

Kenneth R. Kupchak

Director

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Practice

- Business & Commercial Law
- Construction
- Dispute Resolution
- Land Use & Zoning
- Real Estate

Education

- Cornell University School of Law (J.D. 1971)
- Pennsylvania State University, Meteorology (B.S. 1965)
- Cornell University, Chemistry (A.B. 1964)

Ken is a Fellow in the American College of Construction Lawyers, and has served on the Governing Committee of the American Bar Association's Forum on the Construction Industry. He has degrees in chemistry from Cornell and meteorology from Penn State. In 1996, Penn State's College of Earth and Mineral Sciences named him a Centennial Fellow. He was a meteorologist for 4 years, serving as General Staff Weather Briefing Officer in Saigon, Vietnam (7th Air Force), and Chief Forecaster at Suffolk County Air Force Base on Eastern Long Island. In 1968 he served on the University of Hawaii's meteorology research staff prior to returning to Cornell where he obtained his law degree with a specialization in international affairs in 1971. While in law school he clerked for the Wall Street firm of Cleary Gottlieb Steen & Hamilton, and the Los Angeles firm of McCutcheon Black Verleger & Shea. He also assisted for Professor Rudolph B. Schlessinger on the third edition of his comparative law text for Foundation Press and for Professor Harrop A. Freeman regarding special studies with respect to Micronesia.

After serving on the Cornell Law Review, Ken received his J.D. with specialization in international law. For more than 35 years, his practice has centered on all aspects of construction law, from international joint ventures to complex multi-party litigation, to the acquisition of three of the Pacific Basin's leading contractors. Ken represents numerous developers, architects, contractors and subcontractors and served on Boards of three large construction companies.

In representing planned community developers, Ken has won significant state supreme court decisions invalidating initiative as a land use tool and clarifying due process rights with respect to aesthetic and environmental interests with colleagues Robert Thomas and Greg Kugle; Damon Key has developed Hawaii's most recognized land owner land use rights practice as evidenced in their University of Hawaii Law Review Article: "Arrow of Time: Vested Rights, Zoning Estoppel, and Development Agreements in Hawaii." And Hawaii Supreme Court decisions which caused the insurance industry to alter its standard 150 form, addressing Hawaii bidding and requiring examinations and pretexts behind condemnation and precluding private rights of action. He has also won significant reported construction cases under both the Miller Act, clarifying a century of precedent, and the State Procurement Act. For 10 years, he was a member of the Statewide Advisory Committee for the Coastal Zone Management Program and chaired its agenda committee.

Ken and Damon Key colleagues Michael A. Yoshida and Anna H. Oshiro, co-authored the Hawaii chapter in the Aspen Construction Series' two volume Fifty State Construction Lien and Bond Law book, now in its Third Edition. He and Damon Key colleague Anna H. Oshiro co-authored the Hawaii chapter in The Design/Build Process: A Guide to Licensing and Procurement Requirements in the 50 States and Canada; the Hawaii chapter in the State-By-State Guide to Architect, Engineer and Contractor Licensing; and with Damon Key colleagues Denis C.H. Leong, Michael A. Yoshida, Alan Van Etten and Anna H. Oshiro authored the Hawaii chapter in State-By-State Guide to Construction and Design Law. He and Anna Oshiro also co-authored the Hawaii Real Estate Law Manual's construction chapters.

For decades Mr. Kupchak has been a member of the American Arbitration Association's and Dispute Prevention and Resolution, Inc.'s panels of arbitrators and has served on AAA's international arbitration training faculty. In addition to the Governing Committee of the American Bar Association's Forum on the Construction Industry, Mr. Kupchak has served as the Chair of its membership and marketing committees and its Dispute Avoidance and Resolution Division. He also co-chaired its 2001 Annual Meeting in New Orleans. He has also been a forum plenary session and a workshop speaker. He has led workshops regarding international arbitration at several annual meetings of the Meritas, the world's largest affiliation of business and commercial law firms.

With a practice that centers in complex litigation, international joint ventures, land use and construction, Mr. Kupchak has been an advocate, mediator and arbitrator as well as a negotiator of complex dispute resolution clauses critical to the formation of international joint ventures, including a multi-billion dollar project.

In addition, Ken has been a faculty member at numerous National Business Institute, Lorman Education Services, and Law Centers International land use and construction seminars. He has also been recognized in Super Lawyers and Best Lawyers in Hawaii in construction, mergers and acquisitions, commercial litigation, real estate, corporate law, litigation land use and zoning, and eminent domain and condemnation. Being selected Lawyer of the Year in both litigation land use and zoning, and eminent domain and condemnation.

