
From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 14, 2011 3:39 PM
To: HSGtestimony
Cc: ssseahorse@msn.com
Subject: Testimony for HB581 on 2/16/2011 8:30:00 AM

Testimony for HSG 2/16/2011 8:30:00 AM HB581

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Susan R. Stone,RA
Organization: Individual
Address:
Phone:
E-mail: ssseahorse@msn.com
Submitted on: 2/14/2011

Comments:

The current practice of holding homeowner documents hostage for excessive amounts of money by management companies is immoral and should be made illegal. Documents are the property of the owners/ sellers, not the management companies. To require an owner / seller a large sum of money to see them or get a get a copy is outrageous. It is common to pay \$300 to \$400 for a copy of the documents (in most cases an electronic download). It is also common to take 7-10 business days.

If you want them sooner they charge an additional rush fee for documents they already have, with possible exception of the association disclosure statement (RR-105C).

If the property is in a planned community, you will have to duplicate the process and fees. The prices vary from association to association. One association charges \$35 while another may charge \$300 to \$400.

Here are some of the key points:

- 1) Home owners are the actual owners of the documents, not the management companies.
- 2) The homeowners association is already paying the management companies to generate and keep these documents.
- 3) Sellers and their agents should have free or cheap access to them anytime. Being that many of the management companies already have them on the internet, they should be made available to owners for free in that format.
- 4) If there is a cost to create hard copies, than a modest charge for that service is not unreasonable.
- 5) The RR-105C is a disclosure document that may come with some cost to the management company. Charging a reasonable fee for that would not be out of line.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 13, 2011 2:45 PM
To: HSGtestimony
Cc: czahn@hawaii.rr.com
Subject: Testimony for HB581 on 2/16/2011 8:30:00 AM

Testimony for HSG 2/16/2011 8:30:00 AM HB581

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Charles Zahn
Organization: Individual
Address:
Phone:
E-mail: czahn@hawaii.rr.com
Submitted on: 2/13/2011

Comments:

While I support the reasoning behind hb581, I cannot fully support forward movement of this bill as it is written.

The following testimony should be allowed to change the language of HB581.

Hard copy form should not exceed five cents per page (normal cost of reproduction). The association should provide copies, at or below cost, and not make a profit by providing documents to its members.

Electronic format is ideal only with accessibility via e-mail (pdf files) at no charge. Not all Association members have access to an association website, but have an e-mail address. The individual requesting association documents should be able to receive all documents requested via e-mail and can make required hard copies themselves.

In any case I can support HB581.

Representative Rida T.R. Cabanillo, Chair
Representative Pono Chong, Vice Chair
Committee on Housing

Kelly Pomeroy
Concerned Kohala Ranch Property Owners
kpterra@gmail.com

Hearing scheduled for February 16 at 8:30 am, Room 325

Support for H.B. NO. 581 Relating to Planned Community Associations

Most of this bill relates to condominium associations, but we are commenting only on the portion that relates to §421J-7. We are in support of the provision, but we would like to suggest two changes.

Paragraph (a)(3) should be changed to specify a website maintained by the property management company or by the association.

And in paragraphs (c) and (d), “an affidavit” should be changed to “a self-sworn affidavit”. Otherwise, it leaves it open for an association to require the affidavit to be notarized, even if the keeper of the documents is well aware that the person signing the statement is who they say they are and an association member, so that the only thing the requirement accomplishes is to create a hoop for members to jump through in order to see documents they are entitled to access under this section.

Thank you.



Mililani Town Association

95-303 Kaloapau Street
Mililani Town, HI 96789
Phone (808) 623-7300

February 13, 2011

Representative Rida Cabanilla, Chair
Representative Pono Chong, Vice-Chair
Committee on Housing
State Capitol
Honolulu, HI 96813

VIA E-Mail: HSGtestimony@capitol.hawaii.gov

Re: H.B. No. 581/OPPOSE – Relating to Residential Real Property
Hearing: Wednesday, February 16, 2011, 8:30am Conf Room 325

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

My name is Eric Matsumoto, Vice-President of the Mililani Town Association (MTA). I have served in MTA leadership capacities on the board for 25 of the last 32 years. MTA encompasses 16,000 plus units involving both single family residences and numerous townhouse project sub-associations.

We oppose this measure for the following reasons:

Page 1, line 10: The use of "...subject to reasonable terms of access..." is vague, and will result in litigation to determine whose definition of reasonable is correct, whenever a homeowner doesn't get the documents requested in the time he feels is reasonable.

Page 1, lines 11-15: Limiting of the charge per page is set on one end at \$0.25 per page, however the legislation does not provide a process to review the validity of the cost per page permitted in the future as costs rise. While on the other end, IRS is a government agency that is subsidized, so for small associations that may have higher costs for printing, they become limited in being able to cover their costs?

Page 1, lines 16-18: The major problem here is that the provision calls for all association documents to be made available to the public through a website. This requirement totally ignores the need for protecting information that belongs to only the homeowners, and not the public. There is also the point to be made that all PCAs are not managed by a management company.

It should also be noted that sub-paragraph (a) of Chapter 421J-7 only refers to the current financials and board minutes. However, sub-paragraphs (b) and (c) refer to all financials and board minutes, including the current financial and board minutes. With this bill deleting a line and adding the sub-paragraphs under sub-paragraph (a) on Page 1, lines 7-18 results in conflicts between these lines and the requirements in sub-paragraphs (b) and (c). These conflicts occurred because the changes were limited to only sub-paragraph (a), without taking into consideration how sub-paragraphs (a), (b) and (c) fit together. As a result, Section 421J-7 becomes a mess in determining which requirements apply.

Based on the above, we request this bill be held.

Sincerely yours,

Eric M. Matsumoto
Vice-President, Board of Directors

Cc: Sen Kidani, Rep Lee, Rep Yamane

February 15, 2011

The Honorable Rida T.R. Cabanilla, Chair
House Committee on Housing
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: H.B. 581, Relating to Residential Real Property

HEARING: Wednesday, February 16, 2011 at 8:30 a.m.

Aloha Chair Cabanilla, Vice Chair Chong and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i and its 8,500 members. HAR **submits comments on** H.B. 581 which requires a condominium property manager, association of apartment owners and planned community association to make association documents available to owners and their respective agents under reasonable terms and for reasonable costs.

Upon the sale of real property in a Condominium or Planned Community Association, the seller must provide copies of all Association condominium documents. The lists of documents include, but are not limited to: House Rules, By-laws, Covenants, Declarations, Insurance Summary, Budgets and Reserve Statements. These documents, which belong to the developer and unit owners, are provided by the management companies or Association of Apartment Owners (AOAO). *It is not uncommon for the seller to pay hundreds of dollars for copies of the condominium documents.*

HAR believes that H.B. 581 helps to clarify the current practice in regard to access to documents which already belong to the homeowner, by providing for a fair and reasonable approach for management companies or AOAO in addressing the accessibility and costs of condominium documents.

As written, the measure allows condominium and association documents to be made available to prospective buyers. As noted, these documents belong to the developer and unit owners and we believe the documents should *only* be available to owners and the owners' agents.

For the reasons above, HAR respectfully requests passage of this measure, but asks that the following amendments be considered.

SECTION 1. Section 421J-7...

(3) In electronic form through a website maintained by the property management company and accessible to the [public] members at no charge."



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SECTION 2. Section 514A-84-5...

(3) In electronic form through a website maintained by the property management company and accessible to the [public]owners at no charge.

SECTION 3. Section 514B-152...

(3) In electronic form through a website maintained by the property management company and accessible to the [public]owners at no charge."

SECTION 4. Section 514B-153....

(3) In electronic form through a website maintained by the property management company and accessible to the [public]owners at no charge.

Mahalo for the opportunity to testify.



February 11, 2011



The Honorable Rep. Rida Cabanilla and Rep. Pono Chong
And the House Committee on Housing
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: HB581 Relating to Residential Real Property
Aloha Chair Cabanilla, Vice-Chair Chong and Members of the Committee:

I am writing In Support of HB581.

I am a real estate agent in Central Oahu and hold several leadership positions in the industry. I am also vice-president of the Mililani Garden Homes 1 AOA. I am speaking as an individual and not for any of the organizations I represent.

The current practice of holding homeowner documents hostage for excessive amounts of money by management companies is immoral and should be made illegal. Documents are the property of the owners/ sellers, not the management companies. To require an owner / seller a large sum of money to see them or get a copy is outrageous. It is common to pay \$300 to \$400 for a copy of the documents (in most cases an electronic download). It is also common to take 7-10 business days. If you want them sooner they charge an additional rush fee for documents they already have, with possible exception of the association disclosure statement (RR-105C).

If the property is in a planned community, you will have to duplicate the process and fees. The prices vary from association to association. One association charges \$35 while another may charge \$300 to \$400.


Here are some of the key points:

- 1) Home owners are the actual owners of the documents, not the management companies.
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- 3) Sellers and their agents should have free or cheap access to them anytime. Being that many of the management companies already have them on the internet, they should be made available to owners for free in that format.
- 4) If there is a cost to create hard copies, than a modest charge for that service is not unreasonable.
- 5) The RR-105C is a disclosure document that may come with some cost to the management company. Charging a reasonable fee for that would not be out of line.

One item in this bill that may get objections from management companies is making them available to the public. That can easily be resolved by changing it to read "homeowners or their agent." Seller's (homeowners) are responsible to provide disclosures to prospective buyers, not the management company. The management company is only responsible to the homeowners or their agents.

Thank you in advance for your support of this needed bill. Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Randy Prothero". The signature is written in a cursive, flowing style.

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**PRESENTATION OF THE
REAL ESTATE COMMISSION**

TO THE HOUSE COMMITTEE ON
HOUSING

TWENTY-SIXTH LEGISLATURE
Regular Session of 2011

Wednesday, February 16, 2011
8:30 a.m.

**TESTIMONY ON HOUSE BILL NO. 581, RELATING TO RESIDENTIAL REAL
PROPERTY.**

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

My name is Trudy Nishihara and I serve as the Chairperson of the Real Estate Commission ("Commission"), and I thank you for the opportunity to present testimony on House Bill No. 581, Relating to Residential Real Property. House Bill No. 581 requires that condominium property managers, associations of apartment owners, and planned community associations make association documents available to owners and their respective agents under reasonable terms and for reasonable costs. The Commission supports the intent of House Bill No. 581 and limits its testimony only to the proposals relating to condominium associations. It does not have jurisdiction over planned communities.

The Commission does have some concerns specifically relating to the proposed amendments which makes available, in resale situations, the association's financial and other records of section 514B-152, Hawaii Revised Statutes ("HRS"), to owners and their respective agents in electronic form through a website maintained by the association and accessible to the public at no charge.

The Commission is concerned that making such records available to the general public, including individuals with no legitimate connection with the condominium, may result in the disclosure and distribution of private confidential information, or the disclosure of information that may lead to private confidential information. Additionally, smaller associations may not have the finances, manpower, or expertise capable of maintaining a website as proposed by the amendments on page 4 lines 15-17.

As to the proposed changes of section 4 amending section 514B-153, HRS, not all associations have managing agents that are capable of maintaining a website and not all associations have the finances to delegate the maintenance of a website to disseminate the required information.

In closing, the Commission supports the intent of House Bill No. 581. However, for the reasons discussed in this testimony, the Commission reserves its support of this bill until these concerns are addressed. Thank you for the opportunity to present testimony.