

SB 652



NEIL AMBERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

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INTERIM DIRECTOR

EVERETT KANESHIGE
DEPUTY DIRECTOR

PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TWENTY-SIXTH LEGISLATURE
Regular Session of 2011

Wednesday, February 2, 2011
8:30 a.m.

**TESTIMONY ON SENATE BILL NO. 652, RELATING TO MORTGAGE
FORECLOSURES.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE
COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify in support of Senate Bill No. 652, Relating to Mortgage Foreclosures. My name is Stephen Levins, and I am the Executive Director of the Office of Consumer Protection ("OCP"), representing the Department.

Senate Bill No. 652 seeks to implement the recommendations of the mortgage foreclosure task force established by Act 162, Session Laws of Hawaii 2010. The recommendations were provided to the Hawaii Legislature on December 28, 2010 through the Preliminary Report of the Mortgage foreclosure Task Force. They contain

significant improvements to the current non-judicial foreclosure law in Hawaii. The proposal will provide for superior notice to homeowners of an impending foreclosure, offer them the ability to convert a non judicial foreclosure to a judicial foreclosure, and allow them to escape a deficiency judgment in a non-judicial foreclosure. The measure also will help to bring certainty to title issues by authorizing the mortgagee to record a copy of the notice of intent to foreclose with the land court or the bureau of conveyances and will harmonize state law with a recent Hawaii Bankruptcy decision.

The task force represented a broad cross section of our community and as such was able to obtain the input of virtually all interested parties. The executive director of the Office of Consumer Protection served as the Chairperson. This measure is the product of hundreds of hours of hard work by its members. Because of their strong commitment to improving the mortgage foreclosure laws in Hawaii, consensus was reached on these important proposals. Since the Department believes that each of them will further the interests of consumer protection in Hawaii, it strongly supports this measure.

Thank you for providing me with the opportunity to testify on Senate Bill No. 652. I will be happy to answer any questions that the committee members may have.



THE JUDICIARY, STATE OF HAWAII

Testimony to the Senate Committee on Commerce and Consumer Protection

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair
(Wednesday, February 2, 2011, 8:30 a.m.)
State Capitol, Conference Room 229

by
Rodney A. Maile
Administrative Director of the Courts

Bill No. and Title: Senate Bill No. 652, Relating to Mortgage Foreclosures.

Purpose: Implements recommendations of the mortgage foreclosure task force relating to service of notice, conversion from nonjudicial to judicial foreclosure, the bar against deficiency judgments, notice of pendency of action, and extinguishment of the mortgagor's interest pursuant to the old nonjudicial foreclosure law.

Judiciary's Position:

The Judiciary expresses no opinion about the intent or purpose of this bill but has the following concerns:

(1) Need for Additional Resources

If this measure passes, the Judiciary would like the proposed process to be workable. Consequently, additional funds and time for the Judiciary to implement the measure will be critical for us to properly address the increase in judicial foreclosure filings as well as continue to strive to timely resolve our other cases. In view of the budgetary reductions the Judiciary has already taken as well as the imposition of furlough days, it is important to stress how much Senate Bill No. 652 would increase our caseload, and without additional resources, compromise our ability to expeditiously administer justice and serve and protect the public.

Specifically, since the bill delineates the steps certain mortgagors can take to easily "convert" non-judicial foreclosures to judicial foreclosures and to stay the non-judicial foreclosure proceedings, we anticipate a rise in the number of court filings. It is our



Senate Bill No.652, Relating to Mortgage Foreclosures
Senate Committee on Consumer Protection
Wednesday, February 2, 2011
Page 2

understanding that approximately 75% to 90% of foreclosures are currently proceeding non-judicially. *See, for example, attached Honolulu Star Bulletin article dated March 22, 2009 which was attached to the Preliminary Report of the Mortgage Foreclosure Task Force to the Legislature for the Regular Session of 2011.*

Another recent report indicates that the total number of foreclosure filings for January through December 2010 in Hawai'i was 14,224. *See attached Star Advertiser article dated January 14, 2011 (citing statistics from RealtyTrac).* During this same time period, there were only 1,331 judicial foreclosure filings state-wide. If the RealtyTrac report includes both judicial and non-judicial foreclosures, approximately 12,893 cases or 90% of foreclosure cases proceeded non-judicially last year. The current measure allows certain owner-occupants of *residential* property to file a conversion complaint. The attached January 14, 2011 Star Advertiser article indicates that most of the foreclosures in 2010 were of residential property. Even if we conservatively estimated that only half of the 12,893 cases would now be converted to judicial foreclosure actions, this could increase our caseload approximately 5 times and we would require substantial resources to effectively monitor and resolve such cases.¹ It is also important to note that Hawai'i has a larger share of condominiums and time share units compared to other states, which are also foreclosed upon, thereby adding to our case volume.

An example of how this measure would adversely impact our service to the public can be seen by examining the judicial filings in Maui. In the Second Circuit, approximately 710 felony criminal cases were filed last fiscal year. The four Circuit Court judges in Maui handle these cases, in addition to the domestic abuse jury trials, drug court, probation violations, and approximately 920 civil cases that were filed last year. A total of 1,977 cases were filed in the Circuit Court of the Second Circuit last fiscal year. From January to December 2010, there were approximately 288 judicial foreclosure cases in Maui. If this were to increase 5 times, this would significantly impact handling of cases in Maui. As the attached January 13, 2011 Star Advertiser article indicates, "more than half the properties affected by foreclosure were on the neighbor islands." With criminal cases taking priority due to Constitutional requirements, the other cases would be delayed, further protracting the processing time. This is also complicated by the nature of foreclosure proceedings, which are often relatively complex.

Furthermore, in order to address the increased caseload, the Judiciary would need to receive approval and appropriations for additional judges, staff, and courtrooms, as well as for other administrative support. There would also be a delay in start up time, because even if those funds were allocated this Legislative session, it would still take time to hire staff for the new positions. Even with immediate attention, it would be an extensive length of time before the system could accommodate the change.

¹ Please note that our numbers are simply estimates, based on certain information recently gathered in a preliminary attempt to assess the potential impact on the Judiciary.



Another example of a change the Judiciary may need to implement is the creation of another case tracking system. Specifically, the bill provides that in order to successfully sustain the court action, all interested persons must timely file a statement submitting themselves to the court process or the action will be dismissed and proceed non-judicially. It is currently unclear whether a new case tracking system would need to be created so that the court clerks could monitor the timely filing of such statements or whether this would be the subject of a motion to dismiss filed by a mortgagee.

Finally, the measure requests that the Judiciary create the "conversion complaint" form which will require additional time and resources to create and implement. At the same time, the measure also appears to propose a reduction in the filing fee for the conversion complaint. While we understand the reason for a proposed reduction in the filing fee, we are concerned that the potential increase in the number of cases without provision for additional resources, will further prolong a foreclosure process that is already stressful to many, adversely impacting both the mortgagor and the mortgagee.

(2) Designation of the Mortgagor as "Plaintiff" and Mortgagee as "Defendant"

There is also a significant procedural concern in the process that is set out in the bill. The concern arises from the use of the word "complaint" to designate the owner-occupant's intent to convert the process from a non-judicial to a judicial foreclosure.

The word "complaint," used in the context of a court case, denotes a formal pleading of facts and law for which the plaintiff bears the burdens of proof and persuasion. The "complaint" called for by the bill is, in fact, not a complaint. It is a notice of intent to convert the non-judicial foreclosure to a judicial foreclosure. Consequently, to avoid confusion as well as lengthy and unnecessary litigation regarding who bears the burdens or proof and persuasion, the Judiciary recommends that (a) the word "complaint" be changed to "Notice of Conversion"; and (b) that a provision be added to require the noticed mortgagee to file a complaint, in accordance with the rules of court, no later than 30 days after having received the Notice of Conversion. The process can then follow the usual course for judicial foreclosures.

Thank you for the opportunity to testify on Senate Bill No. 652.

Island Homes

Items

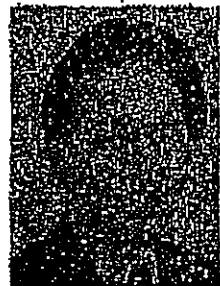
Rentals

Open Homes

* starbulletin.com/classifieds

Facing The Challenges Of Today's Real Estate Marketplace

Facing Foreclosure



Marvin S. G. Dang
Attorney and
Managing Member
Law Offices of
Marvin S. G. Dang, L.L.C.

Foreclosure is a financial disaster home owners hope they will never have to face. Not only does foreclosure mean the loss of their real property - probably their biggest personal investment - but their credit is severely damaged and chances of obtaining another mortgage loan substantially diminished.

Attorney Marvin Dang has handled foreclosures as an attorney for lenders for 30 years and as a commissioner for 28 years. He believes many foreclosures could be avoided if the home owner acknowledged potential problems before they reached crisis proportions and contacted their lender to try to work out a solution.

