

HB 2401 HD2

Measure Title: RELATING TO CONDOMINIUMS.

Report Title: Condominiums; Transparency

Description: Clarifies the Real Estate Commission's enforcement authority by authorizing the award of attorneys' fees and, in certain cases, authorizing the commission discretionary power to decline to bring enforcement actions. Removes board's ability to close meetings and deny participation to association members. Effective July 1, 2112. (HB2401 HD2)

Companion:

Package: None

Current Referral: CPN, JDL

Introducer(s): NISHIMOTO

**PRESENTATION OF THE
REAL ESTATE COMMISSION**

**TO THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION**

**TWENTY-SEVENTH LEGISLATURE
Regular Session of 2014**

**Tuesday, March 11, 2014
9:30 a.m.**

TESTIMONY ON HOUSE BILL NO. 2401, H.D. 2, RELATING TO CONDOMINIUMS.

**TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:**

My name is Scott Sherley and I am the Condominium Review Committee Chairperson of the Hawaii Real Estate Commission ("Commission"). The Commission appreciates the opportunity to present testimony on House Bill No. 2401, H.D. 2, Relating to Condominiums and limits its testimony to sections 2 and 3. House Bill No. 2401, H.D. 2, sections 2 and 3, clarifies the Real Estate Commission's enforcement authority by authorizing the award of attorneys' fees and, in certain cases, authorizing the Commission discretionary power to decline to bring enforcement actions.

The Commission supports the intent and purpose of House Bill No. 2401, H.D. 2, to encourage more transparency in the actions of condominium association boards of directors. The Commission, however, opposes the bill as drafted and has questions and concerns with House Bill No. 2401, H.D. 2, as follows:

- A similar bill, Senate Bill No. 2363 was heard in the Senate Commerce and Consumer Protection Committee on January 29, 2014, and was deferred indefinitely;

- Sections 2 and 3 of H.D. 2 appear to result in some unintended consequences and inconsistencies. Section 2 expands the Commission's enforcement powers for any violations of the condominium laws to all of the provisions relating to the management of condominiums (Governance - Elections and Meetings, Operations). When the legislature recodified the condominium law in 2006, it maintained the original basic tenet of the condominium law as one of self-enforcement of the laws and rules by the owners, with limited government involvement. This public policy is reflected throughout the condominium law. See, e.g., §§514A-46, 47 and 48; and §§514B-65, 66 and 68, HRS. The language on page 2 line 6 to page 3 line 2 of H.D. 2 would (1) run counter to that public policy, and (2) create significant internal inconsistencies in the chapter regarding the Commission's authority and jurisdiction. Additionally, Section 3 proposes to keep the current jurisdiction to those limited areas enumerated in section 514A-48, HRS, while expanding the Commission's jurisdiction in chapter 514B, HRS.
- The current law limits the Commission/government involvement to the basic areas in governance matters to violations where the unit owners are unable to obtain from the board necessary information to govern themselves and to oversee the board's actions. Such information include, for example, records relating to the current membership of the association, financial records,

Testimony on House Bill No. 2401, H.D. 2
Tuesday, March 11, 2014
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contracts, invoices of expenses and expenditures, bank statements, management contracts, and more; all as enumerated in sections 514B-152, 514-B-153, and 514B-154, HRS, and in sections 514A-46, 514A-47, and 514A-48.

For the reasons discussed, the Commission opposes House Bill No. 2401, H.D. 2, and respectfully request the Committees to defer the bill indefinitely. Thank you for the opportunity to testify.



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

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PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

TWENTY-SEVENTH STATE LEGISLATURE
REGULAR SESSION, 2014

TUESDAY, MARCH 11, 2014
9:30 A.M.

TESTIMONY ON HOUSE BILL 2401 H.D.2
RELATING TO CONDOMINIUMS

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND TO THE HONORABLE BRIAN T. TANIGUCHI, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 2401 H.D.2, Relating to Condominiums. My name is Daria Loy-Goto, Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). RICO offers the following comments on the bill.

House Bill No. 2401 H.D.2 seeks to expand the enforcement authority of the Real Estate Commission over condominium disputes and to ensure that board

meetings are open to all association members. The bill also has a defective effective date.

In its original version, this bill is similar to Senate Bill No. 2363, which this Committee heard on January 29, 2014, and thereafter deferred. Following this Committee's hearing on Senate Bill No. 2363, as requested by the Committee Chair, representatives from the Department's Real Estate Branch ("REB"), the Community Association Institute ("CAI"), and RICO worked on an education piece designed to educate owners about the resources available to resolve condominium disputes. A brochure was developed which highlights useful information for owners, while preserving the basic self-enforcement tenets of the condominium law. RICO has begun to introduce the brochure, subject to additional comments from REB and CAI. We strongly believe this educational piece best addresses concerns raised by proponents of House Bill No. 2401 H.D.2.

Thank you for the opportunity to testify on House Bill No. 2401 H.D.2. I will be happy to answer any questions the Committee members may have.



P.O. Box 976
Honolulu, Hawaii 96808

March 10, 2014

Honorable Rosalyn H. Baker
Honorable Brian T. Tanaguchi
Commerce and Consumer Protection
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **HB 2401 H.D.2 – OPPOSING**

Dear Chair Baker, Vice Chair Tanaguchi and Committee Members:

I am the Chair of the Community Association Institutes Legislative Action Committee ("CAI"). CAI opposes HB 2401 H.D.2 for the following reasons.

First, condominium associations work on a system of self-governance. There are procedures and rules that are currently in place, including remedies for any violations of the association's documents and the law (Chapters 514A and/or 514B, HRS). Therefore, another enforcement mechanism is not necessary.

Second, a new prepaid mediation program will be implemented in 2015 for condominium owners and associations, and this program, together with the other remedies (arbitration and court) should be considered first before implementing a new enforcement program.

We respectfully submit that the issues that are "driving" this Bill are not industry wide, and are the result of a "couple of bad projects". However, this is the result of owners not being educated on the remedies available and does not provide a basis to creating another system. In order to address this need for education, we are working with the Hawaii Real Estate Commission, the Regulated Industries Complaints Office, the Hawaii State Association of Parliamentarians and Senator Rosalyn H. Baker's office to generate an information pamphlet for condominium owners. We respectfully submit that this is where the focus should be and not implementing new law.

Honorable Rosalyn H. Baker
Honorable Brian T. Tanaguchi
March 10, 2014
Page 2 of 2

CAI represents the association industry, and opposes the passage of HB 2401, H.D.2.
Thank you.

