
From: Arnie [asw@hawaii.rr.com]
Sent: Tuesday, February 23, 2010 4:13 PM
To: HSGtestimony
Cc: Rep. Pono Chong
Subject: Public Comment on HB 2311

- Testifier's name with position/title and organization: Arnold S. Warshawsky, citizen
- The Committee the comments are directed: COMMITTEE ON HOUSING
- The date and time of the hearing: Wednesday, February 24, 2010; 9:10 AM
- Measure number: HB 2311

Comment:

As a retired Army officer, I find it deplorable that a Homeowner Association is able to deny citizens of this great nation the ability to proudly fly the national colors. I recognize that Homeowner Associations routinely limit individual freedoms in order to preserve property values, but it seems to me a shame to put personal greed ahead of patriotism.

Arnold S. Warshawsky
Lieutenant Colonel, US Army (retired)
1274 Kika Street
Kailua, HI 96734

From: creighton.r.kudo@hawaii.gov
Sent: Tuesday, February 23, 2010 3:41 PM
To: HSGtestimony
Subject: HB2311 FLAG BILL

To: Committee on Housing

Representatives,

Please support HB2311 to allow the respectful display of our American and Hawaiian flags in our Planned Communities here in Hawaii. As a means of showing support for our active and "fallen" soldiers, the display of our American flag and Hawaiian flag is our one symbolic gesture to honor our men and women of the Armed Services. Please help to make our right to display our flags a reality by supporting HB2311.

Mahalo,

Creighton Kudo
Leasing Agent, State of Hawaii
Committee on Housing
Hearing: Wednesday, February 24, 2010; 9:10
am

HB 2311

From: brad [brad@nambp.org]
Sent: Tuesday, February 23, 2010 3:35 PM
To: HSGtestimony
Subject: HB 2311

My name is Brad Hayes.
I am in support of HB 2311 ref US Flag support.

I am a former US Marine.
I am born and raised in Hawaii.
I am part Hawaiian.

Thank you.

Brad Hayes
Executive Director
Naval Air Museum Barbers PT.
PO Box 75253,
or Bldg1792, Midway Rd, Kalaeloa Airport
Barbers Pt., HI, 96707-0253
(808) 682-3982
Brad@nambp.org
www.nambp.org

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 23, 2010 3:14 PM
To: HSGtestimony
Cc: KOAALOHA1369@AOL.COM
Subject: Testimony for HB2311 on 2/24/2010 9:10:00 AM

Testimony for HSG 2/24/2010 9:10:00 AM HB2311

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: JOSE R. NATER
Organization: Individual
Address: 91-534 PUAMAEOLE ST #48U EWA BEACH, HI 96706
Phone: 808-225-2260
E-mail: KOAALOHA1369@AOL.COM
Submitted on: 2/23/2010

Comments:

I AM A 2 TOURS VIETNAM VETERAN, RECIPIENT OF THE "PURPLE HEART", "BRONZE STAR", "ARMY COMMENDATION MEDAL", "AIR MEDAL" AND OTHER MEDALS AND I AM VERY PROUD TO BE AN AMERICAN AND NO ONE SHOULD HAVE THE RIGHT TO TELL ME THAT I CANNOT "FLY" MY "COLORS" (THE AMERICAN FLAG) ON MY RESIDENCE!!

23 February, 2010

Dear representatives,

I am a retired Army veteran, I have served in the active Army, Army Reserve and the Hawaii Army National Guard. I am originally from the island of Guam. My wife is from the island of Oahu. Hawaii has been my home for most of my adult life. I am proud to say that I live in Hawaii.

Hawaii is a very big part of our nation's history. There have been many citizens of the state who have served our country honorably in times of peace and war. Many of you have served or are currently serving in our armed forces. For that, I Thank You. For those of you that have not served in the armed forces I thank you for your support.

Bill HB2311 is of great significance because it will set the tone for how many people will view the state. We have a large military presence that is currently fighting for what the United States flag means to them. Many people have died defending the values that it represents. Many citizens have chosen to support our country by flying the flag in honor of those who serve.

We should all be proud of the fact that there are so many people who believe in this great experiment called democracy. We should be able to display the flag of our country in a respectable manner. No one person or organization should have the right to deny that right to anyone.

Since the civil war, the United States flag has been used to rally citizens and soldiers, together to fight for democracy. The desire to fly the flag is woven into our being. I fly a flag at my house and I also live in an area that is governed by a community association. I do not know if they have something against it or not. It has never been a question of "Can I do it". Just a question of "how big a flag do I want to fly".

Yes I believe that it wrong for an organization to dictate whether a person can or cannot fly a United States flag. There are people living on the beach that are flying United States Flags. No one is telling them they cannot fly a flag and that is government property. Although no one really knows who is responsible for it. The city or the State.

Charles A. Patterson

SFC, USA (Ret.)
American Legion Riders
Director

From: Rep. Rida Cabanilla
Sent: Tuesday, February 23, 2010 2:25 PM
To: HSGtestimony
Subject: FW: H.B. 2311 "The Flag Bill"
Attachments: 20100219112932844.pdf

From: Debbie Luning [mailto:debbiel@gentryhawaii.com]
Sent: Tuesday, February 23, 2010 1:27 PM
To: Rep. Kymberly Pine
Cc: Tom Berg; Rep. Rida Cabanilla; Susan York; jdodson@ebgca.net; Bob Brant; Rick Hobson; Tosh Hosoda; Quentin Machida; Bob Kayser; Art Pelkaus
Subject: H.B. 2311 "The Flag Bill"

Hi Kym,

I've been in touch with the Ewa by Gentry Community Association (EbGCA) and they will likely be sending in testimony on this bill. However, just to reinforce what you probably already know, there are Federal, State and City laws that address the display of flags and the EbGCA is in compliance with those laws. The EbGCA's Declaration of Covenants, Conditions and Restrictions also contains a specific section that permits the erection of a flagpole or flag holder albeit with Design Committee approval. Thus, contrary to what the press and public have been led to believe, every homeowner in Ewa by Gentry is allowed to fly a flag as long as it meets with the design standards established for the community. These design standards were established in part because of safety and aesthetic considerations. The material that the flagpole is made of, as well as footing and structural components, will determine its safety to the neighboring and the individual's properties. Houselots in Ewa by Gentry are typically around 40-50 feet wide with homes on either side. It is not unheard of in Hawaii for street lights to fall due to time and weather, especially during high winds. In a master planned community, what you erect, install, pour, plant, irrigate, replace, and paint does, without fail, affect your neighbors and the community.

With respect to the bill itself, we note that H.B. 2311 gives community associations the authority to set reasonable limits regarding the erection of flagpoles; thus, the bill does nothing to change the current situation. Homeowners would still have to abide by the reasonable limits established in the DCCRs, and would also have to obtain a building permit for freestanding flag poles. Thus, the bill does not appear to be necessary.

Please call me at 599-8370 if you have any questions.

Mahalo,

Deb

<<20100219112932844.pdf>>

39. Gutters and Downspouts

Article IV, Section 4.02, Item d, line 12 of the DCC&R's states that "rain gutters shall be of matching type for the entire dwelling unit served and, except for copper gutters, shall be painted in non-reflective colors which match the trim or siding colors of the dwelling unit."

Gutters and downspouts will be approved if they conform to the drainage patterns shown on the original plot plan or with altered drainage plans approved by the Design Committee. All plans altering the original drainage submitted to the Committee for approval must be stamped by a licensed engineer.

Gutters and downspouts must be non-reflective and must be painted to match the surface that it is attached to or the trim of the house provided that the color scheme of the home is approved by the Design Committee.

Note: Kula Lei and Trovare homes shall be white or painted to match the trim of the house.

40. Garage Doors

All new doors whether they match the existing door or not, require approval before installation. All doors must be white in color or must complement the existing color of the dwelling and must be simple in design. When submitting an application, be sure to include a brochure of the door including the window and door designs. Overly ornate doors will be disapproved.

Note: Garage doors are not to be removed on a permanent basis, there must be a door.

41. Barbecue Pits (Built In)

A Design Committee Application shall be submitted with appropriate plans for review of all barbecue pits. All proposals will be considered with regards to the visibility from the street or adjacent property. Plans shall include a plot plan showing the location of the barbecue and appropriate drawings with dimensions.

Covers specifically manufactured to cover built-in or portable barbeques are approved for use provided the color ties in with the overall architectural scheme of the house. Tarps or covers similar to tarps are strictly prohibited.

42. Flag Holders, Flagpoles and Flags:

Article IV, Section 4.02, Item d, line 10 of the DCC&R's states that "no flagpoles shall be erected so as to be visible from neighboring property or the street unless the size and location thereof has been approved by the Design Committee."

A flagpole or holder may be erected on the residential property with Design Committee approval. The following guidelines shall be adhered to: A Design Committee Application Form and supporting documents (plot plan showing location of the pole on the property) shall be submitted to the Design Committee for review.

- A. All flags shall be displayed on appropriate pole or holder.
- B. The flagpole shall be limited to not more than twenty (20) feet in total height from the finish grade level of the residential property.
- C. Flagpole placement shall follow all City & County of Honolulu setback requirements for structures over thirty (30) inches in height as follows:
 - 1. Front property line setback: ten (10) feet
 - 2. Rear and side property line setbacks: five (5) feet
- D. Any freestanding flagpole shall be securely anchored in the ground and have a base diameter of not more than six (6) inches. No guy wires or external appurtenances of any type shall be used as additional support for the pole.
- E. Reflective materials shall not be used. Painting of the reflective finish in colors of black, bronze or white shall be acceptable.
- F. A flagpole, using a construction material other than metal, shall be reviewed on a case-by-case basis.
- G. A flagpole or flags shall not be illuminated with exterior lighting.
- H. The flagpole and all flags shall be erected and flown in accordance with all established City, State and Federal regulations.

43. Signs

Article III, Section 3.02, Item I states that "no signs whatsoever, including without limitation, commercial, political or similar signs, visible from neighboring property shall be erected or maintained upon any lot except:

- A. *such signs as may be required by legal proceedings;*
- B. *residential identification signs of a combined total face area of two (2) square feet or less;*
- C. *during the time of construction of any residence or other improvement, job identification signs having a maximum face area of six (6) square feet per sign and of the type usually employed by contractors, subcontractors and tradesmen; and*
- D. *not more than one "For Sale" or "For Rent" sign having a maximum face area of three (3) square feet, such sign to refer only to the lot on which it is situated."*

Although the Design Committee intends to fully enforce all the provisions of the Declaration of Covenants, Conditions and Restrictions (DCC&R's), it will not prohibit signs warning of hazards on the property, signs mandated by law to protect persons or property, or signs which are part of a security system so long as those signs meet certain standards and criteria developed by the Committee from time to time. Thus, a sign, which says "Beware of Dog", "No Trespassing", or

From: David Cabell [david.cabell@yahoo.com]
Sent: Tuesday, February 23, 2010 2:10 PM
To: HSGtestimony
Subject: Testimony In Support Of House Bill 2311

Aloha,

I am writing to offer testimony in support of House Bill 2311, which, as I understand it, would allow veterans moving into new developments to erect flag poles on their property to display the American flag. I served in the United States Navy for 25 years. Of those 25 years, almost fully 14 of them were spent overseas in defense of this great country of ours.

American servicemembers serve in remote locations around the globe on a daily basis, in support of our nation. The flag is the material representation of that nation. The flag is the representation of the ideals that all Americans hold dear. The flag is the representation of what we fight for. With this in mind, it boggles my mind that we can serve beneath the flag, (and for those servicemembers who have made the ultimate sacrifice) sometimes return home to be buried in a flag-draped coffin, but we cannot fly the flag in pride from a flagpole erected at our own homes! What type of logic is this?

I firmly believe that failure to pass House Bill 2311 would be a disservice to all veterans who have proudly served their country. Please give House Bill 2311 its full consideration. Veterans deserve no less.

