

SB 1074



NEIL AMBERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

KEALI'I S. LOPEZ
INTERIM DIRECTOR
EVERETT KANESHIGE
DEPUTY DIRECTOR

PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TWENTY-SIXTH LEGISLATURE
Regular Session of 2011

Wednesday, February 2, 2011
8:30 a.m.

**TESTIMONY ON SENATE BILL NO. 1074, RELATING TO MORTGAGE
FORECLOSURES.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE
COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify in support of Senate Bill No. 1074, Relating to Mortgage Foreclosures. My name is Stephen Levins, and I am the Executive Director of the Office of Consumer Protection ("OCP"), representing the Department.

Senate Bill No. 1074 seeks to implement the recommendations of the mortgage foreclosure task force established by Act 162, Session Laws of Hawaii 2010. The recommendations were provided to the Hawaii legislature on December 28, 2010 through the preliminary report of the mortgage foreclosure task force. They contain

significant improvements to the current nonjudicial foreclosure law in Hawaii. The proposal will provide for superior notice to homeowners of an impending foreclosure, offer them the ability to convert a non judicial foreclosure to a judicial foreclosure, and allow them to escape a deficiency judgment in a nonjudicial foreclosure. The measure also will help to bring certainty to title issues by authorizing the mortgagee to record a copy of the notice of intent to foreclose with the land court or the bureau of conveyances and will harmonize state law with a recent Hawaii Bankruptcy decision.

The task force represented a broad cross section of our community and as such was able to obtain the input of virtually all interested parties. The executive director of the Office of Consumer Protection served as the Chairperson. This measure is the product of hundreds of hours of hard work by its members. Because of their strong commitment to improving the mortgage foreclosure laws in Hawaii, consensus was reached on these important proposals. Since the Department believes that each of them will further the interests of consumer protection in Hawaii, it strongly supports this measure.

Thank you for providing me with the opportunity to testify on Senate Bill No. 1074. I will be happy to answer any questions that the committee members may have.



THE JUDICIARY, STATE OF HAWAII

Testimony to the Senate Committee on Commerce and Consumer Protection

Senator Rosalyn H. Baker, Chair

Senator Brian T. Taniguchi, Vice Chair

(Wednesday, February 2, 2011, 8:30 a.m.)

State Capitol, Conference Room 229

by

Rodney A. Maile

Administrative Director of the Courts

Bill No. and Title: Senate Bill No. 1074, Relating to Mortgage Foreclosures.

Purpose: Amends the nonjudicial foreclosure process under part I of chapter 667, to among other things require notice of intent to foreclose be served upon required parties, to prohibit a mortgagee of residential property using the nonjudicial foreclosure process from subsequently obtaining a deficiency judgment against owner-occupants, authorize an owner-occupant of residential property to convert the process to a judicial foreclosure proceeding.

Judiciary's Position:

The Judiciary expresses no opinion about the intent or purpose of this bill but has the following concerns:

(1) Need for Additional Resources

If this measure passes, the Judiciary would like the proposed process to be workable. Consequently, additional funds and time for the Judiciary to implement the measure will be critical for us to properly address the increase in judicial foreclosure filings as well as continue to strive to timely resolve our other cases. In view of the budgetary reductions the Judiciary has already taken as well as the imposition of furlough days, it is important to stress how much Senate Bill No. 652 would increase our caseload, and without additional resources, compromise our ability to expeditiously administer justice and serve and protect the public.

Specifically, since the bill delineates the steps certain mortgagors can take to easily "convert" non-judicial foreclosures to judicial foreclosures and to stay the non-judicial



Senate Bill No.1074, Relating to Mortgage Foreclosures
Senate Committee on Consumer Protection
Wednesday, February 2, 2011
Page 2

foreclosure proceedings, we anticipate a rise in the number of court filings. It is our understanding that approximately 75% to 90% of foreclosures are currently proceeding non-judicially. *See, for example, attached Honolulu Star Bulletin article dated March 22, 2009 which was attached to the Preliminary Report of the Mortgage Foreclosure Task Force to the Legislature for the Regular Session of 2011.*

Another recent report indicates that the total number of foreclosure filings for January through December 2010 in Hawai'i was 14,224. *See attached Star Advertiser article dated January 14, 2011 (citing statistics from RealtyTrac).* During this same time period, there were only 1,331 judicial foreclosure filings state-wide. If the RealtyTrac report includes both judicial and non-judicial foreclosures, approximately 12,893 cases or 90% of foreclosure cases proceeded non-judicially last year. The current measure allows certain owner-occupants of *residential* property to file a conversion complaint. The attached January 14, 2011 Star Advertiser article indicates that most of the foreclosures in 2010 were of residential property. Even if we conservatively estimated that only half of the 12,893 cases would now be converted to judicial foreclosure actions, this could increase our caseload approximately 5 times and we would require substantial resources to effectively monitor and resolve such cases.¹ It is also important to note that Hawai'i has a larger share of condominiums and time share units compared to other states, which are also foreclosed upon, thereby adding to our case volume.

An example of how this measure would adversely impact our service to the public can be seen by examining the judicial filings in Maui. In the Second Circuit, approximately 710 felony criminal cases were filed last fiscal year. The four Circuit Court judges in Maui handle these cases, in addition to the domestic abuse jury trials, drug court, probation violations, and approximately 920 civil cases that were filed last year. A total of 1,977 cases were filed in the Circuit Court of the Second Circuit last fiscal year. From January to December 2010, there were approximately 288 judicial foreclosure cases in Maui. If this were to increase 5 times, this would significantly impact handling of cases in Maui. As the attached January 13, 2011 Star Advertiser article indicates, "more than half the properties affected by foreclosure were on the neighbor islands." With criminal cases taking priority due to Constitutional requirements, the other cases would be delayed, further protracting the processing time. This is also complicated by the nature of foreclosure proceedings, which are often relatively complex.

Furthermore, in order to address the increased caseload, the Judiciary would need to receive approval and appropriations for additional judges, staff, and courtrooms, as well as for other administrative support. There would also be a delay in start up time, because even if those funds were allocated this Legislative session, it would still take time to hire staff for the new

¹ Please note that our numbers are simply estimates, based on certain information recently gathered in a preliminary attempt to assess the potential impact on the Judiciary.



Senate Bill No.1074, Relating to Mortgage Foreclosures
Senate Committee on Consumer Protection
Wednesday, February 2, 2011
Page 3

positions. Even with immediate attention, it would be an extensive length of time before the system could accommodate the change.