Very truly yours,

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

Christian P. Porter



**HAWAII STATE ASSOCIATION OF PARLIAMENTARIANS
LEGISLATIVE COMMITTEE
P. O. BOX 29213
HONOLULU, HAWAII 96820-1613
E-MAIL: HSAP.LC@GMAIL.COM**

March 9, 2014

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Committee on Commerce and Consumer Protection (CPN)
Hawaii State Capitol, Room 229
415 South Beretania Street
Honolulu, HI 96813

**RE: Testimony OPPOSING HB2401 HD1; Hearing Date March 11, 2014 at 9:30 a.m.;
sent via Internet (CPNtestimony@capitol.hawaii.gov)**

Aloha Chair Baker, Vice-Chair Taniguchi, and Committee members,

Thank you for the opportunity to provide testimony on this bill on behalf of the Hawaii State Association of Parliamentarians ("HSAP"). I apologize for being unable to attend due to a previous prior engagement.

The bill contains several sections. I will address SECTION 4 because it directly relates to the proper conduct of association business at board meetings.

Section 4 proposes to provide **unlimited owner participation** in the deliberation process of all condominium boards of directors meetings except executive sessions, regardless of the boards' specific situations.

Board members have a fiduciary duty to do what is in the best interests of the association. That duty exists regardless of owner participation,

When owner participation at a board meeting **becomes an owner run board meeting**, board members leave and stop serving on boards. This has happened. This also handicaps board that attempt to discharge their fiduciary duty to their respective associations.

This bill is entirely contrary to the principle of condominium self-governance, constitutes micro-management, and is contrary to basic principles of association management.

I ask that you hold this bill.

If you require any additional information, your call is most welcome. I may be contacted via phone: 423-6766 or by e-mail: hsap.lc@gmail.com. Thank you for the opportunity to present this testimony.

Sincerely,

Steve Glanstein

Digitally signed by Steve Glanstein
DN: cn=Steve Glanstein, o, ou,
email=Steveghi@Gmail.com, c=US
Date: 2014.03.09 12:43:14 -10'00'

Steve Glanstein, Professional Registered Parliamentarian
Chair, HSAP Legislative Committee
SG:tbs/Attachment

HB2401

Submitted on: 3/8/2014

Testimony for CPN on Mar 11, 2014 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Emery	Hawaii First	Oppose	Yes

Comments: Hawaii First manages 163 condominium associations in Hawaii. Volunteer directors serve on a board. I have rarely seen a board invoke an owner's ability to participate in a debate on an item. It happens when an owner refuses to allow a board to conduct business by attempting to monopolize the meeting to detriment of the board and the other owners. This change would lengthen the board meetings unnecessarily, make it undesirable to serve on a board, and in some way create a filibuster opportunity so work cannot be accomplished. I OPPOSE the Bill.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

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Honolulu, Hawaii 96813-2918
Telephone: (808) 523-0702
March 10, 2014

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
REGARDING HOUSE BILL 2401, HD2

Hearing Date: TUESDAY, March 11, 2014
Time : 9:30 a.m.
Place : Conference Room 229

Chair Baker, Vice Chair Taniguchi, and Members of the Committees,

My name is John Morris and I work as an attorney representing condominium and other homeowner associations. From 1988-91, I served as a condominium specialist with the Real Estate Commission.

I am testifying in opposition to HB 2401, HD2, section 4, because it eliminates the right of a condominium board of directors to control owner participation in board meetings. The proposed change will undermine the system of self-governance for condominiums that has been in place in Hawaii for decades.

Basically, the proposed change is the equivalent of passing a law stating that every person who comes to a hearing of this committee has an unfettered right to participate in the hearing without regard to the committee's right to control its own hearings. Serving on a board as an unpaid volunteer is a tough job at the best of times. Eliminating the board's ability to control its own meetings will make the job even tougher.

Every condominium project in Hawaii has (or is supposed to have) a board of directors because it is impossible for every member of an association - who can number in the hundreds - to participate in the day-to-day operation and management of the association. Therefore, at the annual meeting the association members are supposed to elect their board of directors - i.e., a smaller group of owners to take care of the day-to-day operation and management.

Since the system of self-governance requires owners, not the state, to supervise their own boards of directors, the law also allows owners to attend board meetings, except executive sessions. In that way, the owners can see what their boards are doing on their behalf.

TESTIMONY REGARDING HOUSE BILL 2401, HD2

March 10, 2014

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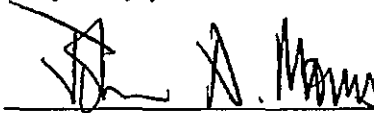
Nevertheless, the intention of allowing owners to attend board meetings is not to make them board members. Instead, the primary purpose of the board meetings remains to allow the board to complete ITS business on behalf of the other members of the association. For that reason, while owners can attend board meetings, the law also permits board members to control owner participation in the board meetings. Otherwise, if every owner who attends a board meeting has the same rights to participate as a board member, the board may be unable to complete its business in a timely manner, board meetings may drag on for hours, and the system will, potentially, grind to a halt.

Most boards permit and even encourage owner participation at their meetings, as long as the participation is not too time-consuming or does not rise to the level of harassment. Taking away that control from condominium boards is not fair and will do nothing to promote self-governance.

Owners who want the same rights as board members to participate in board meetings should run for the board.

Thank you for this opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "John A. Morris", written over a horizontal line.

John A. Morris



HAWAIIANA

Hawaiiana Management Company, Ltd.
Pacific Park Plaza, Suite 700
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Honolulu, Hawaii 96813
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March 10, 2014

CPNtestimony@capitol.hawaii.gov

RE: HB2401 HD2 3/11/2014 9:30 CPN

Dear: Hawaii State Legislature

This letter is in response to HB2401 which I vehemently OPPOSE.

I am a management executive with Hawaiiana Management and it is my job to facilitate the management of AOAO's across the state. I spend hundreds of hours a year attending Board meetings and have a deep understanding of how these meetings can easily get out of control when owners are allowed to actively participate in the discussion.

First: HRS 514B currently requires that all Board meetings are open to all members of the association, so it is redundant to restate that requirement here.

Secondly: As a Legislature I'm sure you can appreciate how long proceedings can take when there is a controversial debate on the floor. Now imagine if it were required by law that all deliberations (with the exception of litigation, human resources issues or contractual deliberations) were open to any citizen you serve... sessions could end up being unbearably long, with very little being accomplished.

The majority of the AOAO's I manage already allow (and in fact encourage) input from owners about most issues (especially those that could directly impact owners). But they seek this input through more appropriate methods of communiqué (i.e. poles, surveys and just talking with each other) Boards are sensitive to the fact that the units in an AOAO are not just units, they are people's homes and the people who live in them are not just people but friends and neighbors. I've been noticing a recent trend among the associations I manage; in the past, owners would be chomping at the bit for a chance to serve on the Board of Directors. Now we are essentially forced to beseech owners to serve on the Board and the ones that end up serving, do so reluctantly. When I ask why they choose not to serve, the main reason people list is the length of Board meetings. This bill would exacerbate that problem and make it that much harder to find people to serve.