Mr. Kupchak practices in these areas: business and commercial, construction law, dispute resolution, real estate and land owner's rights.

Professional and Community Affiliations

- Air Force Association, Hawaii Chapter (Director 1993 – 96)
- Aloha United Way (Executive Committee 1986-87)
- American Arbitration Association (Panel of Arbitrators and international training faculty)
- American Bar Association (Governing Committee, Chair. Membership and Marketing Committees, and Dispute Avoidance and Resolution Division; Annual meeting co-chair, Forum on the Construction Industry)
- American College of Construction Lawyers, Fellow
- Cornell Law Association (Executive Committee 1990-93)
- Dispute Prevention and Resolution (Panel of Arbitrators)
- Hawaii Community Services Council (Director 1982-88; President 1984-88)
- Hawaii Commission on Memorials for Veterans of the Korean and Vietnam Conflicts (Chairman 1992)
- Hawaii Lacrosse Club (co-founder, Director, Secretary)

- Hawaii Nature Center (Director, 1987-2005, President 2002 – 04; Chair, Program Committee 1988-90)
- Hawaii State Bar Association (Chair, Law and Population Committee)
- Honolulu Committee on Foreign Relations
- International Bar Association
- Kailua Neighborhood Board (Chair 1976, 1978)
- Mid Pacific Institute (Board of Trustees 1995 –2016; Chairman 2011 – 2015; Vice Chair 2004 – 2011; Assistant Secretary 2002-04; Chair, Education and President's Evaluation Committees 1998-present; Vice Chair, Board of Counselors 1993-95; Kawaiahao Executive Committee 1984-85; Planned Giving Committee 1989-95; PTO Review Task Force Chair, 1986)
- Moanalua Gardens Foundation (Trustee 1986-89; Board of Advisers)
- Cornell University, Class of 1964 President 2019 – 2024

Publications

- Arrow of Time: Vested Rights, Zoning, Estoppel, and Development Agreements in Hawaii with Robert H. Thomas and Gregory W. Kugle)
- After Court Ruling, Debate Goes On: Can Landowner Ever Say, "Keep Out"?
- Native Use Rights to Affect Permits
- Role of Neighborhood Boards in the Development Plan Process
- Fifty State Construction: Lien and Bond Law (Aspen Construction Series, 2000) (Hawaii chapter with Michael A. Yoshida and Anna H. Oshiro)
- The Design/Build Process: A Guide to Licensing and Procurement Requirements in the 50 States and Canada (1992) (Hawaii chapter with Anna H. Oshiro)
- Hawaii Real Estate Manual (construction chapters with Anna H. Oshiro)
- State-By-State Guide to Architect, Engineer and Contractor Licensing (1998) (Hawaii chapter with Anna H. Oshiro)
- State-By-State Guide to Construction and Design Law (1998) (Hawaii chapter with Denis C.H. Leong, Michael A. Yoshida, Alan Van Etten, and Anna H. Oshiro)
- The Legal Setting of Nuclear Powerplant Siting Decisions: A New York State Controversy, 57 Cornell L. Rev. 80 (1971) (with Dorothy Melkin)

Reported Cases

- C. Brewer and Company, Ltd. v. Marine Indemnity Insurance Company of America, S. Ct. No. SCWC-28958 (Haw. 2015)
- C. Brewer and Co. vs. Industrial Indemnity 2013 Haw Apr Lexis 472
- Kaiser Hawaii Kai Dev. Co. v. City and County of Honolulu, 70 Haw. 480, 777 P.2d 244 (1989)
- Sandy Beach Defense Fund v. City Council of the City and County of Honolulu, 70 Haw. 361, 773 P.2d 250 (1989)
- Sipco v. Soong, Supreme Court No. 16872 (1993)
- County of Hawaii v. C & J Coupe Family Ltd. P'ship, 120 Haw. 399, 208 P.3d 277 (2009)
- County of Hawaii v. C & J Coupe Family Ltd. P'ship, 119 Haw. 352, 198 P.3d 615 (2008)
- Pono v. Molokai Ranch, Ltd., 119 Haw. 164, 194 P.3d 1126 (Haw. Ct. App.l, cert. rejected, 2008 WL 5392320,2008 Haw. Appp. LEXIS 686 (Haw. 2008)




Kenneth R. Kupchak
Best Lawyers
Lawyer of the Year
2017
Eminent Domain and Condemnation Law
– Honolulu


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Best Lawyers
Lawyer of the Year
2015
Litigation - Land Use and Zoning
– Honolulu, HI


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