



Mo'okini Quakini, Inc.

A 501(c)(3) Nonprofit Foundation Dedicated to the Preservation of the Mo'okini Complex

TESTIMONY ON HOUSE BILL 2372

House Committee on Tourism and Culture

January 28, 2009

Chairman Yamane . . .

and members if the House Committee on Tourism and Culture . . .

I am Leimomi Mo'okini Lum, Kahuna Nui of the Mo'okini Heiau located in North Kohala on the Island of Hawaii. I am a direct descendent of Kahuna Nui Kuamo'o Mo'okini, the first Kahuna Nui and director of the building of this artifact, some 1,500 years ago.

I concur with proposed House Bill 2373, the intent of which is to make an appropriation for the installation of a sprinkler system to cover the grassy area of the Mookini Heiau, and the nearby Kamehameha birthsite.

I noted that Bill 2372 indicates that this appropriation will be expended by the Department of Land and Natural Resources. I assume that the subject executing department will be required to follow the requirements of ACT 59 regarding the consultation of all matters with the Kahuna Nui of the Mookini Heiau, such as design and methods used for the installation of this sprinkler system.

I fully support the intent of House Bill 2372.

Thank you for the opportunity to present my testimony.

I am prepared to answer any questions the Committee may have . . .



LINDA LINGLE
GOVERNOR
JAMES R. AIONA, JR.
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**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION
TO THE HOUSE COMMITTEE ON TOURISM AND CULTURE**

**TWENTY-FOURTH LEGISLATURE
Regular Session of 2008**

**Monday, January 28, 2008
9:00 a.m.**

TESTIMONY ON HOUSE BILL NO. 2372, RELATING TO TIME SHARE PLANS.

**TO THE HONORABLE RYAN YAMANE, CHAIR,
AND MEMBERS OF THE COMMITTEE:**

My name is Lori Beth Van Cantfort, Time Share Administrator, testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). I thank you for the opportunity to present testimony on House Bill No. 2372, Relating to Time Share Plans. The Department has concerns with this bill which need to be addressed before the Department can support it.

The bill seeks to (1) allow registered developers, or their affiliates, to sell additional time share interests to existing owners of an out-of-state time share plan that is not registered in Hawaii, and (2) allow registered developers, or their affiliates, to sell

time share interests in an out-of-state time share plan that has not been registered in Hawaii to anyone who owns an interest in any of the developer's time share plans.

The first proposed exemption would allow a developer to sell intervals in an out-of-state time share plan that is not registered in Hawaii to anyone who already owns an interval in that unregistered time share plan if the developer either (a) has a currently registered time share plan in Hawaii or (b) is affiliated with a developer who has a currently registered time share plan in Hawaii. The Department supports allowing currently registered developers to sell additional intervals to existing owners without registering that time share plan first. These purchasers are current owners and should know what they are buying. **However**, the Department does not support allowing this exemption for developers who are merely affiliated with a currently registered developer. The Department may have no record of these unregistered developers and whether they have a history of honesty, truthfulness and fair dealing. The fact that the developer's affiliate is registered in Hawaii and is reputable does not necessarily mean the unregistered developer is reputable. **The Department could support this exemption if it does not apply to unregistered developers whose affiliates are registered in Hawaii.**

The second proposed exemption goes further and would allow a developer to sell intervals in an out-of-state time share plan that is not registered in Hawaii to anyone who owns any time share interest purchased from the developer or from an affiliate of the developer so long as the developer or an affiliate has a currently registered time share plan in Hawaii. Unlike the prior exemption, purchasers in this situation would not know what they are purchasing. The time share plan they are buying may be

significantly different from the time share plan they already own. Also, the developer would not be required to have a currently registered time share plan in Hawaii if an affiliate is registered in Hawaii. Again, we would know nothing about the unregistered developer to protect consumers' interest. However, the Department could support such an exemption provided the following amendments are made:

1. The out-of-state time share plan must be located in the United States;
2. The out-of-state time share plan must be registered in the situs state;
3. The situs state must have registration requirements equivalent to Hawaii's registration requirements with regard to disclosure requirements and blanket lien protections;
4. All moneys collected from the purchasers must be held in a Hawaii escrow account during the seven day rescission period;
5. A disclosure that the time share plan is not registered in Hawaii must be given to all purchasers;
6. The developer must not have had any disciplinary actions, license denials or convictions directly related to its time share operations or involving an act of fraud or dishonesty within the past 2 years, in this State or in any other state;
7. Following the practice of the state of Florida, developers must file a notice with the Department prior to selling the out-of-state time share plan and pay a \$1,000 fee;
8. The exemption only applies to currently registered developers and not those who are merely affiliated with a currently registered developer.

The Department has been working with the proponents of the bill to address the Department's concerns. The Department believes that further discussions are needed at this time and therefore respectfully requests that a defective effective date be inserted to give the parties an opportunity to continue discussions.

Thank you for the opportunity to testify.



American Resort Development Association
c/o PMCI Hawaii 84 N. King Street Honolulu, HI 96817 (808) 536-5688

January 28, 2008

TO: Representative Ryan Yamane, Chair
Representative Joey Manahan, Vice-Chair
House Committee on Tourism & Culture

FROM: ARDA-Hawaii
Contact: Donalyn Dela Cruz, PMCI Hawaii

RE: **House Committee on Tourism & Culture**
Monday, January 28, 2008
Room 325, 9:00 a.m.
House Bill 2372; Relating to Timeshares Plans

Dear Chair Yamane, Vice-Chair Manahan and members of the committee:

ARDA-Hawaii is the local chapter of the national timeshare trade association. Hawaii's timeshare industry currently accounts for over eight percent of the State's lodging inventory.

HB 2372 proposes to exempt the offer or sale of a timeshare interest from the timeshare law if the offer or sale is for an additional interest in the same timeshare plan to an existing owner.

ARDA-Hawaii **supports the concepts** behind HB 2372 and acknowledges that the timeshare industry will continue to work with the Department of Commerce and Consumer Affairs to draft language that will be acceptable to all parties.

Thank you very much for the opportunity to offer testimony on this measure.

HOUSE COMMITTEE ON
TOURISM AND CULTURE

January 28, 2008

HB 2372 Relating to Time Share Plans

Chair Yamane and members of the House Committee on Tourism and Culture, I am Rick Tsujimura, representing Marriott International, Inc. (Marriott).

Marriott supports House Bill 2372 in its present form. This bill would allow an existing owner of time share interests to purchase additional interests in other projects of the same developer or an affiliate of that developer. This would mean an owner of a Marriott time share interest in say Orlando who lives in Hawaii could purchase an additional time share interest in a Marriott project in Las Vegas without Marriott registering that Las Vegas project in Hawaii. In order to provide some deference to consumers who reside in Hawaii, we have agreed to the inclusion of several requirements, including allowing a rescission period which is governed by Hawaii law. Moreover, the developer must have a time share plan currently registered in the State of Hawaii in order to solicit the Hawaii consumer even if that consumer does not own an interest in that Hawaii project. Similar bills have been enacted in other jurisdictions, and while there is no definitive model, we believe that the proposal before you provides more than adequate safeguards for Hawaii consumers.

For these reasons we request that you pass House Bill 2372 unamended. Thank you for the opportunity to present this testimony.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:

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January 25, 2008

TO: Representative Ryan Yamane
Chair, Committee on Tourism and Culture
Hawaii State Capitol, Room 325
Via Email: TACtestimony@Capitol.hawaii.gov

FROM: Gary M. Slovin

RE H.B. 2372 - Relating to Time Share Plans
Hearing Date: Monday, January 28, 2008 @ 9:00 a.m.

