

REGULATION OF HAWAII'S ROOFING INDUSTRY

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FOREWORD

This report has been prepared in response to House Resolution No. 368, H.D. 1 which was adopted during the 1988 Regular Session of the Hawaii State Legislature. H.R. No. 368, H.D. 1 requests a study of the adequacy of the current level of regulation of the roofing industry in Hawaii.

Since adoption of the resolution, the Legislative Auditor has submitted the 1989 sunset evaluation update for the Contractors License Board under which Hawaii's roofers are licensed, and the Regulated Industries Complaints Office (RICO) has reorganized and implemented a new computerized complaints tracking system.

A number of the concerns raised in H.R. No. 368, H.D. 1, are addressed in the Auditor's recommendations and RICO's program changes. Readers are encouraged to review both the Auditor's report (No. 3-89) and RICO's annual Report for 1989 in conjunction with this report.

This report focuses on the regulatory provisions and responsibilities of the Contractors License Board, and the complaints resolution procedures of RICO. The relationship of the state licensing system with the counties' building code enforcement responsibilities, and dispute resolution alternatives to those offered by RICO are also examined.

The report finds that, overall, the current procedures for licensing and investigation of complaints are adequate and sufficient. Recommendations, however, are offered as to actions that may strengthen and expedite enforcement of current regulations and the elements of the system designed to protect the interest of consumers who use the products and services of licensed roofers.

We wish to express our sincere appreciation to the following individuals for their assistance in the preparation of the report: Karen A. Essene, Volunteer Mediator, *Neighborhood Justice Center*; James Kobashigawa, Executive Secretary, Contractors License Board; Tim Lyons, Executive Director, Hawaii Roofing Contractors Association; Rod Maile, Senior Hearings Officer, Department of Commerce and Consumer Affairs; and Tom McCaffrey, Investigations Manager, Regulated Industries Complaints Office (RICO).

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Chapter 1

INTRODUCTION

House Resolution No. 368, H.D. 1 (see Appendix A), requests the Legislative Reference Bureau (Bureau) to study the adequacy of regulation of the roofing industry including whether:

- (1) Licensing standards for roofing contractors are sufficient;
- (2) There are adequate remedies available to consumers to redress problems caused by negligent roofing work;
- (3) Current roofing standards are being adequately enforced;
- (4) There should be mandatory bonding of all roofing work: and
- (5) County public works departments should institute an inspection process for roofing.

In order to examine these issues, Chapter 2 reviews the current state licensing provisions for roofers and the county building codes as they relate to roofing work.

Chapter 3 examines the remedies available to consumers with complaints regarding roofing work, and the agencies, both governmental and private, that will assist in the resolution of such complaints.

Chapter 4 provides a brief overview of the 1989 RICO data on complaints received about roofing work, and the disposition of those complaints. This chapter also summarizes this information in terms of the number of roofing licensees that were the subject of complaints.

Chapter 5 presents the report's findings, conclusions and recommendations for each of the issues requested in H.R. No. 368, H.D. 1.

Chapter 2

REGULATION

State Regulation

The State of Hawaii regulates a number of professions and trades. The regulatory statutes require that persons engaged in the regulated activities be licensed, and set forth standards of fair business practices and penalties for violation of the standards. Hawaii's roofing contractors are subject to the licensing provisions of Chapter 444, Hawaii Revised Statutes, which apply to all construction engineers and contractors. Roofing is specifically identified in Chapter 444 as a type of construction work requiring special skills to be licensed as a specialized building trade or craft.¹

Hawaii is one of 31 states that require licenses for those engaged in construction contracting. While some states limit their licensing requirements to specific types of construction activity (i.e. residential, remodeling, or non-residential), Hawaii's licensing law covers all types of construction and all building trades and crafts engaged in such construction.² The law defines a contractor as:

...a person who by oneself or through others offers to undertake, or holds oneself out as being able to undertake, or does undertake to alter, add to, subtract from, improve, enhance, or beautify any realty or construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure, project, development, or improvement, or do any part thereof, including the erection of scaffolding or other structures or works in connection therewith.³

"Contractor" includes subcontractors and specialty contractors, and "person" includes both individuals and organized groups of individuals such as corporations and associations.⁴

There are few construction activities exempt from the State's licensing requirements. Among the exemptions are, (1) when the aggregate contract price for an entire project is less than \$100, and (2) when improvements are undertaken by an owner or lessee for their own use or use by immediate relatives (not for sale or lease).⁵

Contractors License Board

The licensing of all contractors in the State, including roofers, is the responsibility of a 13-member Contractors License Board that is administratively within Department of Commerce and Consumer Affairs (DCCA). Members are appointed by the Governor and must include five

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licensed general engineering or building contractors, five licensed specialty contractors and three members who are not contractors. Members are not paid but are reimbursed necessary travel expenses. Each county is represented on the board.⁶ The board is responsible for issuing, renewal and revocation of licenses, and the overall enforcement of the laws and rules relating to contractors.⁷

Types of Licenses

There are three classes of contractors' licenses.

General Engineering	-	"A"
General Building	-	"B"
Specialty	-	"C"

Approximately 8,000 "A", "B", and "C" licenses are now in effect.⁸ Roofing is a "C-42" class license. (There are currently 90 specialty and subspecialty license classifications under the "C" class of licenses. (See Appendix B.)) A roofing contractor C-42 license authorizes the holder to:

[I]ninstall a watertight covering to roof surface by use of, but not limited to, cedar, cement, asbestos, metal, and composition shingles, wood shakes, cement and clay tile, built-up roofing, single ply, fluid type roofing systems, and other acceptable roofing materials including spray urethane foam, asphalt, and application of protective or reflective roof, or both, and deck coatings.⁹

Within the C-42 specialty classification are seven subspecialty licenses.

C-42a Aluminum shingles contractor. To install aluminum shingles so that an acceptable watertight surface is obtained;

C-42b Wood shingles and shakes contractor. To install wood shingles and shakes including all flashing materials to form a watertight surface, staining in conjunction with shingle and shake application and application of water repellent materials;

C-42c Cement and clay tile contractor. To lay cement and clay tile including any underlay, purlins, or nailer strips in conjunction therewith to for a watertight surface;

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- C-42d Composition shingle contractor. To lay any type of composition shingle including all flashings in conjunction therewith to form a watertight covering;
- C-42e Urethane foam contractor. To prepare roof surface and apply urethane foam and top coating in connection therewith to form a watertight roof surface;
- C-42f Liquid asphalt roofing contractor. To install built-up roofs using liquid asphalt and to apply top coatings;
- C-42g Roof coating contractor. Application of roof coatings for sole purpose of holding gravel on roof and provide reflective surface.¹⁰

While the holder of a C-42 license may work with all types of roofing, a subspecialty licensee may only engage in the type of roofing covered by the subspecialty license.¹¹ However, a contractor can hold several licenses if qualified.¹²

In addition to the roofing specialty license holders, "B" general building license holders automatically hold specialty licenses for aluminum shingle (C-42a) and wood shingle and shake (C-42b) installation.¹³ A general building contractor is defined as:

[A] contractor whose principal contracting business is in connection with any structure built, being built, or to be built, for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind, requiring in its construction the use of more than two unrelated building trades or crafts, or to do or superintend the whole or any part thereof.¹⁴

General building contractors have traditionally installed aluminum and wood shingles and shakes. The Contractors License Board considers that general contractors have the specific skills required to work with these roofing materials.¹⁵ However, the experience of Hawaii Roofing Contractors Association members with aluminum shingles has shown that both the nature of the material and the four-side interlock installation system severely limit the situations in which it can effectively be used, and Association members no longer install aluminum shingles.¹⁶

Licensing Requirements

In order to obtain a contractor's license, an applicant must submit to the Board:

- An application (see Appendix C) the signature upon which must be notarized,
- Three notarized letters certifying to the applicant's experience qualifications,
- A current credit report covering the previous five years,
- In the case of corporations with publicly traded stock, the previous five years' Form 10-K, a Standard and Poors or Dun and Bradstreet credit rating if available, and, at the licensing boards discretion, copies of any proxy statements prepared in the last five years under section 14 of the Securities and Exchange Act of 1934,
- A current financial statement prepared by a CPA or RPA,
- A state tax clearance or proof of payment arrangement,
- For Hawaii corporations, a file-stamped copy of the articles of incorporation,
- For foreign corporations, a copy of the certificate of registration on file at DCCA,
- For partnerships, a copy of the partnership registration on file at DCCA,
- For applicants with employees, a copy of their workers' compensation insurance policy or proof of authorization to act as self-insured,
- For applicants with no employees, a signed statement claiming exemption from workers' compensation requirements,
- A certificate of insurance showing minimum liability coverage for bodily injury of \$100,000 - each person, and \$300,000 - each occurrence; and property damage of \$50,000 - each occurrence.¹⁷

An applicant must have at least four years supervisory experience in their trade during the preceding ten years. The board may accept certain training or knowledge in lieu of experience.¹⁸ A list of applicants for licenses is circulated by the Board to interested parties and agencies for comment prior to issuance.¹⁹

An applicant must take and pass (passing grade is 75% or greater) a two-part written examination. Part one tests general knowledge of "... building, safety, health, labor and lien laws of the State and of the rudimentary administrative principles of the contracting

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business".²⁰ Part two tests the applicant's specialized knowledge in the field for which licensing is sought.²¹

The board has contracted with The National Assessment Institute, an independent testing firm, to develop, conduct and grade these examinations.²² The Institute has developed Part two trade specific examinations for the "C-42" specialty classification and the "C-42b" and "C-42d" subspecialties (wood shingles and shakes, and composition roofing). Applicants for the other subspecialties need only take the Part one exam on business management and law.²³

In 1989, there were 13 applicants for "C-42" licenses. Of these, six (46%) passed on the first try. Applicants may take the exam more than once and, of the total of 21 exams administered during the year, 12 (58%) received passing grades and nine failed. There were no applicants for "C-42b" or "C-42d" subspecialty licenses during the year.²⁴

License Revocation, Suspension, or Denial; Fines

The power to revoke a contractor's license or suspend the right to use a license lies with the board. The causes for revocation, suspension or refusing to renew licenses are:

- (2) Any dishonest or fraudulent or deceitful act as a contractor which causes a substantial damage to another;
- (3) Engaging in any unfair or deceptive act or practice as prohibited by section 480-2;
- (4) Abandonment of any construction project or operation without reasonable or legal excuse;
- (5) Wilful diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of any construction project or operation, and the use thereof for any other purpose;
- (6) Wilful departure from, or wilful disregard of plans or specifications in any material respect without consent of the owner or the owner's duly authorized representative, which is prejudicial to a person entitled to have the construction project or operation completed in accordance with such plans and specifications;
- (7) Wilful violation of any law of the State, or of any political subdivision thereof, relating to building,

