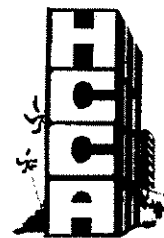




**Hawaii Council of Associations  
of Apartment Owners**  
**DBA: Hawaii Council of Community Associations**  
1050 Bishop Street, #366, Honolulu, Hawaii 96813



February 11, 2017

Rep. Takashi Ohno, Chair  
Rep. Isaac Choy, Vice-Chair  
House Committee on Intrastate Commerce

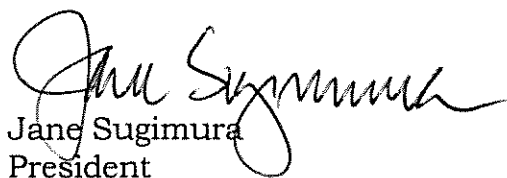
Re: Testimony in Support of  
HB243 RELATING TO CONDOMINIUMS  
Hearing: Wed., February 15, 2017, 9 a.m., Conf. Rm. #429

Chair Ohno, Vice-Chair Choy 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 strongly supports this bill and urges that you pass it out. Currently, HRS 514B-107 includes a provision that allows “. . . an officer, partner, member, **or other person authorized to act on behalf of any other legal entity which owns a unit.** . . .” to be a board member. Some associations have received legal advice by their counsel that has allowed corporate or entity owners to designate their tenants, who are not otherwise authorized to act on behalf of the corporate or entity unit owner, to sit on the board notwithstanding express language in the association’s declaration and bylaws that only officers and directors of corporate unit owners can serve as board member of the association.

If you have any questions, please feel free to contact me. Thank you for the opportunity to testify on this matter.

  
Jane Sugimura  
President

## IACtestimony

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From: mailinglist@capitol.hawaii.gov  
Sent: Monday, February 13, 2017 12:24 PM  
To: IACtestimony  
Cc: richard.emery@associa.us  
Subject: Submitted testimony for HB243 on Feb 15, 2017 09:00AM

### **HB243**

Submitted on: 2/13/2017

Testimony for IAC on Feb 15, 2017 09:00AM in Conference Room 429

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Richard Emery	Associa	Support	Yes

Comments: This Bill prevents misuse of proxies.

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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IACtestimony

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From: mailinglist@capitol.hawaii.gov  
Sent: Monday, February 13, 2017 9:51 PM  
To: IACtestimony  
Cc: lila.mower@gmail.com  
Subject: Submitted testimony for HB243 on Feb 15, 2017 09:00AM



**HB243**

Submitted on: 2/13/2017

Testimony for IAC on Feb 15, 2017 09:00AM in Conference Room 429

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lila Mower	Hui `Oia`i`o	Support	No

Comments: SUPPORT WITH COMMENT: Please add, "if a standard proxy that is authorized by the association is returned with no boxes checked in (A), (B), (C), or (D), that proxy will be deemed defective and shall be counted for quorum purposes only."

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**LATE**



February 14, 2017

VIA WEB TRANSMITTAL

Hearing Date: Wednesday, February 15, 2016

Time: 9:00 a.m.

Place: Conference Room 429

State Capitol

Committee on Intrastate Commerce  
House of Representatives, the 29<sup>th</sup> Legislature  
Regular Session of 2017

Re: Community Associations Institute's Comments on HB243

Dear Chair Ohno, Vice Chair Choy and Committee members:

I am the Vice Chair of the Community Associations Legislative Action Committee ("CAI"). CAI respectfully provides the following comments for HB243 for your consideration.

CAI opposes HB243 in part about the proposed amendment on qualifications of Board members. We are concerned that allowing project declarations and bylaws to supersede statutory requirements on who can serve as Board directors may lead to abuses by developers or other stakeholder who controls a majority of the ownership interest in a certain project. There could also be controversies as to whether a non-owner property manager or rental agent for certain units can serve as directors. Unless there are solid justifications supporting the proposed amendment on this, keeping the current statutory requirements is the safer approach.

A defective ballot usually shall be set side and will not be counted as vote at all. To fulfill the legislative intent of HB243, we recommend the proposed ambiguous

House Committee on Intrastate Commerce

February 14, 2017

Page 2

language amending HRS § 514B-123 be revised to delete “be deemed defective and” and simply states:

“If it is a standard proxy form authorized by the association and is returned with no box checked or more than one box checked, be counted for quorum purposes only.”

To avoid potential confusion among property managers and Board directors, the legislators may consider proposing a similar amendment to HRS § 421J-4 to make the proxy rules for planned community association consistent with condominium associations.

Therefore, we respectfully request the committee consider amending HB243 to address the above stated concerns.

Sincerely yours,

CAI LAC Hawaii

A handwritten signature in cursive script that reads "Na Lan".

