

SB 714

Measure Title: RELATING TO RESIDENTIAL REAL PROPERTY.

Report Title: Condominiums; Residential Real Property; Planned Community

Description: Requires that condominium property managers, associations of apartment owners, and planned community associations make association documents available to owners and their respective agents under reasonable terms and for reasonable costs.

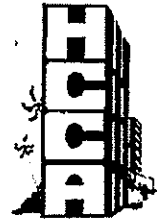
Companion: HB581

Package: None

Current Referral: CPN



**Hawaii Council of Associations
of Apartment Owners**
DBA: Hawaii Council of Community Associations
P.O. Box 726, Aiea, HI, 96701
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February 19, 2011

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

Re: SB 714 Relating to Residential Real Property [documents]
(Testimony in support of amendments to companion bill HB581 HD1)
Hearing: Wed., Feb. 23, 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).

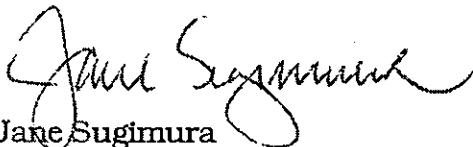
We agree with the amendments to the companion Bill HB 581 HD1 and we urge that the same changes be made and reflected in a Senate Draft 1 or, in the alternative, this Committee can await crossover of the House version.

The changes that are reflected in the companion House Bill 581 HD1 are as follows:

- In section 1 at page 1, lines 9-10, delete the words “. . . or on twenty-four-hour loan subject to reasonable terms of access”
- At page 1, lines 17 -18. Replace “company, and accessible to the public at no charge” with “company, if available and accessible to the members.”
- At page 2, lines 16-18. Subsection (1) will now read “For review during normal business hours”.
- At page 3, lines 3-5. Subsection (3) will now read “In electronic form through a website, maintained by the property management company, if available and accessible to the unit owners. . . .”

- At page 4, lines 6-9, in subsection (1) delete the words “. . . and subject to reasonable terms of access at a location designated by the association on the island on which the association’s property is located”
- At page 4, lines 16-17, replace “. . . and accessible to the public at no charge.” with “, if available and accessible to the owners.”
- At page 4, line 22. Subsection (1) will now read “For review during normal business hours”.
- At page 5, lines 14-15, replace “. . . and accessible to the public at no charge.” with “, if available and accessible to the owners.”
- At page 8, line 14-16. Subsection (1) will now read “For review during normal business hours; and”.

Thank you for the opportunity to testify.


Jane Sugimura
President



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February 23, 2011

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

RE: S.B. 714, Relating to Residential Real Property

HEARING: Wednesday, February 23, 2011 at 8:30 a.m.

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

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i and its 8,500 members. HAR submits **comments** on S.B. 714 which requires a condominium property manager, association of apartment owners and planned community association to make association documents available to owners and their respective agents under reasonable terms and for reasonable costs.

Upon the sale of real property in a Condominium or Planned Community Association, the seller must provide copies of all condominium and association documents. The lists of documents include, but are not limited to: House Rules, By-laws, Covenants, Declarations, Insurance Summary, Budgets and Reserve Statements. These documents, which belong to the developer and unit owners, are provided by the management companies or Association of Apartment Owners (AOAO). It is not uncommon for the seller to pay hundreds of dollars for copies of the documents.

HAR believes this measure helps to clarify the current practice in regard to access to documents which already belong to unit owners by providing for a fair and reasonable approach for management companies or AOAO in addressing the accessibility and costs of these documents.

As noted, the documents belong to the developer and unit owners and we believe they should **only** be available to owners and the owners' agents. HAR further notes that owners' agents could be an immediate family member, relative, or a caregiver.

For the reasons above, HAR respectfully requests passage of this measure, but asks that the following amendments be considered.





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SECTION 1. Section 421J-7...

(3) In electronic form through a website maintained by the property management company and accessible to the [public]members at no charge."

SECTION 2. Section 514A-84-5...

(3) In electronic form through a website maintained by the property management company and accessible to the [public]owners at no charge.

SECTION 3. Section 514B-152...

