

**PRESENTATION OF THE
REAL ESTATE COMMISSION**

TO THE HOUSE COMMITTEE ON HOUSING

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Wednesday, March 17, 2010
9:00 a.m.

TESTIMONY ON SENATE BILL NO. 2164, S.D. 1, RELATING TO CONDOMINIUMS.

TO THE HONORABLE RIDA CABANILLA, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Michele Loudermilk and I serve as the Chairperson of the Real Estate Commission's ("Commission") Condominium Review Committee. We thank you for the opportunity to provide testimony expressing concerns with Section 1 of Senate Bill No. 2164, S.D. 1 which amends chapter 514B, HRS, by adding a new section requiring that notice of amendments to project documents be provided to owners, purchasers, and potential purchasers.

As we have previously testified before the Senate Committee on Commerce and Consumer Protection on Senate Bill No. 2164, the Commission believes that current statutes already provide owners, purchasers, and potential purchasers notice of amendments to project documents thereby making the proposed section unnecessary. For instance, the following sections in the Condominium Act provide for amending a condominium's governing documents:

- section 514B-39, HRS, requires the consent(s) of the affected unit owner or owners on amendments to the declaration affecting limited common elements;

- section 514B-32(a)(11), HRS, requires the approval of the owners of at least 67% of the common interest for all amendments to the declaration, (including the condominium map);
- section 514B-108(e), HRS, requires that the bylaws be amended by the vote or written consent of at least 67% of all unit owners;
- section 514B-56(c), HRS, requires the developer to provide all purchasers with a true copy of an amendment to the developer's public report including all prior amendments or a restated developer's public report; and
- section 514B-86(a) (1) (A), HRS, requires the developer to deliver to prospective purchasers true copies of the developer's public report, including all amendments in order for binding sale purchases.

Thus, the Commission is unsure as to the intent and purpose of the proposed amendments of Section 1 of the bill and believes they may be unnecessary.

Should the committee decide to pass this bill out of committee, the Commission provides the following comments:

- developers are still selling condominium apartments with effective dates issued prior to July 1, 2006 pursuant to chapter 514A, HRS (original condominium law); proposed amendments to Section 1 of this bill only affect changes to declarations, bylaws, condominium map, public reports of condominiums created after July 1, 2006 relating to chapter 514B, HRS and not 514A, HRS; and

- the proposed new publication requirement (subsection (a)(3)) appears to require that even simple and common changes, e.g., changes of the real estate broker or escrow company, to a developer's public report be published in a newspaper of general circulation in this state at least once in each of two successive weeks causing significant increase in costs to the developer and eventually the consumer.

Thank you for the opportunity to present testimony.