

SB306

Measure Title: RELATING TO REAL PROPERTY.

Report Title: Real Property; Condominiums; Time Share Projects; Association Documents, Records, and Information; Required Disclosure

Description: Clarifies that projects that contain a combination of time share units, transient vacation rentals, and private residential units located in the same project are required to comply with the document, record, and information disclosure requirements under the State's condominium statutes. Requires hard copies of condominium association documents, records, and information to be provided to requesting owners within twenty-four hours and available for download through an internet site. Specifies that failure to make association documents, records, and information available is an unfair or deceptive act or practice.

Companion: [HB650](#)

Package: None

Current Referral: CPH

Introducer(s): BAKER, Gabbard, Ihara, Nishihara



DAVID Y. IGE
GOVERNOR
SHAN S. TSUTSUI
LT. GOVERNOR

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

TO THE SENATE COMMITTEE
ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-NINTH STATE LEGISLATURE
REGULAR SESSION, 2017

THURSDAY, FEBRUARY 23, 2017
9:30 A.M.

TESTIMONY ON SENATE BILL NO. 306
RELATING TO REAL PROPERTY

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND TO THE HONORABLE CLARENCE K. NISHIHARA, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on Senate Bill No. 306, Relating to Real Property. 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 Section 3 of the bill.

Senate Bill No. 306 requires time share projects to comply with condominium disclosure requirements. In particular, Section 3 of the bill requires disclosure of condominium association documents, records, and information to

requesting owners within twenty-four hours and be available for download on the internet.

As the agency tasked with enforcing the failure to disclose records within twenty-four hours as provided in Senate Bill No. 306, RICO has concerns that the time frame provided in the bill is unrealistic and will result in significant noncompliance that will tax RICO's enforcement resources. Requests for records may encompass a range of data, from months to years, and oftentimes require more than twenty-four hours to compile and disclose. If the Committee is inclined to shorten the time within which condominium records are required to be disclosed, RICO respectfully suggests that this Committee consider a disclosure time frame of fifteen calendar days as a reasonable compromise between the time periods in the current law and Senate Bill No. 306. RICO notes that the House Draft 1 version of the companion bill, House Bill No. 650, adopts the fifteen-calendar day time frame.

Thank you for the opportunity to testify on Senate Bill No. 306. I will be happy to answer any questions the Committee may have.



DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LIEUTENANT GOVERNOR

STATE OF HAWAII
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION
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PRESENTATION OF THE PROFESSIONAL AND VOCATIONAL LICENSING DIVISION

TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION AND HEALTH

TWENTY-NINTH LEGISLATURE
Regular Session of 2017

Thursday, February 23, 2017
9:30 a.m

TESTIMONY ON SENATE BILL NO. 306, RELATING TO REAL PROPERTY.

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Lori Beth Van Cantfort, Time Share Administrator of the Professional and Vocational Licensing Division, testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). The Department has the following comment regarding SECTION 2 of this bill.

SECTION 2 of Senate Bill No. 306 seeks to require time share projects that are in mixed use projects to comply with section 514B-154.5 of the condominium law, which requires condominium managing agents to provide condominium documents to its owners. The bill states that "time share projects registered under this chapter . . . shall comply" with section 514B-154.5. However, the bill does not indicate who within the

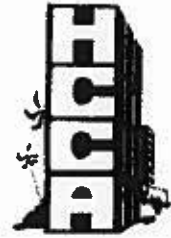
time share project, such as the time share plan manager, is responsible for complying with section 514B-154.5. Without that kind of designation, implementation of the measure may not be practically possible.

The Department notes for the Committee's consideration that the House companion for this measure, House Bill No. 650, H.D. 1, was previously heard and amended to remove the provision applying the document/record requirements of Hawaii's condominium law to mixed used timeshare projects.

Thank you for this opportunity to provide testimony on Senate Bill No. 306.



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



February 22, 2017

Senator Roslyn Baker, Chair
Senator Clarence Nishihara, Vice-Chair
Senate Committee on Commerce, Consumer Protection and Health

Re: Testimony expressing concerns on
SB306 RELATING TO REAL PROPERTY
Hearing: Thursday, February 23, 2017, 9:30 a.m., Conf. Rm. #229

Chair Baker, Vice-Chair Nishihara 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.

HCCA has no objection to Section 2 of the bill that makes HRS 514-154 applicable to time share projects registered under this chapter that contain a combination of time share units, transient vacation rentals and private residential units located in the same project.

We do, however, have very strong objections provisions in Section 3 that would require a 24-hour period for a Board to produce documents in "hard copy format" requested (at page 8 line 21) and we believe that the sanctions established at page 10, line 12-13 are totally impractical and will have little or no effect on the Board and/or its employees and agents who are required to produce the documents.

At page 10 beginning at line 12, I suggest that you delete "any violation of this section shall be an unfair or deceptive act or practice as provided in section 480-2" since this sanction will only be effective if a unit owner sues the Board and wins. The Unit owner will then be entitled to treble damages. If there is no lawsuit, this language is meaningless and there is no benefit to the unit owner and no sanction against the Board..

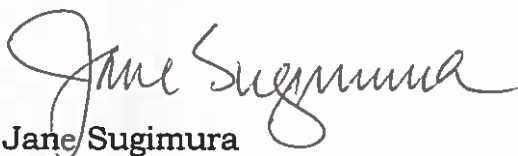
If the Legislature is trying to impose sanctions on a Board for not complying with mandatory provisions of HRS 514B, e.g., the document production required by HRS514B0154 or mandatory mediation under HRS 514B-161, I suggest making an amendment to HRS 514B-106(a) , which is the fiduciary duty section of the law and add the following language: "Any violation of any mandatory provision of this

Chapter by a Board or its members shall be deemed a per se violation of the Board's fiduciary duty; provided, however, a board member can avoid liability hereunder by voting against such Board action and having his or her vote recorded in the minutes of a regular or special Board meeting within 45-days of the occurrence of the violation aforesaid."

In the committee report, you can explain that the rationale for this sanction is to make the Board responsible for these decisions to produce or not produce documents or to participate in mediation or not participate in mediation with the risk that non-compliance will mean that the association's Directors and Officers insurance carrier will not defend Board members who may be in breach of their fiduciary duty. This also prevents the Board from relying on its managing agent to handle these requests by owners for condominium records. The Board is the one that hires the managing agent and instructs the managing agent (not the other way around) so if the Board tells the managing agent to comply with the law and if it fails to do so, the Board has grounds to terminate the managing agent who causes them to breach their fiduciary duty. A director can avoid liability if he or she votes for compliance at the Board meeting and that vote appears in the minutes.

Also, this bill calls for 24-hour production and that's physically impossible since Boards usually meet every month. Also the 24-hour production rule will not work with the sanction of non-compliance constitutes a breach of fiduciary duty because there is no "safe-harbor" opportunity for Board members to register their vote to comply with the [owner's) request and have their vote noted in the meeting minutes.

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



Jane Sugimura
President

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 21, 2017 8:17 PM
To: CPH Testimony
Cc: lila.mower@gmail.com
Subject: *Submitted testimony for SB306 on Feb 23, 2017 09:30AM*

SB306

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

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

Comments:

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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Our organization comprised of Concerned Sands of Kahana Vacation Club Owners has repeatedly asked for the list of Sands owners. Soleil Management has refused to release this list. Soleil Management has operated the Sands of Kahana increase their financial benefit and not in the interests of the Sands' Vacation owners. This list is important to enable communication between owners to facilitate more owners on the Sands of Kahana Board, which is now dominated by representatives of Soleil Management.



February 23, 2017

TO: Senator Rosalyn Baker, Chair Commerce, Consumer Protection, and Health
Senator Clarence Nishihara, Vice-Chair Commerce, Consumer Protection, and Health
Members of the Senate Commerce, Consumer Protection, and Health Committee

FR: AMERICAN RESORT DEVELOPMENT ASSOCIATION (ARDA) - HAWAII
Mitch Imanaka, Chair of the Executive Committee – via Blake Oshiro, Executive Director

RE: SENATE BILL 306 RELATING TO REAL PROPERTY – **OPPOSE**

Dear Chair Baker, Vice-Chair Nishihara, and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill (SB306), which provides that a combination of time share units, transient vacation rentals, and private residential units located in the same project are required to comply with the document, record, and information disclosure requirements under the State's condominium statutes within twenty-four hours and makes the failure to make association documents, records, and information available is an unfair or deceptive act or practice. We respectfully **oppose** this bill because: (1) the potential penalties are severe and excessive; (2) changing the deadline to provide the information from thirty (30) days to twenty-four (24) hours seems unreasonable; and (3) not all time share developments are established as condominium projects such that imposing the condominium laws on the timeshare statutes creates confusion.

The bill deems that a violation for failing to provide the stated information in a timely manner would be an unfair or deceptive act or practice under Haw. Rev. Stat. (HRS) Chapter 480. This means a violation would be subject to \$1,000 minimal award or treble damages, including attorneys' fees under HRS § 480-13. We assert that this is an excessive remedy for the failure to provide certain documents.

The bill also requires that the information must be provided within 24 hours. While we can understand that there may be some frustration with delays and the prolonged process it can take to obtain the information, most of these documents need to undergo some legal review and approval in order for the disclosure to occur. Moreover, the bill does not provide for any flexibility if the request is made on a weekend or holiday, which again, becomes problematic

since it would make this an unfair or deceptive act or practice. We believe that the rigid 24-hour requirement will significantly increase legal claims and suits.

Finally, Section 2 of the bill seeks to amend the timeshare law and require imposition of the condominium laws and provisions for any mixed use. However, there are certain time share development projects that may have mixed use with a residential component, but they are not condominiums, in that owners have an undivided interest in the whole, rather than ownership in a particular unit. As such, this placing of one law on another creates the potential for confusion and inconsistency.

Thank you for the opportunity to testify.



Imanaka Asato
A LIMITED LIABILITY LAW COMPANY

February 23, 2017

Senator Rosalyn H. Baker, Chair
Senator Clarence K. Nishihara, Vice Chair
Members of the Senate Committee on Commerce,
Consumer Protection, and Health
Twenty-Ninth Legislature
Regular Session of 2017

RE: SB 306 Relating to Real Property
Hearing date: February 23, 2017 at 9:30 am

Aloha Chair, Vice-Chair and Members of the Committee,

Thank you for allowing me to submit testimony on behalf of Soleil Management Hawaii, LLC (“Soleil”) in **OPPOSITION** of Senate Bill 306, Relating to Real Property. Soleil is a condominium association and vacation ownership resort management company providing a full spectrum of management services to customers in Hawaii. Soleil has 17 properties throughout Hawaii and has been doing business in the state for 18 years.

