

SCR 218

Eric Arquero

From: Bob Smith [heartoheal@hawaii.rr.com]
Sent: Monday, March 22, 2010 5:01 PM
To: CPN Testimony
Subject: Testimony SCR 218 Hearing, March 24 10 am Conf Rm 229

Follow Up Flag: Follow up
Flag Status: Completed

I am really tired of my government officials, that "We The People" voted into office, treating us like we are un-educated idiots. A resolution means nothing, it is only wishful thinking. I am telling you that a time is coming, no, I mean a time has come when the people of Hawaii are not going to stand for this treatment. We are not stupid, we have just set back to long and trusted you folks. It's time for a change.

As I said before it's not about the flag pole it's about "The Flag" and my right by the constitution to fly it with dignity. It's funny how people can get away with burning our flag publicly and it's called freedom of speech, but a veteran who fought for that freedom of speech would even thing he needed permission to fly the flag, let alone have to pay someone for the privilege, NO, HB2311 needs to be heard and before it's too late, NOTHING LESS WILL DO.

Please don't try to appease me with your political manipulation, enough is enough.

Very Respectfully
Bob Smith, a part of "We The People"

Eric Arquero

From: William [smithwm@hawaii.rr.com]
Sent: Monday, March 22, 2010 9:02 PM
To: CPN Testimony
Cc: fourewa_hi@yahoo.com; Rep. Jessica Wooley; Sen. Clayton Hee; Rep. Kymberly Pine; Rep. Kymberly Pine
Subject: Testimony: HB 2311 and SCR

Hearing Date: Wednesday, March 24, 2010

Time: 10:00 AM

Conference Room 229

415 South Beretania Street

TO: Senator Rosalyn H. Baker, Chair
COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

I am writing in support of HM 2311 and do not support the proposed SCR No. 218.

I support H.B. 2311 for the following reasons:

- The American Flag has a very special place in the hearts and minds of Americans, especially those who have put their lives on the line to defend our freedom. The matter should not be taken so lightly, as it seems to have been by those who have imposed whimsical rules and impediments for displaying this flag. The American Flag is not just “a flag flying from a flagpole” that is seen to be a nuisance that needs to be regulated like laundry.
- The American Flag has always stirred the emotions and patriotic sentiments of Americans. From personal experience as a U.S. soldier serving in three countries, as a U.S. diplomat serving in another six countries, and a Peace Corps Volunteer in yet another, it was always a feeling of great pride to see our flag displayed in those lands or on ships in the foreign ports. No organization, be it another government or otherwise, gave instruction on how high the flag pole could be or where it could be located, as long as it was on our property, the U.S. embassy being our property. So much the less should there be mean minded rules for displaying the Flag in our own country.
- It seems that a law is needed since the proposed S.C.R. would have no legal binding and the associations have used legal means to prevent or impose onerous rules and regulations that discourage display of the Flag. If there are constitutional questions about the H.B. -- one wonders what they could be as there is a federal law concerning the display of the Flag -- then, certainly, they should be brought out and taken into account in the H.B., of course.

Unambiguous support for right to freely display the Flag should be the position of the State of Hawaii legislators. H.B. 2311 is the clearest expression of such support. Please bring the bill out of committee and pass it.

William H. Smith, LTC (Ret.) Army
POB 203
Kaaawa, HI 96730-0203
(808) 258-79071

Eric Arquero

From: creighton.r.kudo@hawaii.gov
Sent: Tuesday, March 23, 2010 9:07 AM
To: CPN Testimony
Subject: HB2311

Regarding HB2311:

Please support the passing of HB2311 allowing the display of our American flag in our Planned Communities here in Hawaii. Community Rules are necessary to maintain the aesthetic and safety concerns of each housing development, however the right to display our country's flag should always be a "concern" when it's display is denied. The American flag represents our journey in achieving the freedom we all enjoy today. Please support HB2311 to assure the citizens of Hawaii that the display of the American flag will never be in jeopardy again. Thank you for your consideration.

