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**STATE OF HAWAII
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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce and Consumer Protection
Wednesday, February 3, 2021
9:30 a.m.
Via Videoconference**

**On the following measure:
S.B. 688, RELATING TO CONDOMINIUMS**

Chair Baker and Members of the Committee:

My name is Esther Brown, and I am the Complaints and Enforcement Officer of the Department of Commerce and Consumer Affairs' Regulated Industries Complaints Office (RICO). RICO offers comments related to the enforceability of this measure.

The purpose of this bill is to make violations of the voting standards for individual unit owners, and voting-related prohibitions concerning non-individual unit owners, subject to the investigatory, cease and desist, and injunctive authority the Real Estate Commission (Commission) presently exercises over licensed real estate professionals. In doing so, the bill improperly expands RICO's authority to include investigating and resolving private, non-commercial disputes about an association's election, voting forms, and voting procedures brought by private unit owners who are not subject to professional licensure requirements.

Unlike licensed real estate professionals, individual unit owners who voluntarily participate in their association's project election are not engaging in commerce affecting the public, which would require a real estate license issued by the Commission. Rather,

they are private individuals living in a condominium project and determining the unique issues affecting their association. Since RICO's enforcement authority is triggered only when licensure is required, RICO lacks authority to regulate, prohibit, or enjoin this type of private conduct.

In addition, the rights and events set forth in Hawaii Revised Statutes (HRS) section 514B-123¹ do not involve the public and do not require a Commission-issued license. HRS section 514B-123 is a self-governing statute that provides a litany of owner self-help remedies when problems arise, in place of formal government oversight and intervention. This self-governance policy is embodied in chapter 514B and is supplemented by the educational resources available to unit owners and their governing boards.

In light of the foregoing, RICO's enforceability of this measure would extend beyond its legal authority.

Thank you for the opportunity to testify on this bill.

¹ HRS section 514B-123 addresses: voting rights and procedures for units owned by multiple persons (subsection a); proxy-voting for units owned by multiple persons (subsection b); voting limitations for units owned by an association (subsection c); conditions for an owner's proxy to be valid (subsection d); the content of owner proxy forms (subsection e); how long an owner's proxy lasts (subsection f); whether a copy of a proxy is as good as the original (subsection g); the procedure for using association funds to distribute or solicit proxies (subsection i); restrictions on solicitations and voting by management (subsection j); and the process for and limitations on owner solicitation of proxies (subsection k).

SB-688

Submitted on: 1/30/2021 5:11:10 PM

Testimony for CPN on 2/3/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch, Sr.	Testifying for Palehua Townhouse Association	Support	No

Comments:

Our association supports SB688.

SB-688

Submitted on: 1/31/2021 5:03:18 PM

Testimony for CPN on 2/3/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Emery	Testifying for Associa	Oppose	No

Comments:

Condominium elections are governed by the Bylaws and Roberts Rules of Order. Both provide methods to challenge an election. I have been in the management business for 28 years and see no need for this legislation.

Owners have the right to voluntarily give its proxy to whomever they want including the Board majority. Many owners do not know the names and faces of the Directors but like the Board's results. Too many times a few owners who do not get elected use this as an excuse to not be on the Board and try to skew the results. If the Bill was adopted it will only create more unnecessary fights for proxies. There is and never has been a problem and one should not take away the voluntary rights of an owner to give their proxy to whomever they want.



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

February 1, 2021

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Stanley Chang, Vice-Chair
Senate Committee on Commerce and Consumer Protection (CPN)
Hawaii State Capitol, Room 230
415 South Beretania Street
Honolulu, HI 96813

RE: Testimony in OPPOSITION to SB688; Hearing Date: February 3, 2021 at 9:30 p.m. in House conference room 229/videoconference; sent via Internet

Aloha Chair Baker, Vice-Chair Chang, and Committee members,

Thank you for the opportunity to provide testimony on this bill. Unfortunately, I had a prior teaching obligation this morning so may not be unable to appear via videoconference.

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 parliamentary practice in 1983 (more than 1,800 meetings in 38 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 OPPOSITION to SB688.

Summary of Bill:

This Bill briefly proposes to do the following:

- (a) expand the Real Estate Commission's (REC) power to investigate any violations of HRS §514B-123, including the issuance of any cease and desist orders (Sections 1 and 2);
- (b) expand the REC's power to investigate and enjoin; and provide that any violations of HRS §514B-123 shall be a criminal misdemeanor in accordance with HRS §514B-69 and make the violator subject to a fine up to \$10,000 for each offense (Sections 3 and 4); and

(c) remove the mandate that proxies contain an option for owners to direct the majority of directors present at a meeting to vote their interest (Section 5).

(a) expand the Real Estate Commission's (REC) power to investigate any violations of HRS §514B-123, including the issuance of any cease and desist orders (Sections 1 and 2);

We express no opinion on item (a).

(b) expand the REC's power to investigate and enjoin; and provide that any violations of HRS §514B-123 shall be a criminal misdemeanor in accordance with HRS §514B-69 and make the violator subject to a fine up to \$10,000 for each offense (Sections 3 and 4);

This is an onerous change to enforcement of the existing statute. The unintended consequence is that condominium association management companies and the association Secretary will be at serious risk if there is any form of error in the proxy or its acceptance.

HRS §514B-123 contains 11 several subsections (“a” through “k”) and is complicated. A couple of examples are provided.

Example: The placement of a candidate's picture on the statement could constitute a civil and criminal violation of HRS §514B-123(i)(1) since that sub-section mandates black text on white paper.

Example: The failure to accept a timely filed proxy or acceptance of a late proxy could constitute a civil and potential criminal violation of HRS §514B-123(d)(1). This has actually happened. In one case, it happened due to a facsimile of a colored proxy that was difficult to read. In another case, it happened due to the failure of technology.

Currently, there are several options available if there's an error on a proxy which affects the meeting or a specific vote:

1. An Owner could raise a procedural *Point of Order* which demands a ruling by the chair or the assembly, if appealed [Robert's Rules of Order Newly Revised (12th ed.) 23:6].
2. a special meeting could be convened within a quarterly time interval for the purpose of ordering a recount [Robert's Rules of Order Newly Revised (12th ed.) 30:6, 48:48-50 which provide for retaking a vote and contesting an election respectively].

In egregious cases, an arbitrator or court could overturn or order a new election.

Our position: There are several unintended consequences of the proposed change and we urge the Committee to consider them.

(c) remove the mandate that proxies contain an option for owners to direct the majority of directors present at a meeting to vote their interest (Section 5 of the Bill).

Current Status:

The existing statute, HRS §514B-123, provides a balanced method for condominium unit Owners who wish to use association funds to:

1. solicit proxies for voting at association elections, or
2. solicit proxies for other purposes

at an annual or special meeting when association funds are used for proxy solicitations.

If association funds are to be used, there is a mandatory posting on the property and equal opportunity for owner solicitation. Owners have an opportunity to require that their names and statements of up to one page be submitted with the official meeting notice.

Owners receive a notice that contains the names and statements. This gives them an opportunity to review the statements and decide whether to execute a proxy document for the specific meeting.

Owners have several options if they wish to execute a proxy document. The proxy can:

1. name the board of directors, as a whole, based upon the decision of a majority of the directors present at a meeting;
2. name the board of directors to be split evenly among the directors present at a meeting;
3. name an individual; or
4. be restricted to quorum only.

Additionally, the current statute provides that the Owner can limit the proxy holder as the Owner desires.

The Owner's proxy is limited to the specified meeting and its adjournments. Therefore, a “forever proxy” cannot be used. The Owner has the right to may revoke a proxy or go to the meeting and vote in person.

Our position:

The use of proxies has proved to be an important part of the association quorum and meeting process. If an Owner is comfortable with their board, the Owner currently has the right to specify a majority of board members present (“board majority”) as recipients of a proxy.

There is no reason presented for eliminating the board majority requirement on standard association proxies.

This section of the bill is similar to a House bill presented in 2019 which received a lot of opposition by community leaders (HB347). It passed the House and was not heard by this Committee.¹

I was a condominium owner in 1979-1985 and many proxies simply appointed the president. **Prior to 1984, there was no board majority option. The result was that association presidents received most of the proxies and controlled the meeting.**

The right of Owners to appoint the board as an entity was originally added by Act 184 in 1984, about 35 years ago. It was extensively reviewed and included as part of the Recodification Report in 2003. This later became Chapter 514B.

The current system has worked well and has also been incorporated into Planned Community Associations.

There is still no need to eliminate the board majority box on the proxy that was established many years ago.

We ask that the Committee defer or hold this bill.

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

Sincerely,

Steve Glanstein

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

¹ This section of the bill also similar to bills presented and never adopted in 2009 (HB2042 and SB499; HB2042 was not heard and SB499 was deferred February 24, 2009 by the Senate Committee on Commerce and Consumer Protection).



P.O. Box 976
Honolulu, Hawaii 96808

February 1, 2021

Chair Rosalyn H. Baker
Vice Chair Stanley Chang
Committee on Commerce and Consumer Protection
415 South Beretania Street
Honolulu, Hawaii 96813

Re: SB 688 OPPOSE

Dear Chair Baker, Vice-Chair Chang and Committee Members

SB 688, in Sections 1 through 4, provides investigative, regulatory and enforcement powers to the Real Estate Commission in relation to the Condominium Statute, HRS 514B. The Community Associations Institute takes no issue with these provisions.

However, Section 5 of the bill amends the requirements for a condominium association's standard proxy form by deleting the option for an owner to give his/her proxy to the Board of Directors as a whole.

Removal of this option would serve only to undermine the successful self-governance provisions of 514B by eliminating the one option used most frequently by condominium owners.

The vast majority of condominium associations are very well managed and the owners are very satisfied with the performance of their Board of Directors and management staff. Consequently, by placing their trust in the judgment of these directors they are exercising their right to express their preference for a continuation of good financial and administrative management.

Elimination of this proxy option would serve no practical purpose and would create an limiting factor on the democratic voting process enjoyed by condominium owners.

CAI respectfully requests that the Committee delete Section 5 from this bill.

Very truly yours,

Allen Wilson
Allen Wilson

Senate

**Committee on Commerce and Consumer Protection
Wednesday, February 3, 2021 at 9:30 a.m.**

To: Chair Rosalyn Baker and Vice-Chair Stanley Chang

Re: SB688, relating to Condominiums; Voting; Enforcement

Aloha Chair Baker, Vice-Chair Chang, and members of the Senate Committee on Commerce and Consumer Protection,

I am Lila Mower and I **STRONGLY SUPPORT SB688** based on my experiences.

Since 2014, I led a coalition of more than 300 condo owners from over 150 condo associations. Additionally, I serve as a Director of a condominium association board and previously served as President of two other condo associations, all on Oahu. I have also participated in over ten condo association election records reviews.

As for experience on other volunteer boards, I am the President of Kokua Council, one of Hawaii's oldest advocacy organizations which focuses on policies and practices which impact the well-being of seniors and other vulnerable people and I also serve on the Board of the over-20,000 member organization, Hawaii Alliance for Retired Americans.

Roughly one-third (1/3) of Hawaii's population lives in association-governed communities. A national trade and special interest organization, Community Associations Institute (CAI), reported in their 2020 national survey, that 30% of association residents rate their association as NOT "positive." If that CAI ratio is applicable to Hawaii, then roughly one-ninth (1/9) of Hawaii's population, or over 140,000 Hawaii residents, may rate their associations as NOT "positive."

This critical assessment appears to be supported by reports from the insurance industry that Hawaii has the most Directors and Officers Insurance (D&O) claims in the nation and among the highest insurance settlements despite having only a small fraction of homeowners associations of states like Florida, California, New York, and Illinois.

Typically, in Hawaii, a board serves as its association's government with no "checks and balances" against its centralized power. Only the votes of the owners during elections serve to check and balance the absolute power of the board.

However, elections alone do not assure that the will of owners is represented because a board may use the resources of its association to meddle with the election process. Enforceable laws must exist to prevent election interference and to protect the integrity of the process.

Elections must not only be transparent, but they must be accountable and inclusive, with equitable opportunities to compete in the election.

If the competition between candidates is purposely uneven, then those to whom the elections are tilted may not necessarily represent owners' best interests. The "board as whole" proxy option serves to confer greater voting power to the board's majority, allowing them to repeatedly vote themselves into office while depriving and defeating candidates who may have garnered even more individual owners' votes than these incumbent directors.

Many retain their seats by using proxies which are often solicited from apathetic or absentee owners who are advised to assign their proxies to the "board as a whole" by association and management employees whose livelihoods appear to depend on the incumbents seeking reelection. Some of these directors rule these associations for years, even decades, as if they were anointed.

These undemocratic and discriminatory practices must stop.

The passage of SB688 allows for an impartial and credible electoral administration, effective oversight of the electoral process, and a competitive but fair election of directors who are representative of owners. Perhaps then D&O insurance claims will decrease, and RICO and legislators will no longer have to hear from so many displeased and distressed constituents.

Please recommend passage of SB688 to protect the most important right given to condominium owners, the right to have fair and honest elections.

Mahalo.

SB-688

Submitted on: 1/28/2021 9:51:10 PM

Testimony for CPN on 2/3/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Marcia Kimura	Individual	Support	No

Comments:

I support this measure. The time for the Real Estate Commission to assume some responsibility for enforcing fair practices in condominium administration is long overdue.

SB-688

Submitted on: 1/29/2021 8:52:33 PM

Testimony for CPN on 2/3/2021 9:30:00 AM

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

Comments:

Aloha: This bill is good and deserves being passed. Regarding nonjudicial foreclosures, they have been suspended for a few years now due to decisions in both federal and state courts that they are unconstitutional. These matters should be in regular courts where lawyers would have to do some work to earn their monies, unlike NJFs which are 'easy money' for them, in my opinion.

In my more than a decade on a condo Board of Directors, time and again I have watched while peoples 'debt' to an HOA triples or more as multiple letters are put on them by condo attorneys. Never has happened that a Board would invite people in economic distress to a meeting to discuss their plight and offer to work out a structured payment plan. Also, the Board could take the issue to Small Claims Court rather than pay condo attorneys huges sums of money up front to write collection letters, then insist to the condo owners that their debt is owed 'legal fees' from the letters.

Attached here is a good letter previously shared in a public discussion forum which puts a good focus on the matter using a well focused arguement.

Please pass this consumer-friendly bill.

[Submitted 29 Jan 2021]

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

PS - Having spent more than 33 years in a condo complex, was dismayed to see monthly fees skyrocket past the mortgage even before it could be paid off. Fair warning, any condo costs will exceed that of a detached home, over time, like, 20-30 years. This kills the idea of 'affordable housing'.

Measure Title: RELATING TO HOUSING.

Report Title: Nonjudicial Foreclosures; Moratorium; Housing; Condominiums;
Condominium Associations

Description: Temporarily halts nonjudicial foreclosures by condominium associations until 6/30/23.

Companion: [HB23](#)

Package: None

Current
Referral:

CPN, JDC

Introducer(s):

BAKER, CHANG, KEITH-AGARAN, MISALUCHA, Nishihara,
Shimabukuro, Taniguchi

SB-688

Submitted on: 1/31/2021 2:49:49 PM

Testimony for CPN on 2/3/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
COL Mark L. Brown, USA (Ret.)	Individual	Support	No

Comments:

Please SUPPORT SB688. The Bill includes an important provision that eliminates the option for a condo owner to convey their vote by proxy to the Board of Directors majority. I am a condo association Board of Directors member for a well-known condo tower on Ala Moana and have observed this option misused by a Board majority with financial ties to our Project Developers to the exclusion of the residential owners' best and common interests. Owners commonly select this proxy option, which has been resorted to the top of our proxy ballots by our managing agent (Hawaiiana Management Company), because it sounds appealing to those unaware of the easy misuse of this option by a Board majority to subordinate owner interests in favor of Project Developer and Managing Agent interests. Mahalo Nui Loa.

Senator Baker and Members of The Committee,

My name is John Morris, and I am testifying against SB688 because it is unnecessary and will probably make the situation worse.

I have been working with condominium associations since 1988 when I served as the first condominium specialist with the Hawaii Real Estate Commission. In that capacity, I dealt with MANY disgruntled owners. Since 1991, I have been in private practice representing condominium associations.

The number of times I have seen disputes about the voting in a meeting are so few that I cannot even remember them. Moreover, unfortunately, when owners allege flaws in the voting procedure, whose allegations are often similar to those made in the recent presidential election. The owners making the allegations are simply not as popular as they think they are. Alternatively, other owners are not as upset with the existing directors as the owner making the allegations.

In contrast, I have witnessed many times when determined owners have been able to secure votes through the existing voting procedures to remove the directors to whom they object and take their places. I have seen this occur since I was the condominium specialist in the late 80s, and it continues to occur on a regular basis.

Fortunately, the law already tries to level the playing field between individual owners and board members in soliciting votes. As a result, if owners are only willing to put in the time and effort, they can frequently elect themselves to the board with the support of their fellow owners and become board members in place of those they question.

As proposed, this bill will only drag the Department of Commerce and Consumer Affairs or Regulated Industries Complaints Office into voting disputes which will take a lot of time and be difficult to resolve. It is better to let democracy take its course as it typically does under the current law.

Similarly, the proposal to delete the ability of an owner to give his or her proxy to the board as a whole seems to be counterproductive. Many owners are not fully involved in the management and operation of their association but are nevertheless happy with the way in which their current board is running the project. Therefore, they will give their proxy to the board as a whole because they are not aware of the names of the individual members of the board. Owners who wish to do so should not be denied that right by eliminating the box.

As noted above, if the owners don't believe the board is doing a good job, they can select an individual -- often the determined owner or owners referred to above -- and let that owner or those owners move forward with their plans.

Finally, for legislature is going to delete a box from the mandatory requirements for a proxy, the legislature should delete the box that allows the proxy to be given for "*quorum purposes only*." this box is the real problem because it only encourages owner apathy and makes it difficult for associations to conduct business (because they often do not have the votes to take any significant action). The quorum only box has been a problem for decades and if the legislature wants to help

improve the voting process, it should eliminate that box. Then, owners will be forced to at least take some interest in their project and make their decisions accordingly.

Thank you for this opportunity to testify.

John Morris

SB-688

Submitted on: 1/31/2021 3:06:21 PM

Testimony for CPN on 2/3/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sandie Wong	Individual	Comments	No

Comments:

I am a condo owner and on my condo board. Although, I believe everyone should comply with HRS 514B-123, I think the penalties proposed are too severe. Yes, there are some bad actors, but the proxy form can be very confusing for a lot of owners and innocent mistakes may occur. Thank you.

SB-688

Submitted on: 2/1/2021 7:24:48 AM

Testimony for CPN on 2/3/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jade Mariano	Individual	Support	No

Comments:

Current law, or lack thereof, results in the "self-governed" aspect of condominium ownership being heavily weighted in favor of the AOAO board. The playing field needs to be leveled so that owners have a fair opportunity to make changes when needed. This bill will give condominium owners some help.

SB-688

Submitted on: 2/1/2021 5:08:53 PM

Testimony for CPN on 2/3/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
JOY SCHOENECKER	Individual	Oppose	No

Comments:

BOD know more about what projects are forthcoming and what talents of the BOD are needed. The proxies should remain as given to the board as a whole.

SB-688

Submitted on: 2/1/2021 6:05:02 PM

Testimony for CPN on 2/3/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dennis Perez	Individual	Oppose	No

Comments:

I would like to express my strong opposition to this change. The condo board is acutely aware of long and short term issues facing the community, financial concerns, legal concerns and maintaining the quality of living for residents. The condo board is in an excellent position to use proxy votes to select board members who have a wide range of skills from persons with construction backgrounds, financial skills, contract skills, legal, interpersonal skills and many other relevant skill sets that may be best suited to address the issues facing the community at any one time. Nearly half of our owners are not residents and not involved in the day to day affairs and depend on the condo board to use proxy votes to help select appropriate board members. If the proxy voting system is eliminated the board selection could become a popularity contest without the input from the condo board which has a great deal of insight into the most significant issues facing a community. Eliminating the board's ability to use proxy votes would be damaging to our community and I strongly oppose. I want the condo board to continue to be able to use this important tool to help choose excellent board candidates.

SB-688

Submitted on: 2/1/2021 7:13:02 PM

Testimony for CPN on 2/3/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
R Laree McGuire	Individual	Oppose	No

Comments:

I oppose the Bill and join in testimony submitted on 2/1/21 by Steve Glanstein on behalf of the Hawai State Association of Parliamentarians.

**Senate
Committee on Commerce and Consumer Protection
Wednesday, February 3, 2021 at 9:30 a.m.**

To: Chair Rosalyn Baker and Vice-Chair Stanley Chang
Re: SB688, relating to Condominiums; Voting; Enforcement

Aloha Chair Baker, Vice-Chair Chang, and members of the Senate Committee on Commerce and Consumer Protection,

I am Lourdes Scheibert and I STRONGLY SUPPORT SB688 based on my experiences.

I have served as a volunteer condominium director from 2011-2013. Every year after, I continued to pursue re-election for important issues on health and safety for my community. Finally, I was re-elected and served as a volunteer director from 2017 to 2019. 2020, I lost my re-election bid by proxy to the board as a whole. My same concerns of health and safety issues exist today. Since 2015, I joined a coalition of condo owners with like concerns. Today, I serve as a volunteer director at Kokua Council, the oldest advocacy organization for seniors and their families.

The proxy should be abolished: 514B-123 (c) Proxy to the board as a whole and that the vote is to be made on the basis of the preference to majority of the directors present at the meeting. Let us look at the history of the formation of this proxy and why.

A ThinkTeck Hawaii, Condo Insider, Proxy Wars 2/28/2019 by moderator Richard Emery and guest Steve Glanstein offers: **Historically, before 1983-1984, people would just give their proxies to the President. And the President of the Association would vote in behalf of the board. It would be difficult to get elected because that's the power to one person. This is what happened, historically, people would give proxies to the Association president.**

Since 1984, legislation added other safe guards to ensure fairness in elections with one exception by keeping proxies to the board as a whole for the majority directors. In my opinion, it makes no difference in giving your proxy to the President or the majority directors. My observations and experience, the majority directors are always in agreement with the President. Often times with safety and health issues that differs with the minority director. This draconian rule is restrictive and plain unfair to the minority directors and to the owners who assign their proxies to the minority director to represent their best interest.

The proxy (C) to those directors present at the meeting with the vote to be shared with each director receiving an equal percentage is fair and balanced. Each director is given a fair share to vote their conscious in secret. The power is evenly distributed.

When condominium owners file complaints to any State government agencies, we are told this is a civil matter and we don't get involved. This proxy to the board as a whole interferes in condominium self-governance and should be abolished by the Hawaii State Legislature. This would serve as the stepping stone to address other concerns for SB688.

Thank-you,
Lourdes Scheibert, Condominium Owner

SB-688

Submitted on: 2/2/2021 9:25:07 AM

Testimony for CPN on 2/3/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Randall Weikert	Testifying for AOA Mauna Luan Inc.	Oppose	No

Comments:

I would like to testify in opposition to SB688 as in most cases it would be detrimental to the condominium to not permit owners to place their trust in the Board as a Whole to decide on issues that they are intimately familiar with. Most owners do not stay apprised of issues surrounding management of their property due to time constraints and as such want other owners who are familiar to make decisions for them. Please vote against this legislation.

SB-688

Submitted on: 2/1/2021 5:04:53 PM

Testimony for CPN on 2/3/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeff Sadino	Individual	Support	No

Comments:

Voting as a whole does not provide any noticeable benefit to the Association, but it does provide an extremely easy and vicious way for one or two individuals to overtake the Board and Association as a whole. In my AOA, in about 5 years, the Resident Manager installed his roommate into the Board, who then was able to stack the Board with their allies who have thoroughly abused the voting system and have targeted individual Owners they don't like. Nothing gets done in our Association and nothing gets fixed. With less than 50% owner-occupancy, the other Owners are too apathetic and ignorant to know what is going on. Voting as a whole is a guaranteed way for the majority to stampede over the concerns of the minority.

Testimony by Jim Shon RE SB 688 Support

Madam Chair, Members of the Committee

This testimony applies to a number of condo democracy and consumer protection bills. Most of the issues addressed impact seniors and other vulnerable residents.

For any senior, aging in place (outside of a facility that provides health and home care support) means the senior is left to her own resources, knowledge, networks, and support systems.

Basic Needs:

1. Sufficient sustainable financial resources to pay for housing/rent for at least five years.
2. Adequate financial income to plug in medical coverage gaps – co-payments, deductibles, supplemental Medicare insurance, dental, optical, or other specialized care.
3. Knowledge and funds to pay for and manage medications.
4. A case manager, be it knowledgeable family or a formal case management service, to navigate the medical/social service complex maze.
5. An affordable plan in case of a medical emergency, especially for chronic conditions, smaller strokes, falls, etc.
6. Knowledge and ability to contract with social and home care support services.
7. Someone to check on the individual on a regular basis.
8. Transportation to and from stores, doctor visits, etc.
9. Some social network to mitigate isolation, maintain engagement and mental health.
10. Consumer protections against physical, mental, and financial abuse and exploitation.

The Complications of the Condo

- A Condo is a ***vertical village***, with its own limited, less transparent democratic rules, limited oversight over its governance, and a “taxation” scheme (maintenance fees) not based on income or unit value (unlike that for single family dwellings).
- The BOD and their friends tend to control the decisions that have a financial impact on residents. Major cost items may result in low income residents losing ownership of their units.
- A completely ***separate regulatory and consumer protection section of the law*** that tends to be less robust than for other segments of the community.

- Completely separate advocacy groups.
- The likelihood that the most vulnerable seniors are older women, who have had less lifetime income, and thus less retirement payments (if any at all) and less social security payments.
- General respect for the privacy of residents, which means it is possible that a resident is not known by neighbors, which means their needs may not be known.
- Increased vulnerability in the loss of electricity in the building, during fire, or a longer-term issue i.e. natural disasters such as a hurricane hitting Oahu.
- Hit and miss interest and capacity of resident managers to keep track of or monitor the more vulnerable.
- Indirect outsourced management companies which may or may not have trained and licensed agents. This relates to both cost and safety improvements.