SB-573
Submitted on: 2/14/2025 6:50:47 PM
Testimony for CPN on 2/19/2025 9:30:00 AM

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

Comments:

Honolulu Tower is a 396 unit condominium located at Beretania and Maunakea Streets, built in 1982. The Board of Directors of the Association of Apartment Owners of Honolulu Tower met on February 3, 3025, and unanimously voted to oppose SB573 and asks you to defer this bill.

Often, it takes time to get a repair done. Experts need to be brought on board, consultants may need to be retained to ascertain the cause of the problem and what repairs may be needed, at times a band aid solution is not what is needed, properties have a list of materials that cannot be used and what materials can, a prime example being cast iron pipes not made from U.S.materials and produced in the United States as others have proved inferior. The requirement in the bill to pick the lowest estimate which at times is not the correct approach. On occasion Honolulu Tower has not picked the lowest estimate because the board believed the bidder(s) did not fully grasp the situation. Sometimes a cheap job has to be redone at a greater cost. Also, the contract reached between the owner and the bidder could well contain provisions that the association cannot agree to, including binding arbitration unless the insurance carrier agrees to it beforehand.

Idor Harris

Resident Manager

SB-573
Submitted on: 2/15/2025 5:08:40 PM
Testimony for CPN on 2/19/2025 9:30:00 AM

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

Comments:

This Bill proposases to allow a condominium owner the ability to repair or replace property that does not belong to them under certain vague circumstances. Governmental agencies already have authority to enforce valid health and safety concerns. Condominium assooications are governed by a board of directors and its governing documents. There are already dispute mechnaisms for owners with their board of directors.

HAWAI'I REALTORS®

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February 19, 2025

The Honorable Jarrett Keohokalole, Chair
Senate Committee on Commerce and Consumer Protection
State Capitol, Conference Room 229 & Videoconference

RE: Senate Bill 573, Relating to Condominiums

HEARING: Wednesday, February 19, 2025, at 9:30 a.m.

Aloha Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawaii and its over 10,000 members. HAR provides **comments** on Senate Bill 573, which requires condominium associations to repair defective conditions of common elements that constitute health or safety violations. Allows unit owners to make the repairs at the association's expense.

Under this measure, if an association fails to comply with all applicable building and housing laws materially affecting health and safety, maintain common elements in a clean and safe condition, or make necessary repairs to keep the common elements habitable, a unit owner may take action after providing notice. Depending on the issue, the association must complete repairs within either 3 or 12 business days, provide a reason for any delay, or set a tentative repair date. If the deadline passes, the owner may proceed with repairs without a currently unspecified limit. However, terms like health and safety, habitability, or a clean and safe condition are subjective and may vary among owners, potentially leading to conflict and financial strain on associations if multiple owners initiate repairs independently. Additionally, allowing owners to hire their own contractors raises liability concerns, particularly if the work is faulty or fails to meet building code requirements.

Mahalo for the opportunity to provide testimony on this measure.

SB-573
Submitted on: 2/16/2025 12:52:55 PM
Testimony for CPN on 2/19/2025 9:30:00 AM

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

Comments:

We oppose SB573. Please defer this bill.

Mike Golojuch, Sr., President, Palehua Townhouse Association

SB-573
Submitted on: 2/17/2025 7:25:31 AM
Testimony for CPN on 2/19/2025 9:30:00 AM

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

Comments:

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

I OPPOSE S.B. No. 573 for the reasons set forth below.

First, the language in this bill appears to have been modeled after HRS Section 521-64 which is a section found in the residential landlord-tenant code. While it may be appropriate for a tenant to make repairs to a dwelling owned by a landlord, it is not appropriate for owners to make repairs to the common elements of a condominium project which are owned by all owners, as tenants in common, especially when those repairs could impact other owners and units.

Second, it is unnecessary to impose statutory duties upon condominium associations to "comply with all applicable building and housing laws materially affecting health and safety" because condominium associations are already required to comply with applicable laws. However, of greater concern is that S.B. No. 573 may subject associations to laws that they are not otherwise required to comply with. S.B. No. 573 could be construed as requiring associations to comply with any "housing laws materially affecting health and safety," even if those laws were not intended to apply to condominium associations. For example, there are many laws that do not apply retroactively. S.B. No. 573 could make those laws retroactive if they materially affect health and safety. If that occurred, compliance with S.B. No. 573 could cost associations millions of dollars.

Third, imposing statutory duties on associations may expose associations to tort claims. Under the doctrine of negligence per se, it will be extremely easy for plaintiffs to assert claims against associations if associations fail to keep common elements in a clean and safe condition as mandated by statute. The common law on premises liability provides adequate incentives for

associations to maintain common elements in a clean and safe condition. Requiring associations to guarantee the cleanliness and safety of premises will only expose associations to tort claims which may drive up insurance costs and/or expose associations to financial liability which will ultimately drive up maintenance fees.

