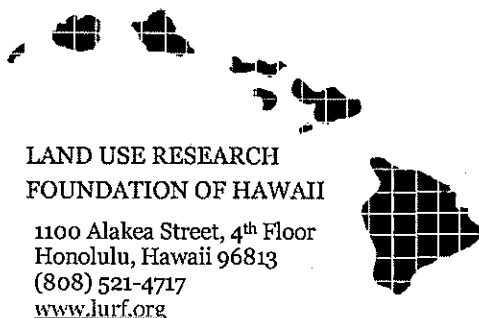


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February 9, 2011

Senator Roslyn H. Baker, Chair and Senator Brian T. Taniguchi, Vice Chair  
Committee on Commerce and Consumer Protection

### **Testimony of the Land Use Research Foundation of Hawaii**

#### **Opposition to SB 39, Creating Notice Requirements for Meetings of Planned Community Associations or their Board of Directors**

**Wednesday, February 9, 2011 at 8:30 a.m. in CR 229**

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to provide testimony **opposing SB 39**, which proposes to create notice requirements for meetings of a planned community association or its board of directors.

**SB 39**. This bill creates notice requirements for meetings of planned community associations, and for meetings of the association's board of directors.

**LURF's Position**. SB 39 requires planned community associations to give advance 14 days' notice of any meeting of the association or the association's board of directors, via process prescribed by this bill. LURF **opposes SB 39** based on the following:

- **The proposed notice requirements are duplicative of requirements for meetings applicable to non-profit corporations pursuant to Hawaii Revised Statutes (HRS) Chapter 414D, and are therefore unnecessary.**

As non-profit corporations, planned community associations, including their board of directors, are governed by the Hawaii Nonprofit Corporations Act, HRS Chapter 414D, which sets forth notice requirements which are efficient and more comprehensive than that imposed by this bill (*See* HRS Sections 414D-15, 414D-105, and 414D-145). According to the provisions of Chapter 414D, the procedures by which notice is issued for planned community association and board of director meetings may also be governed by the association's bylaws. Effective notice requirements for association meetings are thus already covered by the existing law and by association bylaws, making this bill unnecessary.

- **The notice requirements proposed by SB 39 are inconsistent with the requirements contained in HRS Chapter 414D.**

The notice requirements for association meetings proposed by the subject bill are not only duplicative of, but in many respects, conflict with the requirements of HRS Sections 414D15, 414D-105 and 414D-145, including the necessity for notice, the method of notice, the timing of notice, etc., resulting in unnecessary confusion and inconsistency between SB 39, the existing laws, and the provisions of the bylaws of each planned community association.

- **The implementation of notice requirements proposed by SB 39 would be cost-prohibitive for most community associations and their board of directors.**

Given the frequency at which many board meetings are held (generally once per month), LURF understands that the cost of complying with the notice requirements contained in SB 39, including office supplies, postage and staff labor, would be excessive and unaffordable for most planned community associations. Funds derived from maintenance fees and other charges paid by members should more appropriately be used toward items required or desired by the community associations' memberships.

For the above reasons, it appears that there is no justification to warrant the enactment of SB 39. LURF therefore respectfully requests that this bill **be held** in Committee.

Thank you for the opportunity to present our testimony regarding this matter.