
From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 15, 2011 11:14 AM
To: HSGtestimony
Cc: oneald003@hawaii.rr.com
Subject: Testimony for SB714 on 3/16/2011 9:00:00 AM

Testimony for HSG 3/16/2011 9:00:00 AM SB714

Conference room: 325
Testifier position: oppose
Testifier will be present: No
Submitted by: David O'Neal
Organization: Individual
Address:
Phone:
E-mail: oneald003@hawaii.rr.com
Submitted on: 3/15/2011

Comments:

I oppose this measure for the following reasons:

Page 1, Section 1(a)(2): Limiting of the charge per page to \$0.20 per page based on the IRS FOIA commercial request does not take into consideration rising costs of goods and services. There is no provision for periodic reviews of the cost per page. Further, there is no provision for charges involving copies of large size documents, such as 8-1/2" x 14" or 17". It should also be noted that, as a government agency, IRS is subsidized. More importantly, it should be remembered that it is all the other homeowners who pay for the copies requested by an individual homeowner if the allowed charge is below cost.

Page 1, Section 1(a)(3): This is unnecessary for self-managed associations such as MTA. Appropriate minutes are provided online to better manage communications, in addition to posting at recreation centers. Since financials are not for public distribution, the only option left is review during business hours, which, as an unintended consequence, effectively reduces the methods by which homeowners can get access to this information from PCAs.

Based on the above, I request this bill be deferred or delete all of Section 1 from this measure as it does not improve the information flow to homeowners and may even incur additional costs to homeowners.

Thank you for your time.



The REALTOR® Building
1136 12th Avenue, Suite 220
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March 16, 2011

The Honorable Rida T.R. Cabanilla, Chair

House Committee on Housing
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: S.B. 714, S.D. 1, Relating to Residential Real Property

HEARING: Wednesday, March 16, 2011, at 9:00 a.m.

Aloha Chair Cabanilla, Vice Chair Chong and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i and its 8,500 members. HAR submits **comments** on S.B. 714, S.D. 1, which requires that condominium property managers, associations of apartment owners, and planned community associations make association documents available to owners under reasonable terms, including through an association or property management company's website, and for reasonable costs.

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

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

HAR is currently reviewing the measure in more detail, but notes that there may be some concerns about the consistency of the measure with regard to the condominium statute.

HAR further notes that should the Committee move this measure forward, we would request an effective date of July 1, 2012, to allow time for management companies and associations to effectuate items in this measure, such as website development.

Mahalo for the opportunity to testify.





Mililani Town Association

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

FMarch 14, 2011

Representative Rida Cabanilla, Chair
Representative Pono Chong Vice-Chair
Committee on Housing
State Capitol
Honolulu, HI 96813

VIA E-Mail: HSGtestimony@capitol.hawaii.gov

Re: S.B. No. 714 SD 1/OPPOSE – Relating to Residential Real Property
Hearing: Wednesday, March 16, 2011, 9:00am Conf Room 325

Dear Chair Cabanilla, Vice-Chair Chong 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. MTA encompasses approximately 16,000 units of both single family residences and numerous townhouse project sub-associations.

We oppose this measure for the following reasons:

Page 1, Section 1(a)(2): Limiting of the charge per page to \$0.20 per page based on the IRS FOIA commercial request does not take into consideration rising costs of goods and services. There is no provision for periodic reviews of the cost per page. Further, there is no provision for charges involving copies of large size documents, such as 8-1/2" x 14" or 17". It should also be noted that, as a government agency, IRS is subsidized. More importantly, it should be remembered that it is all the other homeowners who pay for the copies requested by an individual homeowner if the allowed charge is below cost.

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Based on the above, we request this bill be deferred or delete all of Section 1 from this measure as it does not improve the information flow to homeowners and may even incur additional costs to homeowners.

