



**Hawaii
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March 12, 2008

The Honorable Russell S. Kokubun, Chair
Senate Committee on Commerce, Consumer Protection
And Affordable Housing
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: H.B. 2492, HD1 Relating to Planned Community Associations
Hearing Date: Wednesday, March 12, 2008 @ 9:00 a.m., Room 229

Dear Chair Kokubun and Members of the Senate Committee on Commerce, Consumer Protection and Affordable Housing:

On behalf of our 10,000 members in Hawaii, the Hawaii Association of REALTORS® (HAR) **supports H.B. 2492, HD1.**

As real estate professionals dedicated to helping and informing prospective buyers of the complexities in purchasing a home, we know that the seller must disclose accurate information of material facts, as well as provide documents pertaining to homeowner, condominium, subdivision, or planned unit development organizations. HAR supports the disclosure of all known material facts pertaining to physical conditions of the property which could affect an ordinary buyer's use and enjoyment of the property, or any intended use of the property of which the seller is aware.

Since the passage of ACT 276, SLH 2006, which requires the mandatory seller disclosure statement to include the planned community declaration and association documents, issues have materialized as to (1) what is defined as a planned community under Chapter 421J-2, Hawaii Revised Statutes, and (2) the lack of explanation on "planned community declaration and association documents."

HAR believes if the residential real property being offered for sale is in a planned community or subdivision that has CC&R's (Covenants, Conditions, and Restrictions), design standards and/or guidelines, "disclosure statement" should include these documents. Furthermore, it should state that if a subdivision with CC&R's has an umbrella subdivision or community association that has its own CC&R's, those documents shall also be made available at the same time.

Language to effect this disclosure is already included in HAR's Purchase Contract, a copyrighted HAR standard form. However, only REALTORS® use HAR standard forms and H.B. 2492 HD1 will address and clarify what is to be disclosed for all sellers.

Mahalo for the opportunity to testify.



March 10, 2008

SENATE COMMITTEE ON COMMERCE,
CONSUMER PROTECTION AND AFFORDABLE HOUSING
REGARDING HOUSE BILL 2492, HD1

Hearing Date : TUESDAY, March 11, 2008
Time : 9:00 a.m.
Place : Conference Room 229

Chair Kokubun and Members of the Committee:

My name is John Morris and I am testifying on behalf of the Hawaii Legislative Action Committee of the Community Associations Institute ("CAI") in support of Section 2 of House Bill 2492, HD1. (CAI has no opinion on Section 1 of the bill.) CAI Hawaii is the local chapter of a national organization dedicated to improving the management and operation of community associations nationwide.

Section 2 of House Bill 2492, HD1 tries to correct a lack of disclosure problem that commonly affects the sale of properties in projects that are not condominiums or residential cooperatives but are nonetheless subject to restrictive covenants or controlled by a homeowner association. More specifically, the parties to the purchase and sale of such properties frequently overlook the fact that the purchaser is subject to restrictions on his or her ability to use the property being purchased. Omission of that information as part of the purchase often leads to disputes and misunderstandings when the purchaser subsequently discovers that he or she must comply with those restrictions.

Section 2 of House Bill 2492, HD1 amends the law to recognize all of those potential problems and require that they be disclosed as part of the purchase and sale of the property. This section even recognizes that associations often have unrecorded rules and guidelines that have been adopted by the association pursuant to the authority given and recorded documents. Since it is important to ensure that someone buying property is fully aware of the restrictions imposed on the property, CAI supports Section 2 of House Bill 2492, HD1.

Please contact me at 523-0702 if you have any questions. Thank you for this opportunity to testify.

Very truly yours,

John A. Morris
Hawaii Legislative Action Committee
of the Community Associations Institute

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