When discussing this bill, please keep in mind that running an association is like running a small business (or if you prefer a small State) and the purpose of the Board meeting is to make decisions on how to best accomplish that.

Sincerely,
Christopher Collins
Management Executive

Hawaiiana Management Company, Ltd.

TESITMONY IN SUPPORT OF HB 2401, HD 2
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Tuesday, March 11, 2014 at 9:30a.m.
Conference Room 229

We are all condominium owners and members of a condo association and we strongly support Section 4, of HB2401, HD2 to ensure that board meetings, other than executive session, are open to all association members regardless of whether a majority of a quorum of the board votes otherwise.

Like most association members we did not attend Board meetings on a regular basis, but always assumed and took for granted that if we did, the following would occur:

1. That we would be welcomed at the Board meeting; and
2. That as members of the association we would be allowed to participate in any deliberation or discussions, other than executive session.

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

When we started attending Board meetings on a regular basis we found the following instead:

1. The Board members did not welcome us. We were so unwelcome that we heard through the grapevine that the Board had actually considered moving the Board meeting off condominium property and locking us out; and
2. Even though we were members of the Association we had to fight to be allowed to participate in any deliberations or discussions, other than executive session. This right should never be taken away from members even if a majority of the Board votes otherwise.

Many will argue that it is necessary for the Board to have this power, so that it can ensure that the meetings do not go on for hours. However, when you have an abusive board they can use this power to ensure that other members have no say in any deliberation or discussion.

For example we know of one Board that only allows members to speak for two 2 minutes each at the beginning of the Board meeting. That means the members are basically "shooting in the dark" because they must speak prior to the Board meeting and, thus, not able to hear what the Board's members have to say, prior to speaking.

These same people would also argue that the member can bring up his issue at the next Board meeting, but usually, the Board will vote after discussion and deliberations and, thus, the member only gets an opportunity to speak for two minutes after it's a done deal and usually a month later, if not longer.

During one of these Board meetings, one of us raised our hand to ask for a clarification on the Board discussion. The clarification probably would have taken a few minutes at most, but the President stated that we could not ask our question because they were doing "Board business". Thus, we had to spend the next 20 minutes or so arguing about members' rights to participant in Board meeting and whether or not what was discussed during Board meetings was members' business and not "Board business".

So, instead of taking at most a few minutes to respond to the member's question, the Board wasted 20 minutes arguing about whether or not members can participate in deliberations or discussions. Then after that a Board member wasted more time by actually questioning the member as to why she was coming to meetings and what was she afraid of.

Lets face it, usually only a handful of members, besides the Board, attend the Board meeting and no one wants to stay there all night, but when owners do attend they have a right to participant.

This bill is necessary to ensure that the rights all members of the Association are protected from Association Boards 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. If the enforcement is delegated to RICO we would strongly recommend that RICO be more responsive.

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

Therefore, we strongly support Section 4, of HB2401, HD2 to ensure that board meetings, other than executive session, are open to all association members regards of whether a majority of a quorum of the board votes otherwise.

Thank you for the opportunity to Testify,

Committee to Protect the Rights of Condominium Association's Members

(Mike and Danell Wong, Fran and Francis Toyama, Sandie Wong, Paul Au, Isaac and Sonya Moriwake, Dayton Wong, Dayna and Patrick Matsumoto, David and Cec Muldoon, Scott and Michca McDonald, Kelly Sekiya, Cathie Ogawa, Norman Pole, and Takase Family Trust)

Senate Commerce & Consumer Protection Committee

Tuesday, March 11, 2014

9:30 am, Conf Rm 229

Sen. Rosalyn Baker, Chair

Sen. Brian Taniguchi, Vice Chair

RE: Testimony In Support of HB 2401, Relating to Condominiums

My name is Laurie Hirohata, and I support **HB 2401** because condo owners need more protection from unethical and illegal activities conducted by the Property Management Co. (PM Co.) and the Condo Board (Board). I believe that the passage of HB 2401 would go a long way in protecting the condo owners from possible scams, fraud, and mismanagement of funds.

When HB 2401 was heard several weeks ago, the HI Real Estate Commission (HREC) testified that according to HRS-CH 514B, condominiums are supposed to have self-enforcing governance. Condominiums should have self-enforcing governance when it comes to House Rules and other daily operational management issues. However, when the PM Company or the Board is involved in gross negligence, or misconduct that may include fraud or other illegal activities, or misappropriation of funds that are in violation of state laws, or hiring unlicensed entities or entities not paying state taxes; then I believe the state has a fiduciary responsibility to implement and enforce rules and regulations to ensure the safety and well-being for all of the residents in Hawaii who live in condos.

I would like to recommend that 3 amendments be considered for HB 2401:

- 1) [In addition to the annual financial audits which is currently required:] Add Language **to require Management or Performance Audits every 2-3 years on the condo's operations, including the PM Co's operations and the condo's reserve funds and any other special projects the condo board may have. The completed Management Audit shall be presented and discussed at the annual Condo Association Meeting and a copy of the final Management Audit Report shall be given to each condo owner.**

Regular management audits would further protect the Condo Association from misconduct, fraud and misappropriation of funds in a timely manner. The findings from the management audit would be a useful tool for the Condo Association to minimize or mitigate their damages and would provide the supporting evidence needed to discharge a PM Company or Board.

- 2) Add Language **to require Condo Boards to review and revise their condo by-laws every 3 years. If no revisions are made, then an "official declaration" letter with the Board Member's and**

Managing Agent's signature shall be attached to the by-laws. The by-laws shall be presented to the Condo Association for approval. The Condo Association approval shall be by the majority vote at the next Condo Association meeting.

Once the by-laws are approved by the Condo Association, the by-laws shall be filed with the [State Bureau of Conveyance and/or HREC] A copy of the by-laws shall be given to each condo owner.

Updated by-laws are needed for the auditors to perform an in-depth and effective management audit. Having the Board members listed on the "official declaration" letter will assist anyone reading the by-laws to identify who was involved in the review and revision process.

[NOTE: A number years ago, the Attorney General issued similar mandates for all non-profit (501-C-3) charitable organizations doing business with the state. Since the Condo Associations are non-profit (501-C-4) shouldn't they have similar mandates?]