Mahalo,

David W. Cabell
Master Chief Petty Officer (Retired)
United States Navy

**FEBRUARY 24, 2010
HOUSING COMMITTEE**

**HB2311 EASING RESTRICTONS ON THE DISPLAY OF AMERICAN AND STATE
FLAGS IN PLANNED COMMUNITY ASSOCIATIONS**

TESTIMONY IN STRONG SUPPORT FROM TOM BERG/PAST EBGCA VP/EWA BEACH

HONORABLE CHAIR RIDA CABANILLA AND HOUSING COMMITTEE MEMBERS,

The Legislature back in 2007 passed SB921 to put in statute how much an association can charge its members for the association to make a photocopy for the homeowner. The charge is to be no more than \$1 per page. The Legislature justified intervening and superseding association affairs with the reasoning (2007, STAND COM. REP. NO. 1283):

"Your Committee finds that while condominium owners currently have the right to obtain copies of condominium association records, some associations charge exorbitant fees that may discourage owners from requesting records. This bill seeks to ensure affordable access to these records." SB291 SD1 HD1

I see **HB2311** as being the vehicle for you to hone in on all the chaos applied to the display of our American and state flags just like it was done for something as simple as making a copy of a piece of paper. This bill needs to be passed and at the very least, amended to address the amount an association can charge its members to fly the flag.

The Legislature agreed recently that to charge more than a dollar per page for photocopying was exorbitant and warranted intervention. I see this bill as a means for the Legislature to tell all of America, that when it comes to displaying specific flags in Hawaii, that no association may implement restrictions that *unreasonably* deter one from honoring our country with a flag being erected.

This body has been apprised that it costs a homeowner in one particular planned community association a design request fee of \$100 just to solicit their association's approval to fly the flag. **Please consider amending this bill to include for example the following language to address the \$100 up front fee just to have the right to fly a flag:**

"When a request by a homeowner to erect the American and or state flags is submitted for review to the association, the association may not assess or impose a fee upon its member(s) to review and approve of the request. All flag related request charges are to be waived in that in good faith, the homeowner will maintain the display in compliance to the requisites set. Associations may recoup any and all costs that were initially waived and assess them to members not in compliance after any citation or fine process has been exhausted to bring the display into compliance.

MAHALO and thank you for your consideration.

Hawaii State House of Representatives

415 S. Beretania St.
Honolulu, Hawaii 96813

Housing Committee
HB2311

Wednesday, February 24, 2010

Representatives' Cabanilla, Chong and fellow members of the Housing Committee,

The current need for this bill is in doubt. Because of its vagueness I am not at all sure it would benefit those who think it's a good idea. What seems to be clear to me is that the State of Hawaii needs a standard to follow when residents in planned community associations want to plant a flagpole in their yards.

Without a standard to follow each community would be fighting over the issue, making it more divisive than it is now.

I have attached for your review a copy of a letter to the editor of the Star Bulletin from a Mr. Robert Lloyd. It appears he knows the players of the effort to force the passage of this bill, with all its imperfections. I think his assessment deserves a look.

Please take the time to read this letter it is short and pretty much right on.

Thank you for taking the time to hear my opinion.

Regards,

Fairly O'Brien



open and accountable government in our Legislature?

Molly Rowland
Honolulu

Judge governor by her actions

The laudable intentions that people avow are often belied by their actions.

So it is with Gov. Linda Lingle. While she has repeatedly portrayed herself as committed to public education, her words have been drowned out by her actions. There is little doubt that the impetus for Furlough Fridays came from the governor's office.

When the unions and the Department of Education readily agreed to the idea, there was not a peep of protest from the governor, let alone a veto. After parents and the public realized that public school children had been made the scapegoats for the state's fiscal problems and protested, the governor backpedaled, blaming the union and the DOE for the idea.

However, when the DOE and the union twice — twice — agreed on contract modifications to restore some furlough days, the governor vetoed both agreements, still claiming that she wanted to restore all furlough days.

The result? No furlough days have been restored and half the scheduled furlough days for this school year have already occurred.

For the governor's part, the issue is resolved: She has the money from the school budget saved by furloughs, and that's all she ever wanted.

Thomas Graham Gans
Honolulu

Flagpole bill waste of money

Rep. Kimberly Pine staffer Tom Berg is asking that House Bill 2311 be heard and Rep. Pine is pushing the issue. While I believe our representatives should be able to walk and chew gum at the same time, this single-minded issue is a

waste of taxpayer dollars.

Planned Community Associations are the problem in that they have too much power over us, the homeowners. Example: I cannot plant a single tomato plant in my very small piece of land. I cannot plant a dwarf fruit tree on my very small piece of land, so it stands to reason I cannot plant a flagpole on my very small piece of land. Notice I keep saying "my." You see, the legislation should not be limited to flagpoles; it should defang the unlimited power of said associations.

When legislative issues do not address the real problems, then our tax dollar is thrown in the waste pit that is our government inaction. Case in point, shelving House Bill 444; all the time and energy just recently wasted. Where is Rep. Pine's outrage at shelving this bill that would have granted the gay community equal rights?

Robert Lloyd
Ewa Beach

The second stop is also in open fields where University of Hawaii-West Oahu will rise. Just blocks from the freeway, it has the potential to draw thousands of commuters, but with just 1,000 park-and-ride stalls, its effect will go unnoticed by the other 142,000 town-bound cars on the freeway during rush hour.

The third stop is in the middle of the world's highest-producing 1,555 acres of farmland, which must be saved for our future survival. This station has been planned as the keystone for the huge "transit-oriented" development, Ho'opili.

The fourth stop finally reaches civilization. It is just a block inside of Waipahu from Fort Weaver Road, and is situated perfectly to take traffic from Village Park and Royal Kuniā, and to receive drivers coming up Fort Weaver Road from Ewa and Ewa Beach, saving them another hour's travel to the city. But this stop does not have even one stall for them to park in. And they will all have to just pass it by.

Let's get it straight, then. This rail is not being built to solve current traffic problems. It actually is not even for us. It is being built to benefit developers.

other parts of Oahu. A few years back, Sen. Cal Kawamoto and others got money to beautify it. The transformation has been amazing.

When the Ho'opili station was put into the rail plan, the most direct open path from that station to the city was through the main street of Waipahu, Pearl City and Aiea. Now, even before the many new trees and the yellow hibiscus lining the main street reach full growth, all of the beauty will be torn out.

A massive, overhead cement span will have stations the size of football fields covering the entire road at each end of town.

The same will happen to Pearl City and Aiea. All three towns, now choked with afternoon traffic, will experience debilitating traffic and business bankruptcies along their primary road, due to construction.

But none of this has to happen. Use of the old Oahu Railway and Land (OR&L) right-of-way can solve everything. If the rail follows the OR&L route, it can run at surface level at least to the stadium, still using the "steel wheels on steel rails" that we voted for, but using light rail.

The right-of-way runs

to Waiānae, and can become the much-needed second way in and out.

If the rail began at UH-West Oahu, but instead headed makai to the old OR&L line, it could serve H-1 and Kapolei. The OR&L line then runs just below Ewa. A park-and-ride at Fort Weaver Road would give rail service to Ewa and Ewa Beach. Next stop, Depot Road in Waipahu, then up behind Leeward Community College, through Pearl City, to the stadium and Pearl Harbor.

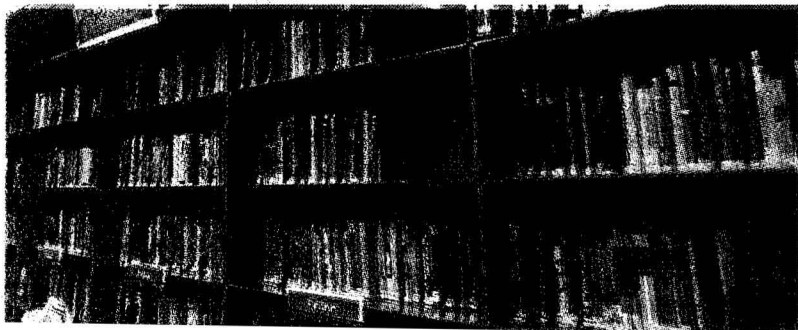
Why was the OR&L route never seriously considered? Because it didn't run through Ho'opili. But Ho'opili has recently had a perhaps lethal setback at the Land Use Commission. And polls show 87 percent of the people want that land kept in agriculture.

Now is the time for change. Write Gov. Linda Lingle at governor.lingle@hawaii.gov and urge her to withhold her signature until these problems are solved.

We need the rail. But it must be done right.

Kioni Dudley, a retired educator, is president of the Friends of Makakilo. He can be reached at DrKioniDudley@hawaii.rr.com

READ CREED



Libraries a friend, indeed, when we're all in need

Hawaii residents are turning to their public libraries for free entertainment during tough times. More than 7.2 million books were borrowed last year, a 10-year high.

These vital community institutions also lend movies and music, offer free Internet service and provide numerous engaging special programs for kids and adults alike.

State budget cuts have hit the libraries hard, curtailing hours of operation, and the Friends of the Library is still collecting monetary donations to help keep them open.

Public libraries have shown their value in good times and bad, so give what you can. To donate online, see friendsofthelibraryofhawaii.org.

From: Rep. Rida Cabanilla
Sent: Tuesday, February 23, 2010 12:55 PM
To: HSGtestimony
Subject: FW: I Oppose the Flag Law!

From: Hamasu [mailto:eham@hawaiiantel.net]
Sent: Monday, February 22, 2010 6:56 PM
To: fbridgewater@starbulletin.com; lyoungoda@starbulletin.com
Subject: I Oppose the Flag Law!

Dear Editor,

I served in U.S. Army in Korea during the war. I love the U.S.A., my home! I love the Star-Spangled Banner which symbolizes my beloved state and nation, Hawaii, U.S.A. Because I love my country so much, I strongly oppose the so-called Flag Law which is being resurrected in the State House.

When our economy is on a downspin, and our kids have shorter learning time at school, when our workers are worried about their jobs, but our utility and gasoline price continue to rise, and when many of us are losing our homes and having to live in parks and sidewalks, let's stop wasting tax payers' money and time by quibbling in the State House about where, why and how to display our flag. That's a local matter for the neighborhood to decide!

I fought for freedom. But, as a child, I learn that freedom and responsibility are "blood brothers." Your freedom ends where my nose begins. Our Constitution and our laws therefore dictate our conduct. And yes, even the covenant of the Planned Community Association regulates what can and cannot be done in our neighborhoods.

We have too much government interventions already. Remember when Congress went too far in micro-managing the affairs of a brain-dead woman and got their hands burnt? State Legislature should hands off local neighborhood issues! Let the Community Association meet with the people and decide. That's what Local Home Rule is all about! Let common sense prevail, for goodness sake!

Edgar Hamasu
734-2446
1518 Kalaepohaku St. Honolulu, HI 96816

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 23, 2010 12:27 PM
To: HSGtestimony
Cc: luparker808@yahoo.com
Subject: Testimony for HB2311 on 2/24/2010 9:10:00 AM

Testimony for HSG 2/24/2010 9:10:00 AM HB2311

Conference room: 325
Testifier position: oppose
Testifier will be present: No
Submitted by: Luis Parker
Organization: Individual
Address: 91-207 Keonekapu Place Ewa Beach, HI
Phone: 685-6509
E-mail: luparker808@yahoo.com
Submitted on: 2/23/2010

Comments:

HB 2311 is addressing an issue that is basically between a homeowner and his HOA. The Ewa by Gentry Community Association provides for flag holders and flag poles, with provisions. It is the duty of the HOA to maintain property values and homeowners who agree to comply or request variances from the HOA DCC&Rs when they purchase a home in an HOA. In this case the homeowner has not complied nor requested a variance. Its his kuleana - not the legislature's.

FEBRUARY 24, 2010

HOUSING COMMITTEE 9:10 HEARING

HB2311 TESTIMONY IN SUPPORT

Flying the National or State Flag on private property

This is an emotional issue sometimes, but in reality it should not be. The rule of common sense should apply. Many people want to display the US Flag on small poles affixed to the side of their homes and there should be no prohibition concerning that.

Flying Old Glory is what people go to war for. So it is wrong for some association to hide behind a covenant to restrict flying the flag that thousands are buried beneath.

It is our flag - long may it wave!

