

Honolulu, Hawaii

March 2, 2006

RE: H.B. No. 1936
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 1936 entitled:

"A BILL FOR AN ACT RELATING TO PLANNED COMMUNITY ASSOCIATIONS,"

begs leave to report as follows:

The purpose of this bill is to make the actions of the board of a planned community association (board) more transparent to the association, and to increase board accountability, by:

- (1) Requiring the board of directors to notify association members (AMs) of the appointment of a board committee or subcommittee, its purpose, and its alteration or elimination;
- (2) Requiring that board committee or subcommittee:
 - (A) Meetings be open to all AMs;
 - (B) Minutes include the vote of each committee or subcommittee member; and
 - (C) Members may not vote by proxy;
- (3) Mandating that the most current association financial statement be made available within the planned community on 24-hour loan to AMs;



- (4) Requiring the approved minutes of the board and any committee or subcommittee for the current and prior year be:
 - (A) Maintained by the association for at least five years;
 - (B) Made available within the planned community on 24-hour loan to AMs; and
 - (C) Transmitted free of charge to an AM by mail, electronic mail, or facsimile;
- (5) Providing that financial documents required for tax purposes be maintained for seven years; and
- (6) Requiring that any financial statements, insurance policies, and related materials kept by the association be made available to AMs.

Several concerned individuals supported this bill. Mililani Town Association and several concerned individuals opposed this bill.

Upon further consideration, your Committee has amended this bill by:

- (1) Removing the requirement that board committee or subcommittee members may not vote by proxy, their votes be recorded in the minutes, and that their meetings be open to all AMs;
- (2) Providing that notice of the formation, purpose, alteration, or elimination of a committee or subcommittee be provided to AMs through the board meeting minutes;
- (3) Providing that association documents and the most recent board meeting minutes must be made available within the planned community to AMs;
- (4) Providing that administrative costs of a request for a copy of board meeting minutes are to be borne by the requestor, and not the association;



- (5) Prohibiting directors from voting on any issue in which the director has a "conflict of interest," defined to mean a direct personal or pecuniary interest not common to other AMs;
- (6) Requiring associations to provide notice within 10 days of an AM's request for information, that administrative costs will be assessed and the amount, except for requests for information on delinquent assessments or on the association's enforcement of the law or governing documents;
- (7) Allowing association members to withdraw requests for information within 10 days of notification of the cost;
- (8) Allowing members to view proxies, ballots, and other voting materials for 30 days following any association meeting and to obtain copies of certain voting materials if they bear administrative costs;
- (9) Allowing members to request board approval to examine association documents not specifically covered by the law and protecting private and privileged information from disclosure;
- (10) Requiring an annual audit of association accounts, an annual unannounced verification of the association's cash balance by a public accountant, and allowing associations of less than 20 units to waive these requirements by a majority vote of unit owners;
- (11) Requiring the annual audit to be provided to AMs within 30 days prior to the annual meeting and providing an exemption for owners who do not indicate on the proxy form that they want a copy;
- (12) Authorizing the Director of Commerce and Consumer Affairs to:
 - (A) Study planned community issues and recommend legislation to protect association member rights; and
 - (B) Hear and maintain a record of complaints of association members;



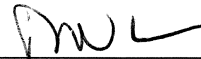
and

- (13) Requiring the Director of Commerce and Consumer Affairs to adopt rules to implement the Director's responsibilities;

Your Committee finds that planned community association members are reporting problems with their associations, however, the law contains few protections or remedies. As amended, this bill responds to these problems by combining protections for planned community association members found in several bills heard by your Committee.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1936, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1936, H.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Consumer
Protection & Commerce,




ROBERT N. HERKES, Chair



State of Hawaii
House of Representatives
The Twenty-third Legislature

HSCR 668

Record of Votes of the Committee on Consumer Protection & Commerce

Bill/Resolution No.: HB 1936		Date: 3/1/04		
Committee Referral: CPC		<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.		
The recommendation is to: <input type="checkbox"/> Pass, unamended <input checked="" type="checkbox"/> Pass, with amendments <input type="checkbox"/> Hold <input type="checkbox"/> Recommit				
CPC Members	Ayes	Ayes (WR)	Nays	Excused
1. HERKES, Robert N. (C)	✓			
2. SCHATZ, Brian (VC)	✓			
3. CALDWELL, Kirk	✓			
4. ITO, Ken	✓			
5. KANOHO, Ezra R.				✓
6. KARAMATSU, Jon Riki	✓			
7. MORITA, Hermina M.	PA	✓		
8. SONSON, Alex M.				✓
9. SOUKI, Joseph M.				✓
10. MARUMOTO, Barbara C.	✓			
11. STONEBRAKER, Bud		✓		
TOTAL	6	2		3
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
If joint referral, _____ did not support recommendation. committee acronym(s)				
				
Vice Chair's or designee's signature:				
Distribution: Original (White) – Committee Duplicate (Yellow) – Clerk's Office				