- 3) **Reinstate the language to HB 2401 that requires the HREC to provide to the Legislature an Annual Report of Complaints against condominium boards and the number and type of enforcement actions taken by the HREC.** *This statement is important because it will provide the Legislature the ability to monitor and maintain HREC's accountability of its statutory duties without having to request a legislative audit.*

The PM Co. has a fiduciary responsibility to guide the volunteer Condo Board on ethical and legal practices and is supposed to have the knowledge & skills to provide technical assistance as needed. Dealing with an unscrupulous PM Co. and/or Board is very time-consuming and can be quite expensive. For example, the Moana Pacific Condo (MPC), which is a large [750 units] and high-end complex, has been involved in a drawn-out battle over their PEX [plumbing] pipes which has cost millions of dollars and has created a complex legal battle for such a new condo! (I was told that they have spent about \$2 million for legal fees till date.)

(For more details on the MPC issue, go to the MPC Website @ <http://moanapacificinfo.com/>)

The following is my interpretation of the MPC's PEX [plumbing] pipes problem. The MPC was about 2 years old when their PM Co. informed the MPC Board that the PEX pipes used in their complex were defective and subject to catastrophic breaks. The PM Co. encouraged the Board to take out a \$10 million loan to replace the PEX pipes. The PM Co. hired an "Expert" engineer to conduct an evaluation of the MPC pipes to substantiate their claim.

Some of the owners objected to the loan and questioned why the problem was not being handled through the General Contractor's insurance/bond or the manufacturer's warranty, etc. The Board tried to pressure the owners to vote for a \$10 million loan to make the necessary repairs.

A dispute ensued, which eventually led to litigation. The opposing owners hired their own expert engineer (2nd engineer) to review the Expert's findings. The 2nd engineer disagreed with the Expert. The Expert kept delaying the final report. The final report took approximately 2 years to complete. While the Expert worked on the final report, he provided photos of damaged and corroded pipes and brief summary updates to the owners to support his claims.

When MPC went to court the **Expert admitted in the deposition** that the photos and summary updates he provided to the MPC owners **were not from the MPC**. (I checked to see if this person paid state taxes for the 2 years he claimed to be conducting his study in Hawaii. He was not registered with the HI State Tax Office, so he probably didn't pay any state taxes. Also, it is not clear whether the PM Co. submitted tax documents to the State Tax Office for the Expert witness they hired.)

The attorney who accompanied the Expert to the presentations was admonished by the HBA, Office of Disciplinary Council because he also provided false information to the MPC owners.

The PEX pipe manufacturer testified and provided evidence to substantiate that their product was not the defective product that was causing problems. The PM Co. & Board President continued to pressure the owners to vote for the \$10 million loan. The court ruled in favor of an injunction to stop the \$10 million loan process until the issue of whether the contractor's insurance/bond would cover the cost for replacing the PEX pipes. The PM Co. and Board President continued to pressure the owners to replace their PEX pipes and to vote for the loan.

In the meantime, the Koolani Condo, which is another high-end condo a few blocks away, had the defective PEX pipes and was having problems with leaking and breaking pipes and had to change their PEX pipes. The irony is that the Koolani selected and replaced their defective pipes with the PEX pipes from the same company the MPC used. One would think that the Koolani did their research and would not have chosen a company with a low rating or a defective product to replace their deteriorating pipes. The MPC owners I spoke to said their condo is now about 6-7 years old and they have not had a single catastrophic leak or break in their PEX pipes till date.

In my opinion, this situation appears to be a major scam, which included fraudulent expert reports and deceitful practices by the PM Co. and it's attorney and expert witness.

If it was not for the sharp eyes of our 82-year-old neighbor who spotted one of the MPC's articles in the newspaper, we would have never known about this situation! This story scared many of

us at our condo and our neighboring condos because we all have, or had, the same PM Co. We have many stories that parallel the MPC's situation and now wonder if we have been scammed too!

Our condo is an older, moderately-priced, 200 unit complex (with 3 buildings). For us, \$300,000 is a large contract! For us, hiring an attorney to fight our battles would be a terrible hardship! For us, a catastrophic plumbing or electrical problem would seriously harm many of our elderly residents and the cost to resolve the problem would probably bankrupt them.

We are eager to tell our stories to anyone in authority, but till date we cannot find that entity!

I am supporting HB 2401 because I feel that if the PM Co. and their affiliates were involved in a scam or deceptive practices; why hasn't the State, such as the DCCA, HREC or the Regulated Industries Complaints Office (RICO) investigated these matters? The MPC owners claimed that they filed a complaint with the HREC and the HREC responded that they do not have investigative or enforcement authority.

However, if it appeared that the PM Co violated their fiduciary responsibilities, or possible illegal activities had occurred, shouldn't the HREC have referred the MPC's complaint to the RICO and/or the State Tax Office or Attorney General Office for further investigation?

If the RICO or State Tax Office discovered that a crime had been committed, wouldn't the State entity have had a 'duty' to inform the public, so we could better protect ourselves from the same PM Co? Condo owners cannot self-govern effectively if they are not provided timely information that may impact their safety & well-being.

We need more tools to be able to enforce our self-governance. HB 2401 would be instrumental for many condo owners to increase their ability to enforce self-governance.

In closing, I humbly ask all of you to **please pass HB 2401 with my recommended amendments** to provide condo owners more tools to protect themselves from unscrupulous PM Companies and Condo Board Members.

Thank you very much for your time and attention to this matter.

Respectfully Submitted By:

Laurie Hirohata

Email: lhirohat@gmail.com

Cell: 398-3492

From: [Bruce Howe](#)
To: [CPN Testimony](#)
Subject: HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE
Date: Monday, March 10, 2014 9:18:10 AM

Hawaiiana Management Co., Ltd. is the largest manager of condominium associations in the state. We regularly encounter instances in which belligerent, antagonistic or drunk owners attempt to hijack a meeting of the Board of Directors. Current law provides a method of dealing with that by terminating the ability of non-directors to participate in the discussion if a majority of the Board members vote in favor of a motion to impose that restriction.

This sanction is used very rarely, but it is essential to the orderly conduct of business.

The rest of this bill is unnecessary, but this provision is dangerous!

Bruce A. Howe

Vice President-Govt. Affairs
Hawaiiana Management Co. Ltd.
700 Kapiolani Blvd. Suite 711
Honolulu, HI 96812
808 593-6888

From: [Linda Morabito](#)
To: [CPN Testimony](#)
Subject: Owner Participation at Board Meetings
Date: Monday, March 10, 2014 11:19:54 AM
Attachments: [image003.png](#)

Aloha and thank you for allowing time for input on this important topic. As a portfolio community association manager of 16 years I understand the need for owner participation in the decision making process. Allowing owners full participation during meetings does unfortunately undermine the purpose of electing a Board of Directors. Further, the intention of the law requiring a Board of Directors is a democratic process. Allowing owner participation in meetings undermines the intent of the election process and could be considered unfair to those members that do elect the Board members to make decisions on their behalf.