He noted that there are many reasons why a borrower might be unable to continue making mortgage payments: loss of job, reduction in working hours and salary, huge medical bills, break-up of a marriage, an increase in the monthly mortgage payment, etc.

"Although there is no guarantee that a lender will make accommodations, chances are better that the lender will not start a foreclosure if the borrower contacts him with an explanation instead of simply halting payments," Dang said.

"Generally, lenders prefer to work out a 'win-win' solution rather than resort to foreclosure. The foreclosure process is costly and time consuming. It is a 'lose-lose' scenario. The only one who potentially benefits from a foreclosure is a buyer who manages to



pick up a foreclosed property at a bargain price at a foreclosure auction."

Dang explained that after one or two payments are missed, a lender will contact the borrower and mail out reminders to pay. If no mutual arrangement is made, a lender may refer the account to an attorney after three or four missed payments. But it could be sooner if the property is abandoned.

"Usually the first notification from the lender's attorney to the property owner is a letter confirming the default. This is sent out before the attorney begins the foreclosure proceeding. Once the borrower gets the attorney's letter, it still may be possible to work with the lender, so the property owner

should not ignore the letter," Dang said.

"If the borrower consults with a third party for assistance, it's also important to check the credentials of that person, as there are local and Mainland scam artists who have taken advantage of inexperienced Hawaii home owners with devastating results. It's best to talk with a Hawaii-based credit counseling service or a Hawaii real estate professional, rather than getting advice from the internet. People can also meet with a bankruptcy attorney to decide what their best course may be."

Dang noted that in Hawaii there are two types of foreclosure actions, judicial and non-judicial. The judicial process is run through the court system. The lender files a complaint with the court regarding the delinquent loan and requests that the court allow the lender to foreclose on the mortgage on the real property. After the borrower is served with the complaint by a process server, the borrower needs to file a written answer with the court. If the borrower fails to respond, they will be in default as to the complaint.

The lender will ask the court to schedule a hearing to appoint a foreclosure commissioner to auction the property. At the hearing, the party being foreclosed on has an opportunity to tell the judge why a commissioner should not be appointed; for example, the property is in the process of being voluntarily sold and should close in a few months or the borrower is getting money to bring the loan current. If the judge is convinced that such a sale will close, or believes the loan can be reinstated he or she may be willing to delay the foreclosure proceeding for a short period.

If the property owner is able to pay off the loan or bring it current, the foreclosure can be dismissed.

"In a judicial foreclosure, the commissioner

Continued on Page 2

Facing Foreclosure

Continued from page 1

who is usually either an attorney or a real estate professional, is accountable to and acts on behalf of the court, not on behalf of the lender," Dang said. "It will be the responsibility of the commissioner to get access to the property to inspect it. Generally, during the foreclosure, the commissioner will not evict the home owner or the tenant of the property. But any tenant will now need to pay rent to the commissioner and not to the landlord.

"The commissioner will hold two open houses at the property, usually on Saturdays and Sundays, and place ads in newspapers, such as the Honolulu Star-Bulletin. The ads must run once each week for three consecutive weeks announcing the date and time of the open houses and the date, time, and place of the auction. The last ad needs to appear at least two weeks before the auction is to be held. In Honolulu, the foreclosure auctions are held Monday through Friday beginning at 12 noon at the Eva Lanal at First Circuit Court at 777 Punchbowl Street, where notices of upcoming auctions are posted. There could be more

than one property being auctioned at the same time by more than one commissioner."

According to Dang, anyone planning to bid at the auction will be required to show the commissioner before the auction proof of having a deposit in the form of a cashier's check or money order or cash, since the highest bidder needs to give the commissioner ten percent of the bid price at the end of the auction. The rules of the auction are announced by the commissioner and there is usually no upset price.

"Often the lender jumps in and bids at the auction," Dang said. "These lenders could be local and Mainland banks, credit unions, and other parties who may have bought the loan being foreclosed. Before they bid, lenders would have researched the condition and value of the property being foreclosed. Other bidders should do the same. The lender is not always the highest bidder. Investors and potential home buyers sometimes outbid the lenders.

"The highest bidder needs to understand that the judicial foreclosure sale is sub-

ject to court approval. After the auction, the commissioner will file a report with the court. The lender's attorney will schedule a court hearing to approve the sale, at which time the judge will ask if anyone wants to reopen the bidding for five percent higher than the auction price. Whoever is the highest bidder either from the first public auction or at the reopening at the hearing is generally approved by the court. The winning bidder has about 35 days to come up with the rest of the money to close the sale. Upon closing, the foreclosure commissioner will sign a deed to convey the property in 'as is' condition to the buyer. When the deed is recorded at Bureau of Conveyances, the title to the property is transferred."

Dang said that the second type of foreclosure in Hawaii, the non-judicial foreclosure, was rarely held until the late 1990s but now accounts for about 75 percent or more of foreclosure proceedings here.

"There are several basic differences between a non-judicial foreclosure and a judicial procedure," Dang pointed out. "A judicial foreclosure can take six to nine

months, whereas a non-judicial foreclosure takes two to three months since there are no court filings, no open houses, and no hearings. However, one similarity is that a newspaper ad announcing an auction will be required to run in a local newspaper once each week for three consecutive weeks, the last ad to appear at least two weeks prior to the auction. The notice of the non-judicial foreclosure sale needs to be mailed to the borrower and should be served by a process server. The notice must be posted on the property. No open houses are required to be held at the property, and there is no opportunity to inspect it in advance of the auction.

"For non-judicial foreclosures the auction and bidding procedures are similar to those of a judicial foreclosure. However, a non-judicial foreclosure auction is conducted by the lender's attorney or representative rather than a court appointed commissioner. At the conclusion of the non-judicial auction, the buyer pays the ten percent deposit. The rest of the sales price must be paid within thirty days

after the auction. Once the sales price is paid, the buyer will get a deed and becomes the owner of the property after the deed is recorded at the Bureau of Conveyances.

"For both judicial and non-judicial foreclosures, the new owner, that is, the successful bidder, is responsible for obtaining possession of the property. The new owner can keep the occupants there or can ask them to move out. In cases where occupants refuse to move, the new owner may need to go to

court to ask the judge to issue an order to evict them."

"The entire foreclosure process could possibly be avoided if the borrower simply phoned the lender before missing that first payment," Dang said. "And people who find themselves facing possible foreclosure should keep in mind that, even if the foreclosure is started, it can be delayed and the auction can be postponed if the borrower is able to work out an arrangement with the lender."

Star Advertiser

Foreclosure filings hit new high

Figures show 38 percent more Hawaii properties were affected last year compared with 2009

By Andrew Gomes
 POSTED: 01:30 a.m. HST, Jan 13, 2011

Lenders pursued or completed foreclosure against a record number of Hawaii properties last year.

There were 12,425 properties statewide affected by foreclosure last year, which was 38 percent more than the 9,002 properties in 2009 and more than triple the 3,525 properties in 2008, according to the latest report from RealtyTrac, a real estate data company.

NO PLACE LIKE HOME
 Hawaii's monthly foreclosure numbers over the past year, including the year-over-year percentage gain:

2010 MONTH	TOTAL	CHANGE
December	1,000	-34.8%
November	877	+0.6%
October	1,271	+37.4%
September	1,617	+66.9%
August	1,629	+87.5%
July	930	-6.1%
June	1,000	+41.6%
May	1,055	+29.3%
April	1,474	+115.5%
March	1,097	+51.5%
February	972	+81.0%
January	1,302	+286.4%
Total	14,224	+42.9%

BY THE NUMBERS
 Five Hawaii communities with the most properties in foreclosure last year:

ZIP CODE	AREA	FORECLOSURES
96740	Kaliua-Kona	1,241
96753	Kihei	905
96706	Ewa Beach	867
96761	Lahaina	646
96707	Kapolei	609

Source: RealtyTrac

Most of the properties were homes, though RealtyTrac doesn't exclude commercial real estate from its foreclosure data. If all the properties affected by foreclosure were homes, the total last year would represent 2.42 percent of all homes in the state, up from 1.8 percent the year before.

The growing number reflects the state's continuing struggle with economic recovery, and has strained families.

But so far foreclosures haven't reached epidemic proportions seen in states such as Nevada, Arizona and Florida.

"We've been relatively fortunate," said Jon Mann, a Honolulu real estate agent. "We haven't really been impacted as significantly as some mainland markets."

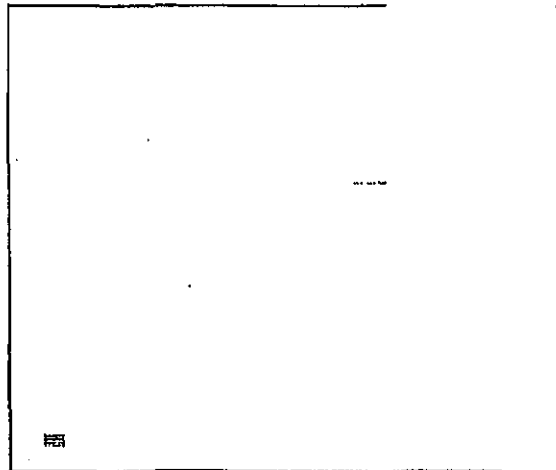
Hawaii's foreclosure level was close to the national average — 2.23 percent of housing affected by foreclosure last year — though Hawaii's rate was 11th highest.