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including any violation of any applicable rule or regulation of the department of health, or of any applicable safety or labor law:

- (8) Failure to make and keep records showing all contracts, documents, records, receipts, and disbursements by a licensee of all the licensee's transactions as a contractor for a period of not less than three years after completion of any construction project or operation to which the records refer or to permit inspection of such records by the board;
- (9) When the licensee being a copartnership or a joint venture permits any member or employee of such copartnership or joint venture who does not hold a license to have the direct management of the contracting business thereof;
- (10) When the licensee being a corporation permits any officer or employee of such corporation who does not hold a license to have the direct management of the contracting business thereof;
- (11) Misrepresentation of a material fact by an applicant in obtaining a license;
- (12) Failure of a licensee to complete in a material respect any construction project or operation of the agreed price if such failure is without legal excuse;
- (13) Wilful failure in any material respect to comply with this chapter or the rules and regulations promulgated pursuant thereto;
- (14) Wilful failure or refusal to prosecute a project or operation to completion with reasonable diligence;
- (15) Wilful failure to pay when due a debt incurred for services or materials rendered or purchased in connection with the licensee's operations as a contractor when the licensee has the ability to pay or when the licensee has received sufficient funds therefor as payment for the particular operation for which the service or materials were rendered or purchased;

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- (16) The false denial of any debt due or the validity of the claim therefor with intent to secure for licensee, the licensee's employer, or other person, any discount of such debt or with intent to hinder, delay, or defraud the person to whom such debt is due;
- (17) Failure to secure or maintain workers' compensation insurance when not authorized to act as a self-insurer under chapter 386;
- (18) Knowingly entering into a contract with an unlicensed contractor involving work or activity for the performance of which licensing is required under this chapter....²⁵

Contractors engaged in home improvement or renovation contracts are subject to additional requirements. They must explain to the homeowner the lien rights of all parties, and the owner's options and protection with regard to requiring bonding on a project.²⁶ Contracts with homeowners must be in writing and include the contractor's license number, the exact amount of the contract, the dates during which work is to be done, the scope of the project, the percentage to be subcontracted, and the risk of loss of any payments made to a sales representative.²⁷

Roofing contractors that guarantee workmanship for a period of more than seven years must include with the contract a bond for the replacement value of the roof covering when the contract involves an owner's or lessee's own private residence.²⁸

Whenever the board proposes to revoke, suspend or deny a license, the party is entitled to a hearing in accordance with the Administrative Procedure Act (Chapter 91, Hawaii Revised Statutes). When a license is revoked, suspended or denied, the decision may be appealed to the circuit court.²⁹ Any person found in violation of Chapter 444 faces a mandatory fine of between \$100 and \$5,000 for each violation. Licensees found using unlicensed persons when a license is required, or aiding and abetting an unlicensed person trying to evade the licensing requirements is subject to a mandatory fine of \$500 for the first offense, \$1,000 for the second, and between \$1,500 and \$2,000 for any subsequent offense.³⁰

County Regulation

Hawaii's counties are responsible for ensuring that all buildings and structures within their jurisdictions are not dangerous to human life, and do not constitute a hazard to health, safety or public welfare. To fulfill this responsibility, each county has enacted ordinances³¹ that adopt, with certain amendments, the Uniform Building Code (UBC).³² The UBC establishes specific standards for the construction, renovation, repair, and rehabilitation of buildings, and applies to all existing and proposed buildings and structures. It includes

standards and specifications for roofing materials and their application. Requirements for packaging and labeling of roofing materials are also set forth in the UBC.³³

The UBC gives the official responsible for code enforcement the powers of a law enforcement officer including the authority to stop work that is being done in a manner that is contrary to the UBC and to require corrective action.³⁴ The power to enforce the code covers all construction activities including those for which a building permit is not required. Thus, a roofing or re-roofing job is subject to the UBC even though it usually does not require a building permit. Similarly, a building inspector can require a building owner to repair a roof that leaks because it constitutes a hazard to health and safety of the occupants.

The counties do not have special roofing inspection programs but will conduct an inspection if the building owner or tenant reports a condition or has reason to believe that a code violation exists. If work is in progress, the contractor can be cited. Otherwise, the building owner may be found in violation of the county building code.

Each county has a Board of Appeals to hear and determine petitions relating to its building department's application of the county's building code. The procedures of the boards are subject to the State's Administrative Procedure Act.

Summary of Regulatory Provisions

The State regulates roofers by requiring that they pass a written examination and have appropriate knowledge and work experience to engage in the business of installing and repairing specific types of roofs. All applicants must pass an examination on business management and law. Trade specific exams have been developed for "C-42", C-42b", and "C-42d" license applicants. Successful applicants are granted a license that authorizes them to install and repair the type of roofing material for which the license applies. The focus of the State's licensing rules is to define and enforce standards for the business practices of licensees. The provisions of the state law are administered by an appointed Contractors License Board.

Roofing materials and workmanship are subject to county building code regulations. While a building permit is generally not required for a re-roofing or repair job, the work is still subject to the county's building code and a violation of the code must be corrected.

Thus, the business practices, materials, and workmanship of roofing contractors are regulated in significant detail by the State and counties. Procedures for enforcement of the regulations include the power to revoke, suspend or deny a license to engage in roofing work; to stop work on a project; and to require that conditions that violate the county's building code be corrected. Responsibility for licensing regulations is assigned to the Contractors License Board. The county charters and ordinances designate responsibility for building code enforcement to their Building Departments.

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The practices of these agencies are subject to the Administrative Procedure Act which helps insure uniform treatment of the regulated activities and individuals.

ENDNOTES

1. Hawaii Rev. Stat., sec. 444-7(d).
2. Hawaii Legislative Auditor, Sunset Evaluation Update, Contractors, Chapter 444, Hawaii Revised Statutes, Report No. 89-3 (Honolulu: January 1989), p. 2.
3. Hawaii Rev. Stat., sec. 444-1(2).
4. Ibid., sec. 444-1(4) and (5).
5. Ibid., sec. 444-2(4) and (7).
6. Ibid., sec. 443-3.
7. Ibid., sec. 444-4.
8. Interview with James Kobashigawa, Executive Secretary, Contractors License Board, April 6, 1990.
9. Chapter 16-77, Hawaii Administrative Rules, Contractors, (Department of Commerce and Consumer Affairs), Exhibit A, Specialty Contractor Classifications (dated January 1, 1988) p. A-11.
10. Ibid.
11. Ibid., sec. 11-77-32(d).
12. Ibid., sec. 16-77-35.
13. Ibid., sec. 16-77-32(c).
14. Hawaii Rev. Stat., sec. 444-7(c).
15. Letter from James Kobashigawa, Executive Secretary, Contractors License Board to Samuel B. K. Chang, October 25, 1990.
16. Interview with Tim Lyons, Executive Director, Hawaii Roofing Contractors Association, April 11, 1990.
17. §§16-77-9 and 16-77-10, Hawaii Administrative Rules, (Department of Commerce and Consumer Affairs).
18. Ibid., secs. 16-77-19 and 16-77-20.

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19. Kobashigawa interview.
20. Ibid., sec. 16-77-39.
21. Ibid., sec. 16-77-40.
22. Kobashigawa interview.
23. Letter from Sharon Luxon, Regional Director, the National Assessment Institute, to Nell Cammack, June 20, 1990.
24. Ibid.
25. Hawaii Rev. Stat., sec. 444-17.
26. Ibid., sec. 444-25.5.
27. §16-77-80, Hawaii Administrative Rules, (Department of Commerce and Consumer Affairs).
28. Hawaii Rev. Stat., sec. 444-25.7.
29. Ibid., secs. 444-18 and 444-19.
30. Ibid., sec. 444-19.
31. Chapter 5, Hawaii County Code; Chapter 18, Revised Ordinances of Honolulu; Chapter 12, Kauai County Code; and Chapter 16.26, Maui County Code.
32. Uniform Building Code, International Conference of Building Officials, May 1, 1985. (5360 South Workman Mill Rd., Whittier, California).
33. Uniform Building Code, Chapter 32.
34. Uniform Building Code, Chapter 2, sec. 202.

Chapter 3

CONSUMER REMEDIES

Responsibility for issuing, suspending and revoking roofing contractors' licenses lies solely with the Contractors License Board. However, under the state law both the Department of Commerce and Consumer Affairs (DCCA) and the Contractors License Board are responsible for enforcing Chapter 444 and the rules governing contractors. Chapter 26, Hawaii Revised Statutes, provides that DCCA shall "...protect the interests of consumers...throughout the State. It shall set standards and enforce all laws and rules governing the licensing and operation of, and register and supervise the conduct of, trades, businesses, and professions..."¹ At the same time, Chapter 444 states that the Contractors License Board shall "e]nforce this chapter and rules adopted thereto." (Emphasis added.)

The Legislative Auditor's sunset evaluations of Chapter 444 in both 1982 and 1988 found that enforcement of the contractors licensing law and rules was deficient.² This may, in part, be attributable to the assignment of responsibility to both DCCA and the Contractors License Board.

Regulated Industries Complaints Office - RICO

Consumer complaints against roofing contractors fall within the jurisdiction of DCCA's Regulated Industries Complaints Office (RICO). RICO is the principal state agency charged with resolving complaints that involve trades and professions subject to the State's licensing requirements. It was established in response to the 1982 findings of the Legislative Auditor that the various boards and commissions then responsible for both licensing and responding to consumer complaints did not operate with uniform and meaningful standards, policies, duties and practices.³

The 1982 State Legislature enacted measures that provided RICO a source of funding and personnel, and mandated DCCA's boards and commissions to delegate to RICO their "...authority to receive, arbitrate, investigate and prosecute complaints..."⁴ regarding those who furnish commodities or services for which a license from a DCCA board is required. RICO's attorneys have the same powers granted to the Attorney General and the Director of the Office of Consumer Protection with regard to protecting the interests of consumers.⁵

RICO considers its primary goal the timely and mutually satisfactory resolution of complaints.⁶ The relatively informal procedures used are not subject to the requirements of the Administrative Procedure Act (Chapter 91, Hawaii Revised Statutes). The power to grant, revoke or suspend licenses remains with the appropriate boards.

RICO is funded by special fees paid by the licensees of all DCCA regulated trades and professions. These fees are deposited in the Compliance Resolution Special Fund to be expended by the director of DCCA for personnel and any other activities related to compliance resolution.⁷ There is no charge to consumers for RICO complaint investigation and dispute resolution services.

Organization

RICO is organized into three units; investigations, liaison offices, and the legal section (see Appendix D).