Often Board meetings are monopolized by a few well-meaning owners with a single view point which act to the detriment of the rest of the membership. Board meetings will be made unduly long, in some cases arduous and often controversial all of which are detrimental to the Board's primary purpose which is to take action and make decisions on behalf of all community members.

Denying the board the opportunity to work uninterrupted may be considered unfair to volunteer board members. Making meetings more time consuming or confrontational will likely discourage members from volunteering their time to serve the community at all. This fact has been exemplified at many communities wherein a few over-zealous owners who do not run for election or are unable to get elected discourage other members from volunteering for the Board. This has made it difficult to conduct business and take any timely action on behalf of the community.

All of the Board meetings I manage provide for owner input during an Owners Forum before or after the meeting and allow for additional owner input via email or in writing throughout the year. Perhaps requiring an Owner's Forum prior to or after each board meeting will satisfy the intent of those proposing this change without discouraging members from volunteering for election.

Sincerely,
Linda Morabito AMS, PCAM
Senior Management Executive
Hawaiiana Management Company Ltd.
808-930-3218 x381
Fax: 808-331-1743
Palani Court, Suite 215
74-5620 Palani Road
Kailua Kona, HI 96740

From: [Susan Gregg](#)
To: [CPN Testimony](#)
Subject: HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE
Date: Monday, March 10, 2014 11:18:40 AM

To Whom it may Concern:

I have worked with board members in a professional capacity for the past 18 years. This bill before you, allowing unlimited participation by owners, would defeat the purpose of board meetings [to conduct business] and drive both board members and other owners away. It is hard enough to fill these board seats, but if owners are allowed to interrupt the business that needs to be conducted and drag out the length of the already long board meetings, there will be many board members who refuse to serve or quit. In most cases, owners are limited to about 3 minutes to share information with the board and most do not need that amount of time. But there are the few owners that refuse to follow the time frame, taking up and holding hostage the other owners and board members from moving forward with the meeting. This is a very disruptive and many times selfish practice. Please do not pass this Bill.

Respectfully,

Susan D. Gregg, CMCA, PCAM
Director, Hawaii Island Operations
Hawaiiana Management Company, Ltd.
74-5620 Palani Rd. #215
Kailua Kona, HI 96740
Ph: 808 930-3218 X 851
Fax: 808 331-1743
Susang@hmcmt.com

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From: [William Samaritano](#)
To: [CPN Testimony](#)
Subject: HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE
Date: Monday, March 10, 2014 11:36:55 AM

Dear Legislators,

I have been an on site manager since 1980 and have been working with our board for over 33 years. During this time the board has changed along with the ownership in the building.

How the Board has treated owner participation has also changed and adapted to reflect the type of owners the Board had to deal with. Over the years we have had full owner participation and limits on owner participation depending upon the situation at the time.

Owner participation in any AOA at Board meetings is very important. Just like voter participation is important in the legislative process. However, I am opposed to the micromanagement of condominium boards by the legislature which is what this bill is trying to do.

As a legislator can you imagine if voters were allowed full participation when the House or Senate were in session. People in the gallery standing up and giving their opinion at any time during the session. As a legislator is this the kind of full participation you would support? If not then why would you impose such a law on AOA Boards?

Association members have the same rights voters do. They can speak directly to their Board during the owner's forum just like voters do during public hearings. They can write letters to the Board expressing their views just like voters do. Owners can collect signatures on a petition and submit it to the Board just like voters do.

So again I ask why is the legislature trying to micromanage condominium boards?

Please do not pass this bill into law.

Aloha, Bill

William I. Samaritano, ARM, CMCA, AMS, PCAM
Operations Manager, Discovery Bay
1778 Ala Moana Blvd.
Honolulu, Hawaii 96815
Ph - (808) 941-3307
Fax - (808) 946-3201
Email - DiscoBay@hawaii.rr.com

From: John Brewer
To: CPN Testimony
Subject: HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE
Date: Sunday, March 09, 2014 3:52:16 PM
Attachments: [image008da5](#)

Aloha,

I am the Association/Condominium manager for nine (9) associations on the island of O'ahu, and I serve voluntarily on the Board of Directors for two (2) associations; therefore, I am directly involved with eleven (11) total. Most of the Boards that I work with and serve on actually welcome the attendance and participation of owners, but I oppose this piece of legislation that can be viewed as an attempt by the State to 'micromanage' Association Boards.

Please keep in mind that it is the owners that have elected the Board of Directors to conduct the affairs of the association in accordance to the governing documents of the Association. Owners have the right to elect and remove Board members; owners already have the right to participate in Board meetings; but there comes a time in the meeting that the volunteer Board members must move on and conduct the business of the Association fulfilling their fiduciary duty to the Association as they were elected to do.

In my opinion, giving owners 'unlimited' participation in a Board of Directors meeting:

- 1) Is contrary to the governing documents of the Association and defeats the purpose of Association's governing documents which define the duties of the Board of Directors and owners.
- 2) Gives an owner more speaking authority than even a Board member elected to the Board.
- 3) Has the potential of every Board of Directors meeting becoming a 'battlefield' for a disgruntled owner, even if the disgruntled owner has no legitimate reason for being disgruntled, and total mayhem.
- 4) Who will determine at what point an owners participation is no longer relevant to the affairs of the Association that are even on the agenda? How many times will an owner be allowed to say the same sentence over and over and over? Or repeat what another owner has already stated?
- 5) Volunteer Board members are subjected to enough abuse already.

Sincerely,

John Brewer, CMCA
Property Manager

Phone: 808-539-9722

Fax: 808-521-2714

E-mail: johnb@hawaiianprop.com

Front Desk: 539-9799



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From: [Sam Shenkus](#)
To: [CPN Testimony](#)
Cc: [Sam Shenkus](#); [Rep. Scott Nishimoto](#)
Subject: HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE
Date: Sunday, March 09, 2014 9:40:39 PM

Aloha.

My name is Helene "Sam" Shenkus and I am the President of the Marco Polo AOA Board of Directors. I have been a member of the Marco Polo AOA Board of Directors since 2000. The Marco Polo has 568 residential units and due to the size of our building, we have monthly board meetings.

An agenda item for our monthly board meetings is the Owners Forum. All written correspondence to the board is addressed and all owners are welcome to voice their questions and concerns in person during the Owners Forum.

I oppose HB2401 for several reasons:

1. Board members are elected by all the owners to represent the best interest of all owners and are held to fiduciary duty standards and practices.
2. The opening of all members of the association to any deliberation or discussion, without legal and fiduciary standards of conduct, creates a very dysfunctional board meeting environment that cannot be realistically controlled.
3. Our Marco Polo board meetings, which currently include an Owners Forum, are usually two (2) hours in length or longer. If this bill is passed, the length of the board meeting would be dramatically extended with the addition of "opinions" vs. actual facts researched and reported by ad hoc committees.
4. Any association member is welcome to attend the board meetings and is also welcome to join various board committees. The current laws already protect association members since any association member can attend any association board meeting.
5. Any association member is eligible to become a member of the board of directors.