Another example of a change the Judiciary may need to implement is the creation of another case tracking system. Specifically, the bill provides that in order to successfully sustain the court action, all interested persons must timely file a statement submitting themselves to the court process or the action will be dismissed and proceed non-judicially. It is currently unclear whether a new case tracking system would need to be created so that the court clerks could monitor the timely filing of such statements or whether this would be the subject of a motion to dismiss filed by a mortgagee.

Finally, the measure requests that the Judiciary create the "conversion complaint" form which will require additional time and resources to create and implement. At the same time, the measure also appears to propose a reduction in the filing fee for the conversion complaint. While we understand the reason for a proposed reduction in the filing fee, we are concerned that the potential increase in the number of cases without provision for additional resources, will further prolong a foreclosure process that is already stressful to many, adversely impacting both the mortgagor and the mortgagee.

(2) Designation of the Mortgagor as "Plaintiff" and Mortgagee as "Defendant"

There is also a significant procedural concern in the process that is set out in the bill. The concern arises from the use of the word "complaint" to designate the owner-occupant's intent to convert the process from a non-judicial to a judicial foreclosure.

The word "complaint," used in the context of a court case, denotes a formal pleading of facts and law for which the plaintiff bears the burdens of proof and persuasion. The "complaint" called for by the bill is, in fact, not a complaint. It is a notice of intent to convert the non-judicial foreclosure to a judicial foreclosure. Consequently, to avoid confusion as well as lengthy and unnecessary litigation regarding who bears the burdens of proof and persuasion, the Judiciary recommends that (a) the word "complaint" be changed to "Notice of Conversion"; and (b) that a provision be added to require the noticed mortgagee to file a complaint, in accordance with the rules of court, no later than 30 days after having received the Notice of Conversion. The process can then follow the usual course for judicial foreclosures.

Thank you for the opportunity to testify on Senate Bill No. 1074.

Island Homes

rentals

rentals

Open Homes

* starbulletin.com/classifieds

Facing The Challenges Of Today's Real Estate Marketplace

Facing Foreclosure



Marvin S. C. Dang
Attorney and
Managing Member
Law Offices of
Marvin S. C. Dang, LLC

Foreclosure is a financial disaster home owners hope they will never have to face. Not only does foreclosure mean the loss of their real property - probably their biggest personal investment - but their credit is severely damaged and chances of obtaining another mortgage loan substantially diminished.

Attorney Marvin Dang has handled foreclosures as an attorney for lenders for 30 years and as a commissioner for 28 years. He believes many foreclosures could be avoided if the home owner acknowledged potential problems before they reached crisis proportions and contacted their lender to try to work out a solution.

He noted that there are many reasons why a borrower might be unable to continue making mortgage payments: loss of job, reduction in working hours and salary, huge medical bills, break-up of a marriage, an increase in the monthly mortgage payment, etc.

"Although there is no guarantee that a lender will make accommodations, chances are better that the lender will not start a foreclosure if the borrower contacts him with an explanation instead of simply halting payments," Dang said.

"Generally, lenders prefer to work out a 'win-win' solution rather than resort to foreclosure. The foreclosure process is costly and time consuming. It is a 'lose-lose' scenario. The only one who potentially benefits from a foreclosure is a buyer who manages to



pick up a foreclosed property at a bargain price at a foreclosure auction.

Dang explained that after one or two payments are missed, a lender will contact the borrower and mail out reminders to pay. If no mutual arrangement is made, a lender may refer the account to an attorney after three or four missed payments. But it could be sooner if the property is abandoned.

"Usually the first notification from the lender's attorney to the property owner is a letter confirming the default. This is sent out before the attorney begins the foreclosure proceeding. Once the borrower gets the attorney's letter, it still may be possible to work with the lender, so the property owner

should not ignore the letter," Dang said.

"If the borrower consults with a third party for assistance, it's also important to check the credentials of that person, as there are local and Mainland scam artists who have taken advantage of inexperienced Hawaii home owners with devastating results. It's best to talk with a Hawaii-based credit counseling service or a Hawaii real estate professional, rather than getting advice from the Internet. People can also meet with a bankruptcy attorney to decide what their best course may be."

Dang noted that in Hawaii there are two types of foreclosure actions, judicial and non-judicial. The judicial process is run through the court system. The lender files a complaint with the court regarding the delinquent loan and requests that the court allow the lender to foreclose on the mortgage on the real property. After the borrower is served with the complaint by a process server, the borrower needs to file a written answer with the court. If the borrower fails to respond, they will be in default as to the complaint.

The lender will ask the court to schedule a hearing to appoint a foreclosure commissioner to auction the property. At the hearing, the party being foreclosed on has an opportunity to tell the judge why a commissioner should not be appointed: for example, the property is in the process of being voluntarily sold and should close in a few months or the borrower is getting money to bring the loan current. If the judge is convinced that such a sale will close, or believes the loan can be reinstated he or she may be willing to delay the foreclosure proceeding for a short period.

If the property owner is able to pay off the loan or bring it current, the foreclosure can be dismissed.

"In a judicial foreclosure, the commissioner

Continued on Page 2

Facing Foreclosure

Continued from page 1

who is usually either an attorney or a real estate professional, is accountable to and acts on behalf of the court...not on behalf of the lender," Dang said. "It will be the responsibility of the commissioner to get access to the property to inspect it. Generally, during the foreclosure, the commissioner will not evict the home owner or the tenant of the property. But any tenant will now need to pay rent to the commissioner and not to the landlord.

"The commissioner will hold two open houses at the property, usually on Saturdays and Sundays, and place ads in newspapers, such as the Honolulu Star-Bulletin. The ads must run once each week for three consecutive weeks announcing the date and time of the open houses and the date, time, and place of the auction. The last ad needs to appear at least two weeks before the auction is to be held. In Honolulu, the foreclosure auctions are held Monday through Friday beginning at 12 noon at the Eva Lani at First Circuit Court at 777 Punchbowl Street, where notices of upcoming auctions are posted. There could be more

than one property being auctioned at the same time by more than one commissioner."

According to Dang, anyone planning to bid at the auction will be required to show the commissioner before the auction proof of having a deposit in the form of a cashier's check or money order or cash, since the highest bidder needs to give the commissioner ten percent of the bid price at the end of the auction. The rules of the auction are announced by the commissioner and there is usually no upset price.

"Often the lender jumps in and bids at the auction," Dang said. "These lenders could be local and Mainland banks, credit unions, and other parties who may have bought the loan being foreclosed. Before they bid, lenders would have researched the condition and value of the property being foreclosed. Other bidders should do the same. The lender is not always the highest bidder. Investors sometimes outbid the lenders.

"The highest bidder needs to understand that the judicial foreclosure sale is sub-

ject to court approval. After the auction, the commissioner will file a report with the court. The lender's attorney will schedule a court hearing to approve the sale, at which time the judge will ask if anyone wants to reopen the bidding for five percent higher than the auction price. Whoever is the highest bidder either from the first public auction or at the reopening at the hearing, is generally approved by the court. The winning bidder has about 35 days to come up with the rest of the money to close the sale. Upon closing, the foreclosure commissioner will sign a deed to convey the property in 'as is' condition to the buyer. When the deed is recorded at Bureau of Conveyances, the title to the property is transferred."

Dang said that the second type of foreclosure in Hawaii, the non-judicial foreclosure, was rarely held until the late 1990s but now accounts for about 75 percent or more of foreclosure proceedings here.

"There are several basic differences between a non-judicial foreclosure and a judicial procedure," Dang pointed out. "A judicial foreclosure can take six to nine

months, whereas a non-judicial foreclosure takes two to three months since there are no court filings, no open houses, and no hearings. However, one similarity is that a newspaper ad announcing an auction will be required to run in a local newspaper once each week for three consecutive weeks, the last ad to appear at least two weeks prior to the auction. The notice of the non-judicial foreclosure sale needs to be mailed to the borrower and should be served by a process server. The notice must be posted on the property. No open houses are required to be held at the property, and there is no opportunity to inspect it in advance of the auction.

"For non-judicial foreclosures the auction and bidding procedures are similar to those of a judicial foreclosure. However, a non-judicial foreclosure auction is conducted by the lender's attorney or representative rather than a court appointed commissioner. At the conclusion of the non-judicial auction, the buyer pays the ten percent deposit. The rest of the sales price must be paid within thirty days

after the auction. Once the sales price is paid, the buyer will get a deed and becomes the owner of the property after the deed is recorded at the Bureau of Conveyances.

"For both judicial and non-judicial foreclosures, the new owner, that is, the successful bidder, is responsible for obtaining possession of the property. The new owner can keep the occupants there or can ask them to move out. In cases where occupants refuse to move, the new owner may need to go to

court to ask the judge to issue an order to evict them."

"The entire foreclosure process could possibly be avoided if the borrower simply phoned the lender before missing that first payment," Dang said. "And people who find themselves facing possible foreclosure should keep in mind that, even if the foreclosure is started, it can be delayed and the auction can be postponed if the borrower is able to work out an arrangement with the lender."

Star Advertiser

Foreclosure filings hit new high

Figures show 38 percent more Hawaii properties were affected last year compared with 2009

By Andrew Gomes
 POSTED: 01:30 a.m. HST, Jan 13, 2011

Lenders pursued or completed foreclosure against a record number of Hawaii properties last year.

There were 12,425 properties statewide affected by foreclosure last year, which was 38 percent more than the 9,002 properties in 2009 and more than triple the 3,525 properties in 2008, according to the latest report from RealtyTrac, a real estate data company.

NO PLACE LIKE HOME
Hawaii's monthly foreclosures over the past year, including the year-over-year percentage gain:

2010	MONTH	TOTAL	CHANGE
	December	1,000	-34.8%
	November	877	+0.6%
	October	1,271	+37.4%
	September	1,617	+66.9%
	August	1,629	+87.5%
	July	930	-6.1%
	June	1,000	+41.6%
	May	1,055	+29.3%
	April	1,474	+115.5%
	March	1,097	+51.5%
	February	972	+81.0%
	January	1,302	+286.4%
	Total	14,224	+42.9%

BY THE NUMBERS
Five Hawaii communities with the most properties in foreclosure last year.

ZIP CODE	AREA	FORECLOSURES
96740	Kailua-Kona	1,244
96753	Kihei	905
96706	Ewa Beach	867
96761	Lahaina	646
96707	Kapolei	609

Source: RealtyTrac

Most of the properties were homes, though RealtyTrac doesn't exclude commercial real estate from its foreclosure data. If all the properties affected by foreclosure were homes, the total last year would represent 2.42 percent of all homes in the state, up from 1.8 percent the year before.

The growing number reflects the state's continuing struggle with economic recovery, and has strained families.

But so far foreclosures haven't reached epidemic proportions seen in states such as Nevada, Arizona and Florida.

"We've been relatively fortunate," said Jon Mann, a Honolulu real estate agent. "We haven't really been impacted as significantly as some mainland markets."

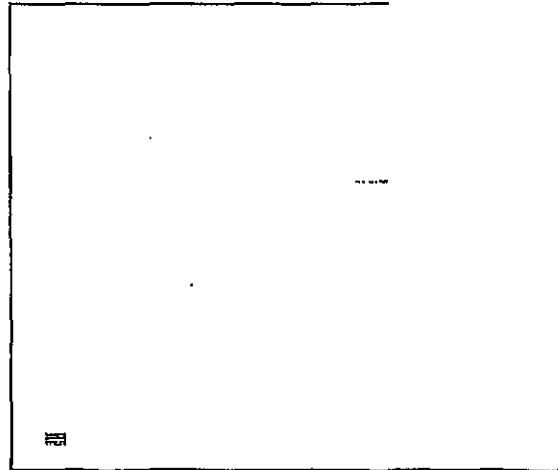
Hawaii's foreclosure level was close to the national average — 2.23 percent of housing affected by foreclosure last year — though Hawaii's rate was 11th highest.

The worst problem is in Nevada, where 9.42 percent of homes were affected by foreclosure last year. The lowest rate was 0.13 percent in Vermont.

In Hawaii, more than half the properties affected by foreclosure were on the neighbor islands, where many out-of-state investors bought vacation homes during the real estate boom in the mid-2000s.

On the Big Island, there were foreclosure filings against 3,370 properties last year, representing 4.23 percent of homes.

ADVERTISEMENT



Print Powered By FormatDynamics

Star Advertiser

Maui had 2,675 properties with foreclosure filings, or 4.05 percent of homes.

be counted on the same property in different months.

Kauai had 819 properties with foreclosure filings, or 2.75 percent of homes.

Oahu had the most properties affected by foreclosure but the lowest rate – 5,561 properties representing 1.65 percent of the housing market.

Real estate industry watchers caution that foreclosures could put downward pressure on housing prices if an overbearing number of foreclosed homes wind up on the market.