Currently, HRS § 514B provides all owners of a condominium unit, including all owners of those condominium units dedicated to a timeshare plan (a “Timeshare Unit”), with a mechanism for accessing the records maintained by the condominium association. The amendments proposed in Senate Bill 306 effectively restate/duplicate those rights as they relate to owners of Timeshare Units while, at the same time, making HRS § 514E more confusing. For these reasons, Senate Bill 306 is unnecessary.

Additionally, Senate Bill 306 amends 514B-145.5 in such a way so as to place a significant burden on association managers to provide documents within a very short timeline under threat of violating Hawaii’s unfair and deceptive practices laws. Specifically, the amendments require association managers to: (i) comply with or deny document requests within 24 hours; (ii) provide hard copies of documents within 24 hours of a request; and (iii) maintain a website that provides downloadable documents at no cost to the owners. Each of these requirements is nearly impossible to fulfill. Current rules allow 30 days to comply with a document requests which is much more reasonable, especially since compliance decisions often must be approved by the board of directors.

To the extent a more expedient process is needed, we recommend adopting the changes proposed in House Bill 650, HD1 which changes the timeframe provided to produce hard copies of certain documents from 24 hours to 15 days.

In sum, the provisions proposed in Senate Bill 306 are duplicative, unrealistic and unduly burdensome. For these reasons, Soleil opposes Senate Bill 306. Mahalo for your consideration.

Sincerely,

IMANAKA ASATO L.L.C.

Michael L. Josua

CHARLES E. PEAR, JR.
ATTORNEY AT LAW

DIRECT #S:
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February 22, 2017

Sen. Rosalyn H. Baker, Chair
Sen. Clarence K. Nishihara, Vice Chair
Members of the Senate Committee on
Commerce, Consumer Protection, and Health
Twenty-Ninth Legislature
Regular Session, 2017

Re: S.B. 306
Hearing on Thursday, February 23, 2017, 9:30 a.m.
Conference Room 229

Dear Chair, Vice Chair and Members of the Committee:

My name is Charles Pear. I am appearing as legislative counsel for ARDA Hawaii.

ARDA Hawaii opposes the bill.

Sections 514B-152, 153, 154, and 154.5, HRS, all contain detailed requirements governing the obligation of a condominium owners association to turn over association records to an owner who requests them. These provisions apply to all condominium projects, whether or not the condominium contains a time share plan.

SB306 proposes to clarify that condominium projects that contain a time share plan are subject to the requirements of the Condominium Act. It does not change the list of information required to be provided to an owner. It is just intended to reiterate that these provisions apply to all condominium projects, whether or not they include a time share plan.

ARDA Hawaii has a number of concerns with the proposed bill.

1. SB306 provides a 24-hour window within which a board may either provide a hard copy documents requested by an owner or provide a written justification for refusing to do so. This raises a number of concerns:

- A. As a practical matter, will it be possible for a property manager to contact the board, obtain a decision, either compile the documents or draft a written justification (or maybe both), and send the response to the owner within a 24-hour period?
- B. What happens if the request is filed on a weekend?

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- C. Is a hard copy of the requested documents deemed “provided” within the 24-hour window if it is deposited in the mail?
- D. If the documents are requested on Saturday and the hard copy is deposited in the mail on Sunday, how does the manager prove that it has satisfied the 24-hour requirement when the post office does not collect mail accumulating over the weekend until Monday?

2. SB306 proposes to make it an unfair and deceptive trade practice to fail to provide the requested documents, or to provide them within a 24-hour window. It is not clear, however, how damages would be calculated.

For example, it seems unlikely that there would be any actual damages, so it would be difficult to administer the treble damages provisions of Chapter 480.

In such a case, it might be appropriate to turn to §480-13(a)(1), HRS, which provides for minimum damages of \$1,000. But would this mean \$1,000 per occurrence or \$1,000 per document that is not provided?

Inclusion of a Chapter 480 remedy would entitle the complaining owner to recover legal fees. But the Condominium Act already allows condominium unit owners to collect legal fees when enforcing the requirements of the Condominium Act. See §514B-157(b).

3. Section 2 of SB306 appears to require that all time share projects comply with the requirements of the Condominium Act. However, not all time share plans are established in a condominium project. Instead, in some time share plans, the buyers receive a deed of an interest in the entire project rather than in a condominium unit. SB306 would appear to require that these plans, called “UDI projects,” comply with provisions of the Condominium Act even though the UDI project is not a condominium.

4. Section 2 of SB306 proposes to amend the Time Share Act, Chapter 514E, HRS. It provides:

* * * notwithstanding any other provision in the declarations,
association bylaws, or association rules and regulations, if any, * * *

However, it is not clear whether the reference to the declaration, bylaws and rules means the time share documents or the condominium documents.

If it is referring to the time share documents, then the proposed language makes no sense. The time share documents cannot alter the requirements of the Condominium Act.

If it is referring to the condominium documents, then the language should appear in the Condominium Act, not the Time Share Act.

5. Section 3 of SB306 proposes to amend §514B-154.5(g) of the Condominium Act. §514B-154.5(g) currently says that §514B-154.5 applies to all condominium projects. This includes both condominium projects that contain a time share plan and those that do not. There is no need to say anything further.

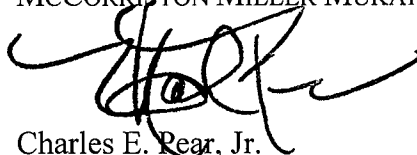
However, the proposed amendments to §514B-154.5(g) introduce the potential for confusion. Specifically:

- Proposed §514B-154.5(g)(1) provides that §514B-154.5 applies to all condominium projects. Again this would cover all condominium projects, whether or not they contain time sharing.
- Proposed §514B-154.5(g)(2) provides that §514B-154.5 applies to all “projects” registered under the Time Share Act. This is really hard to decipher for a number of reasons:
 - The Condominium Act defines “project” to mean a condominium project. §514B-3, HRS.
 - Condominium projects containing time sharing would already be subject to §514B-154.5 both under the existing law and under the newly proposed §514B-154.5(g)(1).
 - The Time Share Act provides for the registration of time share plans, not condominium projects. A condominium project that contains a time share plan must be registered as a condominium under the Condominium Act – in addition to the registration of the time share plan under the Time Share Act.

Thank you for your kind consideration of this legislation. I would be happy to take any questions if you think that I may be of any assistance.

Very truly yours,

McCORRISTON MILLER MUKAI MACKINNON LLP



Charles E. Pear, Jr.

CEP:kn

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 20, 2017 9:22 AM
To: CPH Testimony
Cc: richard.emery@associa.us
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

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

Comments: A fair approach.

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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Rita Coviello
Group Vice President, Legal
rita.coviello@rci.com

February 22, 2017

Senator Rosalyn H. Baker, Chair
Senator Clarence K. Nishihara, Vice Chair
Members of the Senate Committee on
Commerce, Consumer Protection and Health
The Twenty-Ninth Legislature
Regular Session of 2017

Re: Senate Bill 306 Relating to Real Property

Dear Chair Baker, Vice Chair Nishihara and Members of the Committee:

I am in-house counsel with RCI, LLC ("RCI"). As a representative of RCI, the world's largest timeshare exchange company, with over 4,000 affiliated resorts, and approximately 3.8 million members, including members who reside in Hawaii, I am submitting RCI's testimony in opposition to Senate Bill 306 ("SB 306").

SB306 seeks, among other things, to "[c]larify that projects registered under the time share law that contain a combination of time share units, transient vacation rentals, and private residential units located in the same project are required to comply with the document, record, and information disclosure requirements under the State's condominium statutes." The structure of timeshare plans can vary greatly. SB306 would appear to require timeshare plans established in both condo projects and non-condo projects to comply with the condo act under Chapter 514B. Application of provisions intended for whole unit condominiums with a smaller number of owners to a timeshare condominium with a much larger number of owners is unreasonable.

Further, SB306 would shorten the timeframe for disclosure of documents, records and information (or provision of written justification for refusal to do so) from 30 days to 24 hours upon written request by a unit owner. This would result in undue hardship in that the 24-hour time period is too short to compile the requested information, as this task could take from days to weeks. This requirement also does not specify when the 24-hour time frame begins or what actions constitute compliance therewith. For example, what happens if the request is made over a weekend or holidays when there is no mail delivery?

RCI also is concerned that this bill would make noncompliance a deceptive act or practice under 480-2. A more appropriate penalty for noncompliance may be breach of fiduciary duty. In any case, it is not clear as to how damages would be calculated for any failure to comply.

For the foregoing reasons, we respectfully oppose the bill and ask the committee to hold this measure. Thank you for the opportunity to submit testimony on this measure.

Very truly yours,

Rita Coviello

TO: Senator Rosalyn H. Baker
Chair, Senate Committee on Commerce, Consumer Protection and Health
6th District -- South and West Maui

FROM: June E. Ramos, Sands of Kahana Time Share Owner
649 Golden Willow Road
Evergreen, CO 80439
(cell – 303-916-6227)

DATE: February 20, 2017

RE: SB306

Dear Senator Baker:

Thank you for forwarding SB306, allowing more transparency for timeshare owners to be able to access documents and important papers (list of owners, etc.) from timeshare Boards. My husband and I have been timeshare owners at the Sands of Kahana for close to 10 years. We currently own two, one-week units and come to Maui every year for a two week vacation. We love our time here and of course leave considerable business and tax revenue in this glorious state.

To ensure that our voices are heard as owners of this particular property, we are part of an ad hoc group of owners who stay in touch through the hard work of Marc Nelson. We of course want to be sure the value of our investment is maintained. As with other timeshare properties, we are governed by a Board of Directors, who has been unwilling in the past to share name/contact lists of other owners. This prevents critical communication efforts in voting for board membership by owners, etc.

We would like to encourage that all legislators review this bill positively, and vote for its acceptance in the spirit of open and honest communication.

Thank you for your help in this process.



