



Mililani Town Association

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March 16, 2009

Representative Robert Herkes, Chair  
Representative Glenn Wakai, Vice-Chair  
Committee on Consumer Protection &  
Commerce  
State Capitol  
Honolulu, HI 96813

VIA EMAIL: [CPCtestimony@Capitol.hawaii.gov](mailto:CPCtestimony@Capitol.hawaii.gov)

Re: S.B. No. 595 SD 1 – Relating to Condominium Property Regimes  
Hearing: Wednesday, March 16, 2009, 3:00 pm, Conf Room 325

Dear Chair Herkes, Vice-Chair Wakai and Committee Members:

My name is Eric Matsumoto, Vice-President of the Mililani Town Association (MTA). I have served in MTA leadership capacities on the board for 24 of the last 30 years. MTA encompasses 16,000 plus units involving both single family units and numerous townhouse and apartment sub-associations.

We strongly oppose this measure for the following reasons:

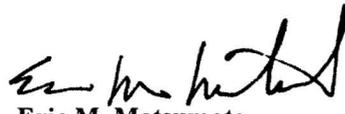
- The restrictive covenants of townhouse associations are contained as part of the purchase documents entered into the contract at the time of purchase, at which time the purchaser has a choice to reside in the community/project where such restrictions on amateur radio antennas are in effect. In order to change the requirements of the declaration of covenants and restrictions would normally take a vote of 67% of the members. However, by giving the authority to the board to make the decision to allow ham radio operations within the project is taking away the individual rights of each of the homeowners and placing that authority in the hands of a small group of members. In addition to this taking of rights, there are other considerations, as follows:
  - Do all boards have the technical knowledge to assess each individual request to operate a ham radio, to include:
    - The kinds of rigs that should be permitted. Amateur radio antennas vary widely in size and shape, but as important is the configurations that depend upon the parameters, including the types of communications the operator desires to engage in, the intended distance of the communications, and the frequency band. Amateur radio antennas, depending upon the objectives of the operator, can vary from a whip attached to a vehicle, mounted on a structure a hundred feet tall or even much more in length. They can be constructed of various materials occupying the equivalent of a whole backyard, and may consist of an array of antennas.
    - Other considerations that include safety hazards of the signals and antenna structures, interference to other electronic equipment in the other units such as televisions, radios, and stereos, in addition to the detracting effects from the aesthetic appearance of the community or project.
  - There is also not outside the realm of possibility that a group of homeowners in favor of ham radio operations could gain control of the board and decide to allow use of ham radio operations in spite of any opposition the majority of the homeowners may have.
  - Governmental agencies requiring communications during emergencies do have the necessary back-ups.

In conclusion, the interests in preserving the integrity of contractual relations are very important and the FCC is "reluctant to pre-empt private parties' freedom contract unless it is shown that private agreements will seriously disrupt the federal regulatory scheme or unless there is another strong countervailing reason to do so...." The American Radio Relay League (ARRL) has been unable to show that restrictive documents prevent amateur radio operators from pursuing the basis and purpose of the amateur service.

Therefore, the desire for ham radio operations would best be left to each townhouse project to decide by a plurality of its members as to whether or not to allow ham radio operations.

Based on the above, we strongly urge this bill be deferred.

Sincerely yours,



Eric M. Matsumoto  
Vice-President, Board of Directors

Cc: Senator Kidani,  
Sen atorBunda  
Representative Lee,  
Representative Yamane