I am Opposed to HB2401 because it will create dysfunctional challenges to the board meeting process. All association members are welcome to attend the board of director meetings. However, opening all condominium association members to condominium board business deliberation or discussion is both dangerous, since there is no matching fiduciary or legal standards of accountability, and dangerous with this level of micromanagement.

Thank you for your consideration and time.

Helene "Sam" Shenkus

From: Kheller1@aol.com
To: [CPN Testimony](#)
Subject: "HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE"
Date: Monday, March 10, 2014 11:18:50 AM

I have been serving on a Board of Directors for quite a few years and while some Boards have limits on owner participation and some don't, depending upon the situation, my experience is that it is absolutely necessary that the Board be allowed to put time limitations, etc., on owner participation when attending the meetings in order for the Board to get the business of the condo conducted in a timely manner. I oppose the micromanagement of condominium boards by the by the legislature.

Kathryn Heller
KHeller1@aol.com

HB2401

Submitted on: 3/10/2014

Testimony for CPN on Mar 11, 2014 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
CISSY DAWES	Individual	Oppose	No

Comments: Why do we have a representative form of government anyway, if all are to have unlimited input to every meeting? Why would I ever again become a Board member and take on the work and fiduciary responsibilities and risk my personal financial situation if those with no equal responsibilities are left free to hijack every meeting with their own agendas? This bill wouldn't even establish a democracy in the meetings, only anarchy.

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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From: [Ann Probst](#)
To: [CPN Testimony](#)
Subject: HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE
Date: Monday, March 10, 2014 11:41:46 AM

As a board member, I oppose the micromanagement of condominium boards by the legislature. These provisions would make a difficult volunteer position impossible. Marina Probst

From: Haldia@aol.com
To: [CPN Testimony](#)
Subject: "HB2401 HD2 3/11/2014
Date: Sunday, March 09, 2014 3:18:00 PM

3-9-14 I have been involved with condominium associations since 1977. I have been an owner, an administrator and a board member. Each approaches their role differently. I currently serve as my condominium's board secretary.

I am personally tired of more and more restrictive legislation. Laws are passed with no entity or person to enforce them properly. We have become mired in conflicting interpretations of laws and rules.

Board members serve and are elected by the owners. They serve without pay. There are times when owners can be very helpful. Then again, there are times where they can make a meeting absolutely intolerable as they have not a clue what they are talking about.

I am opposed to the above House Bill.

Diane Tippet

435 Seaside Avenue, #1204

Hon, HI 96815

808-926-0269

From: Terrence Cheng
To: CPN Testimony
Subject: HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE
Date: Monday, March 10, 2014 9:30:26 AM

Aloha,

My name is Terrence Cheng and I work with condominium Board members. During Board meetings, we found it very effective for some Boards to limit the owners from participation. There are a lot of items on the agenda of a Board meeting and limit owner's participation helps the Board members get through the agenda in a timely manner. All Board members do appreciate owner's feedback but with limitations. On behalf of all my Board members, we would like to continue to have this authority because it is beneficial to the HOA/AOAO.

I opposed the micromanagement of condominium boards by the legislature.

Sincerely,

Terrence Cheng
Management Executive
Hawaiiana Management Company, Ltd.
711 Kapiolani Blvd., Suite 700
Honolulu, HI 96813
Ph: (808) 593-6856
Fax: (808) 447-5131

From: [Frank and Ernestine Tabrah](#)
To: [CPN Testimony](#)
Subject: HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE
Date: Monday, March 10, 2014 8:01:33 AM

Having served on the Board of the Marco Polo condominium for 14 years (9 as president) - until 1993, I have maintained a keen in affairs of the association as a non-board member since that time. Seen it from both sides! Clearly owner participation is often constructive and enhances good democratic feelings within a condominium. Unfortunately the opposite is sometimes true wherein hostile often poorly informed owners (or those with special agendas) can severely disrupt orderly governance at board meetings. I think it would be a critical mistake to remove all control of meetings from the board as proposed in this bill. Volunteer board members have a tough enough time dealing with the many complex issues of condominium governance and must continue to have the ability to control out of order association members from interfering with their work.

Ernestine Tabrah
2333 Kapiolani Blvd. Apt. 3408
Honolulu, HI 96826
[\(808\) 947 1739](tel:(808)9471739)
fetabrah@gmail.com

From: Joan
To: CPN Testimony
Subject: HB2401 HD2 3/11/2014 9:30CPN Hearing OPPOSE
Date: Sunday, March 09, 2014 8:58:40 PM
Attachments: [SENDER_EMAIL_soonj001@hawaii@rrr@com.png](#)



I am an officer of a homeowners association and have been involved in situations where non-board members have dominated meetings to the point of distraction. Those meetings have gone on for many hours, until the entire membership has left the room out of frustration. Most associations have written rules regarding participation by non-board members. Those rules have been provided to all homeowners in writing and should suffice to maintain order. .

I find the fact that the legislature is, once more, attempting to micromanage the affairs of condominium associations to be offensive. Certainly, there are much more important issues on which the legislative bodies can focus.

Therefore, I OPPOSE this bill.

Francis H. Soon
1314 Kalakaua Ave. #1006
Honolulu, HI 96826



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From: waikiki.condo@gmail.com on behalf of Neil Bates
To: [CPN Testimony](#)
Subject: HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE
Date: Sunday, March 09, 2014 10:12:58 PM

Dear legislators:

I am a board member on two condominium boards and I own property in two other condominiums where I am not on the board.

In my experience, some boards have limits on owner participation and some do not - depending on the circumstances. In general, the boards that I sit on allow owner participation within reason at board meetings. The bylaws of the AOA govern how much participation should be allowed and further they allow the use of Robert's Rules of Order for running the meetings and limiting or ending participation if necessary. Condominium bylaws provide adequate mechanisms to replace board members who are not responsive to the membership.

I oppose the micromanagement of condominium boards by the legislature.

Neil Bates (R)
Pacific Oasis Realty, LLC
808-778-3275
pacific-oasis.com

Dear Senator Baker and Senator Yamaguchi,

Testimony to OPPOSE HB2401.

I work in Hawaii with AOA and HOA associations. Current law is adequate.

The proposed bill:

- infringes on the capacity of a volunteer individual to carry out the state mandated fiduciary duty to an association/board. How can Boards conduct Board Business with 'hands-tied' in regards to limitless member participation? This is injustice.
- suffers board members to work excessive hours. Even with current law (to limit participation), boards work numerous hours. Don't burden boards even more.

I oppose the micromanagement of condominium boards by the legislature.

--

Karen Watson
Professional Registered Parliamentarian
402-310-6946 call/text

From: [Susan Govier](#)
To: [CPN Testimony](#)
Subject: HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE
Date: Sunday, March 09, 2014 10:09:42 PM

I strongly OPPOSE this bill.

I have worked as a Professional Registered Parliamentarian with these boards.

Each Association has its own unique character and because the board members are owners, elected by the other owners to do this work for their Association, they do this amazingly well.

Current law is quite adequate to protect all of the owner's rights.

This bill amounts to micromanagement and is not needed.

I OPPOSE HB 2401 and ask you all to OPPOSE this bill.

Mrs. Susan Kane Lucas Govier, RPRP

98-1467 Kulawai St., Aiea, HI

808-282-4289

govierj001@hawaii.rr.com

From: [Ted Walkey](#)
To: [CPN Testimony](#)
Subject: HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE
Date: Monday, March 10, 2014 9:21:35 AM

I am opposed because this amendment would allow an individual to take over the meeting with interruptions and long discourses on his/her issues which may or may not be germane or within the board's purview. I have witnessed such events.

Ted

From: R. THOMSON
To: CPN Testimony
Subject: HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE
Date: Sunday, March 09, 2014 6:23:18 PM

I am a member of two boards. One of them invites participation, the other does not. I cannot express to you how much simpler my non-participation board is, especially when there's serious work to be done. But I digress. I think the Membership can decide for themselves how they want non-board member participation. I oppose the micromanagement of condominium boards by the legislature. Where is the state's interest in this ? I just can't see it.

R.Thomson
41-653 Poalima St.
Waimanalo

From: [Pete Campbell](#)
To: [CPN Testimony](#)
Subject: HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE
Date: Sunday, March 09, 2014 5:18:00 PM

Dear Sirs,

I am a Director on the Board of C S Apartments, Ltd. Our Board has limits on shareholder participation and I oppose the micromanagement of Condominium boards by the legislature.

Sincerely,

Pete Campbell

From: affronherring@aol.com
To: CPN Testimony
Subject: "HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE"
Date: Sunday, March 09, 2014 7:23:10 PM

I am a president of my AOA, and our board already have limits in place for owners participation and some don't get to have participation because of certain situations. I oppose the micromanagement of condominium boards by Legislature.

Affron.

From: [patrick_rude](#)
To: [CPN Testimony](#)
Subject: "HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE"
Date: Monday, March 10, 2014 9:45:50 AM

Aloha,

As a Board member and someone who fought to allow participation by homeowners, I feel the current law is effective. Board members seldom vote to deny homeowner's access as it will not reflect well at their next election. Our meetings are 4 to 5 hours long now and this change will not help. Please leave the law as is. thanks.

Patrick Rude , treasurer for the Kona Islander Inn.

Patrick Rude
406-721-6434

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From: sweetmsmix@aol.com
To: [CPN Testimony](#)
Subject: HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE
Date: Monday, March 10, 2014 9:49:43 AM

I am a member of 2 separate AOA boards. I am so opposed to this change. It is not proper for individuals who are not board members to have unlimited participation. Board members are elected to represent the owners. There are other founs that owners can take besides railroading board meetings.

Please mark this as an OPPOSE count.

J. Henry

Sharon Oka

1320 Alexander Street, #905

Honolulu, Hawaii 96826

March 27, 2012

Honorable Robert N. Herkes, Chair

Honorable Ryan I. Yamane, Vice Chair

Senate Committee on Commerce and Consumer Protection

Hawaii State Capitol, Room 325

415 South Beretania Street

Honolulu, Hawaii 96813

Re: SB 2465, S.D.1 and H.D.1 – Relating to Condominiums – OPPOSITION

Good afternoon, Representatives Robert N. Herkes and Ryan I. Yamane.

My name is Sharon Oka, and I oppose this bill for the following reasons:

1. Self governance is important.
2. Associations can create, amend, suspend, or rescind their special rules. The legislature should not mandate these rules without recognition of each association's particular differences.
3. Prohibiting these rules or requiring their adoption at every meeting could force a vote on the Association at every meeting with two 10-minute speeches per person on every rule. Lengthy meetings will cost the Associations thousands of dollars that shall lead to higher maintenance fees.
4. Bylaws require Robert's. Robert's give us tools to have more efficient meetings. Do not rewrite Robert's. Do not interfere with our private association.
5. This bill will allow a small minority of owners to simply hold association meetings hostage to their personal issues. At these meeting(s), we are just trying to get our business done in a reasonable period of time.

6. Different associations have limits on debate, and the limits on debate should be their call to avoid lengthy meetings.
7. Unilaterally dictating association meeting rules based upon limited written testimony is not only unfair but a gross attempt at partiality to a very limited number of person at the expense of many other associations.

Our association has used these rules for many years and their proper use have resulted in more peaceful annual meetings.

Please do not allow our government to micro-manage our associations.

Thank you for the opportunity to submit a testimony.

Sincerely,

Sharon Oka

From: [Maria Sabir](#)
To: [CPN Testimony](#)
Subject: "HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE
Date: Monday, March 10, 2014 10:04:59 AM

Please do not pass this house bill. Board meetings are for the Board members to make decisions on behalf of the members. To allow owners to participate in deliberations and discussions on all subjects, the board meetings will never end. Some Board already have long meetings, this will cause it to become even longer meeting and no results or decisions being made.

Participation is important, open meeting already allows members to attend and give their input. Many of our meetings have owner's forum available for members. Approving this house bill will allow owners to micromanage the affairs and projects of an association. It will only hinder the process of the Board's work. It also allows hacklers to interfere with the administrative actions of the association.

Thanks!

*Maria Sabir, AMS®
Management Executive
Hawaiiiana Management Company, Ltd.
711 Kapiolani Blvd., Suite 700
Honolulu, HI 96813
Ph: (808) 593-6343
Fax: (808) 447-5153
marias@hmcmt.com
www.hmcmt.com*

From: [John Schick](#)
To: [CPN Testimony](#)
Subject: HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE
Date: Monday, March 10, 2014 12:20:23 PM

I have been an Association Manager for 20+ years. I have managed associations that were well mannered and business like. I've also managed some that were totally dysfunctional. If you want to conduct and successfully conclude Board business, the Board has to have the authority to shut down interruptive behavior by anyone attending the meeting. What HB2401 is proposing is to manage meetings without regard to the behavior of people. Parliamentary procedure gives a board the power to manage its affairs. HRS 514A/B also states that meetings are to be conducted under Roberts Rules. HB2401 will negate Roberts Rules and create an atmosphere not conducive to volunteer bodies. John Schick, PCAM®.

