

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 22, 2017 9:22 AM
To: CPCtestimony
Cc: richard.emery@associa.us
Subject: Submitted testimony for HB243 on Feb 23, 2017 14:00PM

HB243

Submitted on: 2/22/2017

Testimony for CPC on Feb 23, 2017 14:00PM in Conference Room 329

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

Comments: I support the concept with some amendment to prevent developers from creating a board that they have a permanent seat.

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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February 22, 2017

VIA WEB TRANSMITTAL

Hearing Date: Thursday, February 23, 2017

Time: 2:00 p.m.

Place: Conference Room 329
State Capitol

Committee on Consumer Protection & Commerce
House of Representatives, the 29th Legislature
Regular Session of 2017

Re: Community Associations Institute's opposition on HB243

Dear Chair McKelvey, Vice Chair Ichiyama and Committee members:

I am the Vice Chair of the Community Associations Legislative Action Committee ("CAI"). CAI opposes HB243 for the following reasons.

The proposed amendment on qualifications of Board members would allow project declarations and bylaws to supersede statutory requirements on who can serve as Board directors. We are concerned that this may lead to abuses by developers or other stakeholder who controls a majority of the ownership interest in a certain project.

There could also be controversies as to whether a non-owner property manager or rental agent for certain units can serve as directors. Unless there are solid justifications supporting the proposed amendment on this, keeping the current statutory requirements is the safer approach.

Therefore, we respectfully request the committee consider deferring HB243.

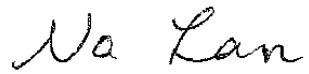
House Committee on Consumer Protection & Commerce

February 22, 2017

Page 2

Sincerely yours,

CAI LAC Hawaii

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

By Na Lan
Its Vice Chair

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 21, 2017 10:17 PM
To: CPCtestimony
Cc: steveghi@gmail.com
Subject: Submitted testimony for HB243 on Feb 23, 2017 14:00PM

HB243

Submitted on: 2/21/2017

Testimony for CPC on Feb 23, 2017 14:00PM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Steve Glanstein	Hawaii State Association of Parliamentarians	Oppose	Yes

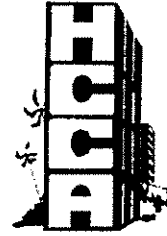
Comments: Several objections to the bill as currently worded. (a) The proposed wording would allow a developer to remain on the board long after they've sold all of the units. They could simply provide for lifetime board membership in the initial developer provided bylaws. (b) Numerous associations have already restated or amended their bylaws in good faith to match the wording in the current §514B-107. If the committee removes the "Except as otherwise provided in the declaration and bylaws ..." in the bill, then the law may immediately make some directors ineligible for the board who've already been elected in good faith based on existing law. It also could lead to uncertainty whether a restatement of bylaws is still valid. One individual at one of my clients received a 1% quitclaim interest, successfully prosecuted a removal of directors and is now the association president. If you're going to tighten the requirements, consider the 1% case and whether there is a compelling public interest for the legislature to get involved when owners knowingly vote to put these people on boards.

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



February 22, 2017

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

Re: Testimony in Support of
HB243 RELATING TO CONDOMINIUMS
Hearing: Thursday, February 23, 2017, 2 p.m., Conf. Rm. #329

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

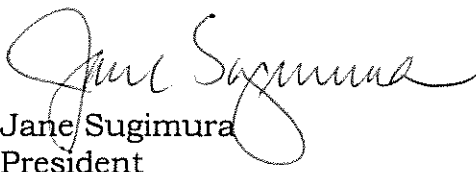
I am Jane Sugimura, President of the Hawaii Council of Associations of Apartment Owners (HCAAO dba HCCA). This organization represents the interests of condominium and community association members.

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

For clarification, we suggest the following revisions:

- Delete at lines 3-4 at page 1: “except as otherwise provided in the declaration and by-laws, members”
- Revise at lines 6-8: “trustee of a trust or partner in a partnership who owns a unit, or an officer or a member of a corporation or a limited liability company which owns a unit”

Thank you for the opportunity to testify on this matter.


Jane Sugimura
President

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 21, 2017 8:35 PM
To: CPCtestimony
Cc: lila.mower@gmail.com
Subject: *Submitted testimony for HB243 on Feb 23, 2017 14:00PM*

HB243

Submitted on: 2/21/2017

Testimony for CPC on Feb 23, 2017 14:00PM in Conference Room 329

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

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 21, 2017 3:47 PM
To: CPCtestimony
Cc: cporter@hawaiiilegal.com
Subject: Submitted testimony for HB243 on Feb 23, 2017 14:00PM

HB243

Submitted on: 2/21/2017

Testimony for CPC on Feb 23, 2017 14:00PM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Christian Porter	Individual	Support	No

Comments: As an attorney practicing in this area, this Bill (as amended) is a clarification of the law that is needed. Thank you for your consideration.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 21, 2017 11:21 PM
To: CPCtestimony
Cc: sunnymakaha@yahoo.com
Subject: Submitted testimony for HB243 on Feb 23, 2017 14:00PM

HB243

Submitted on: 2/21/2017

Testimony for CPC on Feb 23, 2017 14:00PM in Conference Room 329

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

Comments: I support this common sense bill.

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Sandra-Ann Y.H. Wong

Attorney at Law, a Law Corporation

1050 Bishop Street, #514

Honolulu, Hawaii 96813

TESTIMONY IN STRONG SUPPORT TO HB 243, HD1

Before the Committee on Consumer Protection & Commerce

on Thursday, February 23, 2017 at 2p.m.

in Conference Room 329

Aloha Chair McKelvey, Vice Chair Ichiyama, and members of the Committee:

I am writing in **strong support to HB243, HD1.**

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

I strongly support HB243, HD1 because it provides clarity as to who qualifies as a board member of a condominium association.

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

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

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

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

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

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

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

I do not think this dilemma is limited to my condominium association. Therefore, I strongly urge you to pass the bill out with the following amendment:

~~[Members] Except as otherwise provided in the declaration and bylaws,~~
~~m~~Members of the board shall be unit owners or co-owners, vendedes under an agreement of sale, a trustee of a trust, partner of a partnership which owns a unit, or an officer, partner or member, or other person authorized to act on behalf of any other legal entity of a corporation or limited liability company which owns a unit. There shall not be more than one representative on the board from any one unit or legal entity.

Thank you for the opportunity to provide testimony in Strong Support to HB243, HD1.

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 22, 2017 10:45 AM
To: CPCtestimony
Cc: albertd@hawaiianprop.com
Subject: Submitted testimony for HB243 on Feb 23, 2017 14:00PM

HB243

Submitted on: 2/22/2017

Testimony for CPC on Feb 23, 2017 14:00PM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
AI Denys	Individual	Oppose	No

Comments: Aloha, We oppose HB 243. Mahalo. warmest aloha AI Denys

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66 Queen Street #3501
Honolulu, Hawaii 96813

February 23, 2017

Hawaii State Legislature
House Committee on Consumer Protection & Commerce

Re: HB243, HD1

Dear Chair McKelvey, Vice Chair Ichiyama and
Members Aquino, Ito, Say, Takayama, Todd, Yamane and Fukumoto:

I am writing in support of HB 243, HD1. I have lived in Hawaii for nearly 20 years. During most of my time in Hawaii, I have lived in condominiums – first as a renter and now as an owner. I support HB 243, HD1 because I believe condominium board membership should be reserved for owners. HB 243, HD1 will make clear that only those individuals who have ownership interests in the condominium project will be allowed to serve on the board of directors.

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

Consequently, I urge the House Committee on Consumer Protection & Commerce to support HB243, HD1. It is illogical to allow renters to serve on condominium board of directors.

Thank you for the opportunity to provide written testimony in support of HB243, HD1.

Very truly yours,

Sandy Ma

Sandy S. Ma, Esq.

LATE

TESTIMONY IN STRONG SUPPORT OF HB 243, HD1
Before the Committee on Consumer Protection & Commerce
on Thursday, February 23, 2017 at 2p.m.
in Conference Room 329

Mike Wong

Aloha Chair McKelvey, Vice Chair Ichiyama, and members of the Committee:

I am writing in **strong support of HB 243, HD1.**

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

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

HB 243, HD1 would allow our condominium Bylaws to take precedence, which are stricter and states that only officers of the corporation shall be eligible to server as a director as long as they remain an officer of the corporation. I believe this was the original intent of the statute.

Thank you for the opportunity to provide testimony in Support of HB 243, HD1.