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February 15, 2017

Representative Angus L.K. McKelvey, Chair
Representative Linda Ichiyama, Vice Chair
House Committee on Consumer Protection and Commerce
Hawai'i State Capitol, Room 320
415 South Beretania Street
Honolulu, Hawai'i 96813

RE: Testimony in Support of H.B. No. 648
Hearing Date: February 14, 2017, at 2:00 p.m., Conference Room 329
The Twenty-Ninth Legislature; Regular Session of 2017

Dear Representative McKelvey, Chair and Representative Ichiyama, Vice-Chair:

I attended the hearing on H.B. No. 648 and stood on my testimony. I was surprised that there was testimony in opposition to the bill. I was not able to address that opposition because I was not aware of it prior to the hearing. I have since read the opposition and would like to offer some clarification about the purpose of the bill.

It appears that the persons who opposed H.B. No. 648 misunderstand the bill. The bill is not intended to dilute or minimize the right of owners to vote or to give the Board a "voting weight" in the removal of directors. As it pertains to HRS Section 514B-123(c), Section 3 of the bill is intended to add an exception to the provision that provides that no vote allocated to a unit owned by a condominium association may be cast for the election or reelection of directors. This is a very narrow exception and has no effect on directors elected by owners of residential units. The exception will allow a condominium board to cast the vote allocated to a **nonresidential unit** owned by the association in elections **where the only units eligible to vote are nonresidential units and the association owns one or more of those nonresidential units**. Without this change, condominium associations are left in a difficult position if the vote allocated to a unit owned by an association is necessary to elect a director. If a condominium association is unable to fill a nonresidential position on the board due to the current statute, then the owners of the nonresidential units would be deprived of having a representative on the board. Additionally, a vacancy on the board will make it more difficult to achieve a quorum to conduct business.

As to the issue of removals, H.B. No. 648 does not give a condominium board a "voting weight" to remove directors. It simply provides that if a director is elected by a class of unit owners, then the director may be removed or replaced only by a vote of a majority of the common interest represented

Representative Angus L.K. McKelvey, Chair
Representative Linda Ichiyama, Vice Chair
House Committee on Consumer Protection and Commerce
February 15, 2017
Page 2

by that class. For example, if a condominium has two towers, the bylaws might provide that the owners in each tower shall elect a certain number of directors, or the bylaws of a condominium consisting of both highrise and townhouse units might provide for a certain number of directors to be elected by the highrise unit owners and a certain number of directors to be elected by the townhouse unit owners. It makes sense that only the owners who are eligible to elect a director may vote to remove that director. Otherwise, if the owners of one group hold a greater percentage of the common interest, they could remove a director elected by the minority group and thereby deprive the minority group of its ability to elect a director of its choosing. I hope this analogy helps to clarify the purpose of H.B. No. 648, Section 2. The proposal is fair and reasonable and consistent with HRS § 414D-138(b) and HRS § 414-198(b).

H.B. No. 648 is a good bill and introduced for a good purpose. I strongly support its adoption. If necessary, I can be available to discuss this with the individuals who expressed concerns about the bill.

If you have any questions, I may be contacted at (808) 697-6003 or by email at: aanderson@alf-hawaii.com.

Sincerely,



M. Anne Anderson



**HAWAII STATE ASSOCIATION OF PARLIAMENTARIANS
LEGISLATIVE COMMITTEE
P. O. Box 29213
HONOLULU, HAWAII 96820-1613
E-MAIL: HSAP.LC@GMAIL.COM**

February 13, 2017

Honorable Rep. Angus L.K. McKelvey, Chair
Honorable Rep. Linda Ichiyama, Vice-Chair
House Committee on Consumer Protection and Commerce (CPC)
Hawaii State Capitol, Room 329
415 South Beretania Street
Honolulu, HI 96813

RE: Testimony in SUPPORT of HB648; Hearing Date: February 14, 2016 at 2:00 p.m. in House conference room 329; sent via Internet

Dear Rep. Angus L.K. McKelvey, Chairman; Rep. Linda Ichiyama, Vice-Chair,

Thank you for the opportunity to provide testimony on this bill.

The Hawaii State Association of Parliamentarians ("HSAP") has been providing professional parliamentary expertise to Hawaii since 1964.

I am the chair of the HSAP Legislative Committee. I'm also an experienced Professional Registered Parliamentarian who has worked with condominium and community associations every year since I began my practice in 1983 (over 1,500 meetings in 33 years). I was also a member of the Blue Ribbon Recodification Advisory Committee that presented the recodification of Chapter 514B to the legislature in 2004.

This testimony is provided as part of HSAP's effort to assist the community based upon our collective experiences with the bylaws and meetings of numerous condominiums, cooperatives, and Planned Community Associations.

This testimony is presented in SUPPORT of HB648.

It proposes to correct the flaw in the current law regarding the:

- (a) removal and replacement of directors elected solely by one class of condominium unit owners in mixed unit condominiums; and
- (b) voting of nonresidential units which may become owned by the association.

This amendment clarifies that a director elected by a specific group of unit owners may also be removed by that group. It also clarifies the voting of nonresidential units in a mixed use association.

The proposed legislation parallels similar principles already enumerated in the:

- (a) Hawaii Business Corporations Act, HRS §414-198(b) states, “(b) If a director is elected by a voting group of shareholders, only the shareholders of that voting group may participate in the vote to remove the director.”¹
- (b) Hawaii Nonprofit Corporations Act, HRS §414D-138(b) states, “(b) If a director is elected by a class, chapter, or other organizational unit, or by region or other geographic grouping, the director may be removed only by the members of that class, chapter, unit, or grouping.”²

We ask that you approve HB648.

If you require any additional information, your call is most welcome. I may be contacted via phone: 423-6766 or by e-mail: hsap.lc@gmail.com. Thank you for the opportunity to present this testimony.

Sincerely,

Steve Glanstein

Digitally signed by Steve Glanstein
DN: cn=Steve Glanstein, o, ou,
email=Steveghi@gmail.com, c=US
Location: Honolulu, HI
Date: 2017.02.13 10:52:21 -10'00'

Steve Glanstein, Professional Registered Parliamentarian
Chair, HSAP Legislative Committee
SG:tbs/Attachment

¹http://www.capitol.hawaii.gov/hrscurrent/Vol08_Ch0401-0429/HRS0414/HRS_0414-0198.htm

²http://www.capitol.hawaii.gov/hrscurrent/Vol08_Ch0401-0429/HRS0414D/HRS_0414D-0138.htm

COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
HEARING ON FEBRUARY 14, 2017 AT 2 PM

OPPOSE HB648

I **OPPOSE** this bill which marginalizes owners by putting more voting power in the hands of incumbent Boards.

In most association-governed communities, the Board already dominates their annual elections, sometimes with as much as 30%--and in some cases even more--of common interests assigned to the Board via proxies.

This bill proposes to further inflate the Board's influence on their associations' elections, assuring incumbent candidates of probable re-election and depriving new candidates of equal opportunity.

In the 2009 booklet, Condominium Property Regimes: Owner Rights and Responsibilities, produced by the Real Estate Commission of the Department of Commerce and Consumer Affairs, it says

“In general, the “self-governance principles” under which a condominium association operates require board members and owners to understand that: (1) **the owners' most important role is electing directors...**”

This proposal will comparatively minimize owners' “most important role” in condo governance. Then what participation do owners have in the governance of their associations but to pay the bills?

Lila Mower of Hui `Oia`i`o

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2017 12:25 PM
To: CPCtestimony
Cc: richard.emery@associa.us
Subject: Submitted testimony for HB648 on Feb 14, 2017 14:00PM

HB648

Submitted on: 2/13/2017

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

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

Comments: A proper and fair amendment to the law.

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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House Consumer Protection & Commerce

Representative Angus L.K. McKelvey, Chair and Representative Linda Ichiyama, Vice Chair

House Committee on Judiciary

Representative Scott Y. Nishimoto, Chair and Representative Joy A. San Buenaventura

Tuesday, 02-14-17 2:00PM in House conference room 329

House Bill 648

Measure Title: RELATING TO CONDOMINIUMS.

Report Title: Condominiums; Associations; Board of Directors; Mixed-use Projects; Elections

Description: Clarifies that the removal or replacement of a director elected by a class of unit owners shall be by a majority of only the members of that class. Specifies that for an election in a mixed-use condominium project where directors are elected by different classes of owners, an association may cast a vote or votes allocated to any nonresidential unit owned by the association where those eligible to vote in the election are limited to owners of one or more nonresidential units, including the nonresidential unit owned by the association.

ALOHA:

- 1. I oppose passage of this bill.**
2. While current state law prohibits usage of association owned condos from being used by Board of Directors for candidates, this bill unfortunately allows for a Board to use that 'voting weight' to remove a Director. Such a decision should be up to the owners, in my opinion.
3. Whenever owners assign their proxies to a Board, they don't have a clue as to how their votes will be cast, which too often fuels wrongful politics.
4. Better idea to fashion a bill to allow for owners to vote 'online' and strip away from property management companies their control of proxies and ballots.

Respectfully, Dale A. Head (808) 696-4589 sunnymakaha@yahoo.com

Quote to live by:

When you see something that is not right, not fair, not just, you have a moral obligation to do something – to say something – and not be quiet.” “You must have courage, you must be bold, and never ever give up”. U.S. Representative John Lewis.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 12, 2017 6:44 PM
To: CPCtestimony
Cc: mkhan@hawaiiantel.net
Subject: Submitted testimony for HB648 on Feb 14, 2017 14:00PM

HB648

Submitted on: 2/12/2017

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

Submitted By	Organization	Testifier Position	Present at Hearing
Marilyn Khan	Individual	Oppose	No

Comments: Oppose this bill. I am not in favor of any legislative action that would further dilute an owner's rights. Placing votes in the hands of the Association (the Board) only results in re-election of the same individuals. Homeowners should be allowed choice during election years and their personal, individual votes should matter. Do not pass HB648.

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: Monday, February 13, 2017 9:15 AM
To: CPCtestimony
Cc: mrckima@gmail.com
Subject: *Submitted testimony for HB648 on Feb 14, 2017 14:00PM*

HB648

Submitted on: 2/13/2017

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

Submitted By	Organization	Testifier Position	Present at Hearing
Marcia Kimura	Individual	Oppose	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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