

Testimony of the Hawai'i Real Estate Commission

**Before the
Senate Committee on Commerce and Consumer Protection
Tuesday, February 6, 2024
9:30 a.m.
Conference Room 229 and Videoconference**

**On the following measure:
S.B. 2336, RELATING TO CONDOMINIUMS**

Chair Keohokalole 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 opposes Part III of this bill.

The purposes of this bill are to: (1) require that condominium renters who prevail in a lawsuit for a violation of the Residential Landlord-Tenant Code be awarded reasonable attorney's fees and costs and threefold damages; (2) require the Real Estate Commission to establish a Condominium Association Board Oversight Task Force to ensure transparency and consistency in the management of condominiums; (3) require a report to the Legislature; and (4) dissolve the Task Force on an unspecified date.

The objectives of the Condominium Association Oversight Task Force proposed in Part III of this bill appear to be duplicative to the scope of the Condominium Property Regime (CPM) Task Force established by Act 189, SLH 2023. The CPM Task Force is currently tasked with examining and evaluating issues regarding condominiums and the established alternative dispute resolutions systems for condominium disputes, including whether additional duties and fiduciary responsibilities should be placed on condominium board members. Furthermore, the CPM Task Force has asked the Legislative Reference Bureau (LRB) to conduct a study on how other jurisdictions handle issues regarding condominiums through HB1814 and SB2726. The scope of the LRB study specifically explores the strengths and weaknesses of alternative dispute resolution systems employed in other states, including their approaches to governmental regulation and enforcement of condominium operations and governance. Along with LRB's study, the CPM Task Force will provide the Legislature a final report of its findings and recommendations, including any proposed legislation, for appropriate

consideration. Accordingly, the Commission respectfully suggests consideration be given to the efforts of the CPM Task Force established by Act 189, SLH 2023.

Thank you for the opportunity to testify on this bill.



P.O. Box 976
Honolulu, Hawaii 96808

February 3, 2024

Honorable Jarrett Keohokalole
Honorable Carol Fukunaga
Committee on Commerce and Consumer Protection
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **SB 2336 OPPOSE**

Dear Chair Keohokalole, Vice Chair Fukunaga and Committee Members:

CAI opposes SB 2336.

The bill oddly pairs a landlord tenant code provision with a proposal for a task force that would be duplicative of the existing Condominium Property Regime Task Force, created pursuant to Act 189 (2023).

SB 2336 proposes that:

(c) The condominium association board oversight task force shall consider whether:

(1) Additional regulations are needed for condominium association boards;

(2) Greater legal protections are needed for condominium owners;

(3) Additional grievance processes are needed to provide recourse for condominium renters and owners, beyond the mediation and arbitration processes established in part VI, subpart D, of chapter 514B, Hawaii Revised Statutes; and

(4) Specialized training is needed for members of the governing board established in section 514B-106, Hawaii Revised Statutes.

The existing Task Force has made a unanimous recommendation that is reflected in SB 2726, which proposes that:

SECTION 2. (a) The legislative reference bureau shall study and submit a report on the approaches employed by certain other states regarding the following condominium subjects:

Honorable Jarrett Keohokalole
Honorable Carol Fukunaga
February 3, 2024
Page 2 of 2

- (1) A condominium ombudsman or similar position to specifically oversee condominiums;
- (2) Required licenses for individuals involved in the management of condominiums;
- (3) The availability of dedicated alternate dispute resolution or similar programs that are specifically for the prevention or resolution of condominium-related disputes and are separate from alternate dispute resolution programs available for other disputes;
- (4) Governmental regulation and enforcement of condominium operations and governance that are separate from an ombudsman referenced in paragraph (1);
- (5) Requirements for owner education at the point of sale of a unit; and
- (6) Requirements for owner access to condominium documents.

Moreover, Act 149 (2023) already requires the real estate commission to develop a curriculum for leadership training to be made available to board members of a condominium association and submit a progress report to the legislature.

SB 2336 should be deferred.

CAI Legislative Action Committee, by


Its Chair

Committee on Commerce & Consumer Protection

Tuesday, February 6, 2024 @ 9:30 AM

SB 2336: Oversight Task Force

My name is Jeff Sadino, I am a condo owner in Makiki, and I **STRONGLY SUPPORT** this Bill, specifically a condominium oversight task force.

Over 50 years ago, we were the first State in the country to create condominium law. Today, we have more lawsuits against Boards Behaving Badly than any other State in the country. We used to be a leader in condo governance. Today, we are an embarrassment.

I have been advocating for 6 years and am somewhat familiar with advocacy groups in other States and condo governance & reforms in other States. In my opinion, Ms. Lila Mower is probably one of the top 10 well-rounded, authentic, and well-intentioned condo advocates in the entire country. Right now, our condo governance needs all the help it can get. I urge you to take advantage of this wonderful opportunity that will incur \$0 cost and create this Task Force and utilize the valuable human resources that we have available to us.

Thank you for the opportunity to testify,

Jeff Sadino

SB-2336

Submitted on: 2/3/2024 3:21:19 PM

Testimony for CPN on 2/6/2024 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|----------------|
| Dale Head | Individual | Support | In Person |

Comments:

Regarding SB2336 (Requires that condominium renters who prevail in a lawsuit for a violation of the Residential Landlord-Tenant Code be awarded reasonable attorney's fees and costs and threefold damages. Requires the Real Estate Commission to establish a Condominium Association Board Oversight Task Force to ensure transparency and consistency in the management of condominiums. Requires a report to the Legislature. Dissolves the Task Force on an unspecified date).

Aloha CPN Chair Jarrett Keohokalole & Vice Chair Carol Fukunaka:

This is an 'omnibus' type of Bill which is interesting. I SUPPORT it.

Sincerely, Dale Arthur Head. sunnymakaha@yahoo.com

SB-2336

Submitted on: 2/4/2024 2:12:32 AM

Testimony for CPN on 2/6/2024 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|----------------------|
| Greg Misakian | Individual | Support | Remotely Via Zoom |

Comments:

I Support SB2336.

