

**PRESENTATION OF THE  
REAL ESTATE COMMISSION**

TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-NINTH LEGISLATURE  
Regular Session of 2017

Tuesday, February 28, 2017  
11:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 1499, H.D. 1, RELATING TO CONDOMINIUM  
ASSOCIATIONS.**

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

My name is Nikki Senter, Chairperson of the Hawaii Real Estate Commission ("Commission"). The Commission takes no position on this bill, and submits the following comments.

The purpose of this bill is to permit condominium education trust fund fees designated for educational purposes to be used to finance or support arbitration of condominium related disputes by amending sections 514B-71 and 514B-162, Hawaii Revised Statutes, ("HRS"). The bill also proposes to amend section 514B-69, HRS, by adding a subsection for the imposition of penalties for violations of sections 514B-161 and 514B-162, HRS.

The Commission supports the concept of alternative dispute resolution as an avenue for handling condominium disputes. Arbitration, however, can be more costly than mediation. Thus, should this bill pass, the Commission requests that it retain discretion regarding allocation of funds to each program, and further, requests that the language of the bill be amended in SECTION 3 by deleting the language in section 514B-71(a)(5), HRS, and amending it to read:

"Support for arbitration of condominium related disputes ...."

The Commission additionally requests that the language of the bill be amended to include new bill sections to address the strictures of Act 187, Session Laws of Hawaii 2013, to read:

Section 514B-72, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Each project or association with more than five units, including any project or association with more than five units subject to chapter 514A, shall pay to the department of commerce and consumer affairs:

(1) A condominium education trust fund fee within one year after the recordation of the purchase of the first unit or within thirty days of the association's first meeting, and thereafter, on or before June 30 of every odd-numbered year, as prescribed by rules adopted pursuant to chapter 91; and

(2) Beginning with the July 1, 2015, biennium registration, an additional annual condominium education trust fund fee in an amount equal to the product of \$1.50 times the number of condominium units included in the registered project or association to be dedicated to supporting mediation or binding arbitration of condominium related disputes. The additional condominium education trust fund fee shall total \$3 per unit until the commission adopts rules pursuant to chapter 91. On June 30 of every odd-numbered year, any unexpended additional amounts paid into the condominium education trust fund and initially dedicated to supporting mediation or binding arbitration

Testimony on House Bill No. 1499, H.D. 1  
Tuesday, February 28, 2017  
Page 3

of condominium related disputes, as required by this paragraph, shall be used for educational purposes as provided in section 514B-71(a)(2) , and (3)."

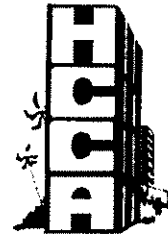
Act 187, Session Laws of Hawaii 2013, is amended by amending SECTION 5 to read as follows:

"SECTION 5. The department of commerce and consumer affairs professional and vocational licensing division's budget ceiling shall be amended to reflect the additional annual condominium education trust fund fee required by section 514B-72(a)(2), Hawaii Revised Statutes, and paid into the condominium education trust fund, established by section 514B-71, Hawaii Revised Statutes. On June 30 of every odd-numbered year, any unexpended additional amounts paid into the condominium education trust fund and initially dedicated to supporting mediation or binding arbitration of condominium related disputes, as required by section 514B-72(a)(2), Hawaii Revised Statutes, shall be used for educational purposes as provided in section 514B-71(a) (1) (2) and (3), Hawaii Revised Statutes."

Thank you for the opportunity to provide comments on House Bill No. 1499,  
H.D. 1.



