

HAWAII LEGISLATIVE  
ACTION COMMITTEE

  
**community**  
ASSOCIATIONS INSTITUTE

P.O. Box 976  
Honolulu, Hawaii 96808  
February 22, 2025

Honorable David A. Tarnas  
Honorable Mahina Poepoe  
Committee on Judiciary & Hawaiian Affairs  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: **HB 106 HD1 SUPPORT WITH AMENDMENTS**

Dear Chair Tarnas, Vice Chair Poepoe and Committee Members:

CAI supported HB 106. HB 106 HD1, however, has departed from the original form and intent animating the proposal. Thus, CAI can only support HB 106 HD1 with amendments.

CAI can support adoption of the text of SB 147 SD1. SB 147 was always preferable to HB 106 because HB 106 contained substantial changes from the original draft submitted for consideration.

HB 106 HD1 has amended the bill away from what was intended. HB 106 HD1 would substantially hamper enforcement efforts and create ambiguity, uncertainty and extreme risk for associations.

For example, SCR No. 425 state, in part, that the amendments to the bill include:

Specifying that the Small Claims Division of the District Court has jurisdiction over all cases arising from a board of director's decision that is adverse to the unit owner or tenant relating to fines under the new statutory provision;

which could be construed to suggest that all association-related matters, however complex, would somehow come within the scope of small claims court jurisdiction. That is not something CAI would ever support.

The point of what became HB 106 was that some owners alleged that they became exposed to attorneys' fees on top of unpaid fines. A modest measure was intended, largely to allow small claims court to make a final call on fines before they became collectable.

Honorable David A. Tarnas  
Honorable Mahina Poepoe  
February 22, 2025  
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That would have attended to a discrete matter. No amendment to small claims court jurisdiction would have been required, because small claims court jurisdiction extends to money claims up to \$5,000.00. No change in small claims court jurisdiction was expected or intended.

Moreover, small claims court was not originally intended to act as an "appeals" court. The appeal process was to be internal to the association. An owner aggrieved by that appeal process would then simply initiate a case in small claims court under its existing jurisdiction and small claims court would just make a final determination, solely with respect to a fine and nothing else whatever.

CAI also does not support the proposed disabling of enforcement authority for "one hundred twenty days".

CAI Legislative Action Committee, by

  
Its Chair

**HB-106-HD-1**

Submitted on: 2/22/2025 2:19:32 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Richard Emery	Hawaii First Realty	Oppose	Written Testimony Only

Comments:

The amendments to the original Bill are fatal flaws and for all practical purposes make the process useless with unintended consequences. I support the proposed Bill amendments by CAI but prefer SB147 SD1.

**HB-106-HD-1**

Submitted on: 2/22/2025 3:51:42 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

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

Comments:

Honolulu Tower is a 396 unit condominium located at Beretania and Maunakea Streets on the edge of Chinatown. On Feb. 3, 2025 the Board of Directors of the Association of Apartment Owners of Honolulu Tower unanimously voted to oppose this bill.

Small claims courts do not preside over appeals of fines. This bill provides that if a fine is not enforceable or collectible, the association may not charge the owner or tenant for any attorneys' fees incurred by the association related to the fine. The fact that a fine has been waived, rescinded, or set aside does not necessarily mean that there was no violation warranting the sending of a demand letter. The new subsection (g) states that if any amount paid by a unit owner is found to be unsubstantiated, the unit owner shall be entitled to a refund. However, it is not clear who makes the determination that an amount paid is "unsubstantiated."

<sup>[L]</sup><sub>SEP</sub>HRS Section 514B-146 requires owners to pay common expense assessments before disputing those amounts, but allows owners to dispute all other assessments prior to payment. This can place significant financial burdens on associations where the amounts at issue have been paid by the Association to third parties, such as payment of submetered utilities. The right to dispute charges prior to payment should be limited to charges for which the association has not advanced funds, such as fines, late fees, or interest. Otherwise, the Association could well be forced to pay funds which could otherwise be spent on maintenance, repairs, wages, security.

We ask you to defer this bill.

Idor Harris  
Resident Manager<sup>[L]</sup><sub>SEP</sub>

**HB-106-HD-1**

Submitted on: 2/23/2025 7:55:29 AM

Testimony for JHA on 2/25/2025 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Mike Golojuch, Sr.	Palehua Townhouse Association	Oppose	Written Testimony Only

Comments:

We oppose HB106. Please defer this bill.

Mike Golojuch, Sr., President

**HB-106-HD-1**

Submitted on: 2/23/2025 10:09:04 AM

Testimony for JHA on 2/25/2025 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 Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

**I OPPOSE H.B. No. 106, HD1 for the reasons set forth below.**

The new HRS Section 514B-\_\_\_(d) (beginning on page 2 of the bill) provides that a unit owner or tenant aggrieved by the decision of the board on an appeal from a fine may file an appeal in the small claims division of the district court in which the condominium is located. While the small claims court may decide legal issues related to fines, it is not an appropriate function of the small claims court to preside over “appeals of fines.”

This bill provides in subsection (f) (found on page 4) that if a fine is not enforceable or collectible, the association may not charge the owner or tenant for any attorneys’ fees incurred by the association related to the fine. This is vague and ambiguous and may be construed as prohibiting an association from recovering attorneys’ fees incurred by it in having its lawyer send a demand letter to an owner who has violated a covenant if a fine resulting from the violation is later waived, rescinded, or set aside. The fact that a fine has been waived, rescinded, or set aside does not necessarily mean that there was no violation warranting the sending of a demand letter. It may be that the board agreed to waive or rescind the fine as a gesture of goodwill or that the fine was set aside for technical reasons. Furthermore, a board may be less inclined to waive fines upon appeal if doing so means that it must also waive all attorneys’ fees incurred by the association in connection with the violation.

The proposed changes to HRS Section 514B-146 are quite substantial without any stated compelling reason for the changes. If HRS Section 514B-146 is to be amended, the proposed wording should be amended for clarification. For example, the new subsection (g) (found on page 20) states that if any amount paid by a unit owner is found to be unsubstantiated, the unit

owner shall be entitled to a refund. However, it is not clear who makes the determination that an amount paid is “unsubstantiated.” Presumably, this determination should be made by a court of competent jurisdiction and if so, this should be stated. It should be made clear that the 120-day stay provided for in subsection (f) (found on page 20) shall not apply to the recordation of a lien by the association because it is conceivable that the association will need to record a lien during that time period to preserve the priority of its lien. Additionally, a stay of 120 days is much too long.

Finally, I oppose the change proposed in Section 7 of the bill (found on page 26) which will broaden the jurisdiction of the small claims court to include claims arising under “section 514B-\_\_.” This provision could be construed as granting to the small claims court jurisdiction over a broad range of issues and claims that should be decided by a court of higher jurisdiction where there is a right to appeal and rules of evidence apply. If the intent is to give the small claims court jurisdiction to decide whether fines have been properly imposed, the new section should be specific as to that point.

**For the foregoing reasons, I respectfully OPPOSE H.B. No. 106 H.D.1 and urge your Committee to defer this measure.**

Respectfully submitted,

Mark McKellar

**HB-106-HD-1**

Submitted on: 2/21/2025 2:42:27 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Michael Ayson	Individual	Support	Written Testimony Only

Comments:

I support this bill.

