

## Q2 Newsletter

# WELCOME BACK!



## The Community Council of Maui

Originally formed in 1991 as The Condominium Council of Maui (CCM) and now known as The Community Council of Maui (CCM), we are committed to hosting regular meetings to provide the opportunity for association members to exchange information, share experiences, form ideas and reach solutions. We offer a forum for educational programs that feature recognized experts in Condominium and Community Association affairs for the benefit of each property and individual owners. With our established relationship with State agencies, our Board of Directors remains up-to-date on newly proposed and enacted laws that affect associations and its owners.

## PRESIDENT'S MESSAGE

Aloha CCM Membership,

What a fantastic start to 2022! Three in-person seminars in three months!

Thank you to all of our members and sponsors who helped to make the last three seminars such enjoyable events. The energy was palpable and the enthusiasm was contagious.

On March 18, we brought attorneys Bill McKeon, from McKeon Sheldon Mehling, LLLC, and Kyle Pineo, from Berding & Weil LP, to break down Fannie Mae's new lending requirements for condominiums and the disclosure implications for boards and managing agents. Prime Lending's David Lawrence balanced perspectives and weighed in directly from a lenders point of view.

On April 22, attorney Zachary McNish discussed Power Purchase Agreements and Michael Reiley of HNU Energy discussed how photovoltaic and electric vehicle powering stations intersect with condominium and community associations.

On May 20, Erin Pascua from Premier Restoration Hawaii moderated an energetic panel discussion on the effects of natural disasters and the insurance claims that follow. Speakers Surita Savio from Insurance Associates, Benjamin Oates, the current manager of Ke Kilohana on Oahu, Michael Dilisa, an adjuster from Sedgwick, and Anthony Nelson from Premier Restoration each provided unique perspectives for associations from their respective industries.

**As promised, 2022 is the year we reconnect and stay connected!**

This summer, we have a host of events to keep us informed and engaged.

Keep an eye on your email for an invitation to CCM's first Pau Hana Vendor Blender in late June or early July. We look forward to being able to share good food, music, beverages and a fun atmosphere with our members. Spaces will be limited so be sure to RSVP once the email drops!

On July 12, we will be hosting our Summer Hot Topics in Kihei, with the Lahaina chapter the following day on July 13. Details coming soon!

September 9 is our always-informative Legislative Update seminar and, following shortly thereafter on November 4, is our annual Trade Show.

We look forward to seeing you all throughout the summer at our social mixer events and back at beautiful Kamehameha Golf Club in September when we resume our seminar series.

Rebecca



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## 2022 CCM BOARD OF DIRECTORS

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SAVE *the* DATE

## 2022 Schedule

**July 12th**

**SUMMER HOT TOPIC – SOUTH SIDE**

**July 13th**

**SUMMER HOT TOPIC – WEST SIDE**

**September 9th**

**LEGISLATIVE UPDATE**

**November 4th**

**TRADE SHOW**

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## The Hui comes to Maui!

Learn how our program saves money, improves service, and provides a powerful tool for the condominium community.

**July 12, 2022** at Humpback Whale Sanctuary,  
726 S. Kihei Drive, 12 noon - 1 pm

**July 13, 2022** at The Whaler,  
2481 Ka'anapali Parkway, Lahaina, 12 noon - 1pm

**A brown bag lunch will be provided for both events**

The Purchasing Hui of Hawaii (Hui) lowers operating expenses & improves service for our 600+ members. Our program is risk free. The Hui provides lower prices for goods and services through cost containment contracts. Contracts are member driven. Members award the contracts, use them, and save money!

The Hui will be giving away a \$100 gift card at the end of each event.

### Topics Covered:

- **What is the Purchasing Hui of Hawaii**
- **How do we save the association money**
- **What are the benefits of being a Hui Member**
- **How do you become a Hui Member**



## What Board Members Should Know About Drain, Waste, and Vent Piping Systems

When it comes to the piping systems in your community, out of sight doesn't always mean out of mind. One way to protect the long-term health of your building and homeowners is by getting to know the age of your plumbing, staying proactive with pipe maintenance, and keeping track of leaks.

This is true for all piping systems in your building, including drain, waste, and vent or DWV. Usually, the supply lines that bring potable water into communities get the most attention. The water in these lines is under pressure, so when the pipes leak, they don't stop leaking until the water is turned off and the piping is repaired. It's equally important, however, that you monitor and understand the DWV system. That way, you'll know what to look for when things start to go wrong.



