



**HAWAII STATE ASSOCIATION OF PARLIAMENTARIANS
LEGISLATIVE COMMITTEE
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E-MAIL: HSAP.LC@GMAIL.COM**

February 15, 2016

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Michelle N. Kidani, Vice-Chair
Senate Committee on Commerce, Consumer Protection, and Health (CPH)
Hawaii State Capitol, Room 230
415 South Beretania Street
Honolulu, HI 96813

RE: Testimony in SUPPORT of SB2662 SD1; Hearing Date: February 16, 2016 at 9:15 p.m. in Senate conference room 229; sent via Internet

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

Thank you for the opportunity to provide testimony on this bill.

The Hawaii State Association of Parliamentarians ("HSAP") has been providing professional parliamentary expertise to Hawaii since 1964.

I am the chair of the HSAP Legislative Committee. I'm also an experienced Professional Registered Parliamentarian who has worked with condominium and community associations every year since I began my practice in 1983 (over 1,500 meetings in 33 years). I was also a member of the Blue Ribbon Recodification Advisory Committee that presented the recodification of Chapter 514B to the legislature in 2004.

This testimony is provided as part of HSAP's effort to assist the community based upon our collective experiences with the bylaws and meetings of numerous condominiums, cooperatives, and Planned Community Associations.

This testimony is presented in SUPPORT of SB2662 SD1.

It proposes to correct the flaw in the current law regarding the:

- (a) removal and replacement of directors elected solely by one class of condominium unit owners; and
- (b) voting of nonresidential units which may become owned by the association.

This amendment clarifies that a director elected by a specific group of unit owners may also be removed by that group. It also clarifies the voting of nonresidential units in a mixed use association.

The proposed legislation parallels similar principles already enumerated in the:

- (a) Hawaii Business Corporations Act, HRS §414-198(b) states, "(b) If a director is elected by a voting group of shareholders, only the shareholders of that voting group may participate in the vote to remove the director."¹
- (b) Hawaii Nonprofit Corporations Act, HRS §414D-138(b) states, "(b) If a director is elected by a class, chapter, or other organizational unit, or by region or other geographic grouping, the director may be removed only by the members of that class, chapter, unit, or grouping."²

We ask that you approve SB2662 SD1.

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
Location: Honolulu, HI
Date: 2016.02.15 15:42:07 -10'00'

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

¹http://www.capitol.hawaii.gov/hrscurrent/Vol08_Ch0401-0429/HRS0414/HRS_0414-0198.htm

²http://www.capitol.hawaii.gov/hrscurrent/Vol08_Ch0401-0429/HRS0414D/HRS_0414D-0138.htm

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February 15, 2016

Senator Rosalyn H. Baker, Chair
Senator Michelle N. Kidani, Vice Chair
Senate Committee on Commerce, Consumer Protection, and Health
Hawai'i State Capitol, Room 230
415 South Beretania Street
Honolulu, Hawai'i 96813

RE: Testimony in Support of S.B. No. 2662, S.D.1
Hearing Date: February 16, 2016, at 9:15 a.m., Conference Room 229
The Twenty-Eight Legislature; Regular Session of 2016

Dear Senator Baker and Senator Kidani:

Thank you for the opportunity to submit testimony in support of S.B. No. 2662, S.D.1.

I am a partner in the law firm of Anderson Lahne & Fujisaki LLP A Limited Liability Law Partnership. I have represented condominium associations in Hawai'i for over thirty years. S.B. No. 2662, S.D.1 is a much needed bill and will fix a flaw in the current law as it pertains to elections in mixed-use projects. It will also provide clarification regarding the group of owners that may vote to remove directors when directors are elected by a class of owners.

Currently, HRS §514B-123(c) provides that no votes allocated to a unit owned by a condominium association may be cast for the election or reelection of directors. This provision poses a problem for mixed use projects where directors are elected by different classes of owners. For example, in mixed use projects, containing both residential and commercial units, it is not uncommon for the board of directors to be comprised of directors elected by the residential unit owners and directors elected by the commercial unit owners. Generally, the number of commercial units is much smaller than the number of residential units. In some cases, there might be only a single commercial unit, such as a restaurant or spa, that is entitled to representation on the board. If the condominium association were to own that single commercial unit, then the association would need to cast the vote allocated to that unit to elect the director to represent that unit. The same would apply in instances where there are only a few commercial units and the association owns a majority of those units. HRS §514B-123(c) poses a problem in these instances. Accordingly, an exception needs to be made for votes cast for nonresidential units owned by an association to ensure that the elections may be held and directors may be elected. The proposed change also clarifies that the vote for the nonresidential unit(s) owned by the association may be cast by the association acting by and through its Board.

Senator Rosalyn H. Baker, Chair
Senator Michelle N. Kidani, Vice Chair
Senate Committee on Commerce, Consumer Protection, and Health
February 15, 2016
Page 2

HRS §514B-110 allows for different classes of directors in mixed use projects. HRS§110(h) provides that those directors may be removed as provided in HRS §514B-106(f). HRS §514B-106(f) provides for the removal of directors by a majority of the owners. The proposed change to this section clarifies that the removal of a director elected by a class of members shall be by a majority of the members of that class. This is consistent with HRS § 414D-138(b) which provides that “[i]f a director is elected by a class, chapter, or other organizational unit, or by region or other geographic grouping, the director may be removed only by the members of that class, chapter, unit, or grouping.” It is also consistent with HRS § 414-198(b) which provides: “[i]f a director is elected by a voting group of shareholders, only the shareholders of that voting group may participate in the vote to remove the director.”

For the foregoing reasons, I strongly support S.B. No. 2662, S.D.1.

If you have any questions, I may be contacted at (808) 697-6003 or by email at: aanderson@alf-hawaii.com.

Sincerely,



M. Anne Anderson

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 16, 2016 9:55 AM
To: CPH Testimony
Cc: jsugimura@bendetfidell.com
Subject: Submitted testimony for SB2662 on Feb 16, 2016 09:15AM

SB2662

Submitted on: 2/16/2016

Testimony for CPH on Feb 16, 2016 09:15AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Jane Sugimura	HI Council of Assoc. of Apt. Owners a	Support	No

Comments: HCAAO support SB2662 with minor amendment as suggested by 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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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 16, 2016 9:45 AM
To: CPH Testimony
Cc: richard.emery@associa.us
Subject: Submitted testimony for SB2662 on Feb 16, 2016 09:15AM

SB2662

Submitted on: 2/16/2016

Testimony for CPH on Feb 16, 2016 09:15AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Emery	Associa	Support	Yes

Comments: We support SB 2662 with minor amendment to correct any conflict with other provisions of HRS 514B as presented by attorney Anderson.

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Cc: cporter@hawaiiilegal.com
Subject: Submitted testimony for SB2662 on Feb 16, 2016 09:15AM

SB2662

Submitted on: 2/16/2016

Testimony for CPH on Feb 16, 2016 09:15AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Christian Porter	Community Association Institute	Support	No

Comments: CAI supports SB 2662 S.D.1 (Proposed). Thank you.

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