Abuse of Power by condominium association Board members and their agents, acting on their behalf, has become an epidemic. There are many bad acts and many bad actors, and this bill would provide a path in the right direction.

Gregory Misakian

Kokua Council, 2nd Vice President

Waikiki Neighborhood Board, Sub-District 2 Vice Chair

LATE**LATE**

TESTIMONY IN SUPPORT OF SB 2336 –
RELATING TO CONDOMINIUMS

Senate Committee on Commerce and Consumer Protection – Room 229 & Videoconference

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair

Tuesday, February 6, 2024 at 9:30 a.m.

The Legal Aid Society of Hawai'i (Legal Aid) submits testimony in support of SB 2336 – Relating to Condominiums. For Legal Aid, this testimony is submitted by Nicholas J. Severson, the Managing Attorney of Legal Aid's Housing and Consumer Unit, a unit that provides legal assistance on landlord/tenant and housing discrimination matters, as well as consumer issues. Legal Aid's focus in rental housing is advocating for the interests of tenants. We have extensive experience with the challenges Hawaii's low-income population faces in finding, leasing, and maintaining their rental housing, more than any other law firm in the State.

Renters in the state of Hawaii experience increasing cost of living, inflation, and a continually tightening rental market. Many renters who experience poor treatment by their landlords or the associations governing their buildings are faced with the choice of enduring this poor treatment or moving. Currently, the landlord-tenant code does not provide tenants, or those who may be interested in representing their interests, with much incentive to contest this poor treatment, particularly in court. Most of the time, the downside of eviction, damage to credit, and harm to rental reputation far outweighs the possible upside of contesting the matter in court. As it currently stands, once these matters are escalated via lawsuit, tenants are often pressured into reaching settlement agreements or vacating the unit. The power imbalance between tenants and their housing providers are exacerbated when tenants are unable to obtain legal representation. In most cases, tenants are unrepresented, while housing providers are not.

This bill would help discourage frivolous and plainly disputable legal actions by associations and would encourage resolution outside of court. Further, it would incentivize the private bar to represent tenants where no financial incentive existed previously. While Legal Aid strives to represent as many vulnerable tenants as possible, tenant need far outpaces our staff's capacity. This bill would help close the representation gap between housing providers and tenants, making the process more fair and equitable.

Thank you for this opportunity to provide testimony. Legal Aid supports SB 2336.

Sincerely,

A handwritten signature in black ink, appearing to read 'N. Severson', with a long horizontal stroke extending to the right.

Nicholas J. Severson
Managing Attorney, Housing and Consumer Unit
Legal Aid Society of Hawai'i

The Legal Aid Society of Hawai'i is the only legal service provider with offices on every island in the state, and in 2022 provided legal assistance to over 8,200 Hawai'i residents in the areas of consumer fraud, public assistance, family law, the prevention of homelessness, employment, protection from domestic violence, and immigration. Legal Aid further had over 3,400 cases that addressed stabilizing families and preserving housing. Our mission is to achieve fairness and justice through legal advocacy, outreach, and education for those in need.

SB-2336

Submitted on: 2/2/2024 10:44:51 PM

Testimony for CPN on 2/6/2024 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|--|---------------------------|------------------------|
| Mike Golojuch, Sr. | Testifying for Palehua Townhouse Association | Oppose | Written Testimony Only |

Comments:

Our association cannot support SB2336. Please defer.

Mike Golojuch, Sr., President

SB-2336

Submitted on: 2/3/2024 3:08:38 PM

Testimony for CPN on 2/6/2024 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|--|---------------------------|------------------------|
| Richard Emery | Testifying for Hawaii First Realty LLC | Oppose | Written Testimony Only |

Comments:

This Bill seemd to address two distinct issues:

Condominium associations typically are not engaged in the rental business. Rental are between unit owners and tenants by contract. The association is not involved.

The task force was formed to evaluate condominium living between residents and the association. The task force includes all industry stakeholders and should complete its work. Many volunteers have been working on future suggestions.

Condominiums are private organizations. The Hawaii Supreme Court has previously ruled that the governing documnts are a contract between the association and its owners, recorded in the deeds, and cannot be impaired. I beleive the Real Estate Commission lacks the authority to provide oversight over a private entity.

SB-2336

Submitted on: 2/4/2024 10:09:48 PM

Testimony for CPN on 2/6/2024 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|-------------------------------------|---------------------------|------------------------|
| Teresa Ahsing | Testifying for Sky Tower Apartments | Oppose | Written Testimony Only |

Comments:

Dear Senator Keohokalole, Chair, Senator Fukunaga, Vice Chair, and Members of the Committee:

I OPPOSE S.B. 2336 for the reasons set forth below.

Part I

Part I contains statements that are not supported by facts. For example:

1. There is not sufficient evidence for the legislature to find “that there is a need for greater oversight of condominium landlords and condominium association boards.” The testimony of a few disgruntled owners does not justify a finding of systemic problems that require action by the Legislature.

2. There is no evidence that condominium “boards can currently levy fines, initiate foreclosures, delay renovations, and take other actions against condominium owners with little, if any, accountability.” HRS Section 514B-104(a)(11) and (b)(2) impose conditions and procedural requirements for the imposition of fines. Foreclosures are judicial procedures that are administered by the courts. Although there are no statutory deadlines for the review of applications for alterations and additions to units, governing documents may impose deadlines for the disapproval of applications; otherwise, boards must respond to applications within a reasonable time.

3. There is insufficient evidence to support the proposed finding that there are a large number of “renters and owners who have been subjected to unfair or unlawful treatment [who] may find themselves unable to protect their rights without initiating expensive lawsuits.”

Part II

Part II should be rejected. The remedies in Part II of a minimum of \$1,000, or threefold the sustained damages, whichever is greater, plus attorneys’ fees and costs for any violation of Chapter 521 is not justified. This would impose strict liability on landlords and possibly on condominium associations for violations of Chapter 521, inflate damages, and cause a proliferation of lawsuits against landlords and possibly condominium associations, driving up insurance costs.

