

## Testimony for HB1706 on 2/6/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Sunday, February 05, 2012 7:03 AM

**To:** CPCtestimony

**Cc:** tom@southkohala.com

---

Testimony for CPC 2/6/2012 2:00:00 PM HB1706

Conference room: 325

Testifier position: Support

Testifier will be present: No

Submitted by: Thomas Hagen

Organization: South Kohala Management Corp.

E-mail: tom@southkohala.com

Submitted on: 2/5/2012

### Comments:

We are very much in favor of such legislation. As a property manager in Hawaii who has been in business here almost 30 years we have seen the recent "rental by owner" phenomenon grow exponentially. Many, if not most, of the non-Hawaii residents who rent their vacation properties for transient rentals, do so without having a property manager collect the money. Many owners simply call their paying customers "non-paying guests" and ask the property managers to service the client with minimal compensation while they keep the rent and the GE and TA taxes. Most owners are collecting the GE and TA taxes on this revenue themselves and never report it. The property manager is kept in the dark about the revenue and the State of Hawaii is not collecting the taxes that are due. Hawaii is likely losing many millions of dollars in annual tax revenue due to this form of tax evasion.

The largest website for owner rentals is VRBO and there has been little, if any enforcement, on the tax collections. Not only is this situation allowing thousands of people to avoid their tax obligation it is also undercutting the revenues of the hard-working Hawaii property managers who are paying the wages and taxes due on their employees. People will continue to get away with this until new laws are put in place to protect the State's tax revenues and the local management companies.

Aloha,

Tom Hagen President

South Kohala Management Corp.

**Testimony for HB1706 on 2/6/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, February 03, 2012 11:54 AM

**To:** CPCtestimony

**Cc:** bruceh@hmcmtg.com

---

Testimony for CPC 2/6/2012 2:00:00 PM HB1706

Conference room: 325

Testifier position: Support

Testifier will be present: No

Submitted by: Bruce Howe

Organization: CAI-LAC

E-mail: bruceh@hmcmtg.com

Submitted on: 2/3/2012

**Comments:**

The intent is good, but the agent needs to be on the ISLAND where the property is located rather than just within the State. It is very frustrating trying to deal with agents on other islands who are usually both physically but also phycologically distant from the problems caused by tenants in the rental unit.



February 3, 2012

RE: Testimony Supporting HB 1706

I would like to voice my support of HB1706, Relating to Condominiums. As a member of the tourism industry, I understand the importance of guests whom visit our beautiful state to enjoy their stay in comfort and with safety. In the State of Hawaii, HRS 521-43 (f) requires any property owner who does not reside on the island where a property rental is to take place, to have an on-island agent.

With the internet becoming a ubiquitous aspect of our everyday lives, many off-island and nonresident owners are renting their Hawaii properties over the internet without having the required on-island representation, or without having provided this information to their renter. When the guest of this property owner arrives without their arrival information as often times occurs, has a problem finding their unit, has trouble gaining entry to the property, they look for the first person they can find who can provide them assistance. If the property is an apartment, condominium or townhouse as it often times is, the person faced with helping this guest is the resident manager or AOAO representative on site.

For these reasons, many AOAO now request owners whom rent their properties to provide them the contact details for their on-island agent, but they can only request this information. They cannot require the rental ownership to provide it to them.

HB 1706 effectively addresses these issues. The AOAOs are placed into a stronger position of being able to require the on-island agent information to be provided to them, rather than just asking and hoping for a reply. Also, HB 1706 efficiently resolves the problem of off-island owners in apartments of not having an on-island agent as required by HRS 521 due to the AOAO's knowledge of their property, the owner's rental activity within it, and by their insuring compliance by their annual update of this information.

One change I would suggest to HB 1706 is to require the agent to be on the same island as the property, not just in the State of Hawaii.