Imanaka Asato
A LIMITED LIABILITY LAW COMPANY

February 23, 2017

Senator Rosalyn H. Baker, Chair
Senator Clarence K. Nishihara, Vice Chair
Members of the Senate Committee on Commerce,
Consumer Protection, and Health
Twenty-Ninth Legislature
Regular Session of 2017

RE: SB 306 Relating to Real Property
Hearing date: February 23, 2017 at 9:30 am

Aloha Chair, Vice-Chair and Members of the Committee,

Mahalo for the opportunity to submit testimony on behalf of Marriott Vacations Worldwide Corporation (“MVWC”) in **STRONG OPPOSITION** to SB 306 Relating to Real Property which would require certain timeshare projects to comply with the document disclosure requirements of Hawaii Revised Statute § 514B-154.5 and would change some of the document disclosure requirements for condominium associations. MVWC is a global leader in the timeshare industry, with five resort properties in Hawaii, and manages both timeshare and condominium associations throughout the state. Like many vacation ownership companies, MVWC is deeply concerned about the significant negative impacts this bill may have on both timeshare and condominium associations, with little benefit to the association members themselves.

As an initial matter, the requirements proposed in SB 306 are unnecessary because the administrative rules applicable to timeshare associations already provide a procedure to contact association members. Currently, HAR § 16-106-12(g) requires plan managers to keep a list of contact information for timeshare association members and vendors under agreements of sale, and provide a mechanism for which timeshare association members may solicit votes, proxies and provide information to other association members. To the extent plan managers do not fulfill this requirement members may seek resolution through the Regulated Industries Complaints Office.

In addition, timeshare unit owners also have a high expectation that their personal information will be kept private which would likely be compromised if the lists were made available. The statutory protections provided are insufficient to protect the thousands of unit owners in each project whose personal information will be at risk of exposure, whether accidentally or otherwise, as more people have access to the data. This could pose a serious liability concern for associations if members’ information is accessed by scam artists or identity thieves. Similarly, these lists contain valuable intellectual property which puts at jeopardy the competitive advantages companies strive hard to preserve.

Section 3 of SB 306 also creates substantial burdens for both timeshare and condominium associations and their management companies for several reasons. First, association boards would be required to comply with certain documents requested by a unit owner or agent within 24 hours, and would be required to provide written authorization or written explanation for refusal within this time period. Most associations’ boards require longer notice to convene and make a decision before responding to the

Senate Committee on Commerce,
Consumer Protection, and Health
February 23, 2017
Page Two

document request than the proposed 24 hour time period would permit. Further, the time limitation is unclear as to whether this limitation applies to weekends and holidays.

Second, information and documents required to be maintained by the association under HRS § 514B-154.5 must be provided in hard copy format within 24 hours of an owner's request, while the current rule allows for a more reasonable 30 day period to respond. Again, the one day time period will be nearly impossible for associations and their management companies to comply with.

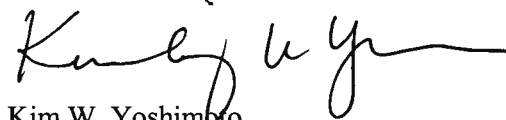
Third, SB 306 mandates that such required information and documents must be available for download through an internet site at no cost to the owners. Currently, we have no estimate of the cost and time it would take to build and maintain such an internet website, but would likely be a significant burden for associations. Ultimately, however, the unit owners will pay for the cost of any website and document download capabilities through their association dues.

Simply put, the marginal benefits to timeshare and condominium association members provided in SB 306 are far outweighed by the substantial burden and privacy risks which would likely occur from passing this legislation. Such demanding regulations will also deter unit owners from serving on the association boards. For these reasons, MVWC strongly opposes Senate Bill 306.

Mahalo for your consideration.

Sincerely,

IMANAKA ASATO LLLC



Kim W. Yoshimoto

SanHi Government Strategies

a limited liability law partnership

Gary M. Slovin
Mihoko E. Ito
R. Brian Tsujimura

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rtsujimura@awlaw.com

DATE: February 22, 2017

TO: Senator Rosalyn Baker
Chair, Committee on Commerce, Consumer Protection and Health
Submitted via Capitol Website

RE: **S.B. 306 – Relating to Real Property**
Hearing Date: Thursday, February 23, 2017 at 9:30 a.m.
Conference Room: 229

Dear Chair Baker and Members of the Committee on Commerce, Consumer Protection and Health:

We submit this testimony on behalf of Wyndham Vacation Ownership. Wyndham offers individual consumers and business-to-business customers a broad suite of hospitality products and services through its portfolio of world-renowned brands. Wyndham Vacation Ownership has a substantial presence in Hawaii through its Wyndham Vacation Resorts, WorldMark by Wyndham and Shell Vacations brands.

Wyndham **opposes** S.B. 306, which would require registered timeshare projects that contain a combination of timeshare units and condominium units to comply with the document, record and information disclosure requirements of Chapter 514B.

This bill would change the timeframe within which documents, records and information are required to be furnished to owners, or written justification for refusal to be provided to owners, from 30 days to 24 hours upon written request by a unit owner. It would also make violation of this section subject to the unfair or deceptive act or practice penalties under section 480-2.

Wyndham is concerned that the 24-hour time period is unreasonable and will result in undue hardship because the turn-around needed to produce the requested documents is too short. Requests for records often require several days to compile

Gary M. Slovin
Mihoko E. Ito
R. Brian Tsujimura
C. Mike Kido
Tiffany N. Yajima
Matthew W. Tsujimura

and process, but can sometimes require longer in some situations. Requiring the documents to be provided in hard copy would also add to the expense and burden of processing the requested documents within the 24-hour time frame.

Furthermore, the 24-hour requirement is also unclear as to when the window begins, what happens if the request is filed over the weekend, which entity is required to make the disclosures, and whether a timeshare board is deemed to have complied with the statute if the unit owner is not present to receive the written authorization or denial.

Finally, Wyndham is concerned that this bill would make failure to comply with the statute an unfair or deceptive act or practice under 480-2. A more reasonable penalty for failure to timely comply with the statute may be breach of fiduciary duty.

Today, the structure of timeshare plans can vary greatly. Some timeshares are established in condo projects while other timeshare plans are structured so that buyers purchase a deed of interest in an entire project. S.B. 306 would appear to require both of these structures comply with the condo act under Chapter 514B, even if the timeshare is not a condominium. A whole unit condominium has a much smaller number of owners and records, and application of the same provisions to a timeshare condominium with a significantly larger number of owners is unreasonable.

For the foregoing reasons, we respectfully oppose the bill and ask the committee to hold this measure. Thank you for the opportunity to submit testimony on this measure.

McCORRISTON MILLER MUKAI MACKINNON LLP

ATTORNEYS AT LAW

CHARLES E. PEAR, JR.
ATTORNEY AT LAW

DIRECT #:
PHONE - (808) 223-1212
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February 22, 2017

Sen. Rosalyn H. Baker, Chair
Sen. Clarence K. Nishihara, Vice Chair
Members of the Senate Committee on
Commerce, Consumer Protection, and Health
Twenty-Ninth Legislature
Regular Session, 2017

Re: S.B. 306
Hearing on Thursday, February 23, 2017, 9:30 a.m.
Conference Room 229

Dear Chair, Vice Chair and Members of the Committee:

My name is Charles Pear. I am appearing on behalf of ILG. ILG is a leading provider of professionally delivered vacation experiences and the exclusive global licensee for the Hyatt[®], Sheraton[®], and Westin[®] brands in vacation ownership. It also owns and operates Interval International, one of the world's premier vacation ownership exchange companies with thousands of affiliated resorts throughout the world. ILG is also the owner of VRI, Trading Places International, and Aqua Aston, which operate numerous properties in Hawaii.

ILG opposes the bill.

SB306 seeks to ensure that documents and records of condominium projects that contain time sharing plans are subject to the disclosure requirements of the Condominium Act. It also seeks to impose time limits on the time within which documents must be provided, and to impose severe penalties for failure to comply.

1. The Condominium Act contains detailed requirements governing the obligation of a condominium owners association to turn over association records to an owner who requests them. These provisions apply to all condominium projects whether or not they contain a time share plan. As a result, we see no need to "clarify" the application of those sections to condominium projects that contain a time share plan.

2. SB306 seeks to impose a requirement that hard copies of the requested records be furnished within 24 hours after receipt of a request. Such a short response time raises issues about how to comply if the response is due on a weekend or on a holiday. In addition, while 24 hours may seem reasonable if an owner is requesting a copy of the minutes of the most recent board meeting, it may be impractical if, for example, an owner requests copies of hundreds or even thousands of documents. In other words, it may be necessary to address the scope of the

P. O. Box 2800 • Honolulu, Hawai'i 96803-2800
Five Waterfront Plaza, 4th Floor • 500 Ala Moana Boulevard • Honolulu, Hawai'i 96813
Telephone: (808) 529-7300 • Fax: (808) 524-8293 • E-mail: info@m4law.com

request in determining the reasonableness of the time frame within which a response should be provided.

Finally, a board may be unable to respond within the 24-hour window. For example, Section 514B-125(d) requires that notice of all board meetings be posted in prominent locations within the project 72 hours prior to the meeting or simultaneously with the notice to the board. Depending on the notice requirements of the bylaws governing board meetings, it may not be legally possible for the board to consider and respond to an owner's request within the 24-hour window proposed by SB306.

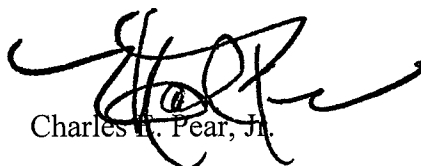
3. SB306 proposes to make it an unfair and deceptive trade practice to fail to provide the requested documents, or to provide them within a 24-hour window. It does not say whether damages will be set to \$1,000 per request, \$1,000 per document requested, or measured in some other way. Also, the obligation to provide the documents is imposed on the "managing agent, resident manager, board through a board member, or the association's representative[.]" In the event that the documents are not provided, it is not clear whether each of these persons will be liable for damages and whether the association also will be liable. In addition, further investigation will be needed to determine whether an association will be able to obtain insurance covering damages awarded for an unfair or deceptive trade practice. If not, then all of the other owners will have to pay the damages, possibly as a special assessment if the damage award is significant.

