



HAWAII CHAPTER
community
ASSOCIATIONS INSTITUTE

P.O. Box 976
Honolulu, Hawaii 96808
March 8, 2010

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

Re: HCR 138 and HR 79

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

I chair the CAI Legislative Action Committee. CAI respectfully requests that the Legislature refrain from passing HCR 138 and/or HR 79. This is so for several reasons.

First, urging condominiums and planned community associations "to minimize their expenditures as much as possible" is not necessarily prudent advice. The mandatory reserve law is evidence of that.

Associations must establish reserves. This prudent requirement is in recognition of the need to maintain a project's buildings and other structures. The failure, neglect or refusal of a board of directors to maintain and to repair the project would be a profound breach of fiduciary duty.

Deferred maintenance has been the cause of ruinous special assessments and/or other poor outcomes at many projects. It is appropriate to carefully consider the implications of any resolution that could have substantial negative, though unintended, consequences.

Apart from reserve items, association boards of directors do not generally control the costs of essential services. If utility costs go up, the members pay for the increased cost of utilities. If insurance premiums go up, maintenance fees go up. Association budgets are developed in relation to the expenses of the Association. Things cost what they cost.

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It is also true that condominiums and planned community associations are democratic institutions. Members can and do remove spendthrift boards.

Thus, there are structural and institutional pressures on boards to control costs. It is also appropriate to keep in mind that directors pay maintenance fees. The consequences of budgeting decisions are felt and paid for by the directors themselves, together with their fellow owners.


There is also a fundamental question raised by HCR 138 and HR 79, as well as by other legislation. The question is this: Does the Legislature intend for condominiums and planned community associations to govern themselves?

Self-governance is a bedrock principle. The Legislature should be explicit if it intends to shift the foundation upon which associations are based.

All concerned recognize the power of the Legislature to control the minutiae of association life. There is, however, a reasonable basis to debate the utility of legislative control over what has historically been considered to be a private housing market segment.

If government chooses to run associations, then it will be reasonable to call upon government to fund associations.

Very truly yours,


Philip S. Nerney

Joanne P. Taylor
2333 Kapiolani
Honolulu, HI 96826

Rep. Rida Cabrilla, Chair
Rep. Pono Chong, Vice Chair
Committee on Housing
415 S. Beretania
Conference Room 325
Honolulu, HI

RE: HCR 138, HR 79, Opposed, Hearing 3/10/2010 9:00 AM
URGING CONDOMINIUM ASSOCIATIONS AND PLANNED COMMUNITY ASSOCIATIONS TO MINIMIZE
EXPENSES TO REDUCE THE NEED TO INCREASE MAINTENANCE FEES AND DUES

I am a current board member of the Marco Polo Board of Directors and find this resolution
misdirected.

While I believe this resolution is well intended, I feel compelled to help you identify some factors
that drive budget increases, hence maintenance fee increases.

Annual budgets are composed of two sections, operations and reserves.

The state mandated reserve portion, for maintenance, repair or replacement of the various
components, each having a fixed life expectancy, is based on projected costs and has
little flexibility.

The operations portion is adjusted to account for legislative actions causing increases in excise tax,
wholesale tax, 700% increase in SUI tax; PUC approval of increases to communication and electrical
service fees; Board of Water Supply approval of increases to water and sewer fees; elevator
companies increase in labor cost; independent trash removal companies raise in dumping fees;
increased fuel surcharges; increased employee health premium costs; increased delinquencies and
lending institutions who fail to pay maintenance fees post foreclosure; and all other services
Associations purchase who are forced to raise their fees due to the same cost increases the
Associations incur.

In my opinion, a resolution sent to all entities whose increases influence the Associations operation
cost increases would be more meaningful than this resolution sent to all boards of directors, who
volunteer many hours developing the annual budgets and have no option but to include the
mandated increases. I feel the cost of mailing this resolution to all boards of directors would be
money wasted.

Thank you for your time in considering this suggestion.
Joanne Taylor

HAWAII STATE HOUSE of REPRESENTATIVES
THE TWENTY-FIFTH LEGISLATIVE, REGULAR SESSION OF 2010

WRITTEN TESTIMONY
COMMITTEE ON HOUSING

Chair: Rida Cabanilla Vice Chair: Pono Chong
Members of Housing Committee

DATE: Wednesday, March 10, 2010

TIME: 9:00 am

PLACE: Conference Room 325
State Capitol, 415 South Beretania St.
Honolulu, Hawaii

In Support of
H.C.R. 138 and HR 79
Relating to
PUBLIC HOUSING

Aloha, my name is Jimmy de Jesus a retired U.S. Navy and a resident of one of the planned community associations in Waipahu. I am in strong support of HCR 138 / HR 79 that will minimize expenses to reduce the need to increase maintenance fees and dues to ensure day to day operation. For a retired veteran like me with a fixed income, it has been difficult to shoulder the ever increasing fees and dues charged to members of the associations. Reducing the expenditures in accordance to the degree of importance will alleviate the burden from members who are struggling to keep up with financial struggles, therefore I urge you to pass this bill.

Thank You for the opportunity to testify