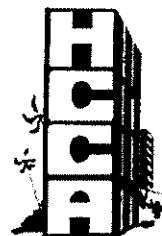




**Hawaii Council of Associations
of Apartment Owners**
DBA: Hawaii Council of Community Associations
1050 Bishop Street, #366, Honolulu, Hawaii 96813



February 24, 2017

Rep. Scott Nishimoto, Chair
Rep. Joy San Buenaventura, Vice-Chair
House Committee on Judiciary

Re: Testimony in Support of
HB177, HD1 RELATING TO CONDOMIMUMS
Hearing: Tues., February 28, 2017, 2 p.m., Conf. Rm. #325

Chair Nishimoto, Vice-Chair San Buenaventura 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 agrees with the revisions in HB177, HD1 and urges this Committee to pass out this bill unamended.

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

A handwritten signature in cursive script that reads "Jane Sugimura".

Jane Sugimura
President

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 25, 2017 9:37 PM
To: JUDtestimony
Cc: mikegolojuch808@gmail.com
Subject: Submitted testimony for HB177 on Feb 28, 2017 14:00PM

HB177

Submitted on: 2/25/2017

Testimony for JUD on Feb 28, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch	Palehua Townhouse Association	Support	No

Comments: Our Palehua Townhouse Association supports the intent of HB177.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov



P.O. Box 976
Honolulu, Hawaii 96808

February 27, 2017

Honorable Scott Nishimoto
Honorable Joy San Buenaventura
Committee on Judiciary
415 South Beretania Street
Honolulu, Hawaii 96813

Re: HB 177 HD1- COMMENTS

Dear Chair Nishimoto, Vice-Chair San Buenaventura and Committee Members:

I am a co-chair of the Community Associations Institute Legislative Action Committee. CAI was unable to support HB 177 in its initial form.

The bill was constructively amended but HD1 still lacks an objective definition of what conduct is prohibited. An objective definition of what conduct is prohibited seems necessary to meet minimum due process requirements. Also, the committee may wish to require mediation as an initial step before action may be taken in court.

Community Associations Institute, by

Philip Nerney

For its Legislative Action Committee

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 26, 2017 4:45 PM
To: JUDtestimony
Cc: richard.emery@associa.us
Subject: Submitted testimony for HB177 on Feb 28, 2017 14:00PM

HB177

Submitted on: 2/26/2017

Testimony for JUD on Feb 28, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Emery	Associa	Support	No

Comments: Strong support for this Bill.

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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COMMITTEE ON JUDICIARY

HEARING ON FEBRUARY 28, 2017 AT 2 PM

OPPOSE HB177 HD1

Please kill this bill.

While the intent of the bill appears to thwart retaliation, the only remedy availed to owners through this measure is costly litigation.

Most owners are not able to expend the large amounts of money needed to protect themselves—from retaliatory practices or from claims of retaliation by those who intend “to censor, intimidate, and silence critics by burdening them with the cost of a legal defense until they abandon their criticism or opposition, impeding the freedom of speech.”
(https://en.wikipedia.org/wiki/Strategic_lawsuit_against_public_participation)

Instead, what is needed is **anti-SLAPP** (strategic lawsuit against public participation).

As this bill is now amended, it appears to support such SLAPPs (strategic lawsuit against public participation).

A detailed and extensive survey by Anne-Marie Ambert, PhD, stretched over six years (2009-2015) and with over 5000 respondents revealed that owners wrote of “the fact that they end up intimidated, bullied, discriminated against, or threatened by boards/managers when they request services or make justifiable complaints. Many receive accusatory letters telling them to stop their "harassment" and numerous others receive unwarranted letters from the condo's lawyer and often have to pay for these letters...20% of [respondents'] letters are about condo lawyers sending owners unwarranted legal letters for which owners have to pay, abuse of liens, and even abuse of power of sale; lawyers who protect dysfunctional and/or dishonest boards and managers against owners. Also included is failing to do anything when there are fraudulent proxies gathered by managers and/or boards. Also mentioned are ...inventing or twisting rules to suit boards or to go against owners the board or manager doesn't like.” (source: <http://www.condoinformation.ca/feedback>)

The opportunity to escape retaliatory harassment used to censor, intimidate and silence critics should not be limited to the individual or family moving out of that association, an oft repeated and unsatisfactory suggestion by lobbyists for the condo industry, or costly litigation.

Thus, a measure which truly proposes to better protect owners who are victims of harassment and prohibited retaliatory practices is needed.

This is not that measure.

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

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

Measure: HB 177 HD1 Relating to Condominiums
Date and Time of Hearing: 2:00p.m. Tuesday, February 28, 2017
Committee: Committee on Judiciary

Aloha Rep. Nishimoto and Members of the Committee

I am testifying in strong support of HB 177 HD1, which would prohibit retaliation against condominium owners.

Condominium Boards have significant power. They have executive, legislative and judicial authority and they control the media through the Newsletters that they send to owners.

This bill will make Boards consider seriously any retaliatory actions that they might be prepared to enact against owners and minority Board members.

I request that your committee approve HB 177 HD1.

Richard Port

27 Feb 2017

From: Diann K Lynn, 2333 Kapiolani Blvd., Honolulu 96826
To: State of Hawaii, House of Representatives, 29th Legislature
Committee on Judiciary, Rep. Scott Y. Nishimoto, Chair/Rep. Joy A. San Buenaventura, Vice Chair

Subj: HB177, RELATING TO CONDOMINIUMS

1. I am writing to comment on the subject bill before you on 28 February, which Prohibits associations of apartment owners, boards of directors, managing agents, resident managers, and condominium owners from retaliating or discriminating against a condominium owner who files a complaint; acts in furtherance of a complaint, report, or investigation of an alleged violation of the State's condominium laws or a condominium's governing documents; or exercises or attempts to exercise any right as a condominium owner.

2. The number and size of condominiums in Hawaii means that a large percentage of the population is under the governance of homeowner associations and managing agents. Expanding the law to help ensure owners can seek redress for issues without fear of retaliation supports a basic right in our free society. However – as with many bills, there may be “devil in the details” leading to unintended consequences, which leads me to comment on instead of support this Bill.

3. I previously submitted testimony to the Consumer Protection & Commerce committee in favor of SB177, but further discussion leads me to question its possible ramifications. While the intent of the bill appears to thwart retaliation, the only remedy mentioned in the text is civil suit. I haven't filed such a suit myself, but I have heard that it may cost up to \$30,000 to initiate and pursue one. My suggestion is to re-introduce (or amend) this bill to include anti-SLAPP (strategic lawsuit against public participation) language with the same legislation, so make sure the situation is not made worse instead of better.

4. Having strong State support of owners' rights is critical. I thank you for your efforts to oversee and protect the same.

Sincerely

A handwritten signature in black ink, appearing to read 'DL', followed by a long horizontal line extending to the right.

DIANN K LYNN