



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

January 31, 2023

Honorable Rep. Mark M. Nakashima, Chair
Honorable Rep. Jackson D. Sayama, Vice-Chair
House Committee on Consumer Protection and Commerce (CPC)
Hawaii State Capitol, Room 329
415 South Beretania Street
Honolulu, HI 96813

RE: Testimony in OPPOSITION to HB377; Hearing Date: February 2, 2023 at 2:00 p.m. in House Comm. conference room 329/videoconference; sent via Internet

Dear Rep. Nakashima, Chairman; Rep. Sayama, Vice-Chair; Committee Members,

Thank you for the opportunity to provide testimony on this bill.

The Hawaii State Association of Parliamentarians ("HSAP") has been providing professional parliamentary expertise to Hawaii since 1964.

I am the chair of the HSAP Legislative Committee. I'm also an experienced Professional Registered Parliamentarian who has worked with condominium and community associations every year since I began my parliamentary practice in 1983 (more than 2,000 meetings in 40 years). I was also a member of the Blue Ribbon Recodification Advisory Committee that presented the recodification of Chapter 514B to the legislature in 2004.

This testimony is provided as part of HSAP's effort to assist the community based upon our collective experiences with the bylaws and meetings of numerous condominiums, cooperatives, and planned community associations.

This testimony is presented in OPPOSITION to HB377.

Summary of Bill:

The Bill proposes to remove the mandate that standard proxies issued by a condominium association contain an option for owners to direct the majority of directors present at a meeting to vote the owner's interest.

Current Status:

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

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

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

If association funds are to be used, there is a mandatory posting on the property and equal opportunity for owner solicitation. Owners have an opportunity to require that their names and statements of up to one page be submitted with the official meeting notice. Many boards go beyond this minimal requirement and e-mail or mail the solicitation to owners in order to attract candidates to the board.

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

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

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

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

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

History: This proposed change to the law has a long history of opposition and rejection.

2022 Rejection

This bill contains wording that was included in HB1651 presented in 2022. The wording received significant opposition by community leaders and was deferred by CPC on February 3, 2022. The companion bill SB2815 was not heard.

2021 Rejection

This bill contains wording that was included in HB221 presented in 2021.

The House Consumer Protection & Commerce Committee (CPC) issued a report and removed the wording that matches the wording in the current bill.¹ The CPC Report stated in part:

“Your Committee finds that proxies are an important part of the governance of a condominium association, including ensuring quorum for purposes of annual meetings. Proxies allow unit owners to participate in association matters in the event they are unable to be physically present at an association meeting.

¹ https://www.capitol.hawaii.gov/session2021/CommReports/HB221_HD1_HSCR743_.pdf

Your Committee further finds, however, that some condominium owners have raised concerns that proxies may be used by board members in an unscrupulous manner. This measure is intended to help address these concerns.

Your Committee has amended this measure by:

- (1) **Retaining statutory language that provides the option on a standard proxy form to submit a proxy to the condominium board as a whole;**
- (2) Changing the effective date to January 1, 2050, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.”

[Emphasis added.]

The Committee once again chose NOT to amend the existing wording in the state law. The remaining part of the bill went to the Senate and it was deferred on March 18, 2021.

On February 3, 2021, the Senate Committee on Commerce and Consumer Protection deferred a similar bill (SB688). The same committee did not hold a hearing on the companion bill, SB61.

On February 10, 2021, the CPC deferred a bill with similar wording (HB495).

Previous Rejections

This bill is similar to a House bill presented in 2019 which received significant opposition by community leaders (HB347). It passed the House and was not heard by the Senate Committee on Commerce and Consumer Protection.

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

Genesis of “Board Majority”

I became a condominium owner and lived in a condominium from 1979-1985. During that time, many proxies contained a place for appointing the president. **Prior to 1984, there was no board majority option. The result was that association presidents received most of the proxies and controlled the meeting.**

The right of Owners to appoint the board as an entity was originally added by Act 184 in 1984, almost 40 years ago. It was extensively reviewed by stakeholders and included in the Recodification Report in 2003. This later became Chapter 514B.

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

There is still no need to eliminate the board majority box on the proxy that was established many years ago in Chapter 514A and continued in Chapter 514B.

The changes proposed in this bill are an unnecessary prohibition. We believe they are not in the best interest of condominium associations or their owners. There is no good or compelling reason to make these proposed changes.

Our position:

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

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

We ask that the Committee defer or hold this bill.

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

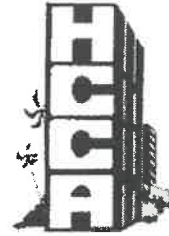
Sincerely,

Steve Glanstein

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



**Hawaii Council of Associations
of Apartment Owners**
DBA: Hawaii Council of Community Associations
1050 Bishop Street, #366, Honolulu, Hawaii 96813



January 31, 2023

Rep. Mark M. Nakashima, Chair
Rep. Jackson Sayama, Vice-Chair
House Committee on Consumer Protection and Commerce

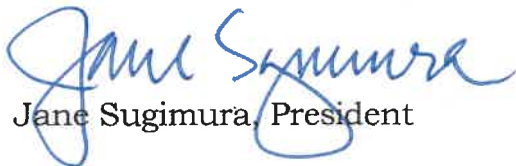
Re: Testimony in Opposition to
HB 377 RE Condominium Proxy Voting
Hearing: Wednesday, February 1, 2023, 2 p.m., Conf. Rm. #329

Chair Nakashima and Vice-Chair Sayama and Members of the Committee:

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

HCCA opposes HB377 and believes that there is no good reason to eliminate the board majority requirement on standard association proxies. HCAAO joins in the position as expressed by Steve Glanstein of The Hawaii State Association of Parliamentarians on this bill.

Thank you for the opportunity to testify on this matter.


Jane Sugimura, President

Dear Representative Nakashima, Chair, Representative Sayama, Vice Chair, and Members of the Committee:

I OPPOSE H.B. 377 for the following reasons:

This bill would be disastrous for Condominium governing and would concentrate too much power in the hands of the Board. I am President of a Condo Association and have first-hand experience.

Boards have a hard time getting a quorum for annual meetings. In our condo and other condos where I have owned property, usually with proxies there is only 50-60% attendance. Often, I and other Board members have had to go around to owners at the last minute to get them to fill out proxies so we could get a quorum. If proxies cannot be given to the Board as a whole or the Board allowed to use AODO funds to solicit proxies, the result would often be that there would be no quorum for the annual meeting. In the absence of a quorum, the present Board continues to serve and appoint to fill vacancies until the next annual meeting-which would also have trouble getting a quorum.

I imagine that this Bill is being driven by a condo owner or two who shows up at an annual meeting and sees that the Board has all the proxies and thus the Board controls the elections by exercise of their proxies. However, usually if a condo owner is satisfied with the operation of the condo, he/she is willing to give the Board a proxy. For those owners who do not have confidence in their association's board of directors or prefer to give their proxies to an individual, they are free check one of the other boxes on the standard proxy form and to give their proxies to an individual of their choosing. The four boxes on the proxy are intended to give owners the freedom of choice in selecting a person or entity to act as their proxy at association meetings.

For the reasons stated herein I OPPOSE H.B. 377.

