

# HB 2045 HD1

Measure Title: RELATING TO PLANNED COMMUNITY ASSOCIATIONS.

Report Title: Community Associations; Unpaid Assessments

Description: Provides a remedy for community associations to recover unpaid assessments for a share of common expenses up to the time of a grant or conveyance of property. Entitles both parties to a statement from the board of directors, either directly or through its managing agent or resident manager, setting forth the amount of the unpaid assessments. Relieves the grantee of liability for any unpaid assessments against the grantor in excess of the amount set forth in the statement, except as to the amount of subsequently dishonored checks mentioned in the statement as having been received within the thirty day period immediately preceding the date of such statement. Effective 7/1/2112. (HD1)

Companion: SB2484

Package: None

Current Referral: CPN

Introducer(s): MCKELVEY



March 13, 2014

VIA WEB TRANSMITTAL

Committee on Commerce and Consumer Protection  
The Senate, the 27<sup>th</sup> Legislature  
Regular Session of 2014

Re: Testimony in Support of HB 2045\_HD1

Dear Chair Baker, Vice Chair Taniguchi and Committee members:

I am the Vice Chair of the Community Associations Legislative Action Committee ("CAI"). CAI supports HB 2045\_HD1 and proposes to delete all the references to "lot", which the House Committee on Judiciary was concerned that there may be some ambiguity as to the definition of the word "lot".

HRS § 421J-2 defines "unit" to mean a physical portion of the planned community designated for separate ownership or occupancy. "Lot" in the initial draft of the bill was intended to refer to a unit when it is merely undeveloped land. But there is no set definition in the statute for "lot" and the term "unit" itself is sufficient and adequate to refer to an individually owned property that is part of a planned community association, regardless of whether it is fully developed or merely bare land. So the references to "lot" are unnecessary here and may lead to ambiguity as the House Committee on Judiciary pointed out.

CAI proposes to amend the inserted language in HB2045\_HD1 as follows (deletion marked by bold strikethrough):

In the case of a voluntary conveyance, the grantee of a unit ~~or lot~~ shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for the grantor's share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee. Any such grantor or grantee is entitled to a statement from the board, either directly or through its managing agent or resident manager, setting forth the amount of the unpaid assessments against the grantor. The grantee is not liable and the unit ~~or lot~~ conveyed is not subject to a lien for any unpaid assessments against the grantor in excess of the amount set forth in the statement, except as to the amount of subsequently dishonored checks mentioned in the statement as having been received within the thirty day period immediately preceding the date of such statement.

The Planned Community Associations ("PCAs") will benefit a lot from HB 2045\_HD1. Many PCAs, especially master associations, underwent the problems identified by the legislature, including but not limited to (a) PCAs did not receive timely notice of the sale transaction of certain unit or lot; (b) PCAs were unable to collect delinquent association dues during the closing for such sale; and (c) PCAs had great difficulty in collecting against prior owners for such unpaid dues when prior owners had moved to the mainland or when they were in bad financial shape. HB 2045 will provide effective solutions to the above stated problems.

Further, HB 2045\_HD1 clarifies the responsibilities of existing owners, buyers, escrow officers, and the PCA and/or the PCA's agent as to collection of association dues owed by existing owners in a voluntary conveyance of a unit or lot subject to the PCA. It will help reduce disputes and litigation among PCAs, escrow companies, prior owners and new owners in situations where PCAs' unpaid dues are mistakenly omitted in escrow closings. The right to obtain a statement on delinquency from PCAs and the limitation on liability to the amounts specified in such statement as set forth in HB 2045\_HD1 are fair to homeowners.

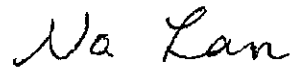
To emphasize, HB 2045\_HD1 will provide PCAs the same rights and protections in voluntary sales of units that condominium associations currently enjoy with the voluntary sale of condominium units under HRS § 514B-144(f), i.e., associations' outstanding assessments are paid and not missed or forgotten.

Committee on Commerce and Consumer Protection  
The Senate of State of Hawaii  
March 13, 2014  
Page 3

Additionally, HB 2045\_HD1 will also prevent certain homeowners from avoiding the payment for debt owed to PCAs by voluntarily transferring their units or lots to trusts or companies controlled by themselves or family members.

CAI represents the association industry, and supports the passage of HB 2045\_HD1 with the proposed amendment.

Sincerely yours,

A handwritten signature in cursive script that reads "Na Lan".

Na Lan