The worst problem is in Nevada, where 9.42 percent of homes were affected by foreclosure last year. The lowest rate was 0.13 percent in Vermont.

In Hawaii, more than half the properties affected by foreclosure were on the neighbor islands, where many out-of-state investors bought vacation homes during the real estate boom in the mid-2000s.

On the Big Island, there were foreclosure filings against 3,370 properties last year, representing 4.23 percent of homes.

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Star Advertiser

MauI had 2,675 properties with foreclosure filings, or 4.05 percent of homes.

be counted on the same property in different months.

Kauai had 819 properties with foreclosure filings, or 2.75 percent of homes.

Oahu had the most properties affected by foreclosure but the lowest rate — 5,561 properties representing 1.65 percent of the housing market.

Real estate industry watchers caution that foreclosures could put downward pressure on housing prices if an overbearing number of foreclosed homes wind up on the market.

On Oahu, there were close to 3,200 single-family homes and condominiums on the market at the end of last year.

Mann said about 15 percent to 20 percent of the inventory was owned by lenders or homeowners trying to avoid foreclosure through short sales.

Whether the percentage will rise is hard to tell because not all homes that enter foreclosure are sold. Some owners work out their mortgage difficulties. In other cases, foreclosure can drag on for more than a year.

Mann notes that some additional inventory won't necessarily hurt the market because present inventory is relatively tight.

Hawaii's foreclosure problem is expected to worsen this year, according to local foreclosure attorneys.

There was a lull in the past two months, but the industry attributes that to lenders holding up cases to address improper processing issues raised a few months ago.

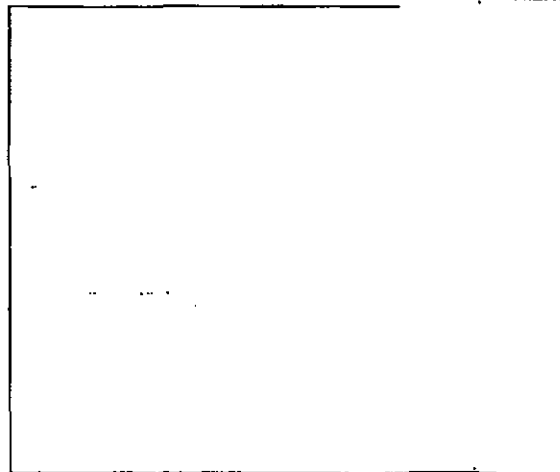
The number of foreclosure filings in December was 1,000. That was down 35 percent from 1,302 in the same month last year but was up from 877 in November.

Lenders filed a flurry of new foreclosure cases last month — 163 default notices, which according to RealtyTrac was the highest number in more than a year.

The bulk of filings last month were auction notices and lender repossessions.

RealtyTrac numbers for the full year are different in that they count properties going through foreclosure. The monthly counts are foreclosure filings, which can

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Mortgage Bankers Association of Hawaii
P.O. Box 4129, Honolulu, Hawaii 96812

January 31, 2011

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

Re: Senate Bill 652 Relating to Mortgage Foreclosures

Chair Baker and Members of the Senate Committee on Commerce and Consumer
Protection:

I am Rick Tsujimura representing the Mortgage Bankers Association of Hawaii ("MBAH"). The MBAH is a voluntary organization of real estate lenders in Hawaii. Our membership consists of employees of banks, savings institutions, mortgage bankers, mortgage brokers, and other financial institutions. The members of the MBAH originate the vast majority of residential and commercial real estate mortgage loans in Hawaii. When, and if, the MBAH testifies on legislation, it is related only to mortgage lending.

The MBAH supports Senate Bill 652 Relating to Mortgage Foreclosures. We feel that the mortgage foreclosure task force's recommendations were made in the best interest of the consumer as well as the lender, as both groups were represented in the task force.

Thank you for the opportunity to present this testimony.

**SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION**

February 2, 2011

Senate Bill 652 Relating to Mortgage Foreclosures

Chair Baker and members of the Senate Committee on Commerce and Consumer Protection, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders.

State Farm is requesting an amendment to Senate Bill 652 Relating to Mortgage Foreclosures by inserting language which would inform insurers of the event of foreclosure. Specifically we are requesting the words, "and the property insurer" to be inserted in section 667-C(4) following the words, "obligors and guarantors" on page 8, line 20 and on page 9, line 10 following the words, "filing party".

State Farm is seeking the same type of notice that it provides lending institutions when policies are terminated. Your favorable consideration of this amendment is appreciated.

Thank you for the opportunity to present this testimony.

HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law

P.O. Box 4109

Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

Fax No.: (808) 521-8522

February 2, 2011

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

Re: **Senate Bill 652 (Mortgage Foreclosures)**
Hearing Date/Time: Wednesday, February 2, 2011, 8:30 A.M.

I am the attorney for the **Hawaii Financial Services Association** ("HFSA"). The HFSA is the trade association for Hawaii's financial services loan companies, which are regulated by the Hawaii Commissioner of Financial Institutions. Financial services loan companies make mortgage loans and other loans.

The HFSA supports this Bill and offers an amendment.

The purpose of this Bill is to implement recommendations of the Mortgage Foreclosure Task Force relating to service of notice, conversion from nonjudicial to judicial foreclosure, the bar against deficiency judgments, notice of pendency of action, and extinguishment of the mortgagor's interest pursuant to the old nonjudicial foreclosure law.

This testimony is based, in part, on my role as the Vice Chairperson of the Hawaii Mortgage Foreclosure Task Force ("Task Force"). I served as a member of the Task Force as the designee of the HFSA. This testimony is also based on my experience as an attorney who has actively done foreclosures for nearly 33 years since 1978.

This Bill reflects the "Language for Proposed Legislation" that is in the Task Force's 2011 Preliminary Report. The recommendations of the Task Force are substantive and provide meaningful improvements to the non-judicial foreclosure process. The recommendations are the result of consensus by the 17 Task Force members who represented diverse, and in some instances opposing, interests.

On January 28, 2011, your Committee held an informational briefing on the Report of the Task Force. As one of the 3 Task Force members participating in the briefing, I submitted testimony on behalf of the four Hawaii mortgage lender organizations represented on the 17 member Task Force. The organizations are: **Hawaii Bankers Association, Hawaii Credit Union League, Mortgage Bankers Association of Hawaii, and Hawaii Financial Services Association**. A copy of that testimony is attached as Exhibit "A".

The attachment details why the four Hawaii mortgage lender organizations, the members of which have offices and employees in Hawaii, support this Bill. The Hawaii mortgage lender organizations will be working this year on the Task Force to consider other recommendations for the 2012 Legislature.

However, as stated in the attachment, we recommend that this Bill be amended on page 18, line 9 relating to deficiencies against an owner-occupant after a non-judicial foreclosure sale. As drafted, if an owner-occupant who is being foreclosed on has "a fee simple or leasehold ownership interest in any other residential real property", the foreclosing lender can pursue or obtain a deficiency judgment against that person. That provision is unduly restrictive. Mortgage lenders should be allowed to also pursue an owner-occupant for a non-judicial foreclosure deficiency if that person owns any non-residential property (e.g. commercial property, etc.).

This Bill should be amended to delete the word "residential" on line 9 of page 18. The phrase should read: "a fee simple or leasehold ownership interest in any other real property".

Thank you for considering our testimony.

Marvin S.C. Dang

MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association



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Honolulu, HI 96813-4203

Presentation of the Committee on Commerce and Consumer Protection
Wednesday, February 2, 2011 at 8:30 a.m.
Testimony on SB 652 Relating to Mortgage Foreclosures

In Support

TO: The Honorable Chair Rosalyn H. Baker
The Honorable Vice Chair Brian T. Taniguchi
Members of the Committee

I am Gary Fujitani, Executive Director of the Hawaii Bankers Association (HBA), testifying in support of SB 652 with an offered amendment. HBA is the trade organization that represents all FDIC insured depository institutions doing business in Hawaii.

The purpose of this bill is to implement substantial recommendations of your Mortgage Foreclosure Task Force, which HBA had a participating member.

It is recommended that this Bill be amended on page 18, line 9 relating to deficiencies against an owner-occupant after a non-judicial sale by deleting the word "residential", which would allow a deficiency if the mortgagor owns any other real estate.

We incorporate by reference the testimony separately submitted by the Hawaii Financial Services Association.

Thank you for the opportunity to provide our testimony.

A handwritten signature in black ink, appearing to read 'Gary Y. Fujitani', with a horizontal line drawn through the end of the signature.