**HB-106-HD-1**

Submitted on: 2/21/2025 8:02:41 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Nancy D Moser	Individual	Support	Written Testimony Only

Comments:

In SUPPORT of HB 106 HD1.  
Aloha Chair and members of the Committee,  
Please vote YES on this measure.

In 2016 I became a first-time home owner with the purchase of my condominium. From 2020 to 2023 I served as an elected member of our homeowners association board, and I am still a resident homeowner there.

I find it is in the best interest of unit owners and of board members when the rules and processes for carrying out the association business are clear and well defined. For this reason I ask that you adopt HB106 HD1.

Mahalo,  
Nancy Moser, owner of unit J108 of Fairway Terrace condominium in Waikoloa Village on Hawai'i Island

**HB-106-HD-1**

Submitted on: 2/22/2025 3:15:55 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
lynne matusow	Individual	Oppose	Written Testimony Only

Comments:

I am the owner occupant and a board member of a high rise condominium. I am also a member of CAI. CAI never told me they were taking a position on this bill, a position I disagree with. The current statute is sufficient. It should not be tinkered with.

My condo has a fines enforcement policy. It was passed in 2008 and amended in 2017. The owners are aware of it. It is not a secret. H.B. No. 106 adds a new provision on fines and appeals from fines. It establishes procedures to be followed by associations and time periods for action. This provision may conflict with the procedures and time periods for action found in the governing instruments of condominium associations, including mine. This will likely create confusion.

From time to time we have requests to amend the house rules, requests which violate the state fire code, noise parameters, etc. When told they are in violation of laws and fire codes they accept that. Then there are the owners who just do what they want, notwithstanding the laws and house rules.

I ask you to defer this bill

**HB-106-HD-1**

Submitted on: 2/22/2025 5:40:41 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Joe M Taylor	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

**I OPPOSE H.B. No. 106, HD1 for the reasons set forth below.**

The new HRS Section 514B-\_\_\_(d) (beginning on page 2 of the bill) provides that a unit owner or tenant aggrieved by the decision of the board on an appeal from a fine may file an appeal in the small claims division of the district court in which the condominium is located. While the small claims court may decide legal issues related to fines, it is not an appropriate function of the small claims court to preside over “appeals of fines.”

1. bill provides in subsection (f) (found on page 4) that if a fine is not enforceable or collectible, the association may not charge the owner or tenant for any attorneys’ fees incurred by the association related to the fine. This is vague and ambiguous and may be construed as prohibiting an association from recovering attorneys’ fees incurred by it in having its lawyer send a demand letter to an owner who has violated a covenant if a fine resulting from the violation is later waived, rescinded, or set aside. The fact that a fine has been waived, rescinded, or set aside does not necessarily mean that there was no violation warranting the sending of a demand letter. It may be that the board agreed to waive or rescind the fine as a gesture of goodwill or that the fine was set aside for technical reasons. Furthermore, a board may be less inclined to waive fines upon appeal if doing so means that it must also waive all attorneys’ fees incurred by the association in connection with the violation.

The proposed changes to HRS Section 514B-146 are quite substantial without any stated compelling reason for the changes. If HRS Section 514B-146 is to be amended, the proposed wording should be amended for clarification. For example, the new subsection (g) (found on

page 20) states that if any amount paid by a unit owner is found to be unsubstantiated, the unit owner shall be entitled to a refund. However, it is not clear who makes the determination that an amount paid is “unsubstantiated.” Presumably, this determination should be made by a court of competent jurisdiction and if so, this should be stated. It should be made clear that the 120-day stay provided for in subsection (f) (found on page 20) shall not apply to the recordation of a lien by the association because it is conceivable that the association will need to record a lien during that time period to preserve the priority of its lien. Additionally, a stay of 120 days is much too long.

Finally, I oppose the change proposed in Section 7 of the bill (found on page 26) which will broaden the jurisdiction of the small claims court to include claims arising under “section 514B-\_\_.” This provision could be construed as granting to the small claims court jurisdiction over a broad range of issues and claims that should be decided by a court of higher jurisdiction where there is a right to appeal and rules of evidence apply. If the intent is to give the small claims court jurisdiction to decide whether fines have been properly imposed, the new section should be specific as to that point.

**For the foregoing reasons, I respectfully OPPOSE H.B. No. 106 H.D.1 and urge your Committee to defer this measure.**

Respectfully submitted,

Joe Taylor

**HB-106-HD-1**

Submitted on: 2/22/2025 5:41:13 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

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

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

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**For the foregoing reasons, I respectfully OPPOSE H.B. No. 106 H.D.1 and urge your Committee to defer this measure.**

Respectfully submitted,

Mary Freeman

Ewa Beach

**HB-106-HD-1**

Submitted on: 2/22/2025 5:49:00 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

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

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

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**For the foregoing reasons, I respectfully OPPOSE H.B. No. 106 H.D.1 and urge your Committee to defer this measure.**

Respectfully submitted,

Anne Anderson

**HB-106-HD-1**

Submitted on: 2/22/2025 8:45:23 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Michael Targgart	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

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**For the foregoing reasons, I respectfully OPPOSE H.B. No. 106 H.D.1 and urge your Committee to defer this measure.**

Respectfully submitted,

Michael Targgart

**HB-106-HD-1**

Submitted on: 2/22/2025 10:48:31 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
John Toalson	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

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**For the foregoing reasons, I respectfully OPPOSE H.B. No. 106 H.D.1 and urge your Committee to defer this measure.**

Respectfully submitted,

John Toalson

**HB-106-HD-1**

Submitted on: 2/23/2025 1:52:14 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Lance S. Fujisaki	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

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For the foregoing reasons, I respectfully OPPOSE H.B. No. 106 H.D.1 and urge your Committee to defer this measure.

Respectfully submitted,

Lance Fujisaki

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

**I OPPOSE H.B. No. 106, HD1 for the reasons set forth below.**

The new HRS Section 514B-\_\_\_(d) (beginning on page 2 of the bill) provides that a unit owner or tenant aggrieved by the decision of the board on an appeal from a fine may file an appeal in the small claims division of the district court in which the condominium is located. While the small claims court may decide legal issues related to fines, it is not an appropriate function of the small claims court to preside over “appeals of fines.”

This bill provides in subsection (f) (found on page 4) that if a fine is not enforceable or collectible, the association may not charge the owner or tenant for any attorneys’ fees incurred by the association related to the fine. This is vague and ambiguous and may be construed as prohibiting an association from recovering attorneys’ fees incurred by it in having its lawyer send a demand letter to an owner who has violated a covenant if a fine resulting from the violation is later waived, rescinded, or set aside. The fact that a fine has been waived, rescinded, or set aside does not necessarily mean that there was no violation warranting the sending of a demand letter. It may be that the board agreed to waive or rescind the fine as a gesture of goodwill or that the fine was set aside for technical reasons. Furthermore, a board may be less inclined to waive fines upon appeal if doing so means that it must also waive all attorneys’ fees incurred by the association in connection with the violation.

