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

TO THE HOUSE COMMITTEE
ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-NINTH STATE LEGISLATURE
REGULAR SESSION, 2017

THURSDAY, FEBRUARY 9, 2017
2:00 P.M.

TESTIMONY ON HOUSE BILL NO. 1498
RELATING TO CONDOMINIUMS

TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,
AND TO THE HONORABLE LINDA ICHIYAMA, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 1498, Relating to Condominiums. My name is Daria Loy-Goto and I am the Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). RICO offers the following enforcement-related comments on the bill, with a requested amendment.

House Bill No. 1498 requires the disclosure of contracts between an association and its resident or general manager to a unit owner and allows for any personal information to be redacted.

House Bill No. 1498 identifies a manager's date of birth and social security numbers as examples of personal information that may be redacted in a contract. RICO notes, however, that there are other types of information that may be considered personal under Hawaii law. To aid RICO's enforcement of this disclosure requirement and to clarify for condominium associations the personal information that may be redacted, RICO respectfully proposes the following amendment to page 6, lines 12-14:

(15)provided that personal information may be redacted from the copies, including but not limited to, the manager's date of birth, social security number, residence address and telephone number, non-business email address, driver's license number, Hawaii identification card number, account number, credit or debit card number, and access code or password that would permit access to an individual's financial account.

The proposed examples, though not meant to be exhaustive, are consistent with Chapter 487N, Hawaii Revised Statutes ("HRS"), the Security Breach of Personal Information Chapter, and Chapter 92F, HRS, Hawaii's Uniform Information Practices Act. Although Chapter 92F, HRS, only applies to disclosures of government records, we believe its provisions are instructive and provide examples of the types of information in which an individual has a significant privacy interest. See 92F-14, HRS. RICO believes that enumerating specific types of personal information will assist condominium associations in their disclosure efforts and RICO in its enforcement role.

Thank you for the opportunity to testify on House Bill No. 1498. I will be happy to answer any questions the Committee may have.

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 2, 2017 12:18 PM
To: CPCtestimony
Cc: richard.emery@associa.us
Subject: Submitted testimony for HB1498 on Feb 9, 2017 14:00PM

HB1498

Submitted on: 2/2/2017

Testimony for CPC on Feb 9, 2017 14:00PM in Conference Room 329

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

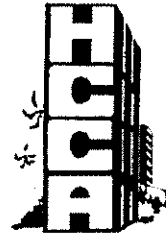
Comments: I support the Bill but suggest that in this electronic world where identities can be stolen that the signatures can be redacted or defaced to prevent their unauthorized use.

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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**Hawaii Council of Associations
of Apartment Owners**
DBA: Hawaii Council of Community Associations
1050 Bishop Street, #366, Honolulu, Hawaii 96813



February 4, 2017

Rep. Angus McKelvey, Chair
Rep. Linda Ichiyama, Vice-Chair
House Committee on Consumer Protection & Commerce

Re: Testimony in Support of
HB1498 RELATING TO CONDOMINIUMS
Hearing: Thur., February 9, 2017, 2 p.m., Conf. Rm. #329

Chair McKelvey, Vice-Chair Ichiyama and Members of the Committee:

I am Jane Sugimura, President of the Hawaii Council of Associations of Apartment Owners (HCAAO dba HCCA). This organization represents the interests of condominium and community association members.

HCAAO supports the intent and purpose of this bill. We are aware that some associations have failed and refused to turn over the resident manager or general manager's employment agreement on the grounds that the employment agreement is not a "contract" that the owners are allowed to see and get copies of under HRS 514B-154, or if the employment agreement is released information including the manager's job description, compensation and terms of employment have been redacted, rendering the document useless to the recipient owner. This bill clarifies that a resident or general manager's employment agreement is a "contract" under HRS 514B-154 and must therefore be produced if sought by an owner and the bill provides that personal information may be redacted before turning over the document. We suggest addition of language so that the bill also allows for redaction of any information protected under state and federal privacy statutes.

HCCA respectfully requests that you incorporate its suggested amendment and pass this bill out as amended. If you have any questions, please feel free to contact me. Thank you for the opportunity to testify on this matter.


Jane Sugimura
President

February 4, 2017

Representative Angus L.K. McKelvey, Chair
Representative Linda Ichiyama, Vice Chair
Committee on Consumer Protection & Commerce
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **Support for HB1498**

Dear Chair McKelvey and Vice Chair Ichiyama:

I am a partner with the law firm of Porter McGuire Kiakona & Chow, LLP. Our firm represents condominium associations throughout the State of Hawaii, and I am active on the Community Association Institutes' Legislative Action Committee ("LAC") and a member of the Board of Directors for the Condominium Council of Maui ("CCM").

I submit this testimony in support of HB1498.