Clog in an opened DWV pipe

### What Is Drain, Waste, and Vent Piping?

DWV piping handles all the liquid and solid waste in your building—including what flows from fixtures like kitchen sinks, laundry rooms, and toilets. Wastewater begins its journey when it drains from an appliance or fixture via a horizontal pipe that leads to a central vertical line. Along the way, air and gases separate from the waste.

Waste travels down and out of your building through the drain component of the system. The vent component is what allows the drain to function: Harmful gases and odors rise upward through the vent and escape through the roof, relieving pressure so that the waste drains downward.

### Signs of Trouble in Your DWV System

Drain and vent pipes are usually made of the same material, which is typically cast iron in older properties and mid- and high-rise buildings. In general, cast iron DWV pipes will start to fail in 40 to 50 years. That duration may decrease due to outside factors, such as water quality and improper maintenance.

In a DWV system, about 50% of failures occur in the vent portion of the system. If owners begin reporting a sewer-like smell, it could mean gas is escaping from a nearby vent pipe into their walls and ceiling cavities; these gases are harmful and pose potentially serious health consequences. Slow drains and frequent backups are other signs that your sanitary pipes may be reaching the end of their useful life.

## Avoiding DWV Failures

Like any piping system in your building, DWV pipes operate best with proactive maintenance, occasional repair, and eventual replacement. Be sure that your property managers are regularly cleaning the lines to help reduce the buildup of grease, detergent, and other materials. They should also use a variety of technologies, such as cameras and ultrasonic testing, to perform regular inspections that can identify problems.

## Managing DWV Pipe Replacement

If you have occasional leaks, or if a homeowner damages a pipe, such as while attempting to clear a clog, a one-off repair is usually adequate. But once you see frequent leaks in the drain or vent sections of the system, it's likely time to consider a full DWV pipe replacement.

You may be tempted to try to save money by replacing only the drains or vents in the system. But remember: Vent pipes fail as often as drainpipes, and they are the same age and material. If you're opening the walls anyway, it makes sense to replace the entire system rather than having to repeat the process sometime down the road.

Finally, when it's time for a repipe, consider hiring a company that specializes in DWV system replacement. It can help ensure your project is as painless and efficient as possible. Look for "turnkey service," which means you'll work with one company to take care of everything—from pipe to paint and everything in between.

While DWV systems may not be at the top of your board's list of priorities, ensuring the health of your building is important. Partner with your property managers on proactive maintenance and repair of your plumbing systems, including DWV. It can go a long way to extending the useful life of your piping, avoiding health hazards that can result from failing systems, and giving you time to plan for an eventual repipe.

## About the author



**Joe Brawley** ([jbrawley@sagewater.com](mailto:jbrawley@sagewater.com)) is Vice President of Operations at Sage Water, North America's leading pipe replacement contractor. He has managed some of the company's most demanding pipe replacement projects. This includes the complicated and widespread drain, waste, and vent repipes in Hawaii high-rises that are due to failing cast iron. SageWater is headquartered in Alexandria, VA. Over the past 30 years, they have replaced more than 35 million feet of pipe in 100,000+ occupied residential units.

# Hawaiiana is Maui's #1 Management Company



**Doug Lefler, CMCA**  
Vice President,  
Maui Operations

Hawaiiana Management Company, Ltd. currently serves 110 properties on Maui, Lanai and Molokai. Maui County clients include Andaz Wailea Hotel, Aina Nalu, Sugar Beach Resort, Wailea Golf Estates and the Hotel Hana-Maui Condominiums. In addition, Hawaiiana manages several associations on the island of Lanai including Villas at Koele Phase II and Terraces at Manele Bay, plus Molokai's Wavecrest Resort and Molokai Shores. Hawaiiana's Maui County Associations are served by a dozen Management Executives and the industry's most experienced accounting, administrative and technical property management staff.

Hawaiiana serves many of its Maui County clients from its primary office in Kihei. In addition, Hawaiiana's West Maui office in the Kahana Gateway Professional Building is conveniently located to serve over 30 west side clients with their association management needs.

