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LAND
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Testimony of
WILLIAM J. AILA, JR.
Chairperson

Before the House Committee on
WATER & LAND

Friday, March 14, 2014
10:00 A.M.
State Capitol, Conference Room 325

In consideration of
SENATE BILL 2477, SENATE DRAFT 1
RELATING TO LAND COURT

Senate Bill 2477, Senate Draft 1 proposes to authorize the Office of the Assistant Registrar of the Land Court to create a master certificate of title for condominium or planned communities that are developed on land registered in Land Court. **The Department of Land and Natural Resources supports this measure.**

The creation of a master certificate for condominium or planned communities would simplify the operation of the Office of the Assistant Registrar by allowing a reference to the master certificate to be placed on each unit's certificate of title rather than noting all amendments, encumbrances or other actions on each certificate. The master certificate of title would indicate all notations affecting the condominium or planned community.

In 2013, there were over 200 condominiums or planned communities with greater than 100 units registered with the Office of the Assistant Registrar or registering amendments or other changes to their project. Within the current process, all the information from the master certificate would be noted on each unit's certificate of title. Additionally, all future amendments, encumbrances or other actions would need to be noted on each unit's certificate. If this legislation is enacted, the notation would be on the master certificate of title rather than on each individual unit's certificate of title. In 2013, the individual unit's certificates are estimated to be greater than 20,000.

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March 13, 2014

Rep. Cindy Evans, Chair
Rep. Nicole E. Lowen, Vice Chair
Members of the Committee on Water & Land
Twenty-Seventh Legislature
Regular Session, 2014

Re: S.B. 2477, S.D. 1
Hearing on March 14, 2014, 10:00 a.m.
Conference Room 325

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

My name is Charles Pear. I am a partner at McCorrison Miller Mukai MacKinnon. Intermittently over the past 15 years or so I have been working with the Bureau of Conveyances to streamline recordings of Land Court property. Some of this work has been done on behalf of my clients and other work (as with today) on a pro bono basis.

I support the bill.

The introduction of condominium projects posed certain new issues for the Land Court. In time, a workable system for dealing with Land Court condominiums developed. That system involved bending some of the statutory requirements, and problems continued to surface from time to time.

For example, Section 514A-11 of the Condominium Property Act required that the Bureau of Conveyances establish recording procedures for condominium projects. It provided, and still provides, that "land court certificates of title shall not be issued for apartments."

Despite this, the Land Court has issued separate certificates of title for fee simple condominium apartments.¹ The Land Court probably found it impractical to do otherwise. If a single certificate of title covered all units in, say, a 200 unit condominium, then each owner's interest would have to be noted on a single certificate of title. Each mortgage of an apartment would also have to be noted.

¹ Technically, the Land Court issued separate certificates of title for the undivided interest appurtenant to each condominium unit, instead of issuing the certificate of title for the unit itself. The practical effect is that separate certificates were issued with respect to each unit.

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The Land Court's practice of issuing individual certificates of title to each unit owner was a practical, if not entirely authorized response to the problem. It has generally worked effectively for condominiums.

When the declaration for a condominium is amended, however, the amendment must be noted on the certificate of title for each unit. The Land Court requires that it be provided a list showing all owners and their certificate of title number. In some cases, this may require a title search for hundreds of condominium units. This is a costly and time-consuming process. Moreover, by the time that such a search is completed, additional sales and resales may have taken place such that the list is no longer accurate.

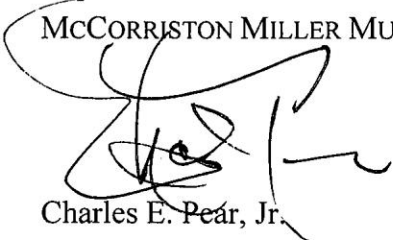
This bill will authorize the use of a master certificate of title. The condominium documents for a condominium project will be noted on the master certificate of title. The certificates of title for each of the individual condominium units will simply cross reference the master certificate.

Under this system, when the declaration for a condominium is amended, the amendment need only be noted on the master certificate of title. It will no longer be necessary to note the amendment on the certificate of title for each individual unit. This will save a great deal of time and effort, both for property owners and the State of Hawaii.

Thank you for your kind consideration of this legislation. I would be happy to take any questions if you think that I may be of some small assistance.

Very truly yours,

MCCORRISTON MILLER MUKAI MACKINNON LLP



Charles E. Pear, Jr.

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 13, 2014 4:51 PM
To: waltestimony
Cc: gomem67@hotmail.com
Subject: Submitted testimony for SB2477 on Mar 14, 2014 10:00AM

SB2477

Submitted on: 3/13/2014

Testimony for WAL on Mar 14, 2014 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Eric M. Matsumoto	Individual	Comments Only	No

Comments: While the intent to streamline the registration process seems reasonable, there are a couple of concerns: 1) How are individual certificates going to be handled to assure that each is in the name of the rightful owner and has a tie-in to the Master Certificate? This bill seems to lack an action to include a tie-in of the individual certificate to the Master Certificate. 2) When a property is transferred, what mechanism is there to assure the new owner is properly recorded and is tied to the Master Certificate? Although no having gone thru all 248 sections of 501, are these concerns covered in the current process rules or will new rules be needed to assure the system functions properly when implemented?

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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