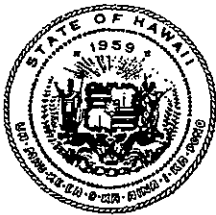


SB 2046
RELATING TO
MULTI-UNIT
RESIDENTIAL
BUILDINGS

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DISABILITY AND COMMUNICATION ACCESS BOARD

919 Ala Moana Boulevard, Room 101 • Honolulu, Hawaii 96814
Ph. (808) 586-8121 (V/TDD) • Fax (808) 586-8129

January 24, 2008

TESTIMONY TO THE SENATE COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING

Senate Bill 2046 - Relating to Multi-Unit Residential Buildings

The Disability and Communication Access Board (DCAB) supports the intent of Senate Bill 2046 relating to multi-unit residential buildings but expresses concerns regarding the first section concerning mandatory registries.

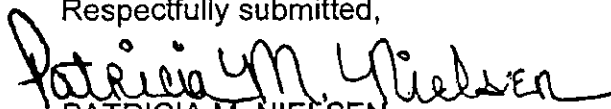
DCAB has been actively involved in the development of the efforts to improve emergency evacuation of persons with disabilities in the event of a disaster. Emergency preparation and evacuation from multi-family residential buildings, particularly high-rise condominiums are of particular importance, whether there be a community disaster or an individual building fire. We applaud the efforts of the Legislature to improve policies and procedures for safe evacuation, especially with the shutdown of elevators in a fire.

We support completely the requirement for emergency evacuation plans as proposed on page 2, line 16. This will improve the knowledge of all residents and tenants.

We have concerns regarding a statutory requirement for a survey as mentioned on page 1, line 4. The vast majority of buildings do not have a 24/7 live-in manager or security. Gathering all the information of residents' medical or other critical personal needs, keeping the information confidential, and ensuring that it is given to first responders upon arrival on site is impractical unless there is 24/7 coverage. We believe that the information is useful IF the building is large enough to have a structure to properly use the information while keeping it confidential. However, to require this on all properties, regardless of size and management structure, would be a mistake. Small buildings of one owner with four units with no on site management would not know what to do with information gathered. This action should be encouraged and be voluntary, but not mandated by state law. Other less statutorily mandated actions should be pursued.

Thank you for the opportunity to provide testimony.

Respectfully submitted,



PATRICIA M. NIELSEN
Chairperson
Legislative Committee



FRANCINE WAI
Executive Director

LATE TESTIMONY

H.I.C.C.O.

HAWAII INDEPENDENT CONDOMINIUM & COOPERATIVE OWNERS
1600 ALA MOANA BLVD. - APT. 3100 - HONOLULU - HAWAII 96815

January 24, 2008

Senator Suzanne Chun Oakland, Chair
Senator Les Ihara, Jr. Vice Chair
Committee on Human Services
and Housing

Testimony on SB2046 Relating to Multi-Unit Residential Buildings

Dear Senators:

Our organization supports SB2046 which requires regular surveys of residents of multi-unit residential buildings who have special needs and issues relating to medical needs, accommodations for the disabled and other special needs for emergency preparation purposes. This bill would also require multi-unit residential buildings to have and inform their residents of emergency evacuation plans.

There is one additional issue that should be included in this bill. Currently, multi-unit residential buildings with elevators are required to have a key box for use by emergency police and fire personnel so that elevators can be brought down for emergency use. It would make sense to include the names and apartment numbers required by this bill to be kept in a lock box separate from, but near to, the key lock box. This is important because managers and other staff may not be available in times of emergency to provide this information to the appropriate emergency personnel.

Thank you for this opportunity to testify in support of SB2046.

Mahalo,

Richard Port

Richard Port, Chair
Legislative Committee

Chair Chun-Oakland and Committee Members

I am writing to oppose SB 2046.

While many of its goals are admirable, for a project of the size I live in, composed of 64 2-story units in eight buildings over 7 acres, I figure the additional cost to each property owner will be about \$3,600 per year (\$300 a month) which would raise the average maintenance per unit from \$375 a month to \$675 a month, which would devastate our many retired owners on fixed incomes and anyone struggling against foreclosure in today's difficult real estate market.