Fourth, although associations are required by their governing documents to maintain the condominium projects, associations cannot guarantee the condition of the projects or guarantee that all units in a project will be habitable at all times. It may be necessary for owners to vacate their units when projects are repaired. Recently, natural events have occurred, including the storm that hit the state in January of 2025 and the 2023 fire, that have destroyed units or rendered units uninhabitable. For any number of reasons, it may not be feasible for associations to immediately repair the units. In some instances, it may not be feasible to replace damaged units, e.g., due to rise in sea levels or erosion. Associations require flexibility when dealing with complex problems such as these. When major disasters strike, associations will find it extremely difficult to comply with S.B. No. 573, as well as dealing with all of the effects of the disaster. Associations, like many businesses, currently operate in a very difficult economic environment with limited staff, budgets that have been stretched thin by massive increases in insurance premiums and construction costs, and unit owners that are struggling financially. S.B. No. 573 will exacerbate the problem by subjecting associations to a complex web of requirements that most associations do not have the resources to satisfy.

Fifth, it is an extremely bad idea to give unit owners statutory rights to repair and maintain the common elements of condominium projects. The common elements are owned by all of the unit owners, as tenants in common. Individual owners do not have, and should not be given, the right to repair or maintain the common elements. Associations nearly always have the duty to repair and maintain the common elements, with the exception of limited common elements. Most condominium projects contain numerous buildings with many units. If repairs are not properly performed, units and owners will be adversely affected. It is extremely important that: 1) repairs be performed by contractors with experience in repairing condominium or commercial buildings; 2) contractors have expertise in the work being performed; 3) contractors be licensed and have adequate insurance; 4) contractors be properly vetted; and 5) major work be monitored by experienced design professionals or project managers. Condominium associations are best suited to ensure that repairs are properly performed. If owners with little or no experience in maintaining condominium or commercial buildings are given the right to repair the common elements, the adverse consequences to associations and their members could be severe.

For the foregoing reasons, I respectfully OPPOSE S.B. No. 573 and urge your Committee to defer this measure.

Respectfully submitted,

Mark McKellar

SB-573
Submitted on: 2/14/2025 6:39:17 PM
Testimony for CPN on 2/19/2025 9:30:00 AM

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

Comments:

I am the owner occupant of a high rise condominium in downtown Honolulu. I oppose this bill. It takes away the authority of the duly elected board of directors and gives it to any owner who wants to repair a common area under the guise of health or safety violations. Often, what looks like an easy fix is not. The board, its employees who are familiar with the property, its managing agent, who has access to firms which can make the repairs and consult on what the fix looks like and what it actually is are best qualified to do this job. They know what has worked or failed in other properties. They also know what to look at in bids, what is or is not acceptable language, and when to consult the attorney to be sure if something goes awry the association will not be stuck with a huge legal bill.

Please defer this bill.

SB-573
Submitted on: 2/14/2025 9:02:34 PM
Testimony for CPN on 2/19/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
B.A. McClintock	Individual	Support	Written Testimony Only

Comments:

This is a common sense bill. Please support it. Mahalo.

THE SENATE
THE THIRTY-THIRD LEGISLATURE
REGULAR SESSION OF 2025

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Jarrett Keohokalolei, Chair
Senator Carol Fukunaga, Vice Chair
Members: Angus LK McKelvey, Herbert M "Tim" Richards, III, Brenton Awa

Hearing
Wednesday, February 19, 2005, Conference room 229, 9:30am

Lourdes Scheibert
920 Ward Ave
Honolulu, Hawaii 96814

February 15, 2025

Offers Comments for SB573 -Requires condominium associations to repair defective conditions of common elements that constitute health or safety violations. Allows unit owners to make the repairs at the association's expense.

Unintended Consequences

I believe the intent of SB573 is to address the longstanding issue of deferred maintenance, a problem that has persisted for 50 years due to decisions made by volunteer board directors. However, the new section for 514B does not fully consider its potential ramifications or unintended consequences. For example, if a significant number of complaints from a single condominium building are submitted, will the DPP or another government agency dispatch building inspectors to assess violations? If violations are found, will there be a mandated timeframe for remediation? If not addressed, can the DPP impose fines? Furthermore, if the violations are extensive, could the DPP red-flag the building, effectively halting all sales?

This is just one possible scenario. I believe this new section could override significant portions of the existing 514B document.

Instead, I ask for support in the next legislative session from the **Commerce and Consumer Protection Committee, Senator Jarrett Keohokalole, Chair and Carol Fukunaga, Vice Chair and members for the following proposal.**

This proposal would better assist attorneys representing owners harmed by poorly maintained buildings in mediation, arbitration, or litigation.

