

January 28, 2013

Re: HB 475/OPPOSE

Dear Committee Members:

I am the executive director of Ewa by Gentry Community Association, a 7,000 member common interest development in Ewa Beach, and a member of the national governing organization of common interest developments (CID's), Community Association Institute (CAI) and oppose HB 475.

There are several levels of concern regarding the bill as it has been introduced that create widely varying operating guidelines between common interest developments (CID's) operating under 514D, the Condominium Property Regimes, Chapter 414D, HRS, the Hawaii Non-Profit Corporations Act, and 421J, Planned Community Associations; each of these guide CID's and their boards of directors.

HB 475 will be extremely costly to *homeowners* and non-profit, mutual benefit planned communities as the monthly maintenance assessments will be driven up disproportionately and the self-governance intended under 421J will be eroded and compromised. If legislators intend to regulate corporations operating under 421J, they should, at the very least, have the regulations consistent with ALL CID's operating in Hawaii, and this proposed legislation clearly intends to single out those subject to 421J and subject them to unreasonable and avoidable expenses.

The purpose of this bill is to mandate unreasonable mailing requirements for working board meetings. This issues is already addressed in HRS 514B and is provided for in the governing documents of each planned community.

Simply stated, we ask the committee to consider that the Legislature has previously expressed intentions that condominium associations be self-governing. The Notice requirements for director meetings and Annual Meetings ("General Meetings") should be the same as it is in HRS 514B-121 and clearly recognize the differences between a working board meeting which all members are entitled to attend, and a membership meeting for the entire membership.

Annual Meetings take place typically at least once annually and require at least 10 days notice of the meeting via USPS first class mail (under 514B), or in accordance with the provisions of the governing documents (if more notice is required). The cost to notify members in a 7,000 home community is approximately \$25,000 annually for stationary and postage.

Regular Board Meetings are used to conduct business and occur much more frequently. HRS 514B-125 provides for the rights of owners to attend director's meetings and for a 72 hour notice that can be posted in prominent locations in a community.

**HB 475 does not distinguish between the two types of meetings and requires first class postage to notice every member of either meeting at least 14 days in advance, without regard to emergencies, catastrophes, or special circumstances that may require immediate board action. In addition, an agenda for a working board meeting needs to be as near to the meeting as possible to assure matters important to the community are addressed in a timely manner, and the 72 hour advance agenda accomplishes that function.**

In EBGCA's case, each board meeting would cost \$4,130, or \$24,780 annually, or \$3.54 per owner. At Mililani Town Association, multiply that by 2 ½ times, or approximately \$61,000 if they only meet bi-monthly, or \$122,000 if they meet monthly – a significant amount to each homeowner. **The 14 day first class mail notice requirement for board meetings should be eliminated.** Also, regular meetings that occur on the same date or day each month can be posted in advance in newsletters and websites at no additional cost to the CID's.

I respectfully request that the committee hold or defeat HB 475 in its present form.

Sincerely,

Jim Dodson, PCAM, CPM, CCAM

**woodson2-Miho**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, January 28, 2013 4:11 AM  
**To:** HSGtestimony  
**Cc:** gomem67@hotmail.com  
**Subject:** Submitted testimony for HB475 on Jan 28, 2013 08:45AM

**Follow Up Flag:** Follow up  
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**HB475**

Submitted on: 1/28/2013

Testimony for HSG on Jan 28, 2013 08:45AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Eric Matsumoto	Individual	Oppose	No

Comments: The provisions of this bill have been proposed over and over again for a number of years and have the same fatal flaws: 1. (a)(1): By-laws contain specific timelines for association meetings (annual, special) that require at least 30 days, as a norm, for members to receive the information, study and prepare for the meeting. This bill allows further disadvantage to the members by reducing the time to 14 days. So, why the need? As for the monthly board meetings the 14 day minimum notice is impractical, ineffective and inefficient, and suicidal for PCAs because when disaster strikes, and unbudgeted funds are needed for repairs, mitigation, etc. and the occurrence leaves less than the 14 days before a board meeting, this bill would prevent action by the board and thus negatively affect the members and the association. 2.(a)(2): PCAs have varying populations from a high of 15,850 to 24 or so members. Now, take a PCA with the 15,850 members or one with 7,500 members, or even 3,000 members, can you calculate the cost to these large PCAs and its members if you mailed the documents, or can you be sure that everyone has access to electronic means for either e-mail or the web, or that everyone will read the bulletin boards for the posting? These might work in small PCAs where you have small numbers for mailing, hand carry or possibly having closed circuit TV, etc., but you just made it impossible for larger PCAs to comply, and the larger question, what if they can't do it, or the residents refuse to pay for the enormous costs for compliance and verification, what is the penalty? You may have the metric, but how do you enforce? Doesn't make sense does it for a one size fits all set of provisions? 3. (b): As a matter of information, the governing documents that include amendments to by-laws, as this sub-para covers, have specific notice requirements for taking up at association meetings. Allowing amendments to by-laws or the governing documents be added for action at a meeting is ludicrous. The specific number of days for notice of amendments, normally provided for is 30, to give members time to review the changes and prepare for the meeting. The provisions proposed in this bill reflects a severe lack of understanding of: the functioning of PCAs, the demographics of PCAs across the state, and how 421J was revised over the years. It is also evident that this bill, as a resubmission of past years, is a problem of what appears to be a single association, unable to resolve its own internal dispute, trying to get their problems resolved externally, that would negatively affect all the other PCAs across the state, regardless of size and the impact on each of them, and reflects why PCAs should not be micromanged, especially with a one size fits all proposition. Strongly recommend this bill be held.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or