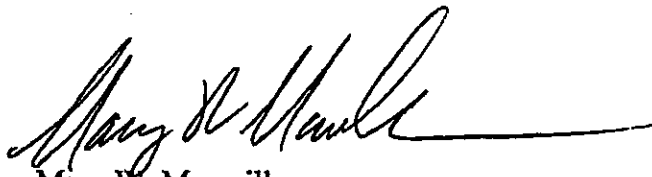
We have NO employees. We contract with a landscaping firm and an organization which manages our money, collects fees, pays bills and the like. Every piece of paper in a newsletter and the stamp it puts on to mail it costs extra. Several of our units are rented to US service members, so there is a fair amount of turnover. We enjoy a wide mix of ethnicities, ages and incomes, and a reasonable maintenance fee.

We have no computers, no database of owners and renters -- that information is held by the organization that collects maintenance fees and pays our bills, and it does not include telephone numbers, many of which are unlisted anyway.

Exit routes in an emergency? Out the front or back door of each unit and to the street.

The association can't be sued? What about an individual director? What protection do we have? It is very difficult in these litigious times to find ANYONE willing to serve on a condominium association board, and this bill would make it even more difficult. I know I would have no heartburn quitting in an instant under such circumstances.

Maybe this bill would work for high-rises where the only escape route is down stairs, but I'll bet the cost would be about the same as changing to the new sealed elevators which can be used to evacuate the disabled in a fire or other emergency, which is a better idea than collecting ever more personal information that can be stolen by cyber-crooks.



Mary W. Macmillan
Board Member
Holaniku Hale
(Alapoai and Kuahelani Streets)
Mililani, Hawaii
808-623-0977
mwm@lava.net

TESTIMONY OF JIM SHON

SENT: January 21, 2008 via email: testimony@capitol.hawaii.gov

FOR: The Senate Committee on Human Services and Public Housing

DATE: Thursday, January 24, 2008

TIME: 1:30 p.m.

PLACE: Conference Room 016

**SB 2046 RELATING TO MULTI-UNIT
RESIDENTIAL BUILDINGS.**

HSP, CPH

Requires regular surveys of residents of multi-unit residential buildings on specific needs and issues relating to medical needs, accommodations for the disabled, and other special needs for emergency preparation purposes. Requires multi-unit residential buildings to have and inform their residents of emergency evacuation plans.

MEMBERS OF THE COMMITTEE:

I STRONGLY SUPPORT THIS BILL. With so many seniors living in apartments and condos, it is important that in times of disasters (hurricanes, power outages, etc.) we are able to respond to their needs. This is a reasonable bill, as it sets up a system by which seniors (or their children) can have the piece of mind that special vulnerabilities will be addressed during extraordinary times.

Sincerely,

**Jim Shon
jshon@hawaii.edu**

PS See below information on the special challenges facing seniors during disasters.

The United States Department of Health and Human Services' Administration on Aging included on its 2001 web page an excellent summary of the responses of elders to disaster situations. They represent an excellent list of needs that elder service programs typically

must address. (<http://www.aoa.dhhs.gov/aoa/disaster/manual/espec.html>) These included:

“SENSORY DEPRIVATION - Older persons' sense of smell, touch, vision and hearing may be less acute than that of the general population. A hearing loss may cause an older person not to hear what is said in a noisy environment or a diminished sense of smell may mean that he or she is more apt to eat spoiled food.

DELAYED RESPONSE SYNDROME - Older persons may not react to a situation as fast as younger persons. In disasters, this means that Disaster Application Centers may need to be kept open longer if older persons have not appeared. It also means they may not apply for benefits within specified time limits.

GENERATIONAL DIFFERENCES - Depending on when individuals were born, they share differing values and expectations. This becomes important in service delivery since what is acceptable to an 80-year-old person may not be acceptable to a person 65 years of age.

CHRONIC ILLNESS AND MEDICATION USE - Higher percentages of older persons have arthritis. This may prevent an older person from standing in line. Medications may cause confusion in an older person or a greater susceptibility to problems such as dehydration. These and other similar problems may increase the difficulties in obtaining assistance.

MEMORY DISORDERS - Environmental factors or chronic diseases may affect the ability of older persons to remember information or to act appropriately.

