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**Today**

mail... Testimony for ... 10:31 AM ...

**Testimony for HB939 on 2/7/2011 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.h...

**Sent:** Friday, February 04, 2011 10:31 AM**To:** CPCtestimony**Cc:** ruthdt@hawaiiantel.net

Testimony for CPC/JUD 2/7/2011  
2:00:00 PM HB939

Conference room: 325

Testifier position: oppose

Testifier will be present: No

Submitted by: Ruth Tschumy

Organization: Condo Board  
president

Address:

Phone:

E-mail: ruthdt@hawaiiantel.net

Submitted on: 2/4/2011

Comments:

## CPCtestimony

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 04, 2011 6:42 AM  
**To:** CPCtestimony  
**Cc:** tlk715@gmail.com  
**Subject:** Testimony for HB939 on 2/7/2011 2:00:00 PM

Testimony for CPC/JUD 2/7/2011 2:00:00 PM HB939

Conference room: 325  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Tori Kinney  
Organization: Individual  
Address:  
Phone:  
E-mail: tlk715@gmail.com  
Submitted on: 2/4/2011

Comments:

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**Today**

mailinglist@capitol.hawaii.gov 9:19 AM  
 Testimony for HB939 on 2/7/2011 2:00:00 PM

**Testimony for HB939 on 2/7/2011 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.h...

**Sent:** Friday, February 04, 2011 9:19 AM

**To:** CPCtestimony

**Cc:** marilyn.hampton@hawaiiantel.net

Testimony for CPC/JUD 2/7/2011  
2:00:00 PM HB939

Conference room: 325  
 Testifier position: oppose  
 Testifier will be present: No  
 Submitted by: Marilyn Hampton  
 Organization: Individual  
 Address:  
 Phone:  
 E-mail:  
 marilyn.hampton@hawaiiantel.net  
 Submitted on: 2/4/2011

Comments:

## CPCtestimony

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 04, 2011 10:41 AM  
**To:** CPCtestimony  
**Cc:** duncan@certifiedhawaii.com  
**Subject:** Testimony for HB939 on 2/7/2011 2:00:00 PM

Testimony for CPC/JUD 2/7/2011 2:00:00 PM HB939

Conference room: 325  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Duncan Graham  
Organization: Individual  
Address:  
Phone:  
E-mail: duncan@certifiedhawaii.com  
Submitted on: 2/4/2011

Comments:

## CPCtestimony

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 04, 2011 11:01 AM  
**To:** CPCtestimony  
**Cc:** andy.pearl@gmail.com  
**Subject:** Testimony for HB939 on 2/7/2011 2:00:00 PM

Testimony for CPC/JUD 2/7/2011 2:00:00 PM HB939

Conference room: 325  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Roland Mina  
Organization: Ke Noho Kai Community Assn  
Address: Ewa Beach, HI  
Phone:  
E-mail: andy.pearl@gmail.com  
Submitted on: 2/4/2011

**Comments:**

Elimination of the proxy choices as proposed would create huge difficulties in the conduct of our association business. So many owners are military or non-resident, that obtaining proxy is challenging enough without further restricting the options of owners.

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From Subject Received

**Today**

	mail... Testimony for ...	11:30 AM	...		
	<b>Joy ... HB 337, Hse ...</b>	<b>12:13 PM</b>	...		
	mai... Testimony fo...	12:38 PM	...		
	mai... Testimony fo...	12:52 PM	...		
	mail... Testimony for ...	1:06 PM	...		

### Testimony for HB939 on 2/7/2011 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.h...

**Sent:** Friday, February 04, 2011 12:52 PM

**To:** CPCtestimony

**Cc:** irma@hmcmtg.com

Testimony for CPC/JUD 2/7/2011  
2:00:00 PM HB939

Conference room: 325  
 Testifier position: oppose  
 Testifier will be present: No  
 Submitted by: Irma Pante  
 Organization: Individual  
 Address:  
 Phone:  
 E-mail: irma@hmcmtg.com  
 Submitted on: 2/4/2011

Comments:

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	From	Subject	Received	
<b>Today</b>				
[Icon]	mail...	Testimony for ...	11:30 AM	[Icons]
[Icon]	Joy ...	HB 337, Hse ...	12:13 PM	[Icons]
[Icon]	mai...	Testimony fo...	12:38 PM	[Icons]
[Icon]	mail...	Testimony for ...	12:52 PM	[Icons]
[Icon]	mail...	Testimony for ...	1:06 PM	[Icons]