Gary Y. Fujitani
Executive Director



555 Kaukahi Street
Wailea, Hawaii 96753-8333
(808) 874-6866 • (808) 874-4027
email gm@wcamaui.com

February 1, 2011

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
REGARDING SENATE BILL 652

Hearing Date : WEDNESDAY, February 02, 2011
Time : 8:30 a.m.
Place : Conference Room 229

Sen. Baker and Members of the Committee,

I am testifying on SB 652 on behalf of the member associations of Wailea Community Association. Over the past few years these associations have been burdened with the weight of owners running up tens of thousands of dollars in delinquent assessments, basically living off the other homeowners. This Bill will have a very negative impact on those members of the community who pay their fees.

The process of foreclosure can take many months going far beyond the six month maintenance fee collection limit put on associations. During the typically year-long process the association more than likely will lose money no matter what. That is why we support the ability of a lender to perform a non-judicial foreclosure which can usually be completed in 3 to 4 months. Under this scenario the lender becomes responsible for paying the association and the association's chance of recovering all their loses is far greater than in a lender's judicial foreclosure. The proposal to allow a borrower to convert a lender's non-judicial foreclosure to a judicial foreclosure may do greater harm to a homeowner's association.

What the associations prefer is to have the ability to place an individual in the unit of the non-paying individual, who can pay the assessments, through a lender foreclosure. And since a prompt lender foreclosure benefits the association, anything adopted by the legislature that delays lender foreclosures have a direct impact on all other association members by increasing their financial burden while the delinquent owner walks away.

Also, any legislation to limit non-judicial foreclosure by homeowner associations may greatly limit their ability to recover from a bad situation. While an association can take a money judgment against a delinquent owner, collecting on the judgment can be difficult for many reasons and conducting a foreclosure may be the association's only option to effectively pressure an owner to pay or to recover funds by renting out the unit until the lender forecloses. An association's purchase of a unit

only makes sense if the association has the ability to perform a non-judicial foreclosure. A non-judicial foreclosure takes 3 to 4 months and costs \$3,000-\$4,000, while a judicial foreclosure costs more than twice as much and can take 10 to 12 months sapping more money from the association.

Although the bills being presented this session on foreclosure focus on the individual borrowers, they may be part of a homeowner association, and their fellow association members can be negatively impacted by such legislation. The rights of all owners must be considered.

For the Association,

A handwritten signature in black ink, appearing to read 'Frank Pikrone', with a long horizontal line extending to the right.

Frank "Bud" Pikrone
WCA General Manager

Senator Baker,

I am a Board member and long time owner at Kamole Beach Royale in Kihei.

I am writing in opposition to all legislation currently being considered which makes the collection of delinquent dues or other assessments more difficult, or impossible.

Legislative efforts have all been in the direction of providing a “break” or easing the burden for a person in trouble with their unit. But when this happens the burden is shifted to the others owners, who themselves may just be “holding on”.

Associations do not have a well of money to draw from. All the money we receive is from owners and is used to maintain the facility, take out the garbage, pay the light bill and many others, as well as to maintain the State Mandated Reserves. Board members volunteer their time and incur personal expenses.

THERE IS NO EXTRA MONEY for the Association to draw from. If someone does not pay their share the other owners need to make it up – it’s that simple. In other states, like Florida, where the foreclosure rate in some cases is 30% – 50% the remaining owners cannot pay the share of others and the whole process feeds on itself to put more people into trouble.

I sincerely and respectfully urge you to consider the real Impact on Associations and listen to organizations such as CAI and management Companies who understand the issues and problems with operating Condo’s.

Respectfully Submitted,

George Jacobson
Currently off Island 509-546-1754

F A C E M A U I

Faith Action for Community Equity

Consumer Protection Committee
Testimony related to SB 651 on Mediation and SB 576 on Mediation
Wednesday, February 2, 2011
8:30 am - ?

My name is Tina (Sunshine) Kaikaka, I live in Kula on Maui. I am a member of FACEMAUI. I am testifying in support of both SB 651 and SB 576 but would like to see them even stronger to protect families more effectively.

I am waiting for the knock on my door that tells me and my family to vacate our home. For a year and a half, each month I have received a letter from Bank of America telling me that our sale has been postponed to the next month. We live in constant fear and anxiety that this month may be our last. My son is an A/B student at Kamehameha School. He is an excellent student and the first in our family to attend. My hope has been that we could stay in our home until he graduates at least. But who knows?

I have had a nightmare experience with Bank of America. I have sent paperwork in so many times my head spins to think about it. I have spent at least a hundred dollars paying for the faxes they supposedly needed of information to process a loan modification. They said we were good candidates for it, so we were hopeful. We really thought we could work out an arrangement – we wanted to pay, but they denied us with no justification. The stress over this has made me literally sick. Everything I have ever worked for in my life was invested in this home. I planned to pass it on to my children and keep it in our family.

Bank of America just wouldn't talk to us! I did everything humanly possible to get a modification for payments I could make. But when you can't get a returned call – or the same person on the line twice – it's just impossible. I even asked for papers showing they owned my loan but got nothing.

I asked Sen. Roz Baker for help and even Sens. Inouye and Akaka's offices called Bank of America on my behalf. But it was no help. They got the runaround, too. I tried to short sell my house at one point, but no one would touch it with a ten foot pole once they learned that Bank of America was involved.

I am out of options. But no one should go through what I am. Please pass the strongest mandatory mediation legislation possible. We need something like the Nevada model, which is proven to work for families. Banks need to be required to do what is right, since they are not doing it voluntarily already! Any legislation must require lenders to come to the table with an authorized representative who can make an agreement with a family. Obviously, even before that, they should be required to prove that they own the mortgage to foreclose – that's just common sense. SB 576 requires this; SB 651 does not currently but should be changed to.

Mahalo for all you are doing to protect the families of Hawaii. Thank you for your attention to my testimony.

FACE MAUI

Faith Action for Community Equity

**Consumer Protection Committee
Testimony related to SB 651 on Mediation and SB 576 on Mediation
Wednesday, February 2, 2011
8:30 am - ?**

My name is Tina Draper, I am the Outreach Worker at St. Theresa Catholic Church in Kihei (Maui). I have also worked for the Hale Kau Kau feeding ministry for years. I am a member of FACE MAUI.

In my work, I have heard a lot of very sad stories, but lately they have changed. It used to be that it was rather straightforward to identify the source of someone's misfortune. Maybe they were homeless or transient because of an addiction or mental illness; we recognized the need to help those who could not help themselves. But now, I am seeing families – often working families with kids, who line up for food every evening. Job instability has forced many able-bodied, hard-working people into situations they never imagined.

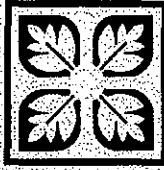
Foreclosure is a crisis on the island of Maui. We lead the islands in the number of families in danger of losing their homes – or having lost them already. Nationwide, states are passing laws to help families reach mediated agreements with lenders. Mandatory mediation laws, like the Nevada one, are doing for families what banks have proven unwilling to do voluntarily so far – come to the table in good faith to negotiate a solution for loan modification.

There is no benefit to Maui having streets of homes sitting vacant while their former owners are forced into the social safety net (which is stretched pretty thin already). And neighbors' homes lose value as the homes around them deteriorate, and the weeds take over the properties. It's dangerous for kids and teens, also.

Please pursue the strongest version of mandatory mediation legislation that you can. Simple requirements, like compelling the banks to prove ownership of the loan, and sending an authorized representative to negotiate in a live mediation session, are the least we can do to help the residents of our communities hold on to their most important asset.

Thank you for your work on this important issue. I urge you to put teeth into any bills you move forward—mandatory measures. You are the only line of protection we have at this point. We are losing ground daily to the corporate interests of financial institutions – over the interests of real Hawaii families. Do not leave it to the discretion of these institutions to come to the table and to pursue reasonable loan modifications.

Our families are in free fall. Your legislation must catch as many as it can. We can't wait.



CATHOLIC CHARITIES HAWAII

211 Kaulawahine St, Kahului, Hawaii 96732

Consumer Protection Committee

Testimony related to SB 651 on Mediation and SB 576 on Mediation

Wednesday, February 2, 2011

As the chair of FACE Maui's Affordable Housing, Land Use and Foreclosure task force I would like to take this time to thank Senator Roz Baker and Senator Suzanne Chun Oakland for introducing legislation to protect our families that are facing foreclosure.

I am testifying in support of both SB 651 and SB 576 but I am asking you to please consider adding tougher requirements to this really important legislation. We need your help to advocate strong mandatory mediation legislation that will hold mortgage servicers accountable to families facing foreclosure.

On Maui I get calls from many people who can't afford their mortgages, their homes are going into foreclosure or have already lost their homes and have no where to go. They have no idea what they can do or what their options are.

