

**IMANAKA
KUDO &
FUJIMOTO**

A Limited Liability Law Company

April 1, 2011

Mitchell A. Imanaka
Benjamin A. Kudo
Wesley M. Fujimoto
Jon M.H. Pang
Richard T. Asato, Jr.
Naomi U. Kuwaye

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Committee on Consumer Protection & Commerce
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

**Re: Testimony on SB 1483, SDI, HD1 Relating to Hawaii Revised
Statutes Section 514B-153(e)
Monday, April 4, 2011, Conference Room 325, 2:00 pm**

Nikki T. Senter
Ryan E. Sanada
Nina L. Takamori
Owen T. Iida
Yuko Funaki

Dear Chair Herkes, Vice Chair Yamane and Members of the Committee:

Our office represents Consolidated Resorts Management, LLC. Please permit us to submit this testimony **IN SUPPORT** of the captioned measure. This measure seeks to clarify that the requirement that the managing agent, resident manager, or board of a condominium project (collectively, the "**Condominium Management**") maintain accurate and current list including names and addresses of association members *does not require* that they also maintain a list of individual time share owners within the project.

Membership lists are utilized by Condominium Management for the purpose of sending notices of meetings and other information to condominium unit owners. It may also be obtained by condominium unit owners for the purpose of soliciting proxies or providing information to other unit owners with respect to association matters.

Where there is a time share plan within a condominium project, current practice is to list the plan manager of the time share plan as a representative for all time share owners and to send any notices to the plan manager. Under Section 16-106-12 of the Hawaii Administrative Rules, the plan manager is required to keep an accurate and current list of the names and addresses of the time share association. Section 16-106-12 additionally charges plan managers with the management and maintenance of the time share units, including assessment and collection of maintenance fees, supervision and enforcement of the house rules of the project, and providing statements of receipt and expenditures to the time share owners.

Requiring Condominium Management to also maintain a list of all time share owners would create a significant additional duplicative burden on Condominium Management and would cause Condominium Management to incur unnecessary additional expenses which would be borne by all condominium unit owners. Each condominium unit submitted to a time share plan may have between 52 and 104 separate owners, greatly increasing the scope of the list maintained by Condominium Management and the mailing cost of any notices. Moreover, time share interests are highly alienable, and accordingly transfers of such interests would need to be actively monitored by the Condominium Management to keep ownership lists current.

Of Counsel

R. Brian Tsujimura

Perfecto R. Yasay, Jr. *

* admitted to practice only in
New York and Philippines,
Former Chairman
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Commission, Republic of the
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Hon. Mario R. Ramil

Former Associate Justice
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Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
April 1, 2011
Page 2

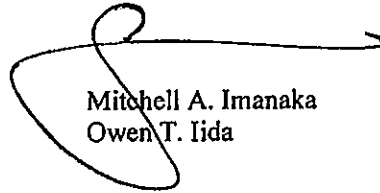
Passage of the proposed measure is consistent with current practice and would create no adverse impact on time share unit owners. As discussed above, because plan managers already undertake maintenance of ownership lists and notices to time share owners, requiring Condominium Management to do the same would be superfluous.

Note that the proposed measure permits time share owners to elect to be included in the membership lists maintained by Condominium Management, if they so desire.

For the foregoing reasons we ask that the foregoing measure be passed. Thank you very much for your consideration.

Very truly yours,

IMANAKA KUDO & FUJIMOTO

A handwritten signature in black ink, appearing to be 'Mitchell A. Imanaka', written over a large, stylized loop.

Mitchell A. Imanaka
Owen T. Iida

April 1, 2011

TO: Committee on Consumer Protection & Commerce
Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice-Chair

FROM: Glenn T. Stockton II
Board Member
Multiple Hawaii Condominium Associations With A Timeshare Overlay

DATE: April 4, 2011
Conference Room 325
2:00 p.m.

RE: SB1483 SD1 HD1, Relating To Hawaii Revised Statutes Section 514b-153(e)

Chair Herkes, Vice-Chair Yamane and Members of the Committee:

I STRONGLY SUPPORT SB 1483 SD1 HD1, which exempts a condominium association from maintaining records for individual time share owners, when the project or units in the condominium project are subject to a time share plan under chapter 514E, Hawaii Revised Statutes, unless the individual time share owner requests that the condominium association maintain the owner's name and address in the condominium association's records.

The primary purpose of SB 1483 SD1 HD1 is to clarify existing law by allowing condominium associations to continue their long-standing practice of listing the name and address of the timeshare plan [or its plan manager] for each condominium unit dedicated to a timeshare plan. SB 1483 SD1 HD1 is consistent with other laws involving condominium associations units dedicated to timeshare. For example, real property taxes and transient accommodation/occupancy taxes attributable to timeshare units have always been assessed against, and collected from, the timeshare plan [or its plan manager] rather than the individual timeshare owners of each unit. **My condominium associations do not need (or want) to keep track of thousands of timeshare owners! As such, I respectfully ask that you PASS this measure with the defective date removed so that it takes effect upon its approval.**

It is also worth noting that failure to clarify existing law can lead to unintended [and absurd] interpretations of existing condominium law, the effects of which would significantly increase the burdens and operational expenses of condominium associations¹. For example, if individual timeshare owners are included on the association's membership list, the association may be required to send a copy of all meeting minutes and required notices to each individual timeshare owner.

Thank you.

¹ If a condominium unit is divided into 52 weeks and sold at 1/52 intervals (every year timeshare plans) or at 1/104 intervals (every-other-year timeshare plans), the inclusion of individual timeshare owners on an association's membership list will increase operation costs tied directly to the membership list by anywhere from 520% to 1040% per unit.



April 1, 2011

Email CPCtestimony@capitol.hawaii.gov

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Committee on Consumer Protection & Commerce
Hawaii State Capitol

RE: SB1483, SD1, HD1

Dear Representatives Herkes and Yamane:

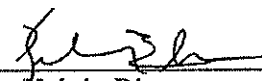
My name is Kelvin Bloom. I am the Manager and President of Aston Hotels & Resorts, LLC ("Aston"). Aston is in support of SB1483, SD1, HD1 and requests that you pass the proposed legislation.

The proposed measure allows a condominium association with units subject to a time share plan under Chapter 514E, Hawaii Revised Statutes, to maintain in its records the name and address of the time share association as the representative agent for the individual time share owners in lieu of the names and addresses of each individual time share owner, unless the individual time share owner requests that the condominium association maintain the individual owner's name and address in the condominium records. Each condominium association may still decide on its own whether it is advantageous or not to maintain the names and addresses of each individual owner, but would only be required to maintain the name and address of the time share association as a representative agent for the time share unit. The proposed measure is a valuable tool to minimize administration costs to condominium associations consisting of both whole units and time share units.

Accordingly, I hereby request that you pass SB1483, SD1, HD1.

Sincerely,

ASTON HOTELS & RESORTS, LLC

By 
Kelvin Bloom
President and Manager

March 31, 2011

TO: Committee on Consumer Protection and Commerce
Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair

FROM: Kevin J. Blair
Board Member
Various Hawaii Condominium Associations

DATE: April 4, 2011
Conference Room 325
2:00 p.m.

RE: SB1483, Relating To Hawaii Revised Statutes Section 514b-153(e)

Chair Herkes, Vice Chair Yamane and Members of the Committee:

I am providing this letter to strongly support SB 1483 which will exempt condominium associations from maintaining records for individual time share owners unless the individual time share owner requests that the condominium association maintain the owner's name and address in the condominium association's records. The five Hawaii condominium associations in which I am a Board member have units that are subject to a time share plan under chapter 514E, Hawaii Revised Statutes. These condominium associations have for many years listed the name and address of the timeshare plan or its plan manager for each condominium unit dedicated to a timeshare plan. As such, I respectfully ask that you pass this measure to allow condominiums to continue this practice.

By passing this measure, SB 1483 will become consistent with other Hawaii laws that pertain to projects that have both condominium and timeshare plans. As an example, the individual timeshare owners are not assessed real property taxes or transient occupancy taxes rather these items are assessed against, and collected from, the timeshare plan or its plan manager.

Most importantly, SB 1483 would save condominium associations significantly in terms of costs as the condominium associations could continue to provide notice to the timeshare plan or its plan manager instead of each individual members of the timeshare plan. If required to notice all timeshare members, the increased cost to an association would be 52 to 104 times for each condominium unit that is in the timeshare plan for each mailing.

Accordingly, I hereby request that you pass SB 1483.

Thank you.

Kevin J. Blair



P.O. Box 976
Honolulu, Hawaii 96808

March 31, 2011

The Honorable Robert N. Herkes, Chair
Committee on Consumer Protection & Commerce

RE: BILL: SB1483, SD1, HD1
DATE: April 4, 2011
TIME: 2:00 p.m.
PLACE: Conference Room 325

Dear Representative Herkes and Members of the Committee:

This testimony is submitted on behalf of the Hawai'i Legislative Action Committee of the Community Associations Institute ("CAI"). CAI is a non-profit national and statewide organization whose members include condominium associations, planned community associations, residential cooperatives, homeowners, managing agents, and others involved in creating, managing, servicing, and living in common interest communities.

CAI supports this Bill for numerous reasons. In general, the Bill will save condominium associations the expense, complications and grief of attempting to obtain a current membership list from the time share associations.

There are many time share associations in condominiums in Hawaii. In many condominiums, there are several time share associations adding to the burden of the condominium association in sending notices. For example, if there were a condominium association with 100 apartments, 50 of which were time share associations, under current law, the cost to the condominium association (assuming mailing costs were \$1 which I am told is low) would be \$2,550. (50 units x 50 weeks + 50 whole units = \$2,550). If this bill is enacted, the cost to the condominium association would be \$100. It is typical for a condominium association to have to make several mailings in order to achieve quorum and thus the mailing costs quickly escalate. Thus, the impact on the condominium association's budget would be minimized. As you know, the condominium associations in Hawaii face ever increasing budgets – electrical costs, water/sewer costs, insurance premiums, costs of maintenance of the improvements and the landscaping have all significantly increased in recent years. There is no way the Board can control most of those costs. It certainly cannot control the costs of mailing notices.

Time share association plan managers are reluctant to share the names of their members because the sale or resale of time share intervals is a very competitive business. Thus, even though the law and/or the project documents for condominiums already state that the condominium association is entitled to the names, it is typical for the time share association to simply ignore demands for names and addresses. Thus, as a practical matter, most condominium associations with time share association members as members of the condominium association have no effective means to mail the notice to those members. In a few instances, the condominium associations have sought legal relief through the courts or through arbitration; however, that is obviously not a practical means of obtaining the list each year. This is an issue that needs a legislative solution.

Requiring condominium associations to mail notice of the annual meeting to members who are part of a time share association is duplicative. The governing documents of time share associations require that the time share association share the notice of annual meeting of the condominium association with its members. Thus, if the condominium association could find a way to obtain the list from the time share association, the members in the time share plan would receive 2 notices of the annual meeting or other notices required to be given to owners.

Again, CAI believes that this is a problem that can be solved quickly and efficiently by legislation. The Bill provides that if a time share owner wants a copy of the condominium association mailing, he or she must be given the same.

Thank you for the opportunity to submit this testimony. If you have any questions, I can be reached at 697-6006 or by email at jneeley@alf-hawaii.com.

COMMUNITY ASSOCIATIONS INSTITUTE
HAWAII LEGISLATIVE ACTION COMMITTEE

/s/ Joyce Y. Neeley

JOYCE Y. NEELEY

Management Information Consultants

March 31, 2011

Chair: Rep. Robert N. Herkes
Vice-Chair: Rep. Ryan I. Yamane,
Committee on Consumer Protection & Commerce
Hawaii State Capitol, Room 325
415 South Beretania Street
Honolulu, HI 96813

**RE: SB1483 SD1 HD1; Testimony in SUPPORT;
Hearing Date: April 4, 2011 2:00 p.m.; Digitally Signed; Sent via web.**

Aloha Chair Robert Herkes, Vice-Chair Ryan Yamane, and Committee Members:

I'm providing this testimony in my capacity as an experienced professional registered parliamentarian for numerous condominium associations and time-share associations in our state for over 25 years. In this profession, I have served in several capacities such as parliamentarian, professional presiding officer, expert witness/consultant, and advocate for one or more individuals or corporations.

I am pleased to provide testimony in SUPPORT of SB1483 SD1 HD1.

The bill clarifies that condominium associations with a time share association do not have to bear the expensive burden of maintaining separate records for each time share owner.

Many of the owner functions of Hawaii condominiums with time share organizations are already performed by the time share organization directly or through its plan manager.

This duplication of effort is costly to Hawaii's condominium associations. One condominium unit could easily have 100 owners, representing weekly intervals in even or odd years (usually with a couple of reserved weeks for cleaning). Therefore, with a condominium association with 200 units, there could be 20,000 separate time share owners. This duplication becomes even more expensive in condominiums that have mixed time share and whole unit ownership.

The bill provides an additional feature for time share owners that permits them to specifically "opt-in" to have the association maintain a separate record of their ownership.

I SUPPORT this bill and urge you to pass it.

I may be contacted via phone: 423-6766 or by e-mail: steveghi@gmail.com if you have any questions about this bill or my testimony.

Thank you for the opportunity to present testimony.

Sincerely,

Steve Glanstein

Digitally signed by Steve
Glanstein

DN: cn=Steve Glanstein

Date: 2011.03.31 10:30:52 -10'00'

Steve Glanstein, Professional Registered Parliamentarian
President
SG:tbs

April 4, 2011

The Honorable Robert N. Herkes, Chair
House Committee on Consumer Protection & Commerce
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: S.B. 1483, S.D. 1, H.D. 1, Relating to Hawaii Revised Statutes Section 514B-153(E)

HEARING: Monday, April 4, 2011 at 2:00 p.m.

Aloha Chair Herkes, Vice Chair Yamane and Members of the Committee:

I am Myoung Oh, Government Affairs Director of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, testifying on behalf of its 8,500 members. HAR expresses concerns on S.B. 1483, S.D. 1, H.D. 1, which allows a condominium association that includes time share units to exclude information about individual time share owners from the records that the association is required to maintain unless the individual time share owner requests that the association maintain the owner's name and address in the association's records.

HAR understand the intent of the measure to bring efficiencies that can be realized when the associations are allowed to use the time share association name and address in lieu of thousands of names and addresses of individual owners. However, after this bill was introduced it came clear that allowing this exemption will come at the expensive of minority condominium owners in mixed used buildings. Representatives of the condominium owners of one such mixed use property, the Sands of Kahana in West Maui, brought this issue clearly to the fore and we find that their arguments have merit.

Specifically, the minority condominium owners asked to be given the names and home addresses of their neighboring timeshare owners, so that they could communicate with them over property management issues. The timeshare management company refused to cooperate and the question was ultimately litigated in 2nd Circuit Court (Civil No.09 – 1 – 008(1)), with the Court deciding that the management company had to provide membership information to the non-time share minority.

One of the mandates of our association is to stand up for individual property rights. We believe that owners in condominium property must be allowed the ability to communicate with each other over property management issues.

S.B. 1483, S.D. 1, H.D. 1, as currently written, does not address the concerns raised by the minority condominium owners in cases like the Sands of Kahana. This is one of those issues that would benefit from the clarity that time and careful review of the concerns



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raised would provide. Rather than attempting to make a major adjustment to the bill in conference committee, HAR believes that the legislature should allow the findings of the state court to stand in this case and to hold this measure in committee.

Mahalo for the opportunity to testify.

REALTOR® is a registered collective membership mark which may be used only by real estate professionals who are members of the NATIONAL ASSOCIATION OF REALTORS® and subscribe to its strict Code of Ethics.

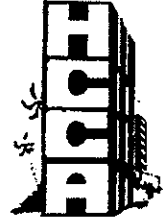




**Hawaii Council of Associations
of Apartment Owners
DBA: Hawaii Council of Community Associations**

P.O. Box 726, Aiea, HI, 96701

Tel: 485-8282 Fax: 485-8288 HCAAO@hawaii.rr.com



April 1, 2011

Rep. Robert Herkes, Chair
Rep. Ryan Yamane, Vice-Chair
House Committee on Consumer Protection & Commerce

Re: SB 1483 Hawaii Revised Statutes Section 514B-153(e)
Hearing: Monday, April 4, 2011, 2 p.m., Conf. Rm. #325

Chair Herkes, Vice-Chair Yamane and Members of the Committee:

I am Jane Sugimura, President of the Hawaii Council of Associations of Apartment Owners (HCAAO).

HCAAO supports the intent and purpose of this bill and urges this committee to remove the defective date and pass it out.

This bill clarifies that managing agents, resident managers or boards, who are required to keep a current list of members of the condominium association and their current addresses, including names and addresses of vendees under an agreement of sale, are not required to include owners of time share interests in such condominium projects.

The current practice is to list whole unit condominium owners and the time share association or plan manager as a representative of all time share owners. Requiring a list of individual time share owners to be maintained by the managing agent, resident manager, or board of the condominium would be administratively burdensome and would increase administrative costs, e.g., if notices had to be mailed to both whole unit owners and time share owners, to the association. Therefore, we urge passage of this bill.

Thank you for allowing me to testify on this bill.


Jane Sugimura