Don Devaney
CSM, US Army Retired

Donald E. Devaney
Provost Marshal, PRMC and TAMC/VA
(808) 433-4465
(808) 433-3311 (Fax)
(808) 224-9132 (Cell)

From: KYLE YONEMURA [kyinhi@yahoo.com]
Sent: Tuesday, February 23, 2010 10:31 AM
To: HSGtestimony
Subject: Testimony for Flag Bill

Name: Kyle Yonemura
Committee: Housing
Date/time of hearing: 2-24-10/0910 hrs
Measure #: HB 2311

I would like to go on record supporting the measure that allows for the Flag of the United States to be flown at single family residences that are part of planned communities. This bill is reasonable and supports my right to freedom of speech and expression. It does not infringe upon the rights of the planned community as the bill allows for reasonable restrictions for aesthetics.

I am a Combat Veteran myself and was awarded the Combat Action Badge as well as The Bronze Star while deployed in Iraq. I should be allowed to fly the flag of my country without fear of being cited and fined.

I've been told that Rida Cabanilla recently attempted to make combat veterans stand at attention for her at the capitol while she was not in uniform and she was working in her capacity as a state representative (she's a nurse in the reserves). If this is true, she was completely out of line (but not out of character).

Sincerely,
Kyle Yonemura

"Try not to become a man of success but a man of value."
Albert Einstein

Testimony on House Bill 2311
Housing Committee
February 24, 2010

Dear Members of the Housing Committee for the House of Representatives,

I wanted to submit my testimony on the flagpole bill so that you may know that flag wavers, like me, don't all agree on the issue before you today.

As the attached editorial in the Honolulu Advertiser was so accurately titled, it reads: "We love the flag. Now back to work".

The sponsor of this bill appears to claim that it is about waving the flag. Yet when you read the first part of the description of the bill it reads:

"Allows for the use of flag poles to display the flag of the United States..."

The bill is clearly about flagpoles as a means to wave the flag. Currently residents can attach a flag to their home, on a pole, and wave the flag. The issue raised in HB2311 is the pole. The size and ecstastic value are left to the planned community association to determine. What is beautiful to me is sometimes ugly or not appreciated by others. What is reasonable to me is not always agreed upon by others. How big is too big?

The Honolulu Advertiser took a poll and asked the question:

"Should planned community associations be allowed to regulate the size and location of flagpoles installed by residents?"

Of those who registered their opinion 51% said "YES". 35% answered "NO" and 11% offered "NO COMMENT".

Many of us do not like the power planned community associations have over our daily lives, but if there is no regulating body there would be chaos in a short period of time.

Finally, please read the attached article with the top line reading:

"THE BIG DISTRACTION"

Thank you,
Jonathan Williams III

unpopular work of reducing the amount of money that the state spends.

People have been laid off and furloughed and programs have been killed. Bills haven't been paid. Schools are closed.

It's been tough, but we're not done yet.

Legislative leaders appropriately talk about keeping all of their options on the table.

But right now it seems as if the table is cluttered with dozens of options for raising taxes, with ideas for cutting costs already dropped on the floor.

THE BIG DISTRACTION

We love the flag. Now back to work.

People should be allowed to fly the American flag without restriction.

That was pretty much settled by the federal Freedom to Display the American Flag Act of 2005, which says that real estate managers and condominium associations can't make rules that would prohibit residents from flying the flag.

Unfortunately, the law talks only about flags, not flagpoles.

And so for this reason Hawai'i legislators are now wasting time with pointless political grandstanding and overwrought professions of flag-love while avoiding more pressing matters on their agenda.

Legislators can't afford to dither on House Bill 2311, which was safely parked in a committee for "further study" but has reemerged for a hearing this week. The bill has the potential to emerge as The Big Distraction that will tie up the Capitol for days.

Sponsored by Rep. Kymberly Pine, the measure would require community

associations to allow the installation of flagpoles in residents' yards.

But Pine's own bill includes a catch that those nitpicking community association directors will likely seize upon: boards would be allowed to "implement reasonable restrictions with regard to flagpoles, including but not limited to size and location."

That loophole pretty much puts us back to where we started, with associations having the authority to restrict flagpoles but not flags.

C'mon folks, let's get back on track. We don't need a law and we don't need a study.

If a proud American who lives in a planned development wants to dig a hole in his yard and spend \$1,000 on a deluxe pole for celebrating Old Glory, we say go for it.

And if the proud American's neighbors don't like it, they can take it up with their association. Not the Legislature.

The living conditions of the homeless children in the bushes were inhumane and unsanitary, like the living conditions in Haiti. At one point I came across an "earth toilet" as I was pulling tires from the bushes.

No running water, no electricity and living in makeshift shacks with empty beer bottles scattered around. Is it legal to have underage children living in these inhumane and unsanitary conditions? Where's the enforcement? Who will rescue these children?

I will never forget these images, both disgusting and good, and the experiences of hearing the little volunteers' voices saying "oh, look what I found," as the children spent this day looking for hidden treasures along the shore.

JOHNNIE-MAE L. PERRY
| Wai'anae Neighborhood Board

STATE ASSISTANCE Closing offices will hurt those in need

I am dismayed to see the plan, announced in The Advertiser (Page One, Feb. 9), to close most offices in which the poor apply for the meager Temporary Assistance for Needy Family benefits allowed by the state.

Particularly now, when need has increased, social justice requires that services to the most financially vulnerable be made accessible. Closing these offices, and making all contacts electronic, will make applying for TANF, food stamps and other benefits more difficult — especially for those applicants who do not live in Honolulu or Hilo, or who have difficulty with English or do not have access to electronic communications.

I began my social work career as a public-assistance caseworker. For many people, applying for "welfare" is one of the lowest points in their lives. Properly done, an initial interview with a client can inspire new hope and encourage better life solutions. Alternatively, it can increase a client's shame and trample a client's

ly realizes the importance of energy independence. This is a bold a tough political move.

While it will receive immediate support from the Republicans, the left-wing part of the Democratic party will be up in arms and many will feel another campaign promise was betrayed.

We will need a balanced energy policy which will reduce our dependence on foreign oil and promote national security. This decision clearly demonstrates that our country can develop a balanced energy policy which utilizes all energy resources. If the administration supports the policy, the free market will respond accordingly and we will benefit.

Perhaps it is time that Hawai'i also considers this option by changing our state constitution, which bans nuclear energy. With the right leadership, we could lead the nation as one of the first states to be energy independent. This is not a dream, but a possibility, if we all unite together

RICHARD M. SMYTH
| Hawai'i

FRANK FASI

'Always be on the positive side of life'

In August 1945 I was assigned military duty at Fort Shafter and they sent me to Fort Armstrong to assist the Corps of Engineers in their restoration work. At the same time, a former Marine Corps captain applied and got a job with the engineers — Frank Fasi. There was a need for restoration work on all the Anti-aircraft Artillery Command installations throughout O'ahu, as they established a Fasi-Farr team to do the work.

Frank was a great influence in my life. He taught me never to think negatively and always be on the positive side of life. And during the first or more days each week we were together for a year, he taught me to be honest and always stand up for my beliefs.

He always pursued anything that

HonoluluAdvertiser
.com/opinion

POLL

Make your opinion count in our daily online poll and see the results. Today we ask:

Should planned community associations be allowed to regulate the size and location of flagpoles installed by residents?



The Honolulu Advertiser

Established July 2, 1856

President and Publisher LEE P. WEBBER | 525-7440 | webber@HonoluluAdvertiser.com

Senior Vice President/Editor
MARK PLATTE

525-8080 | mplatte@honolulu.gannett.com

Editorial Page Editor
JIM KELLY

535-2445 | jkelly@honoluluadvertiser.com

Managing Editor/Content
MARSHA MCPADDEN

535-2426 | mmcpadden@honolulu.gannett.com

Digital Media Director/Content
SANDRA S. OSHIRO | 525-8063

soshiro@honolulu.gannett.com

Editorials represent the opinion of the Editorial Board:
Stephen J. Downes, Jim Kelly, Mark Platte, Vicki Viotti and Lee P. Webber.

OUR M

The Honolulu Advertiser helping the community with a voice for and understanding. To honor diversity, perpetuate humility, and enter

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 23, 2010 10:14 AM
To: HSGtestimony
Cc: gbg-piper@hawaii.rr.com
Subject: Testimony for HB2311 on 2/24/2010 9:10:00 AM

Testimony for HSG 2/24/2010 9:10:00 AM HB2311

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Gayle Gardner
Organization: President, US War Veterans Foundation
Address: 1132 Kaumailuna Place Honolulu, HI
Phone: 808-595-7127
E-mail: gbg-piper@hawaii.rr.com
Submitted on: 2/23/2010

Comments:
Freedom to Display the Flag

While anti-American's constitute a small minority in Hawaii they are very vocal and frighten naive insecure legislators that often do not understand this nation's founding principles enabling our Freedom and Prosperity.

As President of the US War Veterans Foundation I can assure you that the vast majority of our 110,000 + veterans in Hawaii look upon the flag with pride and hold those who wittingly or unwittingly, fail to show respect and reverence for our flag with contempt.

Be assured that in the forthcoming election I will inform our veterans of the names of legislators who denied their freedom of speech rights to fly the flag on our private property on appropriate occasions.

Sincerely,

Gayle Gardner
President, US War Veterans Foundation
1132 Kaumailuna Place
Honolulu, HI 96817
808-595-7127

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 22, 2010 5:20 PM
To: HSGtestimony
Cc: thirr33@gmail.com
Subject: Testimony for HB2311 on 2/24/2010 9:10:00 AM

Testimony for HSG 2/24/2010 9:10:00 AM HB2311

Conference room: 325
Testifier position: comments only
Testifier will be present: No
Submitted by: Arvid Tadao Youngquist
Organization: The Mestizo Association (est. 1982 Fort Shafter)
Address: P O Box 37542 Honolulu, HI 96837
Phone: 808-845-2495
E-mail: thirr33@gmail.com
Submitted on: 2/22/2010

Comments:
Rep. Rida Cabanilla
Members of the House HSG Committee

LTC Rida Cabanilla

I provide this written supportive comment in line with what Chair Cabanilla has suggested.

When the House voted on whether to permit a recall of HB 2311 Relating to Planned Community Associatin (the flying of the US Flag and erection of Flag Pole).

The bill was co-sponsored by 4 GOP and 12 Democratic party lawmakers. It was introduced by Rep. Kimerly Pine.

The bill failed to receive the necessary 16 votes, which coincidentally is the same number of co-sponsors. I suggest that the Bill be amended thus:

1. Section 3-Same
 2. Section 4-(new) Appoint a Stakeholder Task Force to review the bill and the views of the proponents, the co-sponsors, and the associations Statewide. A discussion about the Protocal about flyin ga US flag formally needs to be mandated in the Associatino rules and the ACT/HRS Upon approval of the Report of the Task Force, and apparoval of the ACT, it must be recommended to the Governor for approval.
- Section 5 (New) Bill is effective upon approval.

In the first attempt to listen to the stakeholders in a hearing there were no in person testimony. One written testimony opposed. Two written testimony approved it. And a "supportive" testimony from an association organization purported to approve of the measure provided the Planned Community Associations must enforce the aesthetic values of displaying the US Flag in their Community residents' property.

without an in person testimony, it was recommended initially that the bill be held. After realizing that a tactical error had been made, a "massive" media blitz occured on the part of the proponents and the lawmakers who introduced the bill.

I believe the Bill has merit and it should be reported out with your approval provided my proposed Amendments are forwarded to the JUD/Commerce & Consumer Affairs Joint Hearing.

If the subsequent Committees approve of the amendment, I see the Associations and the Opponents will be on the same sheet of music and this tempest in a tea pot will boil over.

Mahalo for this opportunity to submit this written testimony. If schedule permits, I will make every effort to be present at the hearing. As I am a public sector employee, I must conserve any vacation leave we have available during these lean times of furlough Fridays.