Dan Monck  
Exclusive Getaways  
[www.ExclusiveGetawaysHawaii.com](http://www.ExclusiveGetawaysHawaii.com)  
Kailua-Kona, Hawaii

**Testimony for HB1706 on 2/6/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Friday, February 03, 2012 5:18 PM**To:** CPCtestimony**Cc:** markm@whalersrealty.com**Attachments:** Real Life Example!.pdf (480 KB)

---

Testimony for CPC 2/6/2012 2:00:00 PM HB1706

Conference room: 325

Testifier position: Support

Testifier will be present: Yes

Submitted by: Mark Marchello

Organization: Whalers Realty Management

E-mail: markm@whalersrealty.com

Submitted on: 2/3/2012

**Comments:**

There is a serious leak in the State's tax revenue pipeline. This invisible leak is bursting in to the millions!

The internet is making it much easier for off Island owners to setup their rentals as Vacation Rentals by Owner. They don't work with professional management companies who issue 1099's to the State at year end and the guests monies are not held in trust accounts as required by State law. Guests send their monies directly to the owners on the mainland. There is no way to know if they are paying their excise and transient taxes or their income tax at year end.

Five years ago there were only a hand full of VRBO owners at the Whaler on Kaanapali Beach now there are over 100! Please click this link to see the Whaler VRBO

Owners This is happening all across the State. I have talked to property managers on Oahu, Kauai and the Big Island everyone is loosing business as more and more owners start to self manage their properties. Who ends up paying to support these Off Shore owners properties - the people of Hawaii! Sounds outrageous but its happening in every vacation rental property in the State!

These owners who don't have the management companies overhead (no management fees or taxes) are able to cut their prices and take the business away from the management companies. The remaining management company owners become unhappy with their returns, sign up on VRBO themselves to boost their occupancies and the wheel keeps spinning. Management companies lower their rates to compete, the VRBO owners lower their rates and the income and taxes on the income keeps spiraling downwards. As this spiral continues many management companies will go out of business. If we don't grab the bull by the horns now, in another five years the majority of vacation rental properties in the Islands will be self managed by Off Shore owners and the State will have no way to verify their income or taxes.

Our company has lost over 30 properties in the past 5 years. I am in the trenches dealing with this daily it's a life and death issue for the small business management companies who are required to play by the rules and a huge loss for the State.

Real Life Example - Whalers Realty Management: Over 30 properties lost in five years to VRBO - no 1099's to the State - minimum average gross income \$65,000/year x 30/units = \$1,950,000 x 13.42% = \$261,690/taxes x 100 management companies = \$26,169,000 in invisible lost taxes. I have attached last years history of income for 2 of the rentals that we lost the end of last year to VRBO. We mailed the State a 1099 on this income for 2011 = \$296,319. We also made sure the State taxes were collected \$40,000. The State won't receive a 1099 for these two properties in 2012 and they are already missing thousands of 1099's for 2011!!!!!!