On Oahu, there were close to 3,200 single-family homes and condominiums on the market at the end of last year.

Mann said about 15 percent to 20 percent of the inventory was owned by lenders or homeowners trying to avoid foreclosure through short sales.

Whether the percentage will rise is hard to tell because not all homes that enter foreclosure are sold. Some owners work out their mortgage difficulties. In other cases, foreclosure can drag on for more than a year.

Mann notes that some additional inventory won't necessarily hurt the market because present inventory is relatively tight.

Hawaii's foreclosure problem is expected to worsen this year, according to local foreclosure attorneys.

There was a lull in the past two months, but the industry attributes that to lenders holding up cases to address improper processing issues raised a few months ago.

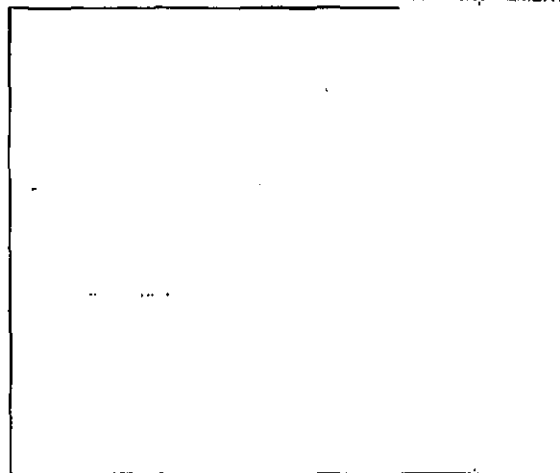
The number of foreclosure filings in December was 1,000. That was down 35 percent from 1,302 in the same month last year but was up from 877 in November.

Lenders filed a flurry of new foreclosure cases last month – 163 default notices, which according to RealtyTrac was the highest number in more than a year.

The bulk of filings last month were auction notices and lender repossessions.

RealtyTrac numbers for the full year are different in that they count properties going through foreclosure. The monthly counts are foreclosure filings, which can

ADVERTISEMENT



Print Powered By  FormatDynamics™



TEL:
808-524-5161
FAX:
808-521-4120
ADDRESS:
1000 Bishop Street, Suite 301B
Honolulu, HI 96813-4203

Presentation of the Committee on Commerce and Consumer Protection
Wednesday, February 2, 2011 at 8:30 a.m.
Testimony on SB 1074 Relating to Mortgage Foreclosures

In Support

TO: The Honorable Chair Rosalyn H. Baker
The Honorable Vice Chair Brian T. Taniguchi
Members of the Committee

I am Gary Fujitani, Executive Director of the Hawaii Bankers Association (HBA), testifying in support of SB 1074 with an offered amendment. HBA is the trade organization that represents all FDIC insured depository institutions doing business in Hawaii.

The purpose of this bill is to implement substantial recommendations of your Mortgage Foreclosure Task Force, which HBA had a participating member.

It is recommended that this Bill be amended on page 18, line 9 relating to deficiencies against an owner-occupant after a non-judicial sale by deleting the word "residential", which would allow a deficiency if the mortgagor owns any other real estate.

We incorporate by reference the testimony separately submitted by the Hawaii Financial Services Association.

Thank you for the opportunity to provide our testimony.

A handwritten signature in black ink, appearing to read 'Gary Y. Fujitani', with a horizontal line underneath.

Gary Y. Fujitani
Executive Director

HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law

P.O. Box 4109

Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

Fax No.: (808) 521-8522

February 2, 2011

Sen. Rosalyn H. Baker, Chair,
and members of the Senate Committee on Commerce and Consumer Protection
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **Senate Bill 1074 (Mortgage Foreclosures)**
Hearing Date/Time: Wednesday, February 2, 2011, 8:30 A.M.

I am the attorney for the Hawaii Financial Services Association ("HFSA"). The HFSA is the trade association for Hawaii's financial services loan companies, which are regulated by the Hawaii Commissioner of Financial Institutions. Financial services loan companies make mortgage loans and other loans.

The HFSA supports this Bill and offers an amendment.

The purpose of this Bill is to amend the nonjudicial foreclosure process under part I of chapter 667, to among other things require notice of intent to foreclose be served upon required parties, to prohibit a mortgagee of residential property using the nonjudicial foreclosure process from subsequently obtaining a deficiency judgment against owner-occupants, authorize an owner-occupant of residential property to convert the process to a judicial foreclosure proceeding.

This testimony is based, in part, on my role as the Vice Chairperson of the Hawaii Mortgage Foreclosure Task Force ("Task Force"). I served as a member of the Task Force as the designee of the HFSA. This testimony is also based on my experience as an attorney who has actively done foreclosures for nearly 33 years since 1978.

Similar in purpose to Senate Bill 652 (Mortgage Foreclosures), this Bill generally reflects the "Language for Proposed Legislation" that is in the Task Force's 2011 Preliminary Report. The recommendations of the Task Force are substantive and provide meaningful improvements to the non-judicial foreclosure process. The recommendations are the result of consensus by the 17 Task Force members who represented diverse, and in some instances opposing, interests.

On January 28, 2011, your Committee held an informational briefing on the Report of the Task Force. As one of the 3 Task Force members participating in the briefing, I submitted testimony on behalf of the four Hawaii mortgage lender organizations represented on the 17 member Task Force. The organizations are: Hawaii Bankers Association, Hawaii Credit Union League, Mortgage Bankers Association of Hawaii, and Hawaii Financial Services Association. A copy of that testimony is attached as Exhibit "A".

The attachment details why the four Hawaii mortgage lender organizations, the members of which have offices and employees in Hawaii, support this Bill. The Hawaii mortgage lender organizations will be working this year on the Task Force to consider other recommendations for the 2012 Legislature.

However, as stated in the attachment, we recommend that this Bill be amended on page 17, line 4 relating to deficiencies against an owner-occupant after a non-judicial foreclosure sale. As drafted, if an owner-occupant who is being foreclosed on has "a fee simple or leasehold ownership interest in any other residential real property", the foreclosing lender can pursue or obtain a deficiency judgment against that person. That provision is unduly restrictive. Mortgage lenders should be allowed to also pursue an owner-occupant for a non-judicial foreclosure deficiency if that person owns any non-residential property (e.g. commercial property, etc.).

This Bill should be amended to delete the word "residential" on line 4 of page 17. The phrase should read: "a fee simple or leasehold ownership interest in any other real property".

We note that there are some stylistic differences between this Bill and Senate Bill 652.

Thank you for considering our testimony.


MARVIN S.C. DANG
Attorney for Hawaii Financial Services Association

(MSCD/hfsa)

LAW OFFICES
OF
MARVIN S. C. DANG
A Limited Liability Law Company

MARVIN S. C. DANG
JASON M. OLIVER
SUMMER OKADA
PAUL T. HOLTROP
RENEE M. FURUTA

MAILING ADDRESS:

P.O. BOX 4109
HONOLULU, HAWAII 96812-4109

TELEPHONE: (808) 521-8521

FAX: (808) 521-8522

E-MAIL: dangm@aloha.net

INTERNET: www.lawyers.com/marvindang

January 28, 2011

Sen. Rosalyn H. Baker, Chair,
Sen. Brian T. Taniguchi, Vice Chair,
and members of the Senate Committee on Commerce and Consumer Protection
Hawaii State Capitol
Honolulu, Hawaii 96813

**Re: Informational Briefing on the 2011 Preliminary Report of the Hawaii Mortgage
Foreclosure Task Force**
Briefing Date/Time: Friday, January 28, 2011, 9:30 A.M.

I am pleased to be invited to participate in today's Informational Briefing on the **2011 Preliminary Report of the Hawaii Mortgage Foreclosure Task Force** ("Task Force Report"). I am the Vice Chairperson of the Task Force. On the Task Force, I am the designee of the Hawaii Financial Services Association. As an attorney in private practice, I have handled mortgage foreclosures since 1978 for Hawaii lenders. I have also served as a court-appointed foreclosure Commissioner.

My presentation to you this morning is on behalf of the Hawaii mortgage lenders on the Task Force. The four Hawaii mortgage lender organizations represented on the 17 member Task Force are:

Hawaii Bankers Association (Neal Okabayashi)
Hawaii Credit Union League (Stefanie Sakamoto, initially, and then Frank Hogan)
Mortgage Bankers Association of Hawaii (Linda Nakamura)
Hawaii Financial Services Association (Marvin Dang)

The members of these organizations have offices and employees in the State of Hawaii.

A. Views of Hawaii mortgage lenders regarding foreclosures.

In dealing with the foreclosure issue on the Task Force, Hawaii mortgage lenders were guided by the following views and perspective:

- A foreclosure of a delinquent mortgage loan is the last option for a mortgage lender. Before assigning a delinquent loan to an attorney for foreclosure, the lender will send notices to the borrower. The lender will attempt to personally contact the delinquent borrower to determine the situation. Various options are explored including, loan workouts, loan modifications, short sales,

EXHIBIT "A"

Informational Briefing on the 2011 Preliminary Report of the Hawaii Mortgage Foreclosure Task Force

Presentation by Marvin Dang on behalf of Hawaii mortgage lender organizations

January 28, 2011

Page 2

and deeds in lieu of foreclosure. As appropriate, the lender and the borrower can use the Obama Administration's federal initiative called Making Home Affordable Program, which has components called Home Affordable Refinance Program (HARP), Home Affordable Modification Program (HAMP), and Home Affordable Foreclosure Alternatives (HAFA). If there is no acceptable resolution of the delinquency, only then will the lender consider the last alternative of either a judicial or non-judicial foreclosure.

- If a lender is not able to resolve the default with the borrower, the lender would want to have a foreclosure process that is not costly and not time consuming.

- The number of foreclosures in Hawaii is affected by economic factors. Family problems (such as divorces) and medical expenses will always be factors in mortgage delinquencies. However, in a down economy, more borrowers will be unemployed or underemployed ... and they will be more likely to become delinquent in paying their mortgage loans. During the current down turn in Hawaii's economy, foreclosures have been increasing. We saw a similar trend in the mid-1990's to early 2000's. On the other hand, during the mid-2000's, as Hawaii's economy prospered, the number of foreclosures was relatively low. There will always be these cyclical peaks and valleys.

- Recent media coverage have focused on internal problems of out-of-state mortgage lenders and servicers in communicating with their customers and in handling the foreclosure process. These servicing issues involve out-of-state lenders which don't have servicing offices and employees in Hawaii. Sometimes a mortgage loan is owned by a mainland lender or investor, but the loan is serviced by other companies which collect the payments and interact with the borrowers. These third party servicers usually do not have offices and employees in Hawaii.

- National factors affect the foreclosure process:

- Hawaii lenders are sometimes the servicers of mortgage loans which are owned or guaranteed by Fannie Mae (Federal National Mortgage Association) or Freddie Mac (Federal Home Loan Mortgage Corporation), which are federal government-sponsored enterprises. In these instances, Hawaii lenders must follow the servicing guidelines of Fannie Mae or Freddie Mac regarding delinquency management and default prevention. Failure to comply could result in the Hawaii lender being forced to repurchase the loan.

- Actions by Congress and federal agencies impact foreclosures. Any Hawaii legislative initiative regarding foreclosures should not be at odds with what is happening in Washington, D.C.

- There should not be permanent legislative solutions to temporary problems. Hawaii will not always have the same amount of foreclosures as the present. Servicing concerns will diminish as out-of-state lenders and their out-of-state servicers improve their procedures.

Informational Briefing on the 2011 Preliminary Report of the Hawaii Mortgage Foreclosure Task Force

Presentation by Marvin Dang on behalf of Hawaii mortgage lender organizations

January 28, 2011

Page 3

- In considering legislative solutions for foreclosures, the questions that must be asked are: Who are we helping? How do we help them? Who will be hurt by the legislation? Will there be unintended negative consequences?

- The medical adage of "do no harm" seems appropriate in dealing with Hawaii legislative solutions for foreclosures:

- Don't make it harder for Hawaii and out-of-state lenders to collect and foreclose. If the foreclosure process takes longer and becomes more costly and complex because of additional statutory foreclosure requirements, lenders might have to start the foreclosure process sooner for delinquent loans. This change will in turn increase the number of foreclosures. For this reason, Hawaii lenders would oppose mandatory mediation which could unproductively delay the foreclosure process.

- Don't harm Hawaii's economy. Don't harm the mortgage market. Don't make it harder for future borrowers get loans because of additional statutory foreclosure requirements which can result in borrowers having to pay higher interest rates and being required to make a larger down payment (such as 30%) so that there is a lower loan-to-value ratio (such as 70%).

- Legislative solutions in other states should not automatically be copied for Hawaii. Hawaii's unique situation is different from that in other states.

- Non-legislative solutions to foreclosure issues should be considered. For example, the Neighborhood Assistance Corporation of America ("NACA"), a HUD-certified counseling agency, describes on its website a "Save the Dream Tour". Here's the link: https://www.naca.com/index_main.jsp. According to the NACA website:

"These events are the most effective and the only viable solution for large numbers of homeowners with an unaffordable mortgage. No where else can homeowners can meet with their Lender/Servicer to address their personal circumstances and get a same day solution. Hundreds of thousands of participants have participated at NACA's Save-the-Dream events nationwide with over 30,000 people at each one. Thousands of homeowners received same day solutions with many having their interest rates permanently reduced to 4%, 3%, and 2% and in some also having their outstanding principal reduced. Homeowners saved hundreds of dollars a month and some over a thousand dollars. NACA provides the most effective long-term solutions because it has secured legally binding agreements with all the major servicers/lenders and the major investors (i.e. Fannie Mae and Freddie Mac) which cover approximately 90% of the country's

Informational Briefing on the 2011 Preliminary Report of the Hawaii Mortgage Foreclosure Task Force

Presentation by Marvin Dang on behalf of Hawaii mortgage lender organizations

January 28, 2011

Page 4

at-risk homeowners. NACA has established the national standard in providing long-term affordable solutions for at-risk homeowners - All of NACA's services are FREE."

Such an event in Hawaii, organized by NACA or another other entity, would have the benefit of Hawaii borrowers meeting face-to-face with their out-of-state lenders and servicers to discuss loan modifications.

B. Hawaii mortgage lenders support the recommendations of the Mortgage Foreclosure Task Force.

Hawaii mortgage lenders support the recommendations in the Task Force Report. The approaches taken by the recommendations are consistent with the above-stated views and perspective of Hawaii mortgage lenders regarding foreclosures. The recommendations to the legislature provide meaningful improvements to the non-judicial foreclosure process. Where existing law is silent regarding certain steps and procedures in the non-judicial foreclosure process, the Task Force recommendations provide substance. These recommendations benefit both lenders and borrowers.

The following summarizes the recommendations and gives the lenders' comments about how the recommendations compare to the current non-judicial foreclosure law:

1. Amend Hawaii Revised Statutes Section 667-5, on foreclosures under power of sale (non-judicial foreclosure), to:

a. Require that the notice of intent to foreclose be served, not less than twenty-one days before the date of sale, on all persons entitled to notice under HRS Chapter 667 in the same manner as the service of a civil complaint under HRS Chapter 634, on civil actions and proceedings, and the Hawaii Rules of Civil Procedure.

Lenders' comment: The existing law is silent.

b. Prohibit a mortgagee who completes a foreclosure upon a mortgage on residential property from subsequently pursuing or obtaining a deficiency judgment against certain owner-occupants of that residential property; but

i. Provides that the completed foreclosure upon a mortgage on that residential property does not prohibit any subordinate lienholders whose liens are extinguished by the foreclosure sale from pursuing a monetary judgment against those certain owner-occupants.

Lenders' comment: The existing law is silent.

2. Amend Part I of HRS Chapter 667 to:

a. Authorize an owner-occupant of residential property that is being foreclosed upon non-judicially to convert the action into a judicial foreclosure, under specified conditions, beginning with the filing of a complaint with the appropriate circuit court; but

i. Provides that the authorization to convert the action into a judicial foreclosure does not apply to non-judicial foreclosures of association liens that arise under a declaration filed pursuant to HRS Chapters 514A or 514B;

b. Require certain information to be included in the complaint; and

c. Require that if a notice of intent to foreclose non-judicially relates to property that is improved and used for residential purposes, the notice of intent to foreclose non-judicially shall contain a statement to notify the owner-occupant of the right of conversion.

Lenders' comment: The existing law does not have such a procedure.

3. Request the Judiciary to consider creating and adopting a form for the conversion complaint.

Lenders' comment: The existing law does not have such a procedure.

4. Amend Part I of HRS Chapter 667 to:

a. Authorize the foreclosing mortgagee or lienor to record a copy of the notice of intent to foreclose with the Land Court or the Bureau of Conveyances; and

b. Give the recorded copy of the notice the same effect as a notice of pendency of action in a civil action.

Lenders' comment: The existing law is silent.

5. Amend HRS Section 501-151, on the recording of notices of pending actions, to authorize the recording in the Land Court system of a notice of intent to foreclose.

Lenders' comment: The existing law is silent.

6. Amend part I of HRS Chapter 667 to specify that, for a non-judicial foreclosure,

Informational Briefing on the 2011 Preliminary Report of the Hawaii Mortgage Foreclosure Task Force

Presentation by Marvin Dang on behalf of Hawaii mortgage lender organizations

January 28, 2011

Page 6

the mortgagor's interest shall be extinguished upon the recordation of the affidavit in the Bureau of Conveyances or in the Office of the Assistant Registrar of the Land Court, as the case may be, within thirty days of the date of sale.

Lenders' comment: The existing law is silent.

C. Hawaii mortgage lenders recommend that the following two additional issues be addressed in the 2011 legislature.

There are two additional issues that Hawaii mortgage lenders believe should be addressed by the 2011 legislature:

1. The first issue relates to the Task Force recommendation which is described in item 1(b) in Section B, above, relating to deficiencies against an owner-occupant after a non-judicial foreclosure sale. As drafted in the proposed legislation accompanying the Task Force recommendation (see page 22 of the Task Force Report), if an owner-occupant who is being foreclosed on has "a fee simple or leasehold ownership interest in any other residential real property", the foreclosing lender can pursue or obtain a deficiency judgment against that person.

That provision is unduly restrictive. Mortgage lenders should be allowed to also pursue an owner-occupant for a non-judicial foreclosure deficiency if that person owns any non-residential property (e.g. commercial property, etc.).

The legislation should delete the word "residential". The phrase should read: "a fee simple or leasehold ownership interest in any other real property".

2. A second issue was brought to the attention of the Task Force at its October 12, 2010 meeting involving locations where non-judicial foreclosure auctions can and cannot be conducted. The information regarding this issue are part of the Task Force Report (see page 25 and the related attachments).