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



February 26, 2017

Rep. Sylvia Luke, Chair  
Rep. Ty J.K. Cullen, Vice-Chair  
House Committee on Finance

Re: Testimony in Support (with comments) of  
HB1499, H.D. 1 RELATING TO CONDOMINIUM ASSOCIATIONS  
Hearing: Tues., February 28, 2017, 11 a.m., Conf. Rm. #308

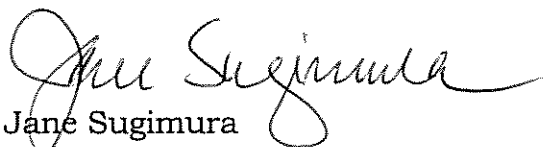
Chair Luke, Vice-Chair Cullen and Members of the Committee:

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

HCAAO has always supported mediation and arbitration to resolve disputes between condo owners and their boards, and accordingly it supports the intent and purpose of this HD1; however, we would like to ask for amendments as follows:

- In Section 2, instead of a penalty of a fine of \$10,000 or imprisonment, which will only lead to civil or criminal litigation, we suggest that HRS 514B-106(a) (i.e., the provision that imposes a fiduciary duty on the board) be amended to provide that “any violation of mandatory provision of the chapter shall constitute a per se violation of the board’s fiduciary duty.” This would cause the board or board members to lose their coverage under the Association’s Directors & Officers coverage. However, if this amendment is made, then a “safe harbor” provision needs to be included so that a dissenting board member who does not join in the board action that violates a mandatory provision can still be protected under the D & O coverage.
- In Section 3, revise the amendments to read “arbitration of condominium related disputes where the parties have agreed to binding arbitration.”

HCCA respectfully requests that you include its suggested revisions to this bill. 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:** Sunday, February 26, 2017 4:46 PM  
**To:** FINTestimony  
**Cc:** richard.emery@associa.us  
**Subject:** Submitted testimony for HB1499 on Feb 28, 2017 11:00AM

**HB1499**

Submitted on: 2/26/2017

Testimony for FIN on Feb 28, 2017 11:00AM in Conference Room 308

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

Comments: This is an excellent Bill that will provide owners' transparency.

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AOAO COPY

Owners. Mokuleia Surf

Associa and Mokuleia Surf Board of Directors  
C/O 68-101 Waialua Beach Rd. Waialua HI 96791

RECEIVED

DEC 09 2016

Associa Hawaii  
Oliver W. Stacy-Merkel

12/8/2016

Dear Associa and Mokuleia Surf Board of Directors:

We are contacting you because our HOA BOD issued \$225K special assessment, about 20K per unit, to be all paid in one month, without owners voting, based on 1 bid, and with overwhelming list of things to change, and over-bloated prices. We owners complained to the BOD and Associa (the management company). Associa claims that it is all legal, and that if we do not pay, they will put a lien on our units, and then foreclose.

**We owners believe that this special assessment violates HRS 514B 148 (e), which prohibits expenses over 20% of the budget without approval of majority of the owners. Our yearly budget is only \$104K. Assessment is \$225K.**

Building is Mokuleia Surf, in Cement City. Our building has been neglected and mismanaged for years e.g. leaky roof complaints for 3 years (no repairs, not even patching), BoD member fined by C&C for illegal vacation rentals of his unit, inadequate reserves, high delinquency, building in disrepair, etc. An owner called C&C and they issued orders to patch roof, part of missing railing, clean the gutters, etc. Maybe \$40K worth of work. BoD president (apparently on his own) took 1 bid and issued \$225K special assessment.

We consider this **lack of complete transparency, lack of accountability, unreasonable and not in good faith** to ask us to pay \$20K on 1 month notice, all based on one bid, with steep prices, no scope of work, and without much information.

The assessment notice sent to owners lists a brief list of things to be fixed, but there is no scope and listed items are way beyond what C&C asked for. The list is based on ONE bid and there are no BoD meeting minutes about it nor any information to the owners. We keep on asking for justification and more bids, and never get any information. Associa would not even let us see the only bid unless we issue an affidavit and go to downtown office. Also, I have investigated and called contractors and found out that the assessment prices are over-bloated, e.g. fixing 4 leaky ceilings for \$40K is unreasonable. Also, there are more leaky ceilings in the building, and they all need to be fixed.

We need help. We have tried talking with the BoD and Associa, but have gotten no responses except that it is all legal, and that our units will be taken away. **We keep on asking to get 3 bids, and then make the plans, with reasonable scope and pricing and payment schedule. The building does need repairs but it can all be done in a reasonable and transparent way, honoring owners' interests.** We already have been paying for years more than \$600 per month for AOAO dues for a 12-unit walkup, without elevators or pool or any amenities, and still there are hardly any reserves. We owners believe that this is not right.

