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January 25, 2012

The Honorable T.R. Cabanilla, Chair
House Committee on Housing
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: H.B. 1706, Relating to Condominiums

HEARING: Wednesday, January 25, 2012, at 9:20 a.m.

Aloha Chair Cabanilla, Vice-Chair Ito, 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 supports the intent of H.B. 1706, which requires owners of residential units within a Condominium Property Regime, who reside on a different island or out-of-state to provide the managing agent or resident manager of the condominium with contact information of a rental agent located within the State who is responsible for the management of the unit.

HAR recommends that, if the Committee is inclined to move this measure, clarifying amendments be made, so that notice provided to a managing agent or resident manager occurs efficiently and promptly. Under the Residential Landlord-Tenant Code, a similar notice provision applies to out-of-state owners and landlords -- Hawai'i Revised Statutes §521-43(f) provides: "Any owner or landlord who resides without the State or on another island from where the rental unit is located shall designate on the *written rental agreement* an agent residing on the same island where the unit is located to act in the owner's or landlord's behalf." HAR similarly recommends that in a condominium an owner provide notice when there is a management agreement in place at the earliest opportunity – i.e., at the time the management agreement is entered into by the owner and rental agent.

In addition, rather than requiring the owner or rental agent to notify the condominium association on an "annual" basis, HAR recommends that, if there are any changes in information, the managing agent or resident manager should be notified within a reasonable time frame. This makes sense because rental agents or rental agent information may change within a year.

Accordingly, HAR suggests the following amendments to H.B. 1706 (which adds new sections to HRS 514A and HRS 514B):

Nonresident owners; rental agents. An owner of a residential unit who resides on a different island from that on which the unit is located or out-of-state and who rents or leases the unit to a tenant shall provide the managing agent or resident manager [annually] with the name, address, and telephone number of the rental agent located in the State who is responsible for the management of the unit upon entering into a management agreement. If there are any

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Association of
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changes in the name, address, and telephone number of the rental agent, the owner shall notify the managing agent or resident manager. "

Mahalo for the opportunity to testify.

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January 24, 2012

RE: Testimony Supporting HB 1706

I would like to voice my support of HB1706, Relating to Condominiums. As a member of the tourism industry, I understand the importance of guests whom visit our beautiful state to enjoy their stay in comfort and with safety. In the State of Hawaii, HRS 521-43 (f) requires any property owner who does not reside on the island where a property rental is to take place, to have an on-island agent.

With the internet becoming a ubiquitous aspect of our everyday lives, many off-island and nonresident owners are renting their Hawaii properties over the internet without having the required on-island representation, or without having provided this information to their renter. When the guest of this property owner arrives without their arrival information as often times occurs, has a problem finding their unit, has trouble gaining entry to the property, they look for the first person they can find who can provide them assistance. If the property is an apartment, condominium or townhouse as it often times is, the person faced with helping this guest is the resident manager or AOAO representative on site.

For these reasons, many AOAO now request owners whom rent their properties to provide them the contact details for their on-island agent, but they can only request this information. They cannot require the rental ownership to provide it to them.

HB 1706 effectively addresses these issues. The AOAOs are placed into a stronger position of being able to require the on-island agent information to be provided to them, rather than just asking and hoping for a reply. Also, HB 1706 efficiently resolves the problem of off-island owners in apartments of not having an on-island agent as required by HRS 521 due to the AOAO's knowledge of their property, the owner's rental activity within it, and by their insuring compliance by their annual update of this information.

One change I would suggest to HB 1706 is to require the agent to be on the same island as the property, not just in the State of Hawaii.