I have heard Na Hale O Maui's Executive Director say one of every 88 homes on Maui is in foreclosure. This is absolutely staggering and disconcerting. Families need to feel they have rights; they need to understand the process and what they can do to correct the situation to make it right (the whole concept of pono and doing what is right). They have the right to meet face to face with an authorized person not spend countless phone calls often speaking to a new representative (every time they call it's a new representative) who requires them to resubmit required paperwork time and time again. They have the right not to live in constant fear, that every time they hear a car driving into their driveway it's not a sheriff representing a lender taking away their home and throwing them out in the street. Thus making them feel frustrated, powerless, a loss of control leading them to believe they have no rights and cannot win this battle.

In Hawaii our land is cherished and treasured; the idea of losing it means a loss for generations. Please give our families the ability to be pro-active and work towards solutions so they won't lose their homes to foreclosures.

Sincerely,

Thelma Akita-Kealoha
Maui Community Director
Catholic Charities Hawaii

January 31, 2011

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

Re: SB 235/OPPOSE IN CURRENT FORM
SB 652/OPPOSE
SB 1191/OPPOSE

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

My name is Livit Callentine, and I serve as President of the Board of Directors of my AOA, Kehalani Gardens. I am taking the time to write to you today to express my deepest concern about the likely result to me and 131 other owners in my townhome neighborhood. Kehalani Gardens was approved and constructed to meet the affordable housing requirement for the Kehalani Project District in Central Maui. The majority of the owners are law-abiding and pay their association dues on time. However, for the growing fraction of owners who fail to pay their dues, I have the frustrating task of overseeing collection efforts. My own dues have been spent on legal fees we are required to attempt to collect on behalf of the AOA, and have subsequently increased when these attempts are less than successful.

I wish to impress on you the gravity of our situation by illustrating my own circumstances, which are typical of the working class members this AOA: I am employed as a professional planner for the County of Maui, Department of Planning. Though I have continued to advance professionally and gain valuable experience, over the past 3 years, not only have I not gotten a pay raise, I have been forced to take a pay cut, while my expenses have continued to rise. Because a dozen or so of my fellow residents are not paying their fair share of the cost to maintain the common elements, my dues are scheduled to increase by at least 18% this year. If my AOA dues continue to rise to cover these losses, I run the risk of being unable to pay my bills, and I too may have to choose between paying my mortgage and my association dues, which would only compound an already untenable situation for the rest of our members.

I have read and fully support the attached testimony submitted by Philip S. Nerney on behalf of the Hawaii Chapter of the Community Associations Institute. I call on you to amend SB 235, defeat SB 652 and SB 1191 so that working people like me, and communities throughout Hawaii, are not subject to unfair laws that if passed will ultimately erode the social fabric of the state.

Homeowners Associations are not financial institutions; we are working people, trying to live our lives and be good citizens.

Sincerely,



Livit Callentine
631 Meakanu Lane Apt 101
Wailuku, HI 96793
(808) 268-5568

Senate Committee on Commerce and Consumer Protection Regarding Senate Bill 652
Hearing Date: Wednesday, February 2, 2011
Time: 8:30 a.m.
Place: Conference Room 229

Dear Senator Baker and Members of the Committee

I am President of the Kai Malu at Wailea AOA here in Maui. As with most AOA's, we have suffered with a good deal of owners who have not maintained their AOA fees. As a result, we have incurred great delinquencies, a number of lender foreclosures and the AOA has even had to foreclose several units in order to stop the financial bleeding. As a result of all these difficult time, the AOA has sustained a good deal of loss, which therefore requires all owners who do pay their dues to contribute even more to offset our losses. Therefore, in your efforts to protect individual borrowers, we are requesting that it not be done at the expense of all other AOA owners who are not only fellow borrowers on their own mortgages, but who are also keeping the AOA afloat with payment of their AOA fees and who have to offset those owners who are not paying their share.

We are finding that the bulk of owners who are significantly delinquent are realtors or, mortgage brokers who own multiple properties and who got caught in the down turn of the realty market and have not been able to maintain their large mortgages or, to flip the property for quick sales. As a result, we have owners who are over \$27,000 delinquent in their fees by the time their units are judicially foreclosed. At that time, when the AOA is paid their \$3,600 statutory allowance, the AOA has suffered a loss of over \$23,000 that must be made up for by those responsible owners who have paid their dues. Therefore, if lenders are prohibited from pursuing non-judicial foreclosure, the AOA's will sustain much greater losses than when a foreclosure can be completed in a shorter time period with a non-judicial foreclosure.

In addition, any limitation of the AOA's ability to pursue a deficiency judgment increases each of the AOA homeowner's financial burden for the loss sustained by the foreclosed homeowners. At present, we will suffer a loss of over \$80,000 (this is excluding our \$3,600 in statutory allowance for the 7 units), which can only be recovered through a deficiency judgement. The only other options available to AOA's is to foreclose and rent the unit to stop the growing delinquency. Of course, this is done on an interim basis until the lender forecloses because with all of our delinquent owners, they are also delinquent in their mortgages. We also can benefit from a short sale when the new buyer who gets such a great deal (as much as \$200,000 to \$300,000 reduction in the value of surrounding units.) The AOA's loss is mitigated when the new buyer in a short sale, pays the delinquency in order to clear title.

Therefore, although I think it is admirable that you want to protect the borrower in these troubled times, I would implore you to recognize that the AOA also needs to be protected from the borrower who has not been paying any of their maintenance fees. This is a totally different situation than a homeowner who has maintained his individual property and has paid his utilities, but has not paid his mortgage. In an AOA, the only protection the AOA has from growing delinquencies, where the owner benefits from all other owners paying his expenses, is a short sale with recovery of the delinquent amount, a quick non-judicial foreclosure by the lender, which then stops the growing delinquency with the homeowner, or a non-judicial foreclosure by the AOA. Please, do not place the burden on all responsible AOA homeowners by eliminating or reducing our current options to curb the growing AOA delinquencies in your efforts to protect those borrowers who are not paying for their fair share of their condo life style.

Thank you for your consideration of our concerns.

Very truly yours,

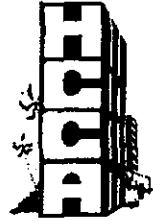
M. J. Yardley
President of Kai Malu at Wailea
80 Kainehe Place
Kihei, HI 96753



**Hawaii Council of Associations
of Apartment Owners
DBA: Hawaii Council of Community Associations**

P.O. Box 726, Aiea, HI, 96701

Tel: 485-8282 Fax: 485-8288 HCAAO@hawaii.rr.com



January 31, 2011

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

Re: SB 652 and SB 1074 Relating to Mortgage Foreclosures (Task Force)
Hearing: Wednesday, Feb. 2, 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) and I am a member of the mortgage foreclosure task force.

HCAAO supports these two bills with one change:

1. In Bill 652 at page 11 line 16 and at page 18 line 9, the word "residential" should be deleted. These provisions relate to the waiver of the lender to pursue a deficiency judgment. The lender group on the task force agreed to waive their right to pursue a deficiency judgment against an owner-occupant who had no other property but would insist on their right to obtain a deficiency judgment against an owner-occupant who had other real property, i.e., investment, commercial or industrial property. Accordingly, the word "residential" was not consensus language and should be deleted.
2. In Bill 1074 at page 10 line 10 and at page 17 line 4, the word "residential" should be deleted. These provisions relate to the waiver of the lender to pursue a deficiency judgment. The lender group on the task force agreed to waive their right to pursue a deficiency judgment against an owner-occupant who had no other property but would insist on their right to obtain a deficiency judgment against an owner-occupant who had other real property, i.e., investment, commercial or industrial property. Accordingly, the word "residential" was not consensus language and should be deleted.

SB 652 and SB1074 Re Mortgage Foreclosures (Task Force Recommendations)
Senate Committee on Commerce and Consumer Protection
January 31, 2011
Page 2 of 2

Thank you for the opportunity to testify.

A handwritten signature in black ink, appearing to read "Jane Sugimura". The signature is fluid and cursive, with the first name "Jane" written in a larger, more prominent script than the last name "Sugimura".

Jane Sugimura
President



P.O. Box 976
Honolulu, Hawaii 96808

January 28, 2011

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

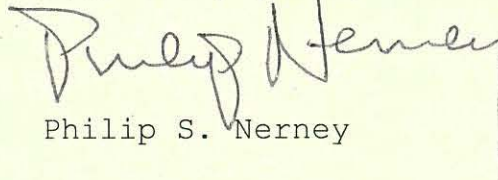
Re: SB 652/SB235/SB 1191-OPPOSED

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

Thank you for the substantial notice concerning the bills being heard on February 2, 2011. It is greatly appreciated.

Transmitted herewith please find testimony concerning SB 652, SB 235 and SB 1191. Testimony on the remaining bills will follow in due course.

Very truly yours,



Philip S. Nerney



P.O. Box 976
Honolulu, Hawaii 96808

January 28, 2011

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

Re: SB 652/OPPOSED

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

I chair the CAI Legislative Action Committee. CAI opposes SB 652. CAI opposes SB 652 because the sweeping changes to long established foreclosure law proposed therein should not be applied to condominiums.