TRANSFER TRAUMA - Frail older persons who are dislocated without use of proper procedures may suffer illness and even death.

MULTIPLE LOSS EFFECT - Many older persons have lost spouse, income, home, and/or physical capabilities. For some persons, these losses compound each other. Disasters sometimes provide a final blow making recovery particularly difficult for older persons. This may also be reflected in an inappropriate attachment to specific items of property.

HYPER/HYPOTHERMIA VULNERABILITY - Older persons are often much more susceptible to the effects of heat or cold. This becomes more critical in disasters when furnaces and air conditioners may be unavailable or unserviceable.

CRIME VICTIMIZATION - Con artists target older persons, particularly after a disaster. Other targeting by criminals may also develop. These issues need to be addressed in shelters and in housing arrangements.

UNFAMILIARITY WITH BUREAUCRACY - Older persons often have not had any experience working through a bureaucratic system. This is especially true for older women who had a spouse who dealt with these areas.

LITERACY - Many older persons have lower educational levels than the general population. This may present difficulties in completion of applications or understanding directions.

LANGUAGE AND CULTURAL BARRIERS - Older persons may be limited in their command of the English language or may find their ability to understand instructions diminished by the stressful situation. The resulting failure in communication could easily be further confused by the presence of authoritarian figures, such as police officers, who may increase the apprehension and confusion in the mind of the older person. A number of seniors speak languages other than English, and there is a critical need to be sensitive to language and cultural differences. This could mean older persons in this category will need special assistance in applying for disaster benefits.

MOBILITY IMPAIRMENT OR LIMITATION - Older persons may not have the ability to use automobiles or have access to private or public transportation. This may limit the opportunity to go to the Disaster Application Center, obtain goods or water, or relocate when necessary. Older persons may have physical impairments that limit mobility.

WELFARE STIGMA - Many older persons will not use services that have the connotation of being "welfare." Older persons often have to be convinced that disaster services are available as a government service that their taxes have purchased. Older persons need to know that their receipt of assistance will not keep another, more impacted, person from receiving help.

MENTAL HEALTH STIGMA - Similar to welfare stigma, older persons often feel ashamed that they may experience mental health problems. These attitudes must be addressed individually if older persons are to receive mental health care.

LOSS OF INDEPENDENCE - Older persons may fear that they will lose their independence if they ask for assistance. The fear of being placed in a nursing home may be a barrier to accessing services."

S.B. NO. 2046
A BILL FOR AN ACT
RELATING TO MULTI-UNIT RESIDENTIAL BUILDINGS.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Hawaii Revised Statutes is amended by adding two new sections to be appropriately designated and to read as follows :

"5 -Multi-unit residential buildings; resident safety.

(a) No later than one year from the effective date of this Act, the resident manager, condominium association, owner, or other similar person responsible for the management, operations, and safety of a multi-unit residential building shall survey the residents of the building in writing to establish each resident's medical or other critical personal needs including their:

- (1) Inability to ascend or descend stairs;
- (2) Medication issues such as:
 - (A) Required refrigeration; and
 - (B) Limited supplies;
- (3) Dependence on a respirator or oxygen;
- (4) Use of a wheelchair or other assistive device;
- (5) Mental limitations such as those caused by Alzheimer's or other illness or condition; and
- (6) Special dietary needs.

(b) All information provided by these surveys shall be kept in writing in a safe place, preferably on or near the property, and, in case of a disaster or other emergency, made available to rescue personnel including fire, police, and civil defense.

(c) Provision of the information for each survey shall be voluntary. The survey information shall be updated every six months.

(d) No person, association, or other entity responsible for providing the survey and preserving the survey information shall be liable for any loss due to a faulty survey, or the loss or misuse of the survey results.

