

DAVID Y. IGE  
GOVERNOR OF  
HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**ROBERT K. MASUDA**  
FIRST DEPUTY

**M. KALEO MANUEL**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the House Committee on  
CONSUMER PROTECTION & COMMERCE**

**Thursday, February 3, 2022  
2:00 PM**

**State Capitol, Conference Room 329 Via Videoconference**

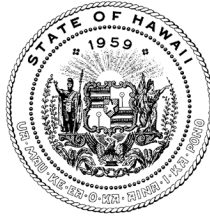
**In consideration of  
HOUSE BILL 1757  
RELATING TO PLANNED COMMUNITY ASSOCIATIONS**

House Bill 1757 proposes to amend Chapter 421J, Hawaii Revised Statutes (HRS), by adding a new section prohibiting any planned community association from preventing xeriscaping by its members or owners. **The Department of Land and Natural Resources (Department) supports this measure.**

The Department's Commission on Water Resource Management supports water conservation and water use efficiency through its Water Resource Protection Plan and its Hawai'i Water Conservation Plan. Outdoor water use makes up around one-half of a homeowner's water consumption. Xeriscaping is a proven landscape practice that reduces irrigation water use by eliminating plantings or planting drought-tolerant or climate appropriate species. Xeriscaping can also be aesthetically pleasing by matching the appropriate native plant species with the local climate and environment. The Honolulu Board of Water Supply, Maui Department of Water Supply and County of Hawai'i Department of Water Supply all promote xeriscaping and have provided such information on their respective websites. The Landscape Irrigation Council of Hawai'i promotes xeriscaping and other irrigation best practices in its Landscape Irrigation Conservation Best Management Practices handbook, available online here: <https://www.hawaiiscape.com/publications/>.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE  
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Thank you for the opportunity to comment on this measure.

# HCCA

Hawaii Council of Community  
Associations  
[www.hawaiicouncil.com](http://www.hawaiicouncil.com)

February 1, 2022

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

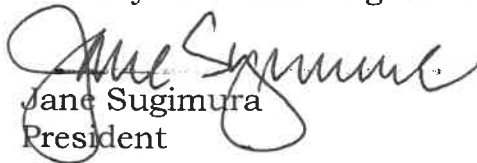
Re: HB1755, HB1756 and HB1757 Relating to Planned Community Associations.  
Testimony in Opposition to all three bills.  
Thursday, February 3, 2022 at 2 p.m.

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-1757**

Submitted on: 2/2/2022 12:52:35 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Grant Oka	Kipuka at Hoakalei AOOU	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. 1757.** House Bill 1757 seeks to forbid planned community associations (“associations”) from preventing the use of xeriscaping in separately owned or occupied units within planned communities. The practical effect of this Bill is that it will invalidate the covenants, conditions, restrictions and rules on landscaping within planned communities and preclude associations from regulating the appearance of landscaping. All community association landscaping standards will be essentially rendered illegal, landscaping will deteriorate, communities may become highly undesirable aesthetically, and property values may drop. Although sustainable landscaping should be encouraged, we expect that the harm caused by this Bill will exceed any potential benefits.

Well maintained, attractive landscaping and a pleasant environment are essential to the quality of life in any community. Aesthetics is a key component in the desirability of a neighborhood and the value of its individual homes. We acknowledge that conserving fresh, clean water is important, and that homeowners and communities can reduce water use significantly by adopting sustainable landscaping practices that reduce water consumption and the demands on public or private water supplies. However, planned community associations are founded on the core principle of self-governance and this Bill is not consistent with that principle as it precludes community associations from regulating landscaping and aesthetics, one of the most important aspects of the planned community.

This Bill will almost certainly be abused by owners of units in planned communities who choose not to maintain landscaping on their units. The definition of “xeriscaping” in the Bill is highly problematic, as it would allow any owner to stop caring for landscaping and calling the weed infestation or bare dirt, “xeriscaping.” Community associations will be precluded from enforcing landscaping requirements on units.

