

LATE

**Management
Information
Consultants**

February 22, 2011

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

**RE: SB750; Testimony in OPPOSITION; Hearing Date: 2/23/2011;
Sent via web.**

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

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

The testimony is designed to update and replace previous testimony provided on February 7, 2011 to the committee.

Many Condominiums have already adopted meeting rules **prohibiting taping or video-recording** at their meetings. A sample of the adopted rule is, "No video-taping or other electronic recording is permitted (except for production of the minutes) during any of the proceedings unless first approved by the Association members at the meeting."

Some of these (who are not all clients), include at least the following:

Association Name	Taping Rule Adopted
Trump Tower	Permanently in 2011 (U)
Hilo Lagoon Tower	Permanently in 2011 (U)
Discovery Bay	Permanently in 2005 and 2011 (U)
Alii Lani	Permanently in 2007 and 2011 (U)
Hale Kaheka	Adopted for 2011 only.
Imperial Plaza	Permanently in 2011 (U)
Clubview Gardens II	Permanently in 2001 (U)
Coronado	Permanently in 2007 (U)
Makaha Valley Towers	Permanently in 2009 (U)
Diamond Head Sands	Permanently in 2011 (U)
Waikiki Banyan	Permanently in 2010 by vote
Canterbury	Permanently in 2005 (U) by vote and permanently in 2010

Kalamakuu	Permanently in 2009 (U)
Honolulu Tower	Permanently in 2003 (U)
Atkinson Towers	Permanently in 2009 (U)
Sands of Kahana Vacation Club	Permanently in 2007 (U)
Kona Mansion	Permanently in 2010 (U)
Ala Moana Hotel	Permanently in 2008 (U)
Wailuna	Permanently in 2009 (U)
Villa at Eaton Square	Permanently in 2008 (U)
Yacht Harbor Towers	Permanently in 2009 (U)
Keauhou Estates	Permanently in 2009 (U); In March 9, 2010 there was an attempt to require video and audio. It was defeated by yes=9, no=76.
Marco Polo	Permanently in 2003 (U)
Waiiau Gardens Kai "D"	Permanently in 2006 (U) and 2009 (U)
Honolulu Park Place	Permanently in 2010 (U)

(U) = Unanimously adopted when a majority of all owners were present and the voting percentage was greater than 50%.

SB750, if it becomes law, will nullify and override at least the above association actions. Notice that those meeting rules were substantially adopted **unanimously**.

It will also impose a requirement that associations amend their bylaws to continue this prohibition.

If SB750 becomes law, associations would require an amendment to the association's bylaws for associations to continue to prohibit video-taping or other electronic recordings. There is no rationale for imposing such an onerous and difficult requirement on private associations regarding their meetings.

There are numerous reasons for opposing SB750.

1. Condominium Association meetings are private meetings, restricted to homeowners, proxy-holders, specific invitees, etc.
2. Association members at a properly called meeting with a proper vote in person or by proxy should be able to decide how to conduct their meeting without legislative interference or micromanagement.
3. Any requirement that the association amend their bylaws to have some privacy is unnecessarily burdensome and is unsupportable, in my opinion. Further, the required parliamentary authority for associations provides methods to suspend, amend, or even repeal any of these rules at a properly called meeting.
4. Videotaping and recording has been used to intimidate owners as well as board members.

5. The most recent example of video-taping becoming unruly occurred at the Ewa Neighborhood Board meeting in December 2009.

One individual insisted on videotaping the meeting, placing microphones behind the board chair and constantly moving behind and in front of the board members.

The aggravation to the public and the chair was patently obvious on the Olelo video which was also being produced. Finally, the chair adjourned the meeting due to loss of control and the potential for physical confrontations.

The private video-taping was eventually posted on Youtube.

The video of this meeting, including the public complaints about the videotaping is on Youtube at: <http://tinyurl.com/nb23-20091211>.

Another video of this meeting, with people expressing anger about videotaping and including an alleged threat of violence may be viewed through Youtube at: <http://tinyurl.com/nb23-20091211a>.

The video was also on Olelo last year.

6. Another example occurred in a Pacific Grand meeting many years ago. There was contention with an owner who insisted on video-taping only those people he disagreed with. Owners became angry and the meeting was very contentious. Two individuals who were recording were both requested at least three times to stop disrupting the proceedings. A recess was called to summon the police (Police report no. 97442319-Officer A. Ramos).
7. Videos and recordings have been altered or inappropriately used out of context.
8. Videos and recordings often fail to pick up parts of the meeting, leading to inaccurate results.
9. The technology with mini parabolic microphones permits directed recording of private consultations with attorneys and individual owners or board members.
10. SB750 states in part, "[t]he recording is made for the private personal use of the member making the recording or another association member."

There are no sanctions for violation of this law. Also, once the video or recording is posted internationally, it is almost impossible to remove it.
11. SB750 ignores the inherent danger to an owner if a private owner comes to the meeting and informs the association about criminal behavior.
12. Even state boards and commissions under Chapter 92 don't have videotape mandates for their regular meetings.

I suggest that associations must have freedom to conduct their business without legislative micromanagement or inference, especially when it relates to freedom of expression of an owner or board member's views at a properly called meeting. The associations should have the right to protect this process by prohibiting vide-taping or recordings at their private meetings.

Not all associations do prohibit this activity. For example, one of the members at an association meeting this evening (February 22, 2011) will present a motion to permit video-taping and recording. This is due to pending litigation. If they have the votes, the restriction will be lifted for that meeting. This is "self-governance" of condominium associations and should not be disturbed without a demonstrative compelling state interest.

Associations should not have to go to the extreme level of amending their bylaws to avoid this intimidation.

We know of one case in over 1,300 meetings where video-taping is currently assisting an association and its members. In this case, the videotaping was approved **by the owners** after a promise was made to make a copy available to each of the requesting owners at cost. However, this decision was the **association's choice!**

Every owner has a right to go to the meeting and observe the actions of their fellow owners or board members. I don't believe they have an individual right to take pictures, record, use parabolic microphones, x-ray film, full-body scanners, etc. if it disturbs the assembly.

The compelling public interest should be to permit Condominium Associations to govern themselves, in accordance with their documents and adopted meeting rules. If anybody wants video, he or she can do it in accordance with policies that the association adopts, instead of the legislature.

I OPPOSE this bill and urge you to hold it.

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

Sincerely,

Steve Glanstein

Digitally signed by Steve Glanstein
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Steve Glanstein, Professional Registered Parliamentarian
President

SG:tbs