Sincerely,

Arvid Tadao Younquist
SFC, HD Discharged
100th Bn, 442d Inf
411th Engr Bn (Cbt) (Hvy)
Chair, Steering Committee
The Mestizo Association
(Est. 1982 at Fort Shafter)

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 22, 2010 5:44 PM
To: HSGtestimony
Cc: lawrencesanchezhawaii@yahoo.com
Subject: Testimony for HB2311 on 2/24/2010 9:10:00 AM
Attachments: HB 2311.docx

Testimony for HSG 2/24/2010 9:10:00 AM HB2311

Conference room: 325
Testifier position: support
Testifier will be present: Yes
Submitted by: lawrence Sanchez
Organization: Individual
Address: 91-733 Makule Rd #D Ewa Beach, Hawaii 96706
Phone: 8087827744
E-mail: lawrencesanchezhawaii@yahoo.com
Submitted on: 2/22/2010

Comments:

please see the attached testimony

1. community association are out of control 2. big business and political games are not good for Hawaii's reputation 3. children need to honor those who served and learn what our flag stands for through our daily environment.

HB 2311 - **Flying the American Flag**

February 22, 2010

Dear Law Makers the Community Builders,

In an effort to keep the hearing, I will summarize my three points in support of flying the American flag in all communities that have associations.

First, I must state a bill that protects the people from the wicked community associations, this is long overdue. These community associations violate city laws for their own personal gain yet enforce the very code that they violate. For example, the city allows banners to be hung for five days announcing a special event yet the big developers put up their own swimming class banners and other announcement for weeks or months. If an individual person has a service, such as swimming or other classes for children the associations take down the banners. Who does not want to know about care or service for children in their community? Yet, the associations push people to pay huge advertising fees to get the information to the people through their community newsletters. The law is the law, for everyone even community associations! I am sharing this because the dictatorship of the associations must be shared as there are more examples of how these associations impose fee, fines and regulations to tax the already struggling family -homeowner.

I no longer own a home in Gentry, I sold my home as quick as I could to get out. I live in an Ewa Beach community that allows me to fly our countries Flag without a design committee approval. I came out because this is too crazy, please defend our freedoms, show the community associations that their rules are not above the laws of Hawai'i or the United States of America.

Second, politics games sicken me! As representatives you work for the people, not for the developers. Rita Cabanila it is nice to actually see you at a meeting considering your track record in previous years, but what were you thinking when you killed this bill. Is this about politics and big business? I'm not dumb, the majority of the community association votes are held by un-built home and plots which are the developer's votes. Is Hawaii going to make National news again, due to our government's ill responses for the people, like with furlough Fridays?

Third, it's an insult to all those who have died for our country. Our children need to learn about allegiance, justice, liberty, honor and our nation through the glorious flag being flown (without a design committee)! What a beautiful picture, every house with USA flags of all sizes, and children learning from their daily environments about being "One Nation under God with Liberty and Justice for ALL."

Sincerely,

Lawrence and Jessica Sanchez

From: Fred Ballard [exexdir01@hawaii.rr.com]
Sent: Monday, February 22, 2010 9:42 PM
To: HSGtestimony
Cc: Rep. Kymberly Pine; 'Calvin Griffin'; evans1-Teritavae; 'Dennis Egge'
Subject: Testimony in favor of HB 2311
Attachments: OVC Testimony HB 2311 Feb 2010.pdf

The Oahu Veterans Council strongly supports the passage of HB 2311 relating to Planned Community Associations and the use of flag poles.

Hearing: Wednesday, February 24, 2010, 9:10 a.m., Room 325

Fred Ballard
President
Oahu Veterans Council
808-423-6265

OAHU VETERANS COUNCIL

OAHU VETERANS COUNCIL

President - Fred Ballard
1st V.P. - Cecil Meadows
2nd V.P. - Jim Santos
Secretary - John Harms
Treasurer - Eugenia Woodward
Chaplain - Frank Lamson



"a gathering place for veterans"
OAHU VETERANS CENTER

OAHU VETERANS CENTER
EXECUTIVE DIRECTOR
Sandy Ballard

February 22, 2010

MEMBER ORGANIZATIONS

5th Regimental Combat Team
45th Infantry Division Assn.
Air Force Assn. - Chapter 138
Air Force Sergeants Association
American Legion Aux. Dept. of HI
American Legion - Dept. of HI
American Legion Post 32
American Veterans Empowerment &
Support Community Operations
BPOE VAVS Hawaii Dist.
China-Burma-India Veterans Assn.
Chosin Few - Aloha Chapter
Combat Infantrymen's Assn.
Combat Veterans Motorcycle Club
Disabled American Veterans -
Chapter 3
Fleet Reserve Association Branch
And Unit 46
Hawaii Multiple Schools Unit - Jr. ROTC
Korean War Veterans Assn -
Chapter 1
Military Officers Assn. of America -
Aloha Chapter
Military Officers Assn. of America -
Hawaii State Chapter
Military Order of the Purple Heart
Military Order of World Wars
National Assn. for Atomic Veterans
National Assn. of Uniformed Services
National Sojourners - Hawaiian # 9
National Sojourners - Honolulu # 11
National Sojourners - Kamehameha #439
Pearl Harbor Survivors Association
Radiated Veterans
Samoan Providers
Society of Military Widows -
Aloha Chapter
Sons & Daughters of
Pearl Harbor Survivors
Special Forces Assn. - Chapter VIII
State Office of Veterans Services
Veterans of Foreign Wars
Dept. of Hawaii
Veterans of Foreign Wars Post 970
Vietnam Veterans of America
Chapter 858
Waves National - Unit 131
Women Veterans of America #26

TESTIMONY IN FAVOR OF HOUSE BILL 2311 RELATING TO PLANNED COMMUNITY ASSOCIATIONS

HOUSE COMMITTEE ON HOUSING

HEARING WEDNESDAY, FEBRUARY 24, 2010, 9:10 AM, ROOM 325

Aloha Representatives Rida T.R. Cabanilla, Chair, Pono Chong, Vice Chair, and members of the Committee. My name is Fred Ballard, President Oahu Veterans Council. The Oahu Veterans Council is comprised of over 35 Oahu veteran organizations that in turn represent over 80,000 veterans and their families.

A fundamental right of all Americans is the right to fly the American flag at their residence. One form of displaying the flag is on a flag pole if that is their preference. HB 2311 allows for flag poles in residential areas that are part of a planned community. The bill also allows for reasonable restrictions on the use of flag poles by the associations. The council views this as a win-win for both sides. The council understands the passion surrounding the display of the American flag. Veterans fought under the flag and many came home in a flag draped coffin.

The Oahu Veterans Council strongly supports the passage of House Bill 2311.

Mahalo for allowing us the opportunity to testify in support of this very important bill.

Fred Ballard

Fred Ballard
President
Oahu Veterans Council



1298 Kukila St.



E-Mail: sballard@oahuveteranscenter.com



Honolulu, Hawaii 96818

Website: <http://www.oahuveteranscenter.com>



(808) 422-4000 FAX: (808) 422-4001



From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 22, 2010 11:32 PM
To: HSGtestimony
Cc: alohabrian2@aol.com
Subject: Testimony for HB2311 on 2/24/2010 9:10:00 AM
Attachments: Flag Bill Testimony.docx

Testimony for HSG 2/24/2010 9:10:00 AM HB2311

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Brian Isa
Organization: Individual
Address: 1314 Victoria St, #301 Honolulu, HI
Phone: 599-5376
E-mail: alohabrian2@aol.com
Submitted on: 2/22/2010

Comments:

2/22/2010

Aloha Chairperson Cabanilla and Committee members.

Thank you for allowing this testimony.

I am not a veteran. But, I do know many who are.

A family living in a master planned community should be allowed to respectfully display the American flag.

This bill, as written, would benefit those community associations with restrictions on flag displays. I fully support the display of the American Flag and this bill. I hope those who wish to display the American Flag can do so as they please every day of the year.

Thank you and mahalo.

Brian Isa

From: Jennie Kawelo-Polani [kinipolani@hawaiiantel.net]
Sent: Tuesday, February 23, 2010 1:40 AM
To: HSGtestimony
Subject: HB2311

Dear Representative Cabanilla

I am writing "INSUPPORT of HB2311-Flag Bill". As the daughter of a WWII Veteran and a Patriotic Citizen, I feel it is an atrocity that this country has hateful people even in our own government!
If they are so against the "AMERICAN FLAG" being flown on the private lands of home owners, why do they not leave this PLANET and never come back????

Jennie Kawelo-Polani
Dept. of HI LAVFW
&33 Ladies of Aux VFW 849
Waianae HI

TESTIMONY AGAINST HB 2311

Melvin Ah Ching
macpro3000@yahoo.com
February 23, 2010.

To the House Committee on Housing:

While I am all for flying the American flag, **I am OPPOSED to HB 2311** to override homeowner, condominium and planned community association rules that the homeowner and unit dweller should have read in the first place before signing on the dotted line.

Last year it was clotheslines.

This year it is flagpoles.

What's next? Forcing pet free condo and town house associations to become "pet friendly"??? **NO WAY.**

Government should stay out of the affairs of private individuals and condo/homeowner associations.

I highly recommend that HB 2311 be held in committee indefinitely for the rest of this session and into the future.

Melvin Ah Ching

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 23, 2010 8:15 AM
To: HSGtestimony
Cc: hoku_trina@yahoo.com
Subject: Testimony for HB2311 on 2/24/2010 9:10:00 AM

Testimony for HSG 2/24/2010 9:10:00 AM HB2311

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Tim
Organization: Individual
Address:
Phone:
E-mail: hoku_trina@yahoo.com
Submitted on: 2/23/2010

Comments:

I believe it is our right as free citizens of this country to raise our flag and be able to support our country. Planned community associations should have no bearing or restrictions on this freedom. Therefore, I support this bill and strongly encourage its passing by the committee.

From: Taropatch123@aol.com
Sent: Tuesday, February 23, 2010 8:26 AM
To: HSGtestimony; Rep. Kymberly Pine
Cc: Taropatch123@aol.com
Subject: HB 2311 EMAIL TESTIMONY COVER SHEET
Attachments: HB 2311.doc

To the Honorable State of Hawaii
House of Representative Members
Committee on Housing,

Due to the time restraint of (24) hours to file a Testimony. I have forthwith attached an email in lieu of my absence on Wednesday, February 24, 2010, 9:10 A.M.

Respectfully,

EDWARD J. AGA, C.P.
Taropatch123@aol.com

**IN THE STATE OF HAWAII
House of Representatives
Twenty Fifth Legislature
Regular Session 2010**

COMMITTEE ON HOUSING

Rep. Rida Cabanilla, Chair
Rep. Pono Chong, Vice Chair

Rep. Jerry L. Chang	Rep. Sylvia Luke
Rep. Denny Coffman	Rep. Hermina M. Morita
Rep. Sharon E. Har	Rep. Roland D. Sagum III
Rep. Robert N. Herkes	Rep. Corinne W.L. Ching
Rep. Ken Ito	Rep. Cynthia Thielen
Rep. Chris Lee	

NOTICE OF HEARING

DATE : February 24, 2010, Wednesday
TIME : 9:10 A.M.
PLACE: HI ST Capitol, Conference Room 325
415 So. Beretania St., HNL., HI 96818

AGENDA

**TESTIMONY OF EDWARD J. AGA
IN SUPPORT FOR HOUSE BILL 2311**

I. Personal Information of Testifier

Name : EDWARD J. AGA
Title/Org.: U.S. DOD Federal Police Officer #133, '74 and
Current, Nat'l. Certified Paralegal BYU '96, U.S.
Army, 173rd Abn. Bde. Combat Veteran, Republic
of South Vietnam '69-'71

II. Testimony

HONORABLE MEMBERS of the State of Hawaii, House of Representatives, U.S. Veterans, and those who are present. I must resign myself and acknowledge my absence as unavoidable, that I submit my thoughts via email, due to time restraints.

It's been a long time since I've studied Ms. Betsy Ross, credited to making our 1st American Flag showing Thirteen Colonies of the Union (1776). It's been a long time since discussions of that credit to her, was challenged by Mr. Francis Hopkinson, a signer to our Declaration of Independence and Chairman of the Continental Navy Boards Middle Department, who was the only one to lay claim to Congress for services in designing the American Flag (1777). It has also been a long time since the story of the Union Soldiers recapturing the town of Nashville, Tennessee, credited Capt. William Driver a New England sea Captain for calling the American Flag "Old Glory", displaying twenty four stars at the time.

Today, I stand before you to address my support for HB 2311 because; it is not only History of the United States of America, it is our Right and it is a matter of Law that we "recall" this Bill and show the American People. Hawaii is a Proud and Just State of the Union.