The proposed changes to HRS Section 514B-146 are quite substantial without any stated compelling reason for the changes. If HRS Section 514B-146 is to be amended, the proposed wording should be amended for clarification. For example, the new subsection (g) (found on page 20) states that if any amount paid by a unit owner is found to be unsubstantiated, the unit owner shall be entitled to a refund. However, it is not clear who makes the determination that an amount paid is “unsubstantiated.” Presumably, this determination should be made by a court of competent jurisdiction and if so, this should be stated. It should be made clear that the 120-day stay provided for in subsection (f) (found on page 20) shall not apply to the recordation of a lien by the association because it is conceivable that the association will need to record a lien during that time period to preserve the priority of its lien. Additionally, a stay of 120 days is much too long.

Finally, I oppose the change proposed in Section 7 of the bill (found on page 26) which will broaden the jurisdiction of the small claims court to include claims arising under “section 514B-\_\_\_.” This provision could be construed as granting to the small claims court jurisdiction over a broad range of issues and claims that should be decided by a court of higher jurisdiction where there is a right to appeal and rules of evidence apply. If the intent is to give the small claims court jurisdiction to decide whether fines have been properly imposed, the new section should be specific as to that point.

**For the foregoing reasons, I respectfully OPPOSE H.B. No. 106 H.D.1 and urge your Committee to defer this measure.**

Respectfully submitted,

Reyna Murakami  
AOUO President  
Mariner's Village 1

**HB-106-HD-1**

Submitted on: 2/24/2025 8:09:28 AM

Testimony for JHA on 2/25/2025 2:00:00 PM

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

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

**I OPPOSE H.B. No. 106, HD1 for the reasons set forth below.**

The new HRS Section 514B-\_\_\_(d) (beginning on page 2 of the bill) provides that a unit owner or tenant aggrieved by the decision of the board on an appeal from a fine may file an appeal in the small claims division of the district court in which the condominium is located. While the small claims court may decide legal issues related to fines, it is not an appropriate function of the small claims court to preside over “appeals of fines.”

This bill provides in subsection (f) (found on page 4) that if a fine is not enforceable or collectible, the association may not charge the owner or tenant for any attorneys’ fees incurred by the association related to the fine. This is vague and ambiguous and may be construed as prohibiting an association from recovering attorneys’ fees incurred by it in having its lawyer send a demand letter to an owner who has violated a covenant if a fine resulting from the violation is later waived, rescinded, or set aside. The fact that a fine has been waived, rescinded, or set aside does not necessarily mean that there was no violation warranting the sending of a demand letter. It may be that the board agreed to waive or rescind the fine as a gesture of goodwill or that the fine was set aside for technical reasons. Furthermore, a board may be less inclined to waive fines upon appeal if doing so means that it must also waive all attorneys’ fees incurred by the association in connection with the violation.

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owner shall be entitled to a refund. However, it is not clear who makes the determination that an amount paid is “unsubstantiated.” Presumably, this determination should be made by a court of competent jurisdiction and if so, this should be stated. It should be made clear that the 120-day stay provided for in subsection (f) (found on page 20) shall not apply to the recordation of a lien by the association because it is conceivable that the association will need to record a lien during that time period to preserve the priority of its lien. Additionally, a stay of 120 days is much too long.

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**For the foregoing reasons, I respectfully OPPOSE H.B. No. 106 H.D.1 and urge your Committee to defer this measure.**

**Julie Wassel**

**HB-106-HD-1**

Submitted on: 2/24/2025 8:10:30 AM

Testimony for JHA on 2/25/2025 2:00:00 PM

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

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

**I OPPOSE H.B. No. 106, HD1 for the reasons set forth below.**

The new HRS Section 514B-\_\_\_(d) (beginning on page 2 of the bill) provides that a unit owner or tenant aggrieved by the decision of the board on an appeal from a fine may file an appeal in the small claims division of the district court in which the condominium is located. While the small claims court may decide legal issues related to fines, it is not an appropriate function of the small claims court to preside over “appeals of fines.”

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**For the foregoing reasons, I respectfully OPPOSE H.B. No. 106 H.D.1 and urge your Committee to defer this measure.**

Respectfully submitted,

Paul A. Ireland Koftinow

**HB-106-HD-1**

Submitted on: 2/24/2025 9:48:39 AM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Rachel Glanstein	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

**I OPPOSE H.B. No. 106, HD1 for the reasons set forth below.**

The new HRS Section 514B-\_\_\_(d) (beginning on page 2 of the bill) provides that a unit owner or tenant aggrieved by the decision of the board on an appeal from a fine may file an appeal in the small claims division of the district court in which the condominium is located. While the small claims court may decide legal issues related to fines, it is not an appropriate function of the small claims court to preside over “appeals of fines.”

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**For the foregoing reasons, I respectfully OPPOSE H.B. No. 106 H.D.1 and urge your Committee to defer this measure.**

Mahalo,

Rachel Glanstein

**TESTIMONY IN SUPPORT OF HB106 HD1**

For: The Committee on Judiciary & Hawaiian Affairs (JHA)

DATE: Tuesday, February 25, 2025

TIME: 2:00 p.m.

PLACE: VIA VIDEOCONFERENCE

Conference Room 325

State Capitol

415 South Beretania Street

Aloha Chair Tarnas, Vice Chair Poepoe, and members of the Committee,

My name is Gregory Misakian and I have been advocating for the rights of condominium owners in Hawaii since 2021, when I realized how much misconduct and corruption there is within many condominium associations throughout Hawaii, in addition to misconduct and corruption within numerous large management companies that manage and oversee condominium associations.

As many as 1/3 of the population of Hawaii lives in condominiums, including many legislators and their friends and families. It has been shown with evidence to support, including many news stories and a great deal of testimony, that condominium owners are being subjected to abusive and predatory practices, often at the direction of the condominium association's President and Board, with management company agents and association attorneys being willful participants.

At my condominium association, a dispute for less than \$5,000 for a valid concern regarding water damage from the unit above through the common area, has resulted in a kupuna being taken to court at the direction of the Board President. Numerous attorneys were involved, and fees and attorney's fees of approximately \$40,000 charged back to the owner. This owner is now facing a foreclosure, which was filed for in court recently. The same Board President is now working for our former association law firm who brought the legal action against the kupuna. It should also be noted that he was working for them when they were still our

association legal counsel and the board was not informed. This is not only a conflict of interest and violation of fiduciary duty, but quid pro quo (seen often in Hawaii).

It's time for Directors on association boards to stop feeling enabled to treat others badly when owners raise concerns, oppose their decisions, or just because they don't like them. Abuse of power should never be something used against anyone to subvert them with financial threats, or the potential to lose their home to foreclosure. Those most vulnerable are also our kupuna and those that don't understand how to fight back. They need their elected officials to help, including the committee members who will decide and vote for or against HB106 HD1.