We owners tried to remove the BoD, several times. Unfortunately, the president owns 3 units, the other 2 BOD members living in California, own 2, so between them they have 40.5% of the vote. One unit

page 1 of 3

cannot vote so the max vote is 91.5%. So if the BoD approved anything, they would have had to secretly ask one unit to join them in this secret voting. The owners were never officially asked to vote. How can the BoD approve something without even asking us? We believe they are not governing the building in an accountable way, paying attention to transparency and fiduciary duty, and are clearly violating HSR 514A and B.

HRS

Unit 301 is owned by a bank. We request ALL documents pertaining to it.

Unit 202 is owned by AOA but owners were not shown the documents and we need all documents pertaining to it.

**We are inviting the Board (and Associa) to open mediation to resolve these issues in an amicable way.**

Milica Barjaktarovic, owner #104  
[milicahi@gmail.com](mailto:milicahi@gmail.com), 808-351-0848

*Milica* *Europe date* *America Date*  
8/12/16 Dec 8, 2016

Harendra Panalal owner #304

*Harendra* 08 DEC 14

Carrie Lunnon owner #302

*Carrie Lunnon* 12-9-16

Chris Hove owner #204

*Chris Hove* 12/11/16

Cc: Dispute Prevention Resolution Hawaii representative, Kathy Bryant [kathybryant@dprhawaii.com](mailto:kathybryant@dprhawaii.com)

**514B-148 (e) p.75 takes precedence over bylaws**

(e) Except in emergency situations OR with the approval of a majority of the unit owners, a board may not exceed its total adopted annual operating budget by more than twenty per cent during the fiscal year to which the budget relates. Before imposing or collecting an assessment under this subsection that has not been approved by a majority of the unit owners, the board shall adopt a resolution containing written findings as to the necessity of the extraordinary expense involved AND why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the members with the notice of assessment.

--- BOD FAILED ON ALL YELLOW PARTS - owners didn't vote, board went about 300% over budget, every problem listed for fixing was known and foreseen, and no explanation was provided anyways

on p.76 514B defines "emergency":

"Emergency situation" means any extraordinary expenses:

RECEIVED

DEC 14 2016

Associa Hawaii

*SM*

page 2 of 3

- (1) Required by an order of a court: - NOPE
- (2) Necessary to repair or maintain any part of the property for which the association is responsible where a threat to personal safety on the property is discovered; OK REPAIR THE FEW FEET OF RAILING AS CnC ASKED
- (3) Necessary to repair any part of the property for which the association is responsible that could not have been reasonably foreseen by the board in preparing and distributing the annual operating budget: - EVERYTHING WAS KNOWN and COMPLETELY FORESEEN FOR 3 YEARS AT LEAST
- (4) Necessary to respond to any legal or administrative proceeding brought against the association that could not have been reasonably foreseen by the board in preparing and distributing the annual operating budget: - EVERYTHING WAS KNOWN and COMPLETELY FORESEEN FOR 3 YEARS AT LEAST
- or
- (5) Necessary for the association to obtain adequate insurance for the property which the association must insure.

"Major maintenance" means an expenditure for maintenance or repair that will result in extending the life of an asset for a period greater than one year. "Replacement reserves" means funds for the upkeep, repair, or replacement of those parts of the property, including but not limited to roofs, walls, decks, paving, and equipment, that the association is obligated to maintain

#### Addendum: Dec 8, 2016

In the brochure just mailed by Associa, there is the priority of how payments get applied.

If we just keep paying the monthly maintenance fee and not the assessment, the payment will actually go toward the Assessment first.

It will look like the monthly dues aren't getting paid, and AOA could step in and pursue fees, etc and proceed with non-judicial foreclosure anyway.

HRS 514 does not assign such priorities of payment. IT IS ILLEGAL TO PRIORITIZE LIKE THIS.



