



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

February 12, 2008

Senator Russell Kokubun, Chair
Senator David Ige, Vice-Chair
Committee on Commerce, Consumer
Protection and Affordable Housing

Testimony on SB 2889 Relating to Condominiums

Dear Senators:

Thank you for this opportunity to testify in support of SB 2889 on behalf of the Hawaii Independent Condominium and Co-op Owners (HICCO). The mission of our organization is to represent the interests of individual condominium and Co-Op owners in the State of Hawaii.

Our organization supports this bill and requests that your committee approve SB 2889 in the form of its companion bill HB 3331, HD 1 which made technical amendments to the original bill.

Specifically, SB 2998 clarifies the term "participation in mediation" and inserts language that was inadvertently deleted in 2007 pertaining to the types of claims that are subject to mediation. The bill also prevents the Board of Directors from moving a dispute to arbitration prior to an owner attempting to resolve the issue through the Condominium Dispute Resolution process.

HICCO respectfully requests that your committee approve SB 1809.

Sincerely,

Richard Port

Richard Port, Chair
Legislative Committee



SENATE COMMITTEE ON CONSUMER PROTECTION AND AFFORDABLE HOUSING
REGARDING SENATE BILL 2889

Hearing Date : TUESDAY, February 12, 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") to oppose Senate Bill 2889. 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.

The Community Associations Institute, Hawaii Chapter, Legislative Action Committee opposes SB 2889 because it will prohibit the use of arbitration for resolving disputes in many circumstances, even though the condominium law has permitted arbitration for more than 20 years. The proposed new section also adds specific language relating to the "condo court" condominium dispute resolution program conducted through the Office of Administrative Hearings of the Department of Commerce and Consumer Affairs. The new language will make "condo court" mandatory and permanent, thereby directly contradicting the Legislature's prior decision to make the program one option for dispute resolution, as a pilot program to be "sunsetting" in 2009.

The bill proposes to reverse a number of other prior decisions of the Legislature. For example, the bill deletes the existing section in Chapter 514B concerning mediation, section 514B-161, and replaces it with a completely new section. At the same time, the new section will expand the ability of an owner or the board to request mediation to matters involving "part IV" of Chapter 514B. In contrast, last year, the Legislature deleted the ability of an owner or the board to demand mediation concerning the enforcement of Chapter 514B. (Moreover, it is not clear why mediation involving part IV of Chapter 514B is being included, because part IV deals with the registration and development of condominiums, a process with which owners and boards usually have no direct involvement.)

Nor is it clear why the bill proposes to prohibit an owner from filing for arbitration until 30 days after mediation is complete. The present section 514B-162 places no such time limits on an owner's or board's authority to demand arbitration. In other words, SB 2889 imposes a 30 day limit on the right to demand arbitration that does not exist in the present

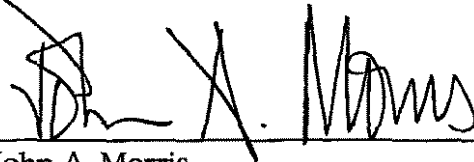
law, apparently to prevent anyone from using arbitration and forcing them to use condo court instead.

Similarly, legislation in past years has indicated that the "condo court" established through the Office of Administrative Hearings of the Department of Commerce and Consumer Affairs was to be a pilot program that would sunset on June 30, 2009, unless re-evaluated and extended by the Legislature. In contrast, SB 2889 seems to indicate that the sunset date for the condo court pilot program will effectively be eliminated by this bill. The whole purpose of the pilot program was to evaluate the condo court program, but SB 2889 tries to bypass that process.

For these reasons, CAI opposes this bill.

Thank you for this opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "John A. Morris", written over a horizontal line.

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

JAM:alt

HAWAII COUNCIL OF ASSOCIATIONS
OF APARTMENT OWNERS

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February 10, 2008

Sen. Russell Kokubun, Chair
Sen. David Ige, Vice-Chair
Senate Committee on Commerce, Consumer Protection
& Affordable Housing

RE: SB 2889 Re Condominiums
Hearing: Tues., Feb. 12, 2008, 9 a.m., Conf. Rm. #229

Chair Kokubun and Vice-Chair Ige and Members of the Committee:

I am Jane Sugimura, President of the Hawaii Council of Associations of Apartment Owners (HCAAO).

HCAAO supports this bill and urges you to pass it out of committee in the form of its companion bill HB 3331, HD1, which made technical amendments to the bill.

This bill would amend the condominium dispute resolution ("CDR") provision in both HRS 514A and HRS 154B. It clarifies the term "participation in mediation" by requiring the mediator to provide written notices to all parties of the request to mediate, the disposition of the mediation and to specify the termination date. It also inserts certain language that was inadvertently deleted in 2007 relating to the types of claims would be subject to mediation. This bill also prevents a party from moving the dispute to arbitration where the complainant intended to resolve it through the CDR program.

HCAAO supported the passage of the CDR pilot project in 2004, 2005 and 2006 and hopes that the program would provide a cheaper, quicker alternative to dispute resolution among condominium owners, board members and others in the condominium community and with these amendments, we believe that that will happen.

Thank you for the opportunity to testify.



Jane Sugimura
President