4. Section 2 of SB306 appears to require that all time share plans comply with the requirements of the Condominium Act. However, not all time share plans are established in a condominium project. In some cases, the buyers receive a deed of an interest in the entire project rather than in a condominium unit. SB306 would appear to require that these plans, called "UDI projects," comply with provisions of the Condominium Act even though the UDI project is not a condominium. In other plans, the real estate is deeded to a trustee who holds title to the Hawaii property as well as properties in numerous other states and countries. The Condominium Act may not be the appropriate place to address record-keeping requirements of multi-jurisdictional time share plans.

Thank you for your kind consideration of this legislation. I would be happy to take any questions if you think that I may be of any assistance.

Very truly yours,

MCCORRISTON MILLER MUKAI MACKINNON LLP



Charles H. Pear, Jr.

CEP:kn

From: [Marc Nelson](#)
To: [CPH Testimony](#)
Cc: [Sen. Roz Baker](#)
Subject: Senate Bill 306
Date: Monday, February 20, 2017 6:23:54 PM

I am submitting testimony in favor of passage of Senate Bill 306. I am a time share owner at the Sands of Kahana on Maui, having owned at the Sands since 1996. I am heavily involved with a group of Sands of Kahana time share owners in a group called Sands of Kahana Concerned Owners (SOKCO).

Our group has many times through notarized affidavits to Soleil Management and the Sands of Kahana Vacation Club (SOKVC) Board of Directors requested the time share owners list and been consistently turned down citing a privacy issue. Yet when it becomes time for the SOKVC annual election the SOKVC Board Chair Kevin Blair can send two and three additional proxies to all of the time share owners of the Sands. These proxies when signed by the Sands time share owners would give Kevin Blair the owners votes to vote as he sees fit. Our group the SOKCO places a candidate on the ballot every year yet we do not have access to all the Sands time share owners as does Kevin Blair. So how fair of an election is that? In addition the SOKVC Board votes all the votes that would go to units that are being foreclosed on, a very questionable tactic. Also the election is run by Soleil Management the managing company of the Sands rather than a neutral third party that has no stake in the election.

The Sands of Kahana Vacation Club Board of Directors is composed of five members three of which are employees of a company ASNY, LLC. The principals of ASNY, LLC are also principals of Soleil Management the managing company of the Sands. This is a serious conflict of interest and has been pointed out to the Board many times and always ignored. All three of these Board members were appointed to the Board and not initially elected. A fourth Board member was also appointed and at the time of his appointment he was the insurance agent for the company insuring the Sands. Also a serious conflict of interest.

The true time share owners of the Sands of Kahana due to the Board make up have absolutely nothing to say about the operation of the Sands. The Sands once a first class and very nice resort has now deteriorated with rodent (rats) problems, pigeon problems, run down rooms, dirty building exteriors, cockroaches, elevators that are often "out of order" and numerous other problems.

Without access to the SOKVC owners list things will never change at the Sands due to the way the elections are held. I ask that you pass Senate Bill 306 and I appreciate the committee taking the time to hear from myself and other time share owners of the Sands of Kahana.

Marc Nelson

I'm testifying against this bill because it sets unreasonable deadlines and imposes unreasonable obligations on both associations and managing agents, from no apparent valid purpose. This bill requires an association to provide:

- Documents listed in section 514B-154.5 – dozens, perhaps even hundreds of documents – in hard copy form, within 24 hours. This is true even if the documents might be in off-site storage or actually have to be drafted, such as a seller's disclosure that the association and managing agent often have to provide.
- Documents requested by an owner but not listed in section 514B-154.5 unless the board provides a response as to why it will not provide the documents within 24 hours.
- Documents through an Internet site if an owner requests the documents be provided in that manner.

If an association fails to provide those documents within 24 hours it can be held liable for violating section 480-2, HRS, which permits, for example, treble damages and other significant remedies against the violator. Moreover, the 24-hour deadline does not require that the request be made in writing on a business day. For example, it appears that if an owner were to request documents on Friday or Saturday afternoon, the association would be required to provide them within 24 hours, even though Saturday and Sunday are not customarily a business days.

In addition, if an association has no website, the association would automatically and continuously be in violation of section 480-2 if it fails to immediately create a website so any owner can download the requested documents for free.

These deadlines are far shorter than anything the state, county, or the legislature would have to comply with providing documents yet, the bill contains no findings as to why such draconian requirements are justified.

The end result of this bill will be that virtually all, if not all associations in the state will be in violation of this bill immediately after it passes into law, because they will be unable to meet the 24-hour deadline. This, in turn means that those associations can be sued for violating section 480-2. The association will then have to start paying treble damages to every owner who makes a request that is not responded to within 24 hours. The other owners will then have to start paying to fund the treble damage awards against the association.

In fact, it seems highly possible that a cottage industry could grow up of attorneys who simply sue the association when they fail to provide the documents within the 24-hour deadline set by this bill. Certainly, any documents that have to be specially prepared, such as sales disclosure documents, will almost certainly trigger a section 480-2 violation every time a request is made, because such disclosure documents usually

require careful research before being provided, to avoid claims of misrepresentation. Moreover, any request made on a Friday, or even a Saturday or Sunday afternoon will almost certainly trigger a section 480-2 violation.

If the managing agents are also sued, the association will almost certainly have to indemnify them because most managing agent contracts require indemnification unless the association can show wilful conduct or gross negligence. It seems unlikely that the association will be able to prove that the managing agent's inability to comply with such short deadlines under the circumstances rise to the level of gross negligence or wilful misconduct.

The association's insurance company will undoubtedly become worried if it has to keep defending section 480-2 claims. The insurance company may even decide to drop the association as an insured or exclude any liability for claims brought under this bill. Then, once again, the members of the association will have to pick up the tab for failure to comply with this bill, if it is enacted into law

Thank you for this opportunity to testify.

Testimony on behalf of SB306:

My name is Steven James Yancey and I am an owner of real property at the Sands of Kahana. I would like to speak on the subject of SB306 and the fact that owners should have knowledge and access to the same information that the Board of Directors of this property do have. Through time, the BOD has sent their own political positioned information and request for votes due to the fact that they have knowledge of the Owner address list. The other owners, including those running for any position on the BOD, should have equal access to the address list that only the current BOD has access to. As a point of fact, with the use of this address list, the BOD has asked that all proxy votes be cast for the current BOD members. SB306 would give every owner the equal opportunity to communicate with each owner.

Thank you for this opportunity.

Sincerely,

Steven J. Yancey (Plumeria owner Sands of Kahana)
949-280-8743
1321 Domador
San Clemente, Ca. 92673

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 21, 2017 6:38 AM
To: CPH Testimony
Cc: steve.potratz@parable.com
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Steve Potratz	Individual	Support	No

Comments: This bill is needed - I have been a timeshare owner at the Sands of Kahana on Maui for over 16 years. We own three weeks. Over this time the same board has controlled the vacation club and it has been impossible to communicate with owners or get a timeshare owner elected to our board. This bill would solve a lot of problems. Please move this forward quickly.

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 21, 2017 4:24 AM
To: CPH Testimony
Cc: Rich_Malec@yahoo.com
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Malec	Individual	Support	No

Comments: I believe this bill will benefit, condominium, Time Share, and Vacation Club owners by offering transparency and clear communications about the operations and any pending decisions about their asset.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 21, 2017 12:26 AM
To: CPH Testimony
Cc: bearsv65@aol.com
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
john Dimmer	Individual	Support	No

Comments: This bill is without doubt a game changer as regards to these combination properties. A law like this should have been on the books many years ago. For many years owners at these mixed use properties have been unable to receive a list of the names and contact information from their various boards of directors so as to be able to contact them regarding voting for candidates running for positions on their various boards. This assures that only the developer and board of directors have the ability to solicit all owners. This is not democracy!

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SB 306 Testimony

February, 20, 2017

Bradley D. Smith

49240 Croquet Ct

Indio, CA 92201

bsmith@happybuffalos.com

303.898.8229

My wife and I are the long time owner of 3 Weeks at the Sands of Kahana Vacation Club. The weeks of this club have been sold out for years and yet Soleil Management has controlled all activities and their management contract with the vacation club because they have restricted access to membership lists only to those they believe will work for their best interest, not those of the club members. The majority of the Board members (3 of 5) are all employees of ASNY, LLC a company, in my opinion, that is closely tied to Soleil Management, the managing company of the Sands. Therefore they (the 3) have a significant conflict of interest and again, in my opinion, have little regard for the true owners of the Sands. All board members, including the 3, are those the management has recommended. Management refuses to allow legitimate members of the vacation club to have the membership list and contact information which could be used to campaign for board members we, the owners, want to represent us but the management company does not approve of. However, they do either provide the list or do special mailings to all club members for the candidates they support, who they know will vote for their recommendations. This is totally unfair and is a form of collusion designed to keep their lucrative management contract in place without the fear of competition from other management companies who may be able to do a much better job for less cost.

Please vote in favor of HB306 so club owners, like myself, can have board representation that reflects the best interest of the club owners, not the best interests of the management company.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 20, 2017 7:17 PM
To: CPH Testimony
Cc: c21hettwer@aol.com
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Jan Hettwer-Dummer	Individual	Comments Only	No

Comments: It is very important that this bill pass as I am a timeshare owner of many weeks on the Big Island and Maui. Timeshare association Board of Directors need to be adhering to their governing documents and this bill's identification of what they need to provide the timeshare owners, especially if requested. There are some Board of Directors for certain timeshares unwilling to do this, even though requested through the proper channels, i.e., especially the names/contact information of all owners to be able to share information regarding proxy voting etc. Some timeshare companies block this request and continue to try and keep their corporate people on the board versus ever allowing us owners to have a chance.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 20, 2017 7:14 PM
To: CPH Testimony
Cc: greg_monroe@hotmail.com
Subject: *Submitted testimony for SB306 on Feb 23, 2017 09:30AM*

SB306

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

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

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 20, 2017 6:57 PM
To: CPH Testimony
Cc: carlyoliver76@hotmail.com
Subject: *Submitted testimony for SB306 on Feb 23, 2017 09:30AM*

SB306

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Carly Monroe	Individual	Support	No

Comments:

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February 21, 2017

I would like to make some comments on SB306. I ask that this bill be passed. I am a time share owner at the Sands of Kahana. SOKCO has repeatedly asked for information from the board of directors. I believe the board wants to keep things the way they are (which I don't believe is good for owners), therefore won't release appropriate documents to any owners. I myself have written the board recently to ask for information, and they have not given me the courtesy to respond. I know there is a lot going on that is not being passed on to the owners. I know this because I belong to SOKCO. I have friends that are time share owners - they do not belong to SOKCO. I have informed them of things going on at Sands that they had no idea of.

