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GOVERNOR OF HAWAII



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**

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KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**Testimony of**  
**WILLIAM J. AILA, JR.**  
**Chairperson**

**Before the House Committee on**  
**WATER & LAND**

**Monday, February 03, 2014**  
**9:15 A.M.**  
**State Capitol, Conference Room 325**

**In consideration of**  
**HOUSE BILL 2002**  
**RELATING TO LAND COURT**

House Bill 2002 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 (Department) 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.

# McCORRISTON MILLER MUKAI MACKINNON LLP

ATTORNEYS AT LAW

CHARLES E. PEAR, JR.

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January 31, 2014

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

Re: H.B. 2002  
Hearing on Feb. 3, 2014, 9:15 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.<sup>1</sup> 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

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<sup>1</sup> 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.

interest would have to be noted on a single certificate of title. Each mortgage of an apartment would also have to be noted.

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.

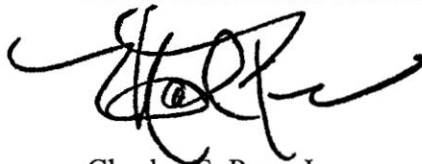
This bill will authorize the use of a master certificate of title. The condominium documents for a condominium project will be noted on the master certificate of title. The certificates of title for each of the individual condominium units will simply cross reference the master certificate.

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

A handwritten signature in black ink, appearing to read 'Charles E. Pear, Jr.', with a stylized flourish extending to the right.

Charles E. Pear, Jr.

**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, January 31, 2014 5:28 PM  
**To:** waltestimony  
**Cc:** aanderson@alf-hawaii.com  
**Subject:** Submitted testimony for HB2002 on Feb 3, 2014 09:15AM

**HB2002**

Submitted on: 1/31/2014

Testimony for WAL on Feb 3, 2014 09:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Anne Anderson	Individual	Support	No

Comments: My firm represents a number of community associations. H.B. 2002 will not only simplify and streamline the operation of the Land Court, but it will streamline the process of recording amendments for community associations and substantially reduce the cost of recordation. H.B. 2002 is a much needed bill and should be adopted. Thank you for allowing me to submit this testimony. Sincerely, M. Anne Anderson

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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**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 01, 2014 11:48 AM  
**To:** waltestimony  
**Cc:** wwegesend@villagesofkapolei.com  
**Subject:** Submitted testimony for HB2002 on Feb 3, 2014 09:15AM

**HB2002**

Submitted on: 2/1/2014

Testimony for WAL on Feb 3, 2014 09:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Warren F. Wegesend, Jr.	Individual	Support	No

Comments: I am the General Manager of the Villages of Kapolei Association. I strongly support HB2002. While it will certainly simplify and streamline the process for The Registrar and the Land Court System, it will greatly reduce the cost of association's recordation of future amendments to their documents. Our association has in the past amended our documents and while the process was cumbersome and lengthy, it was also very costly. I urge your passing of this measure.

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*The Judiciary, State of Hawaii*

**Testimony to the House Committee on Water and Land**

Representative Cindy Evans, Chair  
Representative Nicole E. Lowen, Vice Chair

Monday, February 3, 2014, 9:15 a.m.  
State Capitol, Conference Room 325

by  
Calvin Ching  
Deputy Chief Court Administrator  
First Circuit

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**Bill No. and Title:** House Bill No. 2002, Relating to Land Court.

**Purpose:** Authorizes the use of a master certificate of title for common interest communities to simplify and streamline the operation of the land court.

**Judiciary's Position:**

The Judiciary respectfully takes no position on House Bill No. 2002, however would like to provide comments. Under the current land court system, any amendments to documents governing a condominium or planned community must be noted on the certificate of title for each unit. This is to ensure that there is continuous chain of title.

This Judiciary would like point to a number of issues which are of concern:

1. HB2002 creates confusion in the undivided interest for condominium units should the undivided interest change for units;
2. Section 2 subsection (c) states that the association of a common interest may petition the court for issuance of a master certificate of title however, it is not clear what court would approve a petition and what that process would be.
3. Section 3 refers to "Association" as defined under section 607-14. Section 607-14 relates to Recovery of Hawaii Attorneys Fees.



House Bill No. 2002, Relating to Land Court  
House Committee on Water and Land  
Monday, February 3, 2014  
Page 2

Although the Judiciary does not take a position on the policy decision in lieu of adding a new section, HRS 501-75 should be amended to add a (a). New Transfer Certificate of Title to identify the project name Homeowners.

Thank you for the opportunity to testify on House Bill No. 2002.