The adoption of SB 652 would adversely affect condominiums because "The lien of the association may be foreclosed by action or by non-judicial or power of sale foreclosure procedures set forth in chapter 667, by the managing agent or board, acting on behalf of the association, in like manner as a mortgage of real property." (Emphasis added) Hawaii Revised Statutes Section 514B-146(a). Thus, SB 652 would apply to condominiums.

The mortgage industry is unpopular now. Legislation intended to address perceived issues with respect to that industry should not apply to condominiums. There are stark differences between the mortgage industry and condominiums.

The mortgage industry is a for-profit industry. Lenders use an underwriting process to determine credit risks, and they price their products accordingly. Losses can be broadly distributed in the mortgage industry.

In contrast, condominiums utterly lack the capacity to choose their members. Units are bought and sold in private transactions. The condominium association is not a party to those transactions. Losses resulting from owner defaults cannot be broadly distributed.

Honorable Rosalyn H. Baker
Honorable Brian Taniguchi
January 28, 2011
Page 2 of 5

Condominiums are non-profit entities. Condominiums collect common expense assessments simply to pay the bills incurred to operate, maintain and to repair the condominium. If one owner fails to pay, then other owners pay instead.

A mortgage foreclosure default, then, affects massively capitalized and sophisticated business entities taking calculated risks in an effort to make money. In contrast, a condominium owner who defaults hurts other consumers in a direct and immediate fashion.

The loss resulting from one condominium owner's default can only be spread over a quite limited base. That base consists of other consumers who own units at the condominium. Those consumers have their own bills to pay, and making up for the defaults of others is an unreasonable burden on those consumers.

The legislature has recognized the burden that defaulting owners place on condominiums. See, for example, 1999 Session Laws 723 (Act 236) (partial findings attached hereto). In particular, but without limitation, the legislature found that delinquencies place "an unfair burden on those non-delinquent apartment owners who must bear an unfair share of the common expenses[.]" Id.

The report of the Mortgage Foreclosure Task Force states, in Table II, that "The task force intends to review and make specific recommendations regarding the foreclosure of condominium association liens, and will address these issues as part of its report to the 2012 legislature, as this is a complex area of law involving various chapters of the Hawaii Revised Statutes." (Emphasis added) Several points are in order.

First, there is no representative from the Community Associations Institute on the task force. CAI represents the condominium industry, has great expertise and should be represented on the task force.

Second, the task force statement quoted above suggests that no legislation emanating from the task force should be enacted until matters concerning the "complex area of [condominium] law" are mastered. Again, CAI can supply the necessary expertise.

Third, it is entirely feasible to provide separate legislative authority to foreclose condominium liens. SB 1454 and HB 1600 propose to do just that. If the legislature prefers to change longstanding mortgage foreclosure law without delay,

Honorable Rosalyn H. Baker
Honorable Brian Taniguchi
January 28, 2011
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then it should simply amend the condominium statute to allow the foreclosure of condominium liens without reference to the foreclosure process used by mortgagees.

If the objection is made that all foreclosures should fall within a single chapter of the Hawaii Revised Statutes, then that means SB 652 should not be adopted; because it simply does not provide appropriate protections for condominiums. The foreclosure law should be carefully integrated or separate processes should be established for mortgagees and condominiums.

CAI also opposes SB 652 on specific points. In particular, but without limitation, the proposal to require service of notice to foreclose non-judicially in like manner as the service of a civil complaint is not appropriate in the condominium setting.

That requirement is inappropriate primarily because it creates an opportunity to evade service. It also does not take into account the challenge presented by owners who simply abandon their units and leave the jurisdiction.

Condominium owners know whether they are paying their maintenance fees or not. They also know that they are obliged to provide current contact information to the association. Current law provides for adequate notice to owners.

An owner seeking to evade service can make a mockery of justice. If a condominium owner cannot be found, it is typically because the owner is hiding.

The subordinate lien position of condominiums is another reason to enable expeditious and inexpensive non-judicial foreclosure processes for condominiums. The lender's lien is superior and the lender can foreclose its superior lien at any time. The expense related to condominium foreclosure should be minimized.

Parenthetically, it should be noted that associations would prefer that lenders foreclose instead. Unfortunately, some owners pay the mortgage and only default on condominium common expense payments. It is also true that the mortgage industry is beset with problems and may not be able to produce documents to enable foreclosure. Condominiums should not be left without a remedy or be left to the mercy of lenders.

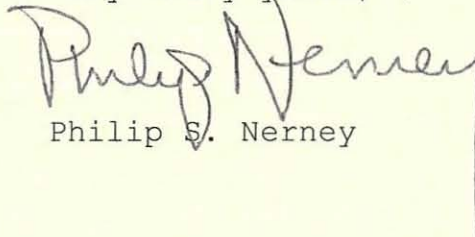
Honorable Rosalyn H. Baker
Honorable Brian Taniguchi
January 28, 2011
Page 4 of 5

The option to convert a non-judicial foreclosure to a judicial foreclosure is objected to on the basis of its high potential for abuse. The supposed trade-off for that delaying tactic is to be that the owner becomes subject to a deficiency judgment.

Exposure to a deficiency judgment would seem to be a disincentive to conversion, but any owner who opts to convert to a judicial foreclosure can just go bankrupt after a deficiency judgment is entered. The owner's credit will already be ruined by the foreclosure so there is little reason to refrain from a bankruptcy filing.

In short, CAI opposes SB 652 because it does not protect condominiums and also because it is flawed even in the mortgage foreclosure context. CAI respectfully requests that condominiums be given separate foreclosure authority that is consistent with current law.

Very truly yours,


Philip S. Nerney

1999 Session Laws 723 (Act 236) (partial findings)

SECTION 1. The legislature finds that associations of

2 apartment owners are increasingly burdened by the costs and
3 expenses connected with the collection of delinquent maintenance
4 and other common expenses.

5 The legislature further finds that the number of
6 foreclosures in this State has greatly increased, and that
7 associations of apartment owners are often required to bear an
8 unfair share of the economic burden when purchasers in
9 foreclosure actions exercise rights of ownership over purchased
10 apartments without paying their share of common maintenance fees
11 and assessments.

12 The legislature further finds that more frequently
13 associations of apartment owners are having to increase
14 maintenance fee assessments due to increasing delinquencies and
15 related enforcement expenses. This places an unfair burden on
16 those non-delinquent apartment owners who must bear an unfair
17 share of the common expenses, and is particularly inequitable
18 when a delinquent owner is also an occupant who has benefited
19 from the common privileges and services.

Ekimoto & Morris

A Limited Liability Law Company

DATE: Monday, February 1, 2011; 6:35 a.m., Hawaii Standard Time

TO: Senate Sergeant-At-Arms Office

FAX NO.: 586-6659

FROM: John A. Morris, Esq.

RE: Testimony re: SENATE BILL 652

NO. OF PAGES, INCLUDING TRANSMITTAL: 5

REMARKS:

Transmitting testimony regarding:

SB 652

Hearing Date/Time: Wednesday, February 2, 2011 at 8:30 a.m.

Place: Conference Room 229, State Capitol

Mahalo!

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1001 Bishop Street, Suite 780
Honolulu, Hawaii 96813-3410
February 1, 2011

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
REGARDING SENATE BILL 652

Heating Date : WEDNESDAY, February 02, 2011
Time : 8:30 a.m.
Place : Conference Room 229

Sen. Baker and Members of the Committee,

My name is John Morris and I am testifying on SB 652. I have been involved with condominiums since 1988, when I served as the first condominium specialist with the Hawaii Real Estate Commission (from 1988 to 1991). Since then, I have served as an attorney advising condominium associations and spent almost 20 years trying to collect delinquencies for them.

1) **Every Association Member Is Impacted By The Delinquency Of One Association Member.** While protecting individual borrowers is certainly worthwhile, it can have an adverse impact on many other members of the community, not just lenders. For example, if individual borrowers are members of a homeowner association, the failure of those borrowers to pay their maintenance fees directly impacts every other member of that homeowner association. In fact, in most cases, every other member of that homeowner association will have to make up the borrower's deficiency. Therefore, efforts to protect individual borrowers should not ignore the rights of the borrowers' fellow homeowners.

2) **Associations Often Lose Far More Than The Six Months Of Fees Provided Under The Law.** Although the law allows a condominium association six months of maintenance fees in any foreclosure, that benefit can be illusory if a collection/foreclosure drags on for more than six months. For example, typically, if an individual borrower is not paying his mortgage, he is also not paying maintenance fees to his homeowner association. In that situation, if: (i) the borrower's lender begins the foreclosure process after two or three months; (ii) the lender is forced by law to engage in mediation with the borrower for another two or three months; and (iii) the mediation is not successful, the association's recovery of six months of maintenance fees is eaten up by the delay and everything incurred after that first six months will be a loss to the association.