(3) In electronic form through a website maintained by the property management company and accessible to the [public]owners at no charge."

SECTION 4. Section 514B-153...

(3) In electronic form through a website maintained by the property management company and accessible to the [public]owners at no charge.

Mahalo for the opportunity to testify.



Management Information Consultants

February 21, 2011

Chair: Senator Rosalyn H. Baker
Vice-Chair: Senator Brian T. Taniguchi
Committee on Commerce and Consumer Protection
Hawaii State Capitol, Room 229
415 South Beretania Street
Honolulu, HI 96813

RE: SB714; Comments; Hearing Date: 2/23/2011; Sent via web.

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

This testimony is provided in my capacity as a professional registered parliamentarian with more than 25 years' experience with numerous Condominium Association and Planned Community Association clients.

I am generally supportive of the principle of mandating the availability of information to homeowners about their association. However, I have concerns about the wording contained in the bill and the unanticipated consequences if the existing bill becomes law.

1. The heading on the bill is "Relating to Residential Real Property." The title in the back is, "Condominiums; Residential Real Property; Planned Community."

In the bill status, the Measure Title is, "RELATING TO RESIDENTIAL REAL PROPERTY" and the Report Title is, "Condominiums; Residential Real Property; Planned Community."

There is a discrepancy between what appears as a title on the front of the bill and a title in the back of the bill.

The bill proposes changes to Chapter 421J: Planned Community Associations, Chapter 514A: Condominium Property Regimes, and Chapter 514B: Condominiums.

It also fails to distinguish between "Residential Real Property" and "Commercial Real Property."

The proposed changes in the bill affect both residential and commercial real properties.

The use of "Planned Community" instead of "Planned Community Associations" may be a technical flaw in the bill.

2. The bill uses a conjunctive "and" requiring that numerous association documents be available for examination (1) during normal business hours or on 24 hour loan, (2) in hard copy form at a specific fee, AND (3) in electronic form through a website maintained by the property management company and accessible to the public at no charge.

This requirement is not time-specific (e.g. perform "A", "B", and then "C"). Therefore, it creates a requirement to comply with ALL 3 of these items. This is an onerous and burdensome requirement.

If the committee wishes to pass this bill, I suggest that mandating only one of the requirements should provide the necessary information.

3. The bill makes no exception for the different characteristics of condominiums and Planned Community Associations.

The bill applies equally to:

- a. small 6 unit condominium associations such as a Kailua condominium conversion;
- b. 300+ unit condominium associations such as Marco Polo, discovery Bay, etc.;
- c. small Planned Community Associations with only a few homes formed simply to ensure that owners maintain a common road; and
- d. large Planned Community Associations such as Miiilani Town Association with over 14,000 homes.

The bill imposes serious management requirements on more than 1688 condominium associations (157,091 homes) and an unknown number of Planned Community Associations.

It doesn't plan for the reality of the different operating characteristics and ownership issues in these respective associations.

4. The bill mandates a website maintained by the property management company. It provides an exception if the project is NOT managed by a managing agent.

This may be interpreted to mean that (a) a website must be provided and (b) it must be maintained by the property management company.

Some condominium associations have their own website even though they hire a property management company.

Property management companies may provide services that are:

- a. a one-time annual meeting management function (formerly done by Yacht Harbor Towers);
- b. a simple consultancy with fiscal management (Discovery Bay); or
- c. a full service management function (Honolulu Tower).

These services may be different from any website management that actually exists.

Depending upon the specific condominium association, website management may be done by a private individual, an association officer, an independent contractor, or the property management company.

If the committee wishes to pass this bill, I suggest an amendment in order to avoid confusion. An amendment providing for compliance with an association sponsored website WITHOUT dictating the website provider should clarify the matter.