**Testimony for HB939 on 2/7/2011 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.h...

**Sent:** Friday, February 04, 2011 12:38 PM

**To:** CPCtestimony

**Cc:** pegbre@earthlink.net

Testimony for CPC/JUD 2/7/2011  
2:00:00 PM HB939

Conference room: 325  
 Testifier position: oppose  
 Testifier will be present: No  
 Submitted by: Margaret Brevoort  
 Organization: Individual  
 Address: 56-2863 Akoni Pule Hiway  
 Hawi, HI 96719  
 Phone: 808-889-6930  
 E-mail: pegbre@earthlink.net  
 Submitted on: 2/4/2011

Comments: [Icon]

Inbox (5 Items) Help

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	From	Subject	Received	
<b>Today</b>				
	mail...	Testimony for ...	11:30 AM	
	Joy ...	HB 337, Hse CP...	12:13 PM	
	mail...	Testimony for ...	12:38 PM	
	mail...	Testimony for ...	12:52 PM	
	mail...	Testimony for ...	1:06 PM	

**Testimony for HB939 on 2/7/2011 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.h...]

**Sent:** Friday, February 04, 2011 11:30 AM

**To:** CPCtestimony

**Cc:** wellmanb001@hawaii.rr.com

---

Testimony for CPC/JUD 2/7/2011  
2:00:00 PM HB939

Conference room: 325  
 Testifier position: oppose  
 Testifier will be present: No  
 Submitted by: Beverly Wellman  
 Organization: Individual  
 Address: 94-825 Lumiauau St., E-104 Waipahu, HI  
 Phone: 808-678-3880  
 E-mail: wellmanb001@hawaii.rr.com  
 Submitted on: 2/4/2011

Comments:



## CPCtestimony

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**From:** Antonette Port [portr001@hawaii.rr.com]  
**Sent:** Sunday, February 06, 2011 3:19 PM  
**To:** CPCtestimony  
**Subject:** Testimony HB939

**Testifier:** Richard Port

**Committee/s:** Consumer Protection & Commerce: Committee on Judiciary

**Date of Hearing:** Monday, February 7, 2011;

**Time and Place of Hearing:** 2:00 p.m. Conf. Rm #325

**Bill Number and Title:** HB 939: Relating to Condominium Associations

Dear Rep. Herkes and Rep. Keith-Agaran,

I support this novel approach to ensuring that Board members will not die in office. There is an unfortunate tendency for condominium Board members to receive most of the proxies because owners have difficulty in determining who else should receive their proxies.

Requiring owners to place the name of an individual on their proxy instead of the Board of Directors will eliminate the problem of the same people serving on their Board of Directors indefinitely.

I urge your committee to support **HB 939** as a viable option to term limits.

Thank you for this opportunity to testify,

Richard Port

## CPCtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 05, 2011 8:49 PM  
**To:** CPCtestimony  
**Cc:** joann.hirata@gmail.com  
**Subject:** Testimony for HB939 on 2/7/2011 2:00:00 PM

Testimony for CPC/JUD 2/7/2011 2:00:00 PM HB939

Conference room: 325  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Joann Hirata  
Organization: Individual  
Address: 94-1077 Keahua Loop Waipahu, HI  
Phone: 808-688-1212  
E-mail: [joann.hirata@gmail.com](mailto:joann.hirata@gmail.com)  
Submitted on: 2/5/2011

Comments:  
I strongly urge you to oppose this bill.

Thank you,  
Joann Hirata

## CPCtestimony

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 05, 2011 8:31 PM  
**To:** CPCtestimony  
**Cc:** oneald003@hawaii.rr.com  
**Subject:** Testimony for HB939 on 2/7/2011 2:00:00 PM

Testimony for CPC/JUD 2/7/2011 2:00:00 PM HB939

Conference room: 325  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: David O'Neal  
Organization: Individual  
Address: 94-1038 Kaiamu Street Waipahu, HI  
Phone: 6880018  
E-mail: oneald003@hawaii.rr.com  
Submitted on: 2/5/2011

**Comments:**

This bill takes away a choice for owner's, and for many, giving their proxies to the current Board is the choice that works best for them and for the Association. The majority of owners in an Association are not aware of the issues faced by the Association, and this could lead to some very bad decisions being made. A self-serving individual could potentially put themselves in power by gaining control of the majority of proxies, since so few actually attend Annual Meetings. I strongly urge you to oppose this bill. Thank you.

