

POLICY RESOLUTION 16
Enforcement of DCC&R, Section 3.02 (p), Boat Parking

As many Mililani Town boat owners are aware, a legal interpretation of Section 3.02(p) of the Declaration of Covenants, Conditions, and Restrictions was obtained in First Circuit Court in 1998. Section 3.02(p) pertains to the parking of a boat and/or trailer on a homeowner's property.

On January 5, 1998, MTA was advised by its legal counsel that the First Circuit Court of the State of Hawaii upheld MTA interpretation and enforcement of the restriction on parking boats and trailers on Mililani Town lots. The Mililani Town Declaration of Covenants, Conditions, and Restrictions (DCC&R), Article III, Section 3.02(p) provides that:

"No owner shall park his car on any public park or sidewalk area or on any common area or any portion of his lot visible from an adjacent street, except in a garage or on a paved driveway area, and no boat, trailer, or truck camper will be kept on any lot except in a garage."

This provision requires those homeowners within the community who own boats must park them and their trailers entirely within the confines of their garages. On February 19, 1997, the MTA Board of Directors adopted Policy Resolution #16 to clarify Section 3.02(p). The resolution states in part:

"A boat, trailer, or truck camper, or any combination thereof shall be considered in a garage when the entire boat, trailer, truck camper or combination thereof, including the entire tongue of a trailer, is completely under the roof of garage."

The obvious intent of both the covenant and the resolution is to preserve the aesthetic quality and attractive exterior appearance of the neighborhood areas and to protect the values of properties within Mililani Town.

As a result of receiving letters from the Association regarding their boats, several boat owners put forth the argument that Section 3.02(p) of the DCC&R is ambiguous and unenforceable or that it merely requires that boat owners park any portion of their boat within the roofline of their garage, with the remainder of the boat protruding onto the driveway of the lot.

To resolve this matter, MTA filed an action the First Circuit Court asking the court to review MTA interpretation of Section 3.02(p). On November 3, 1997, the First Circuit Court rules that Section 3.02(p) is not ambiguous; that the provision requires that residents park their boats and trailers within the confines of garages or carports and that this provision prohibits owners from allowing any portion of their boat or trailer to protrude out from their garages or carports onto the adjacent driveway. The Court also held that Resolution #16 is valid and enforceable.

What this ruling by the First Circuit Court means is that Mililani Town boat owners should be aware that their boat must be parked in such a manner as to comply with the intent of both Section 3.02(p) of the DCC&R and MTA Resolution #16.

