



February 4, 2008

HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
REGARDING HOUSE BILL 197

Hearing Date : TUESDAY, February 4, 2008
Time : 9:00 a.m.
Place : Conference Room 325

Chair Morita 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 House Bill 197. CAI Hawaii is the local chapter of a national organization dedicated to improving the management and operation of community associations nationwide.

As the preamble to the bill indicates, some years ago, the Legislature amended the law to make it easier for individual owners to install solar energy devices on the common elements. This bill proposes to create the same opportunities for boards of directors to install solar energy devices on the common elements, for the benefit of all residents of the condominium project.

Companies are now asking associations to lease the roofs of certain condominium projects to install solar energy devices. Wind generators are also possible for certain projects. The proposals from companies usually compensate associations for the use of the project roofs or provide them with electricity at lower rates because of tax credits and the sale of surplus power to the utility company. (Since a condominium association often pays little if any taxes, it usually cannot take advantage of the tax credits which are available to the for-profit companies that install the solar energy devices.)

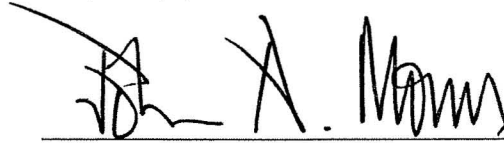
The present condominium law requires high levels of approval -- 67% and even 75% -- to lease even unused areas of the project, such as roofs. Therefore, while theoretically condominium boards can take advantage of these proposals by obtaining owner approval, such high levels of approval combined with owner apathy can defeat the best efforts of the boards to install solar energy devices.

This bill allows the board, alone, to install solar energy devices or lease roofs and other unused areas of the project for their installation. Since boards owe a fiduciary duty to act in their fellow owners' best interests, protections from abuse are already built into the law. Nevertheless, if the Legislature has a concern about giving boards too broad an authority, the approval requirements to allow such installations should at least be reduced from 67 or 75% down to a simple majority (50.1%). In that way, sufficient owners will be able to participate in the process without allowing unreasonably high approval requirements to "hamstring" the efforts of boards to install solar energy devices.

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

Very truly yours,

A handwritten signature in black ink, appearing to read "John A. Morris". The signature is written in a cursive style with a long horizontal stroke extending to the left.

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

JAM:alt