

DISABILITY AND COMMUNICATION ACCESS BOARD

919 Ala Moana Boulevard, Room 101 • Honolulu, Hawaii 96814
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April 2, 2009

TESTIMONY TO THE SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

House Bill 876, House Draft 1, Senate Draft 1 – Relating to Condominiums

The Disability and Communication Access Board (DCAB) is a statewide board with seventeen (17) members appointed by the Governor, thirteen (13) of whom are persons with disabilities or family members. The Board's mission is to advocate and promote full inclusion, independence, equal access, and quality of life for persons with disabilities in society. This testimony represents a position voted upon by the Legislative Committee of the Board.

House Bill 876, HD1, SD1 incorporated language from its companion Senate Bill 572, SD2 which would provide a structure and boundaries for the Condominium Associations in obtaining necessary information to assist them with valid situations where a person is apparently unable to live independently in a condominium. This bill proposes to expand the current provisions for people who are elderly to people who have disabilities. DCAB is offering comments only on Part II of the bill. We offer the following recommendations:

1. The definition of person with a disability should reflect the Fair Housing Act: "A physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment, or being regarded as having such an impairment."
2. Any functional assessment required by the Association, whomever conducts such an assessment, should be at the expense of the Association.
3. The phrase "physical or mental handicap or disabling condition" is repeated a few times in the bill. The term "handicapped" is no longer appropriate, so the phrase should be replaced with "physical or mental disability."

Thank you for the opportunity to testify.

Respectfully submitted,

CHARLES W. FLEMING
Chairperson

FRANCINE WAI
Executive Director

HAWAII COUNCIL OF ASSOCIATIONS
OF APARTMENT OWNERS

P.O. Box 726
Aiea, Hawaii 96701
Telephone (808) 566-2122

March 31, 2009

Sen. Brian Taniguchi, Chair
Sen. Dwight Takamine, Vice-Chair
Senate Committee on Judiciary

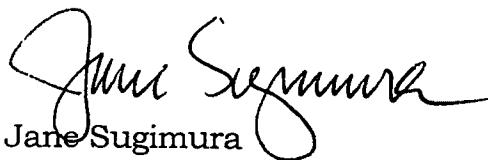
RE: Testimony in Support of HB 876 HD1, SD1 RE Condominiums
Decision-making: Thursday, April 2, 2009, 10:15 p.m. Conf. Rm. #016

Chair Taniguchi, Vice-Chair Takamine and Members of the Committee:

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

HCAAO strongly supports both parts of this bill and urges that you pass it out unamended.

Thank you for the opportunity to testify.



Jane Sugimura
President

HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law

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April 2, 2009

Senator Brian T. Taniguchi, Chair
and members of the Senate Committee on Judiciary and Government Operations
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **House Bill 876, HD 1, SD 1 (Condominiums)**
Hearing Date/Time: Thursday, April 2, 2009 at 10:15 A.M.

I am the attorney for the **Hawaii Financial Services Association** ("HFSA"). The HFSA is the trade association for Hawaii's financial services loan companies which are regulated by the Hawaii Commissioner of Financial Institutions under the Code of Financial Institutions (Chapter 412, Article 9 of the Hawaii Revised Statutes).

The HFSA wants to **comment** on this Bill.

The purpose of this Bill is to raise the maximum amount of the special assessment for delinquent monthly common assessments that can be charged against a person who purchases a condominium unit. It expands limitations on association liability for elderly unit owners aging in place to include disabled persons.

We take no position on the part of this Bill that relates to elderly unit and/or disabled owners.

The other part of this Bill would increase the maximum amount of the special assessment. Currently the special assessment is the lesser of \$1,800 or the amount of 6 months of unpaid condominium common assessments (e.g. maintenance fees). This Bill would increase the amount from \$1,800 to \$3,600. The law regarding these special assessments was first enacted in 2000 as Act 39. This special assessments provision is in Hawaii Revised Statutes Sec. 514A-90 and 514B-146. This provision requires a third party buyer to pay a portion of the delinquent common assessments (e.g. maintenance fees) even if there is no lien recorded in the State Bureau of Conveyances.

These special assessments could affect the price that a buyer pays for the foreclosed property and the amount that a foreclosing lender will net from the sale. We understand that condominium associations need to get paid when there are delinquent maintenance fees. But lenders also need to get paid the amount owed on the mortgage loans especially if the value of the property is less than the mortgage balance.

In 2000 when this \$1,800 special assessment was first enacted, there was a sunset (expiration) date provision. After a few years, that sunset date was extended. The sunset date was later repealed so that the \$1,800 was made permanent. If your Committee is inclined to increase the special assessment cap, perhaps that increase could be temporary and subject to a sunset date, after which the increased amount would revert back to \$1,800.

Thank you for considering our comments.


MARVIN S.C. DANG
Attorney for Hawaii Financial Services Association

(MSCD/hfsa)



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

April 2, 2009

Sen. Brian T. Taniguchi, Chair
Committee on Judiciary and Government Operations

Testimony on HB 876 HD 1, SD 1 Relating to Condominiums

Dear Senator Taniguchi:

Thank you for this opportunity to testify in strong support of HB 876, HD 1, SD 1 on behalf of the Hawaii Independent Condominium and Co-op Owners (HICCO).

HB 876 HD 1, SD 1 will help all condominium owners in Hawaii. Currently, Condominium Associations are only able to recover a maximum of **\$1,800** from the foreclosure of owner units by their banks. Since foreclosures sometimes take a year or longer to complete, and during that time associations are not able to collect maintenance fees for those units, **condominium associations lose thousands of dollars in spite of the fact that these condominium associations play no role in approving the loans entered into between the banks and the individual owners.**

Representatives of several organizations that deal with condominium matters met with representatives of the Hawaii Bankers Association and reached agreement to recommend to your committee that the maximum be revised from the current \$1,800 to the proposed \$3,600

We respectfully request that your committee include the change in the maximum amount to **\$3,600** and approve this revision to HB 876 HD 1, SD 1 and make this bill effective upon the Governor's signature.

We agree with the testimony of Ms. Sugimura regarding the changes in Part II of HB 876 HD 1, SD 1, and we respectfully request that your committee approve HB 876 HD 1, SD 1 with the proposed amendments.

Sincerely,

A handwritten signature in cursive script that reads "Richard Port".

Richard Port, Chair
Legislative Committee