Dan Monck
Exclusive Getaways
www.ExclusiveGetawaysHawaii.com
Kailua-Kona, Hawaii

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 24, 2012 10:38 AM
To: HSGtestimony
Cc: richard@hawaiifirst.com
Subject: Testimony for HB1706 on 1/25/2012 9:20:00 AM

Testimony for HSG 1/25/2012 9:20:00 AM HB1706

Conference room: 325
Testifier position: Support
Testifier will be present: No
Submitted by: Richard Emery
Organization: Hawaii First, Inc.
E-mail: richard@hawaiifirst.com
Submitted on: 1/24/2012

Comments:

Without such information, an association would be forced to break down doors in the event of a water leak or other problem. These problems can result in huge insurance claims and inconvenience to other residents.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 24, 2012 2:39 PM
To: HSGtestimony
Cc: markm@whalersrealty.com
Subject: Testimony for HB1706 on 1/25/2012 9:20:00 AM

Testimony for HSG 1/25/2012 9:20:00 AM HB1706

Conference room: 325
Testifier position: Support
Testifier will be present: No
Submitted by: Mark Marchello
Organization: Whalers Realty Management
E-mail: markm@whalersrealty.com
Submitted on: 1/24/2012

Comments:

There is a serious leak in the State's tax revenue pipeline. This invisible leak is bursting in to the millions!

The internet is making it much easier for off Island owners to setup their rentals as Vacation Rentals by Owner. They don't work with professional management companies who issue 1099's to the State at year end and the guests monies are not held in trust accounts as required by State law. Guests send their monies directly to the owners on the mainland. There is no way to know if they are paying their excise and transient taxes or their income tax at year end.

As an example 5 years ago there were only a hand full of VRBO owners at the Whaler now there are over 100! This is happening all across the State. I have talked to property managers on Oahu, Kauai and the Big Island everyone is losing business as more and more owners start to self manage their properties. Who ends up paying these Off Shore owners taxes to support their properties - the people of Hawaii! Sounds outrageous but its happening in every vacation rental property in the State!

These owners who don't have the management companies overhead (no management fees or taxes) are able to cut their prices and take the business away from the management companies. The remaining management company owners become unhappy with their returns, sign up on VRBO themselves to boost their occupancies and the wheel keeps spinning. Management companies lower their rates to compete, the VRBO owners lower their rates and the income and taxes on the income keeps spiraling downwards. As this spiral continues many management companies will go out of business. If we don't grab the bull by the horns now, in another five years the majority of vacation rental properties in the Islands will be self managed by Off Shore owners.

Please help plug the leak - support: HB 1706 Greatly appreciate your consideration and support.

Mahalo,
Mark

Mark A. Marchello, R General Manager
Sales & Property Management
Whalers Realty Management Company Inc.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 24, 2012 2:30 PM
To: HSGtestimony
Cc: al@certifiedhawaii.com
Subject: Testimony for HB1706 on 1/25/2012 9:20:00 AM

Testimony for HSG 1/25/2012 9:20:00 AM HB1706

Conference room: 325
Testifier position: Support
Testifier will be present: No
Submitted by: Al Denys
Organization: Certified Hawaii
E-mail: al@certifiedhawaii.com
Submitted on: 1/24/2012

Comments:

Aloha,

I support this HB. It is very important that associations have up to date info on non-resident owners so we are able to deal with emergencies in a timely and professional manner. To often we do not have the information we need to affect repairs or notification. This is a must legislation to pass.

Mahalo.

Al Denys

January 24th, 2012

RE: Testimony Supporting HB 1706

I would like to voice my support of HB1706, Relating to Condominiums. As a member of the tourism industry and a licensed real estate professional, I understand the high standards we must provide our guests who visit our beautiful islands so that they feel comfortable and secure with spending their hard earned travel dollars in the State of Hawaii. The State of Hawaii, HRS 521-43 (f) requires any property owner who does not reside on the island where a property rental is to take place, to have an on-island agent.

With the Internet becoming a ubiquitous aspect of our everyday lives, many off-island and non-resident owners are renting their Hawaii properties over the internet without having the required on-island representation, or without having provided this information to their renter.

It happens more often than you would imagine that guests arrive without their arrival information and experiences problems finding their unit or gaining entry to the property. Without an on island representative they know they can call, they look for the first person they can find who can provide them assistance. If the property is an apartment, condominium or townhouse as it often times is, the person faced with helping this guest is the resident manager or AOA representative on site.

For these reasons, many AOA now request owners whom rent their properties to provide them the contact details for their on-island agent, but they can only request this information. They cannot require the rental ownership to provide it to them.