## Why choose Hawaiiana?

- We serve 110 associations in Maui County
- Local (vs. mainland) banking
- All employees are in Hawaii

## Maui County Clients:

- Aina Nalu
- Coconut Grove on Kapalua Bay
- Cottages at Kulamalu
- Emerald Plaza Place
- Emerald Plaza II
- Haiku Town Acres
- Hale Kai
- Hale Kamaole
- Hale Royale
- Hokulani Golf Villas
- Hololani
- Honokowai East
- Honu Alahele
- Ho'olea Terrace at Kehalani
- Ho'onanea at Lahaina
- Hotel Hana Maui Condominiums
- Island Sands
- Kaanapali Plantation
- Ka'anapali Royal
- Kahana Village
- Kai Malu at Wailea
- Kalama Terrace
- Kamalani
- Kamani at Kehalani
- Kamaole Beach Royale
- Kamaole Grand
- Kamaole Heights
- Kamaole One
- Kamoku Condominiums
- Kana'i A Nalu
- Kanani Wailea
- Kanoe Resort
- Kapalua Golf Villas
- Ke Alii Ocean Villas
- Keala o Wailea
- Kehalani Community Association
- Kepuhi Beach Resort
- Kihei Beach Condo
- Kihei Garden Estates
- Kihei Villages
- Kilohana Kai Vistas
- Kilohana Waena
- Koa Resort
- Kua'aina Ridge
- Kulamalu HOA
- Lahaina Roads
- Lanikeha
- Luana Kai
- Ma'alaea Banyans
- Ma'alaea Kai
- Ma'alaea Mermaid
- Ma'alaea Surf
- Ma'alaea Yacht Marina
- Mahana Estates
- Mahanalua Nui HOA
- Mahina Surf
- Mahinahina Beach
- Makali'i at Wailea
- Makena Surf
- Maluhia at Wailea
- Maui Kaanapali Villas
- Maui Lani Community Association
- Maui Parkshore
- Meadowlands HOA
- Millowai-Maialea
- Molokai Shores
- Napili Point Resort, Phase I
- Napili Point Resort, Phase II
- Napili Bay
- North Shore Village
- Opukea at Lahaina
- Pacific Shores
- Paki Maui
- Paradise Ridge Estates
- Pohailani Maui
- Pu'unooa HOA
- Royal Kahana
- Sandhills Estates HOA
- Southpointe at Waiako
- Spinnaker
- Sugar Beach Resort
- Summit at Kaanapali, Phase I
- Terraces at Manele AOA
- Terraces at Manele Bay, Phase IV
- The Ironwoods at Kapalua
- The Mahana at Kaanapali
- The Office Centre
- The Palms at Manele, Phase I
- The Ridge at Wailea
- The Vintage at Ka'anapali
- Valley Isle Resort
- Villas at Kahana Ridge
- Villas at Koele, Phase II
- Wailea Beach Resort & Residences (Andaz Hotel)
- Wailea Golf Estates
- Wailea Golf Estates II
- Wailea Golf Vistas
- Wailea Highlands
- Wailea Kai Homesites
- Wailea Kialoa Homesites
- Wailea Pualani Estates
- Wailele Ridge
- Wailuku Heights Ext. Unit II
- Waiolani Community Assn.
- Waipuilani
- Wavecrest Resort
- West Kuiaha Meadows



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Director, West Maui Office



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Senior Management Executive



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# Emergency Action Plans & Emergency Preparedness

By Lourdes de Armas, Director  
Hawaiiiana Management Company, Ltd.

Safety should be, and is for some, a part of everyday life. As building owners and residents stay informed of pending emergency situations via various information outlets, building managers prepare and take measures to better ensure safety and the preservation of life and property during and after a storm or other emergency. However, not all associations, owners, residents or buildings have a plan.

If you're reading this article and you, your loved ones and/or your building do not have an Emergency Action Plan (EAP), it is time to develop one. There are plenty of online resources that offer free templates on the subject of emergency preparedness. You should have an EAP (and review it periodically) for all the major disasters known to affect Hawaii, both natural and other — hurricane, tsunami, earthquake, fire, flood, and active shooter. Sample Emergency Action Plan templates from OSHA (Occupational Safety and Health Administration), the CDC (Center for Disease Control) and DHS (Department of Homeland Security) can be found online.

