

Richard B. Emery
April 2, 2022

(1) Why do you wish to be a member of the Real Estate Commission?

I have been a resident of Hawaii for 46-years and a Hawaii licensed real estate broker since 1998. I have been actively involved in the Hawaii real estate industry and have an ardent desire to give back to our community through active engagement. My background described below in #3 outlines my unique experiences that would be beneficial to the commission.

(2) What do you perceive are the roles and responsibilities of a member of the Real Estate Commission?

The Real Estate Commission has an active role in licensing, licensee discipline, education, developer public reports, and association issues. Although Hawaii currently has robust licensing laws, times and requirements are ever changing. It is important that the integrity of the industry be preserved and enhanced through continuing education not just for licensees but also consumers, proper licensing, and enforcement, and understanding of the real estate environment. A Commissioner should be impartial and objective in his actions to protect all concerned on Hawaii real estate matters.

(3) Given your understanding of the roles and responsibilities of a Real Estate Commission member, why do you believe that you are qualified for the position? Please include a brief statement of your skills, expertise and knowledge that would aid you as a member of the Board.

I Have an extensive Hawaii real estate experience to include the following:

- *Own and manage Hawaii First Realty LLC. A small general brokerage firm and regular provider of core and continuing education classes to licensees.*
- *Previous member of commission's condominium education committee and task force to review our Administrative Rules.*
- *Member, CAI National Task Force on Reserve Study Public Policy. I am a Reserve Specialist.*
- *Member of Hawaii CAI Legislative Action Committee and Director of the Hawaii Council of Community Associations.*
- *CAI Federal legislative liaison for Hawaii. Provides ongoing information on real estate practices throughout the USA.*
- *Admitted Member of the National Association of Parliamentarians.*
- *National lecturer on common interest realty association issues.*
- *Appointed Subchapter V Bankruptcy Trustee, as approved by the Department of Justice.*
- *Former Developer of the Queen's Court office condominium.*
- *Member, National and Hawaii Association of Realtors.*
- *Community engagement currently as President of The Pacific Club. Former board governance of the Better Business Bureau, U.S. Vets, Hawaiian Mission House Museums, among others.*

Approximately 38% of our population lives in some form of an association. My experience and perspective would be valuable to the commission. Few real estate agents have this in-depth experience.

(4) What do you hope to accomplish during your term of service?

I strongly believe that we as citizens have an obligation to give back through positive contributions. I understand the role a single commissioner plays in multi-member board. I feel I can bring legitimate perspectives to the commission, so we protect and enhance the real estate industry.

(5) Name three qualities that best describe you and how these qualities will benefit the Real Estate Commission.

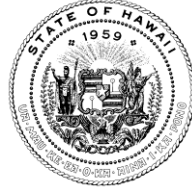
Dedicated, Fair, and Visionary. I am fully committed to any duty I assume. I am highly organized to bring results. I treat people fairly and equally and understand the many sides of an issue. I am blessed with the ability to discuss issues without offending the parties. Due to my active involvement, I foresee the future and challenges of the industry to offer insight.

(6) Name a previous experience you've had that will be beneficial as a Real Estate Commission member.

I often serve as an expert witness on real estate related matters. I have firsthand experiences where licensees failed in their duties to the consumer client and the repercussions. Protection of the integrity of the industry is paramount. I understand the importance of a commissioner's role and duty to the public.

(7) Can you foresee any conflicts of interest that could arise during your service on the Real Estate Commission? How would you overcome conflicts of interest?

No. It is incredibly important that there be full transparency and that even the perception of a conflict of interest be avoided. I would remove myself from any issue where there is a perception of a conflict of interest and further disengage with organizations that create a false perception.



DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

**STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

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CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce and Consumer Protection
Friday, April 8, 2022
9:30 a.m.
Conference Room 229 and Via Videoconference**

**On the following measure:
G.M. 835, SUBMITTING FOR CONSIDERATION AND CONFIRMATION
TO THE REAL ESTATE COMMISSION,
GUBERNATORIAL NOMINEE, RICHARD EMERY,
FOR A TERM TO EXPIRE 06-30-2026**

Chair Baker and Members of the Committee:

My name is Catherine Awakuni Colón, and I am the Director of the Department of Commerce and Consumer Affairs (Department). The Department supports the appointment of Mr. Richard Emery to the Real Estate Commission (Commission) as a licensee member.

Mr. Emery has been a Hawaii licensed broker for over 25 years. He served as the principal broker and president of Hawaii First Inc. Mr. Emery also serves as vice president of government affairs for Associa, Hawaii. He is a member of the Community Associations Institute Legislative Action Committee and a director for the Hawaii Council of Community Associations.

Mr. Emery's professional experience and varied expertise will offer a meaningful perspective to the Commission. In addition, his commitment to participate in commission meetings will greatly enhance the Commission's effectiveness.

Testimony of DCCA
G.M. 835
Page 2 of 2

Thank you for the opportunity to testify on this measure.



GOV. MSG. NO. 835

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

March 29, 2022

The Honorable Ronald Kouchi, President,
And Members of the Senate
Thirty-First State Legislature
Hawai'i State Capitol, Room 409
Honolulu, Hawai'i 96813

Dear Senate President Kouchi and Members of the Senate:

In accordance with the provisions of Article V, Section 6 of the Hawai'i State Constitution, I have the honor to submit herewith for your consideration and confirmation, the following nomination:

Richard Emery
Real Estate Commission
Expiration Date: 6/30/2026

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

The Senate
Committee on Commerce and Consumer Protection
Friday, April 8, 2022
9:30 a.m.

To: Senator Rosalyn H. Baker, Chair
Re: GM 835, Gubernatorial Nominee to the Real Estate Commission, RICHARD EMERY

Aloha Chair Baker, Vice-Chair Chang, and Members of the Committee,

I am Lila Mower, the leader of Hui 'Oia'i'o, a coalition of hundreds of property owners--mostly seniors--from now over-170 common-interest associations in Hawaii.

I am also the president of Kokua Council, one of Hawaii's oldest advocacy groups. We focus on policies and practices which can impact the well-being of seniors and our community.

Hui 'Oia'i'o recommends the selection of an impartial, objective, reasoned, and diligent candidate who can be independent of outside influences and is detached from self-interest for Hawaii's Real Estate Commissioner.

Because of his history as a representative of and lobbyist for the condominium and HOA trade industry, Hui 'Oia'i'o opposes Richard Emery's nomination to the Real Estate Commission. He has demonstrated biases for and is more protective of the industry, rather than of the consumers we represent.

I highly recommend Committee members watch a recent 27-minute ThinkTech "Condo Insider" program entitled, "Proxies and Voting," <https://youtu.be/wcgl7iTOif0>, in which Richard Emery decried two commentaries that I had submitted to the Honolulu Star-Advertiser for publication in February and March of this year, calling them "fake news."

His analysis that a statement I made in the February commentary was "a bunch of nonsense" failed to recognize its source, the Real Estate Commission's 2020 Annual Report:

"The condominium specialists respond to thousands of requests for information, advice, and referral every year. Chart 12 shows the number of requests to be 49,696 for assistance from condominium owners and interested persons handled by the condominium specialists in FY2020." (<https://cca.hawaii.gov/reb/files/2020/12/2020-Annual-Report-of-the-Real-Estate-Commission.pdf>)

In the video, Richard Emery denounced a statement in the March 2020 commentary as "false," "a bunch of BS," "a bunch of fake news," and "flat false," however, the legal firms whose websites are the sources from which I based my comments, are preeminent in their own states. For confirmation, please see:

<https://beckerlawyers.com/hoa-proxy-elections-permissible-news-press/#:~:text=By%20contrast%2C%20the%20Florida%20Condominium,be%20cast%20by%20limited%20proxy>

"By contrast, the Florida Condominium Act, Chapter 718 of the Florida Statutes, limits the use of proxies and requires that any substantive vote, such as votes on document amendments,

reserve questions, waiver of financial reporting, must be cast by limited proxy. Voting for the election of directors may not be done by proxy and may only be done by secret ballot.

<https://www.davis-stirling.com/HOME/E/E-Ballots>

“Unfortunately, the Davis-Stirling Act currently requires a paper double envelope system for the following types of elections (Civ. Code §5100):

- election of directors
- removal of directors
- special assessments
- amendments to the CC&Rs and bylaws
- grants of exclusive use common areas”

and <https://www.davis-stirling.com/HOME/Statutes/Civil-Code-5100#axzz2CR2ljrY>

“Civil Code §5100. Elections that Require Secret Balloting. (a)(1) Notwithstanding any other law or provision of the governing documents, elections regarding assessments legally requiring a vote, election and removal of directors, amendments to the governing documents, or the grant of exclusive use of common area pursuant to Section 4600 shall be held by secret ballot in accordance with the procedures set forth in this article.”

Richard Emery also incorrectly attributed the titles that the editors of the Honolulu Star-Advertiser gave to my commentaries, and protested the use of the words, “distort” and “plight,” none of which were mine.

Later in the video, he wrongly criticized the condominium owners’ coalition for the concocted phrase, “Condo Czar,” which we first saw in an amendment to a proposed measure, LY 2016 HB1802; we prefer the term, “ombudsman.”

Further, it is unacceptable and false to imply as Richard Emery did--at least twice--that the root of these published commentaries is one’s un-electability. As the sole author of these two Honolulu Star-Advertiser commentaries, I affirm that I recently resigned from an over-extended term as a director (due to the Association’s inability to hold annual elections in 2020 and 2021) and did not seek nor did I desire re-election. In the other Associations I served, I also resigned because I had sold my ownership interests and was no longer eligible to serve.

The many misrepresentations by Richard Emery in just that single ThinkTech video--and he has been involved in dozens--are only the most recent of many which demonstrate his prejudices against and antipathy towards condominium and HOA owners.

A Real Estate Commissioner should be diligent in his investigations to avoid unfounded public accusations and should be more professional in his assertions. It is flawed to call verified data, especially the Real Estate Commission’s own, “a bunch of nonsense,” and improper to imply that my commentaries were “fake news.”

It has not escaped Hui 'Oia'i'o's notice that condominium owners are misportrayed among the condominium and HOA trade industry as "disgruntled," "addled," and other disparaging terms. To demonstrate, these are just two quotations of lobbyists of the trade industry in regard to the earlier mentioned ombudsman measure, LY2016 HB1802:

Steve Glanstein, February 5, 2016, by email, "I suspect this bill is being pushed by about 5 dissatisfied and probably unelectable owners who are using it to force their way onto their association board."

Phil Nerney, June 2016 CAI Hawaii newsletter, "The explanation is that such proposals respond to the complaints of unhappy people. A particular cluster of people unhappy with their condominium associations made a conceded effort to advocate their perspective at the legislature this year."

To counter the condominium and HOA trade industry's non-objective, prejudiced, and inflammatory sentiments, Hui 'Oia'i'o makes every effort to study, verify, and document our claims and commentaries using reliable sources.

Attached to this testimony is Exhibit A, a list of the now-170 named associations whose owners participate with Hui 'Oia'i'o. There are more, but those owners do not want to identify their associations.

In summary, Richard Emery has opposed our efforts

- to eliminate election improprieties,
- to seek enforcement of HRS 514B and other governing documents,
- to achieve equal protection under the law,
- to mandate management education and licensure for greater assurance of qualified and informed management and accountability
- and more.

Thus, we **oppose** Richard Emery's nomination to the Real Estate Commission.

Mahalo for the opportunity to testify.

EXHIBIT A

LIST OF ASSOCIATIONS WITH OWNERS' COALITIONS

This is just a partial list and does not include many unnamed associations because their owners fear identification and subsequent retaliation.

909 KAPIOLANI
1330 WAIMANU
1350 ALA MOANA
1634 NUUANU
1717 ALA WAI
2121 ALA WAI
3027 PUALEI (CO-OP?)
ADMIRAL THOMAS
AIKAHI
ALA MOANA HOTEL
ALA WAI COVE
ALA WAI MANOR
ALA WAI PLAZA
ALLURE WAIKIKI
ALOHA LANI
ATKINSON PLAZA
ATKINSON TOWER
BIG SURF
BLUESTONE
BOUGANVILLE
CAMELOT
CANTERBURY PLACE
CAPITOL PLACE
CENTURY CENTER
CENTURY PARK PLACE
CENTURY WEST
COLONNADE ON THE GRREENS
COMMODORE
COOLIDGE GARDENS
CORONET
COUNTRY CLUB PLAZA
COUNTRY CLUB VILLAGE
DIAMOND HEAD AMBASSADOR HOTEL
DIAMOND HEAD BEACH HOTEL
DIAMOND HEAD CONDOS
DIAMOND HEAD SANDS
DISCOVERY BAY
ESPLANADE
EVERGREEN TERRACE
FAIRWAY GARDENS
FAIRWAY HOUSE
FAIRWAY TERRACE
FOSTER TOWER
GATEWAY PENINSULA
HALE KAHEKA
HALE O KALANI
HARBOR COURT
HARBOR POINTE

HARBOR SQUARE
HARBOR VIEW PLAZA
HARBOUR RIDGE
HAWAIIKI
HAWAIIAN MONARCH
HAWAIIAN PARADISE PARK (owners association under 414)
HILLSIDE VILLA
HOKUA AT 1288 ALA MOANA
HOLIDAY VILLAGE
HONO HALE
HONOLULU PARK PLACE
HONOLULU TOWER
ILIKAI APARTMENT
ILIKAI MARINA
IMPERIAL PLAZA
IOLANI COURT PLAZA
KAHALA TOWERS
KAHANA RIDGE
KAI LANI (KO OLINA)
KALELE KAI
KAPAHULU VISTA
KAPOLEI KNOLLS
KAPIOLANI BANYAN
KAPIOLANI GARDENS
KAPIOLANI MANOR
KAPIOLANI TERRACE
KAPIOLANI TOWER
KEONI ANA
KINAU LANAIS
KINGSGATE
KOKO MARINA
KOOLANI
KO OLINA KAI
KUKUI PLAZA
LAHAINA SHORES
LUKEPANE GARDENS
LIKINI WEST
MAILI KAI
MAKAHA SHORES
MAKAHA SURFSIDEE
MAKAHA VALLEY PLANTATION
MAKAHA VALLEY TOWERS
MAKAKILO GARDENS
MARCO POLO
MARINERS VILLAGE
MAUI KAMAOLE
MAUI LANI TERRACE
MAUI VISTA
MAUNA LUAN
MAWAENA KAI
MELEMANU WOODLANDS
MILILANI (COMMUNITY)
MOANA PACIFIC

MOKULEIA SURF
MOTT SMITH LANILOA
MOUNT TERRACE
NAURU TOWER
NUUANU PARK PLACE
NUUANU WOODS
OAHU SURF
OCEAN POINTE (HOMEOWNERS ASSOCIATION)
OLALOA, MILANI
ONE ALA MOANA
ONE KALAKAUA
ONE WATERFRONT TOWERS
OPUA HALE PATIO HOMES
ORCHIDLAND ESTATES
PACIFIC PALISADES (HOMEOWNERS ASSOCIATION)
PACIFICA HONOLULU
PALEHUA HALE
PALM COURT
PALM VILLAS
PEARL ONE
PEARL TWO
PEARL REGENCY
PEARLRIDGE GARDENS AND TOWER
PINNACLE HONOLULU
POHAKEA POINT, PH. 4
POKAI BAY CABANAS
PRINCESS LEILANI
PUALEI CIRCLE
PUNAHOU TOWERS
PUU ALII
PUU HELEAKALA
PUU PALEHUA ASSOCIATION
QUEEN EMMA GARDEN
REGENCY PARK
REGENCY TOWER
ROYAL CAPITOL PLAZA
ROYAL COURT
ROYAL IOLANI
ROYAL KAHANA
RYCROFT MANOR
SEASIDE SUITES (aka 440 SEASIDE)
SEAVIEW
SPRUCE RIDGE VILLAS
SUNSET LAKEVIEW
SUNSET TOWERS
TERRAZZA
THE ALII (CO-OP)
THE COLLECTION
THE CONTESSA
THE ESPLANADE
THE PACIFICA
THE PENINSULA
THE SANDS OF KAHANA

THE SOVEREIGN
THE TOWNHOUSE
THE WINDSOR
URAKU
VILLAGE PARK (HOMEOWNERS ASSOCIATION)
VILLAGES OF KAPOLEI (HOMEOWNERS ASSOCIATION)
WAIAMU GARDENS
WAIKALANI WOODLANDS
WAIKALOA VILLAGE
WAIKELE (HOMEOWNERS ASSOCIATION)
WAIKIKI LANAIS
WAIKIKI SKYTOWER
WAIKIKI SUNSET
WAILANA
WOODWINDS
YACHT CLUB
YACHT HARBOR TOWERS

GM-835

Submitted on: 4/4/2022 1:43:18 PM

Testimony for CPN on 4/8/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Na Lan	Individual	Support	Written Testimony Only

Comments:

I hereby submit this testimony in support of Governor Ige’s nomination of Mr. Richard Emery (“Mr. Emery”) to serve on the Real Estate Commission for the term expiring on June 30, 2026, as stated in Gov. Meg. No. 835.

I have served along with Mr. Emery on the Legislative Action Committee of Community Associations Institute, Hawaii Chapter for many years, and personally witnessed the great contribution made by Mr. Emery to the condominium and community association industry in Hawaii.

Mr. Emery has over 25 years’ experience in residential real estate. He was the founder of Hawaii First, Inc., the former third largest local property management company acquired by Associa in 2011, and serves as Vice President of Government Affairs for Associa, Hawaii region. He devoted a lot of time and efforts hosting the Condo Insider show with Think Tech Hawaii, promoting public education regarding condominium related matters. He has also been serving as an expert witness in arbitration and litigation on condominium and community association related disputes. It would be great for our community to benefit from Mr. Emery’s continued service with his extensive experience, expertise and passion in our industry.

Thank you for your consideration.

Sincerely,

Na Lan

LAW OFFICES OF PHILIP S. NERNEY, LLLC

A LIMITED LIABILITY LAW COMPANY
335 MERCHANT STREET, #1534, HONOLULU, HAWAII 96806
PHONE: 808 537-1777

April 4, 2022

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

Re: Real Estate Commission Nominee Richard Emery

Dear Chair Baker, Vice Chair Chang and Committee members:

Richard Emery is an exceptionally able nominee who will serve the public well. This is due to breadth and depth of experience, and because Mr. Emery has excellent judgment.

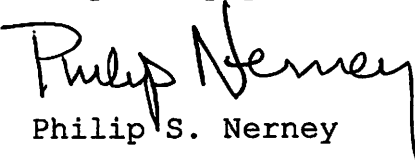
A practical and solution-oriented approach to problem solving is characteristic, as is quick appreciation for the issues and interests of constituencies. Mr. Emery works well in groups and is known for bringing people together.

Long experience in the real estate industry, and notable success, are an obvious part of his resume. Having worked with him for years in connection with the Legislative Action Committee of the Community Associations Institute (Hawaii Chapter), it is apparent to me that his business acumen and knowledge regarding real estate matters would enable Mr. Emery to contribute substantially to performance of the Real Estate Commission's mission.

Beyond that, Mr. Emery is likable and well-liked. He is a good person.

It is my privilege and pleasure to support his nomination. The people of Hawaii will benefit if Mr. Emery's nomination to the Real Estate Commission is confirmed.

Very truly yours,


Philip S. Nerney

GM-835

Submitted on: 4/4/2022 2:54:06 PM

Testimony for CPN on 4/8/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Individual	Support	Written Testimony Only

Comments:

I strongly support the nomination of Richard Emery to the Real Estate Commission. I've had the pleasure of working with him on the Hawaii Council of Community Association Board. He knows real estate and will be a definite asset to the Commission.

Please confirm his nomination to the full Senate. Thank you.

Mike Golojuch, Sr.

GM-835

Submitted on: 4/4/2022 3:50:47 PM

Testimony for CPN on 4/8/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Steve Glanstein	Testifying for Hawaii State Association of Parliamentarians	Support	Written Testimony Only

Comments:

Mr. Emery has been supportive in numerous areas relating to Hawaii Real Estate. He will be an excellent addition to the Commission and we support his appointment.

HCCA
Hawaii Council of Community
Associations
www.hawaiicouncil.com

April 4, 2022

Senator Roslyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection

Re: **GM835 Testimony in Support of Governor's Nomination of
Richard Emery to the Real Estate Commission
Hearing Date: Friday, April 8, 2022**

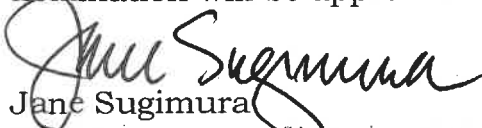
Dear Senator Baker:

I have known Richard Emery professionally for over 20 years and write in whole-hearted support for his nomination to the Real Estate Commission.

Richard Emery has the experience of many years in the real estate and property manager field through his ownership and operation of Hawaii First Inc. from and after 1996. Hawaii First was acquired by Associa Hawaii and Richard remains affiliated with Associa as Vice President of Government Operations.

Richard Emery has also been active in condominium and community association communities by serving on the board of directors of Hawaii Council of Community Associations ("HCCA") and on Community Association Institute ("CAI") Hawaii's legislative committee. He has for years actively advocated for legislative action affecting and relating to condominiums and community associations and he has regularly served on panels for HCCA and CAI educational seminars and shared his knowledge with boards and owners. He assisted in developing and is a regular co-host for "Condo Insider" a weekly You Tube show produced by Think Tech Hawaii which provides 28-minute free educational videos regarding condo living and issues that people can watch on any digital device, and these videos have been available to public since 2018.

I believe that Richard Emery will be an asset to the Commission and trust that his nomination will be approved by your Committee.


Jane Sugimura
President

1050 Bishop Street #366, Honolulu, Hawaii 96813

GM-835

Submitted on: 4/5/2022 12:06:13 AM

Testimony for CPN on 4/8/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Kate Paine	Individual	Oppose	Written Testimony Only

Comments:

This position is for condominium owner advocates ONLY. The State's role as a taxpayer-funded govnmnt entity is to protect citizen rights. For years, Emery has a been a paid lobbyist representing the condo mgmnt industry, writing and supporting legislation in support of corporate, not owner, interests. . To have him approved to this position is a huge conflict of interest and should not be considered. Condo owners are in desperate need of advocates, not insiders. Every voting representative knows this and should vote for owner rights.

GM-835

Submitted on: 4/5/2022 12:20:03 PM

Testimony for CPN on 4/8/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Marcia Kimura	Individual	Oppose	Written Testimony Only

Comments:

I wholeheartedly oppose the appointment of Richard Emery to the HREC which already has too many commissioners either indifferent to or opposed to, the rights of condominium owners who number more than 173,000 as of this writing. Isn't he one of the group of industry officials who dismissed us owners as "just a handful of disgruntled owners?" If you were to personally survey a good percentage of the owners, on or off the record, you will surely find more than 50% of them in dissatisfaction with the manner in which their rights are upheld by government and by the condo industry.

Dale A. Head
1637 Ala Mahina Place Honolulu, HI 96819
(808) 836-1016 Home (808) 228-8508 Cell/Text
[sunnymakaha@yahoo.com] Tuesday 5 April, 2022

Hawaii Senate Committee on Commerce and Consumer Protection:

Subject: Testimony to OPPOSE Governor's Message # 835 Appointment to REC

- 1. Hawaii Governor David Ige** has nominated Mr. **Richard Emery** to serve as a Commissioner on **Hawaii Real Estate Commission**. It presently is composed of **9** members, **7** of whom are Brokers and **2** attorneys (both listed as 'Public' members). It would be appropriate for a new member to be **Akamai in Consumer Protection and Voting Rights**.
- 2.** To his credit, Mr. Emery founded **Hawaii First** property management company, which later was sold to **Associa**. Big segment of their business is having **Home Owners Associations (HOA)** as clients. Per a state law, crafted in **2005** while we had **Governor Linda Lingle**, legislators passed **HRS514b-123** which specified members of an HOA must be present at a meeting to cast their own vote. This 'law' constituted an **Act of Omission** as it failed to provide '**reasonable accommodation**' for owners to cast their own vote when unable to attend said meeting. This was an anti-democratic maneuver emplaced into the condominium statute which **disenfranchised** many tens of thousands of HOA members, taxpayers, from exercising their own right to vote. Mr. Emery's company essentially manages not just clients monies but also their elections, which is common within the 'industry' of property management companies.
- 3.** For those unfamiliar with HOAs, their ByLaws are created and provided to buyers by the project's **Developer**. Uniformly, they never provide clauses such as **Voting Rights, Civil Rights, or, Due Process**. Such documents are not provided to potential buyers, but, only after a purchase contract is signed. It is rather like buying a car and signing a blank contract without the price specified. Not too smart. Investors are the great majority of HOA members, currently estimated to be **70%**, which is over an estimated **120,000** dwellings (of **173,000** condominiums, not counting townhouses and detached homes). Whenever efforts are made in our Legislature to make HOA elections more democratic, as in enabling owners absent from a meeting to cast their own vote by US Mail, the Internet, or some other electronic means, such as specified in **SB2852 /HB1583** this current **2022** Legislative Session, Mr. **Emery** testified against that common sense measure. His mention below of having to develop 'software' to do so has already been perfected by other companies which perform the role of Surveys and Ballot Systems.
- 4.** Mr. **Emery** hosts a TV show called '**Condo Insider**'. On his recent **17 March 2022** episode, titled **Proxies & Voting**, during the 27 minutes and 39 seconds of the recording he never advocated for HOA members to have the right to cast their own vote via US Mail or the Internet, making mention only briefly that **Governor David Ige** authorized such but only during the current Pandemic or a County Emergency. His obsession with **Proxies** is an anti Voting Rights rant, in my opinion. As only, on average, **30%** of HOA owners may be available to attend an Election Meeting, the state position that Associations are 'self governing' is really stretching the truth. Basically, when less than 1/3 of owners may possibly vote, that is not majority rule.
- 5.** Here is his testimony on that **HOA Voting Rights Bill I** persuaded **Senator Donna Mercado Kim** to introduce (note - 15 other Senators were listed on it) during the current **2022** Legislative Session.

SB-2852 **Requires condominium associations to allow members or their proxies to vote by mail and attend and cast votes in association meetings through the Internet, teleconference, or other electronic transmission technology. Ensures the provision of copies of printed audit trails. (SD1)**

Submitted on: 1/31/2019 11:27:04 AM Testimony for CPC on 2/5/2019 2:00:00 PM. 2022 5:38:29 PM
Testimony for CPN on 2/16/2022 9:30:00 AM

Testifier **Richard Emery** for **CAI - Community Associations Institute** Position **OPPOSE** Comments - CAI supports measures that allow for more participation in voting. CAI recommends that a working task force be established to make recommendations for the following reasons:

- Associations usually vote by a percentage of common interest, often 6 decimal places.
- Director elections may allow for cumulative voting or stacking of votes for a candidate(s).
- Owners often assign a proxy holder but rescind the proxy at the meeting as the owner decided to attend. Proxies often go to the Board either as a majority or shared equally among Directors present.

- Directors are nominated at the meeting and often not known in advance.
- New Business not known in advance may be introduced at a meeting by an owner.
- Controls are necessary to make sure you can correctly identifying that the person voting remotely is an owner authorized to vote.

The industry is working with voting software providers to address electronic voting, but such software is not yet available. By establishing a task force to carefully look at the voting and meeting issues is more prudent at this time.

HB-347-HD-1 This one was introduced by **Representative Scott Saiki** in the **2019** session.

	Amends the requirements for a condominium association's standard proxy form by deleting the option for a condominium owner to give the proxy to the board as a whole. (HB347 HD1)
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Submitted on: 2/21/2019 10:45:07 AM Testimony for JUD on 2/22/2019 2:05:00 PM

Submitted By Organization -ASSOCIA

Testifier Position - OPPOSE

Present at Hearing - Yes Richard Emery

Comments:

We oppose HB347 as it takes away the right of an owner to assign his/her proxy to whomever they select. Often homeowners are not familiar with the individual views of a director but are happy with the board majority's direction. Directors are, after all, homeowners individually elected by owners at an annual meeting; more often 9 directors as current law requires association with more than 100 units to have 9 directors. Simply put, directors are elected representatives of the homeowners and they are homeowners too. Some candidates are not elected and seem to blame this on the board majority option on a proxy as if these directors are incompetent or in other words not doing what they want. Prior to the proxy options, owners were summarily asked to give their proxy to the Board President which is obviously consolidating voting further. This will worsen the situation and possibly make it more difficult to obtain a quorum. The current method is working just fine. WE OPPOSE.

6. As noted above, it was the **2005 Legislature** which codified **Voter Suppression**. However, it has been my personal experience as an **HOA** resident for **34** years and **10** months, and, a **Board** member for over a decade, that **Proxies** are subject to **Voting Subversion**. Let me explain that trick. The assigned Property Manager receives all Proxies and cloaks them in secrecy, not revealing to owners in attendance at an Annual Meeting 'how many' were received, and, how many of them were marked/assigned to the **Board** as a 'whole' (to be voted as a block as preferred by a simple majority of Board members), or, 'how many' were marked to be divided **evenly** between those Board members present at said meeting. Instead, without a proper **Motion** announced and recorded in either the **Official Minutes** or **Election Certificate**, almost always they are conferred on incumbents. This makes it essentially impossible to vote them out of power. That, is a '**Manipulated Election**'.

7. Respectfully, as Mr. **Richard Emery** has spent a great many years advocating for various Legislative Bills, but, not for the rights of HOA members to cast their own votes when they cannot attend a meeting 'in person', I **OPPOSE** his appointment to our **Hawaii Real Estate Commission**.

Sincerely, Dale A. Head

I've known Richard for over 45 years which includes his lengthy career in Real Estate. I watched him start and build a property Management company "Hawaii First" to become the third largest Property Management company in Hawaii. This is before selling it to Associa and being retained by Associa for his expertise and excellent reputation in the industry. He also has a show on Thinktech called "condo insider" which is an educational program for condo managers and owners.

Richard Emery is also a Bankruptcy Trustee which strongly speaks to his integrity and expertise in resolving business challenges.

I strongly support Richard Emery's nomination to the Real Estate Commission and feel he would be an excellent candidate.

Sincerely,

Charles Reindollar
2148 Mauna Pl
Honolulu, Hi 96822
808-349-9818

Make 2022 your best year ever. "If it's to be it's up to me".

HOSODA LAW GROUP

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Lyle S. Hosoda | lsh@hosodalaw.com
Kourtney H. Wong | khw@hosodalaw.com
Spencer J. Lau | sjl@hosodalaw.com

April 5, 2022

VIA EMAIL: baker4@capitol.hawaii.gov

Honorable Senator Rosalyn H. Baker
Senate District 6
Hawai`i State Capitol, Room 230
415 S. Beretania Street
Honolulu, Hawai`i 96813

RE: Richard Emery – Real Estate Commission

Dear Senator Baker:

I write in full support of Richard Emery to the Hawai`i Real Estate Commission. I have known Mr. Emery both personally and professionally for 35 years. He possesses all of education, training and experience for the position. I trust his professional judgment which is always made with the best interests of the community in mind and heart.

Should you have questions or wish to discuss Mr. Emery further, please do not hesitate to contact me.

Very truly yours,



Lyle S. Hosoda

Senator Baker,

This email represents my letter of support for Richard Emery's nomination to serve on the Hawaii Real Estate Commission. I have known Richard for more than 10 years in conjunction with our mutual careers in the community association industry. He has been a frequent speaker at our annual industry seminars in Northern California where my CPA firm has served some 5,000 homeowner associations over the last 40 years. Richard has consistently received excellent to outstanding reviews for his presentations and supporting educational materials - which display both his insightful knowledge of this aspect of the real estate industry, as well as his effective public speaking skills. I believe that he has the experience and ability to be of significant service to the State of Hawaii by appointment to the Real Estate Commission.

David Levy, MBA, CPA (Retired)

April 5, 2022

(Via Email baker4@capitol.hawaii.gov and
senbaker@capitol.hawaii.gov)

Honorable Senator Rosalyn H. Baker
Hawaii State Capitol, Room 230

Re: Richard Emery – Real Estate Commission

Dear Senator Baker:

It is my pleasure to state my support for Richard Emery's nomination to the Real Estate Commission. I have known Richard personally and professionally for over 20 years. Richard abides by the highest ethical standards; he gives of his time freely to educate others in the areas of real estate that I work in, i.e., condominiums and homeowners associations; and he cares about the impact of real estate on the people of Hawaii.

Thanks for your time and consideration. Richard will make a great addition to the Hawaii Real Estate Commission.

Very truly yours,

PORTER MCGUIRE KIAKONA, LLP



Christian P. Porter

-----Original Message-----

From: Peter Wargo <propmgt@msn.com>

Sent: Tuesday, April 5, 2022 10:53 AM

To: baker4 - David <baker4@capitol.hawaii.gov>

Subject: Support of nomination of Richard Emery as a commissioner with the Hawaii State Real Estate Commission

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Honorable Members of the Hawaii State Senate,

This letter is in support of the nomination of Richard Emery to the Hawaii State Real Estate Commission.

I have known Richard Emery for over 35 years both professionally and socially.

His involvement in the State of Hawaii as a businessman, Real Estate Broker, and as a member of numerous civic and charitable organizations has been and continues to be truly outstanding.

His experience, and knowledge of Hawaii real estate law, rules and regulations is exemplary.

Richard Emery is able to work with all members of the community regarding not only real estate issues but additionally many issues effecting Hawaii's future. He is dedicated to making Hawaii a better place for all.

As a licensed Hawaii State Real Estate Broker and principal broker of several real estate companies since 1984, I have had the pleasure and opportunity to work and collaborate with Richard Emery on many facets of real estate and other business issues effecting Hawaii.

I highly endorse his nomination to be selected as a commissioner with the Hawaii State Real Estate Commission.

Aloha and Respectfully submitted,

Peter M. Wargo

Sent from my iPhone

Dear Senator Baker:

My name is Tim Apicella. I am writing to support the nomination of Mr. Richard Emery to the State of Hawaii Real-Estate Commission.

I have known Mr. Emery since 2007, as my condominium association manager, fellow board member, and friend.

Mr. Emery has always demonstrated a vast knowledge of condominium management principals, association governing documents, real-estate issues, and innovative ways to approach and resolve conflicts between owners and members of the board of directors. He approaches any task with a calm and fair approach. I believe Mr. Emery would be an ideal candidate to serve on the Real-Estate Commission.

Sincerely,
Tim Apicella
Hawaii Kai

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

April 6, 2022

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

Re: Strong Support for Richard Emery, Real Estate Commission Nominee

Dear Chair Baker, Vice-Chair Chang and Members of the Committee:

I stand in strong support of the appointment of Richard Emery to the Real Estate Commission. I have known and worked with Mr. Emery for over two (2) decades and I can say with confidence that Mr. Emery will be an exceptional addition to the Real Estate Commission. Mr. Emery has always been a problem-solver and is continually pushing his own limits to take on new tasks and to help inform those around him.

I have had the pleasure of working closely with Mr. Emery for the past three (3) years as we both currently serve on the Legislative Action Committee for Community Associations Institute—the Hawaii Chapter. I have also had the opportunity of serving with him on the Board of Hawaii Council of Community Associations for the past four (4) years and he is an asset to the Boards on which he serves in that he always has something beneficial to add to the conversation. He is both practical and personable and it is my privilege to support his nomination. If he is confirmed, the people of Hawaii will be the beneficiaries.

Mahalo for the opportunity to testify in strong support of his nomination.

Very truly yours,



R. Laree McGuire

GM-835

Submitted on: 4/6/2022 9:16:27 PM

Testimony for CPN on 4/8/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Greg Misakian	Individual	Oppose	Written Testimony Only

Comments:

4/6/22

My name is Greg Misakian and I am a condominium owner in Honolulu Hawaii.

I am in opposition to the nomination of Mr. Richard Emery to the Real Estate Commission.

Based on my knowledge, experience, and research, I believe Mr. Emery is much too close to the Management side of the Condo/HOA Trade Industry, and because of this I believe there is the potential for conflict-of-interest in decision making. Mr. Emery's close ties to Associa, and others who oversee Condo Associations all across Hawaii, should be taken into consideration.

Respectfully submitted,

Greg Misakian

GM-835

Submitted on: 4/6/2022 9:59:57 PM

Testimony for CPN on 4/8/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Jeff Sadino	Individual	Oppose	Remotely Via Zoom

Comments:

I **OPPOSE** GM835 and Mr. Richard Emery's appointment to the Real Estate Commission.

I oppose Mr. Emery's appointment to the Real Estate Commission due to his previous record of being extremely anti-Owner on Condominium Issues.

Despite Mr. Emery's impressive resume as an educator to the Condominium industry, his testimonies clearly show that he has failed to understand the issues that Condominium Owners have been so exasperated with for so long.

After watching many of his Condo Insider podcasts over the years and watching how he ridicules, ignores, dismisses, and minimizes the difficulties that Owners face, I am left with the solid impression that he is more interested in promoting his own interests and significant portfolio of companies than he is in educating or being a public servant.

Mr. Emery's resume states that he is already the "Hawai'i Vice President of Governmental Affairs" for Associa, co-chair of CAI, and director of HCCA. I fear that his appointment to the REC would be too much consolidation of power in the industry. A different industry representative with less financial conflicts would be more appropriate.

The Real Estate Commission has oversight of over 500,000 people who live in Condominiums. These people deserve to have somebody on their oversight Board who understands their problems and who is willing to advocate for the benefit of everybody. Mr. Emery is not this person.

Thank you for the opportunity to testify,

Jeff Sadino

RE: Committee on Commerce and Consumer Protection

April 8, 2022

GM-835

Submitted on: 4/7/2022 8:34:49 AM

Testimony for CPN on 4/8/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Stephen W weidenholtz	Individual	Oppose	Written Testimony Only

Comments:

I oppose Mr. Emery's appointment to the Real Estate Commission due to his previous record of being extremely anti-Owner on Condominium Issues.

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-The Real Estate Commission has oversight of over 500,000 people who live in Condominiums. These people deserve to have somebody on their oversight Board who understands their problems and who is willing to advocate for the benefit of everybody. Mr. Emery is not this person.