

President
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Education:

University of California
Hastings College of Law
J.D. (1991)
Two Term Member and Instructor - Hastings Moot Court Board

University of Colorado
B.S. Business Administration
(1984)

Areas of Practice:
Real Estate, Hotels & Resorts, Business Structure and Operations, Commercial Transactions

Professional Activities:
Licensed in California (inactive) & Hawaii
American Bar Association
Adjunct Professor, University of Hawaii William S. Richardson School of Law (Contracts Drafting and Commercial Real Estate Transactions)

DUANE R. FISHER

Hawaii real estate lawyer, Duane R. Fisher concentrates his practice in the areas of real estate law, hotels and resorts, construction law, business structure and operations and commercial transactions. Mr. Fisher has represented a wide range of business organizations, from hotel owners, telecommunications companies, general contractors, Wall Street investment firms and multi-billion dollar energy development companies to closely held corporations and sole proprietors, in both private transactions and before federal and state administrative agencies.

Mr. Fisher holds ***Martindale-Hubbell's®*** highest possible professional rating ***AV®*** ; this rating is given by Mr. Fisher's legal peers, based on their knowledge of his work, reputation and integrity.

Mr. Fisher is recognized by peers and clients as a pre-eminent lawyer in Hawaii. He has been selected for inclusion by his peers to the coveted **"Top 25", Hawaii *Super Lawyers*®** list for real estate law in Hawaii in 2014, 2020-2025. ***The Best Lawyers in America®*** has included him in their real estate, corporate law, construction law, business organizations, land use & zoning law and leisure & hospitality law, **"*Best Lawyers*®"** in Hawaii lists. Mr. Fisher has been named by *The Best Lawyers in America*®, as a **"*Lawyer of the Year*" in Honolulu**, in the practice areas of **Corporate Law (2015**) and **Business Organizations (Including LLCs and Partnerships) (2020, 2023)**. Finally, the exclusive ***Chambers and Partners USA Directory of Leading Lawyers for Business*** includes Mr. Fisher as a preeminent lawyer for his real estate law and corporate law expertise.

Some examples of his recent work include:

Publicly Traded Hotel Owner. Acts as local Hawaii counsel for a publicly traded hotel owner with major assets in Hawaii. Work includes strategic advice, lobbying, government relations, acquisitions, development, permitting, title issues, contracting and advice regarding a multitude of operational issues.

Publicly Traded Time Share Company. Acts as local Hawaii counsel for a publicly traded time share company with substantial operations in Hawaii. Work includes real estate acquisitions, entitlements, land use, governmental relations and contracting.

Real Estate Brokerage. Acts as outside general counsel for one of Hawaii's largest and most dynamic real estate brokerage service companies. Work includes

creation of listing agreements, independent contractor agreements, acquisitions, real estate law / compliance advice, strategic advice, and corporate advice.

Development Company. Represents large landowner / developer in connection with private and public development projects in Hawaii. Work includes acquisitions and dispositions, leasing, entitlements and contracting.

Restaurant Owners / Operators and Celebrity Chef. Represents Hawaii-based company with major restaurants on Oahu and Maui. Work includes leasing, entity formation and general corporate advice. Also represents local celebrity chef in connection with license agreements, joint ventures and general corporate matters.

Large Real Estate Transactions. Has represented both buyers and sellers in all aspects of multi-million dollar real estate transactions, including negotiating terms of sale, drafting letters of intent and purchase and sale agreements, establishment of and interface with escrow, supervising closings, procurement of various types of title insurance and negotiating endorsements with title insurers, and advising clients concerning land use matters.

Business Sales and Formations. Mr. Fisher regularly advises clients with regard to a wide range of business law issues including the acquisition/sale of existing businesses, as well as the formation of business entities. He has drafted numerous purchase and sale agreements and organizational documents and agreements, such as articles, bylaws, operating agreements, shareholder agreements, buy-sell agreements and the like. Assists clients to prepare company minutes and resolutions, and keep appropriate company record books.

Construction Contracts. Has represented owners and contractors in the negotiation, execution, implementation and completion of construction and architect contracts, including custom contracts and modifications to Standard AIA and DBIA contract documents, in both commercial and large residential transactions.

Sale of Large Waikoloa Resort Hotel. Represented 87% owner in the sale of its interest in world- class resort hotel to the minority owner/manager of the hotel. Transaction was complicated by a number of factors, including (1) the fact that a significant portion of the purchase price was paid for with unregistered shares of stock of a publicly traded corporation; (2) the real property upon which the hotel is situated is leasehold and the transaction required the consent of the ground lessor; (3) a portion of the premises involved “ceded lands” that were the subject of significant title issues; and (4) the hotel was subject to a collective bargaining agreement. Mr. Fisher was primarily responsible for drafting and negotiating the purchase and sale agreement, and was substantially involved in resolving all complexities of the deal, and coordinated a successful real estate closing of the transaction all in less than thirty days. All parties remarked that they had never witnessed such a complicated commercial real estate transaction brought to such

a smooth closing in so short a period of time.