Respectfully submitted,

Robert J Littman
President
Kalaniiki Estates AODO

HB-377

Submitted on: 1/31/2023 12:02:40 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Idor Harris	Honolulu Tower AOA	Oppose	Written Testimony Only

Comments:

Honolulu Tower is a 396 unit condominium, built in 1982, located at Beretania and Maunakea Streets. The Board of Directors of the Honolulu Tower Association of Apartment Owners is opposed to this bill. Please accept this as testimony in strong opposition to this bill. Every year this subject arises, and it is one and or both years of the legislative session, we submit testimony in opposition to this issue.

On Thursday, March 9, 2023, we are conducting the Association's annual meeting. Notices were sent to all owners on January 23, 2023. We again expect that most proxies will be given to the board as a whole. This option has existed for years. It works. There is also the chance that owners will not return their proxies if this option is removed. Should that happen, there could very well be a lack of quorum, meaning no business will be conducted, the meeting will have to be rescheduled, at great expense to the homeowners.

Idor Harris
Resident Manager, Honolulu Tower



February 1, 2023

Dear Representative Nakashima, Chair, Representative Sayama, Vice Chair, and Members of the Committee:

We OPPOSE H.B. 377 for the following reasons:

Condominium associations are legal entities that act by and through their boards of directors. Condominium boards are comprised of individual directors who are members of their associations and elected by the owners. These individual directors act collectively as a body (i.e., the board) to oversee the administration and operation of the condominium project. It is the board, as a whole, that owners rely upon and trust to manage the affairs of their associations. It therefore follows that many owners give their proxies to the “board as a whole,” because that is the entity in which they faith and have confidence. For those owners who do not have confidence in their association’s board of directors or prefer to give their proxies to an individual, they are free to check one of the other boxes on the standard proxy form and to give their proxies to an individual of their choosing. The four boxes on the proxy are intended to give owners the freedom of choice in selecting a person or entity to act as their proxy at association meetings. The law has allowed owners to give their proxies to the board as an entity since 1984. Without any stated explanation, H.B. 377 would serve to eliminate the box on standard proxy forms allowing owners to give their proxies to the board as a whole. There is no good reason for this change. Owners’ ought to be able to give their proxies to the board as a whole if they wish to do so and the Legislature should not interfere with that process.

In addition, H.B. 377 will also remove language that gives condominium boards the authority to use association funds to solicit proxies as part of the normal distribution of proxies. This could be construed to mean that a board may not use association funds to send out proxy forms which would make it impossible for many associations to obtain a quorum at annual meetings.

For the reasons stated herein we OPPOSE H.B. 377.

Respectfully submitted,

On behalf of the Board of Directors of the
WAIKOLOA VILLAGE ASSOCIATION


ROGER E. WEHRSIG
General Manager

HB-377

Submitted on: 1/31/2023 3:04:00 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jeff Marsh	The Palms at Wailea AOAO	Oppose	Written Testimony Only

Comments:

Dear Representative Nakashima, Chair, Representative Sayama, Vice Chair, and Members of the Committee:

I OPPOSE H.B. 377 for the following reasons:

Condominium associations are legal entities that act by and through their boards of directors. Condominium boards are comprised of individual directors who are members of their associations and elected by the owners. These individual directors act collectively as a body (i.e., the board) to oversee the administration and operation of the condominium project. It is the board, as a whole, that owners rely upon and trust to manage the affairs of their associations. It therefore follows that many owners give their proxies to the “board as a whole,” because that is the entity in which they faith and have confidence. For those owners who do not have confidence in their association’s board of directors or prefer to give their proxies to an individual, they are free check one of the other boxes on the standard proxy form and to give their proxies to an individual of their choosing. The four boxes on the proxy are intended to give owners the freedom of choice in selecting a person or entity to act as their proxy at association meetings. The law has allowed owners to give their proxies to the board as an entity since 1984. Without any stated explanation, H.B. 377 would serve to eliminate the box on standard proxy forms allowing owners to give their proxies to the board as a whole. *There is no good reason for this change. Owners’ ought to be able to give their proxies to the board as a whole if they wish to do so and the Legislature should not interfere with that process.*

In addition, H.B. 377 will also remove language that gives condominium boards the authority to use association funds to solicit proxies as part of the normal distribution of proxies. This could be construed to mean that a board may not use association funds to send out proxy forms which would make it impossible for many associations to obtain a quorum at annual meetings.

For the reasons stated herein I OPPOSE H.B. 377.

Respectfully submitted,

Jeffrey Marsh, Site Manager The Palms at Wailea AOAO

Kihei, HI 96753

808-875-1067

February 1, 2023

VIA WEB TRANSMITTAL

Hearing Date: Thursday, February 2, 2023

Time: 2:00 p.m.

Place: Conference Room 329

Representative Mark M. Nakashima, Chair
Representative Jackson D. Sayama, Vice-Chair
House Committee on Consumer Protection & Commerce

Re: **Opposition to HB 377**

Dear Chair Nakashima, Vice-Chair Sayama and Committee members:

I am a Partner with the law firm of Porter McGuire Kiakona, LLP and we currently represent hundreds of condominium associations across the State of Hawaii and have practiced in the area of condominium law for almost three (3) decades.

I am writing in strong opposition to HB 377 and instead of re-hashing the arguments against HB 377, I refer you to the attached testimony submitted in opposition to HB 1651 in 2022. HB 1651 sought and HB 377 now seeks to remove the option of allowing an owner to give his or her proxy to the Board of Directors "as a whole." The attached testimony perfectly summarizes all the reasons why you should defer HB 377, as the 2022 Legislature deferred HB 1651 in 2022.

Mahalo for the opportunity to testify.

Respectfully submitted,

/s/ R. Laree McGuire

R. Laree McGuire



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

February 1, 2022

Honorable Rep. Aaron Ling Johanson, Chair
Honorable Rep. Lisa Kitagawa, Vice-Chair
House Committee on Consumer Protection and Commerce (CPC)
Hawaii State Capitol, Room 329
415 South Beretania Street
Honolulu, HI 96813

RE: Testimony in OPPOSITION to HB1651; Hearing Date: February 3, 2022 at 2:00 p.m. in House Conf. conference room 329/videoconference; sent via Internet

Dear Rep. Johanson, Chairman; Rep. Kitagawa, Vice-Chair; Committee Members,

Thank you for the opportunity to provide testimony on this bill. Unfortunately, I have a prior annual meeting so may be late or unable to appear via videoconference.

The Hawaii State Association of Parliamentarians ("HSAP") has been providing professional parliamentary expertise to Hawaii since 1964.

I am the chair of the HSAP Legislative Committee. I'm also an experienced Professional Registered Parliamentarian who has worked with condominium and community associations every year since I began my parliamentary practice in 1983 (more than 2,000 meetings in 39 years). I was also a member of the Blue Ribbon Recodification Advisory Committee that presented the recodification of Chapter 514B to the legislature in 2004.

This testimony is provided as part of HSAP's effort to assist the community based upon our collective experiences with the bylaws and meetings of numerous condominiums, cooperatives, and planned community associations.

This testimony is presented in OPPOSITION to HB1651.

Summary of Bill:

The Bill proposes to remove the mandate that proxies contain an option for owners to direct the majority of directors present at a meeting to vote the owner's interest.

Current Status:

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

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

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

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

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

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

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

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

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

History: This proposed change to the law has a long history of opposition and rejection.

2021 Rejection

This bill contains wording that was included in HB221 presented in 2021. The wording received significant opposition by community leaders (HB221).

