

LATE



Mililani Town Association

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February 23, 2009

Senator Rosalyn Baker, Chair
Senator David Ige, Vice-Chair
Committee on Commerce & Consumer
Protection
State Capitol
Honolulu, HI 96813

VIA EMAIL: CPNTestimony@Capitol.hawaii.gov

Re: S.B. No. 1145 – Relating to Condominiums

Hearing: Tuesday, February 24, 2009, 8:30 am, Conf Room 229

Dear Chair Baker, Vice-Chair Ige and Committee Members:

My name is Eric Matsumoto, Vice-President of the Mililani Town Association (MTA). I have served in MTA leadership capacities on the board for 24 of the last 30 years. MTA encompasses 16,000 plus units involving both single family units and numerous townhouse and apartment sub-associations.

We oppose this bill for the following reasons:

- It undermines the intent of the reserves law passed some 10 years ago to preclude the affected property regimes from having to impose special assessments, sometimes substantial, to cover major projects whenever shortfalls occur in the maintenance budget. While it has been effective, for the most part, there are instances where shortfalls are experienced, giving rise to the need to impose special assessments. Given this scenario, because reserves are based on generally a fifteen year projection that imposes a level of fluctuation due to economic conditions, the proposal to return any excess for that year or to reduce the future year's assessment, is shortsighted and generally, counterproductive.
- Requiring an independent reserve study, presumably by a registered Reserve Specialist, for any amount of excess over the reserves needed, could be very devastating to smaller projects based on the value of the reserves, since the cost of performing a reserve study is not inexpensive, and here again, counterproductive.
- If the independent consultant's study reflects a shortage, what happens next, another independent consultant until the desired outcome, whatever the intent is, is achieved?
- To override the board's authority, especially with only 10% of the membership is improper and unethical when it involves spending dollars from the association's reserves that affect 90% of the population who did not have the ability to give their approval to the expenditure.

Based on the above, we urge this bill be deferred.

Sincerely yours,

Eric M. Matsumoto
Vice-President, Board of Directors

Cc: Sen Kidani, Sen Bunda
Rep Lee, Rep Yamane

The following table reflects the number of cases filed with each of the Pilot Programs as of November 13, 2008*:

	CDR Pilot Program	CMDR Pilot Program
FY 04-05	0	N/A
FY05-06	7	N/A
FY 06-07	Repealed*	0
FY07-08	11	3
FY08-09	2	0
Total Cases	20	3

*During FY 06-07, 14 cases were filed with the CDR Pilot Program, however, because Act 164 was repealed on June 30, 2006, after Act 277 was passed on July 2, 2007, these cases were dismissed without prejudice. The majority of cases were not subsequently refiled with the CDR Pilot Program

The following table reflects the disposition of all of the cases filed with the CDR and CMDR Pilot Programs:

DISPOSITION	No. of Cases
Dismissed by Hearings Officer	5
Pending	2
Apartment owner prevailed	1
Association of Apartment Owners prevailed	3
Settled, resolved by parties	2
Stipulation to Dismiss Without Prejudice	4
Withdrawn and Dismissed Without Prejudice	4
Grand Total	20