

SB17

Measure Title: RELATING TO REAL ESTATE SELLER DISCLOSURE.

Report Title: Real Estate; Seller Disclosure Requirements; Required Documentation

Description: Clarifies that the required disclosure of documents by a seller for residential real property that is subject to restrictions or conditions on use applies to documents that are within a seller's knowledge or control. Takes effect on November 1, 2015.

Companion: [HB272](#)

Package: None

Current Referral: CPN

Introducer(s): BAKER, GREEN, Inouye, Kahele, Keith-Agaran, Kidani, Nishihara, Riviere, Wakai

<u>Sort by Date</u>		Status Text
1/22/2015	S	Introduced.
1/22/2015	S	Passed First Reading.
1/22/2015	S	Referred to CPN.
2/13/2015	S	The committee(s) on CPN has scheduled a public hearing on 02-19-15 9:00AM in conference room 229.

February 19, 2015

The Honorable Rosalyn H. Baker, Chair

Senate Committee on Commerce & Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 17, Relating to Real Estate Seller Disclosure

HEARING: Thursday, February 19, 2015, at 9:00 a.m.

Aloha Chair Baker, Vice Chair Taniguchi, and Members of the Committee:

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 8,400 members. HAR **strongly supports** S.B. 17, which clarifies that the required disclosure of documents by a seller for residential real property that is subject to restrictions or conditions on use applies to documents that are within a seller's knowledge or control.

In 2013, the Hawai'i State Legislature amended HRS 508D-3.5(b) and brought a uniform standard for consumers as well as real estate licensees involved in planned community associations, condominium projects and cooperative housing corporations transactions. Unfortunately, the new law has created an unreasonable burden upon sellers who might have no knowledge of unrecorded rules or guidelines.

After just a few generations of sales, unrecorded information can be lost by previous owners and no longer known to the current owner. Thus, the innocent and unknowing seller, acting in good faith, could be liable for failing to disclose information that he/she does not know and could not reasonably have known because it was unrecorded.

From a consumer point of view, buyers are still protected because HRS 508D requires sellers to act in good faith and disclose all material facts. Therefore, potential buyers would still be entitled and required to any information related to unrecorded rules or guidelines within the sellers' knowledge or control. Furthermore, this is consistent with current practice where sellers can request various documents, such as financials and meeting minutes, from the condominium or planned community association Board or its managing agent, which is then provided to the Buyer.

Therefore, we request the Committee's favorable amendments to HRS 508D-3.5(b) to accurately reflect the requirement to disclose documents within the seller's knowledge or control.

Mahalo for the opportunity to testify.