## CPCtestimony

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 05, 2011 5:33 PM  
**To:** CPCtestimony  
**Cc:** naomi@certifiedhawaii.com  
**Subject:** Testimony for HB939 on 2/7/2011 2:00:00 PM

Testimony for CPC/JUD 2/7/2011 2:00:00 PM HB939

Conference room: 325  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Naomi Suzuki  
Organization: Certified Management  
Address: 3179 Koapaka Street Honolulu, HI  
Phone: 808-837-5223  
E-mail: [naomi@certifiedhawaii.com](mailto:naomi@certifiedhawaii.com)  
Submitted on: 2/5/2011

Comments:

## CPCtestimony

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 05, 2011 2:28 PM  
**To:** CPCtestimony  
**Cc:** twalkey@clearwire.net  
**Subject:** Testimony for HB939 on 2/7/2011 2:00:00 PM

Testimony for CPC/JUD 2/7/2011 2:00:00 PM HB939

Conference room: 325  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Ted Walkey  
Organization: Individual  
Address:  
Phone: 486-6140  
E-mail: twalkey@clearwire.net  
Submitted on: 2/5/2011

**Comments:**

Eliminating the board checkboxes: disallows the member to place his trust in his elected representative(s); will prevent members from conducting association business at its meeting; will perpetuate incompetent directors from being replaced.

1001 Bishop Street, Suite 780  
Honolulu, Hawaii 96813-3410  
February 5, 2011

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
HOUSE COMMITTEE ON JUDICIARY  
REGARDING HOUSE BILL 939

Hearing Date: MONDAY, February 7, 2011  
Time : 2:00 p.m.  
Place : Conference Room 325

Chair Herkes, Chair Keith-Agaran, and Members of the Committees,

My name is John Morris and I am testifying against HB 939. I have been involved with condominiums since 1988, when I served as the first condominium specialist with the Hawaii Real Estate Commission (from 1988 to 1991). Since then, I have served as an attorney advising condominium associations for almost 20 years.

This bill proposes to delete provisions allowing owners to give their proxies to their board of directors. In doing so, the bill suggests that allowing condominium owners to give their proxies to the board of directors creates so many problems that it justifies amending the law. Hawaii Real Estate Commission figures indicate that there are 1,665 condominium projects registered with the commission, comprised of 156,428 units, and each of those projects has a board of directors. Given the number of condominium boards, if this issue was a serious problem, there would be far more complaints than there appear to be about boards of directors soliciting proxies.

The bill suggests that the board somehow has an advantage over individual members of the association in obtaining proxies. In fact, the condominium law, section 514B-123(h), allows every owner to send out, at association expense, a one-page statement asking for proxies or indicating why the owner wants to serve on the board. The law also imposes the same limit on directors using association funds.

The amendments proposed by HB 939 could result in concentrating power into the hands of just a few individuals by indicating that proxies can only be given to individuals. Generally, if the project is run well, that is a result of not just the efforts of a single director, but the efforts of the whole board. Moreover, if owners are satisfied with the way in which their board is running their project, they are inclined to support their

TESTIMONY REGARDING HOUSE BILL 939

February 5, 2011

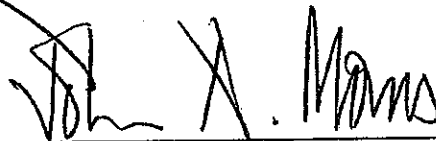
Page 2

board. If, however, owners are not aware of the option of giving their proxy to the board - and think proxies can only be given to individuals - they may be inclined to give their proxy to a single director or officer. For example, if the president (or another officer) signs letters and has his/her name in newsletters, etc., the president may be the only board member known to the average owner. In that case, if the average owner wants to support the board and is not aware that he can give the proxy to the whole board, he may simply give his proxy to the president. The provisions that are to be deleted by HB 939 were added to prevent this concentration of power.

Finally, if the committees are proposing to simplify the condominium law on proxies, they should instead delete the box giving owners the option of providing their proxy for "quorum purposes" only. Allowing owners that option encourages owner apathy by allowing them to take no active interest in association affairs or even to research who could represent them at an association meeting. Moreover, a high concentration of quorum only proxies often means that an association can go forward with a meeting but cannot do any business. For example, if an association has 59% of people present in person or by proxy and 10% of those proxies are quorum only, that means that only 49% of those represented at the meeting can actually vote in favor or against anything. Since many association votes require the approval of a majority of all owners - i.e. 50.1% of all owners - having only 49% who can actually vote at the meeting prevents the association doing significant business. That can require that the meeting be adjourned and that additional time and expense be spent encouraging other owners to also participate in the meeting.

Please contact me at 523-0702 if you have any questions. Thank you for this opportunity to testify.

Very truly yours,



---

John A. Morris

JAM:alt

G:\C\2011 Testimony HB 939 (02.05.11)

## CPCtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 05, 2011 9:50 AM  
**To:** CPCtestimony  
**Cc:** airhartbn@hawaiiantel.net  
**Subject:** Testimony for HB939 on 2/7/2011 2:00:00 PM

Testimony for CPC/JUD 2/7/2011 2:00:00 PM HB939

Conference room: 325

Testifier position: oppose

Testifier will be present: No

Submitted by: Robert L. Airhart

Organization: Individual

Address:

Phone:

E-mail: airhartbn@hawaiiantel.net

Submitted on: 2/5/2011

Comments:



## CPCtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 05, 2011 5:06 AM  
**To:** CPCtestimony  
**Cc:** cater4349@msn.com  
**Subject:** Testimony for HB939 on 2/7/2011 2:00:00 PM

Testimony for CPC/JUD 2/7/2011 2:00:00 PM HB939

Conference room: 325  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: curtis carter  
Organization: Individual  
Address:  
Phone:  
E-mail: cater4349@msn.com  
Submitted on: 2/5/2011

Comments:

## CPCtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 05, 2011 1:02 AM  
**To:** CPCtestimony  
**Cc:** Keoki96701@hawaii.rr.com  
**Subject:** Testimony for HB939 on 2/7/2011 2:00:00 PM

Testimony for CPC/JUD 2/7/2011 2:00:00 PM HB939

Conference room: 325  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Rick Edds  
Organization: Individual  
Address:  
Phone: 8084863327  
E-mail: [Keoki96701@hawaii.rr.com](mailto:Keoki96701@hawaii.rr.com)  
Submitted on: 2/5/2011

Comments:

## CPCtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 04, 2011 11:43 PM  
**To:** CPCtestimony  
**Cc:** emmatsumoto@hotmail.com  
**Subject:** Testimony for HB939 on 2/7/2011 2:00:00 PM

Testimony for CPC/JUD 2/7/2011 2:00:00 PM HB939

Conference room: 325  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Eric M. Matsumoto  
Organization: Mililani Town Association  
Address: 95-303 Kaloapau St. Mililani, HI  
Phone: 282-4324  
E-mail: [emmatsumoto@hotmail.com](mailto:emmatsumoto@hotmail.com)  
Submitted on: 2/4/2011

**Comments:**

This bill takes away the homeowner's current right to choose who he/she wants the proxy to go to. For a new homeowner who buys into an AOA, limiting that individual's ability to give the proxy to the board as a whole or to the directors at the meeting will deny the individual's right to choose the best alternative to cast his/her vote. It moves AOAs backwards and provides no redeeming value to enhance the governance of AOAs. Recommend this bill be held.

## CPCtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 04, 2011 9:10 PM  
**To:** CPCtestimony  
**Cc:** mmartin40@hawaii.rr.com  
**Subject:** Testimony for HB939 on 2/7/2011 2:00:00 PM

Testimony for CPC/JUD 2/7/2011 2:00:00 PM HB939

Conference room: 325  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Mary Martin  
Organization: Wailuna AOA  
Address:  
Phone:  
E-mail: mmartin40@hawaii.rr.com  
Submitted on: 2/4/2011

Comments:

## CPCtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 04, 2011 6:11 PM  
**To:** CPCtestimony  
**Cc:** rdunn@haseko.com  
**Subject:** Testimony for HB939 on 2/7/2011 2:00:00 PM

Testimony for CPC/JUD 2/7/2011 2:00:00 PM HB939

Conference room: 325  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Richard Dunn  
Organization: Individual  
Address:  
Phone:  
E-mail: rdunn@haseko.com  
Submitted on: 2/4/2011

Comments:

**ROYAL VISTA ASSOCIATION OF APARTMENT OWNERS  
1022 PROSPECT STREET  
HONOLULU, HAWAII 96822**

**THE HOUSE OF REPRESENTATIVES  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2011**

**Committee on Judiciary  
Committee on Consumer Protection & Commerce**

**Testimony in Opposition of H.B. 939 Relating to Condominium Associations**

**Monday, February 7, 2011, 2:00 P.M.  
Conference Room 325**

Chairs Keith-Agaran, Herkes and Members of the Committees:

The Royal Vista AOA opposes HB939.