Sincerely yours,

Eric M. Matsumoto
Vice-President, Board of Directors

Cc: Sen Kidani, Rep Lee, Rep Yamane

To: Committee on Housing
Rep. Rida T.R. Cabanillo, Chair
Rep. Pono Chong, Vice Chair

From: Kelly Pomeroy
Concerned Kohala Ranch Property Owners
kpterra@gmail.com

Re: Hearing scheduled for March 16th at 9 am, Room 325

Opposition to S.B. NO. 714 S.D 1 Relating to Planned Community Associations

Most of this bill relates to condominium associations, but we are commenting only on the portion that relates to §421J-7. We support making documents readily available to association members, but the exemption of items relating to finances substantially weakens this bill. Financial information is one of the most important kinds of data members should have access to.

We get the impression that the change to exempt financial records was made largely in response to testimony from an individual who identified himself as a board member of various unspecified Hawaii condominium associations, for which he apparently was not acting as a spokesman.

We can understand legislators being concerned about the possibility of financial information being accessed by unauthorized individuals and misused, but we ask you to take a closer look at this. We aren't talking about someone's bank account being pilfered or about identity theft or blackmail. We're simply talking about organizational budgets and expenditures. Who would go to the trouble of hacking something like that, and for what purpose? The association can require a password if it cares to, and that should be more than enough protection for this level of data.

The real danger here is incompetent or dishonest handling of an association's funds by its own officers or management company – and we know of instances of both. Anything that makes it harder for the members to monitor their money makes it that much more likely that error or abuse will go undetected. Certainly bank account numbers should not be put onto the website, and perhaps company names could require a special request, but members should be able to find out how much is being spent for what without having to jump through hoops.

In addition, paragraph (a)(3) should be changed to specify a website maintained by a property management company or by the association. The way the bill is written, it requires even small associations to hire a management company and to pay them to maintain a website; and such expenditures might not be justified.



HAWAIIANA

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March 15, 2011

Honorable Rida T.R. Cabanilla, Chair
Honorable Pono Chong, Vice Chair
COMMITTEE ON HOUSING
415 South Beretania Street
Honolulu, HI 96813

RE: SB 714, SD1 – HEARING, MARCH 16, 2011, 9am - OPPOSE

Aloha Chair Cabanilla, Vice Chair Chong and Committee members,

Hawaiiana Management Company is a locally owned property management company that currently manages 575 Associations totaling over 95,000 condos, homes, and co-ops in Hawaii. I would like to testify before the committee on Wednesday, March 16, 2011 in opposition to SB 714, SD1 for the following reasons:

- If this bill is passed, it will be devastating for property management companies because it will cost thousands of dollars and be very labor intensive to set-up, manage, and maintain.
- Most of the management companies already use an outside document provider primarily because the management companies are not qualified to authenticate the recorded documents such as Declarations, By-Laws, Master Leases, Sandwich Leases, Apartment Leases, Public Reports, etc.
- Hawaiiana Management Company has had an arrangement with a title company for over 15 years to provide documents and it has worked very well. A title company can get recorded documents on line from the Bureau of Conveyances and has the expertise to verify these documents.
- We are a property management company, not a title company or the Bureau of Conveyances. Our job is to provide property management for our customers, not provide a document service.
- In reference to the three requirements of the Bill:

The managing agent shall make the documents available in subsection (a) which are financials, minutes, and Association governing documents (By-Laws, Declaration, House Rules, Master, Apartment, Sandwich Leases, and Public Reports, all with amendments, available to owners, prospective purchasers and their representative agents.

