

**PRESENTATION OF THE  
REAL ESTATE COMMISSION**

TO THE SENATE COMMITTEE ON  
WAYS AND MEANS

TWENTY-NINTH LEGISLATURE  
Regular Session of 2018

Friday, February 23, 2018  
11:00 a.m.

**WRITTEN TESTIMONY ONLY**

**TESTIMONY ON SENATE BILL NO. 2060, S.D. 1 RELATING TO CONDOMINIUMS.**

TO THE HONORABLE DONOVAN M. DELA CRUZ, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

My name is Nikki Senter, and I am the Chairperson of the Hawaii Real Estate Commission (“Commission”). Thank you for the opportunity to testify on S.B. 2060, S.D. 1, Relating to Condominiums. The Commission offers the following comments to this bill, which is a companion to H.B. 1874.

The purposes of this bill are to: (1) add a new section to permit annual condominium education trust funds fees designated for educational purposes to be used for voluntary binding arbitration of condominium disputes by amending Hawaii Revised Statutes (“HRS”) sections 514B-71 and 514B-72 and Act 187, Session Laws of Hawaii 2013; and (2) expand the conditions mandating mediation by amending HRS section 514B-161.

The Commission supports arbitration as an additional avenue for resolving condominium disputes, but would like to confirm the intent of the bill and comment on certain parts of S.B. 2060, S.D. 1.

The Commission reads proposed section 514B-161 starting on page 7 as mandating the mediation of issues noted in subsection (a), while proposed subsection (b) on page 7 simply allows the mediation of all issues specified in that subsection if the parties agree. This amendment appears to allow every possible scenario to be mediated, either mandatorily or permissively, and may create unintended consequences. The Commission respectfully asks whether all potential scenarios that may result from

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S.B. 2060, S.D. 1 have been considered and whether this bill would expand allowable parties and issues beyond the historical limitations of mediation.

As examples, S.B. 2060, S.D. 1 appears to allow owners to: demand mediation with a developer over alleged construction defects; challenge a condominium managing agent on the agent's contract with a condominium board; or demand mediation of personal issues pursuant to subsection (a) (2) on page 7. The current Commission subsidy prohibits these types of situations from undergoing mediation.

Thank you for the opportunity to provide written testimony on S.B. 2060, S.D. 1.

**SB-2060-SD-1**

Submitted on: 2/21/2018 4:00:25 PM

Testimony for WAM on 2/23/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Support	No

Comments:

**SB-2060-SD-1**

Submitted on: 2/22/2018 10:03:54 AM

Testimony for WAM on 2/23/2018 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lourdes Scheibert	Individual	Oppose	Yes

Comments:

Based on my experience and opinion, I believe SB2060 SD1 serves only a few condominium owners. SB2060 SD1 intention is to solve condominium related disputes thru mandatory mediation and voluntary binding arbitration. The condominium education trust fund (CETF) supports the cost of mandatory mediation or dispute prevention resolution (DPR)

I believe the CETF program for nearly 20 years has focused its efforts on the level of administration and management education. The program falls short of delivering broad coverage to educate the majority of condominium owners. CETF should expand education on practical matters of understanding condominium projects documents, insurance coverage, Robert's Rules and Condominium Law 514B for the ordinary condominium owner. More time should be dedicated in question and answer session.

I believe the solution in solving condominium disputes are to transition the 4 Condominium Specialists position to a quasi-ombudsman position and broaden their scope of work to better serve the majority of owners. Redistribute the Dispute Prevention Resolution (DPR) funds and increase their annual salary. Offer more scheduled "Condorama" events at the capitol's auditorium on a Saturday making attendance more accessible. It is mandatory for each condominium owner to pay into the condominium education trust fund. It should benefit the majority.

There are approximately 1600 registered condominium associations and approximately 170,000 condominium units. The average annual mandatory mediation brought to "dispute prevention resolution" is about 40 individuals per year. Success rate is much less. The newly built condominiums are not included in these numbers. CETF pays for mandatory mediation of up to \$6,000.00 X 40 = \$240,000 annually. The CETF also pays the salary of 4 condominium specialists, averaging \$55,000 X 4 = \$220,000 annually. (The \$55K taken from [www.civilbeat.org/2016/01/civil-beat-database-of-public-employee-salaries/](http://www.civilbeat.org/2016/01/civil-beat-database-of-public-employee-salaries/)). According to Real Estate Branch publications the Condominium Specialist office receives approximately 25,000 phone calls, emails, walk ins.

More complicated matters determined by the quasi-ombudsman should than be referred to mandatory mediation. Binding arbitration should be left to each party seeking further resolution at their own expense if mandatory mediation fail.

I oppose bill SB2060 SD1 because it is complicated and makes exceptions to the word "mandatory" and throws in voluntary binding arbitration to include the exceptions. SB2060 SD1 only serves a minority of the 170,000 condominium owners.

Lourdes Scheibert

Condo Owner