**I respectfully request again that HB106 HD1 be further amended to also include a section that reads as follows, or similarly:**

*Shall any Director on a condominium associations Board of Directors, or any Managing Agent, be found to have charged any fines, assessments, interest, and/or legal expenses to an owner who raised valid concerns that were not properly addressed via the governing documents and any hearing procedure established, or for a frivolous and/or unsubstantiated fine or assessment, that the individual Directors who voted for the fines, assessments, interest, or legal expenses shall be subject to pay the fine(s), assessment(s), interest, and/or legal expenses charged to the owner. Any restitution for improper fine levying shall be made by all directors and/or managing agents found liable and split evenly between them. The association shall compensate the owner back, and those involved in the improper levying of fines, assessments, interest and/or legal fees shall reimburse the association.*

Mahalo to those on the CPC Committee who took my suggestion and amended the sections that pertain to mediation, providing additional time to schedule and complete a mediation, which typically takes much longer than 60 days. I now see this was amended to 120 days.

**One additional amendment is needed with respect to a request for mediation,** and I request that the following section be amended to provide for sixty days vs. thirty days.

A unit owner who elects to request mediation shall do so within thirty days after receipt of the written statement provided by the association pursuant to subsection (d).

The reasoning for this is because very often owners are off island and may receive notices late, in addition to management companies not properly informing owners of special assessments timely or properly, which is a common theme at my condominium association. In numerous cases where I live, “mystery” plumbing repair charge backs were assessed to owners a year after the work was alleged to have been done, with owners stating they were never aware and had never authorized work within their units. Special assessments just appeared on their regular billing invoices for maintenance fees, and those requesting proof of the work were never provided anything that showed they or anyone signed off on the work to be done. Many of these owners are kupuna.

**I am also requesting HB106 HD1 be amended further to remove any reference to nonjudicial foreclosures**, as this has previously been found unlawful by the State Supreme Court, and is a dangerous tool that has been abused in the past, and will continue to be abused in the future if allowed. Any form of nonjudicial foreclosure should be eliminated, as abuse of power often places condominium owners in peril of losing their homes.

For those who don’t know me, I currently serve as the 1<sup>st</sup> Vice President of the Kokua Council and was President for most of 2024. The Kokua Council advocates for our kupuna and lesser advantaged. I also serve on the Waikiki Neighborhood Board, where we have advocated for better consumer protections for condominium owners in a resolution adopted in 2023 (also adopted by other Neighborhood Boards).

The people of Hawaii are counting on you to protect them from predatory and abusive practices, and I respectfully ask all on the committee to please support HB106 HD1 with the suggested amendments.

Gregory Misakian

**House of Representatives  
The Thirty-Third Legislature  
Committee on Judiciary and Hawaiian Affairs  
Tuesday, February 25, 2025  
2:00 p.m.**

To: Representative David A. Tarnas, Chair  
Re: HB 106 HD 1, Relating to Condominiums

Aloha Chair David A. Tarnas, Vice-Chair Mahina Poepoe, and Members of the Committee,

Mahalo for the opportunity to testify in support of HB 106 HD 1 and suggest some enhancements.

Since 1970, I have resided in associations-governed communities throughout Hawaii. For almost fifty years, I have owned units in condominium associations and served as an officer on three separate associations' boards. For more than a dozen years, I have served as the nexus for many grassroots coalitions of property owners of association-governed communities throughout Hawaii.

Selected to participate in the Condominium Property Regime Task Force established by Act 189, Session Laws of Hawaii 2023, it was my hope that the Task Force's work would be meaningful. The State's focus on affordable housing to attract and retain skilled workers who are essential to the health of our community, magnifies the importance of improving condominium association governance.

Without necessary improvements, the development of additional condominium housing will be flawed because current owners and prospective purchasers, including those whom the government hopes to retain or attract, will be unable to afford escalating costs caused by the mismanagement and misgovernance of condominium associations.

Reviews of the Department of Commerce and Consumer Affairs (DCCA) Real Estate Commission (REC) publication, *Hawaii Condominium Bulletin*,<sup>1,2,3</sup> reveal that the current Condominium Education Trust Fund (CETF) subsidized alternative dispute resolution models (ADR) has been largely un-successful for condominium owners. ADR case summaries for the period from late 2015 through its most recent (December 2024) publication indicate that an overwhelming majority, nearly 80%, of the CETF subsidized mediation or arbitration cases were initiated by owners against their association and/or board.<sup>4</sup> And almost two-thirds (2/3) of Condominium Education Trust Fund-subsidized ADR cases were unresolved, hardly a success by any metric.

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<sup>1</sup> <https://cca.hawaii.gov/reb/hawaii-condominium-bulletin-2011-2015/>

<sup>2</sup> <https://cca.hawaii.gov/reb/hawaii-condominium-bulletin-2016-2020/>

<sup>3</sup> <https://cca.hawaii.gov/reb/hawaii-condominium-bulletin-2021-2025/>

<sup>4</sup> See Exhibit A

The unchecked power of association boards and the vulnerability of association owners to abusive practices, malfeasance, and infidelity to fiduciary duties have been reported by local media<sup>5,6,7,8</sup> and are further substantiated by reports from the insurance industry that nationally, Hawaii has the most Directors-and-Officers-Insurance-claims (D&O claims) and among the highest-insurance-settlements<sup>9,10</sup> despite Hawaii having only a small fraction of homeowners' associations of more populous states like Florida, California, and New York.

Two years ago, I wrote a commentary<sup>11</sup> for publication that is—unfortunately--still relevant:

The condominium governance model manifests itself as private mini governments. Consolidating the three branches of government into a board with no “checks and balances” against its centralized top-down power, these boards’ directors yield considerable power without accountability under the altruistic shield of being “volunteers.”

Under the façade of legality, boards have used their associations’ attorneys’ exorbitant fees to quell inquiry, crush complaint, and vanquish dissidents. These boards have the power to abuse, intimidate, censure, and discredit those members who question or oppose their decisions or actions.

Boards can and have destroyed lives through unregulated fines, liens, and foreclosures without due process for what would be considered petty and vindictive reasons that have little to do with the operation, safety, or health of the association, its members or property.

The Committee on Consumer Protection and Commerce’s Standing Committee Report regarding HB 106 HD 1, stated,

“Your Committee further finds that the existing model of self-governance for condominium associations necessitates that condominium associations have mechanisms to enforce compliance. However, such mechanisms should also provide persons with notice and an opportunity to be [heard].”

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<sup>5</sup> <https://www.civilbeat.org/2023/04/have-a-complaint-about-your-condo-you-may-get-slapped-with-paying-for-the-lawyers-who-fight-you/>

<sup>6</sup> <https://www.civilbeat.org/2023/07/prominent-honolulu-condo-directors-pay-600000-to-settle-retaliation-claim/>

<sup>7</sup> <https://www.civilbeat.org/2024/01/it-started-with-a-messy-front-porch-now-this-elderly-womans-condo-association-may-take-her-home/>

<sup>8</sup> <https://www.civilbeat.org/2023/10/this-waianae-condo-development-has-lost-hundreds-of-thousands-of-dollars-to-embezzlement/>

<sup>9</sup> ThinkTech “Condo Insider” program, “How Condo Disputes Can Increase Your Maintenance Fees,” September 19, 2019

<sup>10</sup> <https://www.youtube.com/watch?v=8wOM10cgYS0&t=353s>

<sup>11</sup> <https://www.civilbeat.org/2023/10/is-the-condominium-model-of-housing-crumbling/>

Thus, I address one of the most egregious complaints made by owners regarding actions by their associations: they were not provided with proper notification of alleged violations. Many of those who lost their homes due to nonjudicial foreclosures made this accusation, rendering it too common to dismiss.