By Na Lan  
Its Vice Chair

66 Queen Street #3501  
Honolulu, Hawaii 96813

February 13, 2017

Hawaii State Legislature  
House Committee on Intrastate Commerce

Re: HB243

Dear Chair Ohno, Vice Chair Choy and  
Members Cachola, Ito, Onishi, Tokioka, Woodson and Ward:

I am writing in support of HB 243. I have lived in Hawaii for nearly 20 years. During most of my time in Hawaii, I have lived in condominiums – first as a renter and now as an owner. I support HB 243 because I believe condominium board membership should be reserved for owners. HB 243 will make clear that only those individuals who have ownership interests in the condominium project will be allowed to serve on the board of directors.

When I was a renter, even though I paid rent, I did not have the same interest in keeping the condominium property values high. My main focus was keeping my rent from increasing. Now that I am an owner, I am focused on keeping my property values high, which will cause rents to increase. Thus, renter's perspectives are different from owner's needs.

Consequently, I urge the House Committee on Intrastate Commerce to support HB243. It is illogical to allow renters to serve on condominium board of directors.

Thank you for the opportunity to provide written testimony in support of HB243.

Very truly yours,

Sandy Ma

Sandy S. Ma, Esq.

**Sandra-Ann Y.H. Wong**

*Attorney at Law, a Law Corporation*

*1050 Bishop Street, #514*

*Honolulu, Hawaii 96813*

**TESTIMONY IN STRONG SUPPORT TO HB 243**

Before the Committee on Intrastate Commerce

on Wednesday, February 15, 2017 at 9a.m.

in Conference Room 429

Aloha Chair Ohno, Vice Chair Choy, and members of the Committee:

I am writing in **strong support to HB243**.

I have been a condominium owner and resident in Hawaii for the last 25 years and I have served both past and present on my condominium boards.

I strongly support HB243 because it provides (i) clarity as to who qualifies as a board member of a condominium association and (ii) provides when a vote by standard proxy form is defective and counted for quorum purposes only.

I have observed firsthand the need for the clarification as to who qualifies as a board member of a condominium association. At my condo, a large non-profit corporation owns many units. Accordingly because it owns many units, it has many proxies that it may use to elect directors of our condominium board. Unfortunately, instead of using their proxies to vote for officers of its Corporation or other owners to the Board, it has been using its proxies to get its renters on our condominium board.

These renters have no vested interest in our AOA. For example, they did not invest a significant amount of money to purchase their unit, nor are they subject to a monthly maintenance fee. In fact, I was told by one of the renters on the Board that he pays less than \$100/month for rent. Putting this in perspective, this renter pays a rent that is 10% of my maintenance fee. This does not take into account a mortgage payment and for some owners, whose units are leasehold, a monthly lease rent payment. Moreover, these renters are also not affected by increases to maintenance fees or any assessments. Rather in the case of this one renter on the Board, he just continues to pay less than \$100/month no matter what expenses and fees owners may be assessed. Further if the building were to just fall apart, instead of incurring a substantial financial loss, he could simply walk away and find somewhere else to rent.

It is simply wrong for renters to be setting policy and rules for owners, and making decisions as to how the AOA money is spent, when they are not members of the AOA. Renters and owners simply have different interests.

Currently, these renters on the Board are also eligible for officer positions. Thus, you could even have a renter as your Board President.

I believe that the developers of my condominium was cognizant of this inappropriate possibility and to prevent it, they drafted our Bylaws to state,

The affairs of the Association shall be governed by a Board of Directors . . . each of whom shall be the sole owner or co-owner of record of an apartment, or a vendee under an agreement of sale of an apartment, or a partner in a general partnership, if such partnership is an owner of record or a general partner of a limited partnership if such partnership is an owner of record. **If a corporation is an apartment owner, any officer of such corporation shall be eligible to serve as a director so long as he remains an officer of such corporation.. . .** (*Emphasis added.*)

In other words, only officers of the corporation would be eligible for the Board, and, thus, if a renter is not an officer of the corporation he would be ineligible. This language makes logical sense to me. If the Corporation does not feel that a person is qualified to be on its Board, why should it be allowed to place this same unqualified person on an AOA Board?

Unfortunately, because the language of the statute is so broad it permits any “other person”. I do not think this was the intent of the Legislature when it drafted this Statute. For example, as an owner of a unit that receives a lot of proxies from my neighbors, under the Statute I could have the homeless man who lives in our neighborhood to be my representative on the Board.

I do not think this dilemma is limited to my condominium association. Therefore, I strongly urge you to pass the bill out with the clarifying language on lines 3 and 4 on page 1. Alternatively, I would urge you to amend the statute to adopt the language of my condominium’s Bylaws.

I also support the amendments related to defective standard proxy forms. If a standard proxy form is defective, it should only be used for quorum purposes.

Thank you for the opportunity to provide testimony in Strong Support to HB243.