The text included in Part II resembles the text in HRS Chapter 480, “Unfair or Deceptive Acts or Practices.” Essentially, Part II would make any violation of Chapter 521 tantamount to a violation of Chapter 480, i.e., an unfair or deceptive act. The intent of Section 480-13 is to stimulate the filing of claims for unfair or deceptive acts or practices by making it financially remunerative to bring claims. Even an extremely small claim of a few dollars would become a larger claim of at least \$1,000. The attorneys’ fees provision would ensure that a \$1,000 claim will expand into a geometrically larger claim when attorneys’ fees are included, and the near guaranteed recovery of fees will cause many claims to be litigated.

There is no justification for treating a violation of Chapter 521 the same as an unfair or deceptive act. Furthermore, the timing of this measure could not be worse. While the Governor and FEMA are struggling to find adequate housing for displaced residents of Lahaina and elsewhere, this measure would provide a disincentive for owners of residential lots or condominium units to rent their properties.

Part III

Part III is unnecessary in light of Act 189 (July 3, 2023) which established a condominium property regime task force within the department of commerce and consumer affairs to:

1. Examine and evaluate issues regarding condominium property regimes governed by chapter 514B, Hawaii Revised Statutes, and conduct an assessment of the alternative dispute resolution systems that have been established by the legislature;

1. Investigate whether additional duties and fiduciary responsibilities should be placed on members of the boards of directors of condominium property regimes; and

1. Develop any legislation necessary to effectuate the purposes of this subsection.

The proposed role of the task force in S.B. 2336 is already included in the work of the current condominium property regime task force under Act 189. There is no reason to create another task force to study the same issues.

In summary, I OPPOSE S.B. 2336.

Respectfully submitted,

Teresa Ahsing

Dear Senator Keohokalole, Chair, Senator Fukunaga, Vice Chair, and Members of the Committee:

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3. There is insufficient evidence to support the proposed finding that there are a large number of “renters and owners who have been subjected to unfair or unlawful treatment [who] may find themselves unable to protect their rights without initiating expensive lawsuits.”

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In summary, I OPPOSE S.B. 2336.

Respectfully submitted,

Reyna C. Murakami

AOUO President of Mariner's Village 1

AOUO President of Waialae Place

AOUO Vice President of The Continental Apartments

SB-2336

Submitted on: 2/5/2024 9:03:36 AM

Testimony for CPN on 2/6/2024 9:30:00 AM

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

Comments:

Dear Senator Keohokalole, Chair, Senator Fukunaga, Vice Chair, and Members of the Committee:

I OPPOSE S.B. 2336 for the reasons set forth below.

Part I

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(1) There is not sufficient evidence for the legislature to find “that there is a need for greater oversight of condominium landlords and condominium association boards.” The testimony of a few disgruntled owners does not justify a finding of systemic problems that require action by the Legislature.

(2) There is no evidence that condominium “boards can currently levy fines, initiate foreclosures, delay renovations, and take other actions against condominium owners with little, if any, accountability.” HRS Section 514B-104(a)(11) and (b)(2) impose conditions and procedural requirements for the imposition of fines. Foreclosures are judicial procedures that are administered by the courts. Although there are no statutory deadlines for the review of applications for alterations and additions to units, governing documents may impose deadlines for the disapproval of applications; otherwise, boards must respond to applications within a reasonable time.

(3) There is insufficient evidence to support the proposed finding that there are a large number of “renters and owners who have been subjected to unfair or unlawful treatment [who] may find themselves unable to protect their rights without initiating expensive lawsuits.”

Part II

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proliferation of lawsuits against landlords and possibly condominium associations, driving up insurance costs.

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- (2) Investigate whether additional duties and fiduciary responsibilities should be placed on members of the boards of directors of condominium property regimes; and
- (3) Develop any legislation necessary to effectuate the purposes of this subsection.

The proposed role of the task force in S.B. 2336 is already included in the work of the current condominium property regime task force under Act 189. There is no reason to create another task force to study the same issues.

In summary, I OPPOSE S.B. 2336.

Respectfully submitted,

Mark McKellar

**The Senate
The Thirty-Second Legislature
Committee on Commerce and Consumer Protection
Tuesday, February 6, 2024
9:30 a.m.**

To: Senator Jarrett Keohokalole, Chair
Re: SB 2336, Relating to Condominiums

Aloha Chair Jarrett Keohokalole, Vice-Chair Carol Fukunaga, and Members of the Committee,

I am Lila Mower, president of Kokua Council, one of Hawaii's oldest advocacy groups with over 800 members and affiliates in Hawaii and I serve on the board of the Hawaii Alliance for Retired Americans, with a local membership of over 20,000 retirees.

I also serve as the leader of a coalition of hundreds of property owners, mostly seniors, who own and/or reside in associations throughout Hawaii and I have served as an officer on three condominium associations' boards.

Mahalo for the opportunity to testify in **conditional support of SB 2336**.

The following are my comments regarding Part III of the measure.

Association Directors act on behalf of the association of unit owners--except as provided in their governing documents or HRS 514B--with broad powers that impact association members, such as rules creation and enforcement; adopting and amending budgets, hiring and discharging management agents and other independent contractors, vendors, agents, and employees; instituting, defending, or intervening in litigation or administrative proceedings affecting the condominium; regulating the use, maintenance, repair, replacement, and modification of common elements; insurance and risk management; elections and meetings; imposing charges and penalties, including late fees and interest, for late payment of assessments; and levying fines for violations of the association's declaration, bylaws, and rules and regulations.

Because of the influence that board members exert on the communities whose boards they serve and the magnitude of their responsibilities, Kokua Council has proposed legislative measures that encourage the education and training of directors to have a fundamental knowledge of association management and operations and to properly fulfill their duties to their communities.