§-Multi-unit residential buildings; emergency evacuation plans. No later than one year from the effective -- date of this Act, the resident manager, condominium association, owner, or other similar person responsible for the management, -- operations, and safety of a multi-unit residential building shall have developed, with the aid of rescue and medical personnel as necessary, an emergency evacuation plan for the building. A copy of the plan shall be provided to every unit in the building and a copy shall be posted in one or more public areas where it is most likely to be seen by the greatest number of residents such as elevator lobbies."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

Ekimoto & Morris

A Limited Liability Law Company

DATE: Wednesday, January 23, 2008, 12:45 p.m., Hawaii Standard Time

TO: Senate Sergeant-At-Arms and
Senator Suzanne Chun Oakland
Chair, Committee on Human Services and Public Housing

FAX NO.: 586-6659

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

RE: Testimony re: Senate Bill 2046 (SB 2046)

NO. OF PAGES, INCLUDING TRANSMITTAL: 3

REMARKS:

Transmitting testimony regarding:

SB 2046

Hearing Date/Time: Thursday, January 24, 2008 at 1:30 p.m.

Place: Conference Room 016, State Capitol

Please submit 30 copies of the attached testimony to Chair Suzanne Chun Oakland c/o the committee clerk, Room 226, State Capitol. Mahalo!

THE INFORMATION CONTAINED IN THIS FAX MESSAGE IS INTENDED ONLY FOR THE PERSONAL AND CONFIDENTIAL USE OF THE DESIGNATED RECIPIENT(S) NAMED ABOVE. IF THIS MESSAGE IS AN ATTORNEY-CLIENT COMMUNICATION OR CONSTITUTES ATTORNEY WORK PRODUCT, IT IS PRIVILEGED AS WELL AS CONFIDENTIAL AND THE ACCIDENTAL RECEIPT THEREOF BY SOMEONE OTHER THAN THE INTENDED RECIPIENT DOES NOT CONSTITUTE A WAIVER OF THAT PRIVILEGE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT YOU HAVE RECEIVED THIS MESSAGE IN ERROR AND THAT ANY REVIEW, DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY AND RETURN THE ORIGINAL TO US PROMPTLY. THANK YOU.

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OR IF YOU DO NOT RECEIVE ALL PAGES OF THIS TRANSMITTAL**



SENATE COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING
REGARDING SENATE BILL 2046

Hearing Date : Thursday January 24, 2008
Time : 1:30 p.m.
Place : Conference Room 016

Chair Chun-Oakland 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") to express concerns about Senate Bill 2046. CAI Hawaii is the local chapter of a national organization dedicated to improving the management and operation of community associations nationwide. CAI has over 200 members in Hawaii and over 14,000 nationwide.

CAI has concerns about SB 2046 to the extent that it greatly expands the role of a condominium association in the management and operation of a condominium project. The intent of the bill seems worthwhile, but the burden it imposes should be assumed by the State Department of Health or someone better equipped to conduct the evaluations the bill requires.

Essentially, a condominium association is only a property maintenance organization established by its members for that purpose. Many smaller associations have no staff whatsoever or have one or two staff persons whose main responsibilities are hands-on maintenance. They are not equipped to administer the requirements of this bill.

Moreover, even assuming an association has the personnel to undertake the requirements of this bill, the information collected could quickly become out of date as people move into and out of the condominium project, forcing the association to continuously update the information, which might require additional staff. Certainly, given the turnover in many condominium projects, updating the survey only every six months -- as the bill requires -- might have very little benefit if an emergency occurred.

In addition, both federal and State law prohibit the association from discriminating against residents based on their disabilities and other health conditions, as well as imposing significant penalties for violating those laws. Nevertheless, this bill requires the association

CAI Testimony Regarding SB 2046

Page 2

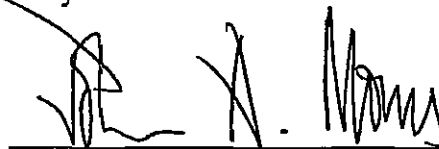
to request information on health conditions that those other laws prohibit the association from using as a basis for any type of association action. Once the association has that type of information on a resident, it will leave itself open for claims of discrimination if it takes action against the resident in the future.

In addition, while the bill does provide associations with an exemption from liability, that is not the same as an exemption from being sued. Certainly, creative attorneys may decide that, given the multitude of detailed requirements in the bill, it may be worthwhile suing an association for failure to meet those requirements, based on the possibility that some recovery may be possible despite the exemption from liability. Meritless claims may be filed and the cost of defense is high no matter what the merits of the suit.