- (a.) For review at the Managing Agent's office during normal business hours subject to reasonable terms of access. Our position: Since we currently manage 575 Associations totaling over 95,000 condos, homes, and co-ops, we do not have the space or facilities to handle the number of people that would need to come into our office to review the volume of documents that would be requested. In addition, we would have to require a Hawaiiana employee to sit with each person while they review documents since we keep the official file for each Association. If we didn't have someone in our office that would be available to assist each person, individuals could remove critical documents from the official file. In many cases, some documents such as association minutes, financials, and other documents are kept on-site and owners can review these documents free of charge. Most Associations also already have websites where they post documents for owners to review.
- (b.) A hard copy for a reasonable fee that shall not exceed the greater of twenty cents a page. Our position: The current price is not a problem since we currently only charge 19 cents a page. But we do not have the personnel to copy documents for 95,000 units. Can you imagine what that would be like and how many people it would take just to keep up with the volume? Also, why legislate the cost of printing, since costs can change over time? Why not let the market forces dictate the price? If our customers do not want to pay 19 cents a page, they can go somewhere else to get the documents. The Bureau of Conveyances charges \$1.00 per page and you are requesting that we not exceed 20 cents per page. Our customers are not obligated to purchase our documents. It's an option they have. Not to mention the issue of keeping an official file of recorded documents because of the liability (documents change daily) and our inability to verify these documents.
- (c.) Electronically through a website maintained by the property management company and accessible to the public at no charge. Our position: Does the committee realize what a huge task this would be? Since we manage 575 Associations totaling over 95,000 units, it would take us a long time to upload this information onto a website, not to mention updating and managing it on a daily basis. It would be a hardship for any management company and at no charge. This is an unfair requirement for a private company of any size. And as far as the website, Hawaiiana Management Company provides a free basic website to each Association we manage plus technical support at no charge to the Association. As mentioned previously, most of the Associations already include important documents on their websites. If we were to add the additional burden of maintaining a central website, we estimate that it would cost over \$200,000 a year to maintain it for all of our Associations not to mention

the added burden and liability of making sure that it was updated and accurate at all times.

In short, I urge the committee to defeat this Bill before it defeats management companies irrespective of the size of the company. As mentioned, we are not a title company or the Bureau of Conveyances. Our job is to provide quality property management to our customers on a daily basis. If this Bill passes, not only will it hurt management companies, but it will hurt the very people we are trying to service since there is no way to do this without it costing everyone more.

Thank you for your consideration.

Sincerely,

HAWAIIANA MANAGEMENT COMPANY, Ltd.



Mike Hartley, President

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 15, 2011 12:52 PM
To: HSGtestimony
Cc: steveghi@gmail.com
Subject: Testimony for SB714 on 3/16/2011 9:00:00 AM

Testimony for HSG 3/16/2011 9:00:00 AM SB714

Conference room: 325
Testifier position: comments only
Testifier will be present: No
Submitted by: Steve Glanstein
Organization: Management Information Consultants
Address:
Phone:
E-mail: steveghi@gmail.com
Submitted on: 3/15/2011

Comments:

We already have laws in place regarding information availability. Even though this is well intentioned, the management companies will simply pass the costs onto their associations which will pass the costs onto the consumer.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 15, 2011 4:31 PM
To: HSGtestimony
Cc: swartzg001@hawaii.rr.com
Subject: Testimony for SB714 on 3/16/2011 9:00:00 AM

Testimony for HSG 3/16/2011 9:00:00 AM SB714

Conference room: 325
Testifier position: oppose
Testifier will be present: No
Submitted by: gregory swartz
Organization: Individual
Address:
Phone:
E-mail: swartzg001@hawaii.rr.com
Submitted on: 3/15/2011

Comments:
My objection relates solely to the new HRS Section 514A-84.5. The words in the new HRS Section 514A-84.5 (b) (3) stating "if available, and accessible to the unit owners" should be stricken. Otherwise, it is totally up to the discretion of the Managing Agent or Condominium Association Board of Directors to make records electronically available and accessible to Association members even if a website is otherwise available. The operation and availability/accessibility of information on a website should be mandatory, at least for condominiums exceeding a particular size. Thank you for your consideration.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 15, 2011 5:55 PM
To: HSGtestimony
Cc: swartzg001@hawaii.rr.com
Subject: Testimony for SB714 on 3/16/2011 9:00:00 AM

Testimony for HSG 3/16/2011 9:00:00 AM SB714

Conference room: 325
Testifier position: oppose
Testifier will be present: No
Submitted by: gregory swartz
Organization: Individual
Address:
Phone:
E-mail: swartzg001@hawaii.rr.com
Submitted on: 3/15/2011

Comments:

In my first email testimony, I requested that the words in the new HRS Section 514A-84.5 (b) (3) stating "if available, and accessible to the unit owners" should be stricken. In addition, the second sentence of HRS Section 514A-83.3 should be amended to clarify that the words "at cost" mean duplication costs at the same rate used elsewhere in the bill. HRS Section 514A-83.5(a) should be amended to include the same language including the website requirement used elsewhere in the bill and deleting the second proviso in the second sentence relating to "administrative costs". HRS Section 514A-83.5(c) should be amended by changing the words "Financial statements" to "Other financial statements". HRS Section 514A-92.5 should be amended by adding the words "subject to the limitations stated in this chapter" after the words "cost of providing the information" in the first sentence. Amendments should be made to the new HRS Section 514B-152(b)(3) and new HRS Section 514B-153(b)(3) similar to the amendments suggested to the new HRS Section 514A-84.5 in my prior email testimony. HRS Section 514B-105(d) should be amended by adding the words "subject to the limitations stated in this chapter" after the words "reasonable cost" in the first sentence. HRS Section 514B-154(a) should be amended to include the same language including the website requirement used elsewhere in the bill and deleting the second proviso in the second sentence relating to "administrative costs". HRS Section 514B-154(b) should be amended by changing the words "Financial statements" to "Other financial statements". HRS Section 514B-154(d) should be amended by adding the words "other than subsection (a)" after the words "pursuant to this section" in the first sentence. HRS Section 514B-154(j) should be changed to reflect the same duplication charges used elsewhere in the bill.

Rubin (JOHN) Riggins

91-210 Oaniani Place

Kapolei, HI 96707

808.674.1111

Email:riggins@lava.net

TESTIMONY

Before

COMMITTEE ON HOUSING

Representative Rida T.R. Cabanilla, Chair

Representative Pono Chong, Vice Chair

In Favor SB 714, SD1

Aloha Representative Cabanilla, Representative Chong and other committee members.

Thank you for considering Senate Consumer Protection Bill 714 and SD1.

My name is John Riggins. I apologize for being unable to appear before you in person to testify and answer any of your questions. Unfortunately I am attending a mainland conference.

I am in favor of SB 714 and SD1 to make associations more transparent and provide homeowners easier access to association information at a lower cost for which they pay maintenance and association fees in part to produce and maintain such documents.

I have been a homeowner since 1970, an association member since 1976, a real estate licensee since 1977, a real estate broker since 1980 and a member of an association board of directors with about 3800 homeowners since 1996.

As a property owner and as part of my retirement system, I currently pay maintenance and/or association fees to 12 different Hawaii condo and homeowner associations. I have a considerable amount of knowledge and experience regarding associations as a home owner, board member and as a real estate professional.

However despite never having been late, being current on all my association and maintenance fees and having spent thousands of dollars in fees since 1976, with one exception, getting information such as association minutes, meeting times, financials, house rules, documents, design guidelines and other information about the associations to which I belong is nothing less than a nightmare.

Association members, homeowners, pay monthly fees and despite what you may hear from those opposed to SB 714, SD1, it's extremely difficult for homeowners to obtain information and documents from their associations.

Unlike the smart phones we use today where information, including information about this meeting can be found almost instantaneously on the INTERNET, little has changed regarding owners being provided access to association information since 1976 when I purchased my first condominium.

For the most part, the association information is available at the management company office Monday through Friday between 8:30 am to 4:30 pm. However this is during a time when most owners are at work. In order to access information, the homeowner has to take off work or pay an enormous fee over and above the monthly maintenance and association fees in order to obtain association information for which the homeowner is entitled should he or she want to stay abreast with association business, elect board members and protect his or her investment.

For the off island owner to stay informed, the only choice is usually to pay for association documents and have them shipped.

Obviously in this age of technology when we can learn and see photos and videos of events unfolding around the world in seconds, doing things the way we did 35 or so years ago is outdated and unacceptable to today's homeowner.

For example, about 4 years ago when a board of directors, especially the president of the association, was bending rules and favoring friends while enforcing rules and treating other association members differently and unfairly, I attempted to obtain information about an association.

