

**PRESENTATION OF THE
REAL ESTATE COMMISSION**

TO THE HOUSE COMMITTEE ON
PUBLIC SAFETY

TWENTY-FIFTH LEGISLATURE
Regular Session of 2009

Thursday, February 12, 2009
8:30 a.m.

TESTIMONY ON HOUSE BILL NO. 446 - RELATING TO CONDOMINIUMS.

TO THE HONORABLE FAYE P. HANOHANO, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is William S. Chee and I serve as the Chairperson of the Real Estate Commission's ("Commission") Condominium Review Committee. Thank you for the opportunity to present testimony on House Bill No. 446, Relating to Condominiums. The Commission supports the intent of House Bill No. 446 and provides the following comments.

House Bill No. 446 authorizes the use of condominium replacement reserve funds for emergency preparedness purposes, provides for a definition of "emergency preparedness", and specifically provides that an association may expend replacement reserves to purchase, install, and operate equipment or improve or add to the property under its control for "emergency preparedness" purposes.

While the Commission believes in the importance of emergency preparedness, it also believes that the proposed amendment to use replacement reserves for "emergency preparedness" purposes as defined in the bill does not fit squarely within the original intent of the reserve law and the related Commission rules. Reserves include planned and

budgeted savings for the replacement, maintenance, upkeep, and repair of physical components of the condominium project over a twenty year period.

Conference Committee Report No. 23 for House Bill No. 666, H.D. 1, S.D. 1, C.D. 1, Act 132 (Session Laws of Hawaii 1991) stated the purpose and reported the surrounding circumstances for the (reserve) bill ". . . is to improve the financial solvency and planning of apartment owners' associations by requiring these entities to prepare budgets and establish reserves for future expenses. Your Committee finds that the failure to establish adequate reserves can impose considerable hardship on the unit owners in the form of large and unexpected special assessments. In many instances there is no accumulation of reserves for a number of years, and then units are sold leaving the successors with an obligation to pay for the lack of reserves."

Although emergency preparedness is a good public policy, the use of reserve funds without limitations for emergency preparedness purposes as defined in House Bill No. 446 may significantly impact the many aging condominiums and the amount of reserve funds required to make the necessary planned and budgeted replacements, repairs, upkeep, and past due maintenance.

Thank you for the opportunity to present testimony.