There are better ways of trying to achieve the aims of this bill that are more consistent with the concept of self-governance that already exists in the condominium law. For example, the bill could simply allow the association to voluntarily collect the information required under the bill and provide the exemption from liability to encourage associations to do so. In that way, those associations that wish to and are capable of meeting the requirements outlined in the bill will have more of an incentive to do so.

For those reasons, CAI agrees with the intent of SB 2046 but opposes it in its present form, especially its attempt to make what should be voluntary action, mandatory.

Thank you for this opportunity to testify.



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

**PRESENTATION OF THE
REAL ESTATE COMMISSION**

**TO THE SENATE COMMITTEE ON
HUMAN SERVICES AND PUBLIC HOUSING**

**TWENTY-FOURTH LEGISLATURE
Regular Session of 2008**

Thursday, January 24, 2008
1:30 p.m.

**TESTIMONY ON SENATE BILL NO. 2046, RELATING TO MULTI-UNIT
RESIDENTIAL BUILDINGS.**

TO THE HONORABLE SUZANNE CHUN OAKLAND, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Bill Chee and I serve as the Chair of the Real Estate Commission's ("Commission") Condominium Review Committee, and I thank you for the opportunity to present testimony on Senate Bill No. 2046, Relating to Multi-Unit Residential Buildings. The Commission supports the intent of Senate Bill No. 2046 since it proposes to address an important subject.

The bill proposes to require regular surveys of residents of multi-unit residential buildings on specific needs and issues relating to medical needs, accommodations for the disabled, and other special needs for emergency preparation purposes and proposes to require multi-unit residential buildings to have and to inform their residents of emergency evacuation plans.

The Commission, however, has concerns that Senate Bill No. 2046 as drafted, does not provide definitions for "multi-unit residential buildings" and other proposed terms including "owner or other similar person." As such, it is unclear whether the proposed legislation is intended to apply to every type of multi-unit

Testimony on Senate Bill No. 2046
Thursday, January 24, 2008
Page 2

residential building, e.g., 2-unit condominiums, duplexes, town homes, cooperatives, and unregistered condominium projects.

Further, Senate Bill No. 2046 fails to specify who or what agency or entity will administer and or enforce the requirements of the proposed legislation.

Lastly, it is unclear as to what penalties, if any, shall result for non-compliance with the proposed requirements.

Thank you for the opportunity to provide testimony on this measure.



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Neighbor Islands: (888) 737-9070
Email: har@hawaiiirealtors.com

January 23, 2008

The Honorable Suzanne Chun Oakland, Chair
Senate Committee on Human Services and Public Housing
State Capitol, Room 226
Honolulu, Hawaii 96813

RE: S.B. 2046 - Relating to Multi-Unit Residential Building
Hearing Date: January 24, 2008 @ 1:30 p.m., Room 016

On behalf of our 10,000 members in Hawaii, the Hawaii Association of REALTORS® (HAR) opposes S.B. 2046.

This measure proposes to require that the resident manager, condominium association, owner, or other similar person responsible for the management, operations, and safety of a multi-unit residential building to survey the residents of the building to establish each resident's medical or other critical personal needs.

We oppose this provision of the bill because it would impose a requirement that may violate the Fair Housing Act. The Fair Housing Act prohibits discrimination on the basis of disability in all types of housing transactions. Currently, it is the applicant(s) who should come forward and identify themselves as having special needs requiring accommodations other than what is provided. This is a proactive measure which has successfully served as a standard of behavior to comply with current law.

Please refer to - <http://www.hud.gov/offices/fheo/library/huddojstatement.pdf> . The very act of issuing a survey, even if it is voluntary, can be construed to be discriminatory.

The intent of the measure appears to address the need to rescue people who, due to medical reasons, may need extra assistance in the case of a disaster or emergency. However, this bill places an undue burden on those named in section (a), to gather that information and has the unintended consequence of possibly violating the Fair Housing Act.

We support the intent to require an emergency evacuation plan for the building, although we question the need to statutorily mandate the requirement as the majority of associations have a plan in place or are in the process of adopting plans.

As to an alternative, one might be the preparation of a plan with a notice to all residents.

Thank you very much for this opportunity to submit testimony.