

# **SB 638**

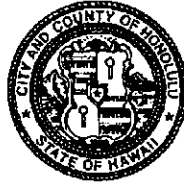
RELATING TO ZONING.

Authorizes an exemption from county zoning-related building restrictions for an increase in floor area of the principal office of a planned community association, subject to conditions.

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

850 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 768-8041  
DEPT. WEB SITE: [www.honolulu.dpp.org](http://www.honolulu.dpp.org) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

PETER B. CARLISLE  
MAYOR



DAVID K. TANOUE  
DIRECTOR

JIRO A. SUMADA  
DEPUTY DIRECTOR

February 3, 2011

The Honorable Donovan M. Dela Cruz, Chair  
and Members of the Committee on Water, Land,  
and Housing  
The Honorable Will Espero, Chair  
and Members of the Committee on Public Safety,  
Government Operations, and Military Affairs  
State Senate  
State Capitol  
Honolulu, Hawaii 96813

Dear Chairs Dela Cruz, Espero, and Members:

**Subject: Senate Bill HB 638  
Relating to Zoning**

The Department of Planning and Permitting (DPP) **opposes** Senate Bill No. 638, which amends Chapters 421J ("Planned Community Associations") and 46, Hawaii Revised Statutes (HRS), to exempt expansion of planned community association ("PCA") offices, whether by additions or reconstruction, from county zoning regulations. The bill would exempt the principal offices occupied by these associations from use regulations and development standards for the underlying zoning district in which the facility is located, including governing height limits, yard setbacks, lot coverage, density, and use restrictions. Thus, Senate Bill No. 638 further limits county zoning power and essentially grants zoning "carte blanche" to one special interest group.

The DPP commends PCAs for the private maintenance and design review functions they perform for their communities. However, we see no overriding State interest in exempting this particular office use from county zoning. If the board of directors of a PCA believes current zoning regulations are too restrictive as applied to their office uses, they may avail themselves of the county's legislative process to amend the zoning code. For example, although the DPP does not support the proposal, the City Council will be considering a proposed bill to amend the zoning code to include office facilities used exclusively for the management and operation of homeowners associations as a meeting facility use. In the City and County of Honolulu, a zoning variance is another alternative when there are special circumstances which meet City Charter provisions.

Typically, these PCAs are part of master planned communities in which the master plan designates areas for general commercial and industrial uses, institutional uses, and recreational areas in addition to the planned residential uses, with an estimated number of dwelling units at

The Honorable Donovan M. Dela Cruz, Chair  
and Members of the Committee on Water, Land,  
and Housing

The Honorable Will Espero, Chair  
and Members of the Committee on Public Safety,  
Government Operations, and Military Affairs

State Senate

Re: Senate Bill No. 638

February 3, 2011

Page 2

full build-out. Thus, the need for additional office space for association PAC offices should be planned and incorporated into the master plans and grown on a site, not added as after-the-fact, large principal office uses that could detrimentally impact adjacent low-density residential neighborhoods with increased traffic, noise, and building bulk, which are uncharacteristic of the neighborhood. Also, sometimes the original association office is part of a community or recreational center which is constructed to comply with park dedication requirements. Allowing significant and unchecked expansion of these offices would be contrary to the park purposes of these facilities and eliminate essential community recreation space.

Chapter 46-4, HRS, grants zoning power to the counties to implement the counties' general and development plans and authorizes county councils to prescribe rules, regulations, and administrative procedures to exercise their zoning power. The bill infringes on county home rule.

We request that you file Senate Bill No. 638.

Very truly yours,



David K. Tanoue, Director  
Department of Planning and Permitting

DKT:jmf

sb638-Zoning-ec.doc



P.O. Box 976  
Honolulu, Hawaii 96808

January 31, 2011

Honorable Will Espero  
Honorable Michelle Kidani  
Public Safety, Government Operations, and Military Affairs  
Honorable Donovan M. Dela Cruz  
Honorable Malama Solomon  
Water, Land, and Housing  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: SB 638/SUPPORT  
Date: Thursday, February 3, 2011  
Time: 3:30PM  
Place: Conference Room 229

Dear Chairs Espero and Dela Cruz, Vice-Chairs Kidani and Solomon and Members:

My name is Eric M. Matsumoto and I am a member of the Hawaii Legislative Action Committee of the Community Association Institute ("CAI"). CAI is a non-profit national and statewide organization whose members include condominium associations, planned community associations, residential cooperatives, managing agents, and others involved in creating, managing, servicing, and living in common interest communities.

CAI supports the bills intent for the following reasons:

First, planned community associations (PCAs), as a matter of common practice, have been in such instances when provided, recreation centers for the purpose of conducting both recreational activities and administrative functions for the associations' operations. As such, no common areas or facilities are provided that are zoned for commercial use in order to operate the administrative functions. As a result, PCAs are forced to conduct business in a recreation zoned facility.

Honorable Will Espero  
Honorable Donovan Dela Cruz  
Honorable Michelle Kidani  
Honorable Malama Solomon  
January 31, 2011  
Page 2 of 2

Second, as PCAs are developed over a period of time, the number of houses built and turned over is constantly increasing until build-out. With more units added, services and staffing needs increases, necessitating additional space to house the staff and equipment; offices and meeting spaces.

Given the needs identified above, the process requires:

Getting variances to increase the space needed; or

Getting the site zoned for commercial activities; or

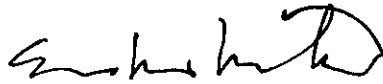
Renting space in a commercial area outside of the common areas owned by the association.

In each of the first two instances, the associations are required to go through a costly, time-consuming process that involves two steps; getting approval for either a variance or zoning change, followed by getting the building permit.

In the third instance, it is inefficient and an unnecessary cost driver for the membership to rent commercial space where rents would have to be paid year after year, and especially when associations already have the property ownership on which to construct the needed space.

As a means to have the needs of PCAs addressed in a more time and cost effective manner, this measure provides such an avenue and we support its intent.

Very truly yours,



Eric M. Matsumoto

February 2, 2011

David O'Neal  
94-1038 Kaiamu Street  
Waipahu, HI 96797

Senator Will Espero, Chair  
Senator Michelle Kidani, Vice Chair  
Members of PGM Committee  
Senator Donovan Dela Cruz, Chair  
Senator Malama Solomon, Vice Chair  
Members of WLH Committee

Re: Testimony in SUPPORT of SB638, Relating to Zoning

Dear Chairs Espero and Dela Cruz, Vice Chairs Kidani and Solomon, and PGM and WLH Committee Members:

The Royal Kunia Community Association (RKCA) just had a grand opening of our just completed (and only) Community Center. Housed in the Center is a small office for the Association staff. This office was what the developer provided, and at this point in time, the office will adequately meet the needs of RKCA and the less than 2000 homes it serves.

Beginning within the next year or so, the community of Royal Kunia will eventually more than double in size, with the addition of the 2000+ residences in the final stages of planning, to be built by Stanford Carr Development. Those 2000+ residences will become part of RKCA, and it is within reason to expect that the increased Association membership will require increased staffing. At that point we may well find ourselves in need of a larger office space.

Under current regulations, if we had a need to add an addition to our Community Center for additional office space, we would have to apply for a variance and a zoning change, which would be both costly and time consuming to RKCA as well as State and City agencies.

Considering that the for-profit developers are going to build the smallest facility they can get away with, the Associations are really at their mercy and have to accept what is built for them. Because Associations are not-for-profit businesses, and exist only to serve their members, it makes sense that they be allowed to construct or renovate office space on their own property without having to acquire additional variances and zoning changes.

I humbly ask for your unanimous support of SB638, and hope it will pass out of your Committees.

Sincerely,

David O'Neal  
Waipahu Neighborhood Board Member, Sub-District 1  
Royal Kunia Community Association Government Affairs Chair

**Dane Wicker**

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 01, 2011 9:35 AM  
**To:** WLH Testimony  
**Cc:** jdodson@ebgca.net  
**Subject:** Testimony for SB638 on 2/3/2011 3:30:00 PM

Testimony for WLH/PGM 2/3/2011 3:30:00 PM SB638

Conference room: 224  
Testifier position: support  
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](mailto:jdodson@ebgca.net)  
Submitted on: 2/1/2011

**Comments:**

Common Interest Developments are the major and primary source of housing in the country. As needs arise, capital funds may be needed to be used to provide additional office space to operate the affairs of the community.