

**PRESENTATION OF THE
REAL ESTATE COMMISSION**

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-FIFTH LEGISLATURE
Regular Session of 2009

Monday, March 30, 2009
2:15 p.m.

**TESTIMONY ON HOUSE RESOLUTION NO. 128, URGING THE REAL ESTATE
COMMISSION TO ALLOW DEVELOPERS AND ATTORNEYS TO SUBMIT
CONDOMINIUM REGISTRATION FILINGS IN ELECTRONIC FORMAT.**

TO THE HONORABLE ROBERT N. HERKES, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is William S. Chee and I serve as the Chairperson of the Real Estate Commission's ("Commission") Condominium Review Committee. I thank you for the opportunity to present testimony on House Resolution No. 128.

House Resolution No. 128 urges the Commission to accept filings for condominium registrations and supporting documents in CD-ROM or other electronic format compatible with Chapter 489E, Hawaii Revised Statutes ("HRS"); and requests that the Chair of the Commission report on the measures taken by the Commission to accept condominium registration filings in electronic format, to the Legislature twenty days before the convening of the Regular Session of 2010.

The Commission understands the intent of this resolution but the Commission has some technical and budgetary concerns with the provisions of the bill as set forth herein and believes the resolution is unnecessary for the following reasons:

- The status reporting requirement is duplicative. The Commission is already committed to the electronic administration of the developer's public reports and reports annually to the legislature the progress and status of this program of work in its required annual report to the legislature pursuant to §514B-73 (d), HRS, relating to the management of the Condominium Education Trust Fund ("CETF").
- The Commission accepts a form of electronic condominium project filings. The Commission does not prohibit developers and their attorneys from individually electing and arranging with the Commission's condominium review consultants to have the condominium project registration application submitted to the consultants via electronic format. Four of Commission's twelve consultants have made such arrangements. These voluntary arrangements are consistent with Chapter 489E, HRS, and in particular with §489E-5 (a) and (b), HRS, and §489E-17, HRS, which encourage private agreements for the use of electronic formats and allow governmental agencies to determine whether, and the extent to which, it will create and retain electronic records and convert written records to electronic records.
- The Commission does not have funds to immediately address and implement a comprehensive, across the board system for accepting condominium registration filings in CD-ROM or other electronic format

compatible with Chapter 489E, HRS. Preliminary cost estimates to implement such a system are in the neighborhood of \$100,000 and are presently unbudgeted. Costs to the Commission's retained condominium consultants to receive the condominium project application and supporting documents are unknown and is dependent on the individual consultant's computer's ability to accept voluminous files. Only four of 12 of Commission's retained condominium consultants have indicated their willingness to receive the condominium project filings in electronic format.

- Assuming the Condominium Education Trust Fund is the primary funding source to implement the proposed electronic filing system, at the current level of developers' contribution of \$5 and an association's contribution for each unit of \$2 to the CETF, the fund will be depleted quicker than the current expected budget shortfall of approximately \$17,873 by 2012 and by 2015 the CETF is expected to experience an estimated budget shortfall of \$158,854.
- For the Commission and the Real Estate Branch of the Professional and Vocational Licensing Division, there are additional concerns with the storage, maintenance, retention, and access of such electronic filings of condominium projects which would need to be addressed.
- Filings for condominium registrations and supporting documents in CD-ROM or other electronic format compatible with Chapter 489E, HRS, are

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complex, requires a statutory compliance review and rewrites of disclosure information, unlike the circumstances underlying the electronic filings cited in the resolution.

For these reasons, the Commission believes House Resolution No. 128 is unnecessary. Thank you for the opportunity to present testimony.