

February 2, 2015

LATE

The Honorable Angus McKelvey, Chair
House Committee on Consumer Protection & Commerce
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: H.B. 272, Relating to Real Estate Seller Disclosure

HEARING: Monday, February 2, 2015, at 2:00 p.m.

Aloha Chair McKelvey, Vice Chair Woodson, and Members of the Committee:

I am James Stone, member of the Government Affairs Committee, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,400 members. HAR **strongly supports** H.B. 272, which clarifies that the required disclosure of documents by a seller for residential real property that is subject to restrictions or conditions on use applies to documents that are within a seller's knowledge or control.

In 2013, the Hawai'i State Legislature amended HRS 508D-3.5(b) and brought a uniform standard for consumers as well as real estate licensees involved in planned community associations, condominium projects and cooperative housing corporations transactions. Unfortunately, the new law has created an unreasonable burden upon sellers who might have no knowledge of unrecorded rules or guidelines.

After just a few generations of sales, unrecorded information can be lost by previous owners and no longer known to the current owner. Thus, the innocent and unknowing seller, acting in good faith, could be liable for failing to disclose information that he/she does not know and could not reasonably have known because it was unrecorded.

From a consumer point of view, buyers are still protected because HRS 508D requires sellers to act in good faith and disclose all material facts. Therefore, potential buyers would still be entitled and required to any information related to unrecorded rules or guidelines within the sellers' knowledge or control. Furthermore, this is consistent with current practice where sellers can request various documents, such as financials and meeting minutes, from the condominium or planned community association Board or its managing agent, which is then provided to the Buyer.

Therefore, we request the Committee's favorable amendments to HRS 508D-3.5(b) to accurately reflect the requirement to disclose documents within the seller's knowledge or control.

Mahalo for the opportunity to testify.