I believe this is an important bill to pass. It simply allows for owners to have access to basic information. I think that is only fair.

Robert Tobiason
Sands of Kahana Time Share Owner
btobiason@comcast.net
509-226-0875

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 20, 2017 6:27 PM
To: CPH Testimony
Cc: leavenworthy@gmail.com
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Steve Hamilton Demarest	Individual	Support	No

Comments: as owner of multiple timeshares, i find it frustrating that the original developer retains control over management by withholding crucial contact information from owners. I support this bill. Owners should have the same access to contact information as developers. thanks.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 20, 2017 5:48 PM
To: CPH Testimony
Cc: weyer@sasktel.net
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Gordon A. Weyer	Individual	Support	No

Comments: I am in favour of the passing of Senate Bill 306

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 20, 2017 4:56 PM
To: CPH Testimony
Cc: racooper63@gmail.com
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Randall A Coopoeer	Individual	Comments Only	No

Comments: I am in favor of BILL SB 306. I have been trying for years to obtain a list of fellow timeshare owners at the Sands Of Kahana. Thank you! Randall Cooper 26237 Lake Dr Elkhart, IN 46514 574-264-4814

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: Gary Heaton

700 N. Broadway

Tekoa, WA 99033

Phone: (509) 288-2543 email: sallih676@gmail.com

I urge passage of SB 306. I am a resident of the State of Washington. My wife and I and often our children and families are annual visitors to the great state of Hawaii. We now stay about 2 months out of the year. We own a one week time share at Sands of Kahana on Maui. For the last several years a group of concerned owners has tried to get a complete list of owners for communication purposes, mainly in regards to board elections. The management company (Soleil Management) has not complied with this request. The board is dominated by members that are connected to Soleil Management, and keep getting elected year after year. In some cases time shares have been given to them so that they qualify as owners. The board engages in practices that appear to benefit the management company much more than the actual owners. At election time they often send multiple requests for proxies, which can confuse the owners and I suspect be a means of invalidating votes. Their practices certainly give the appearance and I believe are actually used to ensure the election of the same board members year after year.

SB 306 on page 4, section (6) would require the board to provide a list of owners for communication purposes (at cost). This provision would allow the owners to communicate among themselves and would benefit the management company and board by removing the veil of deceit they currently hide under, at least giving the appearance of legitimacy.

Thank you.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 21, 2017 9:05 AM
To: CPH Testimony
Cc: bjarmak@hotmail.com
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Brenda Jarmakani	Individual	Support	No

Comments: I am an independent owner at Napili Shores Resort by Outrigger in Maui. My concerns regarding management of AOAO: 1. Conflict of interest when managing agent of AOAO is from same company as Vacation Rental program and determine budget for all owners. 2. When significant financial errors are found and puts burden on owners. 3. AOAO overlooks significant safety violations in common area which have been brought to their attention.

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February 20, 2017

To the Honorable Members of the Hawaiian Senate:

We ask that the Hawaiian Senate enact SB306 so that we timeshare unit owners can have a proper voice in the supervision of timeshare property managers and operators in the state of Hawaii. Without the passage of this bill, it is virtually impossible for owners to communicate with each other in regards to their property and to ensure the timeshare property managers and operators operate in a fair and transparent manner.

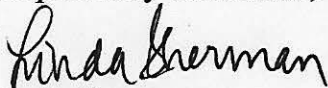
In support of our request, we offer the following facts.

We own two timeshares at the Sands of Kahana, located at 4299 Lower Honoapiilani Rd, Lahaina, HI 96761. As timeshare owners, we are members of the Sands of Kahana Vacation Club (SOKVC). The SOKVC Board of Directors (BOD) has no timeshare owner as an independent board member. The annual BOD elections are conducted via mailed proxy votes.

The SOKVC timeshare owners have tried for years to elect at least one independent timeshare owner to the BOD but have been thwarted because they cannot contact other SOKVC timeshare owners. The existing BOD has repeatedly refused to release the names of SOKVC timeshare owners in order to promote communication with each other prior to the annual BOD elections. SB306 will explicitly make this inaction an unfair practice.

The existing BOD also indulges in the following deceptive practice. Prior to the Annual Meeting of the SOKVC, the BOD sends out multiple proxy requests to timeshare owners to purposely confuse them, and to invite them to assign their proxies to the BOD Chairman. The timeshare owners have zero opportunity to promote timeshare owners as independent board members. There is no opportunity to educate timeshare owners that sending in multiple proxies assures that the BOD will never have an independent board member. SB306 will explicitly make this action a deceptive practice.

Respectfully submitted,



Linda Sherman
29424 Greengrass Court
Agoura Hills, CA 91301
LSherman420@att.net

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 20, 2017 3:14 PM
To: CPH Testimony
Cc: recycler1416@sbcglobal.net
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
William Turley	Individual	Support	No

Comments: Please support this bill in order to provide more transparency in this sector.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 20, 2017 1:57 PM
To: CPH Testimony
Cc: AndresenL1@cox.net
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Larry Andresen	Individual	Comments Only	No

Comments: I have been an owner at Sands of Kahana Vacation Club (SOKVC) since 1997, and I have participated in each election of the Board. It has been my experience that the Board, which is made up in majority of current or former executives of the developer of SOKVC, has manipulated and controlled the outcome of Board elections for their own personal good. The Board has maintained control of all owner records and owner contact information, and has used that information for their exclusive benefit to ensure election or re-election. There have been requests made to the Board for disclosure of SOKVC owner lists, including requests made by some candidates in upcoming elections for new Board positions. Each time the Board has refused to provide any information; however they have retained usage of that information for their own benefit. This has ensured their election, and re-election of the current Board. I applaud the State of Hawaii for its efforts in the proposed SB306. I especially encourage the State to pass the provision within that Bill (Section 3(6) that will require HOAs (such as SOKVC) to provide an accurate list of current owners to other members of the HOA.

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Testimony in Favor of SB 306

I have been an owner of timeshare units at the Sands of Kahana in Maui, Hawaii for over 17 years. During this time, my family has enjoyed our time at the resort, but have been saddened by the deterioration of the facilities and the lack of an opportunity for participation by timeshare owners. In concert with other owners, I have tried to gain representation on the Board of directors, but have been frustrated by the “games” played by the current Board which is dominated by the management company running the resort. A key part of this legislation is the required availability of ownership records which would allow owners to communicate with each other and join together to be better represented on the Board of Directors. It is hard to imagine any downside to this bill and I urge its passage. Transparency and the rights of property owners to control their investment is critical to Hawaii continuing to be the most desired tourist destination.

Ronald L. Stoddart

Ron@Stoddartlaw.com

(970) 461-1128

Testimony of David B Smith, on behalf of Senate Bill 306 (SB306):

February 20, 2017

Good afternoon. I am strongly in favor of the passage of Senate Bill 306 (SB306). I believe this bill is imperative to provide a clear and transparent understanding of the operations and management of the ongoing condominiums and time share properties within the state of Hawaii. As a condominium time share owner myself, having access to the up to date, accurate records and information both generated and kept by the condominium management companies, associations and boards of directors is vital to my understanding of the management of the facility that I am an owner of. This understanding of the facility operations of the time share property, by the time share owners themselves, can only happen if the information and records of operations are made available in a timely manner to the owners. SB306 provides for this transparent sharing of the information & records with the time share owners.

A significant and specific piece of the information necessary for time share owners to be able to obtain and evaluate is the current list of fellow members and owners, with current addresses. The ability to communicate with fellow owners regarding matters of the association, annual meetings and proxies is necessary for each owner to be able to perform his duty as an owner in the association. This vital information can only be provided by the management companies, associations or boards of directors.

Detailed records of expenditures and receipts associated with the maintenance and repair of the condominium units and common elements of the time share properties, including executed agreements for managing the operations of the property are also vital for owners to be able to review. This is necessary as we owners are asked to assess and vote on measures dealing with the considerable expenses to manage our properties and for directors who manage them.

Senate Bill 306 (SB306) provides for the clear, timely and transparent exchange of condominium association information and records that condominium time share owners must have to be able to participate in the management of their association and condominium property. I urge you to pass this important bill.

Thank you,

David B Smith

Time Share Owner

Davidbsmith101@gmail.com

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 20, 2017 12:15 PM
To: CPH Testimony
Cc: jarner269@gmail.com
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Ranson	Individual	Support	No

Comments: I strongly urge the passage of SB306 in order to facilitate communications among time share owners, which up until now has been denied by the management of Sands of Kahana, as well as by the board of directors.

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Re: Support of Senate Bill 306

My husband Robert Morgan and I own two weeks at Sands of Kahana (SOK) timeshare resort in Maui, Hawaii. We so enjoy our time in Maui and find the people to be inviting and justifiably proud of this beautiful State. However with the Sands of Kahana, there are significant problems particularly over the past 5 years and my husband and I are seriously considering selling our deeded timeshare.

We are writing to express our support for Senate Bill 306 as we believe it will improve the requirement for transparency and disclosure with the SOK Board and this is consistent with the legitimate interest of the deeded timeshare owners.

The 'Sands of Kahana Concerned Owners Group' has been trying to secure the names of timeshare owners from the Board for some time. This is being done in an effort to improve the facility, not to undermine its operations. However the Board has refused to provide this information citing privacy concerns. I am a member of other timeshares in the United States (Florida, California and New Mexico) and there is never a problem securing the disclosure of the names of timeshare owners and there is much more transparency and integrity particularly when it comes to the election of board members. Anyone is allowed to run for a position and where the timeshare resorts have active and engaged timeshare owners, these timeshare facilities are maintained in very good condition while keeping maintenance fees at a reasonable level.

The Sands of Kahana Board is not transparent and as a result of deceptive practices the Board has effectively been 'stacked' with self-serving members, many of whom have a significant conflict of interest as a result of their financial interests in this Resort and the timeshare operation. There is complete disregard for the interests of the timeshare owners.

This is very concerning to me as an owner and it should be a concern for the legislators of the State.

Hawaii relies on tourism as a primary economic resource. These timeshares need to be operated as high quality resorts and the owners association and board members need to be accountable to the owners who pay maintenance fees and property taxes. The timeshare owners provide the economic base for the operation and maintenance of the resort and contribute to the tax base of the State of Hawaii and this contribution to the property tax base has a direct impact on the standard of living for the residents of the State.