It is very important to review the bill carefully, especially as it related to condominium associations. Sections 3, 4, and 5 of the bill propose changes to HRS §§514B-152 through 154. **HRS §514B-69 provides criminal penalties for violating these 3 sections.** HRS §514B-69 states,

[§514B-69] Penalties. (a) Any person who violates or fails to comply with this part, part V, section 514B-103, 514B-132, 514B-134, 514B-149, **or sections 514B-152 to 514B-154, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$10,000, or by imprisonment for a term not exceeding one year, or both.** Any person who violates or fails to comply with any rule, order, decision, demand, or requirement of the commission under this part, part V, section 514B-103, 514B-132, 514B-134, 514B-149, or sections 514B-152 to 514B-154, shall be punished by a fine not exceeding \$10,000.

(Emphasis added.)

There are no such criminal sanctions relating to the proposed changes to HRS Chapter 514A: Condominium Property Regimes, which are referenced in Section 2 of the bill.

I urge the committee to carefully consider the this bill's impact in its present form, including any resultant criminal sanctions on only one part .

I may be contacted via phone: 423-6766 or by e-mail: steveghi@gmail.com. Thank you for the opportunity to present this testimony.

Sincerely,

Steve Glanstein

Digitally signed by Steve Glanstein
DN: cn=Steve Glanstein
Date: 2011.02.22 00:27:13 -10'00'

Steve Glanstein, Professional Registered Parliamentarian
President
SG:tbs



SOLEIL MANAGEMENT
CONSOLIDATED RESORTS MANAGEMENT

February 17, 2011

TO: Commerce and Consumer Protection Committee

Senator Rosalyn H. Baker, Chair

Senator Brian T. Taniguchi, Vice Chair

FROM: Richard L. Rodriguez
President
Consolidated Resorts Management

DATE: February 23, 2011
Conference Room 229
8:30 a.m.

RE: SB 714

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

Consolidated Resorts Management ("CRM") manages condominium associations in Hawaii.

We strongly oppose portions of SB 714. The revisions to Section 514B-152 expand the method of access to condominium records (via website) to a broader range of documents than do the revisions to the other Sections that are affected by this bill, i.e., 421J-7, 514A-854.5, 514B-153 & 514B-154. The revisions to those Sections other than 514B-152 essentially limit website access to documents that are typically included in a "resale package" of documents needed by the prospective purchaser in connection with a sale. Such documents include the "declaration, bylaws, house rules, master lease, sample original conveyance document, all public reports and any amendments thereto." The revisions to 514B-152 expand access to "all financial and other records [...] Except as otherwise provided by law[.]"

CRM opposes this bill as written for three reasons. First, the revisions to 514B-152 are unnecessary because access to various types of condominium records is already defined elsewhere in HRS. Second, the revisions to 514B-152 are inappropriate because they grant access to sensitive documents (financial and otherwise) that should not be made available for free on the internet. Additionally, any type of financial information should stay strictly confined to the members of the association. Third, the revisions to 514B-152 and their relationship to "all financial and other records [...] Except as otherwise provided by law" will be susceptible to overly broad interpretation by the courts.

For the foregoing reasons, we respectfully ask you to hold this measure.

Thank you for allowing me to present testimony on this important matter.

10 Hoohui Road, Suite 201
Lahaina, Hawaii 96761



An Associa* Company

Serving Hawaii Since 1973

February 22, 2011

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

Re: SB 714 OPPOSE

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

Certified Management, Inc. is a member of Associa, which is the nation's largest community management company, managing communities in 30 states. Certified Management, Inc. manages over 52,000 homes in Hawaii alone.

Although managing Home Owner Associations (HOAs) and Condo Associations is the main service we provide, we also provide an important service to all parties involved in a real estate transaction (the buyer, seller and the Realtors) as well. We provide a great deal of data on the home being sold and therefore incur significant costs in time, resources and liability for ourselves and our association clients. While some believe this information should be provided to outside agents (Realtors) at no cost, doing so would be simply be asking Associations to subsidize private real estate transactions, something wholly unfair to the 99% of the owners that are not selling their homes.

Prior to a real estate transaction, documents are requested as a part of a sale between a seller and a buyer and are an important part of our full disclosure requirements. These documents bring valuable information to a real estate transaction, and from a business perspective we feel that we should be able to charge a reasonable fee for such value.

Complete disclosure packages includes some of the following documents:

- Last three Board meeting minutes
- Annual meeting minutes
- Current insurance summary
- Current budget

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www.certifiedhawaii.com

KONA: 75-169 Hualalai Road, Kailua-Kona, Hawaii 96740 • 808.329.6063 • Fax: 808.326.2486
KAUAI: 4-1579 Kāhiō Elwy, Suite 102A, Kapaa, Kauai 96746 • 808.821.2122 • Fax: 808.821.2131
MAUI: 270 Hookahi Street, Suite 201, Wailuku, Maui 96793 • 808.243.9565 • Fax: 808.244.7848

AAMC
ASSOCIATION
MANAGEMENT COMPANY

- Current reserve study
- Last audit
- Customized completion of the Honolulu Board of Realtors form RR105C
- Declaration
- Bylaws

Besides the expense of maintaining the technology required to store this information and the labor that goes into the creation of these packets, the management companies also have to ensure that these documents are recent and accurate. Of course we feel these documents should be made available to a resident owner of the community, but not to an outside agent free of charge.

For the reasons explained, we oppose SB 714.

Mahalo,

Warmest Aloha,

Certified Management, Inc.



Toni Bloerke-Politsch, CMCA[®], AMS[®], PCAM[®]
Chief Executive Officer and Principal broker

TESTIMONY
SB 714 & HB 581 RELATING TO RESIDENTIAL REAL PROPERTY

My name is Emory Bush and I am Chairman of the Board for Hawaiiana Management Company, Ltd. I have been with Hawaiiana for 24 years.

- If this Bill is passed, it will be devastating for property management companies. We simply cannot effectively do what you are trying to require us to do in regard to documents.
- Most of the management companies use an outside document provider primarily because the management companies are not qualified to authenticate the recorded documents such as By-Laws, Declaration, Master Leases, Sandwich Leases, Apartment Leases, Public Reports, etc.
- Hawaiiana has an arrangement with a title company to provide documents which has been in existence for 15 years and has worked very well. A title company can get recorded documents on line from the Bureau of Conveyances and has the expertise to authenticate these documents. Hawaiiana is not going to take on the liability of providing recorded documents and a title company is not going to provide their service free of charge. If this Bill becomes law, then our customers and their agents will have to go to the Bureau of Conveyance to get recorded documents which will cost money and is time consuming.
- I will now address the new requirements in your Bill.

First Requirement

- A. The managing agent shall make the documents available in subsection (a) which are financials, minutes, and Association governing documents (By-Laws, Declaration, House Rules, Master, Apartment, Sandwich Leases, and Public Reports, all with amendments, available to owners, prospective purchasers and their representative agents.
- (a) For review at the Managing Agent's office during normal business hours subject to reasonable terms of access.

Hawaiiana's Position. We currently manage 575 Associations totaling over 97,000 condos, homes, and co-ops. We do not have the space or accommodations to handle owners and agents in our office to review documents plus we would have to require a Hawaiiana employee to sit with these people while they review documents since we keep the official file for each Association. Without our employees observing these people, individuals could remove critical documents from the master file. Such a statute ignores the logistics required to support this Bill. Do you expect us to have our lobby full of real estate agents and owners reviewing documents for free every day. In short, Hawaiiana

does not have the where with all or office space to support such a Bill. Also, Association minutes, financials, and other documents are kept onsite and owners can review these documents free of charge plus most Associations have websites where they post documents for owners to review.

- (b) Second Requirement. A hard copy for a reasonable fee that shall exceed the greater of twenty cents a page.

Hawaiiiana's Position. The price is not a problem since we currently only charge 19 cents a page. The problem is we will not keep an official file of recorded documents because of the liability and our inability to authenticate these documents. Why would you legislate so much a page. Why not let market forces dictate the price. If our customers do not want to pay 19¢ a page, they can go elsewhere to get documents. Our customers are not obligated to purchase our documents. It's an option they have.

- (c) Electronically through a website maintained by the property management company and accessible to the public at no charge.