Dear Chair Yamane and Members of the Committee on Tourism and Culture:

I am Gary Slovin testifying on behalf of Wyndham Worldwide. Wyndham Worldwide offers individual consumers and business-to-business customers a broad suite of hospitality products and services across various accommodation alternatives and price ranges through its portfolio of world-renowned brands. Wyndham Worldwide has substantial interests in Hawaii that include Wyndham Vacation Ownership, with its new resort at Waikiki Beach Walk.

We strongly support H.B. 2372 as it proposes to address an omission in the Hawaii Revised Statutes that does not allow the sale of an additional interest in a timeshare plan to an existing customer in Hawaii when the timeshare plan is not registered in Hawaii. H.B. 2372 would allow an entity in Hawaii to sell additional interests to their existing owners, without having to satisfy all of the Hawaii registration requirements, but still provides substantive consumer protection safeguards.

Currently, if an existing timeshare owner who previously purchased from Wyndham wants to purchase additional interests from Wyndham while in Hawaii, they are not able to do so if the plan is not registered in Hawaii. Rather, Wyndham must have the owner travel to where the property is located in order to offer the additional interest, creating unnecessary cost and inconvenience.

In Hawaii, the sale of the additional interests in a timeshare would be managed by individuals who hold a Hawaii real estate license. The consumer could therefore seek relief through the DCCA in the event the consumer felt there had been a violation of Hawaii law. The consumer could also seek recourse through the Hawaii Attorney General's office if there was an

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allegation of fraud or a deceptive practice. In the states that have a similar law in place, there have not been consumer complaints in relation to the sales of additional interests. Existing customers already have an established relationship with the time share developer and in most cases, want to purchase additional interests because they have had positive experiences with their original purchase from the developer.

We have been working diligently with Lori Beth Van Cantfort, the State's Timeshare Administrator, to address the concerns of the administration and feel confident that all concerns can be appropriately addressed.

Timeshares play an integral role in Hawaii's tourism offerings. Passage of this bill would remove the barrier to allow the sales of additional interests to our existing owners and allows us to service our owners in the state of Hawaii. We respectfully ask for your support of H.B. 2372.

Thank you very much for your consideration and for this opportunity to submit testimony.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

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January 25, 2008

TO: Representative Ryan Yamane
Chair, Committee on Tourism and Culture
Hawaii State Capitol, Room 325
Via Email: TACtestimony@Capitol.hawaii.gov

FROM: Joanna Markle
H.B 2372 - Relating to Time Share Plans
Hearing Date: Monday, January 28, 2008 @ 9:00 a.m.

Dear Chair Yamane and Members of the Committee on Tourism and Culture:

I am Joanna Markle testifying on behalf of Group RCI , the leading global provider of leisure travel services to businesses and consumers, and the worldwide leader in timeshare exchange. RCI employs 5,500 people in more than 50 worldwide locations, and have more than 3,700 resorts registered to their exchange network worldwide. Many of our affiliates are resort operators in Hawaii, such as Hilton, Shell, and Wyndham Vacation Ownership.

We strongly support H.B. 2372 as it proposes to address an omission in the Hawaii Revised Statutes that does not allow the sale of an additional interest in a timeshare plan to an existing customer in Hawaii when the timeshare plan is not registered in Hawaii. H.B. 2372 would allow an entity in Hawaii to sell additional interests to their existing owners, without having to satisfy all of the Hawaii registration requirements, but still provided substantive consumer protection safeguards.

In the states that have a similar law in place, there have not been consumer complaints in relation to the sales of additional interests. Existing customers already have an established relationship with the time share developer and in most cases, want to purchase additional interests because they have had positive experiences with their original purchase from the developer.

Timeshares play an integral role in Hawaii's tourism offerings. Passage of this bill would remove the barrier to allow the sales of additional interests to our existing owners and allows us to service our owners in the state of Hawaii. We respectfully ask for your support of H.B. 2372.

Thank you very much for for this opportunity to submit testimony.

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