Please refer to SB 3205 and SB 3206 which were introduced this year and contain provisions that directors should certify that they have read their governing documents and other documents pertinent to the governance of their associations and that they are prepared for the managerial, financial, and legal responsibilities necessary to properly govern.

States like Florida require that Board Directors must be certified to demonstrate their knowledge

of their governing documents and other documents essential to good governance and they offer many **free** classes which are convenient in time and location for owners and directors alike.

In another testimony submitted for today's hearing, I wrote:

- The DCCA should produce such classes without the added expense of a third-party vendor. This belief is supported by the Real Estate Branch's Free Condorama series¹ which has been more successful in reaching owners than the classes conducted by that vendor, while presenting the same or similar speakers and topics without the vendor's exorbitant class fees and inconveniently scheduled midweek, midday classes.
- Examine existing educational programs through the DCCA's use of the owner-funded Condominium Education Trust Fund (CETF) whether they require additional funds from attendees, are open to the public, are scheduled at convenient time, day, and location for the public, and are unbiased and apolitical.
- Examine existing for-fee educational programs subsidized through the DCCA CETF and, of the attendees, quantify how many were industry-related (e.g., employees of management companies, association attorneys, parliamentarians, and other vendors), association board members, owners who are not directors, and the public. Also quantify which of the attendees' fees were waived, paid by their employers, paid by their associations, and paid by the attendees themselves.
- Also quantify attendance relative to class topic(s) to ascertain interest or necessity.
- Investigate the dependence of DCCA on parties with conflicts of interest to provide the education that is mandated by HRS 514B;
- Currently, education is voluntary for owners, directors, and management. Examine whether mandating education should be implemented. Because a director's position is voluntary, examine if the education of directors can be required, evidenced by qualified certification, and enforced by the possible revocation of that certification if the director fails education or fails certain ethical standards.
- Currently, education is voluntary for those who participate in the management of condominium associations, therefore, examine the mandating of education of those involved in the management of associations, coupled with mandating licensure of those involved in management, not as real estate licensees, but in line with Community Associations Institute that "opposes the licensing of community association managers as real estate brokers, agents or property managers"² and "prefers the licensure of individual community association manager practitioners as opposed to licensure of management companies."³ Licensure will assure greater compliance with applicable laws and rules, and violations of those laws and rules are enforceable with suspension or revocation of that license.

In 2023, besides other measures that Kokua Council initiated to encourage education and training, I initiated HB 1297 (no companion in the Senate), which is a proposal to make documents integral

¹ <https://cca.hawaii.gov/reb/files/2022/12/CB2212.pdf>

² <https://www.caionline.org/Advocacy/PublicPolicies/Pages/Community-Association-Manager-Licensing-Policy.aspx>

³ <https://www.caionline.org/Advocacy/PublicPolicies/Pages/Community-Association-Manager-Licensing-Policy.aspx>

to the governance and residence of condominium associations more easily accessible and less costly.

Again, in another testimony, I wrote:

Associations operate as self-governing entities. Democratic representative self-governance is predicated on its members' access to information and the accountability that transparency encourages. This demands an investigation regarding the accessibility of important association governing documents and other documents relevant to associations' physical and fiscal health,

- including whether the enforcement provisions regarding document access/delivery are adequate to ensure that those who control access and delivery feel compelled to provide those documents;
- including the cost of those documents, especially those charged for "electronic" documents;
- including the ease or difficulty of accessibility or other hurdles that may impact some parties unfairly;
- whether the requirement for an affidavit is necessary for owners to have access to documents (vis a vis, prospective buyers, their lenders, and their insurers are not required to complete affidavits to examine those documents);
- whether eight "free" hours of examination per association is adequate;
- if an online platform such as that used by eCourt Kokua can be utilized to maximize access, lower costs (\$3 per electronic document), handle data, and maintain timeliness;
- or if an alternative is the expansion of the State's registration of condominium associations to provide a central online publicly accessible registry of information and documentation (similar to Miami-Dade, Florida's Code of Ordinances Chapter sections 17D-3 and 17D-4, and with enforcement provisions similar to Chapter 17D-5⁴).

At a 2020 annual association meeting, an executive vice-president of one of Hawaii's largest association management companies disclosed that billions of dollars paid by owners of associations are overseen by Hawaii's association management companies. At that time, she claimed that her company had \$6 billion in associations' reserve and operating funds to control.

Condominium management is multibillion dollar business in Hawaii.

The decisions of Directors impact a significant portion of Hawaii's residents.

The proposed Condominium Association Board Task Force *must* include members of the public--not merely as testifiers—especially condominium owners to balance the views and motives of the association management industry and ensure a fair and unbiased study.

On that condition, I support SB 2336.

⁴ https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH17DRECOAS_S17D-1SHTIAP

SB-2336

Submitted on: 2/4/2024 1:29:26 PM

Testimony for CPN on 2/6/2024 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Richard S. Ekimoto | Individual | Oppose | Written Testimony Only |

Comments:

I oppose SB 2336. The bill confuses the obligations and responsibilities of community associations and landlords. Moreover, the bill purports to address alleged unlawful treatment of tenants without identifying them. Any alleged unlawful treatment of tenants can be addressed by current law. There is no reasonable basis for treble damages, and the bill will make housing in Hawaii even more expensive. The formation of a condominium association oversight board to ensure consistency in operations fails to recognize that associations are governed by their own members and governing documents and each association can determine how they wish to be governed. For these reasons, I oppose SB2336.

SB-2336

Submitted on: 2/4/2024 1:51:27 PM

Testimony for CPN on 2/6/2024 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Michael Ayson | Individual | Oppose | Written Testimony Only |

Comments:

I oppose this bill.

SB-2336

Submitted on: 2/4/2024 2:28:30 PM

Testimony for CPN on 2/6/2024 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|------------------------|
| lynne matusow | Individual | Oppose | Written Testimony Only |

Comments:

I am the owner occupant and board member of a condo association located in Downtown Honolulu. I OPPOSE S.B. 2336 for the reasons set forth below.

