say, "Well, I did everything according to the board. And so what? I'm not doing anything more."

Now, if it goes back to the Declaration and the condo law saying that any unit owner cannot cause a nuisance to another unit owner or to the association, the mere fact that there's that language now puts the onus on that unit owner to mitigate the problem.

And what is the problem? The problem is noise. Now the unit owner is forced to put carpet, carpet padding, or loose carpet on the flooring to deaden the sound, and that's the law. It's been challenged before on the mainland; there have been so many lawsuits about noise and all kinds of design stuff, and boards have been sued.

In some of the lawsuits, the board was wrong because they were discriminatory. In one case, they approved somebody's, and in another case, they didn't like the guy, so they said no. Just be aware out there. It's kind of crazy.

**"May I please have clarification,  
now if I install kitchen cabinets  
in my condo for 15,000, do I  
need a permit?"**

If you install cabinets that cost \$15,000 or \$50,000 and that's all you do, you're not required to get a building permit. But if you want to combine it with other stuff, like if you're installing top cabinets, high cabinets, ceiling-mounted cabinets, or higher, then that's good.

But if you install cabinets that are on the floor, you're going to need countertops unless you're going to use the same countertops. So it's a little tricky, but for countertops, you don't need a permit anyway. If that's all you're going to do, then you don't need a permit.

**"\$1,500 limit is a ridiculous number and for me, it's a time and money waste for a lot of building and even homeowners. So, what is it that needs to be done to clean, to change that thing or get it updated or whatever?"**

You've got to go talk to the City council, your representative, or your senator and convince them to introduce a bill. We go another round again, try to up that threshold amount, and then you're going to get flagged from all these unions and all that. It's just one of those—another fight that comes up. But I totally agree that amount is way too low, and that's actually a handyman exemption, which allows a handyman to go in and do these repairs without a permit. So basically, if you do a search under handyman law, handyman exemption state of Hawaii, the same thing holds true with other states.

So I would suggest that you go research your own state law, contractor law, and all that. In some states, a permit may not be required, or you don't need to hire a license contractor for different kinds of work. So every state is different. Just make sure that the information I'm giving you today, I've given you applicable to the state of Hawaii because that's, where we're in and that's where we get the most questions.

I don't want to eliminate it, but I don't know too much about the building code in other countries. I know some countries are way laxer than the United States code. Even Disneyland and Disney World have their own building codes.

I'm giving you stories that I experienced and my own views on things. I try not to get into politics, but when it affects the building code and things like that, it just becomes political.

**"If there are Manini household repairs done by a handyman, and the total cost is over \$1,500, is a permit required?"**

It depends on what kind of repairs are needed, and for those of you on the mainland and in other countries, the word "manini" is a Hawaiian word. It's actually the name of a small fish, but it's used in Hawaiian lingo to mean small. So, when you say manini, that means small.

According to the law, permits are required, but let me tell you this: Do people actually get permits for all that stuff? No. Do people get permits for big things? No. How long does it take to get a permit? It takes probably 6–9 months, 12 months, 2 years, or more. I had clients waiting over a year to get their permits.

# ABOUT THE AUTHOR



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Lance Luke has been in the construction and real estate industry for over 43 years. He is a former general contractor and worked as a construction and project manager for real estate development companies. Currently he owns an independent construction consulting company, Construction Management Inspection, LLC. He has experience in design, engineering, construction inspections, construction management, reserve studies, real estate development, property management and condo association management.

His specialty is in inspection and construction management for condo association buildings and commercial properties. Various types of projects worked on include concrete spalling repair, painting, roofing, waterproofing, asphalt resurfacing, plumbing re-piping, electrical retrofit and structural wood repair. He provides construction oversight and progress inspections for residential and commercial projects. He

has 43 years managing capital improvement projects for condominium associations.

Lance Luke serves as an expert witness on construction and real estate litigation cases. He was formally an Advisory Board Member for the State of Hawaii Regulated Industries Complaints Office, as an expert consultant (for over 15 years). His expertise was in helping to resolve complaints filed with the Contractors' License Board. He was also selected in 2017 by Honolulu Assistant Fire Chief to serve on the RFSAC (Residential Fire Safety Advisory Committee) Building Code Subcommittee to prepare the Fire Life Safety Evaluation criteria.

He has written numerous articles on construction and inspection, which have published in both local and national media. He conducts up to 30 presentations a year to the construction, real estate and property management industry including educational webinars and construction seminars.

Three-time Best-Selling Author on subjects of construction management and building safety. Numerous articles published in national construction, design, and building management publications.

Featured guest on national media shows such as Times Square Today and Hollywood Live which were broadcast on national media outlets such as ABC, CNBC, CNN, NBC, Fox Affiliates, A&E, and Bravo.

Mr. Luke is a qualified insurance inspector and an approved Federal HUD Construction Inspector. HUD projects included "from the ground up" assisted living

facilities such as Plaza at Moanalua (2012), Plaza at Pearl City (2014) and Ilima at Leihano (2016) He is also listed as one of America's Premier Experts and Marquis Who's Who in America 70th Anniversary Edition. And is an instructor for National Seminar Providers such as Lorman Education Services, Compliance Prime, and Half Moon Education Seminars.

Lance Luke is a former member of the Structural Engineers Association of Hawaii and the American Bar Association serving on the Real Property/Probate Law Division and the Forum for the Construction Industry.

The National Building Expert Lance Luke shares his tips on Building Safety for Buildings large and small. He shares his 43 years of experience in the construction industry.

His webinars on building and construction topics draws audiences not only from the Unites States but from all over the world.

Sign up for a future webinar or two, or watch a few on demand at [askbuildingexpert.now.site](http://askbuildingexpert.now.site)