
From: Antonette Port [portr001@hawaii.rr.com]
Sent: Tuesday, March 09, 2010 11:18 AM
To: HSGtestimony
Subject: Testimony SB 2222,SD1

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

Hearing: Wednesday, March 10, 2010, 10:10 a.m.

Testimony: SB 2222,SD1 Relating to Planned Community Associations.

Dear Representatives,

This is to provide strong support for SB 2222, SD1 which conforms Planned Community Associations laws to comparable provisions regarding proxies that currently regulate condominium property regimes. It is long past time for home owners to have at least some of the same rights as owners who reside in condominiums.

The only opportunities for residents of Planned Community Associations to "have a say" in the operation of their associations is during the annual meetings. Proxies are "All Powerful" at these meetings.

There is a need for PCA Boards to respect the concerns of their home owners. This bill will ensure a willingness to pay attention to home owners who can vote for or against their Boards using their proxies.

Thank you for this opportunity to testify in support of SB 2222,SD1.

Richard Port



Princeville *at Hanalei* Community Association

Enhancing the Quality of Life and Princeville Experience for its Members

February 18, 2010

Honorable Chair Rep. Rida Cabanilla,
and Members of the Committee on Housing

Re: SB 2222, SD1 – Relating to Planned Community Associations;

Wednesday, March 10, 2010; Conference Room 325, 10:10 a.m.

Dear Representative Cabanilla and Members of the Committees:

My name is Rohit J. Mehta and I am testifying on behalf of the Princeville at Hanalei Community Association (“PHCA”), a planned community association under Chapter 421J, Hawaii Revised Statutes. PHCA is opposed to the adoption of SB 2222 SD1, a flawed bill.

The bill is based on the erroneous assumption that Planned Community Associations should be regulated in the exact manner as condominiums. Planned Community Associations are not creatures of statute, but exist by virtue of diverse governing documents intended to serve the needs of associations created for widely differing purposes. Condominiums exist because they have been created and are wholly regulated under one of Hawaii's two condominium laws. Simply taking random provisions under those laws and applying them to Planned Community Associations is not only unwarranted and ill-considered but would have many unintended adverse consequences. For example, among other things, the bill proposes that resident managers that own a unit are not allowed to vote. As many planned community associations are self-managed or may have management agreements with particular homeowners, providing by law that such homeowners cannot vote in their own capacity is inappropriate.

PHCA is one of the largest planned community associations in the State of Hawaii, with over 2,300 members. It is a resort community and its members include some 770 single-family homes, a hotel, 33 condominium or timeshare properties.

Based on the above, we respectfully request that SB 2222 SD1 be held. Thank you for your consideration with this testimony.

PRINCEVILLE AT HANALEI COMMUNITY ASSOCIATION

Rohit Mehta

Dr. Rohit J. Mehta, General Manager

Testimony in Support of SB2222 with Amendments
House Housing Committee
Wednesday, March 10, 2010

Chair and Members of the Committee,

My name is Roy Ababa. I write in support of SB2222 with proposed amendments.

I lived in a planned community in Ewa. I have numerous issues with my association. I do not believe that the directors in my association are really there to represent the interest of everybody, but rather for their personal gain or glory. They are very difficult to talk to and the only time you can talk to them is when they want to cite you for an infraction of their rules.

Contrary to popular belief, there are a lot of people who want to be board member in associations whether planned communities or condominiums, but it is the present proxy rules that disallow us to become directors or board members.

In respect to SB2222, I want equity for those residents who want to run for the board of director. Others also want to be a member of the board but the current directors or the management, in my opinion, has the ability to keep re-stating the same directors year after year. They do this through the proxy process. The current directors should also include the new candidates for directorship with an equal percentage of the proxy votes.

These are my proposed amendments:

1. Page 5 (C) should be deleted: preferential treatment by the current board should be deleted. This provision allows current board members to keep their friends on the board and bar the new candidates from fairly competing for a seat on the board. This allows the current members to stay in perpetuity. It gives them the feeling of being like "little mayor within the community which may not be to the betterment of the interest of the residents.
2. Page 6 (D) the candidates present at the meeting should be given the same percentile of the proxy votes wherein no particular candidate for the board was specified.

During this very difficult economic time, all cost saving measures in keeping association cost down should be implemented. The Robert's Rules of Order as a means of conducting the meeting may not be necessary. These meetings are a means of joining and discussing the interest of the community. The Roberts Rules of Order can be very intimidating for us community members that want to participate. Furthermore, I am sure that the parliamentarian is costing the association money. I asked that their presence and cost need to be evaluated by the association.

I thank the committee for hearing my recommendations to make the election process fairer so people like me can also be a member of the board.

Senate Bill 2222

*Position: In strong support
Date: Wednesday, March 10, 2010
Time: 10:10 A.M.
Before: Housing Committee
Place: Hawaii State Capitol Room 325*

Chair Cabanilla and Members of the Committee Housing

I am in support of SB 2222 which put more laws into planned community associations. I would, however, like you to consider the following changes to the bill.

I believe that if you make the following changes, it will increase the participation of the resident owners in their community. The current situation discourages me, as well as others who wish to participate as directors on the board. In my planned community, the same board members have been there for years. I kept wondering why it seems like no one else would be willing to run for that office. After discussing it with my legislator, I found out the intricacies of the "proxy process." This process gives discretion to the current directors as to how to use the proxy votes, which includes giving the votes to themselves so that they can do whatever they want and close out other candidates who want to join the board. This is grossly unfair to people like me who may want to run for that directorship.

I believe that addressing the proxy laws will encourage more participation and prevent homesteading of the current directors. I respectfully ask that the SB 2222 be amended to reflect my concerns.

Respectfully,

*Marina Rachael
Planned Community Resident*