Please plug the leak - support: HB 1706SB 208

Reservations Report  
For Arrivals From 10/01/10 To 10/01/11  
For All Complexes

Folio	Last Name	Arrival	Departure	Type	Nights	Src	Dp	Rent
F545C	Lahaina Surf & Sand Shangri-la							
64025	Fluger	10/03/10	10/10/10	ST	7	TA	Y	3720.00
64379	Protasel	10/10/10	10/17/10	ST	7	TA	Y	4600.00
63957	Cervantes	10/22/10	10/29/10	ST	7	TA	Y	3720.00
64074	Andrade	11/06/10	11/12/10	ST	6	TA	Y	3720.00
64592	Boldon	11/14/10	11/20/10	ST	6	RG	Y	4050.00
62840	Dinsmore	11/20/10	11/27/10	ST	7	TA	Y	4200.00
65967	Yamamoto	12/04/10	12/11/10	ST	7	TA	Y	4170.00
62476	Sammons	12/20/10	01/05/11	SE	16	RG	Y	13888.00
66292	Currier	01/05/11	01/06/11	ST	1	*O	N	0.00
65614	Krause	01/06/11	01/16/11	ST	10	OG	Y	5220.00
65772	Coppola	01/17/11	01/21/11	ST	4	TA	Y	2900.00
64362	Cook	01/25/11	02/02/11	SE	8	TA	Y	5800.00
65542	Reichel	02/02/11	02/06/11	ST	4	TA	Y	2612.00
66169	Sager	02/06/11	02/17/11	ST	11	OG	Y	5489.00
64356	Powers	02/17/11	02/24/11	ST	7	TA	Y	4080.00
65367	Fishman	02/27/11	03/04/11	SE	5	TA	Y	3625.00
66187	Whitman	03/04/11	03/08/11	ST	4	OG	Y	1996.00
66351	Bolger	03/09/11	03/21/11	ST	12	TA	Y	7975.00
63673	Hofherr	03/29/11	04/10/11	SE	12	RG	Y	7250.00
66520	Travis	04/10/11	04/18/11	ST	8	TA	Y	4865.00
65841	Fonner	04/20/11	04/27/11	ST	7	TA	Y	4170.00
66916	Wilson	05/03/11	05/05/11	ST	2	FK	Y	1251.00
66696	Foral	05/30/11	06/05/11	SE	6	TA	Y	4170.00
67689	Webber	06/05/11	06/12/11	ST	7	TA	Y	4170.00
64862	Ogle	06/13/11	06/20/11	ST	7	TA	Y	6015.00
65325	Twiggs	06/21/11	07/01/11	ST	10	TA	Y	6000.00
68131	Magon	07/04/11	07/12/11	ST	8	TA	Y	3465.00
66614	Baker	07/17/11	07/24/11	ST	7	TA	Y	5075.00
66841	Harris	07/26/11	08/01/11	ST	6	FK	Y	4350.00
67774	Giangrande	08/01/11	08/06/11	ST	5	TA	Y	3475.00
67261	Whitney	08/06/11	08/13/11	ST	7	TA	Y	5075.00
67393	McFadden	08/13/11	08/19/11	ST	6	TA	Y	4350.00
68728	McGill	08/19/11	08/22/11	ST	3	INT	Y	2115.00
68862	Lais	08/22/11	09/03/11	SE	12	RG	Y	6886.00
68988	Glesnes	09/03/11	09/11/11	ST	8	TA	Y	4000.00
67805	Brown	09/11/11	09/23/11	ST	12	TA	Y	6865.00
Total					262			165312.00

Reservations Report  
For Arrivals From 10/01/10 To 10/01/11  
For All Complexes

Folio	Last Name	Arrival	Departure	Type	Nights	Src	Dp	Rent
F545D	Lahaina Surf & Sand Villa							
65116	Arnold	10/13/10	10/23/10	ST	10	REF	Y	4850.00
63622	Hicks	10/27/10	11/03/10	SE	7	TA	Y	3600.00
64554	Ireland	11/07/10	11/14/10	ST	7	TA	Y	4050.00
64593	Boldon	11/14/10	11/20/10	ST	6	RG	Y	4050.00
62842	Dinsmore	11/20/10	11/27/10	ST	7	TA	Y	4080.00
63779	Rose	12/20/10	12/28/10	ST	8	RG	Y	5894.00
66061	Nevin	12/31/10	01/05/11	SE	5	OG	Y	3750.00
66293	Currier	01/06/11	01/08/11	ST	2	*O	N	0.00
65777	Karr	01/11/11	02/01/11	ST	21	TA	Y	13146.00
64854	Metzger	02/03/11	02/11/11	ST	8	TA	Y	5212.50
63836	Chappelear	02/12/11	02/19/11	ST	7	TA	Y	4080.00
63851	Roaldson	02/19/11	02/26/11	ST	7	TA	Y	4080.00
65690	Yellig	02/26/11	03/05/11	SE	7	TA	Y	3570.00
66361	Siegman	03/05/11	03/11/11	ST	6	TA	Y	3000.00
64290	Ekrut	03/11/11	03/19/11	ST	8	IOI	Y	5160.00
65560	Wampler	03/19/11	03/28/11	ST	9	TA	Y	6255.00
64948	Brady	04/02/11	04/11/11	ST	9	TA	Y	5560.00
66152	Allen	04/14/11	04/22/11	ST	8	HA	Y	4725.00
66452	McLaughlin	04/22/11	04/27/11	ST	5	TA	Y	3375.00
67016	Gee	05/29/11	06/05/11	SE	7	TA	Y	4050.00
66071	Ringenwald	06/22/11	06/26/11	ST	4	TA	Y	2780.00
65760	Potter	07/02/11	07/09/11	ST	7	TA	Y	4865.00
66938	Do	07/11/11	07/21/11	ST	10	TA	Y	7255.00
67330	Cupparo	07/21/11	07/29/11	ST	8	ISL	Y	5560.00
68265	Cleave	07/30/11	08/07/11	SE	8	TA	Y	3500.00
68726	McGill	08/18/11	08/22/11	ST	4	INT	Y	2760.00
67618	Trella	09/01/11	09/06/11	ST	5	TA	Y	4375.00
66615	Gulbin	09/14/11	09/25/11	ST	11	INT	Y	7425.00
Total					211			131007.50

Greatly appreciate your consideration and support.  
Mahalo,  
Mark A. Marchello, R General Manager  
Whalers Realty Management  
2580 Kekaa Drive Suite 118  
Lahaina, HI 96761  
808-283-5296



The REALTOR® Building  
1136 12<sup>th</sup> Avenue, Suite 220  
Honolulu, Hawaii 96816

Phone: (808) 733-7060  
Fax: (808) 737-4977  
Neighbor Islands: (888) 737-9070  
Email: har@hawaiiirealtors.com

February 6, 2012

**The Honorable Robert N. Herkes, Chair**  
House Committee on Consumer Protection & Commerce  
State Capitol, Room 325  
Honolulu, Hawaii 96813

**RE: H.B. 1706, Relating to Condominiums**

**HEARING: Monday, February 6, 2012, at 2:00 p.m.**

Aloha Chair Herkes, Vice-Chair Yamane, and Members of the Committee:

*Comments*

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,500 members. HAR **supports the intent** of H.B. 1706, which requires owners of residential units within a Condominium Property Regime, who reside on a different island or out-of-state to provide the managing agent or resident manager of the condominium with contact information of a rental agent located within the State who is responsible for the management of the unit.

HAR recommends that, if the Committee is inclined to move this measure, clarifying amendments be made, so that notice provided to a managing agent or resident manager occurs efficiently and promptly. Under the Residential Landlord-Tenant Code, a similar notice provision applies to out-of-state owners and landlords -- Hawai'i Revised Statutes §521-43(f) provides: "Any owner or landlord who resides without the State or on another island from where the rental unit is located shall designate on the *written rental agreement* an agent residing on the same island where the unit is located to act in the owner's or landlord's behalf." HAR similarly recommends that in a condominium an owner provide notice when there is a management agreement in place at the earliest opportunity – i.e., at the time the management agreement is entered into by the owner and rental agent.

In addition, rather than requiring the owner or rental agent to notify the condominium association on an "annual" basis, HAR recommends that, if there are any changes in information, the managing agent or resident manager should be notified when there is a change in management status. This makes sense because rental agents or rental agent information may change within a year.

**Accordingly, HAR suggests the following amendments to H.B. 1706 (which adds new sections to HRS 514A and HRS 514B):**

**Nonresident owners; rental agents.** An owner of a residential unit who resides on a different island from that on which the unit is located or out-of-state and who rents or leases the unit to a tenant shall provide the managing agent or resident manager [annually] with the name, address, and telephone number of the rental agent located in the State who is responsible for the

REALTOR® is a registered collective membership mark which may be used only by real estate professionals who are members of the NATIONAL ASSOCIATION OF REALTORS® and subscribe to its strict Code of Ethics.





**Hawai'i  
Association of  
REALTORS®**  
www.hawaiiREALTORS.com

The REALTOR® Building  
1136 12<sup>th</sup> Avenue, Suite 220  
Honolulu, Hawaii 96816

Phone: (808) 733-7060  
Fax: (808) 737-4977  
Neighbor Islands: (888) 737-9070  
Email: har@hawaiiREALTORS.com

---

**management of the unit upon entering into a management agreement. If there are any changes in the name, address, and telephone number of the rental agent, the owner shall notify the managing agent or resident manager. "**

Mahalo for the opportunity to testify.

REALTOR® is a registered collective membership mark which may be used only by real estate professionals who are members of the NATIONAL ASSOCIATION OF REALTORS® and subscribe to its strict Code of Ethics.