I am writing to urge support for the proposed amendment to **§514B – Upkeep of Condominium; Conformance with County Ordinances and Codes.** The amendment states:

> "*The association shall maintain and operate the property to ensure conformance with all laws, ordinances, and rules, including applicable county permitting requirements and building and fire codes adopted by the county in which the property is located, as well as any supplemental rules enacted by the county.*"

Rationale for the Amendment:

1. Developer Compliance (§514B-05): This amendment aligns with §514B-05, ensuring that condominium associations conform to land use laws just as developers are required to do.
2. **Conformance with Land Use Laws:** Adding this provision to **§514B** reinforces compliance with land use regulations, mirroring the developer's obligations under **§514B-05.**
3. **Fiduciary Duty of the Board of Directors**: This amendment ensures that condominium boards fulfill their fiduciary duty by maintaining the building in the condition in which it was turned over by the developer, preventing the common practice of deferred maintenance.

Additionally, this amendment provides continuity with **my Declaration**, which states:

(b) Observance of Laws: Maintain all common elements in a strictly clean and sanitary condition and comply with all laws, ordinances, rules, and regulations, whether existing or future, enacted by any governmental authority applicable to the common elements or their use.

For further context, please refer to **Testimonies SB593/HB376 (2023 Legislative Session)**, which present perspectives from both sides of this issue.

I appreciate your consideration of this important amendment to ensure responsible condominium governance and compliance with all relevant laws.

I will see you next year for support of this proposed amendment.

Lourdes Scheibert
Kakaako Condominium Owner

SB-573
Submitted on: 2/15/2025 3:15:54 PM
Testimony for CPN on 2/19/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Michael Targgart	Individual	Oppose	Written Testimony Only

Comments:

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

I OPPOSE S.B. No. 573 for the reasons set forth below.

First, the language in this bill appears to have been modeled after HRS Section 521-64 which is a section found in the residential landlord-tenant code. While it may be appropriate for a tenant to make repairs to a dwelling owned by a landlord, it is not appropriate for owners to make repairs to the common elements of a condominium project which are owned by all owners, as tenants in common, especially when those repairs could impact other owners and units.

Second, it is unnecessary to impose statutory duties upon condominium associations to "comply with all applicable building and housing laws materially affecting health and safety" because condominium associations are already required to comply with applicable laws. However, of greater concern is that S.B. No. 573 may subject associations to laws that they are not otherwise required to comply with. S.B. No. 573 could be construed as requiring associations to comply with any "housing laws materially affecting health and safety," even if those laws were not intended to apply to condominium associations. For example, there are many laws that do not apply retroactively. S.B. No. 573 could make those laws retroactive if they materially affect health and safety. If that occurred, compliance with S.B. No. 573 could cost associations millions of dollars.

Third, imposing statutory duties on associations may expose associations to tort claims. Under the doctrine of negligence per se, it will be extremely easy for plaintiffs to assert claims against associations if associations fail to keep common elements in a clean and safe condition as mandated by statute. The common law on premises liability provides adequate incentives for associations to maintain common elements in a clean and safe condition. Requiring associations

to guarantee the cleanliness and safety of premises will only expose associations to tort claims which may drive up insurance costs and/or expose associations to financial liability which will ultimately drive up maintenance fees.

Fourth, although associations are required by their governing documents to maintain the condominium projects, associations cannot guarantee the condition of the projects or guarantee that all units in a project will be habitable at all times. It may be necessary for owners to vacate their units when projects are repaired. Recently, natural events have occurred, including the storm that hit the state last week and the 2023 fire, that have destroyed units or rendered units uninhabitable. For any number of reasons, it may not be feasible for associations to immediately repair the units. In some instances, it may not be feasible to replace damaged units, e.g., due to rise in sea levels or erosion. Associations require flexibility when dealing with complex problems such as these. When major disasters strike, associations will find it extremely difficult to comply with S.B. No. 573, as well as dealing with all of the effects of the disaster. Associations, like many businesses, currently operate in a very difficult economic environment with limited staff, budgets that have been stretched thin by massive increases in insurance premiums and construction costs, and unit owners that are struggling financially. S.B. No. 573 will exacerbate the problem by subjecting associations to a complex web of requirements that most associations do not have the resources to satisfy.

Fifth, it is an extremely bad idea to give unit owners statutory rights to repair and maintain the common elements of condominium projects. The common elements are owned by all of the unit owners, as tenants in common. Individual owners do not have, and should not be given, the right to repair or maintain the common elements. Associations nearly always have the duty to repair and maintain the common elements, with the exception of limited common elements. Most condominium projects contain numerous buildings with many units. If repairs are not properly performed, units and owners will be adversely affected. It is extremely important that: 1) repairs be performed by contractors with experience in repairing condominium or commercial buildings; 2) contractors have expertise in the work being performed; 3) contractors be licensed and have adequate insurance; 4) contractors be properly vetted; and 5) major work be monitored by experienced design professionals or project managers. Condominium associations are best suited to ensure that repairs are properly performed. If owners with little or no experience in maintaining condominium or commercial buildings are given the right to repair the common elements, the adverse consequences to associations and their members could be severe.