**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 26, 2017 6:53 PM  
**To:** FINTestimony  
**Cc:** mrckima@gmail.com  
**Subject:** Submitted testimony for HB1499 on Feb 28, 2017 11:00AM

**HB1499**

Submitted on: 2/26/2017

Testimony for FIN on Feb 28, 2017 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marcia Kimura	Individual	Oppose	No

Comments: I am not in favor of mandatory arbitration or mediation, unless BOTH parties agree to seek these means of resolution. Only where there is a written agreement by BOTH sides to enter mediation or arbitration, there should be fines against the party which fails to follow through with these procedures. The possibility of management's unfair inside advantage of succeeding in its claims against the other party is too great, with mediation or arbitration.

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## COMMITTEE ON FINANCE

HEARING ON FEBRUARY 28, 2017 AT 11 A.M.

### OPPOSITION TO HB1499 HD1

Registered condo associations' owners are the sole contributors into the Condominium Education Trust Fund (CETF).

Thus, those funds should be primarily used to benefit those contributing condo owners, initially to educate them of their responsibilities and rights, and then to assist them when they seek resolution to condominium association disputes.

Despite the intent of HB1499 HD1 to encourage and enforce dispute resolution through mediation or arbitration by the assessment of fines "up to \$10,000" and the potential to charge with misdemeanor, this bill may doubly penalize owners who may be unable to request mediation due to their inability to satisfy (pay) all assessments—even those which they dispute--claimed by an association.

Additionally, HB1400 HD1, rather than being the salve that some may imagine, will oppress the most vulnerable population, those on fixed incomes which include the disabled and the elderly, and will do little to provide a financially responsible solution to costly dispute resolution.

Hui `Oia`i`o is aware of situations where condo owners were provided with less than 45 days' of written notification to pay assessments in the tens of thousands of dollars per unit, situations where maintenance fees were increased exorbitantly year-over-year (as much as 48.8%), and other similarly financially staggering situations brought on by poor fiscal planning and severe deferred maintenance, despite that these associations were "professionally" managed for decades.

Juxtapose these dire situations with the results of a survey by GOBankingRates.com as reported in the Hawaii Free Press on January 25, 2017, that Hawaii residents are the most likely in the United States to live from paycheck to paycheck.

Additionally, AARP in 2014 reported that on average, Hawaii retirees receive \$1237 per month from Social Security and that social security is the only source of income for a quarter of the over 65 population in Hawaii.

([http://www.aarp.org/content/dam/aarp/research/surveys\\_statistics/general/2014/ssqf/Social-Security-2014-Hawaii-Quick-Facts-AARP-res-gen.pdf?sf23370444=1](http://www.aarp.org/content/dam/aarp/research/surveys_statistics/general/2014/ssqf/Social-Security-2014-Hawaii-Quick-Facts-AARP-res-gen.pdf?sf23370444=1))

Rather than mandating participation in mediation or arbitration enforced with punitive measures, or forcing cash-strapped parties to accept binding arbitration just so that they may qualify for assistance through CETF subsidies as this bill proposes, the legislature should look at alternative methods of dispute resolution that are not financially debilitating to owners who do NOT have the nearly limitless access to funds that most associations (boards) have to retain legal counsel because of an ability to assess association members for necessary funds.

Further, to enable more owners to participate in alternative dispute resolution methods currently available to them such as mediation, the legislature should also confirm "that the pay first, dispute later provisions in Hawaii's condo laws apply only to common expense assessments

claimed by an association” and should “repeal language that permitted associations to convert delinquent fines and late fees into delinquent maintenance fees.” (See Part I of HB35 HD1.)

Without proper emphasis on the confirmation of repeal of those rules, “rogue” boards, managers, and collection agents may still attempt aggressive methods to collect peripheral fees such as attorneys’ fees and late fees before crediting payments towards common expenses assessments and by this means force owners into default and possibly foreclosure.

Further, we request that legislators re-examine instituting a condo ombudsman’s office or an Office of Condominium Complaints and Enforcement, funded by the CETF as a benefit to its contributors, as was originally proposed in HB35 before it was gutted and replaced by HB35 HD1.