Part I

Part I contains statements that are not supported by facts. For example:

1. There is not sufficient evidence for the legislature to find “that there is a need for greater oversight of condominium landlords and condominium association boards.” The testimony of a few disgruntled owners does not justify a finding of systemic problems that require action by the Legislature.
2. There is no evidence that condominium “boards can currently levy fines, initiate foreclosures, delay renovations, and take other actions against condominium owners with little, if any, accountability.” HRS Section 514B-104(a)(11) and (b)(2) impose conditions and procedural requirements for the imposition of fines. Foreclosures are judicial procedures that are administered by the courts. Although there are no statutory deadlines for the review of applications for alterations and additions to units, governing documents may impose deadlines for the disapproval of applications; otherwise, boards must respond to applications within a reasonable time.
3. There is insufficient evidence to support the proposed finding that there are a large number of “renters and owners who have been subjected to unfair or unlawful treatment [who] may find themselves unable to protect their rights without initiating expensive lawsuits.”

Part II

Part II should be rejected. The remedies in Part II of a minimum of \$1,000, or threefold the sustained damages, whichever is greater, plus attorneys’ fees and costs for any violation of Chapter 521 is not justified. This would impose strict liability on landlords and possibly on condominium associations for violations of Chapter 521, inflate damages, and cause a proliferation of lawsuits against landlords and possibly condominium associations, driving up insurance costs.

The text included in Part II resembles the text in HRS Chapter 480, “Unfair or Deceptive Acts or

Practices.” Essentially, Part II would make any violation of Chapter 521 tantamount to a violation of Chapter 480, i.e., an unfair or deceptive act. The intent of Section 480-13 is to stimulate the filing of claims for unfair or deceptive acts or practices by making it financially remunerative to bring claims. Even an extremely small claim of a few dollars would become a larger claim of at least \$1,000. The attorneys’ fees provision would ensure that a \$1,000 claim will expand into a geometrically larger claim when attorneys’ fees are included, and the near guaranteed recovery of fees will cause many claims to be litigated.

There is no justification for treating a violation of Chapter 521 the same as an unfair or deceptive act. Furthermore, the timing of this measure could not be worse. While the Governor and FEMA are struggling to find adequate housing for displaced residents of Lahaina and elsewhere, this measure would provide a disincentive for owners of residential lots or condominium units to rent their properties.

Part III

Part III is unnecessary in light of Act 189 (July 3, 2023) which established a condominium property regime task force within the department of commerce and consumer affairs to:

Examine and evaluate issues regarding condominium property regimes governed by chapter 514B, Hawaii Revised Statutes, and conduct an assessment of the alternative dispute resolution systems that have been established by the legislature;

Investigate whether additional duties and fiduciary responsibilities should be placed on members of the boards of directors of condominium property regimes; and

Develop any legislation necessary to effectuate the purposes of this subsection.

The proposed role of the task force in S.B. 2336 is already included in the work of the current condominium property regime task force under Act 189. There is no reason to create another task force to study the same issues.

In summary, I OPPOSE S.B. 2336.

SB-2336

Submitted on: 2/4/2024 2:39:08 PM

Testimony for CPN on 2/6/2024 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|--------------|--------------|--------------------|------------------------|
| Julie Wassel | Individual | Oppose | Written Testimony Only |

Comments:

Dear Senator Keohokalole, Chair, Senator Fukunaga, Vice Chair, and Members of the Committee:

I OPPOSE S.B. 2336 for the reasons set forth below.

Part I

Part I contains statements that are not supported by facts. For example:

1. There is not sufficient evidence for the legislature to find “that there is a need for greater oversight of condominium landlords and condominium association boards.” The testimony of a few disgruntled owners does not justify a finding of systemic problems that require action by the Legislature.

2. There is no evidence that condominium “boards can currently levy fines, initiate foreclosures, delay renovations, and take other actions against condominium owners with little, if any, accountability.” HRS Section 514B-104(a)(11) and (b)(2) impose conditions and procedural requirements for the imposition of fines. Foreclosures are judicial procedures that are administered by the courts. Although there are no statutory deadlines for the review of applications for alterations and additions to units, governing documents may impose deadlines for the disapproval of applications; otherwise, boards must respond to applications within a reasonable time.

3. There is insufficient evidence to support the proposed finding that there are a large number of “renters and owners who have been subjected to unfair or unlawful treatment [who] may find themselves unable to protect their rights without initiating expensive lawsuits.”

Part II

Part II should be rejected. The remedies in Part II of a minimum of \$1,000, or threefold the sustained damages, whichever is greater, plus attorneys’ fees and costs for any violation of Chapter 521 is not justified. This would impose strict liability on landlords and possibly on condominium associations for violations of Chapter 521, inflate damages, and cause a proliferation of lawsuits against landlords and possibly condominium associations, driving up insurance costs.

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1. Examine and evaluate issues regarding condominium property regimes governed by chapter 514B, Hawaii Revised Statutes, and conduct an assessment of the alternative dispute resolution systems that have been established by the legislature;

1. Investigate whether additional duties and fiduciary responsibilities should be placed on members of the boards of directors of condominium property regimes; and

1. Develop any legislation necessary to effectuate the purposes of this subsection.

The proposed role of the task force in S.B. 2336 is already included in the work of the current condominium property regime task force under Act 189. There is no reason to create another task force to study the same issues.

In summary, I OPPOSE S.B. 2336.

Respectfully submitted,

Julie Wassel

SB-2336

Submitted on: 2/4/2024 2:51:04 PM

Testimony for CPN on 2/6/2024 9:30:00 AM

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

Comments:

I OPPOSE S.B. 2336 for the reasons set forth below.