Sale of Downtown Honolulu Office Building. Represented owner in the sale of 30-story office building in Downtown Honolulu. Negotiated terms of the sale, prepared and negotiated transaction documents, interfaced with tenants as to leasing issues, and brought the complex sale to a timely closing.

Waikiki Hotel Acquisition. Acted as local Hawaii counsel in representing the purchaser of a premier Waikiki resort hotel. Responsibilities included advising with respect to the purchase and sale agreement, conducting and coordinating the due diligence investigation, negotiating title insurance and endorsements, negotiating and documenting financing for the acquisition, transferring the hotel liquor license and other permits, licenses and leases to the buyer, interfacing with labor counsel with regard to union and other labor issues, opening and interfacing with escrow, and coordinating the timely closing of the sale

Hotel Owner and Commercial Landlord - Tenant Matters. Represented the hotel owner/landlord of an 800 room Waikiki hotel with over 50 commercial tenants. Created model form office and retail leases for the landlord. Responsible for negotiating and documenting the office and retail leases for the hotel, and for handling legal issues with respect to the commercial tenants. Successfully represented landlord in summary possession action against a defaulting tenant.

Complex Stock Acquisition of Publicly Traded Real Estate Development Company. Represented purchaser of a majority shareholder interest in publicly traded Delaware corporation with substantial real estate assets for development in various locations in Hawaii primarily undeveloped land on Maui and the Big Island. Negotiated the purchase and sale agreement, coordinated due diligence, interfaced with tax advisors, negotiated amendments and ancillary agreements, coordinated with S.E.C. and Delaware counsel, negotiated and documented new loans and refinancing of existing target company loans.

Real Property Tax Appeals. Represents owners with Hawaii real tax appeals concerning valuation and assessment. In one case, Mr. Fisher was lead negotiator in settlement discussions with the real property tax office, and successfully negotiated a settlement resulting in tax savings of more than $650,000 per year. The two-year settlement saved the client more than $1.3 million.

Court-Appointed Receiver. Mr. Fisher was appointed by the First Circuit Court of the State of Hawaii as a receiver to take control of a debtor's judgment, execute upon and sell a large, multi-million dollar parcel of land, and distribute the proceeds pursuant to Court Order. Ultimately, the appointment of Mr. Fisher as receiver, and his actions taken in that capacity, forced the debtor to raise monies sufficient to pay off his primary creditor, who for some eighteen years had tried to collect money from the debtor. This favorable result occurred within sixty days of

Mr. Fisher's receivership appointment.

Wall Street Investment Bank. Represented major Wall Street investment banking firm in their review of several major Hawaii real estate properties for potential acquisition. Work included due diligence review, advice concerning long-term commercial leasehold estates in Hawaii, contract review and negotiation with Seller.

Off-Shore Company. Incorporated off-shore holding company for high net worth individual. Liaised with foreign lawyers and accountants to ensure compliance with foreign laws. Overcame foreign legal technical requirements by creating class of redeemable preferred shares of stock to allow for financial flexibility. Advised and worked closely with directors in multiple aspects of ongoing business operations, including registering the company to do business in the Far East, and completion of independent audit and tax planning.

Wireless Telecommunications Company. Served as outside general counsel for the premier pre-paid wireless telecommunications (cellular phone service and broadband internet access) company in Hawaii. Negotiated and/or drafted well over 200 antenna site lease/license agreements, hundreds of vendor contracts, drafted terms and conditions of service, provided advice and documentation relating to credit facility and the security therefore, and worked with various city, state, county and federal agencies, as well as local private landowners.

Pro Bono, Civic and Charitable Matters. Mr. Fisher regularly provides Hawaii business law services to charitable institutions on a pro bono basis including incorporating Hawaii non-profit corporations for charitable purposes.

Adjunct Professor of Law – University of Hawaii William S. Richardson School of Law. Mr. Fisher regularly instructs upper level law student in his Contracts Drafting and Commercial Real Estate Transactions classes at Hawaii's only accredited law school.

What People Say:
"I recommended Duane Fisher of this firm to a client recently and told the client that Duane is really good. The client called me back a few weeks later and said "Duane Fisher isn't good he's "crazy good".
-The Best Lawyers in America©, Client Comment

"Starn O'Toole Marcus & Fisher is a firm (and most importantly partner, Duane Fisher) I've used both personally and professionally for over 13 years and I couldn't ever think of using another firm. Duane is knowledgeable, creative, responsive and a great problem solver. Rates are fair for the product delivered and I really couldn't be happier. I can't say the same for many other firms I've used for specialty work over the years. I received top notch service from Duane and any other colleagues I've ever worked with. I recommend them without hesitation.

-The Best Lawyers in America©, Client Comment