For the foregoing reasons, I respectfully OPPOSE S.B. No. 573 and urge your Committee to defer this measure.

Respectfully submitted,

Michael Targgart

SB-573
Submitted on: 2/15/2025 3:16:27 PM
Testimony for CPN on 2/19/2025 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. No. 573 for the reasons set forth below.

First, the language in this bill appears to have been modeled after HRS Section 521-64 which is a section found in the residential landlord-tenant code. While it may be appropriate for a tenant to make repairs to a dwelling owned by a landlord, it is not appropriate for owners to make repairs to the common elements of a condominium project which are owned by all owners, as tenants in common, especially when those repairs could impact other owners and units.

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For the foregoing reasons, I respectfully OPPOSE S.B. No. 573 and urge your Committee to defer this measure.

Respectfully submitted,

Carol Walker

SB-573
Submitted on: 2/15/2025 3:22:13 PM
Testimony for CPN on 2/19/2025 9:30:00 AM

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

Comments:

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

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storm that hit the state last week and the 2023 fire, that have destroyed units or rendered units uninhabitable. For any number of reasons, it may not be feasible for associations to immediately repair the units. In some instances, it may not be feasible to replace damaged units, e.g., due to rise in sea levels or erosion. Associations require flexibility when dealing with complex problems such as these. When major disasters strike, associations will find it extremely difficult to comply with S.B. No. 573, as well as dealing with all of the effects of the disaster. Associations, like many businesses, currently operate in a very difficult economic environment with limited staff, budgets that have been stretched thin by massive increases in insurance premiums and construction costs, and unit owners that are struggling financially. S.B. No. 573 will exacerbate the problem by subjecting associations to a complex web of requirements that most associations do not have the resources to satisfy.

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For the foregoing reasons, I respectfully OPPOSE S.B. No. 573 and urge your Committee to defer this measure.

Respectfully submitted,

Lance Fujisaki

SB-573
Submitted on: 2/15/2025 3:29:11 PM
Testimony for CPN on 2/19/2025 9:30:00 AM

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

Comments:

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

I OPPOSE S.B. No. 573 for the reasons set forth below.

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Second, it is unnecessary to impose statutory duties upon condominium associations to "comply with all applicable building and housing laws materially affecting health and safety" because condominium associations are already required to comply with applicable laws. However, of greater concern is that S.B. No. 573 may subject associations to laws that they are not otherwise required to comply with. S.B. No. 573 could be construed as requiring associations to comply with any "housing laws materially affecting health and safety," even if those laws were not intended to apply to condominium associations. For example, there are many laws that do not apply retroactively. S.B. No. 573 could make those laws retroactive if they materially affect health and safety. If that occurred, compliance with S.B. No. 573 could cost associations millions of dollars.

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For the foregoing reasons, I respectfully OPPOSE S.B. No. 573 and urge your Committee to defer this measure.

Respectfully submitted,

John Toalson

SB-573
Submitted on: 2/15/2025 3:42:36 PM
Testimony for CPN on 2/19/2025 9:30:00 AM

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

Comments:

SB 573 would authorize individual owners to maintain and repair common elements of the association.

That would be a formula for disaster. This is so for two basic reasons.

First, one owner should not be empowered to act on behalf of the whole association. Collective action through elected representatives is the entire premise of condominiums. The proper scope of unilateral action by owners does not extend to affecting the whole.

Second, owners would be unwise in the extreme to consider exercise of the contemplated poiwer because of the overwhelming liability that could befall that owner for resulting damage.

SB 573 seems to be premised on the notion that there is some sort of parallel between condominium law and landlord-tenant law. Those bodies of law are distinct.

Condominium owners are not tenants.

Moreover, SB 573 is vague and ambiguous. Consequently, it is also a formula for substantial litigation. SB 573 does not reflect an even rudimentary appreciation for the actual workings of a condominium association and cannot be reconciled with those workings.

Also, government is empowered to act to vindicate the public interest. Individuals are not. Government has ample authority to address health and safety issues.

There is no evident effort to align the bill with the real world. What if a government agency required correction of a condition in thirty days? Why would an owner be able to demand correction "within three business days"?

There is also a low bidder provision, without commensurate assurance that someone who bids has the millions, or, perhaps, tens or hundreds of millions, of dollars of insurance needed to protect the other owners. Can a licensed person with a pick up truck take on a job which should be performed by a specialty contractor with capacity and expertise?