The management company should be arm's length from the Board of Directors but this is not the case with the Sands of Kahana and SB 306, if passed, can effectively operate to invoke basic principles of fundamental fairness and transparency for timeshare owners, while ensuring adherence to proper governing principles, without compromising privacy rights for individual owners.

It has been our observation that the person or persons who stand for election for the Sands of Kahana Board of Directors, and has an interest in the timeshare owners concerns, is not elected. The current Sands of Kahana Board has access to the timeshare owners list. However that timeshare owners list is not available to anyone outside of the Board so potential candidates who are not already elected to the Board do not have access to this information. This is like not allowing a person running for office to have access to a voters list. The elected Board members send multiple proxies to the owners, use robo calls that are made directly to the phone number the timeshare owners have provided and communicate the reasons to the owners as to why the current Board members should be re-elected.

Those timeshare owners who wish to run for election as a Board member **are denied access to this same information, i.e. the timeshare owners list** because the Board refuses to disclose and produce the list of owners. In addition the management company conducts its own election, resulting in the re-election of

self-serving board members time and again with increases in expenditures being approved that are often unjustified expenses resulting in significant increases in the timeshare maintenance fees, disgruntled timeshare owners and the selling of timeshare units or timeshare owners simply abandon their units and this domino effect is not good for the tourism sector.

In addition, it is the **current Board Members** who 'take' the votes on timeshare units that have been subject to foreclosure proceedings and those votes are cast in favour of the current board members further resulting in an unfair process.

The owners must have representation on the Sands of Kahana Board as this will provide owners with an independent voice and oversight and provide for effective communication between the owners and the Sands of Kahana Board while providing a legitimate platform for owners to have representation regarding budgets, expenses, long term planning for capital improvements, and decisions in respect of the operations of this resort. It is reasonable to have timeshare owners communicate directly with each other. This is no different than a condominium association where the owners have direct communication and have direct input into the operation of the condominium. To date the Association of Apartment Owners (AOAO) boards have refused the timeshare owners requests for a list of all timeshare owners who have deeded weeks at the Sands of Kahana and are legal owners, the result of which compromises the ability of the owner to communicate directly with Board representatives regarding issues and solutions to problems that are becoming increasingly concerning for the timeshare owners.

Compliance with the document, record and information disclosure requirements under the State of Hawaii's current condominium statutes and requiring the disclosure of the condominium associations (or timeshare owners association, as the case may be), documents, records and information to be provided to requesting owners (who are **deeded owners** and therefore are legal owners of their deeded week and not simply beneficial owners), within 24 hours is a reasonable legislative requirement that, if passed, will ensure transparency, fairness and mitigate the deceptive actions that have resulted in significant problems for the timeshare owners and undermine the democratic process.

I note that the Senate Bill states that "...failure to make association documents, records, and information available is an unfair or deceptive act or practice" however it is unclear if there is a penalty provision in this Senate Bill, which penalty can be imposed in the event the refusal to provide such documentation is proven. We suggest that a penalty provision be included and such a penalty can be a monetary penalty to be **paid by the Board members** and can be proportional to the nature of the deceptive act or practice that occurs.

The passing of Senate Bill 306 can only be consistent with the State of Hawaii's objective of ensuring that the tourism industry in the State maintains high standards and where necessary, legislative oversight, to ensure this 'tourism resource' continues to provide economic and cultural benefits to the citizens of the State of Hawaii. Thank you for the opportunity to express our support for SB 306.

Respectfully submitted by:

Robert B. Morgan & Barbara J. Morgan, Owners Sands of Kahana Maui, Hawaii
PO Box 1014, International Falls, Minnesota 56649
Ph: 807 274 2412

February 20, 2017

Dear Senator Baker,

Please ardently support SB 306.

Thank you for introducing SB 306 because the provisions in this bill are greatly needed to protect consumers (and end users) from unfair practices that some timeshare developers have been utilizing to take advantage of their power and fiduciary responsibilities.

I am an owner of a time share at the Sands of Kahana on Maui. For some time now various owners have attempted to get the time share owners list and contact information from the Sands of Kahana Vacation Club Board of Directors and the managing company Soleil Management. We have sent several notarized affidavits requesting the owners list and have been turned down every time.

The Sands of Kahana Vacation Club Board of Directors and Soleil Management have failed to provide any means of communication amongst the time share owners of the Sands of Kahana. We have tried getting enforcement of Hawaiian Administrative Rule, Section 16-106-12(g), which states that if we (the owners) are denied the owners list then we (the owners) are to be provided with a means of communicating with each other wherein we (the owners) may provide information to other Sands of Kahana time share owners with respect to association matters. In addition, the association shall develop a reasonable procedure by which Sands of Kahana time share owners may solicit votes or proxies.

Because the board is comprised of members affiliated with the original and existing management company they take undue advantage of this position to restrict access to the owner list and have thwarted any effort or means for owners to obtain access to the owner list. In addition, they send out multiple proxies listing themselves with power of the proxy, and otherwise block the ability for a fair and democratic vote to allow owner representation.

We have tried everything we know to get a level playing field for actual owners of the timeshare and condominiums to compete for the board positions available and desperately need this measure.

Thank you for supporting SB 306.

Sincerely yours,

David S Wertheim
dwertheim@surewest.net

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 20, 2017 11:32 AM
To: CPH Testimony
Cc: debra.richardson0509@gmail.com
Subject: *Submitted testimony for SB306 on Feb 23, 2017 09:30AM*

SB306

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
debra richardson	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 20, 2017 11:29 AM
To: CPH Testimony
Cc: john.richardson1028@gmail.com
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
john richardson	Individual	Support	No

Comments: This bill needs to pass to provide transparency.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 20, 2017 11:09 AM
To: CPH Testimony
Cc: BRIDGETTEMAWDSLEY@GMAIL.COM
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
BRIDGETTE MAWDSLEY	Individual	Support	No

Comments: We seriously need transparency from Soleil Management and even more so from the SOKVC Board of Directors and this bill will help.

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**Alan Fox
Sands of Kahana
4299 L. Honoapiilani Road, Unit #254
Lahaina, Hawaii 96761
808 665 1471**

February 20, 2017

Re: Testimony in Support of SB306

This document is being provided as evidence of support for SB306. My wife and I are outright owners of a complete unit at the Sands of Kahana condominium on Maui.

At the present time, two thirds of the units in our condominium complex are time-share units and managed by an independent company operating out of Las Vegas: Soleil Management (SM). SM has repeatedly refused to release the names and personal addresses of those individuals owning the respective timeshares at The Sands of Kahana. As a result, SM controls the timeshare Board of Directors and also the AOA Board at the Sands of Kahana. All of the Board members are employees of Soleil Management and vote according to the financial benefit of Soleil and not the timeshare or whole unit owners at the condominium.

It is my understanding that several years ago, legal action was brought in Hawaii Courts forcing Soleil to release the names and addresses of all timeshare owners. A judge ruled against Soleil in this action and required them to provide such a list of names and addresses. Accordingly, several weeks or months later, Soleil did provide such a list but every single owner's address was listed as 4299 L. Honoapiilani Road in Lahaina: the mailing address of the condominium itself. Thus, any mailing sent to this list of addresses would be delivered to the condominium front desk which is staffed by Soleil Management employees. This list was therefore useless for purposes of timeshare owners being able to get control of their own Board or otherwise communicate with each other.

Hopefully, SB306 will provide stipulations that will required timeshare management companies to release the names and addresses of all timeshare owners wherein the actual addresses are required on the mainland or elsewhere and the owners can be contacted directly without having to go through timeshare management company employees for deliverance.

Thank you.

Alan Fox

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 20, 2017 10:11 AM
To: CPH Testimony
Cc: csxcobra4057@gmail.com
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Gary Pfeifer	Individual	Comments Only	No

Comments: I am so glad to hear that SB306 is going to help me communicate better and openly with other owners. There have been to many times we have been told we can not have copies of the owners list. This bill will help us move forward with progress on making our resort better for the State of Hawaii.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 20, 2017 9:57 AM
To: CPH Testimony
Cc: dick.seddig@gmail.com
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
richard seddig	Individual	Support	No

Comments: I am a current owner at the Sands of Kahana (Maui). We have on numerous occasions requested from our Soleil Management group a list of owners in an attempt to elect one or more of our owners to the board of directors.the Soleil directors refuse to provide us with that list. Without the list of owners this has not been possible. Furthermore, the owners have no ability to oversee or "watchdog" the management team. I therefore, would like to express my support for SB306.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 20, 2017 9:45 AM
To: CPH Testimony
Cc: boomerbrown65@msn.com
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Brown	Individual	Comments Only	No

Comments: The passage of this measure would be very helpful in ensuring that all time share owners are given the facts relative to the management of the resort. Also, it would provide a means of guaranteeing the legitimacy of annual board member elections.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 20, 2017 9:33 AM
To: CPH Testimony
Cc: BobKendallGB@gmail.com
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/20/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Kendall	Individual	Support	No

Comments: I strongly support this bill. I have been a timeshare owner at Sands of Kahana (and paid property taxes) for over twenty years. The board has been flagrantly violating membership list rules that whole time. This has had a negative impact on my investment and enjoyment of the facility. So much so, that we rarely visit the property. I encourage you to approve this bill.

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From: [Stephen Wolnitzek](#)
To: [CPH Testimony](#)
Cc: [Sen. Roz Baker](#)
Subject: SB 306
Date: Monday, February 20, 2017 10:04:05 AM

I have been a timeshare owner at Sands of Kahana on Maui since 1996. I am strongly in favor of the provision of SB 306 requiring lists of owners to be provided to owners within 24 hours of a request and to be available for download through an Internet site. As a concerned owner it is imperative that I be permitted to communicate any ownership concerns I have with other owners. Presently only the management company and the Board of Directors has this opportunity. When one controls communication, that person or group of persons can insure that only what they want known is known to all owners. Perceived problems that a management company cannot or will not address are impossible to be made known to other owners if there is no way to know who they are or how to reach them. In my opinion, this levels the playing field and allows communication by ALL owners to ALL owners. I believe SB 306 is excellent consumer legislation. Thank you for your consideration of my comments.