Part I

Part I contains statements that are not supported by facts. For example:

1. There is not sufficient evidence for the legislature to find “that there is a need for greater oversight of condominium landlords and condominium association boards.” The testimony of a few disgruntled owners does not justify a finding of systemic problems that require action by the Legislature.
2. There is no evidence that condominium “boards can currently levy fines, initiate foreclosures, delay renovations, and take other actions against condominium owners with little, if any, accountability.” HRS Section 514B-104(a)(11) and (b)(2) impose conditions and procedural requirements for the imposition of fines. Foreclosures are judicial procedures that are administered by the courts. Although there are no statutory deadlines for the review of applications for alterations and additions to units, governing documents may impose deadlines for the disapproval of applications; otherwise, boards must respond to applications within a reasonable time.
3. There is insufficient evidence to support the proposed finding that there are a large number of “renters and owners who have been subjected to unfair or unlawful treatment [who] may find themselves unable to protect their rights without initiating expensive lawsuits.”

Part II

Part II should be rejected. The remedies in Part II of a minimum of \$1,000, or threefold the sustained damages, whichever is greater, plus attorneys' fees and costs for any violation of Chapter 521 is not justified. This would impose strict liability on landlords and possibly on condominium associations for violations of Chapter 521, inflate damages, and cause a proliferation of lawsuits against landlords and possibly condominium associations, driving up insurance costs.

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1. Develop any legislation necessary to effectuate the purposes of this subsection.

The proposed role of the task force in S.B. 2336 is already included in the work of the current condominium property regime task force under Act 189. There is no reason to create another task force to study the same issues.

In summary, I OPPOSE S.B. 2336.

Respectfully submitted,

Mary Freeman,

Ewa Beach

SB-2336

Submitted on: 2/4/2024 6:23:33 PM

Testimony for CPN on 2/6/2024 9:30:00 AM

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

Comments:

I OPPOSE S.B. 2336 for the reasons set forth below.

Part I

Part I contains statements that are not supported by facts. For example:

1. There is not sufficient evidence for the legislature to find “that there is a need for greater oversight of condominium landlords and condominium association boards.” The testimony of a few disgruntled owners does not justify a finding of systemic problems that require action by the Legislature.
2. There is no evidence that condominium “boards can currently levy fines, initiate foreclosures, delay renovations, and take other actions against condominium owners with little, if any, accountability.” HRS Section 514B-104(a)(11) and (b)(2) impose conditions and procedural requirements for the imposition of fines. Foreclosures are judicial procedures that are administered by the courts. Although there are no statutory deadlines for the review of applications for alterations and additions to units, governing documents may impose deadlines for the disapproval of applications; otherwise, boards must respond to applications within a reasonable time.
3. There is insufficient evidence to support the proposed finding that there are a large number of “renters and owners who have been subjected to unfair or unlawful treatment [who] may find themselves unable to protect their rights without initiating expensive lawsuits.”

Part II

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violation of Chapter 480, i.e., an unfair or deceptive act. The intent of Section 480-13 is to stimulate the filing of claims for unfair or deceptive acts or practices by making it financially remunerative to bring claims. Even an extremely small claim of a few dollars would become a larger claim of at least \$1,000. The attorneys' fees provision would ensure that a \$1,000 claim will expand into a geometrically larger claim when attorneys' fees are included, and the near guaranteed recovery of fees will cause many claims to be litigated.

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The proposed role of the task force in S.B. 2336 is already included in the work of the current condominium property regime task force under Act 189. There is no reason to create another task force to study the same issues.

In summary, I OPPOSE S.B. 2336.

Respectfully submitted,

M. Anne Anderson

SB-2336

Submitted on: 2/4/2024 6:50:17 PM

Testimony for CPN on 2/6/2024 9:30:00 AM

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

Comments:

Dear Senator Keohokalole, Chair, Senator Fukunaga, Vice Chair, and Members of the Committee:

I OPPOSE S.B. 2336 for the reasons set forth below.

Part I

Part I contains statements that are not supported by facts. For example:

1. There is not sufficient evidence for the legislature to find “that there is a need for greater oversight of condominium landlords and condominium association boards.” The testimony of a few disgruntled owners does not justify a finding of systemic problems that require action by the Legislature.

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The proposed role of the task force in S.B. 2336 is already included in the work of the current condominium property regime task force under Act 189. There is no reason to create another task force to study the same issues.

In summary, I OPPOSE S.B. 2336.

Respectfully Submitted,

Carol Walker

SB-2336

Submitted on: 2/4/2024 7:04:32 PM

Testimony for CPN on 2/6/2024 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Sharon Heritage | Individual | Oppose | Written Testimony Only |

Comments:

OPPOSE

SB-2336

Submitted on: 2/5/2024 5:58:08 AM

Testimony for CPN on 2/6/2024 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|--------------------------|--------------|--------------------|------------------------|
| Paul A. Ireland Koftinow | Individual | Oppose | Written Testimony Only |

Comments:

Dear Senator Keohokalole, Chair, Senator Fukunaga, Vice Chair, and Members of the Committee:

I OPPOSE S.B. 2336 for the reasons set forth below.

Part I

Part I contains statements that are not supported by facts. For example:

1. There is not sufficient evidence for the legislature to find “that there is a need for greater oversight of condominium landlords and condominium association boards.” The testimony of a few disgruntled owners does not justify a finding of systemic problems that require action by the Legislature.

2. There is no evidence that condominium “boards can currently levy fines, initiate foreclosures, delay renovations, and take other actions against condominium owners with little, if any, accountability.” HRS Section 514B-104(a)(11) and (b)(2) impose conditions and procedural requirements for the imposition of fines. Foreclosures are judicial procedures that are administered by the courts. Although there are no statutory deadlines for the review of applications for alterations and additions to units, governing documents may impose deadlines for the disapproval of applications; otherwise, boards must respond to applications within a reasonable time.

3. There is insufficient evidence to support the proposed finding that there are a large number of “renters and owners who have been subjected to unfair or unlawful treatment [who] may find themselves unable to protect their rights without initiating expensive lawsuits.”

Part II

Part II should be rejected. The remedies in Part II of a minimum of \$1,000, or threefold the sustained damages, whichever is greater, plus attorneys’ fees and costs for any violation of Chapter 521 is not justified. This would impose strict liability on landlords and possibly on condominium associations for violations of Chapter 521, inflate damages, and cause a proliferation of lawsuits against landlords and possibly condominium associations, driving up insurance costs.

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The proposed role of the task force in S.B. 2336 is already included in the work of the current condominium property regime task force under Act 189. There is no reason to create another task force to study the same issues.

In summary, I OPPOSE S.B. 2336.

Respectfully submitted,

Paul A. Ireland Koftinow

SB-2336

Submitted on: 2/5/2024 7:19:57 AM

Testimony for CPN on 2/6/2024 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|------------------------|
| Lance S. Fujisaki | Individual | Oppose | Written Testimony Only |

Comments:

I OPPOSE S.B. 2336 for the reasons set forth below.

Part I

Part I contains statements that are not supported by facts. For example:

1. There is not sufficient evidence for the legislature to find "that there is a need for greater oversight of condominium landlords and condominium association boards." The testimony of a few disgruntled owners does not justify a finding of systemic problems that require action by the Legislature.
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violation of Chapter 480, i.e., an unfair or deceptive act. The intent of Section 480-13 is to stimulate the filing of claims for unfair or deceptive acts or practices by making it financially remunerative to bring claims. Even an extremely small claim of a few dollars would become a larger claim of at least \$1,000. The attorneys' fees provision would ensure that a \$1,000 claim will expand into a geometrically larger claim when attorneys' fees are included, and the near guaranteed recovery of fees will cause many claims to be litigated.

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The proposed role of the task force in S.B. 2336 is already included in the work of the current condominium property regime task force under Act 189. There is no reason to create another task force to study the same issues.

In summary, I **OPPOSE** S.B. 2336.

Respectfully submitted,

Lance Fujisaki

SB-2336

Submitted on: 2/5/2024 8:35:31 AM

Testimony for CPN on 2/6/2024 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------|--------------|--------------------|------------------------|
| Laura Bearden | Individual | Oppose | Written Testimony Only |

Comments:

Dear Senator Keohokalole, Chair, Senator Fukunaga, Vice Chair, and Members of the Committee:

I OPPOSE S.B. 2336 for the reasons set forth below.

Part I

Part I contains statements that are not supported by facts. For example:

1. There is not sufficient evidence for the legislature to find “that there is a need for greater oversight of condominium landlords and condominium association boards.” The testimony of a few disgruntled owners does not justify a finding of systemic problems that require action by the Legislature.
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The proposed role of the task force in S.B. 2336 is already included in the work of the current condominium property regime task force under Act 189. There is no reason to create another task force to study the same issues.

In summary, I OPPOSE S.B. 2336.

Respectfully submitted,

Laura Bearden

Dear Senator Keohokalole, Chair, Senator Fukunaga, Vice Chair, and Members of the Committee:

I OPPOSE S.B. 2336.

Part I

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struggling to find adequate housing for displaced residents of Lahaina and elsewhere, this measure would provide a disincentive for owners of residential lots or condominium units to rent their properties.

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In summary, I OPPOSE S.B. 2336.

Respectfully submitted,
Pamela J. Schell

LATE

SB-2336

Submitted on: 2/5/2024 12:53:50 PM

Testimony for CPN on 2/6/2024 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|--------------|--------------|--------------------|------------------------|
| Primrose | Individual | Oppose | Written Testimony Only |

Comments:

Dear Senator Keohokalole, Chair, Senator Fukunaga, Vice Chair, and Members of the Committee.

I OPPOSE S.B. 2336 for the reasons set forth below.

Part I

Part I contains statements that are not supported by facts. For example:

1. There is not sufficient evidence for the legislature to find “that there is a need for greater oversight of condominium landlords and condominium association boards.” The testimony of a few disgruntled owners does not justify a finding of systemic problems that require action by the Legislature.
2. There is no evidence that condominium “boards can currently levy fines, initiate foreclosures, delay renovations, and take other actions against condominium owners with little, if any, accountability.” HRS Section 514B-104(a)(11) and (b)(2) impose conditions and procedural requirements for the imposition of fines. Foreclosures are judicial procedures that are administered by the courts. Although there are no statutory deadlines for the review of applications for alterations and additions to units, governing documents may impose deadlines for the disapproval of applications; otherwise, boards must respond to applications within a reasonable time.
3. There is insufficient evidence to support the proposed finding that there are a large number of “renters and owners who have been subjected to unfair or unlawful treatment [who] may find themselves unable to protect their rights without initiating expensive lawsuits.”

Part II

Part II should be rejected. The remedies in Part II of a minimum of \$1,000, or threefold the sustained damages, whichever is greater, plus attorneys’ fees and costs for any violation of Chapter 521 are not justified. This would impose strict liability on landlords and possibly on condominium associations for violations of Chapter 521, inflate damages, and cause a proliferation of lawsuits against landlords and possibly condominium associations, driving up insurance costs.

In summary, I OPPOSE S.B. 2336.

Respectfully submitted,

Primrose K. Leong-Nakamoto (S)

LATE

SB-2336

Submitted on: 2/5/2024 1:37:31 PM

Testimony for CPN on 2/6/2024 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|------------------------|
| Laurie Sokach | Individual | Oppose | Written Testimony Only |

Comments:

Dear Senator Keohokalole, Chair, Senator Fukunaga, Vice Chair, and Members of the Committee:

I OPPOSE S.B. 2336 for the reasons set forth below.

Part I

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1. There is not sufficient evidence for the legislature to find “that there is a need for greater oversight of condominium landlords and condominium association boards.” The testimony of a few disgruntled owners does not justify a finding of systemic problems that require action by the Legislature.
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Part II

Part II should be rejected. The remedies in Part II of a minimum of \$1,000, or threefold the sustained damages, whichever is greater, plus attorneys’ fees and costs for any violation of Chapter 521 is not justified. This would impose strict liability on landlords and possibly on condominium associations for violations of Chapter 521, inflate damages, and cause a proliferation of lawsuits against landlords and possibly condominium associations, driving up insurance costs.

The text included in Part II resembles the text in HRS Chapter 480, “Unfair or Deceptive Acts or Practices.” Essentially, Part II would make any violation of Chapter 521 tantamount to a violation of Chapter 480, i.e., an unfair or deceptive act. The intent of Section 480-13 is to stimulate the filing of claims for unfair or deceptive acts or practices by making it financially remunerative to bring claims. Even an extremely small claim of a few dollars would become a larger claim of at least \$1,000. The attorneys’ fees provision would ensure that a \$1,000 claim will expand into a geometrically larger claim when attorneys’ fees are included, and the near guaranteed recovery of fees will cause many claims to be litigated.

There is no justification for treating a violation of Chapter 521 the same as an unfair or deceptive act. Furthermore, the timing of this measure could not be worse. While the Governor and FEMA are struggling to find adequate housing for displaced residents of Lahaina and elsewhere, this measure would provide a disincentive for owners of residential lots or condominium units to rent their properties.

Part III

Part III is unnecessary in light of Act 189 (July 3, 2023) which established a condominium property regime task force within the department of commerce and consumer affairs to:

1. Examine and evaluate issues regarding condominium property regimes governed by chapter 514B, Hawaii Revised Statutes, and conduct an assessment of the alternative dispute resolution systems that have been established by the legislature;
2. Investigate whether additional duties and fiduciary responsibilities should be placed on members of the boards of directors of condominium property regimes; and
3. Develop any legislation necessary to effectuate the purposes of this subsection.

The proposed role of the task force in S.B. 2336 is already included in the work of the current condominium property regime task force under Act 189. There is no reason to create another task force to study the same issues.

In summary, I OPPOSE S.B. 2336.

Respectfully submitted,

Laurie Sokach AMS, PCAM

Senior Community Portfolio Manager

LATE

LATE

SB-2336

Submitted on: 2/5/2024 5:44:02 PM

Testimony for CPN on 2/6/2024 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|------------------------|
| Vince Costanzo | Individual | Oppose | Written Testimony Only |

Comments:

Dear Senator Keohokalole, Chair, Senator Fukunaga, Vice Chair, and Members of the Committee:

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Part I

Part I contains statements that are not supported by facts. For example:

1. There is not sufficient evidence for the legislature to find “that there is a need for greater oversight of condominium landlords and condominium association boards.” The testimony of a few disgruntled owners does not justify a finding of systemic problems that require action by the Legislature.

2. There is no evidence that condominium “boards can currently levy fines, initiate foreclosures, delay renovations, and take other actions against condominium owners with little, if any, accountability.” HRS Section 514B-104(a)(11) and (b)(2) impose conditions and procedural requirements for the imposition of fines. Foreclosures are judicial procedures that are administered by the courts. Although there are no statutory deadlines for the review of applications for alterations and additions to units, governing documents may impose deadlines for the disapproval of applications; otherwise, boards must respond to applications within a reasonable time.

3. There is insufficient evidence to support the proposed finding that there are a large number of “renters and owners who have been subjected to unfair or unlawful treatment [who] may find themselves unable to protect their rights without initiating expensive lawsuits.”

Part II

Part II should be rejected. The remedies in Part II of a minimum of \$1,000, or threefold the sustained damages, whichever is greater, plus attorneys’ fees and costs for any violation of Chapter 521 is not justified. This would impose strict liability on landlords and possibly on condominium associations for violations of Chapter 521, inflate damages, and cause a proliferation of lawsuits against landlords and possibly condominium associations, driving up insurance costs.

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1. Investigate whether additional duties and fiduciary responsibilities should be placed on members of the boards of directors of condominium property regimes; and

1. Develop any legislation necessary to effectuate the purposes of this subsection.

The proposed role of the task force in S.B. 2336 is already included in the work of the current condominium property regime task force under Act 189. There is no reason to create another task force to study the same issues.

In summary, I OPPOSE S.B. 2336.

Respectfully submitted,

Vincent Costanzo

SB-2336

Submitted on: 2/5/2024 8:08:57 PM
Testimony for CPN on 2/6/2024 9:30:00 AM

LATE

LATE

| Submitted By | Organization | Testifier Position | Testify |
|-----------------|--------------|--------------------|------------------------|
| Elaine Panlilio | Individual | Oppose | Written Testimony Only |

Comments:

I am respectfully opposing SB2336.

Certain provisions from this bill are redundant and are already addressed in other bills.

SB 2336 proposes:

(c) The condominium association board oversight task force shall consider whether:

- (1) Additional regulations are needed for condominium association boards;
- (2) Greater legal protections are needed for condominium owners;

(3) Additional grievance processes are needed to provide recourse for condominium renters and owners, beyond the mediation and arbitration processes established in part VI, subpart D, of chapter 514B, Hawaii Revised Statutes; and

(4) Specialized training is needed for members of the governing board established in section 514B-106, Hawaii Revised Statutes.

The Condominium Property Regime Task Force, created pursuant to Act 189 (2023) has already made a unanimous recommendation that is reflected in SB2726 which proposes:

SECTION 2. (a) The legislative reference bureau shall study and submit a report on the approaches employed by certain other states regarding the following condominium subjects:

- (1) A condominium ombudsman or similar position to specifically oversee condominiums;
- (2) Required licenses for individuals involved in the management of condominiums;
- (3) The availability of dedicated alternate dispute resolution or similar programs that are specifically for the prevention or resolution of condominium-related disputes and are separate from alternate dispute resolution programs available for other disputes;

(4) Governmental regulation and enforcement of condominium operations and governance that are separate from an ombudsman referenced in paragraph (1);

(5) Requirements for owner education at the point of sale of a unit; and

(6) Requirements for owner access to condominium documents.

Additionally, Act 149 (2023) already requires the real estate commission to develop a curriculum for leadership training to be made available to board members of a condominium association.

Thank you for the opportunity to testify.