Things take time for a reason. Capable specialty contractors may be unavailable. Design and/or permitting requirements may be a factor. Electrical, plumbing, HVAC and/or other systems can be notoriously complex.

SB 573 is also premised upon no finding, real or imagined, of a need for such a bill.

SB 573 should be deferred.

SB-573
Submitted on: 2/15/2025 3:44:43 PM
Testimony for CPN on 2/19/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Eva Calcagno	Individual	Oppose	Written Testimony Only

Comments:

I am writing to oppose proposed Bill 573. I am President of an AOAO in Kailua-Kona and I have two main opjections to this bill.

First, individual Owners should NOT make repairs to Common elements. That is the responsibility of the AOAO. We have ahd a situation int he past where an Owner took it upon himself to try to repair some damage to a lanai wall. he ended up creating more damage that the AOAO then had to repair at additional expense, therefore borne by all the Owners. Furthermore there could be liability issues if the Owner causes damage to common elements or injury to others due to faulty workmanship in the course of the repairs.

Second, there is no way an Association can guarentee that all units and common area amenities will be habitable and usable at all times. Projects may be damaged due to flooding, windstorms, power failures, wildfires, etc. Yes, the Association will endevour to make repairs as soon as possible, but it may NOT be possible. Finding appropriate materials and licensed, reputable contractors to do the work are difficult in the best of times.

This bill does not solve anything and makes matters worse. I urge you to oppose this bill. Thank you.

SB-573
Submitted on: 2/15/2025 4:41:04 PM
Testimony for CPN on 2/19/2025 9:30:00 AM

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

Comments:

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

I OPPOSE S.B. No. 573 for the reasons set forth below.

First, the language in this bill appears to have been modeled after HRS Section 521-64 which is a section found in the residential landlord-tenant code. While it may be appropriate for a tenant to make repairs to a dwelling owned by a landlord, it is not appropriate for owners to make repairs to the common elements of a condominium project which are owned by all owners, as tenants in common, especially when those repairs could impact other owners and units.

Second, it is unnecessary to impose statutory duties upon condominium associations to "comply with all applicable building and housing laws materially affecting health and safety" because condominium associations are already required to comply with applicable laws. However, of greater concern is that S.B. No. 573 may subject associations to laws that they are not otherwise required to comply with. S.B. No. 573 could be construed as requiring associations to comply with any "housing laws materially affecting health and safety," even if those laws were not intended to apply to condominium associations. For example, there are many laws that do not apply retroactively. S.B. No. 573 could make those laws retroactive if they materially affect health and safety. If that occurred, compliance with S.B. No. 573 could cost associations millions of dollars.

Third, imposing statutory duties on associations may expose associations to tort claims. Under the doctrine of negligence per se, it will be extremely easy for plaintiffs to assert claims against associations if associations fail to keep common elements in a clean and safe condition as mandated by statute. The common law on premises liability provides adequate incentives for associations to maintain common elements in a clean and safe condition. Requiring associations to guarantee the cleanliness and safety of premises will only expose associations to tort claims which may drive up insurance costs and/or expose associations to financial liability which will ultimately drive up maintenance fees.

Fourth, although associations are required by their governing documents to maintain the condominium projects, associations cannot guarantee the condition of the projects or guarantee that all units in a project will be habitable at all times. It may be necessary for owners to vacate their units when projects are repaired. Recently, natural events have occurred, including the

storm that hit the state in January of 2025 and the 2023 fire, that have destroyed units or rendered units uninhabitable. For any number of reasons, it may not be feasible for associations to immediately repair the units. In some instances, it may not be feasible to replace damaged units, e.g., due to rise in sea levels or erosion. Associations require flexibility when dealing with complex problems such as these. When major disasters strike, associations will find it extremely difficult to comply with S.B. No. 573, as well as dealing with all of the effects of the disaster. Associations, like many businesses, currently operate in a very difficult economic environment with limited staff, budgets that have been stretched thin by massive increases in insurance premiums and construction costs, and unit owners that are struggling financially. S.B. No. 573 will exacerbate the problem by subjecting associations to a complex web of requirements that most associations do not have the resources to satisfy.

Fifth, it is an extremely bad idea to give unit owners statutory rights to repair and maintain the common elements of condominium projects. The common elements are owned by all of the unit owners, as tenants in common. Individual owners do not have, and should not be given, the right to repair or maintain the common elements. Associations nearly always have the duty to repair and maintain the common elements, with the exception of limited common elements. Most condominium projects contain numerous buildings with many units. If repairs are not properly performed, units and owners will be adversely affected. It is extremely important that: 1) repairs be performed by contractors with experience in repairing condominium or commercial buildings; 2) contractors have expertise in the work being performed; 3) contractors be licensed and have adequate insurance; 4) contractors be properly vetted; and 5) major work be monitored by experienced design professionals or project managers. Condominium associations are best suited to ensure that repairs are properly performed. If owners with little or no experience in maintaining condominium or commercial buildings are given the right to repair the common elements, the adverse consequences to associations and their members could be severe.