Judicial foreclosure auctions and non-judicial foreclosure auctions in the State have usually been held at court locations. On the Big Island, they have been held at a State building (Hilo) and a public park (Kona). Late last year, the Department of Accounting and General Services stated that it would not allow foreclosure auctions at the State building in Hilo. The Judiciary took the position that it will not approve the use of any court facilities in the entire State for the purpose of conducting non-judicial foreclosure auctions. The Judiciary was concerned that the public would be confused about whether or not non-judicial foreclosures are court-sanctioned. In Hilo, there is an additional issue of whether the non-judicial foreclosure auctions can be conducted on public sidewalks adjacent to court buildings and other State buildings.

This issue, which was not voted on by the Task Force, is urgent enough that it needs to be addressed legislatively this session to codify what has been a general practice. Unless this problem is corrected, non-judicial foreclosure auctions might have to take place at numerous, inconvenient locations. This could discourage members of the public who would want to attend and bid at the

**Informational Briefing on the 2011 Preliminary Report of the Hawaii Mortgage
Foreclosure Task Force**
Presentation by Marvin Dang on behalf of Hawaii mortgage lender organizations
January 28, 2011
Page 7

auctions. It is in the interest of both the lenders and the borrowers to have members of the public bidding at non-judicial foreclosures.

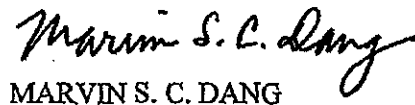
The legislative wording to correct this problem is simple. It should state that the auction, i.e. the public sale, should be allowed to take place at a court building in the county where the property is located, subject only to reasonable conditions on the time, place and manner of the public sale. However, if the borrower, the mortgagor, and the foreclosing lender (mortgagee) all agree, the public sale may be held at a court building in a different county in the State.

D. Remaining issues from the point-of-view of Hawaii's mortgage lenders.

Hawaii lenders support the Task Force recommendation that other issues, including possible revisions to the alternate power of sale statute (Part II of HRS Chapter 667), be addressed by the Task Force. The Task Force can then make any recommendations on these other issues in its Final Report to the 2012 legislature.

* * *

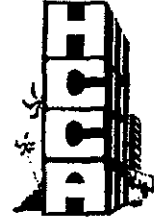
Thank you for allowing me to share with you the views of the Hawaii mortgage lenders on the Task Force.


MARVIN S. C. DANG



**Hawaii Council of Associations
of Apartment Owners
DBA: Hawaii Council of Community Associations**

P.O. Box 726, Aiea, HI, 96701
Tel: 485-8282 Fax: 485-8288 HCAAO@hawaii.rr.com



January 31, 2011

Sen. Rosalyn H. Baker, Chair
Sen. Brian Taniguchi, Vice-Chair
Senate Committee on Commerce and Consumer Protection

Re: SB 652 and SB 1074 Relating to Mortgage Foreclosures (Task Force)
Hearing: Wednesday, Feb. 2, 2011, 8:30 a.m., Conf. Rm. #229

Chair Baker, Vice-Chair Taniguchi and Members of the Committee:

I am Jane Sugimura, President of the Hawaii Council of Associations of Apartment Owners (HCAAO) and I am a member of the mortgage foreclosure task force.

HCAAO supports these two bills with one change:

1. In Bill 652 at page 11 line 16 and at page 18 line 9, the word "residential" should be deleted. These provisions relate to the waiver of the lender to pursue a deficiency judgment. The lender group on the task force agreed to waive their right to pursue a deficiency judgment against an owner-occupant who had no other property but would insist on their right to obtain a deficiency judgment against an owner-occupant who had other real property, i.e., investment, commercial or industrial property. Accordingly, the word "residential" was not consensus language and should be deleted.
2. In Bill 1074 at page 10 line 10 and at page 17 line 4, the word "residential" should be deleted. These provisions relate to the waiver of the lender to pursue a deficiency judgment. The lender group on the task force agreed to waive their right to pursue a deficiency judgment against an owner-occupant who had no other property but would insist on their right to obtain a deficiency judgment against an owner-occupant who had other real property, i.e., investment, commercial or industrial property. Accordingly, the word "residential" was not consensus language and should be deleted.

SB 652 and SB1074 Re Mortgage Foreclosures (Task Force Recommendations)
Senate Committee on Commerce and Consumer Protection
January 31, 2011
Page 2 of 2

Thank you for the opportunity to testify.


Jane Sugimura
President



P.O. Box 976
Honolulu, Hawaii 96808

January 31, 2011

Honorable Rosalyn H. Baker
Honorable Brian Taniguchi
Commerce and Consumer Protection
415 South Beretania Street
Honolulu, Hawaii 96813

Re: SB 1074/COMMENTS

Dear Chair Baker, Vice-Chair Taniguchi and Committee Members:

I chair the CAI Legislative Action Committee. CAI supports aspects of SB 1074, with qualifications.

The proposed Section 667-B(b) explicitly provides that "This section shall not apply to nonjudicial foreclosures of association liens that arise under a declaration filed pursuant to chapter 514A or 514B." CAI greatly appreciates this explicit recognition that condominiums are different from mortgagees.

CAI also notes the effort to narrowly tailor the bill to certain owner-occupants. It might be prudent to further prescribe a requirement that the tax assessed value of the unit be greater than the amount of the liens on the unit before the conversion option can be exercised.

Provided that condominiums remain exempt from the conversion process described in the bill, then CAI's comments are limited. For example, it may be prudent to amend the notice prescribed in Section 667-D(a) to note that the conversion option does not apply to nonjudicial foreclosures of association liens.

CAI very much supports efforts to provide for recordation and/or filing in land court of notices of sale, with similar effect as a notice of pendency of action. That change is welcome.

Honorable Rosalyn H. Baker
Honorable Brian Taniguchi
January 31, 2011
Page 2 of 2

Section 4 of SB 1074 amends Section 667-3. If the legislature chooses to move this bill forward, CAI asks that the language about extinguishing junior liens be amended to take account of the surviving lien provided for in Hawaii Revised Statutes Section 514B-146(g) and (h). The longstanding requirement that a purchaser (other than a mortgagee) pay up to six months' worth of delinquent condominium assessments should be preserved.

Parenthetically, CAI also advocates for elimination of the current \$3,600 cap on that lien. That cap is the subject of other bills.

Section 5 of SB 1074 prevents deficiency judgments following the completion of a non-judicial foreclosure. As written, condominiums are not exempt from that prohibition.

As a matter of practice, condominiums often forego pursuit of deficiency judgments following completion of non-judicial foreclosures. This is so for many reasons.

For example, condominiums often choose the non-judicial foreclosure option because an owner has abandoned the unit and cannot be found or is in another jurisdiction. The economics of pursuing a deficiency judgment may also be a factor militating in favor of letting the matter end with the foreclosure itself.