Therefore, I request that the requirement to “provide persons with notice” is strengthened by adding to the proposed new section, “514B-\_\_\_ Fines; imposition; appeals; collection” the following:

Before taking any action under this section, the board shall give to the unit owner and/or tenant written notice of its intent to collect the assessment owed. The notice shall be sent both by first-class and certified mail, return request requested, with adequate postage to the recipient’s address as shown by the records of the association or to an address designated by the owner for the purpose of notification, or, if neither of these is available, to the owner’s last known address.

The underscored phrase, below, is also requested as an addition to the proposed amendment to 514B-146(g) because owners who secured legal and other professional assistance (e.g., professional auditors, engineers) have paid substantially to defend themselves:

If any amount paid by a unit owner is found to be unsubstantiated, the unit owner shall be entitled to a refund of all costs including legal fees incurred by the unit owner in defense.

Mahalo for the opportunity to submit these comments in support of HB 106 HD 1.

Malama pono.

Lila Mower

Exhibit A  
**Tally Of Reported Mediation Summaries in the *Hawaii Condominium Bulletin* Since 2015<sup>12,13,14</sup>**

HI Condo Bulletin	AOAO/BOD V	OWNER V	OWNER V	OWNER V	TOTAL	mediated	mediated	assn did not	owner did not	elevated	other
ISSUE MONTH	OWNER	AOAO/BOD	OWNER	CAM	CASES	to agreemnt	w/o agreemnt	mediate*	mediate**	to arbitration	***
Dec-24	3	19			22	8	7	3	3	1	
Sep-24	5	11			16	9.5	6				0.5
Jun-24	0	11			11	4	5	1			1
March-24	0	12			12	2	6	2	1	1	
December-23	5	13			18	8	6		1	1	2
September-23	0	8			8	3	4			1	
June-23	4	10			14	4	5	0	2		3
March-23	3	15			18	1	14		2		1
December-22	3	8			11	1	7	0	2		1
September-22	2	4			6	3	1	0	0		2
June-22	5	14			19	5.5	10.5				3
March-22	2	15			17	8	4			1	4
December-21	1	8			9	3	4				2
September-21	3	13			16	8	5				3
June-21	5	12			17	8	5	2			2
March-21	1	9			10	4	3		2		1
December-20	5	15			20	7	12		1		
September-20	2	4			6	2	3				1
June-20	1	2			3	3	0		.		
March-20	3	13			16	5	9		1		1
December-19	2	13		1	16	5	6		2		3
September-19	3	8			11	6	4				1
June-19	0	10			10	5	3		1		1
March-19	2	13			15	7	4	1	1		2
December-18	1	2			3	0	3				
September-18	3	7			10	4	2	1	1		2
June-18	1	4.5	0.5		6	2	3	1			
March-18	5	5	1		11	3	3		2		3
December-17	3	13			16	5	6	3	2		
September-17	1	10			11	3	5	2	1		
June-17	0	6			6	3	3				
March-17	2	4			6	4	2				
December-16	2	6			8	2	4	2			
September-16	2	8			10	2	5	1	2		
June-16	1	3	1		5	3	0	0	1		1
March-16	2	10			12	3	2	1	4		2
December-15	2	7			9	3	2	3	1		
September-15	0	2	1		3	1	1	1			
<b>total cases</b>	<b>85</b>	<b>347.5</b>	<b>3.5</b>	<b>1</b>	<b>437</b>	<b>158</b>	<b>174.5</b>	<b>24</b>	<b>33</b>	<b>5</b>	<b>42.5</b>
<b>total by percent</b>	<b>19.451%</b>	<b>79.519%</b>	<b>0.801%</b>	<b>0.229%</b>	<b>100.000%</b>	<b>36.156%</b>	<b>39.931%</b>	<b>5.492%</b>	<b>7.551%</b>	<b>1.144%</b>	<b>9.725%</b>

\*association declined, refused, nonresponsive, or withdrew \*\*owner declined, refused, nonresponsive, or withdrew \*\*\*based on interpretation of comments including lack of claritv. incomplete. unable to schedule

<sup>12</sup> <https://cca.hawaii.gov/reb/hawaii-condominium-bulletin-2011-2015/>

<sup>13</sup> <https://cca.hawaii.gov/reb/hawaii-condominium-bulletin-2016-2020/>

<sup>14</sup> <https://cca.hawaii.gov/reb/hawaii-condominium-bulletin-2021-2025/>



## The Senate

STATE CAPITOL  
HONOLULU, HAWAII 96813

May 10, 2018

Via Hand Delivery

Mr. Stephen H. Levins  
Office of Consumer Protection  
235 S. Beretania Street, Room 801  
Honolulu, HI 96813

Ms. Daria Ann Loy-Goto  
Regulated Industries Complaints Office  
235 S. Beretania Street, 9<sup>th</sup> Floor  
Honolulu, HI 96813

Dear Mr. Levins and Ms. Loy-Goto:

One of my constituents, Ms. Christine Morrison, has asked that I refer debt collection practices at Kehalani Community Association (KCA) by its agent Hawaiiana Management to the appropriate agency for investigation. In certain instances, Ms. Morrison believes that the dates of the notices/letters to her have arrived with a much later postmarked date, i.e. notice dated 02/28/18 with a remit deadline of 02/28/18 reflect a postmark of 03/12/18, which seem designed to ensure that she could not have responded by the remit deadline.

Another concern from Ms. Morrison involves demand letters that do not reflect payments that have been made to her account. Although Ms. Morrison has written to KCA's agent Hawaiiana Management to provide the documentation to support the alleged "debt", she has not received any responses.

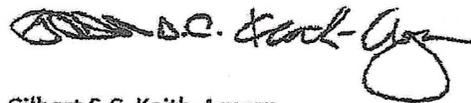
Mr. Stephen H. Levins  
Ms. Daria Ann Loy-Goto  
May 10, 2018  
Page 2

I would agree with Ms. Morrison that it's very troubling that payments are not updated in a timely manner. All of the notices sent by Hawaiiana Management on behalf of KCA outlines threats of nonjudicial foreclosure, which are very alarming to the recipient. Enclosed are copies of documents provided by Ms. Morrison, which includes notices with postmarked envelopes, statement of bank account that reflects payments of association dues, excerpts of Kehalani Master Association documents, and other pertinent information.

If you require further information regarding this issue, please contact [REDACTED] at [REDACTED]

Thank you for your prompt attention to this matter.

