

HAWAII LEGISLATIVE  
ACTION COMMITTEE

  
**community**  
ASSOCIATIONS INSTITUTE

February 10, 2022  
Honorable Rep. Mark J. Hashem, Chair  
Honorable Rep. Amy Perruso, Vice Chair  
Committee on Agriculture  
415 South Beretania Street  
Honolulu, HI 96813

Re: HB2280/Opposition

Dear Chair Hashem, Vice Chair Perruso, and Committee Members:

The Community Associations Institute Legislative Action Committee ("CAI LAC") opposes HB2280 to the extent it does not comply with associations' existing covenants running with the land.

Planned communities are created by a recorded declaration placing restrictions and obligations on the owners of the real properties within such communities, which creates restrictive covenants running with the land. The planned community associations are obligated to enforce such covenants, i.e., legal agreements that are binding upon all current owners and future buyers of the properties, as title transfers incorporate such covenants as encumbrances. All unit owners within such communities have legal standing to compel for enforcement of such restrictive covenant agreements, and they also have to adhere to state and federal laws.

CAI LAC is concerned about the constitutionality of the proposed legislation as applicable to existing planned communities. Under the Contract Clause, no state shall pass law impairing the obligations of private contracts.

Depending on the underlying zoning of the land certain planned communities are situated and whether there are master landscape plans incorporated in existing covenants, HB2280 will be problematic for certain associations, may lead to disputes on covenants enforcement and impact property values.

Both the declarations for planned community associations and Chapter 421J provide options for members of

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such associations to amend restrictive covenants with approval by a certain percentage of membership. Individual planned communities should reserve their own discretion on whether personal agriculture should be allowed or encouraged within their own communities.

Very truly yours,

/s/Na Lan

Na Lan

**HB-2280**

Submitted on: 2/9/2022 6:51:53 PM

Testimony for AGR on 2/11/2022 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Gaye Chan	Individual	Support	No

Comments:

The pandemic has shown us just how important it is to tend our gardens. Increasing the availability of healthy greens help us all. Having a balance of cultivated and wild plants facilitate pollination and soil health. All of which has been unfortunately disallowed by many housing associations.

**HB-2280**

Submitted on: 2/9/2022 7:23:15 PM

Testimony for AGR on 2/11/2022 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Vickie Parker Kam	Individual	Support	No

Comments:

Aloha Chair Hashem, Vice Chair Perruso, and Committee members,

I am writing in strong support of HB2280. A property owners right to grow their own fresh, healthy food in their own yard should not be infringed upon by homeowners associations. Many local favorites could be cultivated and contribute to the health of our ohana, as well as, allow for family opportunities to create meals grown by their own hand.

Please consider the positive impact HB2280 will have on the keiki that will have the opportunity to participate in growing healthy food! Mahalo for listening.

Vickie Kam

Mother

HIDOE Educator

**HB-2280**

Submitted on: 2/9/2022 9:51:33 PM

Testimony for AGR on 2/11/2022 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Carolyn Weygan-Hildebrand	Individual	Support	No

Comments:

Greetings!

The requirements of this bill strikes a balance between the private and public interests. Safe and healthy approaches to edible gardening (personal agriculture in this bill) should be encouraged everywhere, especially in enclosed yard areas that are designed for the private use of homeowners. Different individuals have different paces when it comes to such activity. Homeowners, or renters for that matter, should not be disincentivized or discouraged because of unreasonable requirements by homeowners associations.

Mahalo.

**HB-2280**

Submitted on: 2/10/2022 9:46:31 AM

Testimony for AGR on 2/11/2022 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Elaine Panlilio	Individual	Oppose	No

Comments:

Will lead to disputes on covenants enforcement.