

HCCA

Hawaii Council of Community
Associations
www.hawaiicouncil.com

February 1, 2022

Representative Aaron Johanson, Chair
Representative Lisa Kitagawa, Vice-Chair
House Committee on Consumer Protection and Commerce

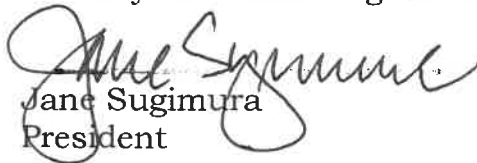
Re: HB1755, HB1756 and HB1757 Relating to Planned Community Associations.
Testimony in Opposition to all three bills.
Thursday, February 3, 2022 at 2 p.m.

Chair Johanson, Vice-Chair Kitagawa and Members of the Committee:

I am Jane Sugimura, President of the Hawaii Council of Associations of Apartment Owners (HCCA).

HCCA opposes these bills because they would interfere with and abrogate the Association's responsibility to enforce its covenants. If the owners are unhappy with provisions in their governing documents, the requisite number of owners can vote to amend those documents and covenants. The changes should not be done by legislation. HCCA also joins in CAI's opposition to these bills.

Thank you for allowing me to testify on this bill.


Jane Sugimura
President

HB-1755

Submitted on: 2/1/2022 6:14:09 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Mark McKellar	Law Offices of Mark K. McKellar, LLC	Oppose	No

Comments:

Dear Rep. Aaron Ling Johanson, Chair, Rep. Lisa Kitagawa, Vice Chair, and members of the Committee on Consumer Protection & Commerce:

I respectfully OPPOSE H.B. 1755. If passed, this measure will harm occupants of planned communities by precluding planned community associations from controlling the installation of security cameras on lots and dwellings. This measure will allow occupants to install security cameras that spy on neighbors, invade neighbors’ privacy, record activities in private areas of homes and lots, transmit signals that may be intercepted by computer hackers, and expose neighbors to the risk of criminal acts, thereby jeopardizing the safety and well-being of the community. For the reasons stated below, the Committee should not pass this measure.

Benefits and Risks Posed by Security Cameras

Although security cameras mounted on the exterior of a living unit (e.g., a doorbell camera aimed at an entry area of a home) may serve a useful function in deterring criminal activity, preventing unauthorized entries, providing a record of illegal activities, and helping to identify offenders, security cameras also pose major risks:

1. If mounted in inappropriate places, security cameras can be used to capture activities in otherwise private areas of lots. For example, a security camera mounted on the roof of a two-story home can be positioned to record activities in a private backyard, or the camera may be positioned to peer into the window of a home. Properly aimed, a high quality camera can capture and record images on computer screens or the keystrokes of a computer user. Cameras can be used to spy on children using a swimming pool. The opportunities to use security cameras for improper purposes are endless.

2. Security cameras frequently include microphones that can detect the voices of the persons who are being surveilled.

3. Residents in a planned community have a right to use their homes and lots without fearing that their neighbors are spying on them.

4. Video and audio collected by security cameras may be used for illegal purposes. The person who installs the camera may use the information collected to perpetrate crimes against the persons who are being surveilled. In addition, without the knowledge of the security camera owner, signals from security cameras and microphones may be intercepted, for example, if they are sent via wi-fi, and the intercepted signals may be used by other persons to perpetrate crimes.

5. As technology develops, security cameras will be capable of capturing even more detailed images and the sensitivity of microphones will be improved. Therefore, over time, security cameras will inevitably pose even greater risks than exist today.

6. Depending upon the manner of installation, security cameras may detract from the appearance of properties and violate multiple provisions of recorded declarations of covenants, conditions and restrictions, or design or modification rules. Governing documents may prohibit security cameras in certain locations, contain specifications for security cameras, or restrict the installation of wires and other devices, equipment and materials on the exterior of dwellings. Owners of units in planned communities often purchase their homes relying on the covenants, conditions, restrictions and rules and the ability of their associations to regulate activities on the project.

Role of Architectural Review

Association boards and architectural or design review committees are in the best position to determine under what circumstances security cameras may be installed on a particular lot. The review of alterations and additions to dwellings and lots in planned communities is an extremely important function of planned community associations. The decisions of boards and committees can have a direct impact on the use and enjoyment of the community, homes and lots. Any

measure to limit the authority of associations to review and approve or disapprove proposed alterations and additions, particularly with regard to security cameras, must be carefully analyzed, due to the drastic adverse consequences it may cause.

Furthermore, for reasons discussed below, there is no need for H.B. No. 1755. The authority of a board of directors or architectural review committee to oversee alterations and additions is defined by the governing documents of each association. However, regardless of the language in the governing documents, boards and architectural review committees do not have unfettered discretion to prohibit or regulate alterations and additions. In *Village Park Community Association v. Nishimura*, 108 Hawaii 487, 122 P.3d 267, footnote 5 (Haw. App. 2005), the Intermediate Court of Appeals noted that “when the association is the plaintiff and has the burden of proof, the plaintiff-association's burden is to prove that the committee/association's decision was **reasonable and made in good faith.**” (Emphasis added.)

Therefore, the draconian remedy sought by H.B. No. 1755 is not necessary as Hawaii courts impose a reasonableness and good faith standard on decisions regarding alterations and additions to lots in a planned community. On the other hand, if planned community associations are precluded from regulating the use of security cameras:

1. Nothing will prevent security cameras from being installed and used to spy on neighbors.
2. The privacy of occupants will be invaded.
3. Occupants may lose their right to use and enjoy their homes and lots. They will fear going outside, or even opening their window shades.
3. Criminal acts may be perpetrated against occupants of planned communities.
4. Security cameras will be installed in violation of the governing documents, without regard to aesthetics.

For the foregoing reasons, I respectfully OPPOSE S.B. 2730 and strongly urge your Committee not to pass this measure.

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HB-1755

Submitted on: 2/1/2022 4:41:33 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Anne Anderson	Individual	Oppose	No

Comments:

Dear Representative Johanson, Chair, Representative Kitagawa, Vice Chair, and Members of the Committee on Consumer Protection & Commerce:

I oppose HB 1755 and join in the testimony of Lance Fujisaki.

Respectfully submitted,

Anne Anderson

HB-1755

Submitted on: 2/1/2022 4:42:32 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Laurence Sussman	Individual	Oppose	No

Comments:

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Laurence E Sussman

HB-1755

Submitted on: 2/1/2022 5:51:26 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Laura Bearden	Individual	Oppose	No

Comments:

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HB-1755

Submitted on: 2/1/2022 7:01:09 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Doreen Liebertz	Individual	Support	No

Comments:

I support HB1755 as a home owner in Ewa Beach.

HB-1755

Submitted on: 2/1/2022 7:41:02 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jeff Sadino	Individual	Support	No

Comments:

I SUPPORT HB1755.

I am a condo Owner who has concerns about my safety while in my Unit and away from my Unit. A security camera provides certain security features that no other device offers, including documentation of events and the ability to monitor my Unit even when I am not home.

I have purchased a security camera for my front door. It has a motion-activated light that I have turned off in consideration of my neighbors and their young children. However, just by its design, it has a short external wire that is visible, which is very common on a lot of cameras and allows for easy adjustment of its exact placement without having to re-drill another hole all the way through my door.

I ask for a small change to the text to allow for a short length of external wire to be visible. 6” or 12” would be enough.

My first interpretation of this Bill is to allow security cameras going forward. However, my second interpretation is that it applies only to things that have happened in the past and it is silent on what happens in the future. I would ask that guidance be added for how to install a security camera in the future.

Thank you,

Jeff Sadino

RE: Committee on Consumer Protection & Commerce

February 3, 2022

HB-1755

Submitted on: 2/1/2022 8:00:18 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Tyrone Presto	Individual	Support	No

Comments:

I support HB 1755

HB-1755

Submitted on: 2/1/2022 9:08:08 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Chandra Kanemaru	Individual	Oppose	No

Comments:

Dear Rep. Aaron Ling Johanson, Chair, Rep. Lisa Kitagawa, Vice Chair, and members of the Committee on Consumer Protection & Commerce:

I respectfully OPPOSE H.B. 1755. If passed, this measure will harm occupants of planned communities by precluding planned community associations from controlling the installation of security cameras on lots and dwellings. This measure will allow occupants to install security cameras that spy on neighbors, invade neighbors’ privacy, record activities in private areas of homes and lots, transmit signals that may be intercepted by computer hackers, and expose neighbors to the risk of criminal acts, thereby jeopardizing the safety and well-being of the community. For the reasons stated below, the Committee should not pass this measure.

Benefits and Risks Posed by Security Cameras

Although security cameras mounted on the exterior of a living unit (e.g., a doorbell camera aimed at an entry area of a home) may serve a useful function in deterring criminal activity, preventing unauthorized entries, providing a record of illegal activities, and helping to identify offenders, security cameras also pose major risks:

1. If mounted in inappropriate places, security cameras can be used to capture activities in otherwise private areas of lots. For example, a security camera mounted on the roof of a two-story home can be positioned to record activities in a private backyard, or the camera may be positioned to peer into the window of a home. Properly aimed, a high quality camera can capture and record images on computer screens or the keystrokes of a computer user. Cameras can be used to spy on children using a swimming pool. The opportunities to use security cameras for improper purposes are endless.

2. Security cameras frequently include microphones that can detect the voices of the persons who are being surveilled.

3. Residents in a planned community have a right to use their homes and lots without fearing that their neighbors are spying on them.

4. Video and audio collected by security cameras may be used for illegal purposes. The person who installs the camera may use the information collected to perpetrate crimes against the persons who are being surveilled. In addition, without the knowledge of the security camera owner, signals from security cameras and microphones may be intercepted, for example, if they are sent via wi-fi, and the intercepted signals may be used by other persons to perpetrate crimes.

5. As technology develops, security cameras will be capable of capturing even more detailed images and the sensitivity of microphones will be improved. Therefore, over time, security cameras will inevitably pose even greater risks than exist today.

6. Depending upon the manner of installation, security cameras may detract from the appearance of properties and violate multiple provisions of recorded declarations of covenants, conditions and restrictions, or design or modification rules. Governing documents may prohibit security cameras in certain locations, contain specifications for security cameras, or restrict the installation of wires and other devices, equipment and materials on the exterior of dwellings. Owners of units in planned communities often purchase their homes relying on the covenants, conditions, restrictions and rules and the ability of their associations to regulate activities on the project.

Role of Architectural Review

Association boards and architectural or design review committees are in the best position to determine under what circumstances security cameras may be installed on a particular lot. The review of alterations and additions to dwellings and lots in planned communities is an extremely important function of planned community associations. The decisions of boards and committees can have a direct impact on the use and enjoyment of the community, homes and lots. Any measure to limit the authority of associations to review and approve or disapprove proposed

alterations and additions, particularly with regard to security cameras, must be carefully analyzed, due to the drastic adverse consequences it may cause.

Furthermore, for reasons discussed below, there is no need for H.B. No. 1755. The authority of a board of directors or architectural review committee to oversee alterations and additions is defined by the governing documents of each association. However, regardless of the language in the governing documents, boards and architectural review committees do not have unfettered discretion to prohibit or regulate alterations and additions. In *Village Park Community Association v. Nishimura*, 108 Hawaii 487, 122 P.3d 267, footnote 5 (Haw. App. 2005), the Intermediate Court of Appeals noted that “when the association is the plaintiff and has the burden of proof, the plaintiff-association's burden is to prove that the committee/association's decision was **reasonable and made in good faith.**” (Emphasis added.)

Therefore, the draconian remedy sought by H.B. No. 1755 is not necessary as Hawaii courts impose a reasonableness and good faith standard on decisions regarding alterations and additions to lots in a planned community. On the other hand, if planned community associations are precluded from regulating the use of security cameras:

1. Nothing will prevent security cameras from being installed and used to spy on neighbors.
2. The privacy of occupants will be invaded.
3. Occupants may lose their right to use and enjoy their homes and lots. They will fear going outside, or even opening their window shades.
3. Criminal acts may be perpetrated against occupants of planned communities.
4. Security cameras will be installed in violation of the governing documents, without regard to aesthetics.

For the foregoing reasons, I respectfully OPPOSE S.B. 2730 and strongly urge your Committee not to pass this measure.

Respectfully,

Chandra R.N. Kanemaru

Country Club Village, Phase 2

AOAO Board Director, Secretary

HB-1755

Submitted on: 2/1/2022 9:55:03 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Brent Adams	Individual	Support	No

Comments:

I support this bill. HOAs should not be allowed to infringe on any homeowner's right to basic security measures protecting a home.

HB-1755

Submitted on: 2/1/2022 11:09:46 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Danny Liebertz	Individual	Support	No

Comments:

I strongly support this bill. Whether installed by the current owner, or by a previous owner, the security of one's home is paramount and unless it is installed in a inappropriate manner, there should be ZERO fine nor should a review board deny a homeowner's right for protecting their property.

HB-1755

Submitted on: 2/2/2022 6:18:30 AM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lance S. Fujisaki	Individual	Oppose	No

Comments:

Dear Rep. Aaron Ling Johanson, Chair, Rep. Lisa Kitagawa, Vice Chair, and members of the Committee on Consumer Protection & Commerce:

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2. Security cameras frequently include microphones that can detect the voices of the persons who are being surveilled.
3. Residents in a planned community have a right to use their homes and lots without fearing that their neighbors are spying on them.
4. Video and audio collected by security cameras may be used for illegal purposes. The person who installs the camera may use the information collected to perpetrate crimes against the persons who are being surveilled. In addition, without the knowledge of the security camera

owner, signals from security cameras and microphones may be intercepted, for example, if they are sent via wi-fi, and the intercepted signals may be used by other persons to perpetrate crimes.

5. As technology develops, security cameras will be capable of capturing even more detailed images and the sensitivity of microphones will be improved. Therefore, over time, security cameras will inevitably pose even greater risks than exist today.

6. Depending upon the manner of installation, security cameras may detract from the appearance of properties and violate multiple provisions of recorded declarations of covenants, conditions and restrictions, or design or modification rules. Governing documents may prohibit security cameras in certain locations, contain specifications for security cameras, or restrict the installation of wires and other devices, equipment and materials on the exterior of dwellings. Owners of units in planned communities often purchase their homes relying on the covenants, conditions, restrictions and rules and the ability of their associations to regulate activities on the project.

Role of Architectural Review

Association boards and architectural or design review committees are in the best position to determine under what circumstances security cameras may be installed on a particular lot. The review of alterations and additions to dwellings and lots in planned communities is an extremely important function of planned community associations. The decisions of boards and committees can have a direct impact on the use and enjoyment of the community, homes and lots. Any measure to limit the authority of associations to review and approve or disapprove proposed alterations and additions, particularly with regard to security cameras, must be carefully analyzed, due to the drastic adverse consequences it may cause.

Furthermore, for reasons discussed below, there is no need for H.B. No. 1755. The authority of a board of directors or architectural review committee to oversee alterations and additions is defined by the governing documents of each association. However, regardless of the language in the governing documents, boards and architectural review committees do not have unfettered discretion to prohibit or regulate alterations and additions. In *Village Park Community Association v. Nishimura*, 108 Hawaii 487, 122 P.3d 267, footnote 5 (Haw. App. 2005), the Intermediate Court of Appeals noted that “when the association is the plaintiff and has the burden of proof, the plaintiff-association's burden is to prove that the committee/association's decision was **reasonable and made in good faith.**” (Emphasis added.)

Therefore, the draconian remedy sought by H.B. No. 1755 is not necessary as Hawaii courts impose a reasonableness and good faith standard on decisions regarding alterations and additions to lots in a planned community. On the other hand, if planned community associations are precluded from regulating the use of security cameras:

1. Nothing will prevent security cameras from being installed and used to spy on neighbors.
2. The privacy of occupants will be invaded.

3. Occupants may lose their right to use and enjoy their homes and lots. They will fear going outside, or even opening their window shades.

4. Criminal acts may be perpetrated against occupants of planned communities.

5. Security cameras will be installed in violation of the governing documents, without regard to aesthetics.

For the foregoing reasons, I respectfully OPPOSE H.B. 1755 and strongly urge your Committee not to pass this measure.

HB-1755

Submitted on: 2/2/2022 7:17:48 AM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
sara jones	Individual	Support	No

Comments:

Safety and security of ones home is a necessity and home owner associations should not have any authority over homwowners who want to have secutity cameras.

HB-1755

Submitted on: 2/2/2022 8:00:12 AM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Brandy Morris	Individual	Support	No

Comments:

Please adopt HB1755 with all haste. This bill will go far to inhibit HOA's all too common practice of preying upon new homeowners and residents. When a person buys a new home, security cameras and systems are viewed as added features of the home. Further, if the HOA in question has not assessed and recorded violations and fines to a previous homeowner for unapproved installation, how is a buyer to even be aware that the security cameras were not previously approved? Homeowners and residents pay far too much money for the privilege of living within well planned communities to have the Community itself alienate them by assessing frivolous fines.

HB-1755

Submitted on: 2/1/2022 7:44:56 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Vince Cole	Individual	Support	No

Comments:

Hi,

I am a homeowner in Kamakana at Hoakalei. I honestly don't think HOAs should be fining homeowners for protecting their home with cameras especially when they're not gawdy. It's just another way our HOA tries to make money and it's not right. We should have a right to add a doorbell with a camera or cameras to keep an eye on our homes. Most cameras turn on when someone comes into the vicinity of the camera so it's not constantly running. I fully support HB1755. Thank you for your time.

HB-1755

Submitted on: 2/2/2022 12:15:31 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Paul A. Ireland Koftinow	Individual	Oppose	No

Comments:

Dear Representative Johanson, Chair, Representative Kitigawa, Vice Chair, and members of the Committee on Consumer Protection & Commerce:

I respectfully OPPOSE H.B. 1756. This measure seeks to excuse unapproved violations which have been “completed” at least three years prior to the effective date of this measure (which is effective upon approval). It would also prevent associations from enforcing its covenants with respect to unauthorized alterations made by or on behalf of a previous owner, regardless of when made. This measure will be extremely unreasonable and will infringe upon the property and contract rights of planned community association and members who rely upon the benefits of restrictive covenants. If passed, this measure will severely undercut the ability of planned community associations and their members to maintain property values and promote the attractiveness of properties in the community.

Architectural and Design Committees are in the best position to make decisions concerning improvements which may detract from the overall appearance of the community.

Restrictive covenants in a planned community association’s governing documents serve important purposes which include the overall maintenance of property values and the attractiveness of a community. In furtherance of these purposes, many planned community associations require that their members obtain approval from an architectural or design review committee in advance of commencing construction. Unlike the legislature or the courts, architectural or design review committees are familiar with the design schemes of their communities, which are almost always established by rules, guidelines, and a common scheme that is visible in the community. As such, architectural or design review committees are in the best position to ensure that the design and appearance of exterior improvements are consistent with existing rules, guidelines, and the overall scheme of a community.

Despite this, there are instances where owners “take a chance” and proceed with construction without approval. This measure will not only essentially cause the legislature to step into the shoes of an association’s architectural or design review committee, but it would also result in a retroactive allowance of such unapproved construction without any regard for the rights of planned community associations and their members. This measure would unjustly infringe upon and disregard the property and contract rights of planned community associations and their

members by prohibiting them from enforcing the provision of the governing documents as to unauthorized alterations and modifications completed more than three years ago.

It is likely this measure will be an unconstitutional impairment of contract.

While the enforcement of a restrictive covenant involves property rights and equitable considerations, restrictive covenants can also be considered contractual rights. In Hawaii, the statute of limitations to enforce a contract is six years. If this measure passes, any planned community association or owner who is presently working to enforce its governing documents within the six-year statute of limitations will find that their contract rights are completely impaired by this measure if it passes.

There is no exception for proceedings which are presently before the Court or are in arbitration under this measure.

This measure, as presently drafted, applies to any unauthorized alteration which was constructed and completed more than three years prior to the effective date of this statute. There are, without a doubt, actions which are presently in court or are in arbitration and which concern unauthorized alterations which were constructed more than three years ago. This measure contains no exception for such matters, and would be extremely unfair to parties who may be seeing relief in court or in arbitration proceedings.

This measure disregards any potential hazards to health and safety which may have been constructed at least three years ago.

Design and attractiveness are not the only factors which might be addressed in an association's governing documents. In certain situations, an association's governing documents require that a new improvement not create any hazards to the health and safety of others. However, if this measure becomes law, a violating owner may use this measure as a shield to prevent a planned community association or its members from taking any action to enforce its governing documents, even if an unauthorized alteration or modifications poses a serious hazard to health and safety.

This bill would allow owners to make multiple unauthorized alterations and then quickly sell their lots to prevent the association from taking action against them or the successor owner.

1. bill provides that no association may assess a fine or require an owner to undergo an architectural review for any construction or installation work performed by or on behalf of a previous owner, regardless of how much time has elapsed between the completion of the construction or installation work and when the current member or tenant took ownership or control of the unit. would permit owners to knowingly violate the covenants by installing unauthorized modifications and then quickly sell their units to avoid any action being taken against them or the successor owners. is completely unreasonable and undermines the very purpose of restrictive covenants.

Many violations are not discovered until after construction ends.

This measure does not allow any exception to a planned community association or owners who are not presently aware of a violations, and could not have been aware of a violation. As a result, it would unfairly and unreasonable excuse owners of violations which, for instance, may have been intentionally hidden for a period of time after completion. If this measure passes, planned community associations and owners will be deprived of the right to seeking to enforce against certain violations which were not known and could not have been known with reasonable diligence.

Our legal system has long relied upon numerous legal and equitable standards such as notice, discovery, statutes of limitations, and laches, when considering whether a restrictive covenant is enforceable as to a particular violation. In most cases, the result is fair. For example, when an association representative discovers a violation on a property, it is often because a neighboring property owner has complained of the violation or because the association has been tasked with inspecting the property for another reason. Additionally, if an association representative discovers a violation, notices and demand for compliance are thereafter provided to an owner within a reasonable time. This measure, however, seeks to disregards whether an association has discovered a violation and is enforcing it governing documents within a reasonable time. As a result, this measure cannot be said to achieve a fair and reasonable result that would serve the interests of the community as a whole, and your Committee should therefore not pass this measure.

Respectfully submitted,

Paul A. Ireland Koftinow

HB-1755

Submitted on: 2/2/2022 12:39:22 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dale A. Head	Individual	Support	Yes

Comments:

Aloha Committee Members:

This is a good, common sense, Consumer Protection Bill. I have friends who had purchased and installed Video Door bell cameras for their own security. Oddly, control freak Boards of Directors required removal and threatened huge fines for non-compliance. So, the owner-occupants of such apartment units had to remove them. Such cameras serve as a deterrent against crime and should be allowed. Any 'fine' should be imposed by the state against the HOAs that block their installation or insist on their removal.

Respectfully, Dale A. Head (808) 836-1016 Home, or, (808) 228-8508 Cell/Text
[dale.head@aol.com]

Dear Rep. Aaron Ling Johanson, Chair, Rep. Lisa Kitagawa, Vice Chair, and members of the Committee on Consumer Protection & Commerce:

I respectfully OPPOSE H.B. 1755. If passed, this measure will harm occupants of planned communities by precluding planned community associations from controlling the installation of security cameras on lots and dwellings. This measure will allow occupants to install security cameras that spy on neighbors, invade neighbors' privacy, record activities in private areas of homes and lots, transmit signals that may be intercepted by computer hackers, and expose neighbors to the risk of criminal acts, thereby jeopardizing the safety and well-being of the community. For the reasons stated below, the Committee should not pass this measure.

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6. Depending upon the manner of installation, security cameras may detract from the appearance of properties and violate multiple provisions of recorded declarations of covenants, conditions and restrictions, or design or modification rules. Governing documents may prohibit security cameras in

certain locations, contain specifications for security cameras, or restrict the installation of wires and other devices, equipment and materials on the exterior of dwellings. Owners of units in planned communities often purchase their homes relying on the covenants, conditions, restrictions and rules and the ability of their associations to regulate activities on the project.

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Furthermore, for reasons discussed below, there is no need for H.B. No. 1755. The authority of a board of directors or architectural review committee to oversee alterations and additions is defined by the governing documents of each association. However, regardless of the language in the governing documents, boards and architectural review committees do not have unfettered discretion to prohibit or regulate alterations and additions. In Village Park Community Association v. Nishimura, 108 Hawaii 487, 122 P.3d 267, footnote 5 (Haw. App. 2005), the Intermediate Court of Appeals noted that “when the association is the plaintiff and has the burden of proof, the plaintiff-association's burden is to prove that the committee/association's decision was **reasonable and made in good faith.**” (Emphasis added.)

Therefore, the draconian remedy sought by H.B. No. 1755 is not necessary as Hawaii courts impose a reasonableness and good faith standard on decisions regarding alterations and additions to lots in a planned community. On the other hand, if planned community associations are precluded from regulating the use of security cameras:

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4. Security cameras will be installed in violation of the governing documents, without regard to aesthetics.

For the foregoing reasons, I respectfully OPPOSE S.B. 2730 and strongly urge your Committee not to pass this measure.

HB-1755

Submitted on: 2/2/2022 12:52:27 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kim Becker	Individual	Comments	No

Comments:

Aloha,

This proposed HB1755 as written does not clearly define if architectural review remains required for future camera installation requests and also does not clearly state if 'security camera' includes 'doorbell camera'. If this bill proceeds I recommend some amendments

1. Amending the language to clearly state that future installation requests still require Architectural approval by the Association;
2. Adding language that states the association may also assess a fine if any camera is installed in a manner that detracts from the exterior appearance of the home OR if the cameras are directed toward a neighboring home in a way that inappropriately encroaches on the neighbors right to privacy and right to peaceful enjoyment of their home.

Security cameras can pose a potential invasion of privacy to neighbors if installed in a manner that directly face the windows, yards, lanais, etc of neighboring homes. The Association should have the ability to have oversight of the appearance, location and direction the camera(s) and subsequently have the ability and authority to require owners in the association to comply and remedy these situations.

One final thing for consideration: Consider adding: Doorbell cameras may be exempt from design approval and/or design application fees if only one doorbell camera is installed at the front door entrance replacing the existing doorbell in the exact location of the original doorbell.

Mahalo for your consideration.

HB-1755

Submitted on: 2/2/2022 1:23:10 PM

Testimony for CPC on 2/3/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
R Laree McGuire	Individual	Oppose	No

Comments:

Oppose.

Mahalo.