The investigation section is made up of a consumer complaints section that provides intake services, consultation on issues involving both regulated and unregulated activities under the jurisdiction of DCCA, and referrals for complaints outside of RICO's jurisdiction. It also includes the investigations unit. Investigators are encouraged to resolve complaints and facilitate settlements between the parties in a dispute. The investigators do not specialize in specific types of licenses and are not "experts" in the technical aspects of the licensed professions.⁸

The liaison offices are comprised of the clerical and investigative staff on the neighbor islands. Staff in these offices have broader job responsibilities associated with other tasks of DCCA than do the Oahu staff.

The legal section receives case referrals from the consumer complaints and investigations units, may pursue formal prosecution through administrative or civil proceedings, and may propose formal settlements. This section also handles cases where an applicant wants to appeal the denial of a license by the licensing board or commission. The legal section is the State's advocate when declaratory relief is sought before a board.⁹

RICO Complaint Resolution Process¹⁰

RICO accepts complaints by telephone, in writing, and in person by walk-ins. An intake specialist receives the complaint and reviews it to determine whether RICO has jurisdiction. If not, the complainant is referred to the proper agency. If the problem falls within RICO's jurisdiction, a complaint form is completed and filed. The complaint is then reviewed to confirm RICO's jurisdiction and examine the allegation. A case file is opened and the case assigned a case number. The case may be closed at this stage if:

1. RICO does not have jurisdiction.
2. No violation is found.

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3. There was a technical violation but no consumer harm resulted.
4. Resolution of the violation requires the consumer pursue civil remedy in the courts.
5. The parties have resolved the dispute independently.

If not resolved, the case is referred by the consumer complaints section to the investigations or legal sections.

When a case is referred to the investigations section it is assigned to a RICO investigator who reviews the case file and:

1. Contacts the complainant to obtain a detailed statement of the complaint and any supporting documents, witness names and other relevant material.
2. Obtains statements from witnesses.
3. Obtains a statement from the contractor including the response to the allegations.
4. Reviews RICO's records on the contractor and the disposition of previous complaints.
5. Attempts to resolve the complaint in a manner acceptable to the parties involved.

The investigator reviews the case to identify possible violation of the licensing laws, and submits an investigation report. The case may be referred to the legal section for further review or closed at this stage by:

1. Settlement.
2. Determination that RICO does not have jurisdiction.
3. A finding of no violation.
4. A finding that there was a violation but the consumer suffered no harm.
5. Determination that resolution lies in a civil remedy which must be pursued by the consumer.
6. Other.

A case referred to the legal section will be reviewed by a RICO staff attorney who will:

CONSUMER REMEDIES

1. Conduct necessary legal research.
2. Examine hearing and settlement results from similar cases.
3. Contact the complainant and contractor to clarify the legal issues of the case, identify witnesses, and obtain evidence.
4. Reassess the case in light of the legal issues and evidence.

The attorney may:

1. Recommend that the case be closed.
2. Determine that it must be pursued in court by the complainant.
3. File a petition for a hearing before the licensing board's hearings officer.
4. File a settlement agreement with the board's hearings officer.

During calendar 1989, 47 cases involving 53 licensed roofing contractors were opened by RICO and 87% were closed within the year. Over one-fourth were closed within two months, and two-thirds within six months. The median period to resolve a case was between five and six months.¹¹ (Data excludes general contractors who do not hold C-42 licenses.)

Department of Commerce and Consumer Affairs Hearings¹²

Hearings officers are appointed by the Director of Commerce and Consumer Affairs "...to hear and decide any case or controversy regarding licenses and the application and enforcement of rules involving any of the boards ...".¹³ (Emphasis added.) Hearings officers have the power "...to issue subpoenas, administer oaths, hear testimony, find facts, and make conclusions of law and a recommended decision;"¹⁴ All hearings conducted under these provisions are subject to the requirements of the Hawaii Administrative Procedure Act, and the findings and recommendations of the hearings officers are subject to review and redetermination by the appropriate licensing board. The rules relating to the conduct of administrative hearings are set forth in Title 16, Chapter 201, Hawaii Administrative Rules (Department of Commerce and Consumer Affairs).

Only cases submitted by the RICO legal section are processed by the hearings officers for the Contractors License Board. When the RICO attorney submits a settlement agreement, it is reviewed by the hearings officer and the licensing board. If accepted by the board the case is closed. If rejected it is sent back to RICO for further consideration.

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When a hearing is requested the hearings officer first conducts a pre-hearing conference to explain the process to all parties. The hearings officer's recommended decision may involve significant sanctions and the respondent will usually be represented by an attorney. Following the pre-hearing conference, the hearing is scheduled at which all the evidence is presented. A recommended decision is prepared and copies provided to the parties who may submit written exceptions to or statements in support of the decision. This material is then presented to the licensing board for its review and a final decision. The board may also hear oral arguments on the issue. The hearings officer's recommended decision may be accepted, modified or remanded for further hearing.

A complainant or an applicant who has been refused a license or a licensee whose license has been suspended, revoked or not renewed may appeal the board's decision to circuit court.¹⁵

A "typical" contested hearing will take about six months from filing of the petition to a final decision by the licensing board. In fiscal year 1988-89, sanctions were imposed in 28 cases for all three classes of contractors.¹⁶

The following flow charts illustrate the dispute resolution process and the relationship between RICO and the Board through its hearings officer.

Other Consumer Remedies

Contractors Recovery Fund

Owners or lessees of private residences, including condominiums or cooperative units, who have contracted for work on their residence with a licensed contractor may recover damages of up to \$12,500 from the State's Contractors Recovery Fund. The claimant must be found to have been injured by a licensed contractor's "...act, representation, transaction, or conduct..."¹⁷ that violates the law or rules regarding contractors. Recovery from the fund is limited to actual damages, including court costs and fees; and damages can only be awarded by order of the circuit court or district court where the violation occurred.¹⁸

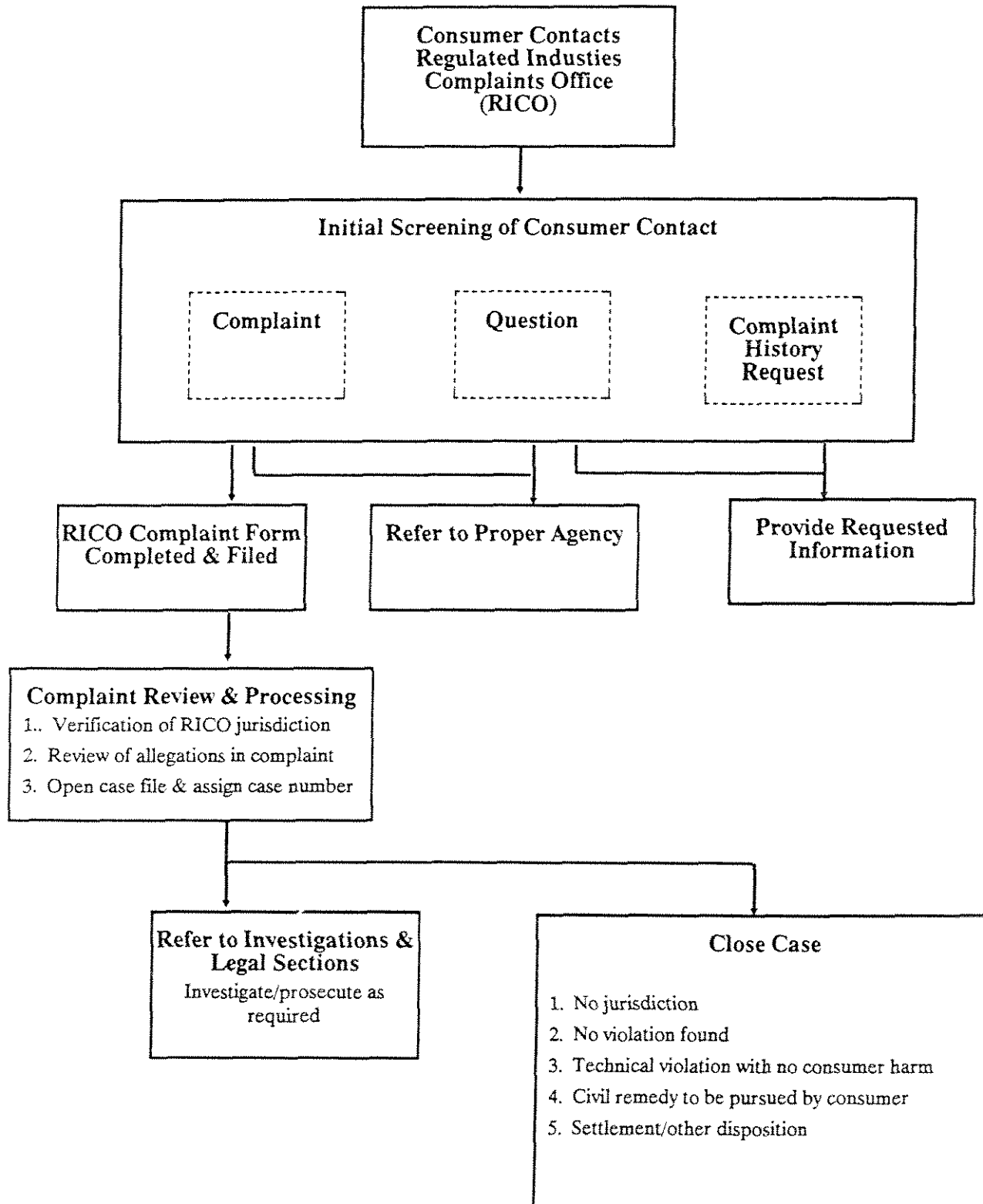
The contractor's license is automatically revoked when the judgement results in an award from the fund and a new license cannot be issued until the contractor has fully repaid to the fund the amount awarded.¹⁹

Hawaii Roofing Contractors Association (HRCA)

HRCA is the voluntary trade association of licensed roofing contractors. The association will, at the request of the customer, inspect roofing jobs involving association members. It also conducts inspections and provides technical expertise to RICO upon request.