Sincerely,



Gilbert S.C. Keith-Agaran  
State Senator – District 5

Enclosures: 7

cc: [REDACTED]

[Redacted]  
 Date 3-22-18  
 59-102/1213  
 64  
 Pay to the Order of Kehaleni Community Association 205  
Two Hundred + five 00/100 Dollars  
and ten 00/100  
 [Redacted]  
Paid Under Protest [Redacted]  
DO NOT OWE  
 [Redacted]  
 [Redacted]



KEHALANI COMMUNITY ASSOCIATION  
C/O HAWAIIANA MGT. CO., LTD. - PAYMENT DEPT.  
711 KAPIOLANI BLVD., SUITE 700  
HONOLULU, HI 96813

February 28, 2018

[REDACTED]

CREDITOR: KEHALANI COMMUNITY ASSOCIATION  
ACCOUNT NUMBER: [REDACTED]  
RE: KEHALANI CA/  
UNIT ID: V1101  
ACCOUNTANT: IMELDA MATEO (808) 593-6326

ASSOCIATION DUES (6<sup>5</sup> month)  
LATE CHARGES  
TOTAL AMOUNT OF DELINQUENCY:

130.00

75.00

205.00

DEAR OWNER:

Hawaiiana Management Company, Ltd., as managing agent, is writing to you on behalf of the Kehalani Community Association.

We have not received your payment which was due on the first of last month. Because your payment was not received by the 10th, an additional late charge of \$50.00 has been added to the total. Our records show that your account is now delinquent in the Total Amount indicated above.

Please remit the total amount due, including late fees, by the end of this month. <sup>2-28-18</sup> If full payment has been sent recently, please disregard this notice.

To avoid further late payments and late charges we hope you will consider enrolling in our auto payment program. The information regarding this service is enclosed.

Very truly yours,

Hawaiiana Management Company

Further note:

If you have not already paid the total amount due the following applies to you:

KCA Collection Letter (C2)

• If, by the 10th of next month the total amount of the delinquency has not been paid in full, a third collection letter will be sent out (the C-3 letter) and you will be advised that an additional \$75.00 late charge has been added to your account AND

(1) That the total amount of Base Assessments and Neighborhood Assessments due from you for the remainder of the fiscal year will be immediately due and payable.

(2) That if the total amount described in Item (1) above is not paid in full by the end of the month then an additional late charge of \$100.00 shall be charged and the account will then be forwarded for collection to the Association's collection agency and/or attorney without any further notification.

(3) The collection agency and/or attorney have been authorized to pursue any and all legal remedies including but not limited to filing suit, advising credit reporting agencies of the delinquency, recording a lien against the real property and instituting judicial or non judicial foreclosure actions.

Notice pursuant to Fair Debt Collection Practices Act  
15 USC Section 1692

THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS CONSTITUTES NOTICE OF THE AMOUNT OF THE DEBT AND THE NAME OF THE CREDITOR TO WHOM THE DEBT IS OWED. UNLESS YOU, WITHIN THIRTY DAYS AFTER RECEIPT OF THE NOTICE, DISPUTE THE VALIDITY OF THE DEBT, OR ANY PORTION THEREOF, THE DEBT WILL BE ASSUMED TO BE VALID. IF YOU NOTIFY US IN WRITING WITHIN THE THIRTY-DAY PERIOD THAT THE DEBT, OR ANY PORTION THEREOF, IS DISPUTED, WE WILL OBTAIN VERIFICATION OF THE DEBT AND A COPY OF SUCH VERIFICATION WILL BE MAILED TO YOU. UPON YOUR REQUEST WITHIN THE THIRTY-DAY PERIOD, WE WILL PROVIDE YOU WITH THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF IT IS DIFFERENT FROM THE CURRENT CREDITOR.

C-2 Letter

KCA Collection Letter (C-2)

[REDACTED]  
Central Pacific Bank #074

2018-03-28

Batch [REDACTED]

[REDACTED]

For  
Central Pacific  
To  
Hawaiiana Mut.  
Agent



Certificate of Mailing

This Certificate of Mailing provides evidence that mail has been presented to USPS® for mailing.  
This form may be used for domestic and international mail.

To pay fee, affix stamps or meter postage here.

From: [Redacted]

To: Keoluani Community Association  
c/o Hawaiian M&T CO, LLC  
Payment Dept  
711 Kapiolani Blvd Suite 300  
Honolulu HI 96813

Postmark Here

PS Form 3817, April 2007 PSN 7530-02-000-9065

KEHALANI COMMUNITY ASSOCIATION  
C/O HAWAIIANA MGT. CO., LTD. - PAYMENT DEPT.  
711 KAPIOLANI BLVD., SUITE 700  
HONOLULU, HI 96813

3/21/2018

[REDACTED]  
[REDACTED]  
CREDITOR: KEHALANI COMMUNITY ASSOCIATION  
ACCOUNT NUMBER: [REDACTED]  
RE: KEHALANI CA/  
UNIT ID: [REDACTED]  
ACCOUNTANT: IMELDA MATEO (808) 593-6326

ASSOCIATION DUES	195.00
LATE CHARGES	150.00
TOTAL AMOUNT OF DELIQUENCY INCLUDING PAYMENTS DUE FOR REMAINING FISCAL YEAR AND LATE CHARGES:	345.00

DEAR OWNER:

Hawaiiana Management Company, Ltd., as managing agent, is writing to you on behalf of the Kehalani Community Association.

We have not received your payment of the past due delinquent amount which was due on the first of the month. Because your payment was not received by the 10th, the total amount of Base Assessments and Neighborhood Assessments due for the remainder of the fiscal year is immediately due and payable and an additional late charges of \$75.00 has been added to the total. Our records show that your account is now delinquent in the Total Amount indicated above.

If the total amount due is not paid by the end of this month, an additional late charge of \$100.00 shall be charged and the account will be forwarded to the Association's collection agency and/or attorney without any further notification. The collection agency and/or attorney has been authorized to pursue any and all legal remedies including but not limited to filing suit, advising credit reporting agencies of the delinquency, recording a lien against the real property and instituting judicial or non judicial foreclosure actions.

Please remit the total amount due, including late fees, by the end of this month. If full payment has been sent recently, please disregard this notice.

Very truly yours,

---

Hawaiiana Management Company

Notice pursuant to Fair Debt Collection Practices Act

15 USC Section 1692

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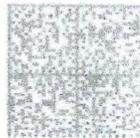
C-3 Letter



**HAWAIIANA MANAGEMENT COMPANY, LTD.**

Pacific Park Plaza  
711 Kapiolani Boulevard, Suite 700  
Honolulu, Hawaii 96813

9675363539 0009



U.S. POSTAGE  
FIRST CLASS  
ZIP 96813 \$ 000.47<sup>0</sup>  
02 13  
0001399081240 00 2013

A/R Received

1091  
59-102/1213  
60

APR 09 2018

4-5-18

Date

Pay to the  
Order of

Kehalaui Community Association \$ 345.00

Three hundred + four + five 00/100

Dollars

Bank of Hawaii  
KAWAII BRANCH  
LAHAINA, HAWAII 96761

~~Paid Under Protest~~

for

MP

To Reorder Call 1-800-355-8123

Central Pacific Bank #074  
2018-04-10

Batch

9974012774

For deposit in  
at Bank 121301  
Hawaii  
April 11, 2018

KEHALANI COMMUNITY ASSOCIATION - 2760  
 c/o Hawaiiana Management Company, Ltd. P.O. Box 4009, Honolulu, HI 96812, Tel. No. 593-9100