Stephen D. Wolnitzek

Sent from my iPad

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 21, 2017 11:29 AM
To: CPH Testimony
Cc: Gfhenry1947@gmail.com
Subject: *Submitted testimony for SB306 on Feb 23, 2017 09:30AM*

SB306

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
George Henry	Individual	Support	No

Comments:

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Testimony of Charles N. Johnson in favor of SB306

Thank you for the opportunity to present testimony in support of SB306.

My wife and I have been owners at the Sands of Kahana resort (Sands) in Kahana, Maui since 1998. We currently own two timeshare weeks, a two-bedroom Orchid unit and a three-bedroom Plumeria unit. We have enjoyed the resort, having visited every year since we purchased our units. Several years we were there twice a year. We clearly enjoy our special time visiting Hawai'i, and the Sands. We consider this our "home away from home".

After visiting the Sands, we met other timeshare owners, who like ourselves, had concerns about the resort management. Soon we gathered to form a Sands of Kahana Concerned Owners (SOKCO) group. We all love the resort, and wish it to maintain its four-star rating. SOKCO has developed a website (www.sokco.info) to share our concerns with other timeshare owners. SOKCO maintain a database, which list other owners so that we can communicate with those who share our concerns.

We (SOKCO) have developed a list of grievances that we have presented to the resort management. This list is attached to this testimony. As the list shows, I have filed an affidavit, as have other owners, with State of Hawai'i. SOKCO has attempted to receive the list of owners so that we could obtain proxies to vote our timeshare members on to the Sands of Kahana Vacation Club Board of Directors. The management has consistently refused to give us this list as required by State law (see Grievances).

An owner who owns a full condominium unit, not a timeshare owner, filed a lawsuit requesting the list of owners. See attachment. The list provided listed the owners with the resort address. See attachment. This was clearly not what the lawsuit requested.

We (SOKCO) hired an attorney to represent us at the annual meetings. I, myself as a candidate for the board, stood before the SOK Vacation Club board, with our attorney to plead our case. EVERY time we attempted to work with them, they ruled us "out of order" during these meeting, and refused to follow, not only the resort by-laws and the Covenant, Codes, and Restrictions (attached), but Hawai'i State law.

The management company, Soleil Management (formerly Consolidated Resorts), takes hundreds of thousands of dollars in management fees every year. When the fees to the master association (Association of Apartment Owner at Sands of Kahana) are added the management fee are nearly \$900,000. They use this money (our money) to hire attorneys to threaten us with letters, and potential court action.

My wife and I love the resort and the Islands, but we are frustrated because we see our beautiful resort deteriorating every year when we return. We ask that you pass this legislation to allow us to receive our rights that exist in our CC&Rs, By-laws, and State law. All that we want is have a true timeshare owner on the board and not have it controlled by employees of the management company.

Mahalo, for your consideration of my testimony. I am available for questions by email (Charlie@CNJohnson.com), by phone (760-868-2080), or by mail (11433 Buttemere Road, Phelan, CA 92371).

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 21, 2017 11:54 AM
To: CPH Testimony
Cc: cynthia@vinson.la
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Cynthia Vinson	Individual	Support	No

Comments: I own a condominium on Maui that contains a combination of timeshare, transient vacation rental and private residential units. I strongly support the proposed legislation. A significant problem in a mixed use project is receiving timely information, especially in connection with an election of Association or Timeshare Directors. Without such information received in a timely manner it is virtually impossible for a fair election to occur in a situation where an individual is proposed to be a Director who is not selected and supported by the current Board of Directors. One change I recommend is a requirement that the owner's association, if it or the managing agent maintains an e-mail contact list of owners, is that such lists must be provided to any requesting owner in connection with any Association or timeshare election. Thank you for your consideration of my comments. Respectfully, Cynthia Vinson

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February 21, 2017

TO: Committee On Commerce, Consumer Protection, And Health
Senator Rosalyn H. Baker, Chair
Senator Clarence K. Nishihara, Vice Chair

FROM: Glenn T. Stockton II
Past and Present Board Member
Various Hawaii Condominium Associations and Timeshare Associations

DATE: Thursday, February 23, 2017
Conference Room 229
9:30 a.m.

RE: **SB 306 Relating To Real Property.**

Aloha Chair, Vice-Chair and Members of the Committee:

This testimony is submitted **IN OPPOSITION** to Senate Bill 306 for the following reasons:

The amendments proposed in Senate Bill 306 effectively restate/duplicate the access rights to condominium association records that owners of condominium units dedicated to a timeshare plan already have under HRS 514B while, at the same time, making HRS § 514E more confusing. I say this because HRS § 514B already provides all owners of a condominium unit, which includes all owners of a condominium unit dedicated to a timeshare plan, with a mechanism for accessing the condominium association's records. For these reasons, Senate Bill 306 is unnecessary

Additionally, when it comes to the specific revisions of HRS 514B-154.5, Senate Bill 306 seeks to place significant burdens on condominium association managers to provide documents within a very short timeline under threat of violating Hawaii's unfair and deceptive practices laws. Specifically, House Bill 650 requires said managers to (i) comply with or deny document requests within 24 hours, (ii) provide hard copies of documents within 24 hours and (iii) have a website with links to all association documents - all of which requirements are nearly impossible to comply with. Current rules allow thirty (30) days to comply with document requests, which rule is much more reasonable considering that compliance decisions often must be approved by the board of directors.

Lastly, the companion bill to Senate Bill 306, i.e., House Bill 650, was recently amended by the House Committee On Consumer Protection & Commerce to (i) remove the amendment to HRS 514E in its entirety, and (ii) address the majority of other concerns raised regarding the proposed amendments to HRS 514B-154.5.

For the foregoing reasons I ask that Senate Bill 306 be **DEFERRED**.

Thank you for your consideration.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 21, 2017 12:07 PM
To: CPH Testimony
Cc: davidj48@telus.net
Subject: *Submitted testimony for SB306 on Feb 23, 2017 09:30AM*

SB306

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
David Jones	Individual	Support	No

Comments:

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To the Committee:

I hereby submit my support of the testimony as described below by Lila Mower of Hui `Oia`i`o

Diann K Lynn
Mo`ili`ili

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH
HEARING ON FEBRUARY 23, 2017
SUPPORT FOR SB306

We support HB650 with these amendments (in bold, and underlined or stricken) to prevent misunderstandings about the cost of these requested documents, whether hard or electronic copies were requested, and how soon these documents should be available:

(c) Notwithstanding any provision in the declaration, bylaws, or house rules providing for another period of time, all documents, records, and information listed under subsection (a), whether maintained, kept, or required to be provided pursuant to this section or section 514B-152, 514B-153, or 514B-154, shall be provided **IF REQUESTED** in hard copy format no later than [~~thirty days~~] twenty-four hours after receipt of a unit owner's or owner's authorized agent's written request[, ~~unless a lesser time is provided pursuant to this section or section 514B-152, 514B-153, or 514B-154, and except as provided in subsection (a)(14)~~].

(d) Any documents, records, and information, whether maintained, kept, or required to be provided pursuant to this section or section 514B-152, 514B-153, or 514B-154, ~~may~~ **SHALL** be made available electronically **NO LATER THAN TWENTY-FOURS HOURS AFTER RECEIPT OF A UNIT OWNER'S OR OWNER'S AUTHORIZED AGENT'S WRITTEN REQUEST** to the unit owner or owner's authorized agent ~~if the owner or owner's authorized agent requests such in writing~~.

(e) An association [~~may~~] shall comply with this section or section 514B-152, 514B-153, or 514B-154 by making the required documents, records, and information available to unit owners or owners' authorized agents for download through an internet site, [~~at the option of each unit owner or owner's authorized agent and~~] at no cost to the unit owner or owner's authorized agent.

(f) Any fee charged to a unit owner or owner's authorized agent to obtain copies of the association's documents, records, and information, whether maintained, kept, or required to be provided pursuant to this section or section 514B-152, 514B-153, or 514B-154, shall be reasonable; provided that a reasonable fee shall include administrative and duplicating costs and shall not exceed \$1 per **PRINTED** page, or portion thereof, except that the

fee for pages exceeding eight and one-half inches by fourteen inches may exceed \$1 per **PRINTED** page.

Mahalo.

Lila Mower of Hui `Oia`i`o

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 21, 2017 11:01 PM
To: CPH Testimony
Cc: sunnymakaha@yahoo.com
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Dale A. Head	Individual	Support	No

Comments: I am in support of this bill, especially regarding the matter of providing documents electronically for downloading via a website. Presently an Agent or Board may charge \$1 per page, whether printed or electronic.

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Testimony in Favor of S.B. No. 306

By Rick G. Schwartz - 2/21/2017

Phone: 650-326-8331

Email: rgschwartz@sbcglobal.net

My wife and I have been time share owners (Sands of Kahana) for many years. S.B. No. 306 addresses a serious problem that time share owners face in trying to ensure that their interests are protected. Specifically, we timeshare owners need transparency from property management and representation on our properties' boards of directors. Under current laws, transparency and representation is impossible unless property management pursues that on its own volition. Our experience – and I'm sure the same occurs at other time share properties – is that property owners are kept out of the process. For example, our owners' association has been unable to send information to owners who did not happen to join the association, whereas management has access to ALL owners. Management sends misleading information and proxies that give perspectives and favor candidates aligned with the property owners' interests. For years we have tried to get a candidate representing the owners' interests elected to the board, but given lack of access to communicate with ALL owners, our efforts have been futile. S.B. No. 306 has very reasonable provisions ensuring that documents, disclosures, and communications with time share owners are consistent with the protections already accorded to condominium owners. We strongly favor passage of this bill.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 21, 2017 5:43 PM
To: CPH Testimony
Cc: aanderson@alf-hawaii.com
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Anne Anderson	Individual	Oppose	Yes

Comments: S.B. 306 is a bad bill. The thirty day time period in the current law for the provision of documents is reasonable. A 24 hour time period is wholly unreasonable. Owners often ask for multiple documents over periods of years. It takes time to pull documents from storage and to review them for privileged information or confidential. As an attorney, I have had to spend hours reviewing multiple boxes of documents requested by owners. In some cases, it has taken me several days to complete my review, especially when owners ask for all invoices, contracts, ledgers, bank statements, etc. for a period of years. Document often need to be redacted to mask over attorney-client privileged information, or private information related to employees, such as their salary, health issues, social security numbers, credit card information, etc. This bill is not needed and is not reasonable. I strongly urge you to vote against it. Sincerely, Anne Anderson