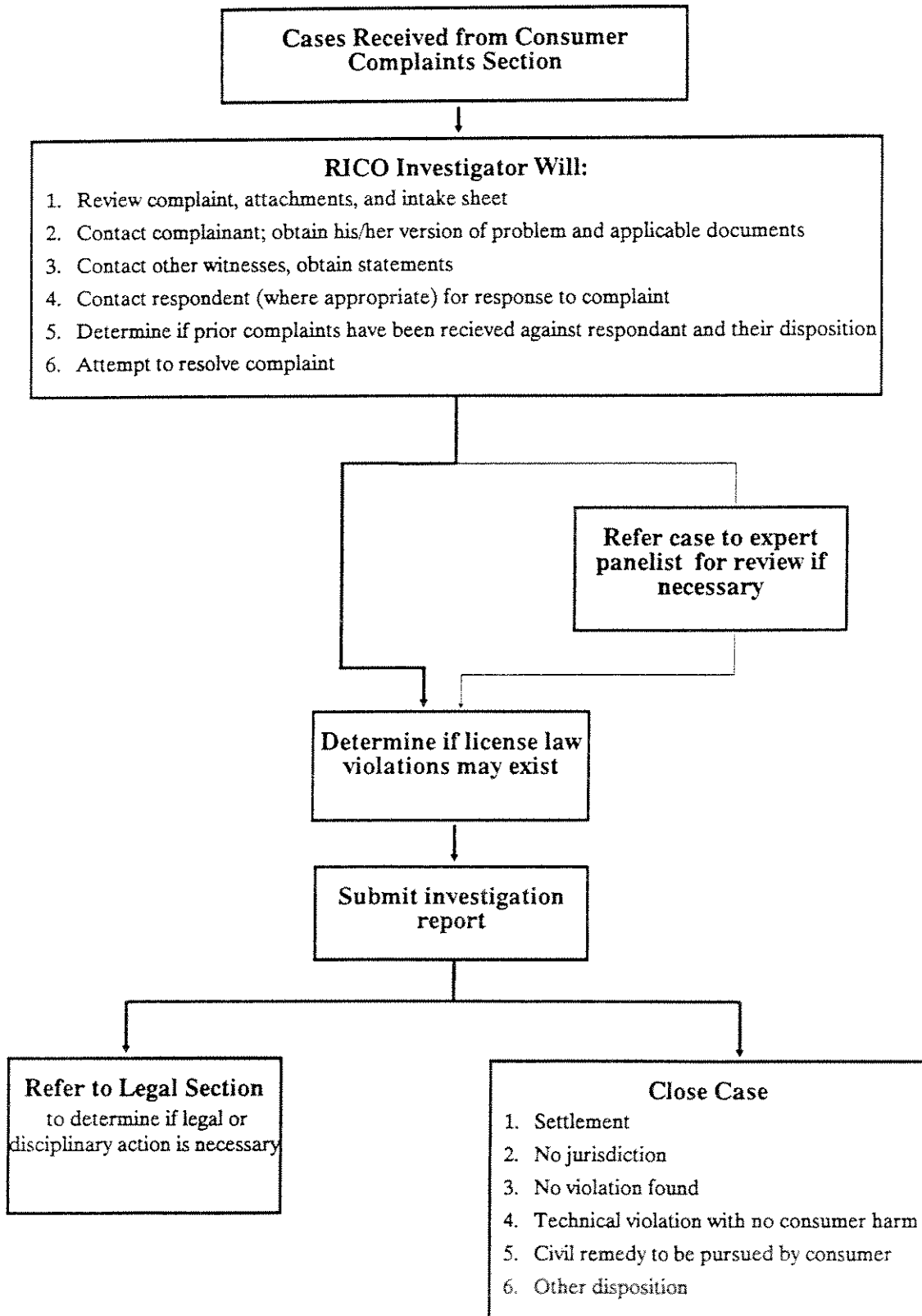
RICO COMPLAINT RESOLUTION PROCESS

Complaint Section Flow chart



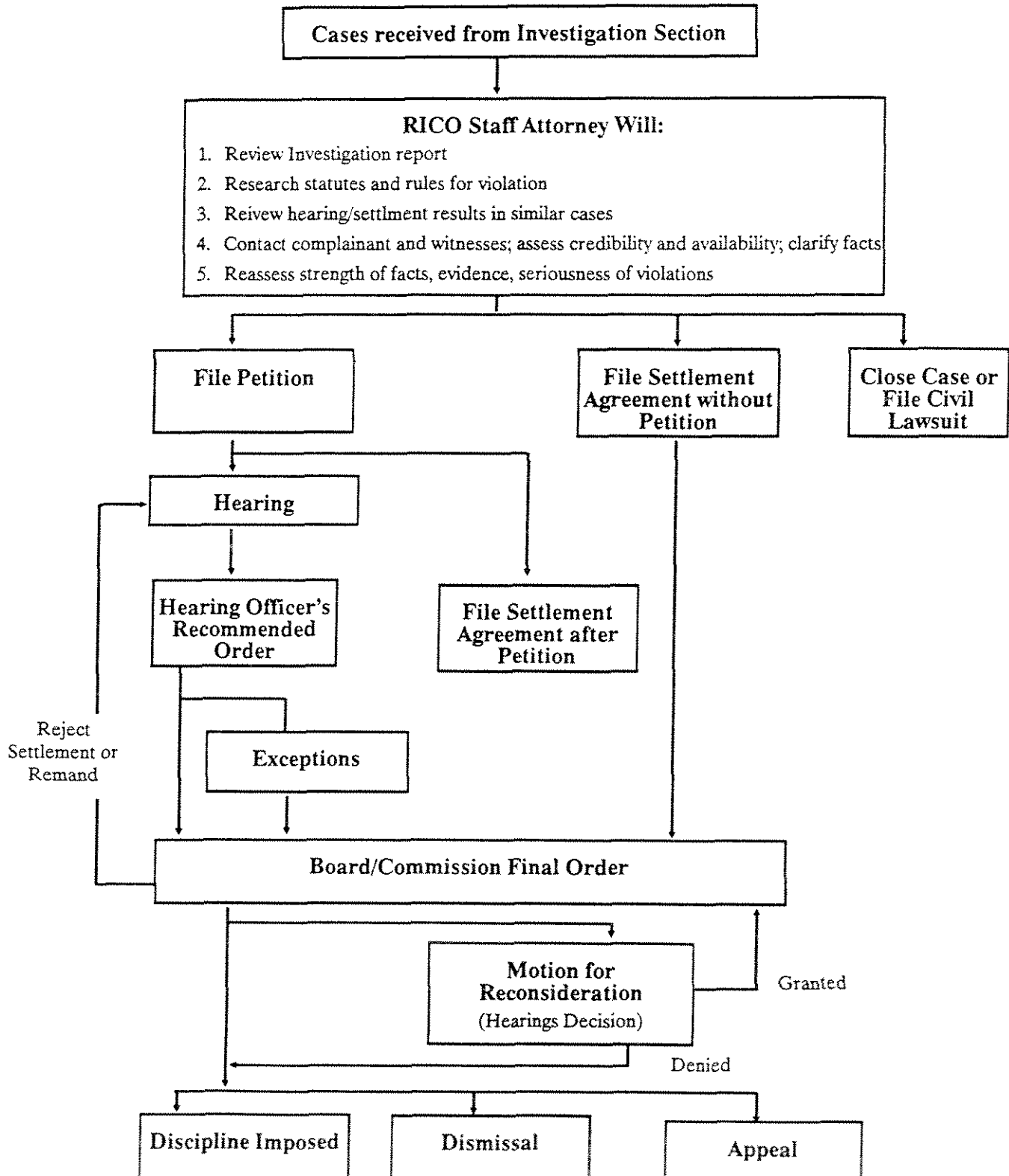
RICO COMPLAINT RESOLUTION PROCESS

Investigation Section Flow Chart

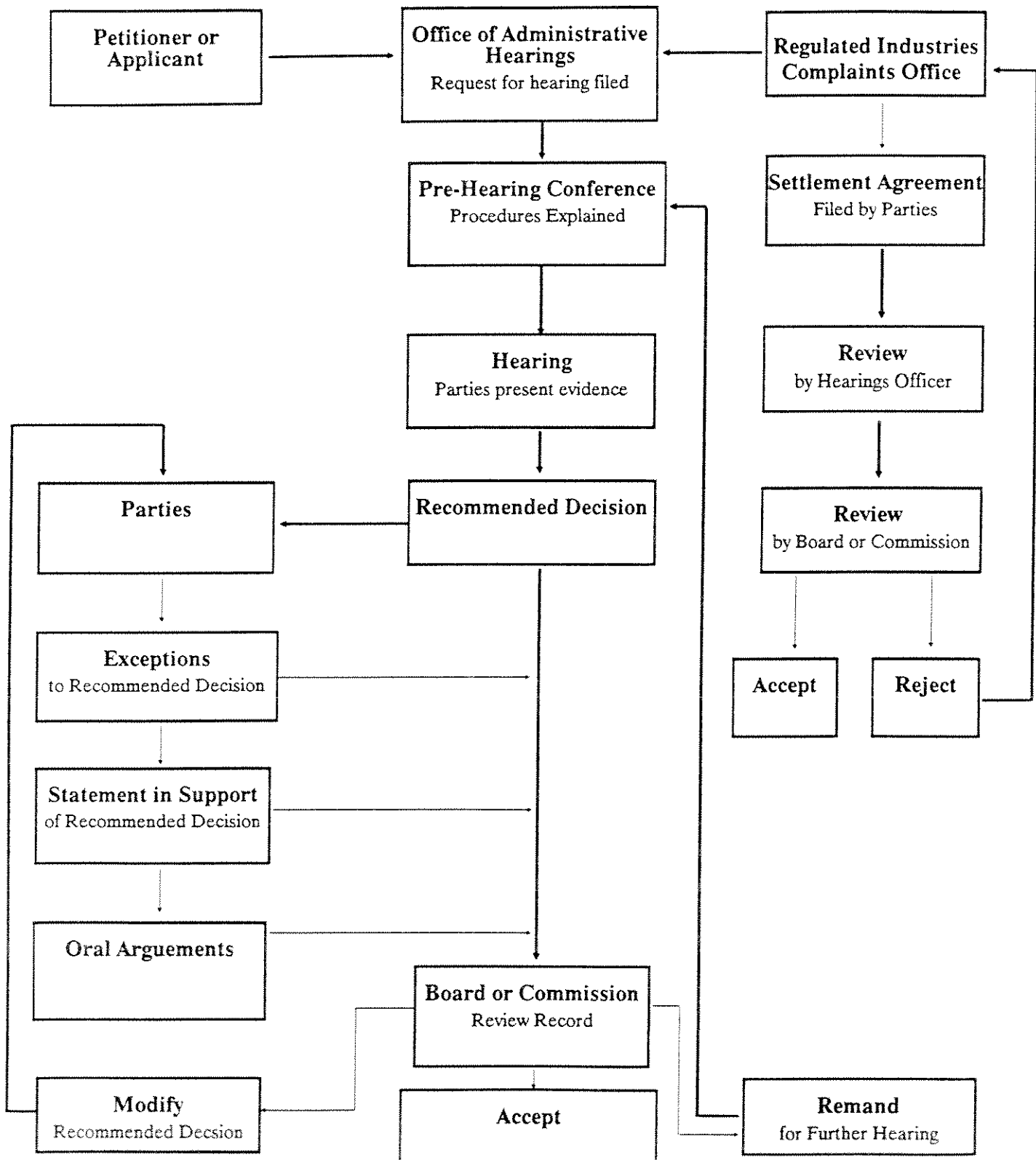


RICO COMPLAINT RESOLUTION PROCESS

Legal Section Flow Chart



Contested Case Hearing - Flow Chart



HRCA represents some 60 licensed roofing contractors throughout the State. The Association does not charge for these services.²⁰