Founding Father and former President Thomas Jefferson, taught us from his first inaugural address:

“All, too, will bear in mind this sacred principle,  
that though the will of the majority is in all cases to prevail,  
that will to be rightful must be reasonable;  
**that the minority possess their equal rights,  
which equal law must protect,  
and to violate would be oppression.”**

Mahalo.

Submitted by Lila Mower of Hui `Oia`i`o and condo owner

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 27, 2017 7:29 AM  
**To:** FINTestimony  
**Cc:** psnerney@yahoo.com  
**Subject:** Submitted testimony for HB1499 on Feb 28, 2017 11:00AM

**HB1499**

Submitted on: 2/27/2017

Testimony for FIN on Feb 28, 2017 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Philip Nerney	Individual	Oppose	No

Comments: HB 1499 criminalizes the mediation and arbitration process for condominiums. That is entirely unwarranted and inappropriate. That provision should be struck. SB 121 provides a much more constructive approach.

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February 26, 2017

Hearing Date: February 28, 2017

Time: 11:00 AM

Place: Conference Room 308

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

**RE: Testimony against HB 1499, HD1**

Aloha, Chair Luke, Vice Chair Cullen and Committee Members ,

This bill if passed is another ANTI - CONSUMER bill that will not protect the little guy. It will just open us up to more abuse from the powerful, in the condo industry.

Most condo owners live paycheck to paycheck. If they had the disposable income their preferences for housing would be like most of us a single family home where we make all of our own decisions.

When we are compelled or summoned by a homeowners association or the property manager or a board member to take a day off of work and participate in an official hearing or stand before a judge in mediation because we keep asking for documents or be deemed a nuisance of another ilk our HUI which is seeking consumer fairness has totally failed in communicating to you the many abuses that befall homeowners in the State of Hawaii .

DCCA gets over 28,000 enquires per year yet they say that they can't categorize or prioritize the issues people call about because they don't have the manpower. To me that is a complete cop out and should not be allowed to stand . 28,000 inquires equates to 200 calls , emails , letters or walk-ins a day . I am certain if you had that much activity daily in your office you could give me the top 10 or maybe the top 20 topics people wanted help on.

What you need as lawmakers and what we need as sincere advocates for positive change is knowledge. There are many ways to tap into a wealth of information at little to no cost and I would be happy to show you how.

Mahalo,  
John White Sr.



**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 25, 2017 12:20 PM  
**To:** FINTestimony  
**Cc:** launahele@yahoo.com  
**Subject:** \*Submitted testimony for HB1499 on Feb 28, 2017 11:00AM\*

**HB1499**

Submitted on: 2/25/2017

Testimony for FIN on Feb 28, 2017 11:00AM in Conference Room 308

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

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 24, 2017 9:48 PM  
**To:** FINTestimony  
**Cc:** mrckima@gmail.com  
**Subject:** Submitted testimony for HB1499 on Feb 28, 2017 11:00AM

**HB1499**

Submitted on: 2/24/2017

Testimony for FIN on Feb 28, 2017 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marcia Kimura	Individual	Oppose	No

Comments: I do not support this measure, and believe that the reason mediation and arbitration are unsuccessful, in proportion to the total cases assigned to these methods, is that hard evidence, facts and motives are sacrificed and minimized during these processes in the effort to reach an agreement, however unfair or unsatisfactory it may be to either party.

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Lourdes Scheibert  
920 Ward Ave  
Honolulu, Hawaii 96814

February 27, 2017

Hearing Date: Tuesday, February 28, 2017  
Time: 11:00 a. m.  
Place: Conference Room 308

Committee of Finance  
House of Representative, the 29th Legislature  
Regular Session of 2017

**RE: Comments HB1499**

Dear: Chair Luke, Vice Chair Cullen and Committee members:

**HB1499:** Authorizes use of the condominium education trust fund to pay for arbitration of condominium disputes. Provides that use of trust fund moneys to pay arbitrator's fees shall only be allowed if parties agree to binding arbitration and rescind their rights to trial de novo. Provides penalties for noncompliance. (HB1499 HD1)

My name is Lourdes Scheibert, a condominium owner. I take no position on this bill, and submit the following comments based on my experience and opinions supported with documents. My experiences includes: being a condominium owner, a former director and involved in the mediation process. I have 35 years of field experience in the construction and maintenance business. I have never been late on my maintenance fees nor have ever been issued a fine.

Summary: 514B-69 Penalties. Fine of \$10,000.00 if does not comply with Part V.

I view the penalties for most owners being financial harmful.

I believe that the bulk of the complaints by owners who seek relief is related to poor condominium management by some condominium Boards who are not educated or to lazy to learn about their own Project Documents, Condominium Law 514B and the Owner's Rights. These directors are dependent on the on-site property manager for interpretation of all documents. The board conveniently accepts the opinions of the on-site property manager as the "business judgement rule." All too often these directors will not ask for a second opinion from the Association's legal advisor or a professional license engineer. The owner is at a disadvantage with the designated Condominium-Self-Governance thereby the Board has the final decision. Any challenges by an owner is ignored by the Board, consequently this starts the requests for documents, the legal process of incurring owner's legal fees, leads to mediation and possible arbitration.

Most complaints involve water intrusion and damages to an owner's unit. There are issues of unpermitted alterations. There are issues of alterations not maintained by the owner and can cause damage to the common area or other units. There are issues in part caused by the dominate use of reactive maintenance "fix when broken" rather than preventive maintenance. To "fix when broken" keeps the maintenance fees artificially low. For the past 40 years plus, this management style did not allocate maintenance fees fairly to each generation of owners. Today we are faced with aging buildings, new owners who have large mortgages and large assessments for plumbing cast iron piping retrofit and building spalling.

The Reserves Study, I learned at the Legislature was introduced by Mazie Hirono and enacted 514A-83.6 (7) (b) (1) The commission shall adopt rules to permit an existing association to fund its estimated replacement reserves in increments after January 1, 1993 and prior to January 1, 2000; and...

The Reserve Study should have at least a forecast of potential cost of the plumbing retrofit and repair of building spalling for set aside funding. Instead this vital part of building maintenance was conveniently left off the Reserves. Today, the management industry is promoting all inclusive plumbing retrofits in one large project and incurring large assessments ranging from \$40,000 as reported in news articles.

Another option, as an example, is to break up a large plumbing project to several manageable pieces such as replace in phases:

- 1) kitchen plumbing cast iron piping
- 2) the bathroom vanity sink and tub/shower plumbing cast iron piping
- 3) washing machine plumbing cast iron piping
- 4) toilet plumbing cast iron piping

\*reactive maintenance to repair plumbing pipes when broken can be used for other areas during the roll out of phasing.

Community Association Institute (CAI) supports a presentation by Lance S Fujisaki of Anderson Lahne & Fujisaki, LLP at the Back to Basics seminar, Fundamentals of Serving on the Board. The subject: Renovations, Governing Documents and Contracts. Mr Fujisaki supports the use of the American Institute of Architect contracting proposals and many very important advice and a check list. The full presentation is on pdf format and you can probably request CAI to have it emailed to you.

I believe in securing for 3 bid proposals by contracting firms who are license and doing business in the State of Hawaii. I, personally, support the local contractors and engineers who have been servicing your buildings for years.

I believe this is the crux of the matter for mediation and arbitration. These issues of poor management should be corrected to mitigate legal actions in mediation and arbitration.

## EDUCATION

I believe the educational material and seminars supported by Community Association Institute (CAI) and Hawaii Council of Community Association (HCCA) pertains only to the education of the board directors.

I believe that the education material should be expanded to include education for the owners to understand their owner's rights, their project documents and Condominium Law 514B. The Condominium Specialists is not enough.

I believe that an ethics course be implemented and supported by The Bill for an ACT HB406, HB405, SB378 that supports "online ethics training course and examination that is designed specifically for the members of the board of directors of a residential project or association of twenty or more residential units, .....

[ 514B-71] **Condominium education trust fund.** (a) The commission shall establish a condominium education trust fund that the commission may use for educational purposes. Educational purposes shall include financing or promoting:

- (1) Education and research in the field of condominium management, condominium project registration, and real estate, for **the benefit of the public** and those required to be registered under this chapter;
- (2) **The improvement and more efficient administration of associations;**

Thank-you,  
Lourdes Scheibert  
Condominium Owner

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 27, 2017 11:04 AM  
**To:** FINTestimony  
**Cc:** dklynn2@comcast.net  
**Subject:** Submitted testimony for HB1499 on Feb 28, 2017 11:00AM

**HB1499**

Submitted on: 2/27/2017

Testimony for FIN on Feb 28, 2017 11:00AM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Diann Karin Lynn	Individual	Comments Only	No

Comments: I am submitting comments only because after wading through the wording of the legislation and long opinions garnered from both sides of this bill, I feel in no way qualified to provide an opinion pro or against its passage. The bill covers too many topics and contains too many "ifs/ands or buts" for a layman to track the "devil in the details." Assuming that the intent of the legislation is to protect the condo owner (as well as associations, condo attorneys, developers, etc.), I would advocate for, instead of punitive (\$10,000 fines) legislation, establishment of a State-sponsored Condominium Owners' Ombudsman/Advocate (similar to the Public Utilities Commission) to help citizens protect themselves as well as to help them "do the right thing" when involved in disputes.

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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## FINTestimony

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From: Raj Kumar <rkumarhi@yahoo.com>  
Sent: Monday, February 27, 2017 7:48 AM  
To: FINTestimony  
Subject: supporting HB 1499

Aloha FIN Committee Chair and members,

I am in support of HB 1499. Currently, HOA in Hawaii are increasing the maintenance /future assessment fees without any valid reason every year. Some of the condo owners pay very high maintenance fee and they do not get even basic services or cameras to prevent crimes on the property. If there are any concerns raised by the owners then the condo association and the management companies hire the top attorneys and suppress the concerns and challenges raised by the owners. If there are genuine concerns then both parties should be allowed to go through an arbitration.

Raj Kumar

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



**Measure:** HB 1499 HD1 Relating to Condominium Associations  
**Date and Time of Hearing:** 11:00 a.m. Tuesday, February 28, 2017  
**Committee:** The Committee on Finance  
Aloha Representative Sylvia Luke and Members of your Committee,

I am testifying in strong support of HB 1499 HD 1. However, I am asking you to approve the amendments recommended by Jane Sugimura, President of the Hawaii Council of Associations of Apartment Owners.

I apologize for not being present at this hearing, but I am officiating at 11:30 for a military graveside service at Punchbowl.

As Section 1 of HB 1499 HD 1 indicates, our legislature wants condominium disputes to be resolved through the use of alternative dispute resolution, such as mediation and arbitration rather than through the judiciary system.

However, since complaints have made their way to the legislature because of the unwillingness of quite a few Boards to participate, HB 1499 HD 1 authorizes the use of the currently available condominium education trust fund to pay for arbitration of condominium disputes and provides for modest, but important, penalties if a Board refuses to participate.

We are confident with the passage of this bill that the intent of our State legislature to resolve condominium disputes without resort to court battles will be achieved. Your committee's support of HB 1499 HD 1 will be very much appreciated.

Richard Port

**Richard J. Port**  
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Tel 808-941-9624  
e-mail: [portr001@hawaii.rr.com](mailto:portr001@hawaii.rr.com)

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Richard Port

**LATE**

From: mailinglist@capitol.hawaii.gov  
Sent: Monday, February 27, 2017 8:32 PM  
To: FINTestimony  
Cc: john-a-morris@outlook.com  
Subject: Submitted testimony for HB1499 on Feb 28, 2017 11:00AM

**HB1499**

Submitted on: 2/27/2017

Testimony for FIN on Feb 28, 2017 11:00AM in Conference Room 308

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

Comments: I would like to stand by my earlier testimony

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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