



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

February 17, 2010

TO: House Consumer Protection & Commerce Committee
Representative Robert N. Herkes, Chair
Representative Glenn Wakai, Vice Chair

FROM: Ed Thompson
ARDA-Hawaii

AMENDED TESTIMONY

DATE: Wednesday, February 17, 2010
Conference Room 308
2:05 p.m.

RE: HB 2812, HD1, RELATING TO CONDOMINIUMS

Chair Herkes and Members of the Committee:

ARDA-Hawaii is the local chapter of the national timeshare trade association. Hawaii's timeshare industry currently accounts for ten percent of the State's lodging inventory with 7,700 timeshare units. Timeshare has had consistent occupancy rates, even during the current tough economic times. This has made our industry a vital partner and a diverse component of the visitor industry in Hawaii.

ARDA-Hawaii would like to submit comments regarding HB2812, HD1, which establishes a minimum number of members for condominium association boards of directors for mixed-use condominiums with a certain number of units and owners.

ARDA-Hawaii is generally supportive of the amendment made to HB2812, HD1, which provides an exemption for time shares as to the requirements relating to the minimum number of directors representing nonresidential-use units. Time share developments are often comprised of many non-residential interests under a single entity owner, and required under the law to form condominium association boards of directors. Because the requirements of HB2812, HD1, would not work for time shares, it would be proper to exclude them from this requirement.

ARDA recommends that clarification be made to the current language in HB2812, HD1, (page 2, lines 6-14) to state that the section shall not apply to time share projects or mixed-used projects that include time shares:

- (3) Projects with more than seventy-five residential-use and nonresidential-use individual units and more than twenty-five individual owners shall have an elected board of at least nine members reflecting the proportionate number of units for residential and nonresidential uses; provided that no more than three board members shall represent nonresidential-use units; and provided further that this paragraph shall not apply to **time share projects or mixed-use projects involving time shares.**

Thank you for allowing me to provide testimony.



**HAWAII STATE ASSOCIATION OF PARLIAMENTARIANS
LEGISLATIVE COMMITTEE
P. O. Box 29213
HONOLULU, HAWAII 96820-1613
E-MAIL: HSAP.LC@GMAIL.COM**

February 16, 2010

Chair: Robert N. Herkes
Vice-Chair: Glenn Wakai
Committee on Consumer Protection & Commerce
Hawaii State Capitol, Room 316
415 South Beretania Street
Honolulu, HI 96813

**RE: HB2812 HD1; Testimony in FAVOR WITH AMENDMENTS; Hearing Date:
2/17/2010; Sent via web and e-mail (CPCTestimony@Capitol.Hawaii.gov)**

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

The Hawaii State Association of Parliamentarians ("HSAP") has been providing professional parliamentary expertise to Hawaii for more than 40 years. I am the chair of the Legislative Committee. I'm also an experienced Professional Registered Parliamentarian who has have worked with condominium and community associations every year since I began my practice in 1983 (over 1,200 in 26 years). I was also a member of the Blue Ribbon Recodification Advisory Committee that presented the recodification of Chapter 514B to the legislature in 2006.

This testimony is provided as part of HSAP's effort to assist the community based upon our collective experiences with the bylaws and meetings of numerous condominiums, cooperatives, and planned community associations.

HB2812 HD1 contains proposed amendments to HRS §§514B-106(e) and (f).

We are **OPPOSED** to the changes in §514B-106(e) for the following reasons:

1. There is already an existing section that addresses representation on the board of directors, §514B-110, "Bylaws amendment permitted; mixed use property; representation on board."
2. This proposed change uses terminology that is ambiguous and can be used to deny representation on the board by corporate owners.
3. This proposed change is micro managing associations even after numerous representatives in our Hawaii community agreed to the existing statute §514B-110.

We are IN FAVOR to the changes to §514B-106(f) for the following reasons:

1. This was a technical clarification to the existing §514B-106(f), originally contained in HB2625.
2. This change clarifies what has been known for many years and was the purpose of the change to §514B-106(f) several years ago, i.e. to permit a majority of unit owners to remove and replace somebody on the board of directors.
3. Our real world experience has dictated that this subsection needs clarification. There was inconsistent interpretation of this statute that led to an expensive legal battle that resulted in the same interpretation that exists today.
4. We believe that this change will provide additional clarity to the condominium community and request that you retain it.
5. The proposed change to (f) DOES NOT AFFECT REGULAR ASSOCIATION ELECTIONS.

We request that your committee approve this bill by striking any changes to §514B-106(e) and retaining the changes to §514B-106(f).

I may be contacted via phone: 423-6766 or by e-mail: hsap.lc@gmail.com. Thank you for the opportunity to present this testimony.

Sincerely,



Steve Glanville, Professional Registered Parliamentarian
Chair, HSAP Legislative Committee

February 13,2010

David Moskowitz
P.O. Box 89525
Honolulu,HI 96830
Tel: 808-923-5305
E-Mail: davemoskowitz10@hotmail.com

Chairman ,Vice Chair and committee members,

I am hear today speaking in favor of House bill 2812 ,this bill ensure the fair and equitable level of representation of all owners on condo boards.

Currently,their are situations that arise when differing interests ,use these condo board's by their predominance of the boards as a group.

Be that group resident or non-resident owners,individuals or groups .

They can and will manipulate these boards to their own self-interest;s ,as investor's to the detriment of the buildings owner's as a whole.

These negative uses of the condo board can include various abusive methods of achieving their goals which can include to meet their economic goals such as,running up improvements and using huge additional fees to force out current owner's ,or perhaps they can and do neglect the properties in order to impact the building and additionally the neighborhood ,in a negative manner to achieve and affect the value of other surrounding buildings as well. In the neighborhood.

One could say apathy is the culprit ,and to some degree that is true,however mandating, this composition,will go along way to alleviating this speculative or just plain neglect and mismanagement of these condo boards.

I am not here promoting my business services by using this hearing as advertisement of those services,nor am I here representing developers ,

I represent the other people and the tenants as well.

I would like to see tenants be given the opportunity to represent the owners ,with the owner's proxy,and consent as members of these boards in the owners absence as well.

The tenants in some buildings are in the majority ,and are the ones paying most if not all of the bills, of the no-resident owner/investors.

They should be given the opportunity as well to have their building run to the standards they would see as beneficial to them as well.

Also, these board compositions need a "enforcement mechanism",the ,new law should be included in a ll condo by-law's ,along with information to all owner's and others as to where they may complain if the new standards are not being met.

Please support this legislation,

Dave Moskowitz

From: Antonette Port [portr001@hawaii.rr.com]
Sent: Tuesday, February 16, 2010 3:46 PM
To: CPCtestimony
Subject: REVISED Testimony HB 2812,HD 1

REVISED TESTIMONY

Rep. Robert N. Herkes, Chair
Rep. Glenn Wakai, Vice Chair
Committee on Consumer Protection and Commerce

Hearing: Wednesday, February 17, 2010

Testimony: HB 2812, HD 1 Relating to Condominiums

Dear Representatives:

This testimony is in support of HB 2812, HD 1 which establishes a requirement to provide a balance of members of condominium Boards of Directors in mixed use condominiums so that there is representation provided on these Boards for residential owners.

One of the current problems in mixed use condominiums is that the owners who reside in the condominium property are either under represented or not represented at all. House Bill 2812, HD 1 attempts to remedy this problem.

Thank you for this opportunity to testify in support of HB 2812, HD 1.

Richard Port



HOUSE OF REPRESENTATIVES
25th LEGISLATURE
REGULAR SESSION of 2010

COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Representative Robert N. Herkes, Chair

2/17/10
2:05 PM – Room 325

HB 2812, HD 1
Relating to Condominiums

My name is Max J Sword, here on behalf of Outrigger Hotels, to speak in opposition to this bill.

While I understand the concerns regarding absentee owners and their effect on the boards of regular condo AOA's, what this measure does not take into consideration are mixed-use projects such as condo-tels.

Condo tells, such as the Ala Moana Hotel have a different dynamic then a regular condo AOA set up. This measure will have a negative affect on these types of projects.

Mahalo for considering my testimony and urge the tabling of this bill!

STARWOOD

VACATION OWNERSHIP

9002 San Marco Court
Orlando, Florida 32819
(407) 418-7271

LATE TESTIMONY

February 17, 2010

Honorable Robert Herkes, Chair
House Committee on Consumer Protection & Commerce

Re: HB 2812, HD1, Relating to Condominiums - Oppose
Hawaii State Capitol Conference Room 325, 2:05 PM

Aloha Chair Herkes, Vice Chair Wakai, and Committee members:

I'm Robin Suarez, Vice President & Associate General Counsel for Starwood Vacation Ownership, ("SVO"). Thank you for the opportunity to provide testimony on this bill.

This bill aims to delete all exemptions from the mortgage broker's license, including the provision that grants an exemption to persons engaged in extending credit related to timeshare plans.

It is unclear what goals are being met with the deletion of this exemption. Financing for timeshare purchases almost always comes from the timeshare plan developer and not from unrelated third parties. As a result, the timeshare sales person has one set of financing terms to offer and such terms do not vary from person to person.

Current law recognizes this business practice and appropriately provides an exemption. Removing this exemption will create unnecessary burdens on sales persons and ultimately could result in the loss of jobs or a reduction in sales transactions, both of which will negatively impact the Hawai'i economy.

For these reasons, we respectfully request your support of this restoring these provisions in the passage of this bill or deferring this bill for the remainder of the session.

As always, I thank you for the opportunity to share our views on this matter.

Sincerely,

Robin Suarez
Vice President & Associate General Counsel for Starwood Vacation Ownership

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:

GARY M. SLOVIN
ANNE T. HORIUCHI
MIHOKO E. ITO
CHRISTINA Z. NOH

ALI PLACE, SUITE 1800 • 1099 ALAKEA STREET
HONOLULU, HAWAII 96813

MAIL ADDRESS: P.O. BOX 3196
HONOLULU, HAWAII 96801

TELEPHONE (808) 547-5600 • FAX (808) 547-5880
info@goodsill.com • www.goodsill.com

INTERNET:
gslovin@goodsill.com
ahoriuchi@goodsill.com
meito@goodsill.com
cznoh@goodsill.com

MEMORANDUM

TO: Representative Robert N. Herkes
Chair, Committee on Consumer Protection & Commerce
VIA FACSIMILE: 586-6221

FROM: Mihoko Ito

DATE: February 17, 2010

RE: H.B. 2812, H.D.1 – Relating to Condominiums
Hearing: Wednesday, February 17, 2010 at 2:05 p.m.

Dear Chair Herkes and Members of the Committee:

I am Mihoko Ito, testifying on behalf of Wyndham Worldwide (“Wyndham”). Wyndham Worldwide has substantial interests in Hawaii that include Wyndham Vacation Ownership, with its resort at Waikiki Beach Walk.

Wyndham submits comments regarding H.B. 2812, H.D.1, which establishes a minimum number of members for condominium association boards of directors for mixed-use condominiums with a certain number of units and owners.

Wyndham is generally supportive of the amendment made in H.B. 2812, H.D.1, which provides an exemption for timeshares as to the requirements relating to the minimum number of directors representing nonresidential-use units. Time share developments are often comprised of many non-residential interests under a single entity owner, and required under the law to form condominium association boards of directors. Because the requirements of H.B. 2812, H.D. 1 would not work for timeshares, it would be proper to exclude them from this requirement.

We would also recommend that the following clarification be made to the language presently contained in H.B. 2812, H.D.1, at page 2, lines 6-14, to specify that the section shall not apply to time share projects or mixed-used projects that include timeshares:

February 17, 2010

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(3) Projects with more than seventy-five residential-use and nonresidential-use individual units and more than twenty-five individual owners shall have an elected board of at least nine members reflecting the proportionate number of units for residential and nonresidential uses; provided that no more than three board members shall represent nonresidential-use units; and provided further that this paragraph shall not apply to time share projects or mixed-use projects involving time shares.

Thank you very much for the opportunity to submit testimony.