While we would not object to legislation that authorizes associations to enact reasonable rules and regulations concerning landscaping requirements, community associations must maintain the ability to adopt and enforce landscaping standards and covenants. Water-use policies must allow community associations to maintain the level of aesthetics valued by the community. The quality of landscaping can have a substantial impact on the value of properties.

We oppose Bill 1757 as it will invalidate provisions of governing documents which serve to regulate the aesthetics of planned communities, which are so critical to the use and enjoyment of units in planned communities and the enhancement of property values.

For the foregoing reasons, I respectfully OPPOSE H.B. 1757 and strongly urge your Committee not to pass this measure.

Well maintained, attractive landscaping and a pleasant environment are essential to the quality of life in any community. Aesthetics is a key component in the desirability of a neighborhood and the value of its individual homes.

Respectfully submitted,

Grant Oka

President, Kipuka at Hoakalei AOUO

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Respectfully submitted,

Primrose K. Leong-Nakamoto (S)  
Property Manager  
Nakamoto Realty, LLC

**HB-1757**

Submitted on: 2/1/2022 7:04:16 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Doreen Liebertz	Individual	Support	No

Comments:

I support HB1757 as a townhome owner in Ewa Beach.



**HB-1757**

Submitted on: 2/1/2022 8:03:03 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Tyrone Presto	Individual	Support	No

Comments:

I support HB 1757

**HB-1757**

Submitted on: 2/1/2022 10:00:34 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Brent Adams	Individual	Oppose	No

Comments:

Xeriscaping can severely detract from the overall design of a neighborhood. If grass was planted in the original design, it should be maintained.

**HB-1757**

Submitted on: 2/1/2022 11:28:42 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Danny Liebertz	Individual	Support	No

Comments:

I strongly recommend endorsement and support for HB 1757. Current association regulations are worded to force owners to pay for expensive watering practices to enhance or maintain mandates established years ago - with no thought of how expensive the irrigation costs have risen in Hawaii, especially in the dry side of Ewa Plains. We still want the tropical appearance, but if we can utilize xeriscaping designs to reduce or eliminate some irrigation, we ought to have that option. Please support the idea of allowing xeriscaping to be added language in the landscaping documents for the Ewa Beach homeowners.

**HB-1757**

Submitted on: 2/2/2022 7:21:16 AM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
sara jones	Individual	Support	No

Comments:

Homeowners should be allowed to use Xeriscaping in Hawaii in order to limit usage of water resources.

**HB-1757**

Submitted on: 2/2/2022 8:15:45 AM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Brandy Morris	Individual	Support	No

Comments:

Please adopt HB1757. It is wholly irresponsible, unreasonable and morally unjust to prohibit homeowners from adopting landscaping practices that reduce their personal negative impact on our aina's water supply. Current HOA rules and mandates force homeowners to deplete our island's most important natural resource in the interest of grass and plantings that have no ability to survive without irrigation. It is absolutely ridiculous and frankly, given our current circumstances with water insecurity, could be viewed as criminal.

**HB-1757**

Submitted on: 2/2/2022 8:41:03 AM

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:

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

1. **respectfully OPPOSE H.B. 1757.** House Bill 1757 seeks to forbid planned community associations (“associations”) from preventing the use of xeriscaping in separately owned or occupied units within planned communities. The practical effect of this Bill is that it will invalidate the covenants, conditions, restrictions and rules on landscaping within planned communities and preclude associations from regulating the appearance of landscaping. All community association landscaping standards will be essentially rendered illegal, landscaping will deteriorate, communities may become highly undesirable aesthetically, and property values may drop. Although sustainable landscaping should be encouraged, we expect that the harm caused by this Bill will exceed any potential benefits.

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While we would not object to legislation that authorizes associations to enact reasonable rules and regulations concerning landscaping requirements, community associations must maintain the ability to adopt and enforce landscaping standards and covenants. Water-use policies must allow community associations to maintain the level of aesthetics valued by the community. The quality of landscaping can have a substantial impact on the value of properties.

We oppose Bill 1757 as it will invalidate provisions of governing documents which serve to regulate the aesthetics of planned communities, which are so critical to the use and enjoyment of units in planned communities and the enhancement of property values.

For the foregoing reasons, I respectfully OPPOSE H.B. 1757 and strongly urge your Committee not to pass this measure.

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Respectfully submitted,

Laurence Sussman

**HB-1757**

Submitted on: 2/2/2022 8:46:26 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 Representative Johanson, Chair, Representative Kitigawa, Vice Chair, and members of the Committee on Consumer Protection & Commerce:

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Respectfully submitted,

Lance Fujisaki

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/s/ Pamela J. Schell

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**HB-1757**

Submitted on: 2/2/2022 9:54:05 AM

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:

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

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Respectfully submitted,

Laura Bearden

**HB-1757**

Submitted on: 2/2/2022 10:42:51 AM

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

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Joshua Hanzel	Individual	Oppose	No

Comments:

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

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Respectfully submitted,

**Joshua Hanzel**

**HB-1757**

Submitted on: 2/2/2022 11:18:00 AM

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 Kitigawa, Vice Chair, and Members of the Committee on Consumer Protection & Commerce:

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Respectfully submitted,

Anne Anderson

**HB-1757**

Submitted on: 2/2/2022 12:04:30 PM

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

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kathy Kosec	Individual	Oppose	No

Comments:

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

1. **I respectfully OPPOSE H.B. 1757.** House Bill 1757 seeks to forbid planned community associations (“associations”) from preventing the use of xeriscaping in separately owned or occupied units within planned communities. The practical effect of this Bill is that it will invalidate the covenants, conditions, restrictions and rules on landscaping within planned communities and preclude associations from regulating the appearance of landscaping. All community association landscaping standards will be essentially rendered illegal, landscaping will deteriorate, communities may become highly undesirable aesthetically, and property values may drop. Although sustainable landscaping should be encouraged, we expect that the harm caused by this Bill will exceed any potential benefits.

Well maintained, attractive landscaping and a pleasant environment are essential to the quality of life in any community. Aesthetics is a key component in the desirability of a neighborhood and the value of its individual homes. We acknowledge that conserving fresh, clean water is important, and that homeowners and communities can reduce water use significantly by adopting sustainable landscaping practices that reduce water consumption and the demands on public or private water supplies. However, planned community associations are founded on the core principle of self-governance and this Bill is not consistent with that principle as it precludes community associations from regulating landscaping and aesthetics, one of the most important aspects of the planned community.

This Bill will almost certainly be abused by owners of units in planned communities who choose not to maintain landscaping on their units. The definition of “xeriscaping” in the Bill is highly problematic, as it would allow any owner to stop caring for landscaping and calling the weed infestation or bare dirt, “xeriscaping.” Community associations will be precluded from enforcing landscaping requirements on units.

Respectfully submitted,

Kathy Kosec, Kailua-Kona, HI



**HB-1757**

Submitted on: 2/2/2022 12:12:23 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:

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While we would not object to legislation that authorizes associations to enact reasonable rules and regulations concerning landscaping requirements, community associations must maintain the ability to adopt and enforce landscaping standards and covenants. Water-use policies must allow community associations to maintain the level of aesthetics valued by the community. The quality of landscaping can have a substantial impact on the value of properties.

We oppose Bill 1757 as it will invalidate provisions of governing documents which serve to regulate the aesthetics of planned communities, which are so critical to the use and enjoyment of units in planned communities and the enhancement of property values.

For the foregoing reasons, I respectfully OPPOSE H.B. 1757 and strongly urge your Committee not to pass this measure.

Well maintained, attractive landscaping and a pleasant environment are essential to the quality of life in any community. Aesthetics is a key component in the desirability of a neighborhood and the value of its individual homes.

Respectfully submitted,

Paul A. Ireland Koftinow

**HB-1757**

Submitted on: 2/2/2022 1:23:41 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Marilyn Joyce Oka	Individual	Oppose	No

Comments:

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Respectfully submitted,

Marilyn Joyce Oka

**HB-1757**

Submitted on: 2/2/2022 1:24:06 PM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
R Laree McGuire	Individual	Oppose	No

Comments:

Oppose. Mahalo.