Mahalo,

Creighton Kudo
State of Hawaii, Leasing Branch
HB2311

Hearing: Wednesday, March 24, 2010
Time: 10:00 am, Conference Room 229
State Capitol

**NOT IN SUPPORT OF SCR 218
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 March 2010, Wednesday

TIME: 10:00 am

MEASURE: Senate Concurrent Resolution (SCR 218)
With reference to House Bill 2311 (HB 2311)

SCR 218 (with Reference to HB 2311 – Flag Bill):
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.

Commerce and Consumer Protection Committee

**HONORABLE SEN ROSALYN BAKER (Ma'am)
And Honored Senators of the Senate's Committee on Commerce and Consumer
Protection:**

Please find my testimony **NOT IN SUPPORT** of the Senate Concurrent Resolution, SCR 218 (referencing HB 2311 – Flag Bill).

First of all, as stated in my previous public testimonies, I would like to Thank Gentry Homes for providing me and my family affordable and well built homes since 1997 (at the Lofts and currently at Prescott II). Secondly, I again 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 continued support of our efforts and for supporting my family and me through this process...with that We ARE TRULY GRATEFUL. I would also like to Sen. Roz Baker (5th Senatorial District) and the Senate Committee on Commerce and Consumer Protection for allowing me the time to express my testimony to the proposed Resolution, SCR 218.

FOR THE RECORD...I, my family, neighbors, and fellow Veteran Colleagues **DO NOT SUPPORT** the measure for a **Senate Concurrent Resolution** to HB 2311, Flag Bill.

Although **well intentioned**, the effect of a Resolution does NOT hold Planned Community Associations (Assn) accountable to complying with the right to allow me, my neighbors, my fellow Veteran Colleagues, and patriotic citizens to respectfully display our Flag, OLD GLORY, with the same impact and enforcement as a Law. Currently, many of us have experienced “UNREASONABLE” and “ONEROUS” Restrictions, Citations, Fines and Fees, and were directed to endure approval processes **discouraging** the “respectful” display of Old Glory (US Flag) to the level of respect it is due.

First of All, let me respectfully address some of the Concerns you posed to some of our Supporters.

POINT 1:

SEN. BAKER: "The bill is not needed." (HB 2311 – Flag Bill)

JUSTIFICATION: Avenue to adopt flag displays and recourse to remove any unreasonable restrictions applied to that display already exists within each community association.

COUNTER: When both management of an association and its membership want to change the wording in their governing documents and are in agreement to pursue that change, the procedure to adopt those changes still requires the membership to incur expenses. In one Assn, that expense was estimated to cost \$100,000.00; thus, when all parties are in agreement, they are deterred from implementing that agreement due to the costs involved.

EXAMPLE: The bill to permit clotheslines was advanced in the Legislature because at the time, no known planned community associations had governing documents to permit that display (clotheslines). Because both the membership and its management wanted the same end result- to permit clotheslines, they came to the Legislature with the request that if the language were provided in statute from the onset, then the costs to amend each association's bylaws would be avoided.

CONCLUSION: Associations across the state and their members were spared the enormous expense, resources and time it would have taken to permit clotheslines within their jurisdictions to be accommodated. Homeowners were successful by soliciting the Legislature to bypass a cumbersome, costly bylaw revision process and have such language instead be provided in statute for them.

RESULT: Thousands of residents saved thousands of dollars by having the Legislature intervene in the contract between the homeowner and their association.

POINT 2 / REFERENCE to CLOTHESLINE BILL:

FACT: Per SB1338 (ACT 192 HSL 2009), the clothesline bill. The measure was heard in the Senate Committee of Commerce and Consumer Protection. Sen. Baker wrote the following after passing SB1338 out to her committee:

“The purpose of this measure is to prohibit real estate contracts, real estate agreements, and association rules from precluding the use of clotheslines on the premises of single family dwellings and townhouses or from imposing conditions on the use of clotheslines that are so onerous as to render the clotheslines ineffective.” Chair Baker, submitted on 3/6/2009

REVELATION: Testimony received at the hearing for HB2311 on February 24, 2010, was identical to the very cause and action Sen. Baker took in 2009 on SB1338 that she introduced. In result of HB2311 being heard, numerous associations across the state have had its members come forward and report to the Legislature that their rules pertaining to the display of the flag are too, so onerous, as to render the flag display ineffective.