Right now there is a lot of confusion and debate over the disclosure of the contract between the association and its general manager or site manager. The law currently provides that "contracts" are to be made available to owners. But the issue of whether general manager and/or site manager contracts are meant to be included within the current law needs to be clarified so that it is the type of contract available to owners. Since these positions are critical to the association, and are typically highly compensated positions, I believe that such contracts should be available to owners as they are paying the salary of such individuals.

For these reasons, I support HB1498 with the additional suggested amendment that any signatures on such contracts can be redacted. It is too easy to "lift" such information with today's technology.

Thank you for your consideration.

Very truly yours,



Christian P. Porter

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 5, 2017 11:46 PM
To: CPCtestimony
Cc: bkulbis@reagan.com
Subject: *Submitted testimony for HB1498 on Feb 9, 2017 14:00PM*

HB1498

Submitted on: 2/5/2017

Testimony for CPC on Feb 9, 2017 14:00PM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Brett Kulbis	Individual	Oppose	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 5, 2017 5:56 PM
To: CPCtestimony
Cc: john-a-morris@outlook.com
Subject: Submitted testimony for HB1498 on Feb 9, 2017 14:00PM

HB1498

Submitted on: 2/5/2017

Testimony for CPC on Feb 9, 2017 14:00PM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
John Morris	Individual	Oppose	No

Comments: My name is John Morris and I am an attorney representing condominium and other associations. I am testifying against HB 1498, which proposes to require contracts with the association's general or resident manager be made available to owners. If this bill is to go forward, it should also clearly state that the resident or general manager's salary can also be redacted from any employment contract provided to an owner. Virtually all, if not all declarations and bylaws of Hawaii condominiums give the board of directors the sole responsibility for hiring, disciplining, and terminating resident and general managers. Therefore, owners have no control over those decisions, anyway, under their own governing documents. It is difficult to understand why the law should override the governing documents that the owners agreed to comply with when they purchase their units. In addition, the owners can always amend those documents if they need access to every last detail of the resident or general manager's contract. Moreover, the condominium law allows, and has allowed for decades, board members to meet in executive session to discuss personnel matters so that the hiring, disciplining and terminating of resident in general managers can be discussed by those who have to make the decision, namely the board. This bill would undermine that long-standing principle. Condominium owners should certainly be allowed to review the duties and responsibilities of a resident or general manager, since that is relevant to whether he is performing his duties on behalf of the association. Nevertheless, it is difficult to see why the other terms of the manager's contract should be made available to owners. Often, when condominium owners want to see the resident or general manager's contract it is because they have some dispute with the employee or the board. Therefore, the owners want to use the contract against either the employee or the board by making claims of outrageous salary or other supposedly overly generous terms of the contract. In other words, owners are often seeking the information to try to use it against the board or the employee. It is difficult to understand why allowing them to do so is a benefit that requires legislative action. Being a resident the general manager of a condominium association is often no bed of roses, anyway. This bill will only exacerbate the situation. Moreover, if the resident/general manager's salary and other terms are available to owners, they will soon become known to other employees in the association. Those other employees will probably compare the salary and terms

to their own salary and terms of employment, leading to dissension and unpleasantness among the employees. Again, if this bill is to go forward, it should clearly state that the employee's salary and benefits should also be confidential and can be redacted from the agreement. Thank you for this opportunity to testify.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 1:25 PM
To: CPCtestimony
Cc: fu_dog_5@yahoo.com
Subject: *Submitted testimony for HB1498 on Feb 9, 2017 14:00PM*

HB1498

Submitted on: 2/6/2017

Testimony for CPC on Feb 9, 2017 14:00PM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
robert	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 7, 2017 6:32 AM
To: CPCtestimony
Cc: Schoenecker@email.Phoenix.edu
Subject: Submitted testimony for HB1498 on Feb 9, 2017 14:00PM

HB1498

Submitted on: 2/7/2017

Testimony for CPC on Feb 9, 2017 14:00PM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
JOY SCHOENECKER	Mauna Luan	Support	No

Comments: We support the intent and purpose of this bill. This bill clarifies that a resident or general manager's employment agreement is a 'contract' under HRS 5114B-154 and must therefore be produced if sought by an owner and the bill provides that personal information may be redacted before turning over the document. We suggest addition of language so that the bill also allows for redaction of any information protected under state and federal privacy statutes.

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Richard J. Port
1600 Ala Moana Blvd. #3100
Honolulu, Hawaii 96815
Tel 808-941-9624
e-mail: portr001@hawaii.rr.com

Measure: HB 1498 Relating to Condominiums

Date and Time of Hearing: 2:00 p.m. Thursday, February 9, 2017

Committee: The Committee on Consumer Protection & Commerce

Aloha Senator Baker and Members of your Committee,

Thank you for this opportunity to testify in strong support of HB 1498.

My comments mirror those of Jane Sugimura which she has made on behalf of the Hawaii Council of Association of Apartment Owners.

Some condo boards have adamantly refused to share the resident manager's or general manager's contract with owners. This is unacceptable.

Please approve HB 1498.

Richard Port