Neighborhood Justice Center (NJC)

NJC provides mediation services for a wide range of disputes including those between businesses and their clients and customers. NJC dispute resolution is a voluntary process that uses a trained mediator to help the disputants develop a mutually satisfactory solution to their conflict. A nominal fee may be charged.²¹

District Court Small Claims Division

Consumer complaints involving amounts of \$2,500 or less may be filed with the District Court's Small Claims Division.²² The Small Claims Division offers a comparatively informal judicial process and the disputants are not required to be represented by an attorney.²³ At the request of an individual, the Court clerk will prepare the necessary papers. However, these services are not available to a business.²⁴ The maximum fee for issuing summons and copies of trial, judgment, and satisfaction in an action is \$5.²⁵

There is no appeal from a judgment of the Small Claims Division.²⁶

County Building Departments

The counties are primarily concerned with the safety of buildings within their jurisdiction. Building inspectors will determine if a county building code violation exists and identify the individual with primary responsibility for correcting the violation. If a consumer has reason to believe that work done does not meet county building code standards, they may request that county send a building inspector to the job to make a determination. If the job is recently completed or in progress the contractor may be cited and required to bring the work up to building code standards. However, ultimate responsibility for code compliance lies with the property owner. Inspectors are not authorized to determine fault, evaluate contract compliance, or resolve related disputes between a consumer and contractor.

Other

Disputes may be presented to the Office of the Consumer Protection or directly to the Contractor's Licensing Board. However, both agencies will, in the majority of cases, refer the case to RICO.²⁷

Summary of Consumer Remedies

The consumer's primary source of assistance with regard to a complaint involving a roofing contractor is the State's Regulated Industries Complaints Office (RICO). The services of RICO investigators and attorneys are available at no charge to the consumer.

RICO receives, investigates, arbitrates and, when necessary, prosecutes all complaints regarding those who furnish commodities or services for which a license from a Department of Commerce and Consumer Affairs board is required. Roofing is a regulated industry subject to RICO's dispute resolution procedures.

RICO's complaints resolution process is relatively informal with a goal of timely and mutually satisfactory solutions. This informality allows each case to be treated independently of others without regard to the more formal requirements of the Administrative Procedure Act. As a result, similar cases do not necessarily have similar resolutions under RICO's procedures.

Should more formal action be appropriate, RICO attorneys can submit the issue to the licensing board's hearing officer. Hearings are formal proceedings subject to the Administrative Procedure Act. The hearings officer will prepare findings and recommendations for consideration by the Contractors License Board which will make the final determination. The Board can revoke or suspend a roofer's license but is not authorized to award damages to the consumer.

Other sources of assistance include, the Hawaii Roofing Contractors Association for complaints regarding its members, Neighborhood Justice Center for mediation of business/customer disputes, Small Claims Division of state District Court for claims of \$2,500 or less, and county building departments for building code violation issues.

Consumers may seek relief directly from the courts by suing the contractor. The court may provide that restitution be made from the Contractors Recovery fund for amounts involving \$12,500 or less.

ENDNOTES

1. Hawaii Rev. Stat., sec. 26-9(b).
2. Hawaii, Legislative Auditor, Sunset Evaluation Update, Contractors, Chapter 444, Hawaii Revised Statutes, Report No. 89-3 (Honolulu: January 1989), p. 3 and p. 8.
3. Hawaii, Department of Commerce and Consumer Affairs, 1989 Annual Report of the Regulated Industries Complaints Office (RICO), p. 1.
4. 1982 Haw. Sess. Laws, Acts 60, 179, and 204.

CONSUMER REMEDIES

5. Hawaii Rev. Stat., sec. 26-9(h).
6. 1989 RICO Annual Report, p. 1.
7. Hawaii Rev. Stat., sec. 26-9(n).
8. 1989 RICO Annual Report, pp. 12-13.
9. Ibid., p. 17.
10. Ibid., pp. 24-26. and interview with Tom McCaffery, Investigations Manager, Regulated Industries Complaints Office, Department of Commerce and Consumer Affairs, April 11, 1990.
11. Unpublished printout provided by RICO, dated April 17, 1989.
12. Interview with Rod Maile, Senior Hearings Officer, Office of Administrative Hearings, Department of Commerce and Consumer Affairs, May 16, 1990.
13. Hawaii Rev. Stat., sec. 26-9(f).
14. Ibid.
15. Ibid., sec. 444-19.
16. Maile interview.
17. Hawaii Rev. Stat., sec. 444-26.
18. Ibid.
19. Ibid., sec. 444-28(e).
20. Interview with Tim Lyons, Executive Director, Hawaii Roofing Contractors Association, April 11, 1990.
21. Interview with Karen A. Essene, Mediator, Neighborhood Justice Center, May 5, 1990.
22. Hawaii Rev. Stat., sec. 663-27(a)(1).
23. Ibid., sec. 633-28(b).
24. Ibid., sec. 633-28(a).
25. Ibid., sec. 633-29.
26. Ibid., sec. 633-28(a).
27. McCaffrey interview.

Chapter 4

CONSUMER COMPLAINTS

Case Data

Complaints involving the trades and professions licensed by any of DCCA's 41 boards and commissions may be filed with RICO. In 1989, RICO received nearly 2,400 formal complaints, of which 681 (28%) were against contractors.¹ Forty-seven,² or about 2% of all complaints and 6.9% of contractor complaints were complaints about roofing contractors. A case represents a consumer complaint with regard to a specific job or contract. It may involve one or more licensees and a licensee may be the subject of more than one complaint.

The 47 cases involving roofers included 4 that were determined to be work done by unlicensed contractors, 8 that were closed when it was found that no violation had occurred, 4 closed due to insufficient evidence, and 8 that were withdrawn. Thus, more than one-half (24) of the 1989 roofing complaints were resolved without a determination that reflected failure of the licensed roofer to do a satisfactory job. The remaining 23 cases represent the cases with a valid complaint about some aspect of the transaction.³

Eighty-seven percent of the roofing complaint cases opened in 1989 were closed within the year. One-fourth were closed within two-months, and two-thirds within six months. The median period to resolve a case was between 5 and 6 months.⁴

License Data

There are some 8,000 contractor's licenses in effect statewide, of which approximately 260, or 3%, are roofing specialty and subspecialty licenses.⁵ An individual or firm may hold more than one license, and more than one licensee may work on a roofing job.

RICO's 1989 complaints records⁶ show that 53, or 20%, of the roofing licenses in effect were the subject of a complaint filed with RICO. However, for the complaints involving nine of these licenses it was determined that no violation had occurred. Of the remaining 44 licenses that were the subject of a complaint, six were involved in unlicensed activity cases, and 17 were cited in more than one complaint. These represent 3% and 7%, respectively, of active roofing contractor licenses.

Allegations

Complaints against roofers may relate to workmanship, business practices, contract violations, or licensing requirements, and more than one allegation may be made in a case or against a licensee. The 1989 RICO data⁷ shows a total of 67 allegations that were made in the 47 roofing cases filed that year.

Allegations relating to workmanship and specifications, i.e. (1) failure to follow job specifications, (2) poor workmanship, and (3) failure to honor a warranty, account for 55% of the total. Charges of failure to honor or complete a contract represent another 15%, and complaints regarding unlicensed roofing activities account for 10%.

Disposition of Charges

Overall, RICO determined that for 24 (36%) of the 67 allegations filed in 1989 there was either (1) no violation, (2) insufficient evidence, or (3) the complaint was withdrawn. Thirteen were successfully resolved and 14 referred to the legal section. Four of the charges filed in 1989 remained open at the end of the calendar year.⁸

Of the 37 allegations of failure to follow specifications, poor workmanship or failure to honor a warranty that represented 55% of all 1989 allegations, ten were successfully resolved, and 15 were determined to represent no violation, were withdrawn, or there was insufficient evidence. Six were referred to the legal section.⁹

Four charges relating to license violations were disposed of by sending a cautionary letter to the contractor, and three were referred to the legal section.¹⁰

Five of the ten allegations of failure to complete or honor a contract were found to have insufficient evidence or the complaint was withdrawn, two were resolved, and one referred to the legal section.¹¹

Summary

Roofing licenses constitute some 3% of the licenses issued by the Contractors License Board and the complaints filed against roofers in 1989 were in proportion to their overall numbers.

While 20% of active roofing licenses were the subject of a complaint in 1989, only 7% were involved in more than one case and 3% related to licensing violations.

A majority of the allegations made against roofers involve workmanship, a warranty or job specifications. The next largest group of complaints concern problems with contracts.

CONSUMER COMPLAINTS

One-third of all allegations were not substantiated including 15 of the 37 relating to workmanship and five of the ten that concerned contracts.

ROOFING COMPLAINTS ALLEGATIONS AND DISPOSITION 1989

Allegation Category	D i s p o s i t i o n						TOTAL
	Resolved	Not Substantiated	To Legal	Letter	Open	Other	
LICENSES	0	0	3	4	0	0	7
CONTRACT	2	5	1	0	1	1	10
SPECS/ WORKMANSHIP	10	15	6	0	3	3	37
BUSINESS PRACTICES	0	1	4	0	0	0	5
OTHER	1	3	0	3	0	1	8
TOTAL	13	24	14	7	4	5	67

Source: Prepared from unpublished data provided by Regulated Industries Complaints Office, Department of Commerce and Consumer Affairs, State of Hawaii, dated April 17 and 19, 1990.

ENDNOTES

1. Hawaii, Department of Commerce and Consumer Affairs, 1989 Annual Report of the Regulated Industries Complaints Office (RICO), p. 23.
2. Unpublished data provided by Tom McCaffrey, Investigations Manager, Regulated Industries Complaints Office, Hawaii, Department of Commerce and Consumer Affairs, dated April 17 and 19, 1990.
3. Ibid.
4. Ibid.
5. Interview with Rod Maile, Senior Hearings Officer, Office of Administrative Hearings, Department of Commerce and Consumer Affairs, May 16, 1990.
6. Unpublished RICO data.

REGULATION OF HAWAII'S ROOFING INDUSTRY

7. Ibid.
8. Ibid.
9. Ibid.
10. Ibid.
11. Ibid.

Chapter 5

FINDINGS AND RECOMMENDATIONS

House Resolution No. 368, H.D. 1, requests that the Bureau study "...whether the roofing industry, including general contractors who do roofing, is adequately regulated to protect the interests of consumers." The findings and recommendations of this study use the following as bench marks or tests of the interests of consumers of roofing and re-roofing services.

1. Roofing work should meet county building code standards.
2. Licensing standards should ensure that roofers have both the technical and *general business knowledge and experience* required to complete a job according to contract specifications and the laws that apply to such work.
3. Consumers should be able to select a contractor from a pool of licensed roofers that is large enough to ensure competition in both price and product choice. Thus, the licensing standards should not impose unrelated or unnecessary restrictions on entry into or the conduct of a roofing business.
4. The consumer should have reasonable access to information regarding the rights and obligations of both consumers and contractors and to other information that is necessary to an informed choice.

Are Licensing Standards for Roofing Contractors Sufficient

Findings

1. A roofing contractor must have a contractors license. Licenses are issued only after an applicant has submitted proof of experience, financial responsibility, and good character. A written examination to test knowledge of business practices and requirements as well as technical aspects of the roofing trade is also required. A list of applicants is circulated to interested groups and agencies for comment prior to issuance of a license.
2. Once issued, licenses are renewable every two years. Renewal applications are submitted to the Contractors License Board and reviewed by the Board's executive secretary who recommends renewal or denial.
3. The pass-fail ratio for the written examination for roofers indicates that it is an effective mechanism for identifying potential licensees who are not fully qualified.

FINDINGS AND RECOMMENDATIONS

4. The rules covering roofing contractors have been properly promulgated by the Contractors License Board and are available to the public.
5. The rules establish roofing as a "C" class specialty license activity with related subspecialty licenses for six types of roofing products and a subspecialty for roof coating contractors. General contractors with "B" class licenses are automatically licensed to install aluminum or wood shingles and shakes.

Conclusions

The State's licensing standards for roofers are generally appropriate and sufficient to protect the interests of consumers. They ensure that licensees have the professional experience, and the knowledge of basic business practices and laws applicable to the trade.

Consumers may reasonably expect that a licensed roofing contractor can properly install the type of roofing covered by the license and knows how to conduct business in accordance with generally accepted business practices and in compliance all legal requirements.

Recommendations

There is no apparent basis for the provision that automatically allows general contractors to install aluminum and wood shakes and shingles while all other types of roofing require a specialty or subspecialty license. If roofing is a sufficiently specialized trade to justify maintaining the "C-42" series of licenses, including the seven subspecialties, then all contractors performing such work should be so licensed.

Requiring a separate "C-42" or subspecialty license for all contractors installing roofing would reduce consumer confusion regarding who is or is not properly licensed to install roofing.

If, in fact, general building contractors are as qualified as roofing contractors to install aluminum and wood shakes and shingles, it is not clear why they are not equally qualified to work with other roofing materials.

The Contractors License Board should consider eliminating the automatic authorization for "B" general contractor licensees to install aluminum and wood shingles and shakes, and requiring that all contractors who install roofing be subject to the same examination and licensing provisions.

Should the Board find the present provision appropriate, consideration should be given to extending the general contractors' automatic authority to all roofing materials.

There is no clear rationale for basing subspecialty roofing licenses on the type of material used. Licensing for a single type of roofing material results in a narrow consumer base for the licensee and may unnecessarily contribute to business failures for subspecialty licensees. It requires that each new roofing material be given its own subspecialty designation while C-42 license holders are presumed to be qualified to install all new or modified materials. Also, consumers dealing with a subspecialty licensee may not be fully informed of the advantages and disadvantages of the various roofing materials that are available.

Subspecialty licenses based on the method of installation rather than type of roofing material might reduce the number of subspecialties while retaining a key distinction among the skills and experience required.

The Contractors License Board should review the need for and basis of the current subspecialty roofers licenses. Consideration should be given to using installation methods rather than roofing materials as the basis for distinguishing among subspecialty licenses.

Are There Adequate Remedies Available to Consumers to Redress Problems Caused by Negligent Roofing Work

Findings

1. Contractors who engage in home improvement work must have a written contract with the homeowner that states the cost, dates during which work is to be done, and the scope of work to be done. They must also inform the homeowner of the lien rights of all parties, and the owner's options with regard to bonding for the project.
2. Most consumer complaints regarding roofing contractors are handled through RICO. RICO investigators and attorneys will conduct an investigation, arbitrate or mediate an informal resolution acceptable to both parties if possible, and prosecute cases when necessary. The RICO investigators are not technical experts in the licensed trades and professions and, in roofing cases, may request assistance from the Hawaii Roofing Contractors Association.
3. RICO's services are available at no cost to the consumer. Licensees make annual assessments to the Compliance Resolution Fund to pay for the operations of RICO.
4. In 1989, more than one-fourth of RICO investigations involving roofers were resolved within 2 months. The median period was 5-6 months.

FINDINGS AND RECOMMENDATIONS

5. A DCCA hearings officer hears formal complaints filed by RICO attorneys against licensed contractors. These hearings are subject to the Administrative Procedure Act (Chapter 91, Hawaii Revised Statutes). A RICO attorney represents the consumer, and licensees must either retain a private attorney or represent themselves. An "average" DCCA hearing will take six months or more to complete. The Board may revoke or suspend a contractor's license but is not authorized to award damages to the consumer.
6. Homeowners may sue in the State District Court to recover damages of up to \$12,500 from the Contractors Recovery Fund. A successful claimant must be found to have been injured by a licensed contractor's act, representation, transaction, or conduct that violates the law or rules regarding contractors.
7. County building departments will conduct site inspections if a suspected building code violation is reported, and may require that either the contractor or building owner correct a code violation.
8. Other remedies available to consumers include:
 - a. The Hawaii Roofing Contractors Association will inspect work done by their members and recommend corrective measures if necessary,
 - b. The Neighborhood Justice Center will mediate consumer/business disputes for a small fee, and
 - c. The Small Claims Division of the District Court will settle claims involving \$2,500 or less.

Conclusions

There are a number of governmental and non-governmental agencies available to assist consumers obtain redress for negligent roofing work. RICO is the primary governmental agency that assists consumers with complaints against licensed roofers. Both informal mediation and arbitration, and representation by a RICO attorney before the DCCA's hearings officers in Contractors License Board cases are available to the consumer at no cost.

Under RICO's procedures, a consumer's allegations must first be investigated and confirmed or disproved. A consumer may find that the time this requires is excessive even when the dispute is ultimately resolved in favor of the consumer.

A complaint regarding workmanship or materials may call for technical knowledge that is beyond the expertise of RICO's investigators. In such cases, the Hawaii Roofing Contractors

Association will assist the RICO investigators. The complainant may feel that an Association member will be biased in favor of a fellow contractor.

There are several other options available at little or no cost if a consumer does not want to use RICO's services.

Recommendations

The process of establishing the appropriate remedy can be expedited when a contract exists that states the responsibilities of each party and the actions that are to constitute fulfilling them. In negotiating a contract, the consumer may require that the contractor obtain bonding or other insurance.

While a clear and comprehensive contract is essential to fair and timely resolution of many consumer/contractor disputes, neither party is particularly well equipped or trained to draft a contract, and many jobs are too small to justify employing an attorney to prepare one.

RICO and representatives of the roofing industry should examine their complaints experience, and identify those issues and situations that could be avoided or alleviated by specific contract provisions.

RICO should prepare "model" contracts or sample provisions to be incorporated in *contracts to address the issues identified*.

These materials should be available at nominal cost to both roofing contractors and consumers upon request.

Complainants who submit their dispute to RICO should understand; (1) the time that will probably be required to resolve the issue, (2) that in cases involving workmanship or materials, technical assistance may be provided by another licensed roofer, and (3) that there are alternatives to the RICO dispute resolution process.

RICO should inform all consumers with complaints about roofing work of the probable time that will be required to process the dispute, and if it is likely that the Roofers Association will be asked to assist the investigator. RICO should also explain that alternative dispute resolution services are available in the community.

Are Current Roofing Standards Adequately Enforced

Findings

1. State law designates both DCCA and the Contractors License Board as the agencies responsible for enforcement of licensing requirements for roofing contractors. DCCA, through RICO, receives complaints and, following an investigation, may initiate proceedings against the contractor in either civil court or before the Contractors License Board. Only the court or the Board can impose sanctions.
2. Consumer complaints constitute the principal source of information on possible licensing violations. RICO receives most of the complaints made against roofing contractors and seeks to resolve the disputes informally. The Board is not automatically informed about complaints or their resolution except for cases that are taken to the Board's hearings officer. The county building departments are not automatically informed of actions taken by either the Board or RICO.
3. RICO's primary goal is to resolve consumer complaints.
4. The respective county building departments are responsible for enforcing minimum building standards for roofing. However, building permits are not required for roof repair or re-roofing and the counties do not have inspection programs for non-permit projects. Thus, enforcement of the standards for materials and installation workmanship relies on consumer complaints. A building code inspection does not determine fault and the owner is ultimately responsible for correcting any sub-standard conditions.
5. RICO complaints records do not reflect an unusual or excessive number of valid complaints against roofing contractors as compared to complaints against all contractors.
6. Seven (10%) of the complaints filed against roofers in 1989 concerned unlicensed activities of which 4 were settled by a sending a cautionary letter to the contractor and 3 were referred to the legal section for further investigation.

Conclusions

The statutory assignment of responsibility for enforcement of licensing to two separate state agencies and enforcement of building codes to the counties does not lend itself to the development of an efficient and fair enforcement program. For this system to be effective, each agency must be informed about the actions taken by the others. Otherwise consistent

enforcement of license requirements and any sanctions or settlement conditions cannot be ensured.

The available data indicate, however, that there are not an unacceptable number of significant violations by licensed roofers of either licensing or building standards.

Complaints data further indicate that, currently, unlicensed roofers are not a major factor in overall complaints. Thus, inadequate enforcement of standards does not appear to be major problem with regard to the roofing industry at this time.

The biennial license renewal requirement provides an opportunity for the Board to review complaints records and compliance performance of licensees, and to impose or extend licensing conditions if necessary.

Recommendations

Enforcement of state licensing standards should ensure that violations can be identified, corrective action taken, and all affected agencies informed in a timely manner.

The state and county agencies involved in complaint resolution and enforcement of roofing standards should establish procedures for the exchange of information regarding complaints and violations.

The Department of Commerce and Consumer Affairs should continue its efforts to implement the recommendations of the Legislative Auditor regarding complaints management as set forth Report No. 89-3, Sunset Evaluation Update: Contractors. Specifically, Recommendation No. 7 (p. 32) that states, in part,

...the department should clarify the roles and responsibilities of RICO and the [Contractors License] board with respect not only to enforcement but also in coordinating all involved governmental agencies to ensure that contractors engaging in the construction business in the state are appropriately qualified and licensed and are performing in compliance with applicable regulatory laws and rules. [Emphasis added.]

Particular attention should be given to providing the Board with RICO's data on the complaints experience of license renewal applicants so that chronic violators who have not been taken before the Board will be brought to its attention.

Should There Be Mandatory Bonding of All Roofing Work

Findings

1. Licensed roofers are required to enter into a written contract with each customer and advise them of the option to require bonding for the job.
2. Under current law, all consumers are free to require that a contractor obtain bonding.

Conclusions

Consumers who feel that they want or need to have the contractor bonded may require it in their contract with the roofer. However, requiring bonding for all roofing would add to the costs of all roofing work even when the consumer and contractor agree that it is not necessary or appropriate.

Recommendations

While consumers should be informed of the option to require bonding for a project, it should not be required for all roofing work.

Should County Public Works Departments Institute an Inspection Process for Roofing

Findings

1. Building code inspection and enforcement is the responsibility of the counties.
2. None of Hawaii's counties require a building permit for re-roofing under their building codes.
3. County building inspectors are trained to identify building code violations and may cite such violations. However, they are not qualified or authorized to enforce contracts or evaluate a contractor's business practices.
4. Honolulu's building inspectors generally limit their efforts to monitoring activities for which permits are required, and inspecting possible health and safety violations of existing structures.

Conclusions

If any of the counties find that substandard roofing work is creating a threat to health and safety, they are authorized under current law to modify their building codes to correct the problems.

County inspection of roofing work would not address problems arising from issues other than building code compliance.

Recommendations

If a county finds that a significant portion of roofing work does not meet building code standards, it should consider requiring a building permit for roofing and re-roofing.

Appendix A

HOUSE OF REPRESENTATIVES
FOURTEENTH LEGISLATURE, 1987
STATE OF HAWAII

H.R. NO.

368
H.D. 1

HOUSE RESOLUTION

REQUESTING A STUDY OF THE ADEQUACY OF THE CURRENT LEVEL OF
REGULATION OF THE HAWAII ROOFING INDUSTRY.

WHEREAS, every building has a roof, and Hawaii's climate, with its intermittent rain and sun, humidity, and salty air, is hard on all materials, with the result that buildings often need their roofs repaired or replaced; and

WHEREAS, a roof that fails to keep out water may result in a significant amount of damage being done to a structure and its contents; and

WHEREAS, in response to the former practice of roofing contractors of guaranteeing roofs for long periods of time, the Legislature protected consumers by enacting Section 444-25.7, Hawaii Revised Statutes, which requires a roofing contractor who guarantees a roof for more than seven years to put up a bond for the replacement value of the roof, with the result that long-term guarantees are rarely provided by roofing contractors now; and

WHEREAS, roofing material manufacturers offer guarantees on their products, but only when those products are installed according to the standards set by the manufacturers; and

WHEREAS, the building codes of the counties provide detailed roofing standards, the national roofing industry organization provides voluntary standards for roofing contractors, and the Hawaii Roofing Contractors Association has voluntary standards for its members; and

WHEREAS, the Regulated Industries Complaints Office reports that most of the roofing contractors in the State have had complaints filed against them by consumers, suggesting a need for better regulation of the performance of roofing contractors; and

WHEREAS, currently the burden of demonstrating poor performance on the part of a roofing contractor is on the consumer, who may face the prospect of damaging their own roof in

order to try to prove the roofing contractors' negligence, an impractical action; and

WHEREAS, the Hawaii Roofing Contractors Association inspects roofs in response to complaints against its members, and inspects the work of nonmembers upon request by the Department of Commerce and Consumer Affairs or the courts; now, therefore

BE IT RESOLVED by the House of Representatives of the Fourteenth Legislature of the State of Hawaii, Regular Session of 1988, that the Legislative Reference Bureau (LRB) is requested to study whether the roofing industry, including general contractors who do roofing, is adequately regulated to protect the interests of consumers; and

BE IT FURTHER RESOLVED that this study include, but not be limited to, the following issues:

- (1) Are licensing standards for roofing contractors sufficient;
- (2) Are there adequate remedies available to consumers to redress problems caused by negligent roofing work;
- (3) Are the current roofing standards being adequately enforced;
- (4) Should there be mandatory bonding of all roofing work; and
- (5) Should county public works departments institute an inspection process for roofing;

and

BE IT FURTHER RESOLVED that the LRB report its findings and recommendations to the Legislature at least twenty days prior to the convening of the Regular Session of 1989; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Director of the Department of Commerce and Consumer Affairs, the Hawaii Roofing Contractors Association, the Building Department of the City and County of

Page 3

H.R. NO.

368
H.D. 1

Honolulu, and the Departments of Public Works of the other
counties.

Appendix B

Specialty Contractor Classifications

Specialty contractors are further classified under the following subclassifications:

C-1	Acoustical and insulation contractor;
C-2	Mechanical insulation contractor;
C-3	Asphalt paving and surfacing contractor;
C-3a	Asphalt concrete patching, sealing, and striping contractor;
C-3b	Play court surfacing contractor;
C-4	Boiler, hot-water heating, and steam fitting contractor;
C-5	Cabinet, millwork, and carpentry remodeling and repairs contractor;
C-5a	Garage door contractor;
C-5b	Siding application contractor;
C-6	Carpentry framing contractor;
C-7	Carpet laying contractor;
C-9	Cesspool contractor;
C-12	Drywall contractor;
C-13	Electrical contractor;
C-14	Sign contractor;
C-15	Electronic systems contractor;
C-15a	Fire and burglar alarm contractor;
C-16	Elevator contractor;
C-16a	Conveyor systems contractor;
C-17	Excavating, grading, and trenching contractor;
C-19	Asbestos contractor;
C-20	Fire protection contractor;
C-20a	Dry chemical fire repressant systems contractor;
C-21	Flooring contractor;
C-22	Glazing and tinting contractor;
C-22a	Glass tinting contractor;
C-23	Guniting contractor;
C-24	Building moving and wrecking contractor;
C-25	Institutional and commercial equipment contractor;
C-27	Landscaping contractor;
C-27a	Hydro mulching contractor;
C-27b	Tree trimming and removal contractor;
C-31	Masonry contractor;
C-31a	Cement concrete contractor;
C-31b	Stone masonry contractor;
C-31c	Refractory contractor;

C-31d Tuckpointing and caulking contractor;
 C-31e Concrete cutting, drilling, sawing, coring, and pressure grouting contractor;
 C-32 Ornamental, guardrail, and fencing contractor;
 C-33 Painting and decorating contractor;
 C-33a Wall coverings contractor;
 C-33b Taping contractor;
 C-33c Surface treatment contractor;
 C-34 Soil stabilization contractor;
 C-35 Pile driving, pile and caisson drilling, and foundation contractor;
 C-36 Plastering contractor;
 C-36a Lathing contractor;
 C-37 Plumbing contractor;
 C-37a Sewer and drain line contractor;
 C-37b Irrigation and lawn sprinkler systems contractor;
 C-37c Vacuum and air systems contractor;
 C-37d Water chlorination contractor;
 C-37e Treatment and pumping facilities contractor;
 C-37f Fuel dispensing contractor;
 C-38 Post tensioning contractor;
 C-40 Refrigeration contractor;
 C-40a Prefabricated refrigerator panels contractor;
 C-41 Reinforcing steel contractor;
 C-42 Roofing contractor;
 C-42a Aluminum shingles contractor;
 C-42b Wood shingles and shakes contractor;
 C-42c Cement and clay tile contractor;
 C-42d Composition shingle contractor;
 C-42e Urethane foam contractor;
 C-42f Liquid asphalt roofing contractor;
 C-42g Roof coatings contractor;
 C-43 Sewer, sewage disposal, drain, and pipe laying contractor;
 C-43a Reconditioning and repairing pipeline contractor;
 C-44 Sheet metal contractor;
 C-44a Gutters contractor;
 C-44b Awnings and patio cover contractor;
 C-48 Structural steel contractor;
 C-48a Steel door contractor;
 C-49 Swimming pool contractor;
 C-49a Swimming pool service contractor;
 C-49b Hot tub and pool contractor;
 C-51 Tile contractor;
 C-51a Cultured marble contractor;
 C-51b Terrazo contractor;
 C-52 Ventilating and air conditioning contractor;
 C-55 Waterproofing contractor;

C-56	Welding contractor;
C-57	Well drilling contractor;
C-57a	Pumps installation contractor;
C-57b	Injection well contractor;
C-61	Solar energy systems contractor;
C-61a	Solar hot water systems contractor;
C-61b	Solar heating and cooling systems contractor;
C-62	Pole and line contractor; and
C-68	Classified specialist.

Source: Hawaii Administrative Rules, Chapter 77.

Application Form

43

Name of Applicant: _____
(LAST, First, MI or Name of Corporation)

Social Security No. _____

Date _____

(H)

EACH QUESTION MUST BE ANSWERED

1. (a) Has the person or firm named on line B, page 1, a definite place of business in the State of Hawaii? _____
If so, is the address the same as Line D, page 1? _____ If not, state the location: _____
(b) State the date and the name of the firm under which the applicant first started in the business of contracting in the State of Hawaii. _____
(c) Have you ever applied for a Hawaii State contractor's license? If so, state month and year: _____
2. Provide name, style, number, date and copy of each contractor's license previously held in any State by any person listed under "Personnel of Applicant" or held by any organization in which any such person was a copartner or corporate officer. _____
3. Give name, dates of attendance and copy of any technical training, college degree or business administration training. _____
4. Has any person listed under "Personnel of Applicant" been affiliated with a contracting entity (individual, corporation, joint venture, partnership) whose license has been terminated due to issuance of a court order authorizing payment from the Contractors Recovery Fund of their state or any other state? _____ If yes, submit a detailed statement giving the date of the orders and circumstances leading up to issuance of the court order. _____
5. Has any person listed under "Personnel of Applicant" or has any construction organization in which any such person was a member of the personnel, had a contractor's license or any professional or vocational license denied, suspended or revoked by this State or any other State? _____ If so, attach a detailed statement.
(For the purpose of this question, "denied" does not mean that one has previously failed an examination.)
6. Has any bonding or surety company ever completed or made a financial settlement upon any construction contract or work undertaken by any person listed under "Personnel of Applicant" or any construction organization in which any such person was a member of the personnel? _____ If so, attach a detailed statement.
7. Are there now any unpaid past due bills or claims for labor, materials, or services, outstanding and unsatisfied, as a result of the operations of any person listed under "Personnel of Applicant" or any construction organization in which any such person was a member of the personnel? _____ If so, attach a detailed statement.
8. Are there now any liens, suits, or judgments of record or pending, outstanding and unsatisfied, as a result of the operations of any person listed under "Personnel of Applicant" or any construction organization in which any such person was a member of the personnel? _____ If so, attach a detailed statement.
9. Has any person listed under "Personnel of Applicant" or has any construction organization in which any such person was a member of the personnel ever been adjudicated as bankrupt; or is any person listed under "Personnel of Applicant" or any construction organization in which any such person is a member of the personnel, presently in the process of bankruptcy proceedings? _____ If so, attach a detailed statement giving the number of bankruptcy proceedings, the location of the bankruptcy court, a schedule of creditors listed in the bankruptcy petition, the approximate date of the action and a statement of the final action upon the proceedings.
10. Has any person listed under "Personnel of Applicant" or has any construction organization in which any such person was a member of the personnel ever made an assignment of assets, either voluntary or otherwise, in settlement of construction obligations for less than the total amount of the indebtedness? _____ If so, attach a detailed statement listing names and addresses of all creditors and losses they sustained.
11. Has any person listed under "Personnel of Applicant" ever been convicted of a felony within the last 5 years? If so, attach a detailed statement.
12. If applicant intends to do business as a corporation, have the articles of incorporation been filed with the Business Registration Division, Department of Commerce and Consumer Affairs? _____
13. Give the name of applicant's Workmen's Compensation Insurance Company. _____
Policy number _____ Expiration date _____
If not covered by compensation insurance, explain why. _____
14. If using a trade name, have you registered the trade with the Business Registration Division, Department of Commerce and Consumer Affairs? _____
15. Give applicants:
(a) Federal I.D. No. _____
(b) General Excise No. _____

(1) **EXPERIENCE STATEMENT** (For completion by applicant who is an individual or RME. Not applicable to a corporate applicant.)

1) TYPE OF WORK & TIME AT EACH: I have worked as a				
<input type="checkbox"/> Apprentice for	_____ yrs	_____ mos.		
<input type="checkbox"/> Journeyman for	_____ yrs	_____ mos.		
<input type="checkbox"/> Supervisor for	_____ yrs	_____ mos.		
<input type="checkbox"/> Superintendent for	_____ yrs	_____ mos.		
<input type="checkbox"/> Contractor for	_____ yrs	_____ mos.		
<input type="checkbox"/> Foreman for	_____ yrs	_____ mos.		
<input type="checkbox"/> Project Manager for	_____ yrs	_____ mos.		
_____ for	_____ yrs	_____ mos.		
2) TOTAL TIME IN CONSTRUCTION	_____ yrs	_____ mos.		

3) **SKILLS** - I can perform the following:

☐ Read a financial statement

☐ Compute payroll

☐ Balance a checking account

☐ Read blueprints

☐ Prepare job estimates

☐ Order materials

☐ Design & layout construction projects

☐ Other (specify) _____

☐ Other (specify) _____

4) **LIST THE MOST RECENT EXPERIENCE FIRST:**

<p>Name of Company _____ License No. _____</p> <p>Type of Business Company Engaged In _____</p> <p>Address of Company _____</p> <p>Dates employed _____ to _____ Total _____ Yr/Mo</p> <p>Dates supervised _____ to _____ Total _____ Yr/Mo</p> <p>No. of people supervised _____</p> <p>TYPE OF PROJECTS:</p> <table border="0"><tr><td><input type="checkbox"/> Apartments</td><td><input type="checkbox"/> Office Buildings</td></tr><tr><td><input type="checkbox"/> Condominiums</td><td><input type="checkbox"/> Remodeling</td></tr><tr><td><input type="checkbox"/> Custom</td><td><input type="checkbox"/> Tract Houses</td></tr><tr><td><input type="checkbox"/> High Rise</td><td><input type="checkbox"/> Other (specify) _____</td></tr></table>	<input type="checkbox"/> Apartments	<input type="checkbox"/> Office Buildings	<input type="checkbox"/> Condominiums	<input type="checkbox"/> Remodeling	<input type="checkbox"/> Custom	<input type="checkbox"/> Tract Houses	<input type="checkbox"/> High Rise	<input type="checkbox"/> Other (specify) _____	<p>Describe duties and responsibilities: Hours worked per week: _____</p> <p>AVERAGE SIZE OF COMPLETED PROJECTS (Give square footage or anything that will describe physical dimension): _____</p> <p>AVERAGE GROSS DOLLAR VALUE OF COMPLETED PROJECTS: \$ _____</p>
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<input type="checkbox"/> Condominiums	<input type="checkbox"/> Remodeling								
<input type="checkbox"/> Custom	<input type="checkbox"/> Tract Houses								
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<input type="checkbox"/> High Rise	<input type="checkbox"/> Other (specify) _____								

ATTACH ADDITIONAL SHEETS IF NECESSARY

Name of

Applicant: _____
(LAST, First, MI or Name of Corporation)

Social

Security No. _____

Any material misrepresentation made in this application is grounds for refusal or subsequent revocation of a license.

The undersigned hereby apply for license pursuant to the provisions of Chapter 444, Hawaii Revised Statutes and vouch for the truth and accuracy of all statements, answers and representations made in this application, including all supplementary statements hereto attached.

INSTRUCTIONS FOR SIGNING

Each person listed under "Personnel of Applicant" (Section E, Page 1) must subscribe and swear to this application before a NOTARY PUBLIC.

Subscribed and sworn to before me this _____ day of _____, 19____

Notary Public, State of _____
My Commission expires _____

Subscribed and sworn to before me this _____ day of _____, 19____

Notary Public, State of _____
My Commission expires _____

Subscribed and sworn to before me this _____ day of _____, 19____

Notary Public, State of _____
My Commission expires _____

Subscribed and sworn to before me this _____ day of _____, 19____

Notary Public, State of _____
My Commission expires _____

(Owner, copartner, officer of a corporation, responsible managing employee)

Signature _____
Title _____

Signature _____
Title _____

Signature _____
Title _____

Signature _____
Title _____

Use a Stapler
to Affix a
Recent Photograph of
Yourself Here.

(At least 2" x 2", head &
shoulders, front view)

Print your name on
the back of the photograph.

WARNING

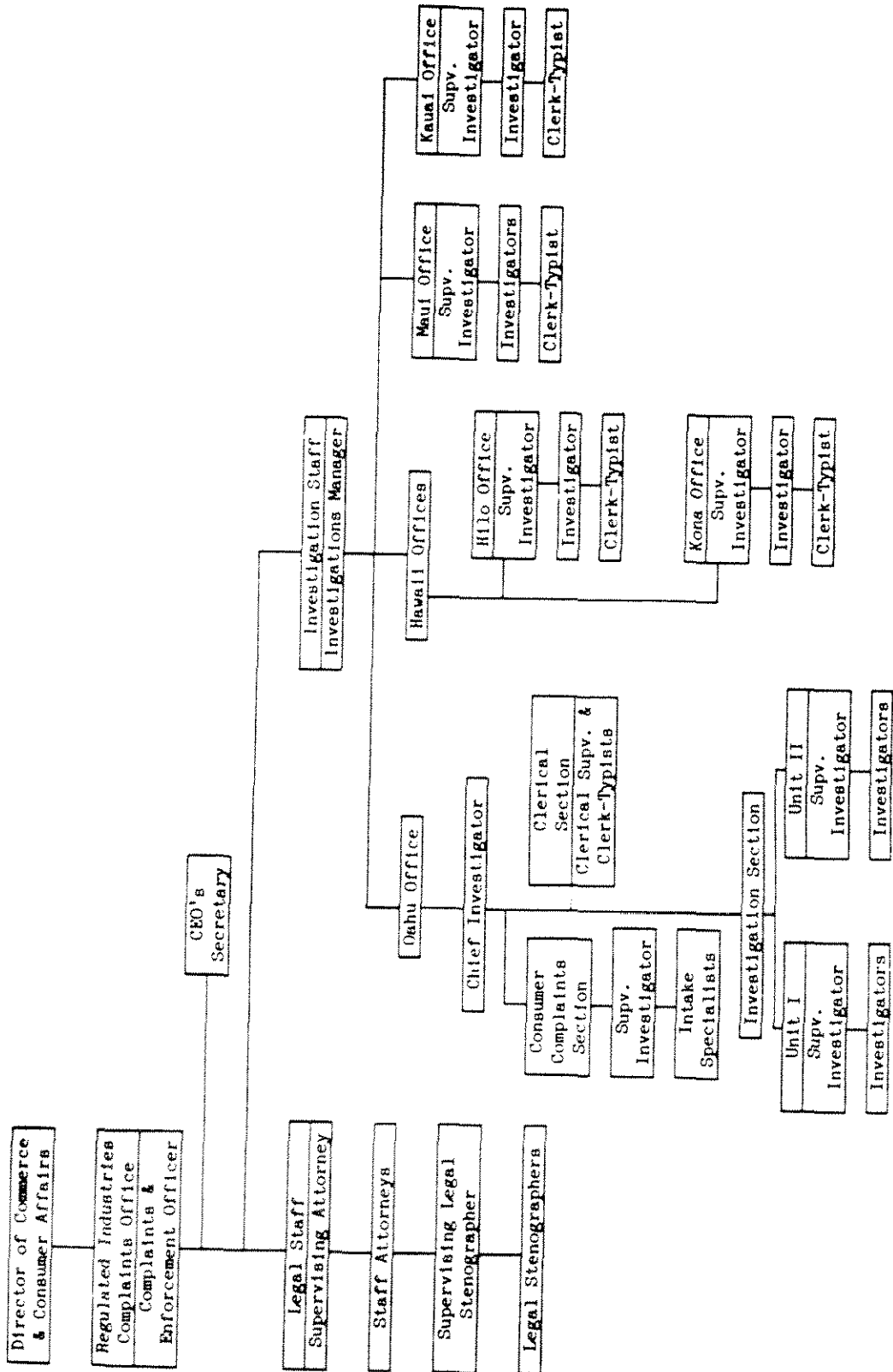
Be sure application is properly signed
and notarized.
Check to see that all questions are fully
answered.

Supporting certificates necessary to establish that the applicant's construction experience meets the minimum requirements must be attached to the application -- See instruction sheet.

Additional certificate forms may be obtained from the office of the Board, 1010 Richards Street, Honolulu, HI.

Appendix D

Organization of the
Regulated Industries Complaints Office
Department of Commerce & Consumer Affairs



Source: 1989 Annual Report of the Regulated Industries Complaints Office (RICO). Hawaii Department of Commerce and Consumer Affairs, p. 11.