**Communications:** Of paramount importance for any EAP, is a communications plan. It is very difficult to implement any plan if you cannot communicate. Stay tuned to news and weather via internet, cell phone and radio; and be ready and able to communicate with loved ones and staff. In certain situations, it is important to know cell phone coverage may be limited or not available -- the network may be flooded with callers or cell towers may be down. Have an alternate plan to be able to communicate in case your cell phone is not an option. A possible alternative is to have a rally point established ahead of time where you can meet so you can communicate in person. Two-way radios and satellite phones are some other options, but may not be feasible for common households due to limited coverage and/or costs. Develop a communications plan that works for you.

**Hurricanes:** Your plan should involve both pre- and post-storm preparations that should be readily accessible throughout the year, so you don't find yourself scrambling at the last minute. If you're a building or site manager, include a plan in your building management program to help identify any residents that may require assistance. A sample hurricane preparedness plan can be found online at: <https://www.redcross.org/get-help/how-to-prepare-for-emergencies/types-of-emergencies/hurricane.html>. Another sample emergency preparedness plan provided by the State of Hawaii Emergency Management Agency can be found online at: <http://dod.hawaii.gov/hiema/public-resources/preparedness-information/>.

**Tsunamis:** Have a plan to move to high ground within 6-10 minutes of an alarm and have basic provisions ready to sustain yourself and your loved ones for a period of several days. Building and site managers should have an evacuation strategy for residents and personnel to move to high ground and

**Floods:** Concerning floods, you should develop a plan to gain high ground; with or without a vehicle; and avoid crossing running water. Check out some flood safety tips at: Flood Safety Tips and Resources (weather.gov).

**Active Shooter:** No one likes to talk about this or think it can happen to us, but the reality is that it is happening. It is being reported in the news more often and you should account for it in the development of any comprehensive EAP. Check the DHS (Department of Homeland Security) website for specific information at: <https://www.dhs.gov/active-shooter-preparedness>.

**Self-Reliance, First Responders – One Community:** First Responders are extraordinary men and women who risk their own safety to help others. One of the best things we can do for ourselves and each other is to be self-reliant as much as possible. Doing so will enable our First Responders to more effectively do their jobs and help others who are in critical need. During a major catastrophe, it will be highly likely that there will be not enough first responders and resources available for everyone who might be affected. Therefore, be sure your EAP takes this into account; familiarize yourself with your property's fire evacuation plan and practice your individual EAP with your loved ones and/or staff to ensure you can be as self-sufficient as possible. Once first responders arrive, be sure to follow their instructions.

**Proper Funding:** Related to preparing for emergencies, one of the major challenges we all face revolves around funding. As an example, as a result of the fire at Marco Polo, the issue of fire sprinklers is now the order of the day, an issue which no one could have foreseen or planned for. If you're an association manager, board member or individual owner, plan to adequately fund your reserves or savings for unforeseen contingencies. If you're a building manager, develop a fire safety plan you can use now, with or without sprinklers. Building managers can also contact the Fire Inspector's Office for assistance in developing or improving a fire safety plan. Visit <https://www.honolulu.gov/hfd> for more details.

Developing a plan and having knowledge and familiarity of that plan is the one thing you can do to help yourself and help others during any disaster which will allow First Responders to attend to true emergencies. Use your common sense and periodically review your plan to ensure it is current and still applies for your property or situation. A quarterly review is recommended; a semi-annual review is also acceptable.

Please take the following away from this article: 1) Develop an Emergency Action Plan. If you have one already, revisit it and make any necessary modifications and periodically review it with your loved ones and/or staff; and 2) In the case of a condo or homeowner's association or individual resident, adequately fund your reserves or savings to plan for unforeseen emergencies and/or circumstances. The simple addition of a line item in your budget planning at an appropriate dollar amount for your building/property will go a long way in helping to ensure the preservation of your life and the lives of those you love, as well as your home and investment.

Take care of yourselves and each other.

"It takes as much energy to wish as it does to plan." – Eleanor Roosevelt.

**Lourdes de Armas** is a Director with Hawaiiiana Management Company, Ltd. where she has worked since 2012. In addition, she serves as an Operations Specialist with the United States Coast Guard Reserves. Lourdes has deployed to assist with Coast Guard relief efforts in Puerto Rico for Hurricane Maria in 2017, assisted with Hurricane Lane communications efforts on Oahu in 2018 and deployed to New Orleans in 2021 to assist with Hurricane Ida recovery efforts.

# Find Facts Now!

## Early Preparation of a Construction Defect Claim Can Produce Quicker Results

When confronted with construction defects at your association, the first questions that an owner will likely ask almost always relate to money. How much will it cost to pursue claims against the builder? Who will ultimately pay for the repairs? The answers to these questions depend, to a certain extent, on how well and how soon the association is prepared to support its claims.