From: vossv001@hawaii.rr.com
To: [CPN Testimony](#)
Subject: HB2401
Date: Monday, March 10, 2014 12:17:53 PM

Dear Sirs,

I OPPOSE this bill.

I am a member of a condominium board and I oppose this bill. We provide for limited owner input at the board meetings. Written input is always encouraged.

This bill would result in micromanagement of the board and very lengthy meetings. Thus reducing the effectiveness of our board.

Thank You,

Virginia Voss
Director

From: Jeffrey Rapoza
To: CPN Testimony
Subject: HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE
Date: Monday, March 10, 2014 11:55:27 AM

As a condo owner/occupant in the State of Hawaii for the past 30 years I OPPOSE HB2401 HD2.

I expressly OPPOSE amending subsection (a) of Section 4. Section 514B-125.

The board by majority of a voting quorum is the only way to keep order of a board meeting from unruly participation of members attending the meeting. By eliminating the boards authority to maintain order you will severely hinder the boards ability to conduct its fiduciary duties. The elimination of the boards authority in noway improves its transparency.

Sincerely,

Jeffrey Rapoza
98-715 Iho Pl. Apt# 1005
Aiea, Hawaii 96701
M# 808-630-3360

--

Jeffrey Rapoza | Outside Sales | Allied Building Prod - Solar Div Hawaii
Jeffrey.Rapoza@alliedbuilding.com | Ph: Toll Free 855-311-2534 | Cell: 808-630-3360
Allied Building Products | 192 Sand Island Access Road, Honolulu, Hawaii 96819

From: [Gay Block](#)
To: [CPN Testimony](#)
Subject: HB2401 HD2 3/11/2014 9:30 CPN Hea
Date: Monday, March 10, 2014 12:23:11 PM

I work with boards and some boards have limits on owner participation and some don't depending upon the situation, and I oppose the micromanagement of condominium boards by the legislature.
Sent from my iPhone

From: [Susan York](#)
To: [CPN Testimony](#)
Subject: HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE
Date: Monday, March 10, 2014 12:54:15 PM

The amendment to strike the phrase "...unless a majority of a quorum of the board votes otherwise" from 514A-48 is misguided and will not achieve the desired goal of "transparency".

Homeowner Associations are governed by fiduciary boards, not representative boards. Fiduciary boards have the legal obligation to, and are accountable for making decisions in the best interest of the community as a whole. This decision making process involves the review of documents applicable to the matter under consideration, and when such matters are legal, contractual, or regarding personnel, take place in Executive Session.

My fourteen years of experience as a board member tells me that homeowners rarely attend regular board meetings and when they do, the decision/discussion is one that provokes emotional rather than measured responses. Non-board members do not participate in the full range of meetings and discussions about a particular matter, and therefore, cannot contribute thoughtfully to the process. Instead, non-board member contributions tend to disrupt and corrupt the fiduciary management process because the contribution is based on emotional considerations and misinformation. As in our case, the board will hold 'town hall' meetings to hear input from homeowners on a particular matter, but the responsibility for decision making rests solely with the fiduciary board. Members of a fiduciary board should not be placed in the position of having their good judgement swayed by emotional and sometimes threatening contributions from the floor. It is appropriate that the phrase "...unless a majority of a quorum of the board votes otherwise" remain in the legislation so that boards can conduct the business of the association in a thoughtful and unemotional process.

Susan E. York
91-030 Pahuhu Way
Ewa Beach, HI 96706
(808) 683-0512

From: [Ann Goody](#)
To: [CPN Testimony](#)
Subject: HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE
Date: Monday, March 10, 2014 1:12:17 PM

Aloha,

I own a couple of condo units in the same small 20 owner building. We have one owner who has not paid her monthly fees for a year and we are in the process of evicting her. Your bill would be a disaster for us. She would sit at our meeting for hours telling us why we should pay her bills and tolerate her living there for free. We limit non-board member participation since we could never get the vital work of the AOA done if we were to open the meeting to all owners. We strongly oppose being micromanaged by legislature. When owners are on the mainland, off island or not physically able to serve on a BOD we (three of us) struggle to do the important and mandatory work of running the association. Our time is limited and we all serve for free. Forcing us to have open participation and drag out the time we must spend is just going to make those of us who do the work, quit. I personally would sell these units which we rent to two low income families rather than deal with this type of micromanagement. Then both of those couples would be without housing. I know that I would not be the only one to think that your bill would create undo labor and waste time.

Regards,
Ann .

Ann Goody, PhD
Curator
Three Ring Ranch Exotic Animal Sanctuary
808-331-8778
Fax: 866-365-5097
animals@threeringranch.org
www.ThreeRingRanch.org

HB2401

Submitted on: 3/10/2014

Testimony for CPN on Mar 11, 2014 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Eric M. Matsumoto	Individual	Oppose	No

Comments: Please defer this bill. It is redundant and serves no useful purpose. And having the Real Estate Commission determine attorney's fees? WOW!

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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From: [Tom Kell](#)
To: [CPN Testimony](#)
Subject: HB2401 HD2 3/11/2014 9:30 CPN Hearing OPPOSE
Date: Monday, March 10, 2014 10:59:30 AM

To the House of Representatives, State of Hawaii,

My name is Tom Kell and I am the President of a 120 owner condo complex on the Island of Hawaii. Our AOA allows discussion from all home owners who attend the general session meetings in person or via a conference call. We do not need legislation to allow owners to speak. We allow owners to speak in a forum at the beginning of each meeting and during the session if they have something to add to the discussion that will be relevant to the question at hand.

We as a Board request that the change to HB 2401 not be made to make it mandatory to allow owners to speak.

Sincerely,

Tom Kell
President of the Board
Waikoloa Beach Villas
Waikoloa, HI

68-182 Waikoloa Beach Dr. Unit N 01
Hawaii (808) 315-7824

From: [Charles Lifeikis](#)
To: [CPN Testimony](#)
Cc: [CRENSHAW TERRY](#); [Ratna Nuti](#); [Palma Ron](#); [Lim Jeffrey](#); [Voss Virginia](#); [Howe Bruce](#); [Voss Ed & Virginia](#); [Dawes Cissy](#); [Lawson Jim](#); [Shuto Suzanne](#)
Subject: HB2401 HD2 3/11/2014 9:30 CPN Hearing.....Oppose
Date: Monday, March 10, 2014 10:42:24 AM

Dear Sirs,

I OPPOSE this bill.

I am a member of a condominium board and I oppose this bill. We provide for limited owner input at the board meetings. Written input is always encouraged.

This bill would result in micromanagement of the board and very lengthy meetings. Thus reducing the effectiveness of our board.

Thank You,

Charles Lifeikis