CAI does wish to note, however, that other consumers pay for the defaults of owners who fail to meet their obligations to the association. The loss of any remedy is significant.

Section 6 of SB 1074 amends H.R.S. Section 667-8. CAI supports this change.

Nothing herein should be construed as support for the conversion option, especially when an owner lacks equity. The consequence of becoming exposed to a deficiency judgment is essentially meaningless, because any owner against whom a large deficiency judgment is entered is likely to go bankrupt. The practical effect of the conversion, then, would be to add substantial time and expense to the foreclosure process.

Very truly yours,


Philip S. Nerney



Mortgage Bankers Association of Hawaii
P.O. Box 4129, Honolulu, Hawaii 96812

January 31, 2011

The Honorable Rosalyn H. Baker, Chair and
Members of the Senate Committee on
Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

Re: Senate Bill 1074 Relating to Mortgage Foreclosures

Chair Baker and Members of the Senate Committee on Commerce and Consumer
Protection:

I am Rick Tsujimura representing the Mortgage Bankers Association of Hawaii ("MBAH"). The MBAH is a voluntary organization of real estate lenders in Hawaii. Our membership consists of employees of banks, savings institutions, mortgage bankers, mortgage brokers, and other financial institutions. The members of the MBAH originate the vast majority of residential and commercial real estate mortgage loans in Hawaii. When, and if, the MBAH testifies on legislation, it is related only to mortgage lending.

The MBAH opposes Senate Bill 1074 Relating to Mortgage Foreclosures. The Mortgage Bankers Association of Hawaii strongly feels that these bills relating to the matter of foreclosures should be vetted as part of the mortgage foreclosure task force since both consumer and lender groups are represented and can work on the details of each bill to come to a consensus. We feel that the bills, as presented, have merit but include processes which may potentially cause harm to consumers and lenders.

Thank you for the opportunity to present this testimony.

**SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION**

February 2, 2011

Senate Bill 1074 Relating to Mortgage Foreclosures

Chair Baker and members of the Senate Committee on Commerce and Consumer Protection, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders.

State Farm is requesting an amendment to SB 1074 Relating to Mortgage Foreclosures, by inserting language which would inform insurers of the event of foreclosure. Specifically we are requesting the words, "and the property insurer" to be inserted in section 667-C(4) following the words, "obligors and guarantors" on page 7, line 20 and on page 8, line 10 following the words, "filing party".

State Farm is seeking the same type of notice that it provides lending institutions when policies are terminated. Your favorable consideration of this amendment is appreciated.

Thank you for the opportunity to present this testimony.

Testimony for CPN 2/2/2011 8:30:00 AM SB1074

Conference room: 229
Testifier position: oppose
Testifier will be present: No
Submitted by: Al Denys
Organization: Individual
Address:
Phone: 306-9180
E-mail: adenys@hawaii.rr.com
Submitted on: 1/31/2011

Comments:

I am against SB 1074 as it will preclude community associations from trying collect delinquent fees from homeowners and will increase the maintenance fees from those homeowners who are in good standing because of the added expense in collecting those delinquent fees. Also the shortcoming in collected maintenance fees revenues, which are used to pay for the maintenance of the property will result in higher maintenance fees to pay for the day to day operations of the association. Please do not approve SB1074 Mahalo.

Al Denys

Senator Baker,

I am a Board member and long time owner at Kamole Beach Royale in Kihei.

I am writing in opposition to all legislation currently being considered which makes the collection of delinquent dues or other assessments more difficult, or impossible.

Legislative efforts have all been in the direction of providing a “break” or easing the burden for a person in trouble with their unit. But when this happens the burden is shifted to the others owners, who themselves may just be “holding on”.

Associations do not have a well of money to draw from. All the money we receive is from owners and is used to maintain the facility, take out the garbage, pay the light bill and many others, as well as to maintain the State Mandated Reserves. Board members volunteer their time and incur personal expenses.

THERE IS NO EXTRA MONEY for the Association to draw from. If someone does not pay their share the other owners need to make it up – it’s that simple. In other states, like Florida, where the foreclosure rate in some cases is 30% – 50% the remaining owners cannot pay the share of others and the whole process feeds on itself to put more people into trouble.

I sincerely and respectfully urge you to consider the real Impact on Associations and listen to organizations such as CAI and management Companies who understand the issues and problems with operating Condo’s.

Respectfully Submitted,

George Jacobson

Currently off Island 509-546-1754

Testimony for CPN 2/2/2011 8:30:00 AM SB1074

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: GARY M. YAKABU

Organization: Individual

Address:

Phone:

E-mail: gmyak@hawaiiantel.net

Submitted on: 1/31/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB1074

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Tim Baier

Organization: Pearl Regency Home Owners Association

Address: Aiea, HI

Phone:

E-mail: timlid.baier@att.net

Submitted on: 1/29/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB1074

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Timothy Baier

Organization: Individual

Address:

Phone:

E-mail: timlid.baier@att.net

Submitted on: 1/29/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB1074

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: John E Patton

Organization: Individual

Address: WAILUNA CONDO COMMUNITY Aiea

Phone:

E-mail: jpatton@uci.edu

Submitted on: 1/30/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB1074

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Gordon Langston

Organization: Individual

Address:

Phone:

E-mail: flashgordon10t@aol.com

Submitted on: 1/28/2011

Comments:

Member of the board of directors at Kahana Reef and I oppose the legislation.

Testimony for CPN 2/2/2011 8:30:00 AM SB1074

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Glen Hilton

Organization: Individual

Address:

Phone:

E-mail: glenhilton2@netscape.net

Submitted on: 1/31/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB1074

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Earl Park

Organization: Individual

Address: 75-6009 Alii Dr., Unit H-2 Kailua Kona, Hawaii

Phone:

E-mail: parkj052@hawaii.rr.com

Submitted on: 1/29/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB1074

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: JOE ALMEIDA

Organization: Individual

Address: 94-314 MAIAOHE PLACE

Phone: 623-7991

E-mail: J55547@AOL.COM

Submitted on: 1/31/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB1074

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Jim Dodson

Organization: Ewa by Gentry Community Association

Address: 91-1795 Keaunui Drive Ewa Beach

Phone: 808 685-0111

E-mail: jdodson@ebgca.net

Submitted on: 2/1/2011

Comments:

Hawaii is a "prior lien theory" state. This law will negatively impact every common interest development in the state and seeks to discriminate against a single class of ownership.