The purpose of this Bill is to reduce the number of checkbox options for a condominium association's standard proxy form by deleting the option's relating to giving proxies to the board as a whole and the directors present at the meeting. We consider this change unnecessary, as well as an additional burden in administrative cost and procedure, and recommend that 514B remain unchanged.

A Condominium Association (AOAO) is governed by a board of directors elected by its unit owners to represent them in governing and managing the condominium (§514B-106(a)). The AOAO Board of Directors is made up of volunteer members who work for free. The board's primary responsibilities are:

- The establishment of policies governing the operations of the association,
- Delegating authority to implement the policies it adopts, and
- The overall supervision of the association's officers, employees, and agents *on behalf of its Owners.*

ROYAL VISTA ASSOCIATION OF APARTMENT OWNERS  
1022 PROSPECT STREET  
HONOLULU, HAWAII 96822

Regardless of the broad powers given to boards of directors, the owners retain ultimate control through their authority to elect and remove directors.

Association members are Owners and they may vote by proxy at association meetings, but the proxy is valid only for the meeting to which it pertains.

Owners may give proxies to be voted by any designated person (§514B-123(e)).

A proxy form distributed by the association must contain four boxes to allow owners to give the proxy:

- 1) for quorum purposes only;
- 2) to a specific individual whose name is printed on a line next to the box;
- 3) to the board as a whole to be voted by the majority of members present at the meeting; or
- 4) to those board members present with their votes to be shared equally.

These choices are clear, straightforward and provide Owners with options. There is no need to change 514B.

Thank you for the opportunity to testify against HB939.

Very truly yours,



Ron Watanabe, President



February 4, 2011

**TESTIMONY HB 939**  
**Community Associations Institute**  
**OPPOSITION**

Association meetings are more comparable to stockholder meetings of a corporation where proxies are routinely used for voting. The similarities are as follows:

- ✓ Owners typically are voting their percentage of ownership similar to shares of stock owned.
- ✓ Owners live across the world, often cannot attend meetings, and are provided a proxy to let their voice be heard.
- ✓ Owners voluntarily appoint the Board of Directors as proxy holder as provided in corporate proxies probable because they are satisfied with the management of the community. Some owners particularly those not living in Hawaii may not know the individual names but be very happy with the Board majority's decision as a whole.
- ✓ Owners can voluntarily select "quorum only" or appoint a "person" if they do not want to appoint the Board as proxy holder.

Owners have a free choice on who to appoint as proxy holder. Eliminating the choices will have the exact opposite affect as the bill is intended. Owners who may not know the names of individual directors may simply not vote or participate in meetings.

Proxies are a long standing right for people to be heard in a business environment by exercising their right to vote through an appointed proxy holder.. Associations are businesses with the obligation to protect the association and care for its finances. The proxy as written today allows every owner their free choice to appoint their representative including attending the meeting and voting themselves.

National statistics support the view that the vast majority of owners are satisfied with the way their association is managed.

CAI opposes SB 939.

Warmest aloha,

Richard Emery  
CAI LAC Committee





## CPCtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 04, 2011 2:51 PM  
**To:** CPCtestimony  
**Cc:** bduca@sbcglobal.net  
**Subject:** Testimony for HB939 on 2/7/2011 2:00:00 PM

Testimony for CPC/JUD 2/7/2011 2:00:00 PM HB939

Conference room: 325  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: robert duca  
Organization: Individual  
Address: 5255 L. Honoapiilani Rd. Lahaina, HI.  
Phone: 925 788 9933  
E-mail: bduca@sbcglobal.net  
Submitted on: 2/4/2011

Comments:

**Testimony for HB939 on 2/7/2011 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Monday, February 07, 2011 8:06 AM

**To:** CPCtestimony

**Cc:** f.mcdermott@ymail.com

**Categories:** Blue Category

---

Testimony for CPC/JUD 2/7/2011 2:00:00 PM HB939

Conference room: 325

Testifier position: oppose

Testifier will be present: No

Submitted by: Forrest McDermott

Organization: Individual

Address:

Phone:

E-mail: f.mcdermott@ymail.com

Submitted on: 2/7/2011

Comments:

