

kawakami3-Benigno

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 10, 2014 5:02 PM
To: CPCtestimony
Cc: richard@hawaiifirst.com
Subject: Submitted testimony for HB2046 on Feb 12, 2014 14:10PM

HB2046

Submitted on: 2/10/2014

Testimony for CPC on Feb 12, 2014 14:10PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Emery	Hawaii First, Inc.	Oppose	No

Comments: Board of Directors need the ability to set fines and late fees as authorized in the governing documents of the association. Owners have always had the right to appeal any fine or fee to the Board.

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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P.O. Box 976
Honolulu, Hawaii 96808

February 11, 2014

Honorable Angus L.K. McKelvey, Chair
Honorable Derek S.K. Kawakami, Vice Chair
Consumer Protection and Commerce
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **HB 2046 – OPPOSING**

Dear Chair McKelvey, Vice Chair Kawakami and Committee Members:

I am the Chair of the Community Association Institutes Legislative Action Committee (“CAI”). CAI **opposes HB 2046** for the following reasons.

First, members of CAI’s Legislative Action Committee are made up of condominium and community association owners, property managers from all of the largest management companies and attorneys that all participate in the association industry. The revisions proposed by this Bill are unnecessary and cannot be the result of some systemic issue, but can only be based on isolated cases of issues within certain associations.

Second, condominium boards need to have the flexibility in implementing a fining system to address violations of the declaration, bylaws and house rules (“governing documents”) by owners, their guests, residence and/or invitees. This is especially important for projects that do not have such a fining system and the governing documents are “silent” on this point. Currently **§514B104(a)(11), HRS**, gives the board the tools to adopt a fining system as an *alternative to filing a lawsuit or initiating arbitration*. These latter avenues are costly and this is not in the best interest of the association or its members. To now require 50% owners’ approval before a fining system can be adopted will leave boards with no choice but to institute more litigation. We respectfully submit that this is not the answer.

Third, as for the proposed amendment to **§514B-125, HRS**, there is no question that outside of executive sessions of the board the owners at condominium projects have a right to (a) attend the board meeting, and (b) participate in any deliberation or discussion of the board. This now happens at board meetings; however, there are limited times that discussion needs to end so that the board can vote on the motion or business at hand. The current law allows the majority of the quorum of the board to end this discussion and participation by owners so that the business of the board can be conducted and a vote taken. To now suggest that this could not happen would allow (a) an owner to disrupt the functioning of the board, (b) debate and deliberation to go on without end, and (c) force the board to possibly seek court intervention (driving the costs for the association up) to stop the “debate” and “deliberation”. If there are

Honorable Angus L.K. McKelvey, Chair
Honorable Derek S.K. Kawakami, Vice Chair
February 11, 2014
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cases where boards are abusing the current law, there are existing remedies to address such abuses.

CAI represents the association industry, and **opposes the passage of HB 2046**. Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read 'CP', with a long horizontal flourish extending to the right.

Christian P. Porter

kawakami3-Benigno

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 11, 2014 11:25 AM
To: CPCtestimony
Cc: bruceh@hmcmtg.com
Subject: Submitted testimony for HB2046 on Feb 12, 2014 14:10PM

HB2046

Submitted on: 2/11/2014

Testimony for CPC on Feb 12, 2014 14:10PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Bruce Howe	Hawaiiana Management Co., Ltd.	Oppose	No

Comments: The revisions in this bill are not needed. Boards need the flexibility to establish fining systems as an alternative to expensive and time consuming litigation as a method of enforcing community rules. Requiring the approval of 50% of the owners creates an unnecessary hurdle. Prohibiting Boards from limiting owner input at Board meetings allows a disruptive owner to take over the meeting creating anarchy instead of allowing the Board to conduct the business of the association. Current law allows a majority of the quorum to stop this type of disruptive behavior. While owner input is encouraged and welcomed, Boards need a means of dealing with the few who abuse their rights and infringe on the rights of the vast majority of owners by monopolizing a meeting.

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kawakami3-Benigno

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 10, 2014 7:23 PM
To: CPCtestimony
Cc: twalkey@clearwire.net
Subject: Submitted testimony for HB2046 on Feb 12, 2014 14:10PM

HB2046

Submitted on: 2/10/2014

Testimony for CPC on Feb 12, 2014 14:10PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Ted Walkey	Individual	Oppose	No

Comments: Conflict of interest of directors is already covered in 514 A and B. Boards are charged with managing the community and should be left the authority to do so. If the owners can veto a board approved fine system, the general public should be able to determine the cost of a speeding ticket.

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LATE

TESTIMONY IN SUPPORT OF HB 2046
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Wednesday, February 12, 2014 at 2:10p.m.
Conference Room 325

To: Chair McKelvey, Vice Chair Kawakami, and members of the Committee:

We strongly support 2046 and respectfully request that the Committee pass it.

We are: Sandie Wong; Mike and Danell Wong; Dan and Alissa Bower; Grayton and Greta Bower; Robert and Natalie Sawyer; Christian and Tricia Kaneshiro; Graham and Cathy Kim; Dayton and Shanlee Whitehead; Avery Nakamura; and Sophia Ogawa

Like most condominium owner and residents we did not attend Board meetings on a regular basis, but always assumed and took it for granted that if we did attend a Board meeting the following would occur:

1. That we would be welcomed at the Board meeting;
2. That as owners we would be followed to participate in any deliberations or discussions, other than executive session;
3. That if our Association was going to adopt a fine system that we would be part of the decision making process; and
4. That when the Association paid for an Attorney Opinion that we would be allowed to view the opinion.

We are sad to report to the Committee that we were so wrong.

When we started to attend our Board on a regular basis 7 months ago we found the following:

1. The Board members did not welcome us. We were so unwelcome that we heard through the grapevine that they actually were scheming to move the Board meetings off condominium property and lock us out.
2. As owners and members of the Association we had to fight to be allowed to participate in any deliberations or discussions, other than executive sessions. This right should never be taken away from owners and members of the Association even if a majority of the Board members says it should.
3. The Board adopted a fine system resolution without any notice to the owners and members of the Association;
4. The Board would not allow us to see any opinions by the Association attorney, even though as owners and members of the Association we paid for the opinions and the opinions did not pertain to personnel or litigation matters.

Thus, this bill is necessary to ensure that the rights of owners and members of the Association are protected from Association's Board that abuse their power.

Also, we would support any Legislation that would give the Real Estate Commission more enforcement powers against Board's that abuse their power.

In reviewing the provisions of Chapter 514B, Hawaii Revised Statutes, we find that they are bias towards the Board. This needs to be corrected. Otherwise, the result will be even more Board's that abuse their power; simply because they can.

Thank you for the opportunity to provide strong testimony in support of HB2046.