

**PRESENTATION OF THE
REAL ESTATE COMMISSION**

TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2016

Tuesday, April 5, 2016
2:15 p.m.

TESTIMONY ON HOUSE CONCURRENT RESOLUTION NO. 152, H.D. 1 AND HOUSE RESOLUTION NO. 104, H.D. 1, REQUESTING THE REAL ESTATE COMMISSION TO STUDY THE EFFECTIVENESS OF ITS EXISTING DISPUTE RESOLUTION PROCESS AND CONSUMER ASSISTANCE PROGRAM FOR CONDOMINIUM OWNERS AND ASSOCIATIONS, AND POSSIBLE EXPANSION OF THESE SERVICES TO OTHER TYPES OF HOMEOWNERS ASSOCIATIONS.

TO THE HONORABLE SYLVIA LUKE, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Nikki Senter and I am the Chairperson of the Hawaii Real Estate Commission ("Commission"). The Commission appreciates the opportunity to present testimony in opposition to House Concurrent Resolution No. 152, H.D. 1 and House Resolution No. 104, H.D. 1.

House Concurrent Resolution No. 152, H.D. 1 and House Resolution No. 104, H.D. 1, propose that the Commission study: the effectiveness of its existing dispute resolution process, specifically, the efficacy of the evaluative mediation program; whether the role of the condominium specialists should be expanded to perform functions similar to that of an ombudsman; and whether jurisdiction of the current condominium dispute resolution processes and condominium specialists should be expanded to include, but not be limited to, cooperative housing associations ("co-ops") and planned community associations governed by Hawaii Revised Statutes ("HRS") Chapters 421I and 421J.

The Commission opposes the resolutions for the following reasons:

- The evaluative mediation portion of Act 187 (2013) commenced on July 1, 2015. Evaluative mediation has been offered to condominium unit owners **for less than one year**, and this is an insufficient amount of time with which to judge the success or failure of the program.
- The evaluative mediation program was implemented by Act 187 (2013) with money earmarked for evaluative mediation coming from an increase in condominium association registration fees paid by condominium unit owners into the Condominium Education Trust Fund ("CETF") beginning with the 2015 biennial association registration. Pursuant to HRS section 514B-71, the money in the CETF is to be used for condominium educational purposes only and the Commission has always observed that mandate.
- The Commission believes that a study of Commission programs and the effectiveness of the condominium specialist positions would be best performed by an entity other than the Commission to ensure an objective look at the Commission's programs and its staff.
- The Commission opposes any contemplation of increasing the CETF paid by condominium unit owners. This fee was increased in 2015 and the

Commission does not believe an increase so soon is necessary or fair to these owners.

- The Commission further opposes using CETF monies not consistent with the statutory mandate pursuant to HRS section 514B-71. Proposed use of money to benefit homeowners associations not created under the condominium property regime is counter to the current statutory mandate.

Although this resolution's intent to help unit owners is worthy, it does not solve the ongoing problems. Given the voluminous and reoccurring requests from unit owners for assistance with resolving condominium disputes, and given the number of legislative measures established in response to these problems legislative session after legislative session, this Committee should respectfully consider having an appropriate comprehensive study conducted involving all stakeholders by the Legislative Reference Bureau or some other similar agency to determine what might be an effective governance model to best address the resolution of condominium disputes. The study could consider the various current and past legislative and private entity models or proposals, any modifications to such, and any developing and established models from other jurisdictions for resolving condominium governance disputes. The recommendations could then be made to the legislature.

Thank you for the opportunity to provide testimony opposing House Concurrent Resolution No. 152, H.D. 1 and House Resolution No. 104, H.D. 1, as currently drafted.