



January 28, 2020

VIA WEB TRANSMITTAL

Hearing Date: Thursday, January 30, 2020

Time: 9:45 a.m.

Place: Conference Room 423

Committee on Housing
House of Representatives, the 30th Legislature
Regular Session of 2020

Re: Community Associations Institute's **Testimony opposing** HB 1635

Dear Chair Brower, Vice Chair Matayoshi and Committee members:

I am a member of the Hawaii Chapter of the Community Associations Institute Legislative Action Committee ("CAI"). We represent the condominium and community association industry.

This testimony is in opposition to HB 1635.

The bill is vague and ambiguous, as drafted. For example, Section 2 provides that the "Act does not affect rights and duties that *matured*, . . . before its effective date," What does the term "matured" mean exactly? Does it mean that the Act would not apply to those planned community associations ("PCA") that are currently in existence and whose governing documents would not allow the construction of such accessory dwelling units? If the Act would apply "to those PCAs that are currently in existence and whose governing documents would not allow the construction of such accessory dwelling units", then it would violate the contract rights of all of those owners who previously purchased units in that PCA in reliance on the governing documents not allowing the construction of accessory dwelling units.

One of the benefits of a planned community association is uniformity and the ability to manage the design of the community both from the outset and on a going forward basis. It also manages the density of the neighborhood and the availability of parking to those who reside therein. If one owner is permitted to construct an accessory dwelling unit, then the PCA must plan as if all owners will construct accessory dwelling units regardless of whether they actually do so because the PCA may not discriminate between owners. If all owners in a PCA construct accessory dwelling units, it could destroy the visual uniformity, and lead to overcrowding and to major parking problems in that community thereby causing property values to decrease.

Based on the foregoing, we respectfully submit that HB 1635 should be held. Thank you for your time and consideration.

Sincerely yours,

/s/ R. Laree McGuire

R Laree McGuire
CAI LAC Hawaii

HB-1635

Submitted on: 1/29/2020 11:21:44 AM

Testimony for HSG on 1/30/2020 9:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Philip Nerney	Individual	Oppose	No

Comments:

This bill would entail unintended consequences that would be prejudicial to the financial and governance structure of planned community associations. It should not be passed.



Mililani Town Association

95-303 Kaloapau Street
Mililani Town, HI 96789
Phone (808) 623-7300

January 29, 2020

Committee on Housing
State Capitol, Conference Room 423
415 S. Beretania Street
Honolulu, HI 96813

LATE

RE: Testimony in Opposition of HB1635

Dear Chair Brower, Vice Chair Matayoshi and Members Aquino, Cullen, Hashem, Hashimoto, McDermott, and Woodson:

On behalf of the Mililani Town Association (MTA), I would like to urge your opposition to HB1635, Relating to Planned Community Associations (PCAs). While well intentioned, there are consequences to this bill that PCAs deal with on a regular basis, such as where is the extra parking coming from? It will add more cars to the street. These units also get built as ADUs but quickly turn into illegal vacation rentals, and you know how poor that enforcement is.

Mililani has 15,829 homes in our Association, the largest in the state. Our governing documents prohibit ADUs. What if this bill passes and 20% of homeowners build ADUs? We would have 3,166 new residences in Mililani, and zero additional revenue to cover the added burden on our recreation centers. 20% of our operating budget is approximately \$1.8 million. Our only means of recovering that money is an assessment increase that goes to 100% of owners. So 100% of owners would pay for the burden created by those who build ADUs. The units with ADUs get rent to cover the assessment increase, those without don't. Also, what about the additional traffic this would cause, both within the community as well as the congestion on the freeways? People who live in PCAs buy in knowing there are rules, and that's why a majority of people buy in Mililani. Property values remain higher, and overcrowding will hurt our ability to maintain those values.

In summary, the harm this bill will cause PCAs outweighs any estimated relief to the housing crisis this might help. Please stop this bill from proceeding.

Thank you for your time. If you have any questions, please contact me at 440-2614, I will be happy to provide any additional information you may need.

Sincerely,

David O'Neal, CMCA, AMS, PCAM
General Manager

LATE

HB-1635

Submitted on: 1/29/2020 8:11:55 PM

Testimony for HSG on 1/30/2020 9:45:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Emery	Associa	Oppose	No

Comments:

People buy into a planned community and agree to comply with its regulations including design criteria and use. It's unfair to the community for government to impose requirements that are contrary to the wish of the majority of owners. Any planned community that wants to allow such additions can do so themselves by amending their governing documents which is a democratic process. It's not the role of the legislature to interfere with these self-governing entities.

LATE

LATE

Richard S. Ekimoto
888 Mililani Street, 2nd Floor
Honolulu, HI 96813-2819

January 30, 2020

HOUSE COMMITTEE ON HOUSING
REGARDING HOUSE BILL 1635

Hearing Date : THURSDAY, January 30, 2020
Time : 9:45 a.m.
Place : Conference Room 423

Rep. Tom Brower
Chair, Committee On Housing

Re: Testimony In Opposition To HB 1635

Dear Chair Brower and Members of the Committee:

I am writing to testify in opposition to HB 1635, which will prevent planned community associations from prohibiting Accessory Dwelling Units ("ADUs"). While I understand the desire to increase the amount of affordable housing in Hawaii, there are many problems with the Bill and the concepts behind HB 1635. *First*, HB 1635 fails to recognize that many planned community associations provide significant services to residents of their communities. Depending on the planned community association, these services include providing recreational facilities and/or programs, insurance for dwellings, maintenance of roads and even utility services. The primary source of funds for these associations are from common assessments of the owners of lots within the community. The proportion of a lot's share of the common assessments are fixed in the association's governing documents. An association would not be able to legally increase assessments for those lots that have an ADU. For every ADU that is created in a planned community, it will mean additional expenses for the association by effectively increasing the number of homes in the community without a mechanism to increase the assessments for the additional home. If HB 1635 were to become law, the owners of other lots in the community would be subsidizing those owners that chose to construct an ADU without getting any financial benefit from the ADU. Rather than shifting the expenses of affordable housing to planned community associations that are unable to afford the additional expense, the legislature should consider other funding mechanisms to support affordable housing.

Second, HB 1635 frustrates the reasonable expectations of those who have purchased in their planned community. Many planned communities have covenants that limit the number of homes that can be built on a lot or limit the density of improvements on a lot. Homeowners in these communities purchased their lot, in part, because they wanted a limitation on the number of homes that can be built next to them and what can be built next to them.

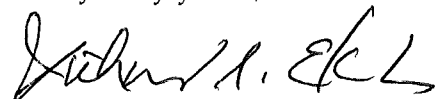
Third, HB 1635 is overbroad in that it places ADUs in a protected category, preventing an association from prohibiting an ADU. Since there is no limit on this restriction, a planned community association would not be able to limit location, style of construction, height, footprint, color or any of the myriad of design guidelines that owners in planned communities want and enjoy.

Fourth, HB 1635 attempts to treat all planned communities the same. A fair number of planned communities are established under HRS Chapter 421J but are basically indistinguishable from a townhouse condominium project. In these types of planned communities, the Association is responsible for the repair and maintenance of the exteriors of the dwellings in the Project. It is simply not reasonable to impose on these planned community associations the cost of maintaining the exterior of an ADU, particularly when these associations cannot typically pass the cost of the maintenance on to the owner of the ADU.

Similarly, HB 1635 applies to all planned communities irrespective of the size or purpose of the planned community. Some planned communities are established for limited purposes like the obligation to provide sewer or other utilities. Some of these communities have restrictions on new construction because their ability to provide these utilities are limited. HB 1635 creates significant issues for these associations by increasing the amount of utilities they must provide to the lots within the community.

For these reasons, I opposed HB 1635. Thank you for the opportunity to testify. Please contact me at 599-7236 or at rekimoto@hawaiicondolaw.com if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Richard S. Ekimoto", written in a cursive style.

Richard S. Ekimoto