

**PRESENTATION OF THE
REAL ESTATE COMMISSION**

TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND AFFORDABLE HOUSING

TWENTY-FOURTH LEGISLATURE
Regular Session of 2008

February 12, 2008
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 2420, RELATING TO PLANNED
COMMUNITY ASSOCIATIONS.**

TO THE HONORABLE RUSSELL S. KOKUBUN, 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. 2420, Relating to Planned Community Associations. The Commission does not support Senate Bill No. 2420.

Senate Bill No. 2420 proposes to require planned community associations to register and reregister with, and pay fees to, the Real Estate Commission on a biennial basis.

The Commission does not support this bill for the following reasons:

- Pursuant to §26H-6, HRS, "New regulatory measures being considered for enactment that, if enacted, would subject unregulated professions and vocations to licensing or other regulatory controls shall be referred to the auditor for analysis. Referral shall be by concurrent resolution that identifies a specific

legislative bill to be analyzed. . . ." As Senate Bill No. 2420 proposes new regulatory controls over planned community associations, a sunrise analysis is to be completed before consideration can be given to this measure;

- As drafted, Senate Bill No. 2420 is problematic because it does not specify the scope of the Commission's authority, power, duties and or responsibilities with respect to the registration of planned communities and the deposits and expenditures of the registration fees; and
- Senate Bill No. 2420 does not address the accommodations necessary for additional staffing to implement the proposed new regulatory measure.

Based on these reasons, the Commission does not support Senate Bill No. 2420 and requests that it be held. However, should the Committee decide to pass this measure out, the Commission requests that the bill be amended to address the concerns expressed in our testimony.

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

Princeville at Hanalei Community Association

P.O. Box 3277

Princeville, Hawaii 96722

February 8, 2008

Honorable Chair Representative Russell S. Kokubun
and Members of the Senate Committee on Commerce,
Consumer Protection, and Affordable Housing
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96817

**Re: SB 2420 Relating to Planned Community Associations; Tuesday,
February 12, 2008, Conference Room 229, 9:00 a.m.**

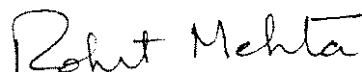
Dear Chair Kokubun and Members of the Committee:

My name is Rohit J. Mehta and I am testifying on behalf of the Princeville at Hanalei Community Association ("PHCA"), a planned community association under Chapter 421J, Hawai'i Revised Statutes. PHCA is opposed to the adoption of SB 2420.

SB 2420 would require registration and renewals with the Hawaii Real Estate Commission for all planned community associations subject to Chapter 421J. No reason is suggested for this new regulatory regime. The Real Estate Commission largely operates to govern activities of licensed real estate brokers and has no reason to deal with the varied forms of community associations in Hawaii and have no expertise in that. Indeed subdivisions are regulated by PVL within DCCA, not the Commission. While the Commission has a statutory role with condominiums, which are creatures of statute, this is not true of planned community associations. Indeed, the regulation of such associations did not exist until 1997 and the enactment of the law was to permit the recovery of attorneys' fees enforcement actions as Hawaii law severely restricted such recovery prior to the adoption of the statute. Since then a few provisions largely taken from the condominium law have also been added.

Chapter 421J is extremely broad and covers any type of common interest community other than a condominium or co-op that has a declaration and owns or maintains certain property for owners or provides services. The law is not limited to residential property and covers a staggering array of properties in which there may be a jointly owned lot, sewage facility, well, park area, roadway, or other commonly-owned property. In some cases, these associations may exist simply to hold title. Many of them are very old and of very limited function, imposing a registration regime on such widely differing entities serves no clear public purpose. Widespread non-compliance would be likely. The law appears modeled after requirements for the registration of condominium associations. That area is quite different as there are very detailed statutory requirements with which each condominium must comply and the Commission is charged with the administration of that law so that the registration there is certainly more defensible. It is not here. Again, we respectfully request that SB 2420 be held. Thank you for your consideration with this testimony

PRINCEVILLE AT HANALEI COMMUNITY ASSOCIATION



Dr. Rohit J. Mehta, General Manager

Eric M. Matsumoto
94-464 Kaweloalii Street
Mililani, Hawaii 96789

February 10, 2008

Senator Russell Kokubun, Chair,
Senator David Ige, Vice-Chair
Committee on Commerce, Consumer Protection
And Affordable Housing
c/o Legislator's Public Access Room
State Capitol
Honolulu, HI 96813

VIA Email: CPHtestimony@capitol.hawaii.gov

Re: S.B. No. 2420 – Relating to Planned community Associations
Hearing: Tuesday, February 12, 2008; 9:00AM, Conf Room 229

Dear Senators Kokubun and Ige and Committee Members:

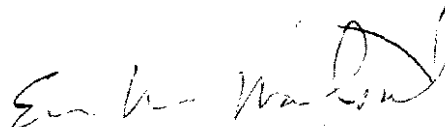
My name is Eric Matsumoto, the immediate Past President of the Mililani Town Association. While I continue to serve on the board, I'm submitting testimony on my own behalf given the 20 plus years as its President, and as a Past President of the CAI Hawaii Chapter.

While I agree there is a need to resolve the situation with the 5 acre ag lots created in some of the counties, I strongly oppose the measure to require planned communities to register with the Real Estate Commission and pay subsequent fees to administer the registration for the following reasons:

1. Problems with the lack of enforcement of the documents as well as any problems with the documents should not be hoisted upon all the other types of planned communities in the state by creating this unnecessary layer of governance and subsequent "tax".
2. Planned communities were not created by legislation, as those under 514B, and any attempt to change the dynamics does not serve the best interest of these organizations through governance by the Real Estate Commission.

I strongly recommend this measure not be passed with its current provisions and that other means of resolving the problems being encountered with gentlemen farms be pursued.

Sincerely yours,



Eric M. Matsumoto

Cc: Senator Menor, Senator Bunda, Representative Lee, Representative Yamane