For the foregoing reasons, I respectfully OPPOSE S.B. No. 573 and urge your Committee to defer this measure.

Respectfully submitted,

Anne Anderson

SB-573
Submitted on: 2/15/2025 4:41:44 PM
Testimony for CPN on 2/19/2025 9:30:00 AM

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

Comments:

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

I OPPOSE S.B. No. 573 for the reasons set forth below.

First, the language in this bill appears to have been modeled after HRS Section 521-64 which is a section found in the residential landlord-tenant code. While it may be appropriate for a tenant to make repairs to a dwelling owned by a landlord, it is not appropriate for owners to make repairs to the common elements of a condominium project which are owned by all owners, as tenants in common, especially when those repairs could impact other owners and units.

Second, it is unnecessary to impose statutory duties upon condominium associations to "comply with all applicable building and housing laws materially affecting health and safety" because condominium associations are already required to comply with applicable laws. However, of greater concern is that S.B. No. 573 may subject associations to laws that they are not otherwise required to comply with. S.B. No. 573 could be construed as requiring associations to comply with any "housing laws materially affecting health and safety," even if those laws were not intended to apply to condominium associations. For example, there are many laws that do not apply retroactively. S.B. No. 573 could make those laws retroactive if they materially affect health and safety. If that occurred, compliance with S.B. No. 573 could cost associations millions of dollars.

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For the foregoing reasons, I respectfully OPPOSE S.B. No. 573 and urge your Committee to defer this measure.

Respectfully submitted,

Mary Freeman

Ewa Beach

SB-573
Submitted on: 2/15/2025 4:59:56 PM
Testimony for CPN on 2/19/2025 9:30:00 AM

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

Comments:

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

I OPPOSE S.B. No. 573 for the reasons set forth below.

First, the language in this bill appears to have been modeled after HRS Section 521-64 which is a section found in the residential landlord-tenant code. While it may be appropriate for a tenant to make repairs to a dwelling owned by a landlord, it is not appropriate for owners to make repairs to the common elements of a condominium project which are owned by all owners, as tenants in common, especially when those repairs could impact other owners and units.

Second, it is unnecessary to impose statutory duties upon condominium associations to "comply with all applicable building and housing laws materially affecting health and safety" because condominium associations are already required to comply with applicable laws. However, of greater concern is that S.B. No. 573 may subject associations to laws that they are not otherwise required to comply with. S.B. No. 573 could be construed as requiring associations to comply with any "housing laws materially affecting health and safety," even if those laws were not intended to apply to condominium associations. For example, there are many laws that do not apply retroactively. S.B. No. 573 could make those laws retroactive if they materially affect health and safety. If that occurred, compliance with S.B. No. 573 could cost associations millions of dollars.

Third, imposing statutory duties on associations may expose associations to tort claims. Under the doctrine of negligence per se, it will be extremely easy for plaintiffs to assert claims against associations if associations fail to keep common elements in a clean and safe condition as mandated by statute. The common law on premises liability provides adequate incentives for associations to maintain common elements in a clean and safe condition. Requiring associations

to guarantee the cleanliness and safety of premises will only expose associations to tort claims which may drive up insurance costs and/or expose associations to financial liability which will ultimately drive up maintenance fees.

Fourth, although associations are required by their governing documents to maintain the condominium projects, associations cannot guarantee the condition of the projects or guarantee that all units in a project will be habitable at all times. It may be necessary for owners to vacate their units when projects are repaired. Recently, natural events have occurred, including the storm that hit the state last week and the 2023 fire, that have destroyed units or rendered units uninhabitable. For any number of reasons, it may not be feasible for associations to immediately repair the units. In some instances, it may not be feasible to replace damaged units, e.g., due to rise in sea levels or erosion. Associations require flexibility when dealing with complex problems such as these. When major disasters strike, associations will find it extremely difficult to comply with S.B. No. 573, as well as dealing with all of the effects of the disaster. Associations, like many businesses, currently operate in a very difficult economic environment with limited staff, budgets that have been stretched thin by massive increases in insurance premiums and construction costs, and unit owners that are struggling financially. S.B. No. 573 will exacerbate the problem by subjecting associations to a complex web of requirements that most associations do not have the resources to satisfy.

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For the foregoing reasons, I respectfully OPPOSE S.B. No. 573 and urge your Committee to defer this measure.

Respectfully submitted,

Joe Taylor

The Senate
The Thirty-Third Legislature
Committee on Commerce and Consumer Protection
Wednesday, February 19, 2025
9:30 a.m.

