

**SB611**

Submitted on: 2/1/2013

Testimony for CPN on Feb 1, 2013 08:30AM in Conference Room 229

**LATE**

| Submitted By                      | Organization                       | Testifier Position | Present at Hearing |
|-----------------------------------|------------------------------------|--------------------|--------------------|
| Emory Bush, Chairman of the Board | Hawaiiana Management Company, Ltd. | Oppose             | Yes                |

421J, Section 3(b), third sentence, and 514B-154, Section 6(d): Strike out "*prospective purchasers and their respective agents.*" Other language in bill, as written, is okay.

**Reason:**

- a. Managing Agents currently provide this service to owners for Associations they manage.
- b. Managing Agents are contracted to provide management services to Associations and its owners, not Real Estate Agents and outsiders.
- c. Managing Agents are private companies, not public companies or government entities; therefore, they should have no responsibility to provide service to anyone except their customers.
- d. Managing Agents maintain the official file for each Association they manage. Therefore, one of their employees would have to sit with each individual reviewing documents to insure no documents are removed from the office.
- e. Managing Agents do not have enough space in their offices to handle prospective purchasers and their Real Estate Agents reviewing documents. What if there was a group of purchasers, say from Japan, who wanted to review documents at the same time.
- f. What if the prospective purchaser does not buy a unit after Managing Agents have invested time, space, and manpower, to accommodate a person they have no relationship with.

Final Comment. Please remove the language stated above from SB 611 because it would create an unfair and expensive burden for Managing Agents. There are other businesses who do provide documents to a prospective purchaser for a reasonable price.

Additional Comments. In regard to Section 2 (a) (3):

- a. Hawaiiana does not maintain a website for documents.
- b. Hawaiiana provides a free website for each Association managed so Associations can make their documents available to owners.
- c. Hawaiiana spends \$100k annually to provide this service to our customers.

**SB611**

Submitted on: 2/1/2013

Testimony for CPN on Feb 1, 2013 08:30AM in Conference Room 229

| Submitted By   | Organization | Testifier Position | Present at Hearing |
|----------------|--------------|--------------------|--------------------|
| Eric Matsumoto | Individual   | Oppose             | No                 |

Comments: For PCAs covered under 421J, there are two flawed provisions that are being amended: 1. Addition of "Management Fees": As a one size fits all requirement that "fees" paid to a manager, either persons or entities, be reasonable is reflective of the uninformed. First problem: What is defined as reasonable? There are no functions, duties and metrics cited, and to be even more critical, do all PCAs have the same functions, duties and metrics? Is it not reasonable for large PCAs such as that with 15,850 members to have different requirements and needs from those with 24 or a few hundred, and therefore would impact the "fees" involved? Second problem: Whose definition of "reasonable fees" would be used as the standard for each of the functions, duties and metrics? More importantly, who's qualified to make these determinations? Third problem: Self-managed PCAs pay a salary to their manager in some cases, so "fees" would not be appropriate in all cases, which begs the question, are only property management companies and property managers intended to be covered under this bill? I might add that a number of years ago, as a result of the recession, a bill passed that encouraged associations to keep spending down. 2. Document availability; These provisions proposed have been proposed year after year after year. 421J works as currently reflected in the HRS. Here again, these provisions have been discussed, rediscussed, and rediscussed again. From a security point of view, pushing to have association documents that include financials, etc. on the website is effectively broadcasting to the world the details of the association that only the members have a need to know. Another case of unintended consequences? Being cynical, it is not for an individual business person, who needs the documents in the line of work, to have access to the legal documents, including the financials and budget, so as not to officially obtain them from the association. The other problem is that if the information is inaccurate, perchance, who's to blame, especially given the disclosure statements being required today. I would seriously ask the question, what is the motivation for proposing these changes year after year after year? Who is it that this really is intended to benefit? And I can guarantee that it will not be the homeowner in probably 99% of the instances. This blatant attempt to micromanage PCAs is unconscionable. Accordingly, recommend as a minimum, the section relating to PCAs (421J) be deleted from this bill, but better yet, the bill in its entirety is recommended to be held.