3) **Limiting A Lender's Right To Nonjudicial Foreclosure Adversely Affects Associations.** Similarly, at present, a lender's nonjudicial foreclosure can usually be completed in 3 to 4 months, at which point the lender becomes responsible for paying the

TESTIMONY REGARDING SENATE BILL 652

February 1, 2011

Page 2

association (unless a third party buyer has purchased the unit). A lender's judicial foreclosure usually takes 10 to 12 months to complete. Therefore, an association's chance of being made whole is far greater in a lender's nonjudicial foreclosure than in a lender's judicial foreclosure. On that basis, the proposal to allow a borrower to convert a lender's nonjudicial foreclosure to a judicial foreclosure may mean greater losses for a homeowner's association.

(A proposal to eliminate a lender's right to conduct nonjudicial foreclosure would force all foreclosures back into court, leading to much greater delays in placing a paying owner in a foreclosed unit. In the early 1990s, when the nonjudicial foreclosure was rarely used and judicial foreclosure was the norm, it often took three or four months just to get a hearing to have a commissioner appointed to sell a property and often took 12 to 15 months to complete a judicial foreclosure because the courts were so clogged with foreclosures. That was true even for properties that had been abandoned by their owners and sat empty while the judicial foreclosure dragged on.)

4) **A Prompt Lender Foreclosure Is Best For Associations.** In that respect, if an individual borrower cannot pay the amounts due on his unit to his homeowner association, the association's preferred solution is to, as quickly as possible, place an individual in the unit who can pay those amounts. Often the only way to do that is through a lender foreclosure. (An association foreclosure of a unit subject to a large prior mortgage will usually not be effective to transfer title to a new owner because the mortgage often exceeds the value of the unit-- see below.) Therefore, since a prompt lender foreclosure benefits the association, any procedures adopted by the legislature that delay lender foreclosures under those circumstances have a direct impact on other association members by increasing their financial burden.

5) **Limiting An Association's Right To A Deficiency Judgment Is Not Fair.** Any action to eliminate the right of a homeowner association to take a deficiency judgment would in essence allow a borrower to live scot-free at the expense of his fellow homeowners. If a unit is worth (and sells at auction for) \$300,000 but is subject to a mortgage of \$350,000, it already has a negative worth. As a result, any sale of that unit in foreclosure will leave no proceeds from the sale for the homeowner association (even the first mortgage holder will take a loss of \$50,000). In that situation, if the legislature prohibits an association from taking a deficiency judgment, the remaining association members will have to make up the deficiency and the delinquent borrower will just walk away. Even the six months or \$3,600 presently provided to the association under the law may be insufficient to make up deficiencies that often reach thousands or even tens of thousands of dollars in a long, drawn-out collection procedure.

TESTIMONY REGARDING SENATE BILL 652

February 1, 2011

Page 3

6) **Nonjudicial Foreclosures By Associations Are Often Their Only Option.** Finally, any action to limit nonjudicial foreclosure by homeowner associations may also limit their ability to make the best of a bad situation. While an association can take a money judgment against a delinquent owner, collecting on the judgment can be problematic and illusory if the owner has no assets or those assets have been carefully hidden. In that situation, conducting a foreclosure may be the association's only option to effectively pressure an owner to pay or, if that is not possible, to convert the unit to productive use by renting it out until the lender forecloses.

In the example given above, if a unit is worth \$300,000 but is subject to a mortgage of \$350,000, it already has a negative worth. Since the association is usually a junior lien holder, it can only sell the property subject to the mortgage, which generally means no one will buy the property except the association. At that point, the association can purchase the unit to try to rent it out to generate some income until the lender takes action. (Knowledgeable buyers will not even pay a dollar for a property that is only worth \$300,000 but is subject to a mortgage of \$350,000. In that situation, the mortgage will have to be paid off if the buyer intends to keep the property. Otherwise, the lender will foreclose on its lien and wipe out the buyer's interest acquired from the association, a junior lien holder.)


An association's purchase of a unit only makes economic sense, however, if the association can conduct a nonjudicial foreclosure. A nonjudicial foreclosure takes 3 to 4 months and costs \$3,000-\$4,000, while a judicial foreclosure costs \$8,000-\$10,000 and, again, can take 10 to 12 months, making it economically unfeasible for the association.

In summary, while the bills presented this session on foreclosure focus primarily on individual borrowers, those individual borrowers may be part of a homeowner association. If so, their fellow association members can be seriously impacted by any decision made by the legislature to protect individual borrowers.

Suggested changes to SB 652, consistent with the above analysis, are attached.

Please contact me at 523-0702 if you have any questions. Thank you for this opportunity to testify.

Very truly yours,



John A. Morris

JAM:alt

G:\C\2011 Testimony SB 652 (02.01.11)

TESTIMONY REGARDING SENATE BILL 652

February 1, 2011

Page 4

SB 652

I. Section 667-B(b) should be amended to read as follows (in *bolded italics*):

§667-B Conversion; residential property; conditions.

*

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*

(b) This section shall not apply to nonjudicial foreclosures of association liens that arise under a declaration filed pursuant to chapters 514A or 514B. In addition, an owner occupant's decision to convert a nonjudicial to a judicial foreclosure under this section shall not prevent an association from conducting either a nonjudicial foreclosure of its lien or other action to collect its maintenance fees from the owner-occupant, unless the owner-occupant pays the amounts due to the association during the judicial foreclosure.

II. Section 667-5(e) should be amended to read as follows (in *bolded italics*):

"§667-5 Foreclosure under power of sale; notice; affidavit after sale[-]; deficiency judgments.

(e) The mortgagee or other person who completes, pursuant to this part, the nonjudicial foreclosure of a mortgage or other lien on residential property shall not be entitled to pursue or obtain a deficiency judgment against an owner-occupant of the residential property who, at the time the notice of intent to foreclose is served, does not have a fee simple or leasehold ownership interest in any other residential real property; provided, however, that nothing herein shall prohibit any other mortgagee or person who holds a lien on the residential property subject to the nonjudicial foreclosure, whose lien is subordinate to the mortgage being foreclosed and is extinguished by the nonjudicial foreclosure sale, from pursuing a monetary judgment against that owner-occupant; provided further that nothing in this section shall prohibit an association who completes a nonjudicial foreclosure of its lien from seeking a deficiency judgment against an owner occupant if the association's nonjudicial foreclosure does not result in the association being paid in full.

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Melissa Barnhill

Organization: Individual

Address: 685 Meakanu Lane, #1002 Wailuku, HI 96793

Phone: 808-283-3700

E-mail: sweettaterpye@yahoo.com

Submitted on: 1/31/2011

Comments:

I am an owner/resident of a condominium in Wailuku on the island of Maui. I definitely oppose this new legislation and ask that the committee either modifies this bill to exempt condos or scratches this bill all together. I struggle to make my HOA dues every month but I do it. It is very frustrating to know that I am paying for some of my non-paying neighbors water, cable and insurance. This bill would make sure the association never gets any of the money back from owners who for whatever reason do not pay. It will only hurt normal, working people like me. Mahalo for your consideration.

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Rory Enright

Organization: Princeville at Hanalei Community Association

Address: 4334 Emmalani Drive Princeville, HI 96722

Phone: 808.826.6687

E-mail: gen_mgr@pcaonline.org

Submitted on: 1/31/2011

Comments:

We oppose this bill. The proposed changes to this statute would make it impossible for the owner associations to collect dues on a foreclosed property. This unfairly puts additional financial burden on the other owners of the community to make up the difference.

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Al Denys

Organization: Individual

Address: c/o 3179 Koapaka St Honolulu, Hi

Phone: 306-9180

E-mail: adenys@hawaii.rr.com

Submitted on: 1/31/2011

Comments:

I am opposed to SB652 as it will preclude any association from collecting delinquent fees from owners who aren't paying their fair share of the associations expenses. This will result in higher costs for the other owners to take care of business and will require higher maintenance fees to pay for these shortcomings. Therefore I am against this Senate Bill and strongly recommend that it not be approved. Thank you.

warmest aloha,

Al Denys

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Kenneth Meany

Organization: Individual

Address:

Phone:

E-mail: kenmeany@roadrunner.com

Submitted on: 1/29/2011

Comments:

As Treasurer of a 126 unit HOA of condos on Hawaii, I have been continually frustrated by the roadblocks in foreclosing on delinquent units. Banks are able to foreclose yet delay in taking title, exempting them from being responsible for monthly fees. We need help with this loophole, not more regulation to hinder us.

Ken Meany, Treasurer

Kolea associations

Waikoloa, HI

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Barbara Carlson

Organization: Individual

Address: 333 Aoloa Street

Phone: 808-772-4292

E-mail: teawanga24@yahoo.com

Submitted on: 1/31/2011

Comments:

This bill if passed will possibly create shortfalls in condo fees - the shortfall plus extra costs of collection will then have to be passed on to the paid-up members of the condo associations in order for associations to remain solvent and meet obligations.