HB 1706 effectively addresses these issues. The AOAs are placed into a stronger position of being able to require the on-island agent information to be provided to them, rather than just asking and hoping for a reply. Also, HB 1706 efficiently resolves the problem of off-island owners in apartments of not having an on-island agent as required by HRS 521 due to the AOA's knowledge of their property, the owner's rental activity within it, and by their insuring compliance by their annual update of this information.

One change I would suggest to HB 1706 is to require the agent to be on the same island as the property, not just in the State of Hawaii.

The overall goal here is to enhance the Hawaii Vacation Experiences of our guests to the islands so that they continue to travel and boost our tourism economy. Together, licensed Real Estate Professionals along with AOAs can provide the tools needed to ensure continued growth to this vital sector of our state's economy.

Kristin Counter
Hawaii 5-0 Vacation Rentals LLC
www.Hawaii50VacationRentals.com
Honolulu, Hawaii

January 24, 2012

RE: Testimony Supporting HB 1706

I am writing today to voice my support of HB1706, Relating to Condominiums. As a property manager on Kauai representing both long term and vacation rental properties, I understand the importance of tenants and guests having a local person to contact with any questions or concerns or to get further assistance with maintenance issues, etc. Hawaii currently requires property owners who do not reside on the island where a property rental is to take place, to have an on-island agent. And to provide the Agent's name and contact info in the rental agreement. HRS 521-43(f).

I believe it is also important that the Homeowner's association and/or resident managers of condos/apartments know the name and contact info for the owners' on island agent so that tenants and visitors can best be served, and that the owners/agents of neighboring condos can also easily contact the other on-island agents should their be an incident involving both units.

HB 1706 effectively addresses these issues. The Homeowner Associations will be able to require the on-island agent information to be provided to them. Also, HB 1706 efficiently resolves the problem of off-island owners in condos/apartments of not having an on-island agent as required by HRS 521 due to the AOAO's knowledge of their property, the owner's rental activity within it, and by their insuring compliance by their annual update of this information.

I respectfully propose that you amend the current draft of HB 1706 – by replacing the words “in the State” on lines 9 and 10 to read “on the island” so that this bill's language is consistent with the current Hawaii law that requires non-resident owners to have an on-island agent. See HRS 521-43 (f)

Respectfull Submitted,

Robyn Apisa-Matie

P.O. Box 223190

Princeville, HI 96722

(808) 826-6585

robyn@oceanfrontrealty.com

January 24, 2012

RE: Testimony Supporting HB 1706

I would like to voice my support of HB1706, Relating to Condominiums. As a member of the tourism industry, I understand the importance of guests whom visit our beautiful state to enjoy their stay in comfort and with safety. In the State of Hawaii, HRS 521-43 (f) requires any property owner who does not reside on the island where a property rental is to take place, to have an on-island agent.

With the internet becoming a ubiquitous aspect of our everyday lives, many off-island and nonresident owners are renting their Hawaii properties over the internet without having the required on-island representation, or without having provided this information to their renter. When the guest of this property owner arrives without their arrival information as often times occurs, has a problem finding their unit, has trouble gaining entry to the property, they look for the first person they can find who can provide them assistance. If the property is an apartment, condominium or townhouse as it often times is, the person faced with helping this guest is the resident manager or AOA representative on site.

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One change I would suggest to HB 1706 is to require the agent to be on the same island as the property, not just in the State of Hawaii.

Nadia Svechak
Abbey Vacation Rentals
Kailua-Kona, Hawaii

January 24, 2012

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Eme Manley
Kailua-Kona, Hawaii

January 24, 2012

RE: Testimony Supporting HB 1706 – Abbey Vacation Rentals

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Gerri Monck
Abbey Vacation Rentals
www.KonaRentals.net
Kailua-Kona, Hawaii

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 24, 2012 4:17 PM
To: HSGtestimony
Cc: mail@konarentals.net
Subject: Testimony for HB1706 on 1/25/2012 9:20:00 AM
Attachments: HB 1706 testimony 1_24_12.docx

Testimony for HSG 1/25/2012 9:20:00 AM HB1706

Conference room: 325
Testifier position: Support
Testifier will be present: No
Submitted by: Susan Mckay
Organization: Individual
E-mail: mail@konarentals.net
Submitted on: 1/24/2012

Comments: