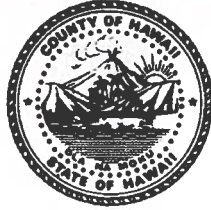


Harry Kim  
Mayor



David Yamamoto, P.E.  
Director

Roy Takemoto  
Managing Director

Allan G. Simeon, P.E.  
Deputy Director

**County of Hawai'i**  
**DEPARTMENT OF PUBLIC WORKS**  
**Aupuni Center**  
101 Pauahi Street, Suite 7 · Hilo, Hawai'i 96720-4224  
(808) 961-8321 · Fax (808) 961-8630  
public\_works@hawaiicounty.gov

February 11, 2020

Representative Roy Takumi, Chair  
Representative Linda Ichiyama, Vice Chair  
And Members of the Committee on Consumer Protection and Commerce

Representative Chris Lee, Chair  
Representative Joy San Buenaventura, Vice Chair  
And Members of the Committee on Judiciary

RE: TESTIMONY OPPOSING HB 2711, RELATING TO HOMEOWNERS' ASSOCIATIONS

Dear Chairs and members:

Thank you for this opportunity to testify in opposition to HB 2711 relating to Homeowners' Associations.

HB 2711 authorizes the creation of community associations that are not subject to the laws relating to planned community associations and entitles those associations to collect monies. It also makes them responsible for maintenance of common areas including the maintenance of private roads, authorizing the County to hear, administer and decide certain disputes.

This bill places an undue – and rather questionable - burden on the counties statewide to mediate and decide disputes regarding a private entity. It is not a county's responsibility to enforce a homeowner's association Covenants, Conditions, and Restrictions (CC&Rs). Nor is it appropriate for counties to have authority over the creation and administration of CC&Rs and their respective homeowners associations. Mediating and resolving disputes between private entities is something best left to the judiciary, not county government.

Thank you for this opportunity to testify in opposition of HB 2711.

Respectfully submitted,

David Yamamoto, P.E.  
Director, Hawai'i County Department of Public Works

HAWAII LEGISLATIVE  
ACTION COMMITTEE

  
**community**  
ASSOCIATIONS INSTITUTE

P.O. Box 976  
Honolulu, Hawaii 96808

February 10, 2020

Honorable Roy M. Takumi  
Honorable Linda Ichiyama  
Committee on Consumer Protection & Commerce  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: HB 2711/SUPPORT

Dear Chair Takumi, Vice Chair Ichiyama, and Committee Members:

This testimony in SUPPORT of HB 2711 on behalf of the Community Associations Institute ("CAI") Legislative Action Committee. The Bill in its current form is lengthy and complex. We support the general intent of the Bill. It would be much simpler to use as a model for the intent of the Bill by using the language in HRS 421J.

This Bill is very important. I have personal knowledge and experience with the important need to provide structure for associations that are currently not protected by any state laws; associations that collect thousands of dollars in fees from homeowners with literally no oversight. I have served as an expert witness in two lawsuits and seen firsthand the problems that currently exist:

- The Bylaws have a low threshold for a quorum and minimal meeting notices to owners. Competing boards found it easy to get a quorum and remove another competing board. One result was their bank freezing their funds and bills could not be paid.
- One competing group locked the newly elected board from the community center and refused to grant access to the records.
- An employee managed the checking account without supervision.
- Audits are not performed.
- Owners have written that they do not want to pay their fees because they do not trust the directors as they do not know who constitutes the correct board.

There is the potential for great harm as the safeguards that are provided to homeowner associations in HRS 421J simply do not exist for these few typically per-statehood associations. This is a serious problem that leaves the homeowners unprotected from fraud and abuse without state regulations.

CAI represents the condominium industry, and respectfully requests the Committee move forward HB2711.

Very truly yours,

*Richard Emery*

Richard Emery  
Co-Chair, CAI LAC

**HB-2711**

Submitted on: 2/10/2020 4:15:46 PM

Testimony for CPC on 2/12/2020 2:00:00 PM

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

Comments:

my name is Leslie Watson Jr i live here in Hawaiian Paradise Park.. i have went to meeting at the association there were arguments fights so i decided that there was use in going i they were not going to be able to hear your concerns..my concerc is the roads is not being fixed stop signs need to be replaced no street..lights..... for our.... safety and the dust is horrendous and for me i have cancer.. the kids can not ride there bikes because of the roads,the fees goes up and up every year and there no change in the roads....there should be something that can be done. there are no school stops.. for our kids..and some times the cars dont stop for the school bus....plese look in to this matter please....

**HB-2711**

Submitted on: 2/11/2020 12:07:51 PM

Testimony for CPC on 2/12/2020 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Anne Anderson	Individual	Oppose	No

Comments:

Dear Representative Takumi, Chair, Representative Lee, Chair, Representative Ichiyama, Vice Chair, Representative San Buenaventura, Vice Chair, and Members of the Committee:

HB 2711 is a massive 124 page bill that creates an entirely new type of homeowner association which is subject to an entirely new statutory chapter. This new statutory chapter differs substantially from HRS Chapter 421J and HRS Chapter 514B. The bill contains numerous problematic provisions. The bill is much too long and complex to provide testimony on each provision, especially given the short notice of the February 12, 2020 hearing on the bill.

The bill needs a great deal of work before it becomes law. If adopted, as drafted, it is certain to create confusion and conflicts. I strongly urge the committee to defer the bill this session.

Respectfully submitted,

M. Anne Anderson

**HB-2711**

Submitted on: 2/11/2020 12:40:48 PM

Testimony for CPC on 2/12/2020 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lance S. Fujisaki	Individual	Oppose	No

Comments:

Dear Representative Takumi, Chair, Representative Lee, Chair, Representative Ichiyama, Vice Chair, Representative San Buenaventura, Vice Chair, and Members of the Committee:

HB 2711 is a massive 124 page bill that creates an entirely new type of homeowner association which is subject to an entirely new statutory chapter. This new statutory chapter differs substantially from HRS Chapter 421J and HRS Chapter 514B. The bill contains numerous problematic provisions. The bill is much too long and complex to provide testimony on each provision, especially given the short notice of the February 12, 2020 hearing on the bill.

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Respectfully submitted,

Lance Fujisaki

**HB-2711**

Submitted on: 2/11/2020 12:52:21 PM

Testimony for CPC on 2/12/2020 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bradford Lee Hair	Individual	Oppose	No

Comments:

Dear Representative Takumi, Chair, Representative Lee, Chair, Representative Ichiyama, Vice Chair, Representative San Buenaventura, Vice Chair, and Members of the Committee:

HB 2711 is a massive 124 page bill that creates an entirely new type of homeowner association which is subject to an entirely new statutory chapter. This new statutory chapter differs substantially from HRS Chapter 421J and HRS Chapter 514B. The bill contains numerous problematic provisions. The bill is much too long and complex to provide testimony on each provision, especially given the short notice of the February 12, 2020 hearing on the bill.

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Respectfully submitted,

Bradford Lee Hair

**HB-2711**

Submitted on: 2/11/2020 12:29:43 PM

Testimony for CPC on 2/12/2020 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Paul A. Ireland Koftinow	Individual	Oppose	No

Comments:

Dear Representative Takumi, Chair, Representative Lee, Chair, Representative Ichiyama, Vice Chair, Representative San Buenaventura, Vice Chair, and Members of the Committee:

HB 2711 is a massive 124 page bill that creates an entirely new type of homeowner association which is subject to an entirely new statutory chapter. This new statutory chapter differs substantially from HRS Chapter 421J and HRS Chapter 514B. The bill contains numerous problematic provisions. The bill is much too long and complex to provide testimony on each provision, especially given the short notice of the February 12, 2020 hearing on the bill.

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Respectfully submitted,

Paul A. Ireland Koftinow



Harry Kim  
Mayor



Roy Takemoto  
Managing Director

Barbara J. Kossow  
Deputy Managing Director

## County of Hawai'i Office of the Mayor

25 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553  
KONA: 74-5044 Ane Keohokālole Hwy., Bldg C • Kailua-Kona, Hawai'i 96740  
(808) 323-4444 • Fax (808) 323-4440

February 11, 2020

Representative Roy M. Takumi, Chair  
Representative Linda Ichiyama, Vice Chair  
Committee on Consumer Protection and Commerce

Representative Chris Lee, Chair  
Representative Joy A. San Buenaventura, Vice Chair  
Committee on Judiciary

Dear Chairs Takumi and Lee, Vice Chairs Ichiyama and San Buenaventura, and  
Committee Members:

### **RE: HB 2711 Relating to Homeowners' Associations**

HB 2711 addresses an important issue and is impressive in its size and detail. Because of its length, Hawai'i County has not had time to give this bill the attention required, to do a thorough evaluation from the County perspective.