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 21, 2017 4:58 PM
To: CPH Testimony
Cc: kris.stanley55@gmail.com
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
kristine stanley	Individual	Support	No

Comments: I am a long-term vacation club owner at the Sands of Kahana in Maui. For years the vacation club owners have requested the names/contact information of all vacation club owners. Soleil Management and the SOKVC Board of Directors have refused to comply with our request. I believe that as owners we have a right to that information. I therefore support the passage of SB 306.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 21, 2017 4:49 PM
To: CPH Testimony
Cc: stealthlocator-04@yahoo.com
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/21/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Loren C Schrenk	Individual	Support	No

Comments: Dear Honorable Sirs and Madams, I am an owner of several time shares in Hawaii on the island of Maui. I have become concerned over the past several years about the behavior of the management of a timeshare organization on Maui, Sand of Kahana. We have organized a home owners association to monitor the management of the timeshare. We have been frustrated by repeated obstruction by the current management to obtain information necessary to assure the proper management of the property and communication between owners of units of interest. SB306 and compliance with its provisions would allow more open between owners and monitoring of our investments. I strongly endorse SB306 and encourage you to enact it. Thanks for your consideration, Loren C Schrenk St Charles, MO 63303 stealthlocator-04@yahoo.com

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February 21, 2017

Honorable Committee Members,

I currently own 6 and 1/2 weeks of timeshares in Hawaii. The current regulations and requirements for compliance with reasonable requests for information regarding timeshares as condominium projects are wholly and totally inadequate. I write in support of this bill ,SB306, as it requires more transparency and information when management companies deal with owners. One of the timeshare companies I deal with will not provide information to owners. This law finally requires some openness and information to owners. As timeshares are a large component of vacation ownership it only makes sense to require management companies to have the records available to owners.

Although not included I feel a requirement for large penalties and fines for non-compliance need to be passed. Please support owners of these timeshares to guarantee them some fairness and rights in dealing with management companies who have little accountability to the true owners of the properties.

Sincerely submitted

Robert Wickersham

63 Trailwood Way

Aptos CA 95003

408-313-1474

Owner of 4 weeks at Pono Kai Resort Kapaa Hawaii and 2.5 weeks at Kahana Beach Vacation Club in Maui Hawaii

Testimony SB306 – February 21, 2017

To Whom it may concern:

We support SB306 because more and more of condominium projects have owners of Time Shares (our complex is dominated by them). Many are on the Board of Directors for the AOA, while spending only a week per year on/at the property. They come here and help make major decisions for the entire complex, while we all pay for it (in more than one way). Often these board members are non-communicative/not available. Those time share AOA board members are not on island, except for a week or two out of the year.

It makes good sense that the records for AOA's need to be stored here on island.

We love seeing 14 (e) now requiring an Association to make the required documents, records and information available to unit owners or authorized agents for download d through an internet site. Possibly that could include keeping owners up to date on scheduled updates/repairs, and general upkeep, even things like what is being done on beach erosion or similar issues affecting our property.

We are aware of a prospective buyer that requested documents from our AOA, as far as we know the AOA never provided the documents. This buyer went so far as to travel for a long week end from the mainland here to Maui! She tried to have a face to face meeting with the manager, with her questions and requests, since he wouldn't answer or respond to her emails or phone calls. She arrived with her files, went to his office, where he refused to see her! That prospective buyer didn't complete the purchase due partially to that noncompliance, not to mention the treatment she received.

It is often difficult to get information about the Blanket Policy Insurance, and we are even on the "Do Not Lend" list partially because of the lack of insurance we have here, so any buyers for the last year or so have had to buy by using all CASH or seller provided financing. Having that insurance information online would make it much easier to keep aware of our own coverages, etc.

Also, SB306 is very important to put the time share, fractional and whole owners all together as owners, as they truly are the owners that make up the whole complex/AOA. We believe owners should be given access to all owners, not just the address of the Time share Property, the bill doesn't require email addresses, but that may be something that should be required to be given/provided/shared, in our virtual world today. Especially on an island such as ours, with so many owners who live on the mainland. From my experience when we owned (and rented) our condo and lived on the mainland, before we moved into it, many times it was 4 or 5 days between the time the notice or mailing was sent to us and when we actually received it.

We believe there should be something in SB306 that supports making AOA's respond to requests for information for day-to-operations of the condo property that are done via emails, texts and phone messages in a timely manner.

We believe management company's performance and contracts should be evaluated on a regular basis.

We are happy to see the changes of requirement of 30 days being shortened to 24 hours. Some things need answers immediately. There should always be a response within 24 hours, even if it is to say they don't have the answer!! While there should be documents in use returned within 24 hours.

We are especially happy to see MAY comply changed to SHALL comply.

We believe it should be a requirement of the AOA board members and management companies to be transparent with what they are doing with our properties and our money (maintenance fees).

Above all, these board members need to realize, understand and accept the fiduciary responsibility they are taking on when they are in these positions, representing many owner's best interests.

We support the addition of 14(h) that states any violation is subject to section 480-2.

Mahalo!

Terry & Marie Schroeder
Owners/residents Sands of Kahana
4299 Lower Honoapi'ilani Road #345
Lahaina, HI 96761

Feb. 17, 2017

Attention Senator Rosalyn H. Baker,

Dear Senator Baker,

Re: SB 306

We attempted to make this submission using the States web site, but failed, so we apologise if in fact you are receiving it twice. We are registered.

We are long-time Time Share Owners at the Sands of Kahana resort in Maui and we fully support your proposed bill and feel it will go a long way to leveling the field between Time Share Owners and their managing Boards.

With respect, we have two suggestions for your consideration:

1. Item (6) on page 4 should be broadened to include E-MAIL ADDRESSES.
2. There should be some meaningful PENALTY to encourage compliance of the Bill.

Thank you for all your work on our behalf.

Yours truly,

Ron and Pat Jones

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 22, 2017 7:31 AM
To: CPH Testimony
Cc: mschultz6972@aol.com
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/22/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Schultz	Individual	Support	No

Comments: Reference SB306 This is a great bill that will help Time-Share owners like us. We have been owners at Sands of Kahana, Maui for over 20 years. SOK Management has always been difficult to talk to or get information from except during the annual Board of Directors meeting. As owners we have found it difficult to talk to other owners about who to vote for to get new representatives on the board that will support owner issues. We will often receive 3 proxies every year. Yes vote SB306. RS

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From: Albert/Lyndi Trost
To: CPH Testimony
Subject: We Support passage of SB 306
Date: Wednesday, February 22, 2017 9:24:15 AM

To whom it may concern -

My husband and I own 3 weeks of timeshare at The Sands of Kahana and Kahana Beach Resort on Maui. We love it and we go there every year.

We want you to know that we support the passage of SB 306. The management company of our timeshare at SoK has ignored requests to provide a list of owners for years. The board that oversees the owners association is controlled entirely by employees of the management company. We have been trying to get owners elected to the board for several years now, but without a list of owners, we are unable to get the votes needed to elect someone to represent us. This bill would help solve that problem and at least allow us a shot at getting some representation on the timeshare boards.

Albert & Lyndi Trost
850 N Smith Rd
Palmer, AK 99645
(907) 745-3760

--

Al & Lyndi Trost

Braden, Kent, Larry, Jesse, Connor, Emily, Bailey, & Micah's Grandparents

Braden's Web Site: <http://www.braden-erickson.memory-of.com>

For information about the: "Choking Game" go to:

<http://www.Ed4Ed4All.com>

<http://www.gaspinfo.com>

<http://www.krismarcenofoundation.com>

The Lord bless you and keep you. The Lord make His face shine upon you and be gracious unto you. The Lord lift up His countenance upon you, and give you peace. (Numbers 6-24)

From: mailinglist@capitol.hawaii.gov
To: CPH Testimony
Cc: brogers9941@sbcglobal.net
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM
Date: Wednesday, February 22, 2017 10:49:18 AM
Attachments: [Testimony for SB306 with contact info.wps](#)

SB306

Submitted on: 2/22/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Bruce Rogers	Individual	Comments Only	No

Comments: See comments in attached file

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 22, 2017 11:02 AM
To: CPH Testimony
Cc: dandmsherrod@comcast.net
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/22/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Mark Sherrod	Individual	Support	No

Comments: Senator Baker, As owners at the Sands of Kahana condominiums on Maui, we have seen issues that we are concerned about at our condos. Apparently records of owner's information are not being made available when requested. This has ramifications on many things that translate directly to our ownership and its cost. Voting for Board members is in question, since we cannot confirm voting results. Costs passed to us may or may not have been stated correctly and/or owners have not been properly informed of total costs or duration of new costs. We may or may not have had any proper input in the decision of which costs were in the best interests of the owners and we may or may not have had any input on cost priorities. Obtaining relevant records such as owners lists will help assure all that the resort is being run in a manner that best benefits owners and our financial commitments for our condos. I applaud your efforts on our behalf and hope that this measure passes and results in better knowledge of the management of our investments. Mark D. Sherrod PO Box 2465 Corrales, NM 87048 505-681-9712

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 22, 2017 11:21 AM
To: CPH Testimony
Cc: taoshouse@comcast.net
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/22/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Debra Sherrod	Individual	Support	No

Comments: I am an owner at the Sands of Kahana for multiple timeshare weeks. I am concerned about the inability to get an up to date owners list from Soleil management. This information is needed to be able to communicate with all owners and assure that our voting proxies are being handled correctly and our concerns are being addressed. I am so happy you are submitting this bill. This is a great step to ensuring that our investments are being managed properly. Thank you, Debra Sherrod PO Box 2465 Corrales, NM 87048 505-897-4020

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 22, 2017 11:44 AM
To: CPH Testimony
Cc: jmcahill121@aol.com
Subject: Submitted testimony for SB306 on Feb 23, 2017 09:30AM

SB306

Submitted on: 2/22/2017

Testimony for CPH on Feb 23, 2017 09:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
James Cahill	Individual	Comments Only	No

Comments: My wife and I have been timeshare owners at The Sands of Kahana since 1994 and have vacationed there every year for three weeks. I have run for the Board of Directors and attended Board meetings when I can schedule being there. The Board has continued to be controlled by the Management company who have fought every effort to allow fair elections where timeshare owners could be elected to the Board including sending out multiple proxies for their candidates, counting the vote in their office with no way to verify and not allowing timeshare owners to have a copy of the list of owners. For that reason, we support bill SB306.

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