

SB 638, SD 1

Measure Title: RELATING TO ZONING.

Report Title: Planned Community Associations; Principal Office; Zoning

Description: 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 certain conditions. Effective 7/1/2050. (SD1)

Companion: HB495

Package: None

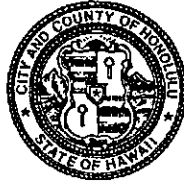
Current Referral: WLH/PGM, CPN

Pasted from <http://www.capitol.hawaii.gov/session2011/lists/measure_indiv.aspx?billtype=SB&billnumber=638>

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE
MAYOR



DAVID K. TANOUE
DIRECTOR

JIRO A. SUMADA
DEPUTY DIRECTOR

March 1, 2011

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

Dear Chair Baker and Members:

**Subject: Senate Bill No. 638, SD1
Relating to Zoning**

The Department of Planning and Permitting (DPP) **opposes** Senate Bill No. 638, SD1, 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, SD1 further limits county zoning power and essentially grants zoning "carte blanche" to one special interest group. The proposed amendment in the SD1 to limit the maximum increase in floor area to one square foot times the total number of lots or units served by the PCA does not allay our concerns.

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

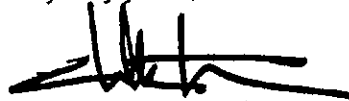
The Honorable Rosalyn H. Baker, Chair
and Members of the Committee on Commerce and
Consumer Protection
State Senate
Re: Senate Bill No. 638, SD1
March 1, 2011
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areas in addition to the planned residential uses, with an estimated number of dwelling units at full build-out. Thus, the need for additional office space for association PCA 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, SD1.

Very truly yours,



David K. Tanoue, Director
Department of Planning and Permitting

DKT:

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Mililani Town Association

95-303 Kaloapau Street
Mililani Town, HI 96789
Phone (808) 623-7300

February 27, 2011

Senator Rosalyn Baker, Chair
Senator Brian Taniguchi Vice-Chair

Committee on Commerce and Consumer Protection VIA E-Mail: CPNTestimony@capitol.hawaii.gov
State Capitol
Honolulu, HI 96813

Re: S.B. No. 638 SD 1/SUPPORT – Relating to Condominium Associations
Hearing: Tuesday, March 1, 2011, 9:30am Conf Room 229

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

My name is Eric Matsumoto, Vice-President of the Mililani Town Association (MTA). I have served in MTA leadership capacities on the board for 25-of the last 32 years. Mililani Town has an area of approximately 3,500 acres. MTA encompasses approximately 16,000 units consisting of both single family residences and numerous townhouse project sub-associations, is self-managed and staffed with nearly 200 employees.

We support this measure for the following reasons:

Mililani Town Inc. (currently Castle & Cooke Homes Hawaii) turned over the keys of its first house to the buyer in 1968. The current office, constructed in 1988 served 7,920 homeowners. Today the community has grown to nearly 16,000 homeowners and has increased from 3 recreation centers to 7, in addition to what amounts to more than 300 hundred acres of common area, that include planting strips and fire breaks along the gulches that ring upper Mililani and Mililani Mauka. There are common areas still yet to be turned over by CCHI although build-out is complete.

Given the significant increases in common area, planting strips, perimeter fire breaks, and facilities to manage and maintain, along with the doubling of the homeowner population, additional office space is required to properly manage and operate the association.

Routinely, when provided, recreation centers have been turned over to the associations by the developer on land zoned for recreation and not for office use as a primary function. Because of the small number of units sold in these planned communities at the start of the development, the minimal office space provided in the recreation centers have been generally adequate as a secondary use, while also contracting for property management services. However, as the developments grow over time, it becomes evident that the original space is inadequate, and the situation escalates to where, as in MTA's situation after 23 years since office space was built under a Conditional Use Permit, the number of houses have doubled, and the common areas, planting strips and facilities also significantly increased with turnovers from the developer. All PCAs that have long term development plans will eventually need additional primary office space to manage and operate effectively.

MTA has the space to construct the primary office building, and as such, it does not make sense to waste homeowners' dollars to rent commercial space as proposed by city permitting officials. This punishes homeowners who live in this planned community.

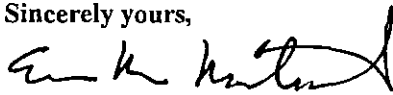
Additionally, PCAs having to go through the years long process of getting variances for the recreation zoned land to allow for needed office space and then having to then wait for the building permit approvals are cost drivers to the operations of these associations, ultimately paid for by the homeowners. Associations have no input into the master planning of a community as to zoning for office space, including whether or not recreation centers are designed into the master plan.

This bill provides a needed process of exemption from the zoning requirements for PCAs, for a more efficient and effective office structure from which to administer, manage and operate the associations.

However, a defective effective date attached to this bill would delay implementation upon passage. This delay would result in increased cost of construction and keep associations from being most efficient and effective.

Based on the above, we support passage of this bill with the effective date revised to one that allows PCAs to more quickly get infrastructure in place to serve their members.

Sincerely yours,



Eric M. Matsumoto
Vice-President, Board of Directors

Cc: Sen Kidani, Rep Lee, Rep Yamane ...

February 28, 2011

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

Senator Rosalyn Baker, Chair
Senator Brian Taniguchi, Vice Chair
Members of CPN Committee

Re: Testimony in SUPPORT of SB638 SD1, Relating to Zoning

Dear Chair Baker, Vice Chair Taniguchi, and CPN Committee Members:

The Royal Kunia Community Association (RKCA) recently 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 SD1, and hope it will pass out of your Committee.

Sincerely,

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

Testimony for CPN 3/1/2011 9:30:00 AM SB638

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Charles Zahn

Organization: Individual

Address:

Phone:

E-mail: czahn@hawaii.rr.com

Submitted on: 2/21/2011

Comments:

I strongly oppose Senate Bill 638.

While as a member of two Planned Community Associations I can understand why there would be support for Senate Bill 638.

But this support leads to the exemption of the Association to follow the City and County Zoning codes.

We can't continue to allow legislation that will limit county zoning power and essentially grants zoning carte blanche to one special interest group.

I request that you file Senate Bill No. 638.

Testimony for CPN 3/1/2011 9:30:00 AM SB638

Conference room: 229

Testifier position: oppose

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:

While this is generic legislation, it appears to be drafted to support a specific situation of which I am not aware and is really special legislation. They should go through the normal zoning procedures.