We appreciate that an appropriation is proposed in HB 2711 to meet the Constitutional provision against unfunded mandates. What the amount should be, and how it would be dealt with on an ongoing basis, is an important issue that would have to be resolved.

But there is also a way to avoid the problem. Since much of HB 2711 anticipates the involvement of the courts in resolving disputes, a better (and we think the proper) alternative to county involvement would be to remove the counties from the process altogether.

The biggest issue we have identified so far is putting the questionable burden on the counties to hear, administer, and decide certain disputes of private homeowners in subdivisions where homeowner associations will be created. It is the Judiciary, not the counties, that hears and decides disputes. This could even be a separation of powers issue, if not changed.

February 11, 2020

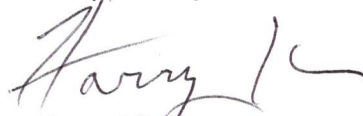
Page 2

A separate provision would have the county certify a training course, which is not something the county has expertise in. Better to assign that duty to a State entity (HB 1789 suggests the Real Estate Commission for such a task).

We believe that creating homeowners' associations is a positive way to improve the lives of those affected, but if this bill moves forward we ask you to find the best remedies for the thornier issues that the bill addresses. Our initial reaction is that other entities--State Executive and Judiciary branches, and perhaps private non-profits (e.g., mediation centers)--would be in a better position to make HB 2711 a successful effort. Involving the counties is unwise and creates conflicts that may unnecessarily derail an otherwise valuable piece of legislation.

Thank you.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Harry Kim", written over a horizontal line.

Harry Kim  
MAYOR

**HB-2711**

Submitted on: 2/11/2020 9:08:46 PM

Testimony for CPC on 2/12/2020 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
mary freeman	Individual	Oppose	No

Comments:

Dear Representative Takumi, Chair, Representative Lee, Chair, Representative Ichiyama, Vice Chair, Representative San Buenaventura, Vice Chair, and Members of the Committee:

HB 2711 is a massive 124 page bill that creates an entirely new type of homeowner association which is subject to an entirely new statutory chapter. This new statutory chapter differs substantially from HRS Chapter 421J and HRS Chapter 514B. The bill contains numerous problematic provisions. The bill is much too long and complex to provide testimony on each provision, especially given the short notice of the February 12, 2020 hearing on the bill.

The bill needs a great deal of work before it becomes law. If adopted, as drafted, it is certain to create confusion and conflicts. I strongly urge the committee to defer the bill this session. The purpose of the legislature is to make life better for the residents of Hawaii, not to make it more difficult. The Associations are to help enhance the life style of it's owners. This bill does not do that, it needs much more work.

Respectfully submitted,

Mary S. Freeman

**HB-2711**

Submitted on: 2/12/2020 9:20:57 AM

Testimony for CPC on 2/12/2020 2:00:00 PM



<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mark McKellar	Law Offices of Mark K. McKellar, LLLC	Oppose	No

Comments:

Dear Representative Takumi, Chair, Representative Lee, Chair, Representative Ichiyama, Vice Chair, Representative San Buenaventura, Vice Chair, and Members of the Committee:

HB 2711 is a massive 124 page bill that creates an entirely new type of homeowner association which is subject to an entirely new statutory chapter. This new statutory chapter differs substantially from HRS Chapter 421J and HRS Chapter 514B. The bill contains numerous problematic provisions. The bill is much too long and complex to provide testimony on each provision, especially given the short notice of the February 12, 2020 hearing on the bill.

The bill needs a great deal of work before it becomes law. If adopted, as drafted, it is certain to create confusion and conflicts. I strongly urge the committee to defer the bill this session.

Respectfully submitted,

Mark McKellar