III. United States Constitution

For over two hundred years, Americans flew our National Flag. This "right" is protected under the U.S. Const. 1st Amend. (1791; Freedom of Speech and provides in part:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, et. seq..

and supported under Federal Law.

Title 36 U.S.C., Section 5; To display and use of the flag by civilians, et. seq.; and

Sections 7(a-o), 8; of the same title, dictating the flag's position and manner of display, and respect for the flag.

In addition, Title 10 U.S.C., Section 173; That the display and use of the American Flag by Civilians shall be defined according to Title 4 U.S.C., Sections 1 & 2; and U.S. President Dwight D. Eisenhower, Executive Order No. 10834 (1959) to allow changes to the American Flag as "new States" are added, et. seq..

IV. Hawaii State Constitution

As U.S. Const. gave authority and power to the States of the Union to have Representatives to redress on the people's behalf, U.S. Const. XIV Amend., Section 2 (1868). We must further resolve all States of the Union are "under" Federal Statutes and therefore, Federal Laws supercede State laws.

In our Hawaii State Constitution, your attention to Art. 1, Section 4; Bill of Rights (Ren and Amend. Const. Conv. 1978 and Election, Nov. 7, 1978) states in relevant part:

No law shall be enacted respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the Freedom of Speech, et. seq..

HB 2311 echoes our U.S. Constition and Hawaii State Constitution. A Community or House Rule that violates the above, is to be considered unenforceable and wherefore HB 2311 corrects this!

By contrast, U.S. Const. XIV, Section 1 (1868) also provides that State of the Union shall in relevant part:

All persons born or naturalized in the U.S., and subject to the jurisdiction thereof, are citizens of the U.S. and of the State wherein they reside. **No State shall make or enforce any law** which shall abridge the privileges or immunities of citizens of the U.S., et. seq..

Combining the two above, even to mention a Bill to have a Task Force study HB 2311 and it's affects to a Community and/or Business as suggested by Rep. Rida T.R. Cabanilla, is a waste of Taxpayers Funds, and would likely violate the above.

V. Conclusion

For the reasons stated above, I humbly request that the State of Hawaii, House of Representatives, to cast its votes, and recall HB 2311. The People of our State, and the Nation shall be our judges.

On behalf of 55, 000 Casualties to the South Vietnam War who cannot stand before you and speak, 250,000 Wounded (including I) who ask recognition to our sufferings in Combat, and of 5 million men and women who participated in that (20) years War. We thank you for your reconsideration and votes.

Your humble constituent,

EDWARD J. AGA
Taropatch123@aol.com

Combat Veteran
U.S. Army, 173rd Abn. Bde.
DOD Fed. Pol. Offc. #133,
Nat'l. Cert. Paralegal

From: edsunrise@aol.com
Sent: Tuesday, February 23, 2010 8:26 AM
To: HSGtestimony; Rep. Rida Cabanilla
Subject: Hearing on HB2311 Testimony in Support
Attachments: Flag Testimony 2 24 10

**FEBRUARY 24, 2010
HOUSING COMMITTEE**

**HB2311 EASING RESTRICTONS ON THE DISPLAY OF AMERICAN AND STATE
FLAGS IN PLANNED COMMUNITY ASSOCIATIONS**

MONY IN STRONG SUPPORT FROM TOM BERG/PAST EBGCA VP/EWA BEACH

RABLE CHAIR RIDA CABANILLA AND HOUSING COMMITTEE MEMBERS,

gislature back in 2007 passed SB921 to put in statute how much an association can charge its members for the association to photocopy for the homeowner. The charge is to be no more than \$1 per page. The Legislature justified intervening and editing association affairs with the reasoning (2007, STAND COM. REP. NO. 1283):

"Your Committee finds that while condominium owners currently have the right to obtain copies of condominium association records, some associations charge exorbitant fees that may discourage owners from requesting records. This bill seeks to ensure affordable access to these records." SB291 SD1 HD1

I see **HB2311** as being the vehicle for you to hone in on all the chaos applied to the display of our American and state flags just as done for something as simple as making a copy of a piece of paper. This bill needs to be passed and at the very least, amended less the amount an association can charge its members to fly the flag.

The Legislature agreed recently that to charge more than a dollar per page for photocopying was exorbitant and warranted attention. I see this bill as a means for the Legislature to tell all of America, that when it comes to displaying specific flags in Hawaii, association may implement restrictions that *unreasonably* deter one from honoring our country with a flag being erected.

This body has been apprised that it costs a homeowner in one particular planned community association a design request fee just to solicit their association's approval to fly the flag. **Please consider amending this bill to include for example the following language to address the \$100 up front fee just to have the right to fly a flag:**

"When a request by a homeowner to erect the American and or state flags is submitted for review to the association, the association may not assess or impose a fee upon its member(s) to review and approve of the request. All flag related requests are to be waived in that in good faith, the homeowner will maintain the display in compliance to the requisites set. Associations may recoup any and all costs that were initially waived and assess them to members not in compliance after any or fine process has been exhausted to bring the display into compliance.

MAHALO and thank you for your consideration.

From: Ken Kajihara [ken.kajihara@gmail.com]
Sent: Tuesday, February 23, 2010 8:40 AM
To: HSGtestimony; Rep. Rida Cabanilla
Subject: Testimony in Support of HB 2311

Testimony for HB 2311

Conference Room: Room unknown, Scheduled for 9:10a.m. on Feb 24, 2010
Testifier Position: Support
Testifier will present: No
Submitted by: Ken Kajihara
Address: P.O. Box 10155, Honolulu, HI 96816
Phone:
Email: ken.kajihara@google.com
Submitted on: 2/23/2010

Comments:

I support this bill and I also support the practice of displaying the flag in all neighborhoods in Hawaii.
I also support the inclusion of measures to address any related public safety issues.

Respectfully,
Ken Kajihara

From: Gordon Kim [gskim99@hotmail.com]
Sent: Tuesday, February 23, 2010 8:43 AM
To: HSGtestimony
Subject: HB2311 - Flag Pole bill for Planned Communities.

I am emailing to request your support for HB2311.

I am a veteran, and have served nearly 30 years on Active Duty, in the Air National Guard and presently in the Air Force Reserves. I voluntarily deployed in Aug 2008 and returned in Jan 2009 from Kuwait. One of the main reasons I volunteered was to give back to my country and for all the freedom she provides. I have two flags that I cherish, one that was raised on the Arizona Memorial upon my commissioning and the other that I had flown over Iraq.

Although I do not live in a planned community, I strongly support those that desire to fly the flag. Each of the supporters have their own personal reasons for wanting to fly the flag, but the core reason is the same, as a symbol of freedom.

Request your favorable support for this bill.

Mahalo.

Very Respectfully,

Gordon Kim, Maj, USAFR

Hotmail: Trusted email with powerful SPAM protection. [Sign up now.](#)

From: Marcia_Futa/ACCB/HIDOE@notes.k12.hi.us
Sent: Tuesday, February 23, 2010 8:50 AM
To: HSGtestimony
Cc: Harold_Alejandro/FacilDev/HIDOE@notes.k12.hi.us
Subject: H.B. 2311

Aloha Legislators,

I am writing to you today in support of H.B. 2311.

Although I do not live in a planned community, I support the right of every American to proudly display our country's flag to show our patriotism and gratitude for living in freedom - something that we all take for granted sometimes. We forget those who made the ultimate sacrifice so we can enjoy democracy in a world that threatens that very right from all of us.

My husband served in Vietnam when he was just 19 years old and that is still one of the most profound experiences of his life. Many of his comrades did not live to return home. He was one of the fortunate who returned - to the disdain of many fellow Americans for having served in an "unpopular" war - as if a war can ever be "unpopular". Our country's might is attributed to the strength and will of the American people, because we've all stood together in times of stress. Yet, some of us are denied the right to display our pride and patriotism because of the housing rules that restrict them. My husband seldom speaks of his war days, but he is proud to have served his country and enjoys wearing his Vietnam Veteran shirt. Our neighbors deserve the right to show their pride, too!

Sincerely,
Marcia Futa
(Contracts Assistant, Department of Education)

Testimony on HB2311

Before the House Committee on Housing
February 23, 2010

Good Morning Chair Cabanilla, Vice Chair Chong and members of the Housing Committee,

My name is Soo Ling Lo,

I appreciate the opportunity to make my thoughts known on HB2311 and the flaws that it contains. Please find attached an article that was published by Rick Hamada in Mid Week newspaper.

After reading his article I found little else to say, but to reiterate the need to slow down, study the issue thoroughly and make the right choices for all to follow.

Thank you for your time and attention to this matter.



A CONSERVATIVE ESTIMATE *Rick Hamada*

Waiving The Right To Wave The Flag

I love our country and I have deep appreciation for those who serve her. I applaud and respect the men and women who choose to dedicate their lives in order to protect ours. I revere our nation's symbols of



File photo

State Rep. Kymberly Pine

Americana. A recent visit to Washington, D.C., solidified my affection for America. The Smithsonian preserves our relics, the U.S. Capitol represents our representatives, the White House serves as the "People's House" and the various monuments immortalize the individuals and events that have shaped our nation.

Chief among the imagery of our country is the

American flag. I have a "rush" each time I see the Stars and Stripes.

State Rep. Kymberly Pine (R) — 43rd District recently introduced legislation on behalf of a constituent regarding his desire to install a flagpole on his property to display the American flag. As a member of a homeowners association, Harold Alejandro is battling for the ability to display his flag.

Mr. Alejandro is a retired master sergeant and veteran of the Iraq War, and personifies the best America has to offer. But he and Rep. Pine are on the wrong side of this issue.

Let me cut to the chase. We all go into contracts with open eyes. If we don't, then it's our own fault if we discover something unexpected. It's even more our responsibility to adhere to contractual obligations if we accept every detail and their ramifications. Mr. Alejandro did one of two things. When he bought his home as a member of a HOA, he either did not know of the contractual restrictions applicable to

his property, or he did know the content and, with his signature, accepted them.

Because ignorance of the law is not a defense, Mr. Alejandro cannot plead such ignorance in pursuing a favorable decision on his dilemma. I am not saying this is the case, but it's a scenario that needs to be addressed.

Second, if Mr. Alejandro was fully aware of the HOA restrictions, his pursuit to change the rules (ostensibly

to receive special dispensation for his grievance) via the Legislature is inappropriate. The fundamental message is if you accept the rules in the beginning, then you should adhere to the rules for the duration.

Part of the problem is the nature of HOAs. It's not democratic and, in some ways, it's its own fiefdom. The laws regarding HOAs vary greatly throughout the

U.S. Some states, including Texas, California and Florida, have numerous laws addressing HOAs, while other states have a minimal number of laws on the books.

If you are not prepared to

reap the benefits — and the limitations — of a HOA, then don't buy one of its houses.

I can appreciate trying to make right if you believe you are wronged. Petitioning

the state Legislature and a lawmaker thereby using the time and power of government to effect change to a transparent HOA dispute smacks just a bit of grandstanding. If there are to be

challenges, upon exhausting the dispute procedures within the HOA, litigation should be the next step. A civil court is the arena, not the halls of TheBigSquareBuilding on Beretania Street.



P.O. Box 976
Honolulu, Hawaii 96808
February 22, 2010

Honorable Rida Cabanilla
Honorable Pono Chong
Committee on Housing
415 South Beretania Street
Honolulu, Hawaii 96813

Re: HB2311

Dear Chair Cabanilla, Vice-Chair Chong and Committee Members:

I chair the CAI Legislative Action Committee. CAI supports the intent of this bill insofar as it is consistent with the Freedom to Display the American Flag Act of 2005, Public Law 109-243.

Congress has legislated in this area, in a fair and balanced manner, which may suffice to address the reasonable concerns of those who wish to display the American flag in a conscientious and patriotic fashion. CAI has no objection to parallel language to enable the display the flag of the State of Hawaii on the same basis as is provided for in PL 109-243.

As drafted, HB 2311 provides for "erecting and using a flag pole" subject to "reasonable restrictions with regard to flag poles," but the bill is silent with respect to reasonable restrictions as to "using a flag pole[.]" (Emphasis added) PL 109-243 enables reasonable restrictions concerning the "time, place, or manner of displaying the flag[.]"

CAI respectfully requests that if the Committee moves HB 2311 that it does so only after amending HB 2311 to expressly articulate that reasonable time, place and manner restrictions are permitted. Thus, for example, the Committee might consider adding a proviso at the end of the current draft. Beginning at line 15, the bill might read:

"poles altogether, and provided further that reasonable time, place and manner restrictions concerning the use of any flag pole shall be permitted."

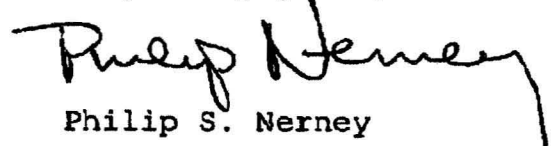
Honorable Rida Cabanilla
Honorable Pono Chong
February 22, 2010
Page 2 of 2

CAI recognizes the sacrifices made by our fellow countrymen who serve in uniform, and honors their service. The concerns expressed herein merely relate to practical issues of association governance.

CAI does note that in some cases, at least, flags may be displayed in a manner consistent with PL 109-243 other than on a flag pole. Thus, since the principle of self-governance is also important to the American way of life, it is possible to wonder whether the Legislature might facilitate the patriotic display of the flag while at the same time allowing planned community associations to express democratic will with respect to the issue of flag poles.

That is, CAI respectfully requests that the Committee consider the perspective that PL 109-243 expresses the proper balance of interests with respect to this issue, and constitutes sufficient legislative action.

Very truly yours,



Philip S. Nerney

From: john rosby [roskyj@hotmail.com]
Sent: Monday, February 22, 2010 4:15 PM
To: HSGtestimony
Subject: HB 2311 Flag display

I AM IN FAVOR OF THE RIGHT TO DISPLAY THE AMERICAN OR STATE FLAG AS INDICATED BY THE HB 2311.

**LOLA ROSKY
91-1210 KAILEOLEA DRIVE, 2L5
EWA BEACH, HI 96706**

From: Bird, Randy M. SPAWAR 352, 5, 552 [randy.bird@navy.mil]
Sent: Monday, February 22, 2010 1:41 PM
To: HSGtestimony
Subject: FLAG BILL HEARING SCHEDULED FOR WEDNESDAY @ 9:10 A.M. ON 2/24/2010

Dear Rep. Kymberly Pine

As a American and a Veteran of 20 Years Active Duty Navy and still serving America as a government Employee for the Navy. I find it outrageous that and Planned Community or a Community Association Would have any say or right to tell Americans they cannot Fly the American Flag.

What right does any Community Project or Association have to tell me that I cant have a Flag Pole and Fly The American Flag on my own property. The answer is NONE, I will say that again NONE.

If they these Planned Community Project leaders want to tell people that they cannot have Flag Poles and Fly The American Flag, they can build the Project outside the United States of America.

I live in Upper Makakilo and have a Flag Pole that Fly's the American Flag currently and I always will, I also Fly the Hawaii State Flag for the same reason "Pride" that I live in Hawaii.

I would testify in person but I am afraid I would not be able to hold my anger.

Mahalo
A Very Proud American and Navy Veteran.
V/R
Randy

From: Gary Johnson [waikikigary@yahoo.com]
Sent: Monday, February 22, 2010 1:52 PM
To: HSGtestimony
Subject: Flag Bill HB 2311

From: William Gary Johnson, Captain, US Navy Retired.

To: The COMMITTEE ON HOUSING, Rep Rida Cabinella, Chair.

Date/Time/Place: Wednesday, February 24, 2010, 9:10 AM, Conference Room 325, State Capitol.

Measure Number: HB 2311 Re-Hearing

My testimony is in favor of House Bill 2311. As a citizen and military veteran I strongly support legislation allowing us to fly the American Flag.

William Gary Johnson
91-1321 Kaileolea Drive
Ewa Beach, HI 96706
808-265-1021
waikikigary@yahoo.com

From: liffish95@aol.com
Sent: Monday, February 22, 2010 12:30 PM
To: HSGtestimony
Subject: Bill 2311

To: Committe on Housing
Re: Re-hearing of Bill 2311
Date & Time: February 24, 2010 at 9:10

My name is Jennifer Hoffman. I am a teacher and homeowner in the Ewa Beach area. In the neighborhood where I reside, there are many housing sub-divisions that put stringent rules about what can be displayed or not on one's own property. Ewa Beach also has a high military contingency, my family being one of them. Seeing as how I am paying my mortgage and my taxes, I do not deem it fair that a housing management company can prevent me from displaying an American flag. It is a personal choice, one which only displays my love for my country and fellow citizens. Others may not want to, but that is their choice- no one is forcing their decision.

The flag should be a symbol of honor, freedom and respect for those who put their lives in danger in order to protect the very freedoms which are allows a committee, like yours, to meet and allows a vote, like yours, to occur. A flag is not an eye-sore that can depreciate the neighborhood's value; it is not a brand we should be embarrassed of, nor is it something we should worry about in offending others. If you live in Hawaii, you live in the United States, thus the flag is something we should all be used to and respect. When I was younger, we had to say the Pledge of Alligence in school, that is no longer the case and I believe it has cost our children a sense of patriotism and pride. Now that flags are not allowed to be flown in certain neighborhoods, it is further weakening our patriotism and pride. How can my child learn this if she cannot see flags being flown? How can I honor my husband who will be serving in Iraq? How can I remember the past relatives who offered their services years ago when America was enduring World Wars?

It shames me that this is even an issue. Please protect our freedoms and the flag has done for us in the past.

Sincerely,
Jennifer Hoffman

From: lldemosthenesll@gmail.com on behalf of Chrysalis [chrysalis.reyna@gmail.com]
Sent: Monday, February 22, 2010 8:17 AM
To: HSGtestimony
Subject: Testimony in OPPOSITION to HB 2311, Relating to Flagpoles

Representative Rida Cabanilla, Chair
Representative Pono Chong, Vice-Chair
Committee on Housing

Conference Room: 235
Testifier Position: Opposed to HB 2311
Submitted By: Chrysalis Reyna
Organization: Individual
Email: chrysalis.reyna@gmail.com
Submitted on: 2/22/10

Comments:

Aloha, I am a concerned military wife that was born and raised in Hawaii, and I will be returning to live in the state in a few months. I am writing in **opposition** of **HB 2311**. As it stands, it fails to address many important issues and it needs to be drastically reworked to accommodate the depth and scope of the consequences the bill would bring about if signed into law. Legislation should strive to be as thorough as possible, and prioritization is inevitable (even though a bill means well, if the ramifications of the bill are HUGE and the means to enforce it doesn't even exist, and the financial burden is placed on other homeowners sometimes a bill is better off dead)

It fails to address several issues. The obvious one is that everyone can already display a flag. We can all show our patriotism in this way, homeowner's association or not. Harold Alejandro, the veteran that brought the issue to the political forefront already displays multiple flags outside of his home, but they are small ones, as opposed to the large one he wants to fly year round. For some reason, because of the way this bill has been presented by certain parties, members of the public seem to think that they aren't allowed to have a flag, which is untrue. Quote: "Our veterans deserve the right to display the American flag on their homes!"- Rep Pine. Yes they do. They have that right without HB 2311.

When people agree to live in a planned community under a homeowner's association, they sign a contract agreeing to abide by the rules of the community. Passing a bill like this sets a precedent that allows state law to override contract law in the name of patriotism. The flagpole situation can easily be resolved on a case-by-case basis between homeowners and their association. Bringing it up in legislation is an unnecessary ploy to garner media attention and public sympathy when in reality, it can easily be handled by mediation.

When bringing up the issue of the flagpole, with its size and increased visibility, a lot of other issues come to the forefront. Safety for one. A flagpole is a large, heavy object, and if improperly constructed, it could fall and damage property and/or cause personal injury. If the flagpole will be lit at night, additional underground electrical wiring and permitting is required. It stands to reason that the homeowners association needs to ensure that it meets construction standards for safety reasons, and for smaller associations, they may not have the funds to do so. The bill places undue financial burden on smaller associations that they may not be able to meet to properly ensure the safety of their residents. If improperly set up, should an injury occur, who is at fault? The homeowner yes, but what about the association that approved the final construction? Passing legislation that forces accountability and liability on homeowners associations is irresponsible.

Another huge problem is the flag code. If placed on a flag pole, a US flag must be removed at sunset. It may remain on the pole 24/7 if it is an all-weather flag AND it is properly illuminated (also requiring the association to approve electrical wiring, more permits, and engineering work to meet standards). It gets complicated when people decide that they will have a non-illuminated flag pole and take it down/put it up every day. What happens if they decide that is too much work and simply leave it up 24/7? What happens if the flag gets tattered and the homeowner can't afford to replace it? These are hypothetical situations, yes, but they bring out flaws inherent to HB 2311. The flag code is by nature, unenforceable by law enforcement. If the association issues fines and citations for the code violations and attempts to get the pole removed, homeowners can cite the state law that entitles them to a flagpole, even if they violate the flag code itself.

Also, the bill states that associations can determine the size and details of the pole and flag, as they already do with flags in general. What if associations choose measurements that are unacceptable to their homeowners? Are you going to pass another law allowing them a bigger pole and flag? What if they try to pass on the cost for permitting, wiring, engineering, architecture, etc. to the people that want to put up flags? There are already numerous complaints about how high the fees are. It seems people are entitled to flagpoles (remember, denying them a flagpole is like denying them AIR) but they don't want to have to pay to make sure they are safe, properly displayed, and within code and standards. Who should pay then? Their neighbors? Because associations can waive the individual fees. Ocean Pointe did it. But where is that money coming from? The reality is that the monthly fee EVERY resident pays will most likely be used for this service since the people that want to put up a flag seem to think that the fees are too high in the first place.

And of course, we need to address the elephant in the room- the application of the freedom of speech to flags. If people are entitled to a flagpole, by extension of the freedom of speech, they are also able to fly the flag of any country they want to. The flag code allows this, and the only stipulation is that if sharing a flag pole, the US flag should be on top. A foreign flag may fly on its own if the owners desire. This is protected by the Constitution and it trumps anything you may want to write into law to try to prevent it. As private citizens in ownership of their land, and abiding by the rules and stipulations presented by the association, everyone has the right to fly a flag of their choosing.

There are just so many holes and gaps that need to be filled... it's not really an issue of dirty laundry vs. the American flag, as so often stated in the media. A clothes line cannot disrespect a country (as violations of the flag code will do). A clothes line cannot fall and cause serious property damage and or bodily harm if improperly set up. A clothes line does not put excess financial burden and liability on homeowners associations and other residents within them.

Reading the testimony in support of the measure is almost a comedy of errors, although I can't really blame the general public for thinking the way they do- they are obviously the product of a clearly manipulative attempt to redirect focus from the issue at hand. It has inflated into this huge deal about veterans not having the right to have a flag, which has never been an issue (Flag Protection Act of 2005, HR 42) to begin with. When you look at the arguments in support of this bill, it's clear that they don't have a firm grasp of the repercussions that will arise from passing a bill like this. They simply wrap themselves up in a cloak of patriotism and use platitudes and heart-warming stories without really coming up with solutions to very real problems.

Please, I implore you, take a closer look at this, by all means, and decide for yourself how you can either fix the bill to address the issues mentioned here, or kill it until it can be properly studied and reintroduced.

For the record, I'm a proud Navy wife. I love my country. I love the military. I love the flag. But what I do not love is poorly thought-out legislation. I do not love pandering to human emotion with special interest stories that have no weight on the reality of the issue. And I most certainly do not love active manipulation of public

opinion.

Thank you so much for your time and consideration on this matter.

From: Richard & Peggy Haake [rp.haake@hawaiiantel.net]
Sent: Sunday, February 21, 2010 9:05 PM
To: HSGtestimony
Subject: HB 2311 - Flag Bill

Honorable State Representative Rida T.R. Cabanilla, Rm 442
Chair, Housing Committee
Hawaii State House of Representative
Hawaii State Capitol

Dear Representative Cabanilla,

As a Vietnam Veteran and Army retiree of twenty years, I am writing "IN SUPPORT OF HB 2311 - FLAG BILL." I and many of my fellow comrades, both alive and deceased, have faithfully served our country protecting the "Constitution of the United States" and our National symbol.

The U.S flag is well recognized throughout the world, although it has been desecrated here and abroad. So, please, let us not be ashamed or embarrassed to display this symbol. This National symbol will continue to stand for the blood, sweat, tears, and the lives of those who keep our Nation free. Let no organization, association, state, community or anyone, tell those that have proudly served our country that "they cannot fly the symbol of our nation."

Thank you very much for allowing me to express my views on HB 2311. I, strongly, urge your support for this bill.

Richard J. Haake
Past Department Commander
National Legislative Committee Member
Veterans of Foreign Wars
Department of Hawaii

From: Clyde Sauget [csauget@hotmail.com]
Sent: Saturday, February 20, 2010 3:35 PM
To: HSGtestimony
Subject: HB 2311 - Flag Bill

Honorable State Representative Rida T.R. Cabanilla, Rm 442
Chair, Housing Committee
Hawaii State House of Representatives
Hawaii State Capitol

Dear Representative Cabanilla

As a former Marine, I urge you to support "**HB 2311 -Flag Bill.**"

I am proud to have served my country to defend the freedom of this world. When President Eisenhower dispatched a force of Marines to Lebanon in July of 1958, the entire Marine Corps was put on alert for further action. Thankfully, that situation was resolved by October of that year. However, it does illustrate how our men and women in uniform are constantly in harm's way.

I have lost comrades during other military actions. I honor them today by proudly flying the flag every day in front of my home. This is my way of telling my friends and neighbors that freedom is not "free" and that we must always be vigilant.

I defy anyone to tell me that I cannot fly my flag. I told and oath to defend it with my very life, and I consider that oath to be for a life-time, not just while in uniform.

I urge you to support this bill.

Clyde R. Sauget, PH.D.
Sergeant of Marine
1955-1961

From: Andre VFW [webmaster@vfwpost3830.com]
Sent: Saturday, February 20, 2010 9:09 AM
To: HSGtestimony
Subject: Bill HB 2311 - Flag Bill.

Dear Representative Cabanilla

I am writing "**IN SUPPORT OF HB 2311 -Flag Bill.**" As a Vietnam Veteran and Panama. I need to express my support of this Bill, I feel we should be allowed to fly our Flag that we are so proud of and have lost many friends in support of it. This reminds us of why we protected this country and we should be allowed to fly it anywhere we wish especially on our own private property.

Thank you,
Andre Robert
Veteran of Foreign Wars
VFW Post 3830, Hawaii

From: STANLEY FERNANDEZ [sonnyfernan@msn.com]
Sent: Friday, February 19, 2010 5:17 PM
To: HSGtestimony
Subject: HB 2311 - Flag Bill

Honorable State Representative Rida T.R. Cabanilla, Rm 442
Chair, Housing Committee
Hawaii State House of Representatives
Hawaii State Capitol

Dear Representative Cabanilla

I am writing "**IN SUPPORT OF HB 2311 -Flag Bill.**" As a Vietnam Veteran who flew 70 combat missions and three tours in Vietnam, I am proud to have served my State and Nation to defend the freedom of this world.

When President Kennedy came on TV and announced that "he" was sending his forces to Florida, the next day,

we deployed to McCoy Air Force Base, Florida and started flying combat recon missions between the Florida/Cuban straits.

When the North Koreans shot down our Navy EC-121 aircraft, I was on the first Air Force aircrews to replace that

mission. I have lost comrades in arms who were also proud members of the US Military and our Nation.

The flag of the United

States stands for "freedom!" Let us not be ashamed or embarrassed to display this symbol. It is a National

symbol that stands for the blood, sweat, tears, and lives of those who keep our Nation free. Let no association, organization,

state, community or anyone for that matter, tell those who proudly served their country that "they cannot fly this

symbol of freedom!" Thank you for allowing me to express my views on HB2311. Urge you support for this bill.

Stanley Y. Fernandez, Sr.
Department Junior Vice Commander
Department of Hawaii
Veterans of Foreign Wars

Hotmail: Powerful Free email with security by Microsoft. [Get it now.](#)

From: Alejandro Ohana+HI-50 [fourewa_hi@yahoo.com]
Sent: Tuesday, February 23, 2010 9:55 AM
To: HSGtestimony
Subject: Fw: TESTIMONY IN SUPPORT of HB 2311 (Harold Alejandro) Corrected Version
Attachments: TESTIMONY HB2311 (Support) H Alejandro (Corrected Vers).doc

Dear Sir / Ma'am:

If possible, can you replace the attached corrected version of my Testimony in Support of HB 2311. I deeply apologize for the inconvenience.

Harold Alejandro

----- Forwarded Message -----

From: Alejandro Ohana+HI-50 <fourewa_hi@yahoo.com>
To: HSGtestimony@Capitol.hawaii.gov
Sent: Tue, February 23, 2010 9:30:17 AM
Subject: TESTIMONY IN SUPPORT of HB 2311 (Harold Alejandro)

Dear Sir/Ma'am:

Please post my Testimony in SUPPORT of HB 2311.

THANK YOU.

Harold Alejandro
Ewa Beach
ph: 586-0435
fax: 586-0532
email: fourewa_hi@yahoo.com

**SUPPORT FOR HOUSE BILL 2311
Testimony (Submitted via Email)**

NAME: Harold B. Alejandro

TITLE (Military): Retired Veteran MSgt, USAF / US Army
Iraqi and Enduring Freedom

TITLE (Civilian): Civil Engineer / Project Coordinator
State of Hawaii, Dept. of Education

ADDRESS: 91-336 Hoowalea Place
Ewa Beach, Hawaii 96706

HEARING DATE: 24 February 2010, Wednesday

TIME: 9:10 am

MEASURE: House Bill 2311 (HB 2311)

HB 2311: Relating to Planned Community Associations allowing for the use of flag poles to display the flag of the United States or State of Hawaii on the premise of single-family residential dwellings or townhouses that are part of a planned community. Allows reasonable restrictions on the use of flag poles for aesthetic purposes.

HONORABLE REP CABANILLA (Ma'am)
And Honored Representatives of the Committee on Housing,
State of Hawaii, House of Representatives:

Please find my testimony IN SUPPORT of House Bill 2311.

First of all, contrary to everyone's belief, I would like to Thank Gentry Homes for providing my family and me affordable and well built homes since 1997 (at the Lofts and currently at Prescott II). Secondly, I would like to thank Rep. Kymberly Pine (Ewa Beach / Iroquois Pt.) and her staff for their tireless efforts in serving our Community and in supporting this Bill. Lastly, I would like to Thank my fellow Veterans and our neighbors (on Hoowalea Place and Hoowalea Way, Ewa Beach) for their support of this Bill and for supporting my family and me through this process...with that We ARE TRULY GRATEFUL and Humbled. I would also like to thank Rep. Rida Cabanilla (Waipahu / Ewa) and the Housing Committee for allowing me the time to express my testimony concerning the subject bill.

I am supporting this bill because it brings to notice a "basic" right to allow me, my neighbors, and fellow Veteran Colleagues the dignity to express our sincerest gratitude for the blessing and sacrifices made on our behalf so that we may enjoy the freedom we at times take for granted. All this, while removing some of the "unreasonable" restrictions and approval process made by Homeowner Associations (Assn) discouraging the "respectful" display of Old Glory (US Flag) to the level of respect it is due.

First of all, so that the record is clear, let me answer some of your questions you posed to the public.

Question (1): Did this Homeowner know of the Assn Design Covenants Rules and Regulations before he signed and agreed to his contract for his home?

Answer (1): Yes we did, and were fully aware of and agreed to the restrictions placed on the posting flag poles in our home. We also have been cited a total of four (4) separate occasions, from 1997 to 2008, mainly for failing to remove our flag past the prescribe Holiday observance period otherwise be subjected to fines to be incurred daily. Our last citation, between Memorial Day 2008 – 4th of July 2008, we were cited for not having the proper design approval for the posting of our flag in the front of our home near our entry and for having it up past the observance period.

Question (2): Did we follow the necessary process to get design approval for the posting of our flag?

Answer (2): June 2008, we followed the necessary process to gain design approval to post our simple 3'x5' lean-to flag, on a wood or metal pole 4 ft – 5 ft in length, attached near our entry facing our front yard – visible from the street. We submitted a letter of request humbly requesting approval to post our flag, along with the photo they took of our existing flag at the location indicated and a hand drawn sketch of its location. To our error, we did not submit an official plot plan showing the existing location of our flag since the Assn already knows its location via the photo and citation they issued to us.

Because of this error, we were directed to pay a \$100 fine/redesign review fee with no guarantees, and possibly enter into a petition/litigation process to see if we can get our Assn Covenants changed using our own monies of which we do NOT have. We called our Assn office to ask for leniency in allowing us to resubmit our documents without the fine, but were rudely denied. So rather than paying the fine and be cited for other minor infractions, we decided to remove our flag and comply with the Assn rules.

Thru a community mailer from Rep Pine's office soliciting concerns in the community, we listed our Assn flag restriction rules as one of the concerns. In 2009, we worked with Mr. Tom Berg, Rep Pine's Staff and former Assn member, to seek a resolution with the Assn but to no avail. ***During the process, Rep Pines office learned this issue also affected many other Veterans in her district and also Statewide which led to the birth of HB 2311, Flag bill.***

I and many other Veterans, took an OATH to PROTECT and DEFEND this Country, to which Old Glory (our Flag) represents. Having lost two of our AF Airmen in 2006 from our AF/ Army contingent via an IED explosion in Iraq, my respect and honor for this flag grew even greater. Therefore, with due respect to the contract I signed and agreed to with my Assn...I, along with others, cannot understand why it is so wrong to chose to HONOR and RESPECT this Oath or contract I made with my Country more than this contract I made with some Assn. Our Flag represents our Freedom and the sacrifice of those who upheld it. Ronald Reagan said (1972), "*Freedom is indivisible – there is no "s" on the end of it. You can erode freedom, diminish it, but you cannot divide it and choose to keep "some freedoms" while giving up others" ... "America cannot survive if our people have only a half-hearted commitment to Freedom."* I and my family, my fellow freedom loving Veterans, and my neighbors chose to honor this Contract with Old Glory not half-heartedly but to the FULLNESS of our hearts. To me and my family and my fellow Veterans, OLD GLORY represents not just a piece of cloth but a symbol of the Greatest Gift ever bestowed to a country....OUR FREEDOM.

Therefore, I and my family humbly request that you reconsider passing this bill so that we can give OLD GLORY, our Flag, the respect it is due. GOD Bless and Thank You all for your service to our State.

With Deep Respect,

Harold Alejandro
Retired Veteran
Ewa Beach, Hawaii



TYPE OF FLAG AND FLAG POLE WE REQUESTED TO POST AT OUR HOME OF RESIDENCY. (Photo Courtesy of Deborah Alejandro Harding and LTC Lewis Harding, USAF of Rocklin, CA.)

chong1-Aisha

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 23, 2010 5:17 PM
To: HSGtestimony
Cc: gollner@gmail.com
Subject: Testimony for HB2311 on 2/24/2010 9:10:00 AM
Attachments: DSC01114.JPG

Testimony for HSG 2/24/2010 9:10:00 AM HB2311

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: John Gollner
Organization: Individual
Address:
Phone:
E-mail: gollner@gmail.com
Submitted on: 2/23/2010

Comments:

This is page 3 of my written testimony. Please attach to the testimony previously submitted.
Thank you.

FEBRUARY 24, 2010

HOUSING COMMITTEE 9:10 HEARING

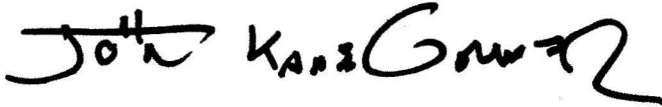
HB2311 TESTIMONY IN SUPPORT

Honorable Chair of Housing Committee and Members,

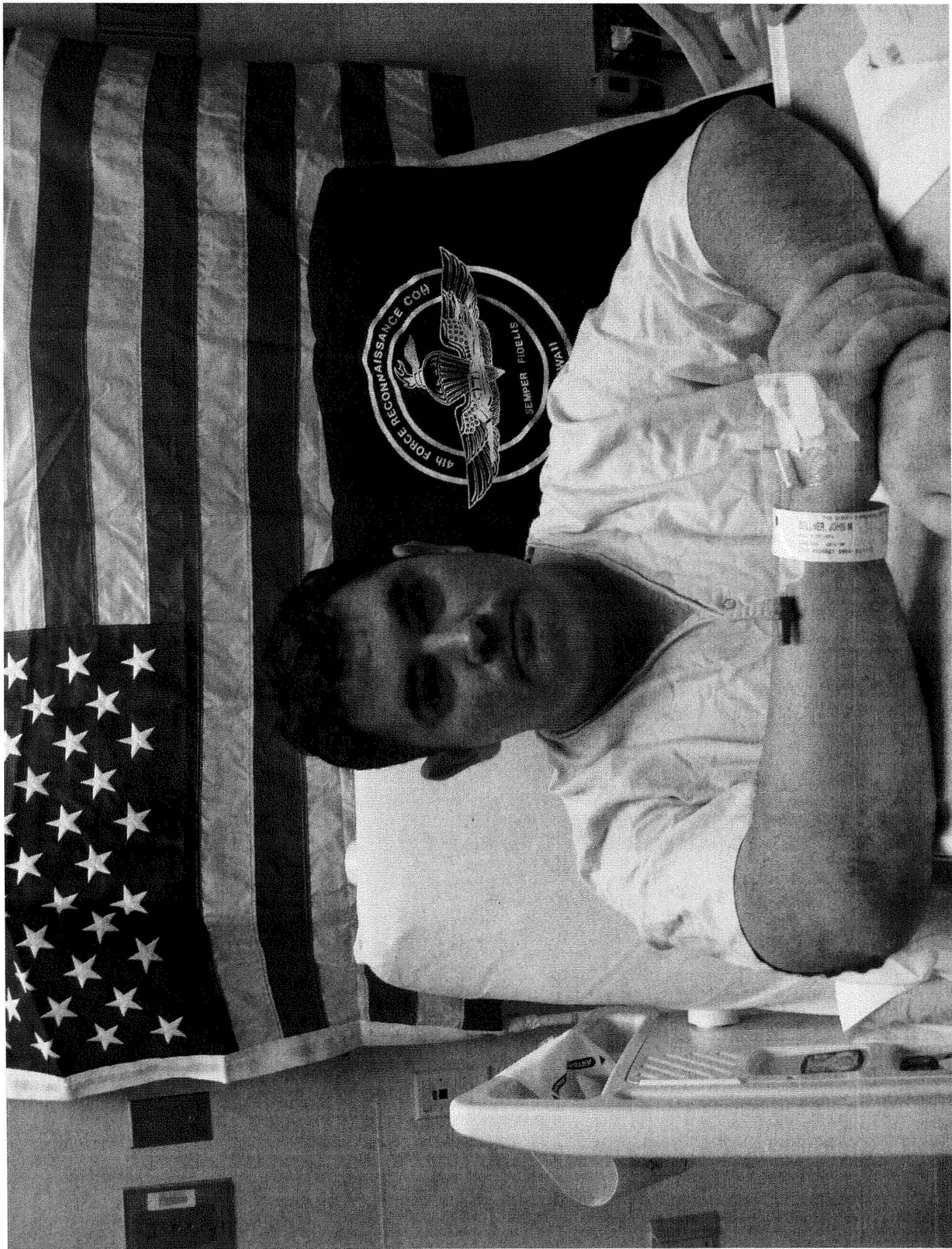
Please support HB2311. The bill needs work but that is why we are here today, to keep discussions going and draw out resolve hearing by hearing. That is why I am so grateful for your decision to continue discussions and thank you for this opportunity.

I have included in my testimony an article on this very subject for your review. It gives all of the requisites the flag should be under and defines them. Anything more that is imposed above and beyond these standards as illustrated in the article must be addressed and immediately. That is why HB2311 is critical it be kept alive and forwarded to the Senate to bring closure, conformity, respect, and tribute for the flag to this chaos that was never meant for the flag to be subjugated to.

Mahalo for this opportunity to testify in favor of HB2311.

A handwritten signature in black ink that reads "John Gollner". The signature is written in a cursive, somewhat stylized font.

John Gollner
256-6425
Ewa Beach





Real Estate News and Advice

February 23, 2010

"Success From Distress" WEBINAR

REAL ESTATE SUCCESS TIP OF THE DAY
 To profitably seize the opportunity waiting for agents in this distressed market, you need different strategies to find those hidden, must-buy buyers, who can and will buy right now and won't

Give Us Your ZIP CODE

LEARN MORE ABOUT THE NEW SEARCH TOOLS | CONSUMER EDUCATION | AGENT NEWS | VIDEO | LISTINGS | CONTACT US

Search Realty Times

- Front Page
- For Agents
- Agent Locator
- Subscribe
- "Why Buy" Webcasts
- Advertise
- Preferred Vendors
- Site of the Day
- Support
- Login
- About Us

GET FSBO's TO CALL YOU

webcast city
www.webcastcity.com

How to Find the Hidden Buyers in Your Marketplace:
 These strategies allow you to profitably seize the opportunity waiting for you in this distressed market. These hidden "must-buy" buyers, who can and will buy right now and won't keep waiting for lower prices or better times, do exist -- exist everywhere in significant numbers -- but they require DIFFERENT approaches; proven success strategies NEWLY ADAPTED for them, for this time. When other agents say, "Well, nobody's buying now" -- truth is, nobody they know how to attract and work with is buying right now. But transactions were completed in virtually every market this week and will be
 >> FULL STORY

Housing Counsel: You Have the Right to Fly the American Flag

by Benny L. Kass

Over the years, and especially since the September 11th tragedy, community association homeowners and their board of directors have been arguing about our American flag. Homeowners want the right to fly the flag whenever and wherever they want, especially on holidays and special occasions, while board members were concerned about uniformity and architectural guidelines.

Now, this argument has more-or-less been resolved in favor of the American community association homeowner. On July 24, 2006, President Bush signed into law the Freedom to Display the American Flag Act of 2005.

The law is short and to the point. Section 3 states:

A condominium association, cooperative association or residential real estate management association (i.e. a homeowner association) may not adopt or enforce any policy, or enter into any agreement, that would restrict or prevent a member of the association from displaying the flag of the United States on residential property within the association with respect to which such member has a separate ownership interest or a right to exclusive possession or use.

I used the words "more-or-less," because section 4 of the Act contains a limitation on this broad language. That section says that notwithstanding section 3, community associations still have the right to impose reasonable restrictions "pertaining to the time, place, or manner of displaying the flag of the United States necessary to protect a substantial interest" of the association.

The principle sponsor of the Act was Congressman Roscoe Bartlett (R-Md). When he learned that the bill had been signed by the President, he told the Community Association Institute (CAI) that "this is a reasonable and thoughtful approach that gives residents the right to fly our colors, even as it gives community associations the right to establish appropriate limitations on the size and locations of flags displayed in their communities. This is a perfect compromise between the rights of individuals and the important obligations of community association leaders." (Reprinted from a CAI Press Release, July 24, 2006).

Does this mean that community association owners now have the right to fly a flag anywhere on their own property? What about balconies or patios in a condominium, which are called "limited common elements" but are within exclusive possession or use of individual owners?

Many community associations have architectural control covenants contained in their legal documents. These covenants are binding on all owners -- and tell everyone what can and cannot be done within the community. Often, before a fence, a deck or even a flag pole, can be installed on the outside of the unit, the homeowner must submit plans to an architectural control review Board for approval.

As a result of this new law, these Boards will have to regroup and review any guidelines currently in effect which will have an impact on the right of their members to fly the flag. It is to be noted that Section 4 of the Act does not place any limitations on the flag itself -- but only on how, where and when the flag may be flown.

Furthermore, any such restrictions must "be necessary to protect a substantial interest of the association. This means that board of directors -- if they really

WANT ALL THE GOOD PROSPECTS?

Get your **FREE 2010 Business Plan** and Find Out How to:

- Generate active NEW prospects
- Build wealth and generate referrals
- Close More Business

Get it Now >>



Real Estate News Network



Real Estate Outlook: Increase in Housing Starts

Washington Report: Anti-Foreclosure Program

Mortgage Moment: Free Credit Report

Ask Realty Times

Investor Report: HUD Regulations

More Videos...

Mortgage Rates

30 Year Fixed: 4.93%
 15 Year Fixed: 4.33%
 1 Year Adj: 4.23%
 (U.S. Weekly Averages)

Today's Headlines

- Market Conditions
- Real Estate Outlook: Increase in Housing Starts
- Easy Interior Design
- The Offer: There's More to It Than Price
- Buyers: Why Green is Worth It
- Washington Report: Anti-Foreclosure Program
- Declining the Monkey Without Alienating Your Client
- The Seller Agenda
- Mortgage Rates Hover Near Record Lows
- Clean Homes Show Better--Five Areas To Scrub to Make Yours Sparkle

Spotlight

Find the Hidden Buyers in Your Marketplace: These strategies attract "must-buy" buyers who can and will buy right now and won't keep waiting for lower prices or >> FULL STORY

NEED HELP?

[Click for Live Support](#)

[Send E-mail](#)

Call: 214-353-6980

Realty Times

MARKET

CONDITIONS REPORTS

Can I afford to move here?



CLICK HERE FOR ANSWERS FROM EXPERTS!

Is now a good time to sell?



want to impose any such limitations -- must be very sure that they comply with the Congressional mandate: substantial interest."

The days of uniformity for uniformity sake -- which often has been the hallmark of many architectural guidelines -- is over when it comes to our American flag.

The flag is more than just a pennant waiving in the wind. It is a symbol of America, democracy and patriotism. Indeed, right or wrong, members of Congress annually try to enact legislation regarding flag burning. To many people, any restrictions on the right to fly the American flag is anti-American.

What should boards of directors do? In my opinion, they and their attorneys should carefully review the Federal Flag Code, as it has been amended from time to time. They should permanently repeal any covenant which restricts community association owners from flying the flag of our country, especially on those days which Congress has declared to be important. Those days include: Independence Day, Martin Luther King, Jr. day, Veterans Day, Presidents Day, Mother's Day, Memorial Day, Labor Day, Columbus Day, Thanksgiving Day, New Years Day, September 11, December 7 and (of course) Flag Day.

There are statutory rules (called the "Federal Flag Code) spelling out the proper procedures for displaying the flag. Homeowners who ignore these rules should be chastised by their Association.

This issue has often become a "cause celeb" and have all too often caused serious division in many community associations. Once such an emotional issue surfaces, it can impact on the association for a very long time.





Hopefully, the new law, plus some common sense among all owners and boards of directors, will finally put this emotional issue to rest.

Rules for Flying the American Flag (Excerpted from The Flag Code, United States Code, Title 36, Chapter 10)

- Display the flag only from sunrise to sunset. Flag may be displayed twenty-four hours a day if properly illuminated. (NOTE: This does not give a homeowner the right to flood his home with so many lights that it will disturb other owners in the area.)
- Raise the flag briskly, but lower it ceremoniously.
- Flag should not be draped over the hood or back of a vehicle; it should be fixed firmly to the chassis or clamped to the right fender.
- No other flag or pennant should be placed above the American Flag; if there is another flag on the same level, it must be to the left of the US Flag.
- Except as a signal of distress, the flag should never be displayed upside down.
- The flag should never touch anything beneath it, such as the ground, the floor, water or merchandise.
- The flag should never be used for advertising purposes in any manner.
- The flag should not be displayed on days when the weather in inclement, except when an all weather flag is displayed.
- When the flag is in such condition that it is no longer a fitting emblem for display, it should be destroyed in a dignified way, preferably by burning.

Published: October 9, 2006

Use of this article without permission is a violation of federal copyright laws.

 [E-MAIL THIS!](#)
 [PRINT THIS!](#)
 [FEEDBACK!](#)
 [REPRINTS!](#)

Digg 

Related Articles:

- Articles by Benny L. Kass



Author of the weekly *Housing Counsel* column with [The](#)