The House Consumer Protection & Commerce Committee (CPC) issued a report and removed the wording that matches the wording in the current bill.¹ The CPC Report stated in part:

"Your Committee finds that proxies are an important part of the governance of a condominium association, including ensuring quorum for purposes of annual meetings. Proxies allow unit owners to participate in association matters in the event they are unable

¹ https://www.capitol.hawaii.gov/session2021/CommReports/HB221_HD1_HSCR743_.pdf

to be physically present at an association meeting.

Your Committee further finds, however, that some condominium owners have raised concerns that proxies may be used by board members in an unscrupulous manner. This measure is intended to help address these concerns.

Your Committee has amended this measure by:

- (1) Retaining statutory language that provides the option on a standard proxy form to submit a proxy to the condominium board as a whole;
- (2) Changing the effective date to January 1, 2050, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.”

[Emphasis added.]

The Committee once again chose NOT to amend the existing wording in the state law. The remaining part of the bill went to the Senate and it was deferred on March 18, 2021.²

On February 3, 2021, the Senate Committee on Commerce and Consumer Protection deferred a similar bill (SB688).

On February 10, 2021, the CPC deferred a bill with similar wording (HB495).

2019 Rejection

This bill is similar to a House bill presented in 2019 which received significant opposition by community leaders (HB347). It passed the House and was not heard by the Senate Committee on Commerce and Consumer Protection.³

Genesis of “Board Majority”

I was a condominium owner in 1979-1985. During this time, many proxies contained a place for appointing the president. **Prior to 1984, there was no board majority option. The result was that association presidents received most of the proxies and controlled the meeting.**

² This section of the bill also similar to bills presented and never adopted in 2009 (HB2042 and SB499; HB2042 was not heard and SB499 was deferred February 24, 2009 by the Senate Committee on Commerce and Consumer Protection).

³ This section of the bill also similar to bills presented and never adopted in 2009 (HB2042 and SB499; HB2042 was not heard and SB499 was deferred February 24, 2009 by the Senate Committee on Commerce and Consumer Protection).

The right of Owners to appoint the board as an entity was originally added by Act 184 in 1984, about 37 years ago. It was extensively reviewed and included as part of the Recodification Report in 2003. This later became Chapter 514B.

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

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

The changes proposed in this bill are an unnecessary prohibition. We believe they are not in the best interest of condominium associations or their owners. There is no good or compelling reason to make these proposed changes.

Our position:

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

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

We ask that the Committee defer or hold this bill.

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

Sincerely,

Steve Glanstein

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

February 1, 2023

White Sands Village AOA

77-6469 Alii Drive

Kailua-Kona, HI 96740

Representative Nakashima, Chair, Representative Sayama, Vice Chair, and Members of the Committee:

On behalf of the Board of Directors of the White Sands Village AOA, I am submitting testimony in OPPOSITION TO HB 377. Condominium associations are legal entities that act by and through their boards of directors. Condominium boards are composed of individual directors who are association members and elected by the owners. These individual directors act collectively as a body (i.e., the board) to oversee the administration and operation of the condominium project. It is the board, as a whole, that owners rely upon and trust to manage the affairs of their associations. It therefore follows that many owners give their proxies to the “board as a whole,” because that is the entity in which they have faith and confidence. For those owners who do not have confidence in their association’s board of directors or prefer to give their proxies to an individual, they are free to check one of the other boxes on the standard proxy form and to give their proxies to an individual of their choosing. The four boxes on the proxy are intended to give owners the freedom of choice in selecting a person or entity to act as their proxy at association meetings. The law has allowed owners to give their proxies to the board as an entity since 1984. Without any stated explanation, H.B. 377 would serve to eliminate the box on standard proxy forms allowing owners to give their proxies to the board as a whole. There is no good reason for this change. Owners ought to be able to give their proxies to the board as a whole if they wish to do so and the Legislature should not interfere with that process.

In addition, H.B. 377 will also remove language that gives condominium boards the authority to use association funds to solicit proxies as part of the normal distribution of proxies. This could be construed to mean that a board may not use association funds to send out proxy forms which would make it impossible for many associations to obtain a quorum at annual meetings.

White Sands Village includes 108 condominiums. Only a very few owners are permanent, year-round residents. Many are part-time residents, and the majority are part-year residents who rent their units as Short Term Vacation Rentals. We MUST be allowed to communicate with our members via the mail because the majority are not on the island. HB 377 would render us unable to function.

For these reasons, we OPPOSE HB 377.

Respectfully submitted,

Eva Calcagno, President
White Sands Village AOA

HB-377

Submitted on: 1/31/2023 11:25:32 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mark McKellar	Law Offices of Mark K. McKellar, LLC	Oppose	Written Testimony Only

Comments:

Dear Representative Nakashima, Chair, Representative Sayama, Vice Chair, and Members of the Committee:

I OPPOSE H.B. 377 for the following reasons:

Condominium associations are legal entities that act by and through their boards of directors. Condominium boards are comprised of individual directors who are members of their associations and elected by the owners. These individual directors act collectively as a body (i.e., the board) to oversee the administration and operation of the condominium project. It is the board, as a whole, that owners rely upon and trust to manage the affairs of their associations. It therefore follows that many owners give their proxies to the “board as a whole,” because that is the entity in which they faith and have confidence. For those owners who do not have confidence in their association’s board of directors or prefer to give their proxies to an individual, they are free check one of the other boxes on the standard proxy form and to give their proxies to an individual of their choosing. The four boxes on the proxy are intended to give owners the freedom of choice in selecting a person or entity to act as their proxy at association meetings. The law has allowed owners to give their proxies to the board as an entity since 1984. Without any stated explanation, H.B. 377 would serve to eliminate the box on standard proxy forms allowing owners to give their proxies to the board as a whole. There is no good reason for this change. Owners ought to be able to give their proxies to the board as a whole if they wish to do so and the Legislature should not interfere with that process.

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For the reasons stated herein I OPPOSE H.B. 377.

Respectfully submitted,

Mark McKellar

HB-377

Submitted on: 1/31/2023 1:36:57 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael targgart	Makaha valley towers	Oppose	Written Testimony Only

Comments:

Sent from my iPad Dear Representative Nakashima, Chair, Representative Sayama, Vice Chair, and Members of the Committee:

I OPPOSE H.B. 377 for the following reasons:

Condominium associations are legal entities that act by and through their boards of directors. Condominium boards are comprised of individual directors who are members of their associations and elected by the owners. These individual directors act collectively as a body (i.e., the board) to oversee the administration and operation of the condominium project. It is the board, as a whole, that owners rely upon and trust to manage the affairs of their associations. It therefore follows that many owners give their proxies to the “board as a whole,” because that is the entity in which they faith and have confidence. For those owners who do not have confidence in their association’s board of directors or prefer to give their proxies to an individual, they are free check one of the other boxes on the standard proxy form and to give their proxies to an individual of their choosing. The four boxes on the proxy are intended to give owners the freedom of choice in selecting a person or entity to act as their proxy at association meetings. The law has allowed owners to give their proxies to the board as an entity since 1984. Without any stated explanation, H.B. 377 would serve to eliminate the box on standard proxy forms allowing owners to give their proxies to the board as a whole. There is no good reason for this change. Owners ought to be able to give their proxies to the board as a whole if they wish to do so and the Legislature should not interfere with that process.

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For the reasons stated herein I OPPOSE H.B. 377.

Respectfully submitted,

Michael Targgart

Testimony In Support of HB377

Submitted for: Consumer Protection and Commerce (CPC) Hearing, scheduled to be heard on Thursday, 2/2/23 at 2:00PM

Aloha Chair Nakashima, Vice Chair Sayama, and Members of the Committee,

I am in support of HB377.

I have first-hand experience at my Condominium Association in Hawaii, where there is a serious abuse of proxies and proxy solicitation by Directors on the Board. It is done to retain power and control. In the process, these Directors openly disparage and undermine those who oppose them, and are volunteering and running for elections to be Board Members. One of these Directors is also a Public Official, which highlights even more how serious this issue is. My experience is shared by many in Associations across Hawaii and the U.S.

Malfeasance by Board Members, Boards, and Management Companies has become a common occurrence, and homeowners need their State Legislators to enact laws that will better protect them.

Whoever came up with the idea of giving your proxy to the “Board as a Whole” was misguided, and our Legislators that previously followed along, were taken down a path that only leads to abuse of power and corruption.

I ask that you look carefully at this Bill, and request that you further amend it to strike the following, as seen on page 2:

- 1 (C) To those directors present at the meeting
- 2 with the vote to be shared with each director
- 3 receiving an equal percentage;

The directors present at the meeting are in-fact “the Board.” If any owner trusts a member, or a Director on the Board (who is also a member), they can assign their proxy to that member or Board member. I do not agree with the use of proxies for elections, but if they are to be used, the process need to be balanced.

Fair elections are expected by all Hawaii residents, and no abuse of the election process should ever be allowed.

I ask the Committee and all State Legislators to support HB377.

I also ask you to support and act on a related measure, HB176, and measures HB178, HB1297, & HB1501, which were introduced by the Kokua Council on behalf of our kupuna and all residents of Hawaii.

Mahalo,

Gregory Misakian

2nd Vice President, Kokua Council
Board Member, Waikiki Neighborhood Board

The Kokua Council is one of Hawaii's oldest elder advocacy groups. We advocate for issues, policies, and legislation that impact the well-being of seniors and our community.

**House of Representatives
Committee on Consumer Protection and Commerce
Thursday, February 2, 2023
2:00 p.m.**

To: Chair Representative Mark Nakashima
Re: HB 377, Relating to Condominium Proxy Voting

Aloha Chair Nakashima, Vice-Chair Sayama, and Members of the Committee,

I am Lila Mower, 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. Kokua Council has over 800 members and affiliates in Hawaii.

I serve on the board of the Hawaii Alliance for Retired Americans, with a local membership of over 20,000 retirees.

And I am the leader of Hui 'Oia'i'o, informally known as "COCO," a coalition of, at last count, over three hundred property owners--mostly seniors--from over 150 common-interest associations throughout Hawaii and served as an officer on three condominium associations' boards.

Last year, two of my commentaries were published in the Star-Advertiser, "State Must Address HOA Owners' Plight" (<https://www.staradvertiser.com/2022/02/13/editorial/island-voices/state-must-address-hoa-owners-plight/>) and "Proxy Voting Can Distort Homeowners' Association Elections" (<https://www.staradvertiser.com/2022/03/14/editorial/island-voices/column-proxy-voting-can-distort-homeowners-association-elections/>).

I support HB 377 for the following reasons:

Elections are so essential to a representative democratic government that the Department of Homeland Security has defined election infrastructure as "critical infrastructure," as fundamental as roads, bridges, and other public infrastructure.

And the DCCA states, "the owners' most important role is electing directors," even more consequential than paying association fees or following association rules.

While the use of proxies may lead owners to feel that they are represented, and proponents of proxy usage claim that proxy options provide "free choice," **the more removed a voter is from the actual casting of his vote, the greater the possibility of nefarious interference and loss of choice.**

The authorized proxy forms provided by property management companies are "general" proxies that allow the proxy holder to vote however the holder wants and are not "directed" proxies that instruct the proxy holder how to vote.

Personal examinations of multiple condominium associations' election records revealed that acquiring franchise-by-proxy-assignments in these condominium associations was highly problematic. The appearance of improper electoral processes was found to occur primarily at the property management

company level as they were the facilitators of those association elections despite their pecuniary interest in the election results.

Some of these observations were:

- (a) voiding *valid* proxies and
- (b) accepting invalid proxies for use, both actions may be discounted as human error, but were noticeably tilted towards board incumbents;
- (c) misplacing certain proxies and/or ballots which mishandling favored incumbents; and
- (d) the omission of valid proxies from the final tabulation so that fulfilling the quorum would appear to have failed, causing the annual election to be deferred to a later date and allowing incumbent boards to continue their associations' business until the next election.

Also, associations' onsite management, legally prohibited from soliciting proxies for their use as assignees, was witnessed to sidestep the law by directing owners to select proxy options that were favorable to incumbents. Those owners reported that they felt pressured to accede to these "recommendations" for fear of mistreatment or of losing services to which they are properly entitled.

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

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

In 2017, a founding member of Hui 'Oia'i'o initiated what became Act 073, https://www.capitol.hawaii.gov/session2017/bills/GM1174_PDF. The Act was the result of election records reviews which revealed the inclusion of a phrase into the standard proxies used by at least two major property management companies: "If no proxy holder is designated, or if no box is checked, or if more than one box is checked, the proxy shall be given to the Board of Directors as a whole."

This simple phrase allowed easy alteration of proxy documents by the addition of a second checked box by someone other than the proxy assignor, giving the "Board as a whole" the use of that proxy's voting power, and improperly affecting the election.

It was this improper act that brought to our attention the significance of proxy assignments to the associations' boards and the magnitude of exploitation that could occur.

These undemocratic and biased practices must stop.

In 2022, Hawaii's Office of Elections reported that the mail-in ballot turnout was a record-breaking 96% of overall voter turnout. A similar direct-voting-by-ballot method, by postal mail and electronic mail, with an auditable document trail, would benefit, engage, and empower more condominium homeowners than the current condominium association electoral process, and would obviate the need for proxy assignments. The mail-in ballot process allows more owners across the world to directly participate in their associations' meetings.

To that end, Kokua Council encourages Representatives to act on HB 176 and to support the passage of HB 377.

Mahalo for the opportunity to testify.

HB-377

Submitted on: 2/1/2023 4:07:22 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
linda morabito	Hawaiiana Management	Oppose	Written Testimony Only

Comments:

Dear Legislators: Having worked in the field of community association management in Hawaii for over 25 years I strongly disagree with disallowing boards to collect proxies for the following reasons:

1. the board is often the only person/people who attend the meeting to vote.
- 2.. members prefer the board when the board is doing a good job.
3. allow the members to continue to choose who represents them
4. Sometimes the proxy is the only way to get quorum and the board is often the only way to get quorum with so many residents living off island.
5. Owners also have the right to solicit proxies at the association's expense.

The system works and I have rarely seen it abused.

Dedicating the proxy to the "whole" board requires the board to come to a consensus which is what democracy is about.

Thank you for your consideration.

HB-377

Submitted on: 2/1/2023 8:24:31 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

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

Comments:

I STRONGLY SUPPORT HB377.

Thank you for bringing this important Bill up for a Hearing.