REALITY CHECK: Some 3-4 thousand homeowners within the Planned Community Association (PCA) of Ocean Pointe, located in Ewa Beach, are not permitted to erect any type of flagpole that is not attached to the house- regardless where the pole is displayed. Flags that are permitted are to be displayed on a limited basis-prescribed days (in some Assn, only 6-8 days) thus limiting the display from being exercised as the homeowner deems fit. Other Assns adopted rules stating that ***“no flagpoles shall be erected so as to be visible from the neighboring property or street unless the size and location thereof has been approved by the Design Committee.”*** *The subject rule, rather than encourages flag display, initially DISCOURAGES the homeowners the right to display the flag unless they go through mandated, no guarantee, Design Review Process.* In another Assn, a design request form must accompany the request to display the flag- and that a \$100.00 fine/redesign review fee must be submitted along with the request application for approval. Some homeowners reported a design fee of up to \$200 just to seek approval to display respectfully Old Glory.

COMPARISON: Imagine letting laundry be hung outdoors on a clothesline on a limited prescribed set number of days- sound silly? Or, what if an Assn, to deter the clotheslines from taking over their vistas, wanted to keep them at bay- and merely impose a \$100 design request fee for the application to be able to hang laundry outdoors. **Why then, is lifting the imposing conditions that are so onerous on the flag not warranted as was done for laundry?**

I and my family have tried to work with our Assn since June 2008 to seek a resolution with the Assn but to no avail. This while being directed by my Assn 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. All this just 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. To all this, do I believe the process I had to endure ONEROUS and UNREASONABLE? ABSOLUTELY. Because of the process I had to endure, many of my neighbors (of whom are Veterans or Family of Veterans) who want to respectfully display their flag are apprehensive in flying their flag for fear of being cited or fined due to some of the aggressive citation stance of “some” in the Assn.

Therefore, I humbly ask the Committee on Commerce and Consumer Protection to reflect on the Evaluation Criteria used to evaluate the merits of the Clotheslines bill and apply them to the merits of HB 2311 – OUR FLAG BILL. This is the RIGHT thing to do. As mentioned in my pervious testimonies, I and many fellow Veteran Colleagues took an OATH to PROTECT and DEFEND this Country, to which Old Glory (our Flag) represents. 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 **SUPPORT the process allowing HB 2311 to become a LAW and not a resolution.** To do so, you will HONOR those Veterans and Patriotic Citizens who gave and sacrificed all to allow us to enjoy the freedom we have been truly blessed with and enjoy.

GOD Bless and Thank You all for your service to our State.

With Deep Respect,

Harold (Hal) 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. Authorization given to use their image 2/23/10)

IN THE STATE OF HAWAII
SENATE
Twenty Fifth Legislature
Regular Session 2010

COMMITTEE ON COMMERCE AND CONSUMER
PROTECTION

Senator Rosalyn H. Baker, Chairwoman
Senator David Y. Ige, Vice Chairman

MEMBERS

Senator Will Espero Senator Josh Green
Senator Les Ihara Senator Norman Sakamoto
Senator Fred Hemmings

NOTICE OF HEARING

DATE : March 24, 2010, Wednesday
TIME : 10:00 A.M.
PLACE: HI ST Capitol, Conference Room 229
 415 So. Beretania St., HNL., HI 96818

AGENDA

TESTIMONY OF EDWARD J. AGA
EXPRESSING LEGISLATIVE SUPPORT TO HB 2311

I. Personal Information of Testifier

Name : EDWARD J. AGA
Title/Org.: U.S. Army, Combat Veteran
Republic of South Vietnam

II. Testimony

HONORABLE MEMBERS of the State of Hawaii, Senate and all who are present. I come before you on behalf of the many who sacrificed themselves in honor of our Flag of the United States of America. As a Naturalized Citizen, born in Hawaii, I can express my thoughts that Due Process of Law can only be demonstrated if HB 2311, is given a chance to be heard in full forum and the possibility of becoming a New Law for Hawaii?

Recently, a "Resolution" was proposed in exchange of making a law that in my opinion would be intended to resolve any challenge, between our U.S. Constitution and the Right of the People to govern a Private Community, when flying or displaying the American Flag! Residential and Commercial House Rules today, **ARE NOT** uniformed and contain various language, means of enforcement, to application fees and monthly maintenance cost. These practices can restrict the ability of some residents, and even violate their Rights to display the Flag. Please consider a Resident or Business who believe it is wrong for them to pay a fee for what is already a given right to do! A Resolution is a non-dispositive action that would only plague a true resolve, if this Bill were not to be heard and become HI law.

Therefore, we must take this challenge to the floor, and give every respect to the People of our State, the opportunity to be heard. 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 a matter of Law to display and fly it, that all Americans can be proud of.

III. United States Constitution

Over two hundred years ago, Americans flew our National Flag. This “right” has long since been 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 Federal Law,

Title 4 U.S.C., Chap. 1, Sections 5 & 7; To display and use of the flag by civilians, et. seq.; Sections 7(a-o) and 8 providing flag position, manner of display, and respect for the flag.

IV. Hawaii State Constitution

As U.S. Constitution 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 is symbolic to the principles of our U.S. Constition and Hawaii State Constitution. A Community House Rule that violates the above, is considered unenforceable under current laws and HB 2311 supports the American Flag to display and fly according to current Federal Statutes and within the Planned Communities!

Further, House and/or Commercial Rules cannot overrule U.S. Const. XIV, Art. V, Section 1 (1868), 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..

V. Conclusion

For the reasons above, I humbly request that the State of Hawaii, Senate; Committee on Commerce and Consumer Protection reconsider on a Resolution and move HB 2311 to the Senate Floor to a full hearing with the possibility to becoming a new Law? I thank the Members of the Hawaii State Senate to this momentous opportunity in providing this written testimony before you.

Your Humble Constituent
and Registered Voter 2010,
District 43,

EDWARD J. AGA
Taropatch123@aol.com

Decorated Combat Veteran
Republic of South Vietnam
Certified Paralegal

March 23, 2010

Eric Arquero

From: Geo [geo@america-3.org]
Sent: Tuesday, March 23, 2010 12:47 PM
To: CPN Testimony
Cc: Sen. Roz Baker; Sen. Robert Bunda; Sen. Suzanne Chun Oakland; Sen. J. Kalani English; Sen. Will Espero; Sen. Carol Fukunaga; Sen. Mike Gabbard; Save-Old-Glory@america-3.org
Subject: Senate Consolodated Resolution 218 - Testimony

- RE: Senate Consolidated Resolution 218 - Testimony March 24, Conference Room 229, 10:00 AM

Dear Senator Baker and Members of the Senate Commerce and Consumer Protection Committee:

My name is George L. Berish and I testify in opposition to Senate Concurrent Resolution 218. Please reject it.

I respect those who disagree with my belief that the right of everyone, and especially veterans, to display Old Glory is an unalienable right. But, I see no honor or honesty in opposing my belief by passing a meaningless resolution (SCR218) that pretends sympathy when everyone knows its intent is opposition — and nullifying passage of HB 2311.

Hoping that most voters will fail to see the disingenuousness of that strategy seems naively foolish. More likely, most will see such machinations as I do — the actions of principle-free partisans who do not deserve the respect I hold for fellow Americans who engage in principled disagreement with me.

Please reject SCR218. Then give Old Glory a fair hearing over a companion to HR2311. When you do, one argument I will make is that "Unalienable" means more than just "cannot be taken away". It means an American cannot give them away, even when financially coerced into signing a contract that seeks to take them.

I accept that merely operational decisions — like those made by corporate employers and condominiums — must be left in the hands of Boards ruled by the simple majority who win control of them. But rule by the simple majority — America's founders knew as "tyranny of the masses" — should never extend to the unalienable rights of individual Americans. That power must be reserved to our checked and balanced government that serves with our collective consent — and was specifically designed to frustrate any effort by the simple majority to rule all other minorities.

Be they the right to air-dry laundry to save money, or the planet, or the right to display Old Glory, what constitutes "reasonable limits" should never depend on whether and American can afford fee-simple home, chooses, or is compelled, to use the economical and environmental efficiency of condominiums, or must build her or his home on leased land.

Here are two more personal reasons I hope someday to present at a hearing of a real Senate companion Bill for HB2311.

- Old Glory is the one symbol to which every American has equal claim. It declares, as no other symbol from our many religions, great philosophies, or ancestries can, that we are "One" with our fellow Americans — with whom we'd otherwise have to trace our ancestries back to Adam and Eve to find another intersection. Help us help those who believe in that unity display it.
- Veterans risk their lives, limbs and the future happiness of those they love and who love and depend on them. But so too do many Americans — from "average" Americans who, in time of fire or flood, forgets their safety to protect a child they don't know, to all professional first responders. What a combat veteran risks that no others do is their very souls — it is the staggering realization that they must stand ready to kill, not just die, for us. For that alone we owe them the right to proudly display the symbol of the moral and ethical principles for which they took such risks. Abraham Lincoln called those moral principles the "Electric Cord" that binds us all together as One.

In summary, we ask you to reject SCR218. If you cannot support our beliefs by passing a companion Bill for HB 2311, then at least do not offend us by using a cunning, but meaningless, tactic to frustrate us while pretending support.

I hope I can better explain the depth of my support for this young veteran's right at your hearing on SCR218.

Sincerely

George L. Berish

Long ago a 2-Vietnam tour U.S. Lt. then Capt.

(Who would like to see today's young veterans and Old Glory better treated than we were.)

808 593 8977

88 Piikoi Street,

Unit 4009

Honolulu, HI 96814

Eric Arquero

From: Lehua McColgan [liwai@hawaiiantel.net]
Sent: Tuesday, March 23, 2010 12:48 PM
To: CPN Testimony
Subject: Fw: Testimony

----- Original Message -----

From: Lehua McColgan
To: CPNTestimony@Capital.hawaii.gov
Sent: Tuesday, March 23, 2010 11:57 AM
Subject: Testimony

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair

NOTICE OF HEARING

DATE: Wednesday, March 24, 2010
10:00 a.m.
Conference Room 229
State Capitol
415 South Beretania Street

We, the members of the Society of Military Widows are asking you for support of HB 2311 and NOT a RESOLUTION. We do not support a resolution for the reasoning that it cannot become a law and thereby hold Planned Community Associations and others accountable for Not Complying.

As Military Widows, we support the right of all to display the flag (Old Glory and the State Flag). Many of our military have sacrifice there lives to keep our nation free and the American flag is a symbolic of freedom that we honor. We do honor to the stars and stripes as an emblem as what our patriotism means. It represents peace, freedom and security. We, as military widows have sacrificed our love ones for duty when called upon for the many wars that we have been left home alone to raise our families. To be able to display our flag so proudly strengthens and purifies our national conscience.

We humbly ask your committee to support it as a bill and not as a resolution.

Mahalo Nui Loa

Lehua McColgan

Lehua McColgan
Legislative Representative, Society of Military Widows
1355 8th Ave.
Honolulu, Hi 6816
Tel: (808) 734-5490

Eric Arquero

From: ralphandbobbiem@aol.com
Sent: Tuesday, March 23, 2010 2:34 PM
To: CPN Testimony
Cc: Sen. Roz Baker; Rep. Kymberly Pine; fourewa_hi@yahoo.com; hawaiiwynn@att.net
Subject: TESTIMONY FOR H.B. 2311, CORRECTED COPY

SUBJECT: TESTIMONY FOR THE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION HEARING ON THE HOUSE BILL NO. 2311; SCHEDULED FOR 10:00 A.M., WEDNESDAY, MARCH 24, 2010, AT CONFERENCE ROOM 229, STATE CAPITOL, 415 SOUTH BERETANIA STREET

Dear Senator Rosalyn Baker and Senator David Y. Ige, your committee members, and all of Hawaii's other State Senators and all of our State Representatives.

I ask all of you for your total support of House Bill No. 2311. This Bill for an Act is what all of America military veterans deserve; they do not deserve the shallow words that would white wash our veterans and citizens rights as presently prescribed in Senate Concurrent Resolution No. 218.

I previously had asked Senator Rosalyn Baker to inform her fellow senators to think about the many millions of American servicemen and women who have given their lives upholding the cause of freedom, and we thank these American Heroes for giving us our rights to fly their symbol of freedom they so valiantly fought for without restrictions. Also, I asked Senator Baker to tell her legislators that they need to carefully review the origin and history of the American Flag and why this extremely important and historical symbol of freedom touches the very bottom of the souls of millions of America's people.

From what I read in SCR No. 218, I see a good number of Hawaii's Senators who may not be giving full appreciation for the valiant efforts and loss of life by our military veterans in time of war and peacetime. If these Senators truly did appreciate and respected our veterans' efforts, they would never have signed onto a non-enforceable resolution. In addition, it does appear that these Senators lack an understanding as to why this symbol of democracy and freedom is so highly respected and honored by our Nations active duty and retired military members and their families.

In the above, I had mentioned our flag is a symbol of freedom. I wish to remind our legislators that this freedom, which they enjoy, is not free and never have been free; those who have marched off to defend and protect America's citizens, time and time again spanning more than 200 years, have earned it with much spilled blood and tremendous loss of life. We know that millions of our citizens have been killed and maimed in all of America's wars, and are still being killed and maimed on foreign soil today for the sake of keeping America safe and protecting your freedom. Yes, that symbol of freedom; our American Flag is everywhere today and worn on the shoulders of today's military personnel, and often seen draped over the caskets of fallen American Heroes. If it was not for veterans like myself, those serving today, and all those who have fallen defending our nation, we would not have that freedom to fly an American Flag, or the freedom to vote people into office as a Hawaii State Senator or Representative, or council member.

Today's retired and active duty citizen soldiers are no different from those standard-bearers who cared for and protected our Nation's flag in wars past. Flying our American flag in the forefront of battle or in memory of those who served our country is a time honored tradition of a grateful nation. This tradition must never be tread upon by a few politicians who wish not to make waves for fear of offending a few people who do not give complete respect regards flying the American and Hawaiian Flags on their homesteads, and this would include those working for Community Developers, Planned Community Associations and Neighbor Boards in the State of Hawaii.

I am, and know that my children and grandchildren are proud of my service to my country, their country and your country. They are proud of their grandfathers and great grandfathers who served in WWII, WW1, and the many of our relatives who served before them for the simple reason of protecting our freedom, our Nation, and our flag which expresses freedom, independence, and patriotism.

Hawaii's citizens must be allowed to honor all who served our Nation by flying the American flag on their own homesteads, whether it be from a 25-foot flagpole in the front yard or 15-foot pole attached to a house, condominium, or townhouse. Failure to allow the American Flag to fly freely on a person's homestead is pure disregard toward and disrespect of our military veterans, their families, widows and orphans, as well as impacting on all of Hawaii's citizens. If this issue as addressed in

H.B. No. 2311 was placed on the upcoming November Elections ballots, and taking into consideration that we do have people that have no respect our American and Hawaii flags, I am sure it would pass with a near 100% vote

Now that we all come to realize that freedom is not free, let us all start paying tribute to those who have spilled their blood for that old red, white and blue cloth symbol of freedom and honor the words of the Constitution of the United States of America. In doing so, I ask that all of our elected senators and representatives let the State Constitution and its Hawaii Revised Statues, as appropriate, grant all of Hawaii's citizens the right to fly the American Flag on their homesteads on a flagpole befitting of flying it freely in the wind any time of the day and week.

Billing/charging home owners monetary fees to fly the American and/or Hawaii flag should be against the law, and the only way to prevent this is to pass the Bill for an Act, H.B. No. 2311 as a law.

I would offer an apology for some redundancy that may have appeared in this request asking full Senate support of H.B. No. 2311, however due to circumstances beyond my control, please accept my words as written herein.

Prepared and submitted this day of 23 March 2010.

Mahalo,

Ralph Moore (Korea – Vietnam Veteran), 2227 Amokemoke St, Pearl City Hawaii, 96782

Eric Arquero

From: Gary Johnson [waikikigary@yahoo.com]
Sent: Tuesday, March 23, 2010 3:05 PM
To: CPN Testimony
Cc: Sen. Roz Baker; Sen. Robert Bunda; Sen. Suzanne Chun Oakland; Sen. J. Kalani English; Sen. Will Espero; Sen. Carol Fukunaga; Sen. Mike Gabbard
Subject: *****SPAM***** Senate Consolodated Resolution 218 - Testimony

RE: Senate Consolidated Resolution 218 - Testimony March 24, Conference Room 229, 10:00 AM

Dear Senator Baker and Members of the Senate Commerce and Consumer Protection Committee:

My name is William Gary Johnson and I testify in opposition to Senate Concurrent Resolution 218. Please reject it.

I respect those who disagree with my belief that the right of everyone, and especially veterans, to display Old Glory is an unalienable right. But, I see no honor or honesty in opposing my belief by passing a meaningless resolution (SCR218) that pretends sympathy when everyone knows its intent is opposition — and nullifying passage of HB 2311.

Hoping that most voters will fail to see the disingenuousness of that strategy seems naively foolish. More likely, most will see such machinations as I do — the actions of principle-free partisans who do not deserve the respect I hold for fellow Americans who engage in principled disagreement with me.

Please reject SCR218. Then give Old Glory a fair hearing over a companion to HR2311. When you do, one argument I will make is that "Unalienable" means more than just "cannot be taken away". It means an American cannot give them away, even when financially coerced into signing a contract that seeks to take them.

I accept that merely operational decisions — like those made by corporate employers and condominiums — must be left in the hands of Boards ruled by the simple majority who win control of them. But rule by the simple majority — America's founders knew as "tyranny of the masses" — should never extend to the unalienable rights of individual Americans. That power must be reserved to our checked and balanced government that serves with our collective consent — and was specifically designed to frustrate any effort by the simple majority to rule all other minorities.

Be they the right to air-dry laundry to save money, or the planet, or the right to display Old Glory, what constitutes "reasonable limits" should never depend on whether and American can afford fee-simple home, chooses, or is compelled, to use the economical and environmental efficiency of condominiums, or must build her or his home on leased land (where without such protection they would live feudal serfs of old).

I'm writing today as a retired veteran who believes that flying the flag should not be denied.

In summary, we ask you to reject SCR218. If you cannot support our beliefs by passing a companion Bill for HB 2311, then at least do not offend us by using a cunning, but meaningless, tactic to frustrate us while pretending support.

Sincelely,

William Gary Johnson
91-1321 Kaileolea Drive
Ewa Beach, HI 96706
808-265-1021

waikikigary@yahoo.com

Eric Arquero

From: Tom Berg [tomberg00@yahoo.com]
Sent: Tuesday, March 23, 2010 3:12 PM
To: CPN Testimony; Sen. Roz Baker
Subject: Testimony for SCR 218

Aloha-
Here is testimony for SCR 218 for March 23, 2010 10am hearing in room 229-
MAHALO
Tom Berg
753-7324

MARCH 24, 2010

RESOLUTION ON THE FLAG SCR218 10:00 AM ROOM 229 MARCH 24, 2010

TO HONORABLE CHAIR OF COMMERCE AND CONSUMER PROTECTION AND COMMITTEE MEMBERS

FROM TOM BERG ----IN OPPOSITION TO THE RESOLUTION

As the past Vice President of the Ewa by Gentry Community Association, a Planned Community Association in Ewa Beach, the memory of a homeowner coming forward at a scheduled association meeting and told by the board president that so long as the flag pole were visible to the street, the request would be denied.

Your resolution is severely flawed exclaiming planned community associations permit free standing, detached from the structure, flag poles. Ocean Pointe, another Planned Community Association in Ewa Beach, does not permit any free standing flag poles, period, whether in view or not- and no such apparatus will be tolerated by the association.

Thus, your resolution does nothing for that person wishing to fly the flag on the end of a toothpick or a ten-foot pole stuck in the ground.

Your resolution does nothing to address those persons who are charged a fee to display the flag through design request applications.

Your resolution is an affront to every American and shames Hawaii in the nation's eyes.

You have the power, authority, and position to tell all of America, that for those who choose to reside in Hawaii, no association may charge you a fee in our state when embarking on the act to display the flag. No reso can do this- only a bill can.

Here is my suggestion for a SD1 to HB2311 that you should be hearing instead of this resolution:

No fee or assessment shall be levied upon any member within an association for the placement of a flag display whereby the type of flag displayed is that which is approved for display on state government facilities.

If you pick away and gnaw at one simple gesture, that it be known to all in America, that if you seek to fly the

flag of choice that the state of Hawaii does on its property, you cannot be charged, billed, assessed, or face a fee of any kind for making that display placement on your own property. Right now, as you know, folks have to pay a fee to fly the flag, if that were lifted, by statute, that would be one hell of a victory to boast for all Americans and a starting point to build on.

Please hear HB2311 HD1 and do the right thing. Thank you.

Respectfully,

Tom Berg

Ewa Beach Resident/753-7324

Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair
Senate COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

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March 23, 2010

Strong Support for SCR218 expressing legislative support for the right to display the United States flag

When I was a child I learned to revere the national emblem of our country from my parents who were World War II Veterans. My dad was a Marine Corporal and my mom a Staff Sergeant in the Army Air Corps. It was a natural progression for me to enter the armed services where I served honorably for 28 years.

So this measure, that reaffirms the right of our citizens to fly the flag, touches me deeply. I still get chicken skin when I stand before the flag and say the Pledge of Allegiance. In times such as these the flag is something that can remind us that we are a nation united with liberty and justice for all.

I also note that federal law does allow condominium and homeowner associations to apply reasonable restrictions pertaining to the time, place and manner of displaying our flag necessary to protect a substantial interest of the association. As a long-time member of the board of directors of my homeowners association I also appreciate this part of the law. Not everyone would display the flag with respect for both the flag and interests of their association.

Mahalo nui loa for allowing me to testify,

Ann S. Freed
Lt. Col, U.S. Army
(Retired)

Public Law 109-243
109th Congress

An Act

July 24, 2006
[H.R. 42]

To ensure that the right of an individual to display the flag of the United States on residential property not be abridged.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Freedom to
Display the
American Flag
Act of 2005.

4 USC 5 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Freedom to Display the American Flag Act of 2005”.

4 USC 5 note.

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term “flag of the United States” has the meaning given the term “flag, standard, colors, or ensign” under section 3 of title 4, United States Code;

(2) the terms “condominium association” and “cooperative association” have the meanings given such terms under section 604 of Public Law 96-399 (15 U.S.C. 3603);

(3) the term “residential real estate management association” has the meaning given such term under section 528 of the Internal Revenue Code of 1986 (26 U.S.C. 528); and

(4) the term “member”—

(A) as used with respect to a condominium association, means an owner of a condominium unit (as defined under section 604 of Public Law 96-399 (15 U.S.C. 3603)) within such association;

(B) as used with respect to a cooperative association, means a cooperative unit owner (as defined under section 604 of Public Law 96-399 (15 U.S.C. 3603)) within such association; and

(C) as used with respect to a residential real estate management association, means an owner of a residential property within a subdivision, development, or similar area subject to any policy or restriction adopted by such association.

4 USC 5 note.

SEC. 3. RIGHT TO DISPLAY THE FLAG OF THE UNITED STATES.

A condominium association, cooperative association, or residential real estate management 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.

SEC. 4. LIMITATIONS.

4 USC 5 note.

Nothing in this Act shall be considered to permit any display or use that is inconsistent with—

(1) any provision of chapter 1 of title 4, United States Code, or any rule or custom pertaining to the proper display or use of the flag of the United States (as established pursuant to such chapter or any otherwise applicable provision of law); or

(2) any reasonable restriction pertaining to the time, place, or manner of displaying the flag of the United States necessary to protect a substantial interest of the condominium association, cooperative association, or residential real estate management association.

Approved July 24, 2006.

LEGISLATIVE HISTORY—H. R. 42:

CONGRESSIONAL RECORD, Vol. 152 (2006):

June 27, considered and passed House.

July 17, considered and passed Senate.

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