Nearly every trick was used to prevent me from obtaining association information and petitioning homeowners to hold a special meeting in order to hold the board of directors and management company accountable. The president of the association even sent letters with lies about me to association members.

The management company, which testified against this bill before Senator Baker's committee, was of no help and told me very quickly that it worked for the board of directors despite homeowners paying the management company through monthly fees. Any information I received about the association documents and procedures to hold the people accountable was an expense I had to bear in order to attempt to correct the situation.

I paid money approximately \$3,500 out of my pocket to send letters and obtain signatures on petitions twice requesting a special meeting be held. The \$3,000 included me paying for legal advice and a parliamentarian to attend the special meeting to make sure the association documents, rules and DCC&R's were followed during the special meeting.

Fortunately we were able to censure the president. He resigned shortly thereafter. Over the next 18 months, most of the board members resigned and were replaced by board members who did their best to treat all owners equally and fairly. However, it took perseverance to get association information and a responsible board.

Fortunately I knew what could and had to be done in order to make sure the association functioned properly and our investments were protected.

Unfortunately due to the obstacles in place to prevent homeowners from obtaining information, most association members do not know what the association is doing or needs to do in order for their associations to be managed efficiently and cost effectively.

For example, the legislature in the early 1990's after homeowner complaints passed a law that association reserves had to be fully funded by year 2000. Yet over the past few years we have seen maintenance fees increase and more and more associations levy special assessments which have caused financial hardships to owners and especially to those on fixed incomes.

In order to stay abreast of association matters, elect responsible board members and to hold boards and management companies accountable, busy homeowners, who are often working more than one job, must have access to association information 24/7 on the INTERNET.

Contrary to the testimony you'll hear from opponents of this bill, it's not difficult to post information such as minutes, meetings, house rules, DCC&R's and other association documents on the INTERNET for homeowners to have easy access to information and be able to question their boards and management company about matters concerning homeowners.

Having a web site with information is not rocket science nor is it expensive. Most public schools have web sites that are often established and maintained by students. Many web companies offer sites for less than \$1000 and a small monthly fee.

As an example, the Villages of Kapolei Association has had its' documents posted on the INTERNET since 1997. After a meeting is approved by the board of directors, approved minutes are usually posted within 24 to 48 hours after the meeting.

Recently the Villages of Kapolei Association web site went down and was replaced with a new and better site within 48 to 72 hours.

For homeowners who want written documents, including financial information, the Villages of Kapolei, a self managed and non profit association, charges \$25 while many other associations through their management companies charge in the hundreds of dollars to provide information to owners. **Management companies, who provide documents for the association, use the reproduction of association documents as a profit center and often charge homeowners between \$400 to \$800 for homeowner association documents.**

Frankly, this is totally unacceptable and borders on the unethical when you consider that homeowners are paying monthly fees for their association to be managed efficiently and cost effectively, which includes maintaining records and providing homeowners with information.

When an association and/or management company places obstacles in front of the homeowner and prevents easy access to the information at a reasonable price, it causes the homeowners to be less involved. As a result, there is more of an opportunity for an association to be managed less efficiently and at a greater cost.

It also provides the appearance that the management company is double charging the homeowner with the monthly maintenance fee and the cost of the association documents.

Besides giving more homeowners easier access to association information and the opportunity to hold its' board members and management company more accountable, posting the association documents on the INTERNET would save homeowners and association time, money and effort.

I strongly urge you to pass out of committee and into law SB 714, SD1.

Respectively,

John Riggins



March 15, 2011

The Honorable Rep. Rida Cabanilla and Rep. Pono Chong
And the House Committee on Housing
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: SB714, SD1 Relating to Residential Real Property
Aloha Chair Cabanilla, Vice-Chair Chong and Members of the Committee:

I am writing In Support of SB714, SD1.

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

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

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

Here are some of the key points:

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

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

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

Sincerely,

A handwritten signature in black ink that reads "Randy Prothero". The signature is written in a cursive, flowing style.

Randy Prothero, REALTOR®
ABR, AHWD, CRS, e-PRO, GRI, SFR
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