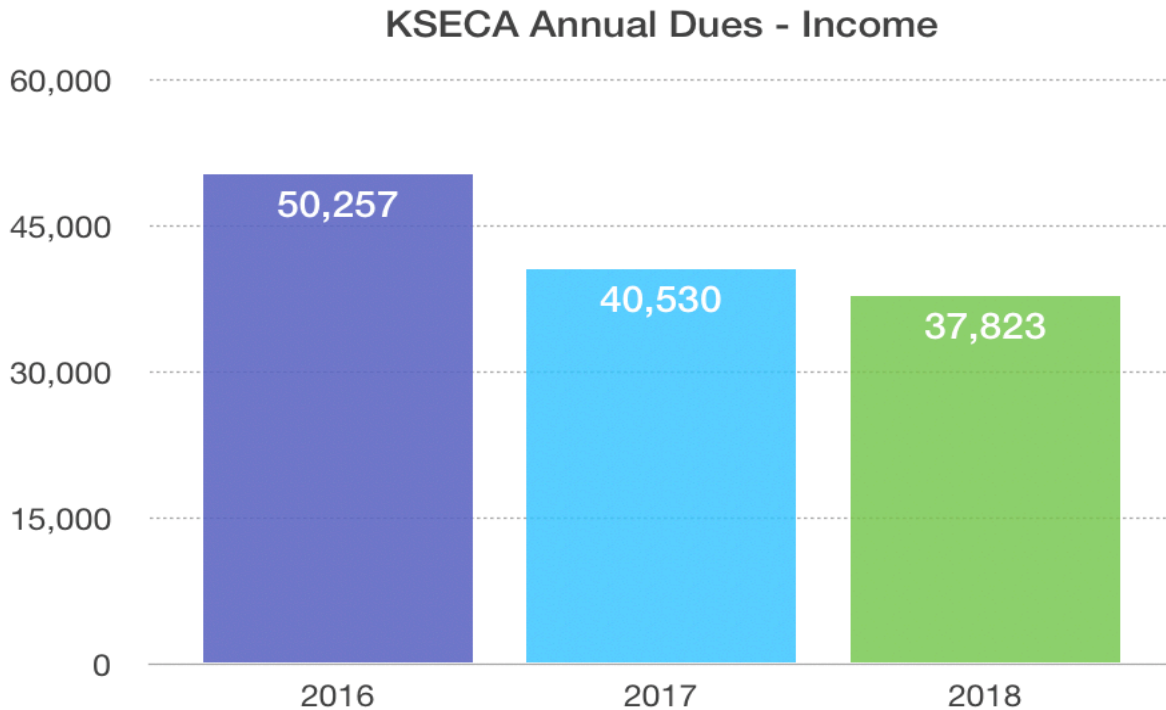


WHY DOES KSECA NEED HELP WITH COLLECTIONS?
Here is WHY:



- Compliance in paying annual dues has DIMINISHED over the past 3 years
- Compare this to the Average Total Expenses per year: \$45,974.25
- For the last 2 years in a row, Expenses have EXCEEDED annual dues income

-
- 699 out of 933 TMKs are current or less than 2 years behind on annual dues.
 - 234 out of 933 TMKs are 3 years or more OVERDUE.
 - Let's assume all 699 pay on time: $699 \times \$50/\text{year} = \$34,950$ a year
 - Compare this to past 3 year Average Annual Expenses: **-(negative)\$11,024.25**

How can KSECA maintain and improve the parks with a negative balance?

What is the Role of the Board of Directors?

KSECA has a Board of Directors because 933 heads talking all at once cannot function! Not everyone has the desire or time to analyze KSECA's financials, or to ensure compliance with laws, and corporate formalities. That is why 7 of the 933 heads – the Board of Directors - were chosen to govern, as unpaid volunteers. Please, let us all respect each other's time and focus on solving problems and creating improvement. Putting a collection effort off until the next AGM is not a solution. Putting off improvements is not a solution. Things happen in the NOW, and as of now, KSECA's financials are going, and have been going, in the wrong direction! Critical projects are not getting done! All members are encouraged to state your case logically, and volunteer, and be part of solutions. The next board elections are April 2020.

Arrears Statistics

Research was done in May 2019 regarding TMKs in arrears...

- The total number of TMKs in arrears 3+ years is approximately 234 (100%).
- 79 (34%) TMKs with local addresses
- 88 (38%) TMKs with mainland addresses
- 34 (14%) TMKS with non-U.S. addresses; only one with a dwelling
- 33 (14%) TMKS with Hawaiian, but non-Big Island addresses

79 (34%) local TMK addresses

155 (66%) non-local TMK addresses

- 175 (72%) TMKs are raw, unimproved land, with no existing dwelling.
- 66 (28%) TMKs with dwellings; 33 permitted, 33 un-permitted
- Total in arrears from un-permitted homes is \$20,500. An un-permitted home is more likely to **NOT** be sold through a Title Company and have title searches done. So without filing liens with the Hawaii Bureau of Conveyances these properties fall through the cracks regarding collections. **SOMEONE HAS TO LEGALLY FILE THESE LIENS.**
- Of the 66 dwellings, 12 are unoccupied. That leaves 54 as the maximum number of households that received an Association Services letter, assuming the household is owner occupied and not tenant occupied. The percentage of TMKs in arrears that face the possibility of foreclosure is 23%. That's 6% of the total 933 Seaview TMKs.
- **72%** of TMKs in arrears are vacant land and the owners **DO NOT LIVE IN SEAVIEW.**

How can a member be against proxy voting while also being against a collection effort that seeks to collect from a group of members, nearly 3/4 of which DO NOT LIVE IN SEAVIEW, for the purpose of maintaining and improving Seaview's Parks?

According to Board Best Practices and Board Rules, the 2016 AGM agreed that, "the treasurer's report should include the amount of dues in arrears." And at the 2017 AGM, a motion passed to, "collect past dues owed on a lot that sells through transfer title." And the board decided in July, 2009, and April 2015 to, "address delinquent accounts." The board also decided in August 2015 to, "have the Standing ByLaw Committee develop procedures to address delinquent accounts."

The AGM and previous Boards have intended to collect arrears for 10 years. No procedure or policy was implemented except for a period in 2015. \$8,000 was reportedly collected but the effort ceased, perhaps likely due to it's volunteer nature, and because the main guy behind the effort died.

So in present day, KSECA is implementing policies and procedures to collect arrears. 4 options were investigated, 1 historically pursued, and 1 prevailing. But some of the membership expresses discontent, even members who receive pay from KSECA. To those members, KSECA asks you, "What is your logical argument for resisting the current collection effort when you know, dues compliance has decreased in the past 3 years, our net operating balance in 2017 was -\$1,388.82 and KSECA is relying on income aside from Association Dues such as late fees, transfer fees and mailbox fees to stay afloat financially?" A solution has been found and you are resisting it. It is not fair to the 699 (75% of the total 933) members in good standing.

Wouldn't it be nice to further improve the parks if KSECA budgeted for a surplus thanks to a successful collection effort?

Here is what was found out about other local community associations...

Hawaiian Paradise Park:

- \$360/year
- Late Fee: 10% per year added to the balance
- 8,800 Lots
- Lots 2 years over due are charged a \$200 fee to place a lien on the property, which is renewed every 6 or 7 years, as they legally expire after 6 years.
- The fee for sending a certified mail letter notifying them of the lien and pre-small claims court filing is charged to the property owner's balance.
- They have multiple billion dollar bond to pave roads throughout the subdivision and are in debt.
- The HPP Road Association does not foreclose, however, they deal with the Affirmation of Summons on bank foreclosures from default mortgages and Government foreclosures for non payment of property taxes. She says there are tons of foreclosures in HPP, file cabinets full...
- They have an Activity Center that they rent to community and non-community members, \$250 deposit, \$200 received back if everything is left in good condition, \$75 non-owner fee, \$50/hour additional fee for full use facilities like kitchen. It is almost always rented, weekdays with tai chi and senior activities and weekends with events like weddings or parties.

Hawaiian Shores:

- \$385/year
- 1,294 members.
- 10% dont pay.
- \$150 lien filing.
- have done foreclosures with attorney, Mister Mason Yamaki and associates
- Late fees @ 12% yearly calculated/compounded monthly
- liens filed after 2 years delinquent. Hires for collections via Michael Patrick @ Pacific Recovery Service LLC.

Nanawale:

- \$99/year dues
- Letter sent out after two years notifying owner of lien filing.
- Late fee: 5% applied quarterly on the balance owed.
- No collector
- No foreclosures, however the lady explained that foreclosures usually happen via Bank or Government Foreclosures, at which point the community association sometimes collects, or at sale and new buyer pays.

Hawaiian Acres:

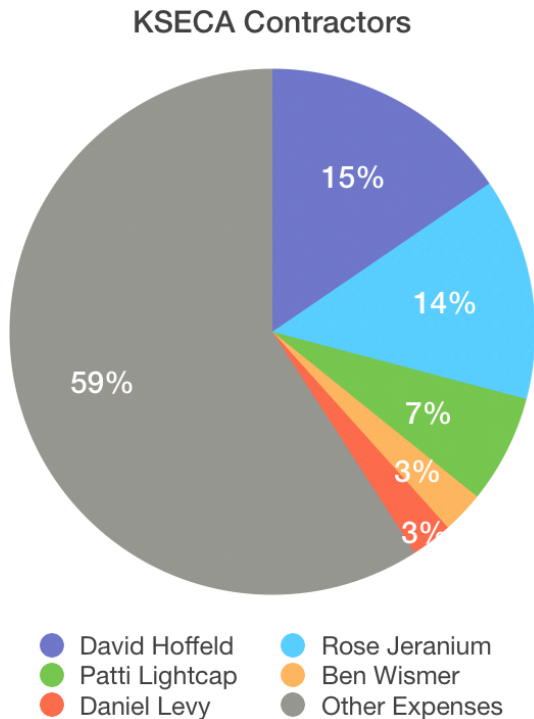
- The Subdivision was developed/incorporated before Statehood, in 1958/59 and cannot collect mandatory dues because of this fact, a court case contesting this in regards to the roads issue was brought all the way up to the supreme court. The judge ruled with prejudice. Therefore their Community Road Fees are voluntary. 250 out of 4,000 lots pay. \$30-\$60/year.

COLLECTIONS BENEFITS EVERYONE!

Member-Independent Contractors' Pay from KSECA Dues Collected

Dues = \$50/year/TMK
 Actual, i.e. 75% Dues Compliance
 100% Dues Compliance

Member Name	Work Description	\$ Amount	933 percentage of	699
David Hoffeld	Park Maintenance	\$7,200	15.43%	20.6%
Rose Jeranium	Park Maintenance	\$6,360	13.63%	18.19%
Patti Lightcap	Bookkeeping	\$3,100	6.65%	8.87%
Ben Wismer	Coconut Frond Removal	\$1,200	2.57%	3.43%
Daniel Levy	Website Maintenance	\$1,200	2.57%	3.43%
TOTALS:		\$19,060	40.86%	54.54%



4 out of 5 of the above members have expressed discontent with the current collection effort, yet part of their own income comes from the collection of annual dues.

If all 933 members were paying, about 41% of Dues Collected from the total membership would be paid to member-contractors. With only 699 paying, 55% of all annual dues collected is paid to member contractors.

Collection Services Proposals

According to Board Best Practices and Board Rules, **the 2016 AGM agreed that, "the treasurer's report should include the amount of dues in arrears." And at the 2017 AGM, a motion passed to, "collect past dues owed on a lot that sells through transfer title." And the board decided in July, 2009, and April 2015 to, "address delinquent accounts." The board also decided in August 2015 to, "have the Standing ByLaw Committee develop procedures to address delinquent accounts."**

To fulfill the above, 3 local collectors have been solicited, here are their offers...

1.) Mason Yamaki

- Lawyer and associate with Torkildson, Katz, Hetherington, Harris & Knorek Attorneys at Law in Hilo.
- Mister Yamaki expressed no interest in writing up or sending out collection letters.
- PER TMK his services would cost...

- \$100 lien filing fees; $\$100 \times 234 = \mathbf{\$23,400}$

- \$1000 per court judgement; $\$1,000 \times 234 = \mathbf{\$234,000}$

- \$5000 for foreclosure even if no one shows up. $\$5,000 \times 234 = \mathbf{\$1,170,000}$

TOTAL cost to KSECA to collect up to \$150K: up to \$1,427,400

Cost to hire with full legal enforcement could be as high as 10 times the amount collected

2.) Michael Patrick @ Pacific Recovery Service LLC

- Certified and Bonded Collector (per legal requirements for non-attorney Collector - next page)
- **Charges Leilani 38%** of what he collects as payment to him. Money kept in trust and disbursed to Community Association every month.
- **Charges Hawaiian Shores 30%** of what is collected as payment to him.
- Without being an attorney, his ability to collect is limited to sending letters and calling people.

TOTAL cost to KSECA to collect up to \$150K: from \$45,000 to \$57,000

Does not include legal services/in-court enforcement, thus can only collect from those who voluntarily pay.

3.) Association Services, a division of Garbarinolaw LLLC / Mike Garbarino, Attorney

- Offer is to **charge 20%** of amounts collected for KSECA, as payment to him. All other collection costs paid by debtor.
- Has already written up and sent out collection letters in compliance with the law, has the expertise on state and federal fair debt collection laws.
- Has the knowledge and legal ability to efficiently file liens, solicit court judgements and file foreclosures if necessary, to ensure collection.

TOTAL cost to KSECA to collect up to \$150K: \$30,000

Includes legal services/in-court enforcement, but only with advance approval by the KSERCA Board of Directors

The KSECA Board of Directors is seeking BEST VALUE

All member input is welcome, please note that any additional proposals must meet the following requirements per state law, and the RFP requirements (next page)...

***Legal Requirements of a Non-Attorney Collector in Hawaii
Per Hawaii Revised Statutes (HRS), chapter 443B***

- (a) No collection agency shall collect or attempt to collect any money or any other forms of indebtedness alleged to be due and owing from any person who resides or does business in this State without first registering under this chapter.
- (b) Registration shall include:
- (1) Submission of a complete application for registration;
 - (2) Submission of a certificate of good standing or a certificate of authority from the business registration division;
 - (3) Payment of appropriate fees;
 - (4) Filing and maintenance of a bond in the amount prescribed in HRS section 443B-5;
 - (5) Maintenance of a regular active business office in the State; and
 - (6) Designation of a principal collector, as prescribed in HRS section 443B-6.

Any proposal for a non-attorney collection effort must, by law, meet all of the above requirements.

Any/all other proposals submitted to the KSECA Board of Directors by the deadline will be evaluated based on the above criteria, and on the scope of services, and on the total cost to KSECA, to include any/all expenses paid by KSECA.

The award of contracted services will be decided after August 15, 2019, and will be determined on the basis of
BEST VALUE.

**DEADLINE for proposal submission:
August 15, 2019**

Email any proposal by the deadline to: board@kseca.org

Collections Services RFP Requirements

- Work with KSECA bookkeeper (Patti Lightcap) to attain every individual detailed breakdown of 234 different TMKs in arrears by 3 years or more, indicating years, dues owed and late fees owed and provide this information with an invoice mailed to the address on file in KSECA Quickbooks.
- Write up nearly 234 notices with detailed notices of ALL possible legal remedies that can be taken to collect the debt and treat every debtor fairly and in accordance with the state and federal fair debt collection laws and in accordance with KSECA policy. This notice is to be reviewed by the KSECA Board of Directors for approval before being sent out.
- Attain envelopes and postage required to mail out all 234 letters. Attain printing services, and all other necessary components of printing and mailing the notices. Resolve mail items returned by researching and identifying current and correct mailing addresses, and re-send those notices. Keep detailed records of every notice sent, to include copies, when sent, if returned, when re-sent, and any other records necessary for an accurate verification of actions taken, in the event of a legal challenge or necessary audit.
- Keep independent and detailed records of all dues and late fees collected and possible bad debt to be written off, per TMK on record, so that this information can be compared with KSECA's official accounting records (Quickbooks) at the time of transfer, deposit and reconciliation. Maintain the complete confidentiality of these records, as they constitute personal financial information that is confidential by law, and may only be accessed on a "need to know" basis in furtherance of official business.
- Keep track of any payment plan you set up with the debtor. An escrow account is to be used for this. You will be responsible for setting this up appropriately, in compliance with all applicable laws.
- Provide a detailed report at minimum every 3 months to KSECA, with reconciliation and transfer of funds happening at minimum every 3 months.
- If a debtor doesn't respond to a non-returned letter/collection notice within 45 days, you must file a lien with the Bureau of Conveyances on KSECA's behalf. KSECA will be entitled to add a \$90 lien filing fee to the TMK account, as additional funds owed and due to KSECA. You are responsible for correctly filing the lien in accordance with all applicable law.
- Send a certified piece of mail to the debtor informing them of the formal lien filing, and of their rights and remedies. For debtors who pay in response, you are responsible for filing for the removal of the lien.
- Provide all services under a contract containing an indemnification agreement with KSECA, absolving KSECA of any/all liability for any errors or omissions. Designate a principal collector as required by state law, an individual who must be licensed, and on whose behalf a bond is filed with the state, as a guarantee of compliance with federal and state fair debt collections laws. Designate a regular active business office in the state and a means to be reached by a debtor during normal business hours.