CHECK NO. 0004093

INV. DATE	DESCRIPTION	INVOICE	VENDOR-BLDG	G/LACCT	AMOUNT
03/13/20	RFND ASSN DUES-U#V1101	031320	CRSV-2760	5100	550.00
TO: [REDACTED]		DATE: 3/13/2020		550.00	

THIS DOCUMENT CONTAINS A VOID PANTOGRAPH ON A COLORED BACKGROUND AND MICROLINE BORDER

**HAWAIIANA MANAGEMENT CO., LTD AS AGENT FOR**

CHECK NO. 0004093

KEHALANI COMMUNITY ASSOCIATION - 2760

P.O. BOX 4009 HONOLULU, HI 96812, TEL. NO. 593-9100

VOID AFTER SIX MONTHS

59-157/1213

DATE: 3/13/2020

FIVE HUNDRED FIFTY and 00/100\*\*\*\*\*

CENTRAL PACIFIC BANK  
 P.O. BOX 3590  
 HONOLULU HI 96811

\$\*\*\*\*\*550.00

PAY TO THE  
 ORDER OF:

[REDACTED]

[Handwritten Signatures]

TWO SIGNATURES REQUIRED

⑈0004093⑈ ⑆21301578⑆ 4000⑈432004⑈



Better Business Bureau®

Customer Reviews

*Filed  
2020*

**THIS BUSINESS IS NOT BBB ACCREDITED.**

**Hawaiiana Management Company,  
Ltd.**

**(808) 593-9100**

**Original Review:**

MANDATE HOME OWNER ASSOCIATION REFORM Hawaiiana Management Company 1. I received two debt collection FDCAP letters by Hawaiiana management company for NO DEBT OWING. First letter dated February 28, 2018 post marked March 12, 2018 demanding payment by End of February, 2018 for \$205.00 stating "lien, instituting judicial OR non- judicial foreclosure actions. My Response via certified mail: I sent a certified letter March 22, 2018 letter stating "regarding attempt to collect false debt/collection- I am sending a check of \$205, writing" paid under protest." 3. Second letter dated March 21, 2018 post marked March 30, 2018 demanding payment by End of March, 2018 for \$345 stating "lien, instituting judicial OR non- judicial foreclosure actions. My Response via certified mail: I sent an certified letter April 5, 2018 pursuant to the FDCPA asking for : A copy of the original signed agreement between the original creditor and me. A copy of the complete payment history Proof Hawaiiana MGT has purchased the debt The current balance owing. Hawaiiana ONLY RESPONSE: 1. An owner history report with a print date of March 28, 2018 that showed a WRONG DEBT BALANCE. May 24, 2018: I filed a complaint with the (RICCO) Regulated Industries Complaint Office RESULT after RICCO department: November 1, 2018 letter from Hawaiiana Management: 1. Credit to my account of false debt collection 2. Owner history report (4 years) showing NO DEBT EVER OWED- despite March 28, 2018 owner history report error. November 7, 2018 my letter to Hawaiiana requested documents pursuant to HR chapter 514-B. I have not to date received my November 7, 2018 requests. January 28, 2020 certified letter to be sent.

[My BBB Consumer Account Login](#)

Have you reported your complaint to any other law enforcement or government agency?  Yes  No If yes, please provide the name of the agency, the approximate date when you filed your report or complaint, and any report or complaint numbers.

Senator Agawa's office presented this to the  
Office of Consumer Protection May 10, 2018.

Have you filed a lawsuit or other legal action (for example, mediation or arbitration) related to your dispute?  Yes  No  
If yes, please provide the name of the court, the case number, and attach copies of any relevant documents including any judgments or orders issued in the case.

### ADDITIONAL QUESTIONS

Office of Consumer Protection. The Department of Commerce and Consumer Affairs' Office of Consumer Protection (OCP) reviews unfair and deceptive trade practices in consumer transactions. If upon review RICO believes a referral to OCP is appropriate, do you consent to have your complaint sent to that office for review?  Yes  No (Please note OCP complaints are public and your complaint and any information you provide will be made available to requesters.)

If we are able to assist, what would your desired resolution be? Although our primary role is to enforce regulatory laws and rules, sometimes we are able to achieve some sort of resolution on the part of complaining parties. If we are able to assist, what would your desired resolution be? (Again, as a government agency, RICO represents the State of Hawaii as a whole. We do not represent you in your dispute and strongly advise all consumers immediately explore any civil remedies they may have.)

Accountability for debt fraud collection (FDCPA)  
sanctions, fines, prosecution

### CERTIFICATION

RICO requires complainants complete, sign, and certify below. We can assist you if you are unable to sign or otherwise complete this form. Knowingly submitting false or untrue information may constitute a violation of Hawaii Revised Statutes §710-1063.

I certify that all statements and attachments provided to RICO as part of this complaint are true and correct to the best of my knowledge.

I understand investigation and prosecution is at the discretion of the agency and that RICO does not represent me in this dispute.

Complainant's signature:

[Redacted signature]

Date: 5-24-18

Print name here:

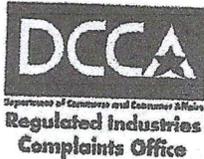
[Redacted name]

check here if signing as representative



Mail completed complaint forms to:  
Regulated Industries Complaints Office  
Attention: Consumer Resource Center  
235 South Beretania Street, 9th Floor  
Honolulu, Hawaii 96813  
Complaint forms are accepted at neighbor island RICO offices for mailing.

This material is available in alternate formats including large print.  
For assistance, please contact the RICO Complaints and Enforcement Officer at 586-2666.



STATE OF HAWAII  
 DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
 REGULATED INDUSTRIES COMPLAINTS OFFICE  
 CONSUMER RESOURCE CENTER  
 OAHU OFFICE  
 235 SOUTH BERETANIA STREET, 9TH FLOOR  
 HONOLULU, HI 96813  
 cca.hawaii.gov/rico

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FOR OFFICIAL USE ONLY

## COMPLAINT FORM – REAL ESTATE

Important information about filing a complaint. RICO's jurisdiction is limited to violations of Hawaii's licensing laws and rules. Violations vary depending on the license type involved. As part of the review and investigation process, the company or individual you are complaining about may be informed of this matter and provided information about your complaint. Additional information about the industries RICO regulates, applicable licensing laws and rules, and a list of Frequently Asked Questions is available on the RICO website, as well as a printable version of this and other RICO complaint forms. *When completing this form, please print legibly or type.*

### COMPLAINANT INFORMATION (Your information)

<input type="checkbox"/> Dr. <input type="checkbox"/> Mr. <input checked="" type="checkbox"/> Ms. <input type="checkbox"/> Mrs.	(Last Name) <div style="background-color: black; width: 100%; height: 20px;"></div>	(First Name) <div style="background-color: black; width: 100%; height: 20px;"></div>	(Middle Name) <div style="background-color: black; width: 100%; height: 20px;"></div>
--	--	---	--

I am filing this complaint on behalf of a  business or as an  individual.

