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**Date: February 09, 2009**

**To: COMMERCE AND CONSUMER PROTECTION COMMITTEE  
of the Senate, Twenty-fifth Legislature, 2009, State of  
Hawaii**

**Re: SB 573 – Relating To Attorneys Fees/Condominiums**

**TESTIMONY SUPPORTING SB 573**

To: The Senate Commerce and Consumer Protection Committee of  
the State of Hawaii

Senator Rosalyn H. Baker, Chair

Senator David Y. Ing, Vice Chair

Senators Will Espero, Josh Green, M.D., Lea Ihara, Jr., Norman  
Sakamoto and Fred Hemmings, Committee Members

Most Honorable Chair Rosalyn Baker, Senator Ing, and Committee  
Members.

**Please vote unanimously in favor of this bill on February 11.**

SB 573 is needed and necessary to encourage condominium  
management associations to mediate claims over misapplied  
Association funds or unregulated maintenance fees and/or to obtain  
credits or damages when owners pursue management fraud, waste,  
and assessment abuses.

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If fraud, mismanagement of office responsibilities or blatant financial irresponsibility occur by Condo Board Members or the Condo Management Firm, there should be a smooth path to mediation and a fair and just application of attorney fees at the time of settlement.

SB 573 makes it clear that if mediation does not resolve claims by unit owners for return of misapplied maintenance fees or association funds that the American rule of attorney fees will apply. Both sides involved in the dispute will then understand and know that they are responsible for only their own attorney fees, but only if they first submit the dispute to mediate.

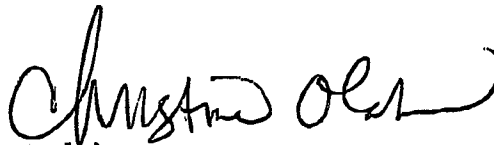
SB 573 eliminates the fear of additional attorney charges that apartment owners feel may apply when they desire to petition for redress of grievances should their fiduciaries misapply maintenance fees and association funds. The present version of HRS §514B-157(b) only applies to actions to enforce bylaws, rules, declarations, and Chapter 514 by looking forward. The present version is too restrictive when association funds are misapplied, because the loser will pay the other sides attorneys' fees even if the parties mediate.

Respectfully submitted,

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Resident of Honolulu

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