Hawaiiiana's Position. Does the committee realize what a huge task this would be. We manage 575 Associations totaling over 95,000 units. We would still be scanning documents next legislative session trying to put all this information on a website accessible to the public at no charge plus changing thousands of documents each day on the website.. This is unbelievable that the State would require a business to do such a huge task at no charge. Simply stated, this is an unfair requirement for a private company to comply with plus we would not put recorded documents on a website because of the liability. As far as websites, Hawaiiiana provides a free website to each Association we manage and provides technical support all at no charge to the Association. This costs us thousands each month. Most Associations have the important documents already on their websites.

Now please let me give you an example of the type of problems we would face providing recorded documents to owners, prospective buyers, etc.

Some Declaration of Condominium Property Regimes may have 30 amendments and let's say the 16th Amendment authorized enclosing lanais but the 25th Amendment no longer authorized enclosing lanais and a buyer buys in and the 25th Amendment is missing from the file, so the buyer sues Hawaiiiana because he bought the condo only because he could enclose the lanai. There can even be worst cases with master apartment, and sandwich leases. In short, we are not a title company or the Bureau of Conveyances. Our job is to provide property management for our customers not provide a document service for the general public.

In Summary. Every condo and HOA owner received a copy of Association documents when they purchased their unit and there is already a mechanism in place for owners to get documents or review them. We have not received any complaints from our customers which leads Hawaiiana to believe that real estate agents looking for a free ride are pushing this Bill.

Final Comment. Please kill this Bill because if it becomes law it will kill us.

February 11, 2011



The Honorable Senator Rosalyn Baker and Senator Brian Taniguchi
And the Senate Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: SB714 Relating to Residential Real Property
Aloha Chair Baker, Vice-Chair Taniguchi and Members of the Committee:

I am writing In Support of SB714.

I am a real estate agent in Central Oahu and hold several leadership positions in the industry. I am also vice-president of the Mililani Garden Homes 1 AOA. I am speaking as an individual and not for any of the organizations I represent.

The current practice of holding homeowner documents hostage for excessive amounts of money by management companies is immoral and should be made illegal. Documents are the property of the owners/ sellers, not the management companies. To require an owner / seller a large sum of money to see them or get a copy is outrageous. It is common to pay \$300 to \$400 for a copy of the documents (in most cases an electronic download). It is also common to take 7-10 business days. If you want them sooner they charge an additional rush fee for documents they already have, with possible exception of the association disclosure statement (RR-105C).

If the property is in a planned community, you will have to duplicate the process and fees. The prices vary from association to association. One association charges \$35 while another may charge \$300 to \$400.

Here are some of the key points:

- 1) Home owners are the actual owners of the documents, not the management companies.
- 2) The homeowners association is already paying the management companies to generate and keep these documents.
- 3) Sellers and their agents should have free or cheap access to them anytime. Being that many of the management companies already have them on the internet, they should be made available to owners for free in that format.
- 4) If there is a cost to create hard copies, than a modest charge for that service is not unreasonable.
- 5) The RR-105C is a disclosure document that may come with some cost to the management company. Charging a reasonable fee for that would not be out of line.

One item in this bill that may get objections from management companies is making them available to prospective buyers. That can easily be resolved by removing them from the list. Sellers (homeowners) or their agent are responsible to provide disclosures to prospective buyers, not the management company. The management company is only responsible to the homeowners or their agents.

Thank you in advance for your support of this needed bill. Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Randy Prothero". The signature is written in a cursive style with a large, stylized initial "R".

Randy Prothero, REALTOR®
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Testimony In Opposition to SB714
Commerce and Consumer Protection
2/23/2011 8:30:00 AM

Senator Rosalyn Baker
Senator Brian Taniguchi

My name is Ted Walkey. I am an owner of two condominiums, a Director of one, and an employee of a managing agent. I oppose this bill because:

- 1) Why should someone expect someone else to do research and legwork for free? Management companies size their staffs to meet the needs of their clients, not to meet the needs of every individual and their respective agents who think they may want to purchase property in a common interest community.
- 2) Should an agent of my condominium be directed to loan my condominium documents to anyone who says they might want to buy a unit in my association? Who is to guarantee those documents will be returned unaltered or at all? Who will pay for misplaced documents?
- 3) The Internal Revenue Service does not charge for FOIA documents - FCC does, and it can charge up to \$18 per hour for the service.
- 4) At present, I know of no management company that charges more than twenty cents per page. What will happen to this number when inflation forces the cost of paper, equipment and personnel to go up?
- 5) The State of Hawaii already has all the recorded documents on file and available to owners and their respective agents. If this information is to be managed by anyone, it should be the State. Additionally, all sellers of a condominium unit were given copies of the documents at closing.
- 6) Current financial statements, copies of minutes, and other documents cited by HRS 514B-154 are available to members of the community at a reasonable cost.
- 7) Associations have the authority to set up their own web sites to make this and other information available. It is up to their elected representatives to make that happen if it is determined there is a need in the community. The association, not the managing agent, should control what information is on its website.
- 8) If the association is not managed by an agent, who pays for the personnel and equipment to comply with this proposed change in the law; the owners?

In conclusion, this legislation seems to lay off on others the cost and effort of collecting information for some transaction other than the management of the association.

Thank you for your attention and consideration.

February 21, 2011

TO: Commerce and Consumer Protection Committee
Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair

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

DATE: February 23, 2011
Conference Room 229
8:30 a.m.

RE: SB 714

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

I am providing this letter as I strongly oppose portions of SB 714 that will require condominium associations to maintain their financial records on a website. I am not opposed to the proposed amendments under SB 714 that require condominium associations to require the placement of association documents or minutes to meetings of the board of directors on a website. However, I am strongly opposed to placing any type of financial information on any website as no website is 100% safe and such financial information should stay strictly confined to the members of the association.

SB 714 amends the following sections to require certain financial information to be accessible through a website:

- (a) Section 421J-7 will require the most recent financial statement of the association to be placed on a website;
- (b) Section 514A-84.5 will require the annual operating budget of the association to be placed on a website; and
- (c) Section 514B-152 will require all financial records of the association to be placed on a website.

Accordingly, I hereby request that you strike the portions of SB 714 that require the placement of association financial information on websites as set forth above.

Thank you.

Kevin J. Blair

Testimony for CPN 2/23/2011 8:30:00 AM SB714

Conference room: 229
Testifier position: support
Testifier will be present: No
Submitted by: Susan R. Stone, RA
Organization: Individual
Address:
Phone:
E-mail: ssseahorse@msn.com
Submitted on: 2/14/2011

Comments:

The current practice of holding homeowner documents hostage for excessive amounts of money by management companies is immoral and should be made illegal. Documents are the property of the owners/ sellers, not the management companies. To require an owner / seller a large sum of money to see them or get a copy is outrageous. It is common to pay \$300 to \$400 for a copy of the documents (in most cases an electronic download). It is also common to take 7-10 business days. If you want them sooner they charge an additional rush fee for documents they already have, with possible exception of the association disclosure statement (RR-105C).

If the property is in a planned community, you will have to duplicate the process and fees. The prices vary from association to association. One association charges \$35 while another may charge \$300 to \$400.

Here are some of the key points:

- 1) Home owners are the actual owners of the documents, not the management companies.
- 2) The homeowners association is already paying the management companies to generate and keep these documents.
- 3) Sellers and their agents should have free or cheap access to them anytime. Being that many of the management companies already have them on the internet, they should be made available to owners for free in that format.
- 4) If there is a cost to create hard copies, than a modest charge for that service is not unreasonable.
- 5) The RR-105C is a disclosure document that may come with some cost to the management company. Charging a reasonable fee for that would not be out of line.

Testimony for CPN 2/23/2011 8:30:00 AM SB714

Conference room: 229

Testifier position: support

Testifier will be present: No

Submitted by: gregory swartz

Organization: Individual

Address:

Phone:

E-mail: swartzg001@hawaii.rr.com

Submitted on: 2/22/2011

Comments:

I support this bill, particularly the requirement for all documents (except executive session meetings) to be online. I do question the reference to fees set by the IRS. What does the IRS have to do with condominium records. Why can't we make it simple and simple say "20 cents per page or actual cost, whichever is lower."