To avoid construction defect litigation by allowing builders to fix defective construction, the Hawai'i Legislature passed the Contractor Repair Act ("CRA") that imposes a process where an association notifies a builder of defective conditions and allows the builder to respond with a repair or settlement offer. The process also requires the parties to mediate the dispute with a trained mediator if they cannot agree on the repair or settlement. We lawyers call these requirements the "prelitigation" or "CRA" procedures.

The stated purpose for the prelitigation procedures is worthwhile: it seeks to reduce the number of construction defect lawsuits in Hawai'i, improve the standards and procedures to resolve construction defect cases early, and make it easier for a builder to obtain liability insurance its construction.

One result of this legislation is that insurance companies are more willing to issue a liability policy to a builder to construct a major development. If the CRA is in place to lessen the threat of a potential lawsuit, then it also lessens an insurance company's potential exposure. But the same general liability policies typically state that coverage is provided only for sums that an insured "is legally obligated to pay as damages" - a phrase that insurance companies continually argue requires *filing a lawsuit* before any coverage obligations are triggered.

This raises two questions: will a builder be willing to fund the resolution of a substantial claim when it has paid premiums for an insurance policy supposed to cover those same claims? What does this mean for homeowners or associations hoping to resolve disputes through the required CRA prelitigation procedures?

It means that preparation is paramount.


While insurance companies will argue that they do not have to provide coverage until a suit is filed, general liability policies also typically include language stating that the insurance company "has the right, but



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not the duty” to pay for a settlement before it must provide coverage. Thus, if it makes economic sense for the insurance company to settle during the CRA prelitigation procedure phase (if the cost to ultimately defend its insured against a lawsuit is likely to outweigh the current cost to settle), the insurance company may do so even though it also argues that it has no current coverage obligations.

For this to be a possibility, however, the insurance company will likely require evidence that covered damages exist at the property. This is where association preparation is imperative. Evidence is the key word with this preparation, and the more thoroughly an association compiles it, the greater the likelihood the insurance company will resolve the issues during the CRA prelitigation phase. This preparation should include all evidence of damages, repairs, owner complaints, inspections, surveys, consultant analysis, and of any costs of repair performed. Anything - and everything - related to physical damage to the property due to faulty construction should be vetted and assembled at the earliest opportunity. Early preparation of the facts of a claim will facilitate an insurance company's acknowledgement of its coverage obligations.

Even with the most well-prepared owners or associations, insurance companies may still refuse to participate in the CRA prelitigation procedures. While unfortunate, it is not necessarily fatal to an early resolution of the claim. The CRA prelitigation procedures will still be followed, and the builder can settle the claim absent litigation. Ensuring that the best evidence is gathered and presented during this process can only aid early resolution, particularly when, as we routinely recommend, a mediation occurs during this period.

Should litigation ultimately become necessary because neither the insurer nor the builder will fund necessary repairs, the advance preparation done will nonetheless be vital. Because the evidence relating to damages has been gathered, a major early hurdle will have been cleared and resolution of that litigation can be achieved as soon as the defense is ready to discuss it.


Thus, when a property owner is considering the cost of pursuing a construction defect claim, and the time necessary to do that, remember that gathering much evidence, soon, may reduce both. Your attorney can recommend experts who are skilled at analyzing construction problems and obtaining the evidence to pursue a claim. An early investment in such an expert and the guidance of legal counsel may be a property owner's best protection against construction problems.




## Kyle Pineo

Kyle Pineo is an Associate Attorney at Berding & Weil LLP's Hawaii office. Kyle represents common interest developments and property owners in construction, real estate, and insurance litigation, including construction defect cases involving new construction, conversion, repair, and renovation work for single family homes and low-, mid-, and high-rise common interest developments.

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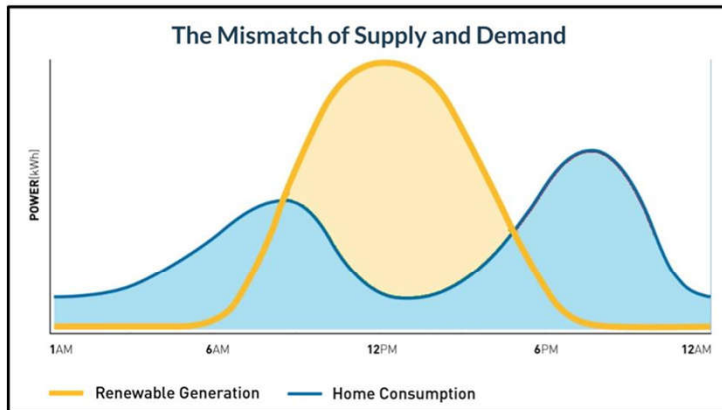
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# Water Heaters: An Unlikely Hero



Have you felt the pain in your pocketbook these last couple months at your local gas station? How about your electric bill? Well, it may be because Hawaii still imports oil and coal to produce over 70% of our energy, which means the cost of our electricity is dependent on global pandemics and questionable foreign governments. Unfortunately, this is causing Hawaii's already high gas prices to go up even more.

Relying on locally-produced clean energy can free us from world events affecting our electricity prices so drastically - and it's all right here in our backyard. Hawaii was the first state in the country to commit to having our electricity be generated from 100% renewable energy sources by the year 2045. That's right around the corner! Thankfully, we have been making great progress to achieve this monumental goal with some of the highest percentages of solar panels on homes in the country.



So how can we have so much solar and still need to import the vast majority of our energy? It's because of the mismatch between supply and demand. In the middle of the day, the sun is shining on all of those solar panels, creating clean energy. That's also when we're gathered in shared spaces, like work, using less energy. Then in the evenings we all go to our separate homes and turn on the AC, cook, clean dishes, shower, and wash clothing creating a spike in energy use after the sun has set. That's when

our electricity comes from expensive, imported fossil fuels.

## OPPORTUNITY

When we shift the time of day we use energy, we shift the *type* of energy we use. Water heaters are an ideal appliance to shift because 1) they're one of the biggest users of electricity in our homes, and 2) we typically don't notice or care when the tank turns on as long as there's hot water when we need it. You know, for those steamy hot showers after a long day at work.



Hawaiian Electric needs to solve this mismatch, so they are sponsoring new smart water heater devices to shift to clean energy. After a quick free installation, water heaters can use more clean energy without residents even noticing. Intelligent software predicts and responds to resident's needs to ensure hot water is available while not compromising their comfort.

For residents who sign up for this smart device, licensed electricians splice the device into the electrical line, leaving the water heater's warranty intact. Even if the tank is replaced, the device can easily connect to the new tank.



While clean energy programs are typically limited to people with access to solar panels and electric vehicle chargers, now families living in multi-family buildings and townhomes can benefit too, even renters! Electric water heaters are already in people's homes, which makes it super easy to participate in the clean energy transition.

Since the installation only takes 15 minutes, the electricians can go along with the building's regular maintenance schedule like high-risk component inspections, pest control services, and other regular vendors, reducing disruption for residents.

This smart technology can be applied to other assets like pool pumps and HVAC thermostats—water heaters are just the beginning!

## BENEFITS

Along with supporting Maui's transition to 100% locally-produced energy, other benefits include:

- 1) **Maintenance Alerts.** The device can detect leaks and failed heating elements, and can alert you to problems before frustrating late-night service calls and costly damage and insurance claims occur.
- 2) **Bill Credits.** As a thank you for participating, the bill-payer receives \$3 to \$4 off their MECO bill each month for the duration of the five-year program, which is likely to be renewed for several more years.

For properties where the AOA pays the MECO bill, the credit could be aggregated, so that a property that installs 200 devices, could save \$800 every month, or \$9,600 a year. New pool furniture, here we come!

- 3) **Monthly reports.** Reports are sent to property managers each month with updates on the number of participants, active devices, and environmental impact, tracking the ways that your community is part of the solution.

## QUALIFICATIONS

Multi-family homes allow for dozens of installations at one time. However, if neighborhoods of single family homes qualify, they can participate too.

- Standard electric water heaters (no tankless, gas or solar thermal)

Most of the property units have two or more bedrooms

**Want to learn more?** Contact Nicole at Shifted Energy ([nicole.lemas@shiftedenergy.com](mailto:nicole.lemas@shiftedenergy.com) and 808-427-9658) for a smart building assessment before July 15th and join your neighbors in the transition to clean energy.



*The energy problems our islands face will take all of us working together, being creative, and finding solutions so that we can all live in this beautiful place responsibly and affordably for years to come.*



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