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Larry Starratt

Organization: Individual

Address: 112 Walaka St. #403 Kihei, HI 96753

Phone: 520 548-0579

E-mail: starratt2@hotmail.com

Submitted on: 1/28/2011

Comments:

Based on the reasons of the CAI legislative action committee I strongly oppose SB652, SB235 and SB1191

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Linda Morabito

Organization: Individual

Address: 73-1387 Ili Ili Place Kailua Kona, HI 96740

Phone: 808-325-2038

E-mail: lindam@hmcmt.com

Submitted on: 1/28/2011

Comments:

Please include more community association or CAI members on this committee so that a fair solution can be arrived at.

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Gordon Langston

Organization: Individual

Address:

Phone:

E-mail: flashgordon10t@aol.com

Submitted on: 1/28/2011

Comments:

Member of the board of directors at Kahana Reef and I oppose the legislation.

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: Yes

Submitted by: Charles J Vesely

Organization: Individual

Address: 91-1066 Kaimalie Street Ewa Beach, HI 96706

Phone: 808-888-8379

E-mail: cvesely129@aol.com

Submitted on: 1/28/2011

Comments:

Those of us who purchased homes that we could afford are to be burdened by additional collection fees additional legal delays utilized in the attempts to collect monies owed to homeowner's associations. We are asked to bear the brunt of the costs to keep our associations running when many just live in our communities taking advantages of all the services these associations offer. If it were the case where automobile payments were more than 90 days over due, you can be sure the auto would be repossessed. Where is the protection for us poor dummies who did everything right? We bought homes we could afford, we chose a mortgage we could afford, we pay our association fees as agreed. Making it more difficult to collect on arrears is just not right. It will place a huge burden on those of us who are trying to do what is right.

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Eric M. Matsumoto

Organization: Mililani Town Association

Address: 95-303 Kaloapau St. Mililani, HI

Phone: 282-4324

E-mail: emmatsumoto@hotmail.com

Submitted on: 1/30/2011

Comments:

We oppose this measure because it does not differentiate between mortgage foreclosures and associations foreclosures, where the mortgage industry is not connected with the association mortgages that survive on dues paid by each member. So, being deprived of these funds in foreclosures and not being able to collect the back dues means all the other members must pay for these that are foreclosed on.

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Clive B Davies

Organization: 49 Black Sand Beach Homeowners Assoc

Address: 68-1038 Honokaope Place, Kamuela,Hi 96743

Phone: 808 885 0675

E-mail: clivebd@aol.com

Submitted on: 1/28/2011

Comments:

The proposed bill adversely affects the ability of Homeowner Associations to recover unpaid dues and fees and unjustly penalizes the homeowners.

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Tom Kell

Organization: Waikoloa Beach Villa Condo Assoc.

Address: 69-190 Waikoloa Beach Dr Waikoloa HI 96738

Phone: 69-180 Unit N 01

E-mail: tomk1949@yahoo.com

Submitted on: 1/29/2011

Comments:

Our AOA has close to \$180 K in delinquencies and it is getting almost impossible to collect. We spend countless hours and dollars attempting with out much luck. We need easier laws to assist. The dues are our only way of paying the bills and every owner must pay his fair share.

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Arthur A. Kluvo

Organization: Individual

Address: 94-1099 Heahea Street Waipahu, HI

Phone: 808-678-2029

E-mail: akluvo@gmail.com

Submitted on: 1/29/2011

Comments:

SB 652 would be detrimental to me. The maintenance fees of my condominium at AOA Cathedral Point would eventually rise if this bill passes.

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: GARY M. YAKABU

Organization: Individual

Address:

Phone:

E-mail: gmyak@hawaiiantel.net

Submitted on: 1/31/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Myron Resnick

Organization: Individual

Address: 4327 Lower Honoapiilani Rd, #110 Lahaina, HI. 96767

Phone: 808-669-8554

E-mail: mikedakine@hotmail.com

Submitted on: 1/31/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Lyndon Williams

Organization: Palette Community Association

Address: 92-1260 Umena st Kapolei, Hi

Phone: 672-3206

E-mail: Will.Lyndon@gmail.com

Submitted on: 1/28/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Carolyn Newman

Organization: Hawaiiana Management Company

Address: 74-5620 Palani Road #215 Kailua-Kona, HI 96740

Phone: 808-930-3218 ext 371

E-mail: carolynn@hmcmtg.com

Submitted on: 1/28/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Barry G Snowbarger

Organization: Villas at Ke Alaula

Address: Kailua-Kona

Phone: 8083251552

E-mail: snow.man@earthlink.net

Submitted on: 1/28/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Glen Hilton

Organization: Individual

Address:

Phone:

E-mail: glenhilton2@netscape.net

Submitted on: 1/31/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Debbie Smee

Organization: Individual

Address:

Phone:

E-mail: smee@charter.net

Submitted on: 1/28/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Carolyn Zangari

Organization: Individual

Address:

Phone:

E-mail: cado97@aol.com

Submitted on: 1/29/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Fred Allen

Organization: Individual

Address: 5855 E Carson street Lakewood, Calif 90713

Phone: 562.497.0370

E-mail: fred@allentire.com

Submitted on: 1/29/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Richard H. Holt

Organization: Individual

Address:

Phone:

E-mail: navyholt@aol.com

Submitted on: 1/29/2011

Comments:

Opposed to application to Condominium Associations.

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Malcolm R. Saxby

Organization: Individual

Address: South Road Kurtistown, Hawaii

Phone: (808)966-8300

E-mail: malcolm@punacertifiednursery.com Submitted on: 1/29/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Earl Park

Organization: Individual

Address: 75-6009 Alii Dr., Unit H-2 Kailua Kona, Hawaii

Phone:

E-mail: parkj052@hawaii.rr.com

Submitted on: 1/29/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Tim Baier

Organization: Pearl Regency Home Owners Association

Address: Aiea, HI

Phone:

E-mail: timlid.baier@att.net

Submitted on: 1/29/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Betty Bradford

Organization: Individual

Address:

Phone:

E-mail: bbpvca@yahoo.com

Submitted on: 1/30/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: John E Patton

Organization: Individual

Address: WAILUNA CONDO COMMUNITY Aiea

Phone:

E-mail: jpatton@uci.edu

Submitted on: 1/30/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Anne Palagyi

Organization: Individual

Address:

Phone:

E-mail: Annepalagyi@Hawaii.rr.com

Submitted on: 1/30/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Raymond D. Sauer

Organization: Individual

Address:

Phone: (808) 689-3700

E-mail: RDSauer@mac.com

Submitted on: 1/30/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Carlos E Soler

Organization: Individual

Address: 2385 S. Kihei Rd., #305 Kihei, HI

Phone: 916-425-7975-

E-mail: carlos@solercpa.com

Submitted on: 1/30/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Mary Martin

Organization: Individual

Address:

Phone:

E-mail: mmartin40@hawaii.rr.com

Submitted on: 1/30/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Jason Radwick

Organization: Individual

Address:

Phone:

E-mail: Radwick777@Juno.com

Submitted on: 1/31/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Patrick J. Wardell

Organization: Individual

Address: 3833 L. Honoapiilani Rd Lahaina, HI

Phone: 808 3443755

E-mail: pwardell@uplink.net

Submitted on: 1/28/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Gary H. Watanabe

Organization: Individual

Address:

Phone:

E-mail: gary.h.watanabe@whirlpool.com

Submitted on: 1/31/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Robert Greeno

Organization: Individual

Address:

Phone:

E-mail: onehaliikai@yahoo.com

Submitted on: 1/31/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: JOE ALMEIDA

Organization: Individual

Address: 94-314 MAIAOHE PLACE

Phone: 623-7991

E-mail: J55547@AOL.COM

Submitted on: 1/31/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Myron Resnick

Organization: Individual

Address: 4327 Lower Honoapiilani Rd, #110 Lahaina, HI. 96767

Phone: 808-669-8554

E-mail: mikedakine@hotmail.com

Submitted on: 1/31/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: John Decker

Organization: Individual

Address:

Phone:

E-mail: jdcp1234@aol.com

Submitted on: 1/31/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Robert Leistikow

Organization: Hokulani Golf Villas Owners Assoc

Address: 375 Huku Lii Street #204 Kihei, Hawaii

Phone: 891-0093

E-mail: bobl@signaturehomesofhawaii.com

Submitted on: 2/1/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: ray tremblay

Organization: Individual

Address:

Phone: 808-285-6000

E-mail: rayhonolulu@yahoo.com

Submitted on: 2/1/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

Testifier will be present: No

Submitted by: Tori Kinney

Organization: Individual

Address:

Phone:

E-mail: tlk715@gmail.com

Submitted on: 2/1/2011

Comments:

Testimony for CPN 2/2/2011 8:30:00 AM SB652

Conference room: 229

Testifier position: oppose

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

Submitted on: 2/1/2011

Comments: