

Testimony of the Real Estate Commission

**Before the
House Committee on Finance
Friday, February 24, 2023
10:00 a.m.
Conference Room 308 and Videoconference**

**On the following measure:
H.B. 381, H.D. 2, RELATING TO CONDOMINIUMS**

Chair Yamashita and Members of the Committee:

My name is Derrick Yamane, and I am the Chairperson of the Hawai'i Real Estate Commission (Commission). The Commission supports this bill.

The purpose of this bill is to repeal the sunset date of Act 196, Session Laws of Hawai'i 2018, that allowed for voluntary binding arbitration for condominium related disputes and amended the conditions for mediation.

The Commission supports and continues to subsidize mediation and voluntary binding arbitration and encourages the use of alternative dispute resolution for condominium-related disputes as a valuable self-governance tool.

Thank you for the opportunity to testify on this bill.

HB-381-HD-2

Submitted on: 2/22/2023 10:30:32 AM

Testimony for FIN on 2/24/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Palehua Townhouse Association	Support	Written Testimony Only

Comments:

Palehua Townhouse Association strongly supports HB381. Please pass this bill.

Mike Golojuch, Sr., President



HOUSE COMMITTEE ON FINANCE

Hearing Date: Friday, February 24, 2023

Time: 10:00 AM

Place: Conference room 308, via video conference

Testimony re House Bill 381, HD2

Chair Yamashita and Members of the Committee

My name is John Morris, and I am testifying on behalf of the Legislative Action Committee Of The Community Associations Institute, Hawaii Chapter. CAI is a national organization devoted to improving the management and operation of condominiums and other homeowner associations. The Hawaii chapter is a local chapter of the national CAI organization.

CAI strongly supports HB381 HD2, which would repeal the sunset date of Act 196 (SLH 2018) and continue funding for voluntary binding arbitration for condominium disputes in accordance with section 514B-162.5. The act also amended the condominium law to improve the mediation process.

Arbitration. Disputes between owners and boards about the management and operation of condominium projects continue to arise. Therefore, the more options the legislature can provide for resolving those disputes, the better. In this case, section 514B-162.5 allows the parties to a dispute to agree to submit it to binding arbitration, with the added benefit of a \$6000 subsidy from the Condominium Education Trust Fund towards the cost of the binding arbitration. (That fund is supported by fees collected from condominium owners to support education and dispute resolution.)

Continuing the option for voluntary binding arbitration can be very cost effective when boards and owners cannot resolve their disputes through negotiation or mediation, yet still want to have a final decision on the issue in dispute. In that case, they can submit the issue to a neutral arbitrator and obtain a decision, one way or another, so they can move on from their dispute.

While it is possible for the boards and owners to go to court, that takes more time and more State resources. In contrast, if the issue in dispute is relatively straightforward and simply requires a decision, voluntary binding arbitration can be the quickest, cheapest, and most effective way of resolving the dispute. Therefore, CAI supports the repeal of the sunset date of act 196 so that funding for voluntary binding arbitration under section 514B-162.5 can continue to offer boards and owners that option.

Chair Kyle T. Yamashita

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Meditation. CAI also strongly supports HB381 HD2 to the extent that it would also continue funding for evaluative mediation, the preferred process for mediation of condominium disputes. Evaluative mediation allows a mediator with experience in the subject matter to not only try to resolve the dispute. The mediator can also advise the parties on the relative strengths and weaknesses of their case and the likelihood that their claims will succeed if they fail to resolve the matter through mediation. This, in turn, allows the parties to the mediation to more effectively consider all the options for settlement of their dispute. For example, the parties to the mediation may have overestimated the strength of their case. If so, evaluative mediation can allow them to make a more informed decision on whether to proceed to a more formal dispute resolution process, such as arbitration, or simply walk away.

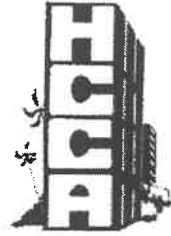
Thank you for this opportunity to testify.

John Morris

For CAI Hawaii Chapter



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



February 22, 2023

Rep. Kyle Yamashita, Chair
Rep. Lisa Kitagawa, Vice-Chair
House Committee on Finance

Re: Testimony in Support of HB381, HD2 Re Condominiums
Hearing: Friday, February 24, 2023, 10 a.m., Conf. Rm. #308

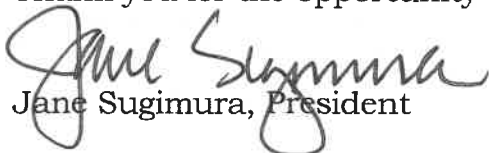
Chair Yamashita and Vice-Chair Kitagawa and Members of the Committee:

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

HCCA supports this bill and ask you to pass it out for the following reasons:

- The funds used to support voluntary binding arbitration are not from the general fund but are condo-ed funds, which is a special fund paid for by condominium associations when they register with the DCCA every 2 years.
- HCCA strongly supported passage of Act 187 as amended by Act 196, which supported the (i) use of mediation and voluntary arbitration to resolve disputes by and among condo owners, their board and managing agents (rather than litigating these disputes in the courts) and (ii) allowing the condo-education fund to subsidize the cost of the mediations and arbitrations.
- As a result of the passage of Act 196, condo owners and associations have had additional remedies to address and resolve condo disputes without having to resort to litigation and the parties have been able to get funds from the condo-education fund to subsidize the costs of those mediations and/or arbitrations.

For these reasons, HCCA believes that the sunset provision that will become effective on June 30, 2023 in the bill is unnecessary and should be removed. Accordingly, HCCA respectfully requests that you pass out this bill so that subsidized mediation and arbitration will remain available to condo owners and association to resolve their disputes. Thank you for the opportunity to testify on this matter.


Jane Sugimura, President

HB-381-HD-2

Submitted on: 2/22/2023 9:54:38 AM

Testimony for FIN on 2/24/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Philip Nerney	Individual	Support	Written Testimony Only

Comments:

The legislature has provided robust support for alternative dispute resolution, enabling access to efficient and economical mediation and arbitration opportunities in the condominium context. HB 381 HD2 provides support for voluntary binding arbitration, which is important and should be continued.

Owners of real property in a condominium must accept responsibility for entering into legal relationships and for disputes that may arise within those relationships. HB 381 HD2 serves to facilitate resolution of such disputes without unwarranted governmental control over self-governing entities that purchasers voluntarily choose to join.

HB-381-HD-2

Submitted on: 2/22/2023 11:16:59 AM

Testimony for FIN on 2/24/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Elaine Panlilio	Individual	Support	Written Testimony Only

Comments:

I support HB381, which would repeal the sunset date of Act 196 (SLH 2018). Boards and owners need multiple options to address disputes. Voluntary binding arbitration is a cost effective way of addressing disputes and it has the added benefit of receiving subsidy from the Condominium Education Trust Fund.

Lower costs, faster results in resolving disputes would benefit all the parties involved as well as all the owners in that association.

HB-381-HD-2

Submitted on: 2/22/2023 11:19:39 AM

Testimony for FIN on 2/24/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael Ayson	Individual	Support	Written Testimony Only

Comments:

I support.

HB-381-HD-2

Submitted on: 2/22/2023 11:56:58 AM

Testimony for FIN on 2/24/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Richard Emery	Individual	Support	Written Testimony Only

Comments:

This program of alternate dispute resolution is very effective and should be continued. SUPPORT.