**TESTIMONY IN STRONG SUPPORT OF HB 243**

Before the Committee on Intrastate Commerce  
on Wednesday, February 15, 2017 at 9am.  
in Conference Room 429

Aloha Chair Ohno, Vice Chair Choy, and members of the Committee:

My name is Mike Wong and I am writing in **strong support of HB 243**.

I am a current condominium owner and serve on my condominium board. The current statute is very vague in terms of who can serve on condominium boards, essentially allowing anyone, including renters or others who have zero ownership, to serve.

In my condominium, we have 2 renters on the board who represent a corporation that owns a large number of units. One of the renters pays low rent, does not pay maintenance fees, and neither have the same things at stake as an owner would (property value, etc.). As members of the board, these renters only contribute when things are applicable to the units that the corporation owns. They are simply messengers for the corporation instead of being a productive board members.

HB 243 would allow our condominium Bylaws to take precedence, which are stricter and states that only officers of the corporation shall be eligible to serve as a director as long as they remain an officer of the corporation. I believe this was the original intent of the statute.

In addition, I also support the amendments related to defective standard proxy forms. If a standard proxy form is defective, it should only be used for quorum purposes.

Thank you for the opportunity to provide testimony in Support of HB 243.

From: mailinglist@capitol.hawaii.gov  
Sent: Monday, February 13, 2017 10:23 PM  
To: IACtestimony  
Cc: lourdes10@me.com  
Subject: Submitted testimony for HB243 on Feb 15, 2017 09:00AM



**HB243**

Submitted on: 2/13/2017

Testimony for IAC on Feb 15, 2017 09:00AM in Conference Room 429

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lourdes Scheibert	Individual	Support	No

Comments: I support the clarification of who qualifies as a board member of a condominium association. I support a vote by standard proxy form when defective is counted for quorum purposes only.

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**LATE**

**TESTIMONY IN STRONG SUPPORT OF HB 243**  
**Before the Committee on Intrastate Commerce on Wednesday, February 15, 2017 at**  
**9am. in Conference Room 429**

Chair Ohno, Vice Chair Choy, and members of the Committee:

My name is Robin Auyong and I am writing in **strong support of HB 243**.

I am a current condominium owner and serve on my condominium board. The current statute is very confusing in terms of who can serve on condominium boards, essentially allowing anyone, including renters or others who have zero ownership, to serve.

In my condominium, we have 2 renters on the board who represent a corporation that owns a large number of units. Renters or people without condo ownership do not have the same things at stake as an owner would (property value, etc.). As members of the board, these renters only contribute when things are applicable to the units that the corporation owns. They are simply messengers for the corporation instead of being a productive board members.

HB 243 would allow our condominium Bylaws to take precedence, which are stricter and states that only officers of the corporation shall be eligible to serve as a director as long as they remain an officer of the corporation. I believe this was the original intent of the statute.

In addition, I also support the amendments related to defective standard proxy forms. If a standard proxy form is defective, it should only be used for quorum purposes.

Thank you for the opportunity to provide testimony in Support of HB 243.

**RUSSELL A. OTA**  
**A LIMITED LIABILITY LAW COMPANY**

PIONEER PLAZA  
900 FORT STREET MALL, SUITE 1602  
HONOLULU, HAWAII 96813

PHONE: (808) 532-3100  
FAX: (808) 532-3109  
EMAIL: [rota@otalaw.com](mailto:rota@otalaw.com)

**TESTIMONY IN SUPPORT OF HB 243**  
Before the Committee on Intrastate Commerce  
on Wednesday, February 15, 2017 at 9a.m.  
In Conference Room 429

Aloha Chair Ohno, Vice Chair Choy, and members of the Committee:


I am writing in support of HB243.

HB243 amends HRS Section 514B-107 to allow an AOA to determine under its own rules who may serve on its Board of Directors. In my condo project, a corporation owns multiple condo units, and the corporation is able under the current law to “stack” its representation on the Board of Directors by subsidizing renters and placing the renters on the Board. Under the current law, this is allowed; however, the Bylaws of my condo project were designed to prevent this from happening by allowing only officers of the corporation to serve on the Board. The current § 514B-107 should be amended to allow my condo’s Bylaws to take effect.

The corporation that owns multiple condo units in my condo project is the fee owner in renegotiation with the owners of leasehold units in my building. The Board of the AOA represents the lessees in this renegotiation, and our Bylaws require Board members to be owners (or officers of the corporate owner). According to our Bylaws, renters, who in this case are subsidized by the corporate owner and who have no equity interest in the condo project, should not be allowed to serve on the Board. The Bylaws, however, are not given effect under the current law.

The proposed amendment to §514B-107 does not change the class of individuals that may serve on the Board of Directors of an AOA in general; it simply allows each AOA to make its own rules with respect to the members of its specific Board of Directors. For this reason, I support HB243.

Thank you for your consideration.



Russell A. Ota, Esq.