Business name: \_\_\_\_\_

Mailing address: <div style="background-color: black; width: 100%; height: 40px;"></div>	Telephone numbers: (✓ check best number to reach you at) <input checked="" type="checkbox"/> Daytime phone: <div style="background-color: black; width: 100%; height: 15px;"></div> <input type="checkbox"/> Residence phone: (      ) <input type="checkbox"/> Cellular phone: (      )
Email: <div style="background-color: black; width: 100%; height: 15px;"></div>	

Complete this section if someone is representing you or if you are filing this complaint on behalf of someone else:

Representative to contact, if other than complainant	Address	Phone No.
Your relationship to the complainant: _____		

Signature of COMPLAINANT authorizing RICO to work with REPRESENTATIVE:

plain here if complainant is unable to sign: \_\_\_\_\_

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

**I OPPOSE H.B. No. 106, HD1 for the reasons set forth below.**

The BILL provides that a unit owner or tenant aggrieved by the decision of the board on an appeal from a fine may file an appeal in the small claims court. While the small claims court may decide legal issues related to fines, it is not an appropriate function of the small claims court to preside over “hearings on appeals of fines.”

This bill provides that if a fine is not enforceable or collectible, the association may not charge the owner or tenant for any attorneys’ fees incurred by the association related to the fine. This may be construed as an association is prohibited from recovering attorneys’ fees incurred by it in having its lawyer send a demand letter to an owner who has violated a covenant if a fine resulting from the violation is later waived, rescinded, or set aside. The waiver or rescission does not mean that there was no violation warranting the sending of a demand letter. It may be that the board agreed to waive or rescind the fine as a gesture of goodwill. Boards of directors may be less inclined to waive fines if doing so means that it must also waive all attorneys’ fees incurred by the association in connection with the violation.

The new subsection (g) to HRS Section 146 states that if any amount paid by a unit owner is found to be unsubstantiated, the unit owner shall be entitled to a refund. It is not clear who makes the determination that an amount paid is “unsubstantiated.” Presumably, this determination should be made by a court of competent jurisdiction and if so, this should be stated. It should be made clear that the 120-day stay provided for in subsection (f) shall not apply to the recordation of a lien by the association because it is conceivable that the association will need to record a lien during that time period to preserve the priority of its lien. Further, a stay of 120 days is much too long.

Finally, I oppose the change proposed in Section 7 of the bill (found on page 26) which broadens the jurisdiction of the small claims court. This provision could be construed as granting to the small claims court jurisdiction over a broad range of issues and claims that should be decided by a court of higher jurisdiction where there is a right to appeal and rules of evidence apply.

**For the foregoing reasons, I respectfully OPPOSE H.B. No. 106 H.D.1 and urge your Committee to defer this measure.**

Respectfully submitted,

Pamela J. Schell

**HB-106-HD-1**

Submitted on: 2/24/2025 1:20:58 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Steve Glanstein	Individual	Oppose	Written Testimony Only

Comments:

This bill is kneecapping associations and their enforcement capabilities. It will have undesirable consequences. A board may be less inclined to waive fines upon appeal if doing so means that it must also waive all attorneys' fees incurred by the association in connection with any violation. This procedure may push boards to resort directly to the courts to obtain restraining orders against owners violating covenants or house rules.

**HB-106-HD-1**

Submitted on: 2/24/2025 2:15:43 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Marcia Kimura	Individual	Oppose	Written Testimony Only

Comments:

I am opposed to this measure because it doesn't provide adequate protections for condo owners. It only appears to provide for what are already established procedures for owners to oppose fines, and should include provisions to protect owners from runaway legal fees unethically charged to owners when boards themselves hire the attorneys.

Also, in Section 3, (1), after the words "Adopt and amend the declaration, bylaws, and rules and regulations;" words to the effect "resulting from the approval of the voting majority percentage as required in an association's by-laws" should be added.

**HB-106-HD-1**

Submitted on: 2/24/2025 2:20:40 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Joseph Graves	Individual	Oppose	Written Testimony Only

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

**I OPPOSE H.B. No. 106, HD1 for the reasons set forth below.**

The new HRS Section 514B-\_\_\_(d) (beginning on page 2 of the bill) provides that a unit owner or tenant aggrieved by the decision of the board on an appeal from a fine may file an appeal in the small claims division of the district court in which the condominium is located. While the small claims court may decide legal issues related to fines, it is not an appropriate function of the small claims court to preside over “appeals of fines.”

This bill provides in subsection (f) (found on page 4) that if a fine is not enforceable or collectible, the association may not charge the owner or tenant for any attorneys’ fees incurred by the association related to the fine. This is vague and ambiguous and may be construed as prohibiting an association from recovering attorneys’ fees incurred by it in having its lawyer send a demand letter to an owner who has violated a covenant if a fine resulting from the violation is later waived, rescinded, or set aside. The fact that a fine has been waived, rescinded, or set aside does not necessarily mean that there was no violation warranting the sending of a demand letter. It may be that the board agreed to waive or rescind the fine as a gesture of goodwill or that the fine was set aside for technical reasons. Furthermore, a board may be less inclined to waive fines upon appeal if doing so means that it must also waive all attorneys’ fees incurred by the association in connection with the violation.

The proposed changes to HRS Section 514B-146 are quite substantial without any stated compelling reason for the changes. If HRS Section 514B-146 is to be amended, the proposed wording should be amended for clarification. For example, the new subsection (g) (found on page 20) states that if any amount paid by a unit owner is found to be unsubstantiated, the unit

owner shall be entitled to a refund. However, it is not clear who makes the determination that an amount paid is “unsubstantiated.” Presumably, this determination should be made by a court of competent jurisdiction and if so, this should be stated. It should be made clear that the 120-day stay provided for in subsection (f) (found on page 20) shall not apply to the recordation of a lien by the association because it is conceivable that the association will need to record a lien during that time period to preserve the priority of its lien. Additionally, a stay of 120 days is much too long.

Finally, I oppose the change proposed in Section 7 of the bill (found on page 26) which will broaden the jurisdiction of the small claims court to include claims arising under “section 514B-\_\_.” This provision could be construed as granting to the small claims court jurisdiction over a broad range of issues and claims that should be decided by a court of higher jurisdiction where there is a right to appeal and rules of evidence apply. If the intent is to give the small claims court jurisdiction to decide whether fines have been properly imposed, the new section should be specific as to that point.

**For the foregoing reasons, I respectfully OPPOSE H.B. No. 106 H.D.1 and urge your Committee to defer this measure.**

Respectfully submitted,

**HB-106-HD-1**

Submitted on: 2/24/2025 3:38:29 PM

Testimony for JHA on 2/25/2025 2:00:00 PM

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

Comments:

Dear Representative Tarnas, Chair, Representative Poepoe, Vice Chair, and Members of the Committee:

**I OPPOSE H.B. No. 106, HD1 for the reasons set forth below.**

The new HRS Section 514B-\_\_\_(d) (beginning on page 2 of the bill) provides that a unit owner or tenant aggrieved by the decision of the board on an appeal from a fine may file an appeal in the small claims division of the district court in which the condominium is located. While the small claims court may decide legal issues related to fines, it is not an appropriate function of the small claims court to preside over “appeals of fines.”

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**For the foregoing reasons, I respectfully OPPOSE H.B. No. 106 H.D.1 and urge your Committee to defer this measure.**

Respectfully submitted,

Laurie Sokach AMS, PCAM

Community Portfolio Manager

Kona Hawaii, since 1997