Voting “as a whole” is an extremely precarious power that has been given to self-governing organizations, made even worse because they do not have any internal checks-and-balances. Voting “as a whole” is simply a mechanism for the Board to vote for itself. Once a Board becomes entrenched, it becomes unreasonably difficult for the Owners to have fair representation on the Board or to rightly criticize the Board.

The industry advocates try to make the case that Board Members live on property and know what is best for the Association. They say that because a lot of Owners do not live on property, that those Owners should be allowed to let their Board vote on their behalf. This is their marketing slogan but their true objective is to keep a system in place that keeps qualified and well-intentioned Owners off of the Board just because that Owner rightly criticizes the Board or the Managing Agent.

I was surprised to learn that Hawai’i has more successful lawsuits against Board members for negligence and breach of fiduciary duty than any other State in the country. This is not a number that is adjusted for population; it is an “absolute” number.

When a Board is found guilty of negligence and the insurance company has to pay out, the insurance company then increases the premiums for EVERY Association in the State. This is an issue that effects every person who lives in an Association, not just the members of that one Association.

In 1996 when CAI introduced voting “as a whole”, the REC provided testimony that questioned “if the amendment will provide for more abuse.” 30 years of history has shown that Boards, Managing Agents, and Association attorneys have in fact abused the power that has been given to them. Please shut down this avenue for abuse.

Thank You,

Jeff Sadino

RE: Committee on Consumer Protection & Commerce

February 2, 2023

Lourdes Scheibert
920 Ward Ave #6D
Honolulu, Hawaii 96814

January 31, 2023

Chair Rep. Mark Nakashima, Vice Chair Rep Jackson D Sayama
House Committee on Consumer Protection & Commerce
Committee Members: Terez Amato, Della Au Belatti, Cedric Asuega Gates, Mark K Hashem, Natalia Hussey-Burdick, Nicole E. Lowen, Richard HK Onishi, Adrian Tam, Elijah Pierick

I support HB377. Removes from the standard condominium proxy form the option of giving a proxy vote to the board of directors of a condominium association as a whole. Removes the authority of a board to use association funds to solicit proxies as part of the distribution of proxies.

The current state of disrepair for many of our condominium building's infrastructure are due to years of deferred maintenance, band-aide repairs and underfunded Reserves. Today, many owners are faced with multi-million dollars of special assessments for repair and replacement of components and the building's infrastructure. Condo Industry leaders call this "kicking the can down the road." Complaints by owners did and does exist spilling over to harassment and retaliation. HUI participants made up of concerned condo owners, advocated & succeeded to include 514B-191 Retaliation prohibited (LY2017 ACT 190)

Proxy to a Board as a whole simply provides the Board a mechanism to vote for itself, or for the Board to vote to re-elect current members, such as those that historically vote with the Board. A Board in possession of large blocks of proxies can even vote for new Board members they believe will conform to only the current Board members' 'mission'.

Fair elections in condo associations start with well intentioned people and a well balanced board who understand and apply laws correctly without personal bias. In a perfect world this would happen. Law makers also need to understand how these laws impact condo communities and when it is necessary to adjust law to better serve their citizens fairly and effectively. Both go hand in hand.

Please support fair and honest elections without which condominium association Boards may fail to be representative of its many members. The current option of proxy assignment to "the Board as a whole" under 514B-123 allows the majority of a quorum of the condominium board to disenfranchise the associations minority members which includes less active and more reticent owners and residents such as seniors.

Thank-you,
Lourdes Scheibert

HB-377

Submitted on: 1/30/2023 6:03:32 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Paul A. Ireland Koftinow	Individual	Oppose	Remotely Via Zoom

Comments:

Dear Representative Nakashima, Chair, Representative Sayama, Vice Chair, and Members of the Committee:

I OPPOSE H.B. 377 for the following reasons:

Condominium associations are legal entities that act by and through their boards of directors. Condominium boards are comprised of individual directors who are members of their associations and elected by the owners. These individual directors act collectively as a body (i.e., the board) to oversee the administration and operation of the condominium project. It is the board, as a whole, that owners rely upon and trust to manage the affairs of their associations. It therefore follows that many owners give their proxies to the “board as a whole,” because that is the entity in which they faith and have confidence. For those owners who do not have confidence in their association’s board of directors or prefer to give their proxies to an individual, they are free check one of the other boxes on the standard proxy form and to give their proxies to an individual of their choosing. The four boxes on the proxy are intended to give owners the freedom of choice in selecting a person or entity to act as their proxy at association meetings. The law has allowed owners to give their proxies to the board as an entity since 1984. Without any stated explanation, H.B. 377 would serve to eliminate the box on standard proxy forms allowing owners to give their proxies to the board as a whole. There is no good reason for this change. Owners ought to be able to give their proxies to the board as a whole if they wish to do so and the Legislature should not interfere with that process.

In addition, H.B. 377 will also remove language that gives condominium boards the authority to use association funds to solicit proxies as part of the normal distribution of proxies. This could be construed to mean that a board may not use association funds to send out proxy forms which would make it impossible for many associations to obtain a quorum at annual meetings.

For the reasons stated herein I OPPOSE H.B. 377.

Respectfully submitted,

Paul A. Ireland Koftinow

LOBO & ASSOCIATES, LLC

280 ADAMS STREET, MANCHESTER, CT 06042-1975

FATIMA T. LOBO
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TELEPHONE: (860) 645-0006
FAX: (860) 645-1110

January 31, 2023

House Committee on Consumer Protection & Commerce
Representative Nakashima, Chair,
Representative Sayama, Vice Chair,
Members of the Committee:

RE: OPPOSITION TO HOUSE BILL 377

Dear Representative Nakashima, Representative Sayama and Members of the Committee:

I am submitting the attached as my written testimony in opposition to House Bill 377.

Condominium associations are legal entities that act by and through its boards of directors. Condominium boards are comprised of individual directors who are members of their associations and elected by the owners. The individual directors act collectively as a body (i.e., the board) to oversee the administration and operation of the condominium project. Generally speaking, the owners rely upon and trust the board to manage the affairs of the association. This is especially true in Hawai'i where there are a significant number of owners that have condominiums in Hawai'i as a second home. For me currently, I am an investor in three properties in Maui. Although I try to stay informed, it is impossible to be as knowledgeable about three different properties in the same manner and depth as a board would be. Therefore, when I am unable to attend or give my proxy to another individual, I give my proxy to the "board as a whole." That only happens if I have confidence in their knowledge and judgment. The granting of the proxy to the "board as a whole" in no way impairs each owner from appearing in person or giving the proxy to an individual. The four boxes on the proxy are intended to give an owner the freedom of choice in selecting a person or entity to act as their proxy at association meetings. The law has allowed owners to give their proxy's to the board as an entity since 1984. I am at a loss to understand what the issue is with the current status of the law. Giving owners more options, including giving a proxy to the board as a whole if they wish to do so, benefits owners.

In addition, House Bill 377 will also remove language that gives condominium boards the authority to use association funds to solicit proxies as part of the normal distribution of proxies. This could be construed to mean that a board may not use association funds to send out proxy forms which would make it impossible for many associations to obtain a quorum at annual meetings. This would essentially make almost every board unable to transact any business.

For the above reasons, I oppose House Bill 377.

Respectfully submitted,

Fatima T. Lobo



HB-377

Submitted on: 1/30/2023 9:27:08 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

Please accept this as testimony in strong opposition to HB377.

I have been an owner/occupant of a high rise condominium for more than 35 years. It appears that the legislature is intent on creating havoc with our annual meetings, proxy forms, etc. Almost very year you propose changes which will prohibit a meeting from taking place.

This year, again, you propose to delete the option to give proxies to the “board as a whole.” Do that, and we very well may not be able to hold an annual meeting as a quorum may not be constituted. I audited the ballots and proxies from my associadtion’s 2022 annual meeting. One hundred forty seven owners (out of a total of 396) gave their proxies either for quorum purposes only (58) or to the board as a whole (89). That is roughly 35% of the owners. Thirty seven percent of the owners were absent, with 63% present in person or by proxy. Delete the board as a whole option and we would not have met quorum, would not have been able to conduct business, would have had to reschedule the meeting at a cost of several thousand dollars to the association. Most of the owners do not know each other. Many are absentee owners, who rent out their units. They trust the board members to make this decision, based on the backgrounds of the candidates and the needs of the board. One year a candidate was selected because the board was looking for a new treasurer and that person had the qualifications. Many years there are only enough candidates for the open seats.

Owners should be able to give their proxies to the board as a whole if they wish to do so, something that has been enshrined in state law since 1984, possibly/probably before some of you were born, and the legislature should not interfere with that process.

I am also concerned that language would be removed which gives the boards the authority to solicit proxies. This could mean that a board could not use association funds to send out proxy forms making it impossible for many associations to obtain a quorum at annual meetings.

Please defer this bill, permanently.

lynne matusow

HB-377

Submitted on: 1/30/2023 8:33:28 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Joyce Baker	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Nakashima, Chair, Representative Sayama, Vice Chair, and Members of the Committee:

I OPPOSE H.B. 377 for the following reasons:

Condominium associations are legal entities that act by and through their boards of directors. Condominium boards are comprised of individual directors who are members of their associations and elected by the owners. These individual directors act collectively as a body (i.e., the board) to oversee the administration and operation of the condominium project. It is the board, as a whole, that owners rely upon and trust to manage the affairs of their associations. It therefore follows that many owners give their proxies to the “board as a whole,” because that is the entity in which they have faith and confidence. For those owners who do not have confidence in their association’s board of directors or prefer to give their proxies to an individual, they are free to check one of the other boxes on the standard proxy form and to give their proxies to an individual of their choosing. The four boxes on the proxy are intended to give owners the freedom of choice in selecting a person or entity to act as their proxy at association meetings. The law has allowed owners to give their proxies to the board as an entity since 1984. Without any stated explanation, H.B. 377 would serve to eliminate the box on standard proxy forms allowing owners to give their proxies to the board as a whole. There is no good reason for this change. Owners ought to be able to give their proxies to the board as a whole if they wish to do so and the Legislature should not interfere with that process.

In addition, H.B. 377 will also remove language that gives condominium boards the authority to use association funds to solicit proxies as part of the normal distribution of proxies. This could be construed to mean that a board may not use association funds to send out proxy forms, which would make it impossible for many associations to obtain a quorum at annual meetings.

For the reasons stated herein I OPPOSE H.B. 377.

Respectfully submitted,

Joyce Baker

**Richard Emery, RB-17147
Consultant and Expert
Governance and Real Estate Matters**

January 31, 2023

Oppose - HB 377

My name is Richard Emery and am a consultant or expert in association matters representing both Unit Owners or Associations depending on the issue and relevant facts. My testimony is on a personal basis.

Organizations including condominium associations are businesses that must hold annual meetings. Various business items are included in the agenda including the ability to vote on Owner initiatives in response to Motions made at the meeting without notice.

As an Owner or Member of the organization, you have a right to participate. If you cannot make the meeting, you have the right to select whom you want to represent you, and no one and no law dictates whom you give your assign your proxy to, if anyone. You don't have to submit a proxy. It is a personal choice. Corporations, both for profit and nonprofit, have used proxies for decades including assigning to the Board of Directors.

Hawaii condominium owners may live outside the state, but they are entitled to representation. Often owners do not know or understand all of the issues before the association, but like the way the association is run. It's their personal choice to give their proxy to the Board or whomever they want.

I have attended and conducted hundreds of annual meetings. From my experience, the Board typically receives a nominal number of proxies. Yes, the Board will vote those proxies for candidates in the election in their belief of what is in the best interest of the association. The Board is simply unpaid democratically elected owners making in their belief the best decision for the association. A simple right in organizational governance.

For several years now at the Legislature, a small group has argued that this practice is improper without any facts to support this opinion. I call this the "I can't get elected, so let's change the rules to eliminate an Owner's right to choose a representative Act." I am proud of the fact that Hawaii is a very progressive state taking extraordinary steps to protect a person's right to vote. This Bill does the exact opposite by eliminating an Owner's right to choose their representative and further creates a barrier to be represented.

I strongly **OPPOSE** HB 377.

s/s Richard Emery

HB-377

Submitted on: 1/31/2023 8:25:17 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jenelle Morella	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Nakashima, Chair, Representative Sayama, Vice Chair, and Members of the Committee:

I OPPOSE H.B. 377 for the following reasons:

Condominium associations are legal entities that act by and through their boards of directors. Condominium boards are comprised of individual directors who are members of their associations and elected by the owners. These individual directors act collectively as a body (i.e., the board) to oversee the administration and operation of the condominium project. It is the board, as a whole, that owners rely upon and trust to manage the affairs of their associations. It therefore follows that many owners give their proxies to the “board as a whole,” because that is the entity in which they faith and have confidence. For those owners who do not have confidence in their association’s board of directors or prefer to give their proxies to an individual, they are free check one of the other boxes on the standard proxy form and to give their proxies to an individual of their choosing. The four boxes on the proxy are intended to give owners the freedom of choice in selecting a person or entity to act as their proxy at association meetings. The law has allowed owners to give their proxies to the board as an entity since 1984. Without any stated explanation, H.B. 377 would serve to eliminate the box on standard proxy forms allowing owners to give their proxies to the board as a whole. There is no good reason for this change. Owners ought to be able to give their proxies to the board as a whole if they wish to do so and the Legislature should not interfere with that process.

In addition, H.B. 377 will also remove language that gives condominium boards the authority to use association funds to solicit proxies as part of the normal distribution of proxies. This could be construed to mean that a board may not use association funds to send out proxy forms which would make it impossible for many associations to obtain a quorum at annual meetings.

For the reasons stated herein I OPPOSE H.B. 377.

Respectfully submitted,

Jenelle Morella

HB-377

Submitted on: 1/31/2023 9:53:35 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
David Berg	Individual	Oppose	Written Testimony Only

Comments:

I OPPOSE H.B. 377 for the following reasons:

Condominium associations are legal entities that act by and through their boards of directors. Condominium boards are comprised of individual directors who are members of their associations and elected by the owners. These individual directors act collectively as a body (i.e., the board) to oversee the administration and operation of the condominium project. It is the board, as a whole, that owners rely upon and trust to manage the affairs of their associations. It therefore follows that many owners give their proxies to the “board as a whole,” because that is the entity in which they faith and have confidence. For those owners who do not have confidence in their association’s board of directors or prefer to give their proxies to an individual, they are free check one of the other boxes on the standard proxy form and to give their proxies to an individual of their choosing. The four boxes on the proxy are intended to give owners the freedom of choice in selecting a person or entity to act as their proxy at association meetings. The law has allowed owners to give their proxies to the board as an entity since 1984. Without any stated explanation, H.B. 377 would serve to eliminate the box on standard proxy forms allowing owners to give their proxies to the board as a whole. There is no good reason for this change. Owners ought to be able to give their proxies to the board as a whole if they wish to do so and the Legislature should not interfere with that process.

In addition, H.B. 377 will also remove language that gives condominium boards the authority to use association funds to solicit proxies as part of the normal distribution of proxies. This could be construed to mean that a board may not use association funds to send out proxy forms which would make it impossible for many associations to obtain a quorum at annual meetings.

For the reasons stated herein I OPPOSE H.B. 377.

Respectfully submitted,

Phillip A. Trujillo
Jennifer Lee Taylor
3300 Wailea Alanui, #34C, Kihei HI 96752

Dear Representative Nakashima, Chair, Representative Sayama, Vice Chair, and Members of the Committee:

As condo owners on Maui, we OPPOSE H.B. 377 for the following reasons:

Condominium associations are legal entities that act by and through their boards of directors. Condominium boards are comprised of individual directors who are members of their associations and elected by the owners. These individual directors act collectively as a body (i.e., the board) to oversee the administration and operation of the condominium project. It is the board, as a whole, that owners rely upon and trust to manage the affairs of their associations. It therefore follows that many owners give their proxies to the “board as a whole,” because that is the entity in which they faith and have confidence. Most of the time, this is exactly how we vote, as we find this works best for us and for our community.

For those owners who do not have confidence in their association’s board of directors or prefer to give their proxies to an individual, they are free check one of the other boxes on the standard proxy form and to give their proxies to an individual of their choosing. The four boxes on the proxy give owners the freedom of choice in selecting a person or entity to act as their proxy at association meetings. The law has allowed owners to give their proxies to the board as an entity since 1984. Without any stated explanation, H.B. 377 would serve to eliminate the box on standard proxy forms allowing owners to give their proxies to the board as a whole. There is no logical reason for this change. Owners like us ought to be able to give their proxies to the board as a whole if they wish to do so and the Legislature should not interfere with that process. At the very least, the Legislature must be required to set forth each and every reason for this proposed Bill, and then allow full and fair public comment on it, before it comes to a floor vote.

Further, H.B. 377 will also remove language that gives condominium boards the authority to use association funds to solicit proxies as part of the normal distribution of proxies. This could be construed to mean that a board may not use association funds to send out proxy forms which would make it impossible for many associations to obtain a quorum at annual meetings. Such change makes no sense – again, for no reason, it places illogical, unwanted, and needless procedural barriers to routine owner self governance, voting, planning and administration of our associations. H.B. 377 is the very essence of a “solution” in search of a problem.

For the reasons stated herein I OPPOSE H.B. 377.

Respectfully submitted,
Phillip A. Trujillo

HB-377

Submitted on: 1/31/2023 5:14:33 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kathy Kosec	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Nakashima, Chair, Representative Sayama, Vice Chair, and Members of the Committee:

I OPPOSE H.B. 377 for the following reasons:

Condominium associations are legal entities that act by and through their boards of directors. Condominium boards are comprised of individual directors who are members of their associations and elected by the owners. These individual directors act collectively as a body (i.e., the board) to oversee the administration and operation of the condominium project. It is the board, as a whole, that owners rely upon and trust to manage the affairs of their associations. It therefore follows that many owners give their proxies to the “board as a whole,” because that is the entity in which they faith and have confidence. For those owners who do not have confidence in their association’s board of directors or prefer to give their proxies to an individual, they are free check one of the other boxes on the standard proxy form and to give their proxies to an individual of their choosing. The four boxes on the proxy are intended to give owners the freedom of choice in selecting a person or entity to act as their proxy at association meetings. The law has allowed owners to give their proxies to the board as an entity since 1984. Without any stated explanation, H.B. 377 would serve to eliminate the box on standard proxy forms allowing owners to give their proxies to the board as a whole. There is no good reason for this change. Owners ought to be able to give their proxies to the board as a whole if they wish to do so and the Legislature should not interfere with that process.

In addition, H.B. 377 will also remove language that gives condominium boards the authority to use association funds to solicit proxies as part of the normal distribution of proxies. This could be construed to mean that a board may not use association funds to send out proxy forms which would make it impossible for many associations to obtain a quorum at annual meetings.

For the reasons stated herein I OPPOSE H.B. 377.

Respectfully submitted,

Kathy Kosec

HB-377

Submitted on: 1/31/2023 6:32:15 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Carol Walker	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Nakashima, Chair, Representative Sayama, Vice Chair, and Members of the Committee:

I OPPOSE H.B. 377 for the following reasons:

Condominium associations are legal entities that act by and through their boards of directors. Condominium boards are comprised of individual directors who are members of their associations and elected by the owners. These individual directors act collectively as a body (i.e., the board) to oversee the administration and operation of the condominium project. It is the board, as a whole, that owners rely upon and trust to manage the affairs of their associations. It therefore follows that many owners give their proxies to the “board as a whole,” because that is the entity in which they faith and have confidence. For those owners who do not have confidence in their association’s board of directors or prefer to give their proxies to an individual, they are free check one of the other boxes on the standard proxy form and to give their proxies to an individual of their choosing. The four boxes on the proxy are intended to give owners the freedom of choice in selecting a person or entity to act as their proxy at association meetings. The law has allowed owners to give their proxies to the board as an entity since 1984. Without any stated explanation, H.B. 377 would serve to eliminate the box on standard proxy forms allowing owners to give their proxies to the board as a whole. There is no good reason for this change. Owners ought to be able to give their proxies to the board as a whole if they wish to do so and the Legislature should not interfere with that process.

In addition, H.B. 377 will also remove language that gives condominium boards the authority to use association funds to solicit proxies as part of the normal distribution of proxies. This could be construed to mean that a board may not use association funds to send out proxy forms which would make it impossible for many associations to obtain a quorum at annual meetings.

For the reasons stated herein I OPPOSE H.B. 377.

Respectfully submitted,

Carol Walker

HB-377

Submitted on: 2/1/2023 12:24:01 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
mary freeman	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Nakashima, Chair, Representative Sayama, Vice Chair, and Members of the Committee:

I OPPOSE H.B. 377 for the following reasons:

Condominium associations are legal entities that act by and through their boards of directors. Condominium boards are comprised of individual directors who are members of their associations and elected by the owners. These individual directors act collectively as a body (i.e., the board) to oversee the administration and operation of the condominium project. It is the board, as a whole, that owners rely upon and trust to manage the affairs of their associations. It therefore follows that many owners give their proxies to the “board as a whole,” because that is the entity in which they faith and have confidence. For those owners who do not have confidence in their association’s board of directors or prefer to give their proxies to an individual, they are free check one of the other boxes on the standard proxy form and to give their proxies to an individual of their choosing. The four boxes on the proxy are intended to give owners the freedom of choice in selecting a person or entity to act as their proxy at association meetings. The law has allowed owners to give their proxies to the board as an entity since 1984. Without any stated explanation, H.B. 377 would serve to eliminate the box on standard proxy forms allowing owners to give their proxies to the board as a whole. There is no good reason for this change. Owners ought to be able to give their proxies to the board as a whole if they wish to do so and the Legislature should not interfere with that process.

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For the reasons stated herein I OPPOSE H.B. 377.

Respectfully submitted,

Mary Freeman

Ewa Beach

HB-377

Submitted on: 2/1/2023 10:06:06 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Anne Anderson	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Nakashima, Chair, Representative Sayama, Vice Chair, and Members of the Committee:

I OPPOSE H.B. 377 for the following reasons:

Condominium associations are legal entities that act by and through their boards of directors. Condominium boards are comprised of individual directors who are members of their associations and elected by the owners. These individual directors act collectively as a body (i.e., the board) to oversee the administration and operation of the condominium project. It is the board, as a whole, that owners rely upon and trust to manage the affairs of their associations. It therefore follows that many owners give their proxies to the “board as a whole,” because that is the entity in which they faith and have confidence. For those owners who do not have confidence in their association’s board of directors or prefer to give their proxies to an individual, they are free check one of the other boxes on the standard proxy form and to give their proxies to an individual of their choosing. The four boxes on the proxy are intended to give owners the freedom of choice in selecting a person or entity to act as their proxy at association meetings. The law has allowed owners to give their proxies to the board as an entity since 1984. Without any stated explanation, H.B. 377 would serve to eliminate the box on standard proxy forms allowing owners to give their proxies to the board as a whole. There is no good reason for this change. Owners ought to be able to give their proxies to the board as a whole if they wish to do so and the Legislature should not interfere with that process.

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For the reasons stated herein I OPPOSE H.B. 377.

Respectfully submitted,

M. Anne Anderson

HB-377

Submitted on: 1/30/2023 5:33:30 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
ANDREW SALENGER	Individual	Support	Written Testimony Only

Comments:

I support this measure.

January 30, 2023

Testimony in **SUPPORT** of HB377

Hearing date: February 2, 2023

Dear Representatives,

Thank you for the opportunity to provide testimony on this bill.

As a condominium unit owner and board member who believes in principled and honest service for the benefit of the Association, not for self-interest or ego, I wholly support this bill.

I have witnessed boards with long-time members, some on for twenty years or more, who are intransigent to forward thinking, proactive change, and discredit, often through forums open only to the board, other owners who wish to serve. Unfortunately, some long-term board members find fellow “in cahoots” owners to fill a seat on the board and vote as they do. The proxy option which awards the proxy vote to the board as a whole (and majority of the board decides its use), removes fairness from the process by giving too much power to the board majority. This is especially true in a condominium association which has frequent turnover of owners or investor owners who are off property and don't see the actual day-to-day goings on. The board majority controls the narrative of newsletters and the answers the property management executive provides (or doesn't provide) to owners. A rogue board may intentionally misinform, insinuate with half-truths, and discredit others in missives sent to owners, but many owners may not realize the information provided lacks veracity. By allowing the proxy to the board as a whole option for boards such as this, the owners who wish to serve in a principled way are at a true disadvantage.

Please remove the proxy vote to the board as a whole option from the proxy forms and help level the playing field in the interest of honest and transparent self-governance.

Respectfully submitted,

Lora Harbo

HB377 In favor of Approval

I am in favor of this proposal RELATING TO CONDOMINIUM PROXY VOTING to remove from the standard condominium proxy form the option of giving a proxy vote to the board of directors of a condominium association as a whole.

I advocate that each homeowner should have the opportunity to designate a proxy to specifically vote as he/she, the grantor wishes. This possibility is negated when the proxy is assigned blindly to the Board giving it full authority. This gives the Board too much power to influence the outcome of an election or fate of an amendment.

I am also in favor of not allowing the Board to use association funds to solicit proxies as part of the distribution of proxies.

Elaine Anderson
68-1122 N. Kaniku Drive Apt 208
Kamuela, HI 96743
Phone: 808-885-9818

HB-377

Submitted on: 1/31/2023 5:19:04 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Peter R Daspit	Individual	Support	Written Testimony Only

Comments:

I believe that proxy selections given to the board of directors as a whole gives the Board excessive power to re-elect themselves. That may not have been the intent, but boy howdy it sure turned out that way... I think individual voting is less prone to abuse of the system, and keeps the board accountable. Mahalo.

HB-377

Submitted on: 1/31/2023 5:21:47 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Esther Gefroh	Individual	Support	Written Testimony Only

Comments:

Thank you.

HB-377

Submitted on: 2/1/2023 2:29:01 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Barbara Rogers	Individual	Support	Written Testimony Only

Comments:

425 Ena Road, 606C

Honolulu, HI 96815

808-781-8537

February 1, 2023

Re: In Support of H.B. 377

Dear Representative Nakashima, Chair, Representative Sayama, Vice Chair, and Members of the Committee,

Thank you very much for your consideration of H.B. 377, which addresses some of the abuses evident by various condominium boards.

I am strongly in favor of letting the Bill go forward to alleviate the abuse of Boards who, for instance, can use proxies and the voting procedures to perpetuate their power and control. This is especially a problem with small boards of three people.

Sincerely with aloha,

Barbara Rogers

RE: HB377

This letter is to convey personal experience with HR514b violations.

The basic premise of "self-government" for violations of HR514b by boards and property management companies is dysfunctional and broken. The existing system allows for the collusion of a deceptive board and a willing/cooperative management company to mis-appropriate association funds to BOTH their individual advantages.

The "elephant in the room" to any change in the current "no teeth enforcement" are the handful of large property management companies who will vigorously fight any increased oversight over the weak self-governance provisions of the current statute.

From my personal experience in the discovery process of clear violations of HR514b there is no agency for receiving and investigating HR 514b violations. ***The ongoing shenanigans discovered between the 35-year in place board president and a major local property management company is "the post child" for... How association owners can be purposefully misled by: 1) A willing collusion to provide a lack of transparency in financial decisions; and 2) By using non-standard accounting practices to hide expenditures and/or management decisions that would otherwise raise "red flags".***

Over the last year as the discovery process has progressed, I have personally spent over \$1,000 on obtaining association documents. *There is a wide range of documented violations discovered by me from the resident manager's strong-arming owners for their proxy vote to the benefit of the incumbent president, leasing an association owned unit at more than 50% below market rate to a friend over the last 4-years, numerous single vendor bids awarded with cost over runs exceeding more than half the cost of the initial bid with no oversight, to some "creative bookkeeping" from a knowledgeable management company with the clear intent to mis-lead.*

I am available by phone and email to answer any questions and/or to provide my documentation.

Aloha,

Wayne Kauppi

808/469-6636

wkauppi@yahoo.com

HB-377

Submitted on: 2/1/2023 11:40:54 AM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Raelene Tenno	Individual	Comments	Written Testimony Only

Comments:

I've owned condos since 1990 and have served on 3 boards. Each year the question comes up with condo owners as to which box to select and I explain each box.

Maybe consider including a simple language definition with example of each box and included with the Annual Meeting packet and posted alongside the Annual Meeting Notices.

The simple language and definitions should be developed with the combined assistance of DCCA, CAI and HCCA.

Thank you for this opportunity to testify.

Raelene Tenno

HB-377

Submitted on: 2/1/2023 8:08:00 PM

Testimony for CPC on 2/2/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ann Shinsato	Individual	Support	Written Testimony Only

Comments:

I am in favor of HB377, as I have seen board proxies not used in a fair way. This bill would correct this.