To: Senator Jarrett Keohokalole, Chair
Re: SB 573, Relating to Condominiums

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

Mahalo for the opportunity to testify regarding SB 573 to provide safe and habitable living conditions for condominium association residents.

While the intent of the measure is appreciated, the limitations imposed by the proposal are difficult to satisfy, whether it is the time frame to obtain estimates (i.e. bids/proposals) and commence work, or the caps on the estimated cost of repairs (one or three months' assessments).

Mahalo for the opportunity to testify.

LATE

SB-573
Submitted on: 2/17/2025 9:24:03 AM
Testimony for CPN on 2/19/2025 9:30:00 AM

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

Comments:

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

I OPPOSE S.B. No. 573 for the reasons set forth below.

First, the language in this bill appears to have been modeled after HRS Section 521-64 which is a section found in the residential landlord-tenant code. While it may be appropriate for a tenant to make repairs to a dwelling owned by a landlord, it is not appropriate for owners to make repairs to the common elements of a condominium project which are owned by all owners, as tenants in common, especially when those repairs could impact other owners and units.

Second, it is unnecessary to impose statutory duties upon condominium associations to "comply with all applicable building and housing laws materially affecting health and safety" because condominium associations are already required to comply with applicable laws. However, of greater concern is that S.B. No. 573 may subject associations to laws that they are not otherwise required to comply with. S.B. No. 573 could be construed as requiring associations to comply with any "housing laws materially affecting health and safety," even if those laws were not intended to apply to condominium associations. For example, there are many laws that do not apply retroactively. S.B. No. 573 could make those laws retroactive if they materially affect health and safety. If that occurred, compliance with S.B. No. 573 could cost associations millions of dollars.

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For the foregoing reasons, I respectfully OPPOSE S.B. No. 573 and urge your Committee to defer this measure.

Mahalo,

HAWAII LEGISLATIVE ACTION COMMITTEE
community ASSOCIATIONS INSTITUTE

LATE

P.O. Box 976
Honolulu, Hawaii 96808

February 17, 2025

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

Re: SB 573 (Oppose)

Dear Chair Keohokalole, Vice Chair Fukunaga and Committee Members:

The Community Associations Institute (CAI) is a national and statewide organization of individuals involved in the operation of community associations, including homeowners, directors, managers and business partners of community associations.

As a preliminary matter, CAI appreciates the "spirit" of the bill as far as ensuring that common elements are being repaired in a timely manner. Still, for the following reasons, CAI respectfully opposes this bill.

A. <u>This Bill Removes Checks and Balances and Information Gathering From the Decision-Making Process and Will Likely Result in Shoddy Work and Litigation</u>

As discussed below, it is a dangerous policy to remove checks and balances and information gathering from the decision-making process.

When the Board makes decisions, it is by a vote at a board meeting, where there is a discussion and where other owners may attend and give input. The Board is usually assisted by a managing agent who is a real estate professional and in the case of repairs, may be advised by an architect or engineer. The Board is held to a fiduciary standard and must comply with the requirements of HRS chapter 514B.

This bill takes all of that away and puts common element repairs in the hands of a rogue unit owner who, in his, her or their sole opinion, decides that a certain common element must be repaired.

Allowing individual owners to "repair" common elements raises concerns about the quality of the repair work. What happens when a unit owner takes it upon themselves to repair a common element, and they do a defective job? What happens when they cause further damage to the common elements? What happens when they only complete half of a repair, and the work they do conceals a greater problem? Furthermore, what happens when said unit owner uses their "uncle" to do the repair work, rather than a licensed, insured professional?

The answer to these questions is: **property damage and litigation.** The owner who unilaterally performed defective "repairs" or repaired what did not need to be fixed will inevitably find themselves on the wrong end of litigation.

B. A Prime Example

When the companion bill to this measure was heard in the house (HB 336), a testifier stated that he represented a condominium in a construction defect case, where the contractor had used defective pipes that were causing issues. During this time, a unit owner took it upon themselves to snake the common element pipes. That caused the pipes to burst, and the lower units all became flooded.

The House deferred the measure. We respectfully submit that the measure should be deferred in the Senate as well.

C. The Three-Day, Seven-Day and Twelve-Day Deadlines Appear to Be Arbitrary

A state agency issuing a violation notice is rare. However, if a State agency, such as the Department of Health, gives the Association a violation notice, that state agency will issue a deadline to have the condition corrected (i.e., thirty (30) days).

If the State agency gives the Association 30 days to correct the defective condition, then there is no reason to override their protocols with an arbitrary deadline such as three, seven or twelve days.

Moreover, if a condition requires consulting an architect or engineer, review by said professional may not be completed in three, seven or twelve days. Thus, the work may not begin in the time prescribed by these arbitrary deadlines.

These deadlines appear to be arbitrary, not based on reality, and they will likely conflict with the deadline given by the State agency issuing the violation notice, if any.

Thank you for your time and consideration. If you have any questions, I will be available to answer them.

Very truly yours,

/s/ Dallas H. Walker

Dallas H. Walker, Esq.
The Hawaii Legislative
Action Committee of the
Community Associations
Institute

LATE LATE

SB-573
Submitted on: 2/18/2025 7:59:36 AM
Testimony for CPN on 2/19/2025 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. No. 573 for the reasons set forth below.

First, the language in this bill appears to have been modeled after HRS Section 521-64 which is a section found in the residential landlord-tenant code. While it may be appropriate for a tenant to make repairs to a dwelling owned by a landlord, it is not appropriate for owners to make repairs to the common elements of a condominium project which are owned by all owners, as tenants in common, especially when those repairs could impact other owners and units.

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For the foregoing reasons, I respectfully OPPOSE S.B. No. 573 and urge your Committee to defer this measure.

Respectfully submitted,

Paul A. Ireland Koftinow

LATE LATE

SB-573
Submitted on: 2/18/2025 2:33:47 PM
Testimony for CPN on 2/19/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Ellen Awai	Individual	Support	Written Testimony Only

Comments:

I stand in support of SB573 for condominium repairs. This should not just be for condo owners but many developers supplement those with low income such as Honuakaha on Queen Street. Although half were condo-owners and well taken care of by the property manager, the other half was for low income renters many with disabiities which was severly neglected.

I reported a lot of issues, such as homeless people being allowed into vacant rooms, bedbug investation, many seniors lived alone and died in their units, security fears where people blocked their doors and didn't trust neighbors because of the illegal issuance of a master key, and the constant sounding of the firealarm, which was to be ignored until you heard the firetruck next door. All these issues escalated during 1/6/2021 and Schofield security was brought in to check security for buildings close to the government buildings.

At the time I lived in a studio unit, all state offices were closed and not answering their phones, especially the Department of Health so I called the senate and house legislators of the area. Although their staff may have listened to my concerns, these legislators did not seem to care about the conditions that their constituents faced. I was either ignored after 4 phone calls by office staff or told that he was not a lawyer! Our system needs to embrace the aloha spirit and assist those in need especially those in fear of losing their housing if they complained! Mahalo for Supporting SB573!

LATE LATE

SB-573
Submitted on: 2/18/2025 10:06:17 PM
Testimony for CPN on 2/19/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Amy Brinker	Individual	Oppose	Written Testimony Only

Comments:

Oppose

LATE LATE

SB-573
Submitted on: 2/18/2025 10:41:13 PM
Testimony for CPN on 2/19/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Ryan Tamashiro	Individual	Support	Written Testimony Only

Comments:

Senator Jarrett Keohokalole, Chair of the Committee on Commerce and Consumer Protection
Senator Carol Fukunaga, Vice Chair of the Committee on Commerce and Consumer Protection

Regarding Bill SB 573

Date of Hearing: February 19, 2025

Time: 9:30 am Conference Room 229 & Videoconference State Capitol at 415 South beretania Street.

My name is Ryan Tamashiro. I am a student on Social Work at the University of Hawaii Manoa.

I am testifying to express my strong support of requiring condominium associations to repair defective conditions of common elements that constitute health or safety violations. It also allows unit owners to make repairs at the association's expense.

I am in support of this bill due to the following reasons:

I lived and owned a condo 2 years ago that had a deteriorating parking lot where there were potholes. I paid monthly association dues of $400 a month. My car had damage to 2 of my tires when it hit the pothole. I brought it up to the association but nothing was done.

Living in a condo should come free of concerns for one's health and safety. Common elements like elevators, hallways and grounds should always be unkempt for the residents. When these areas need repair, it can cause serious health issues. This bill requiring condo associations to be accountable will be proactive instead of reactive when areas need repair. Residents will feel safer advocating when something needs to be fixed.

In closing, I am in support of condominium associations to pay for repairs to ensure that all residents are living in safe conditions and with a quality of life environment.

Ryan Tamashiro

Student in Social Work at the University of Hawaii Manoa

Senator Les Ihara

Representative Mark Hashem

LATE LATE

SB-573
Submitted on: 2/19/2025 8:02:14 AM
Testimony for CPN on 2/19/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Gregory Misakian	Individual	Comments	Written Testimony Only

Comments:

While I fully support the intention of SB573, it needs to be amended to address the proper and allowable way to ensure that condominium buildings are maintained.

Building safety and building code compliance are the most important here, and there is already an agency called the Department of Planning and Permitting (DPP) that homeowners should be able to reach out to for assistance and enforcement.

Gregory Misakian