

**Richard Emery, RB-17147  
Consultant and Expert  
Governance and Real Estate Matters**

February 25, 2023

**OPPOSE - SB 1201**

My name is Richard Emery and am a consultant or expert in association matters representing both Unit Owners or Associations depending on the issue and relevant facts. My testimony is on a personal basis.

There is no justification or value added for this Bill.

**COST:** The Bill proposed to fund the annual registration through another fee that will be paid by the condominium and thus the unit owners. Annual registration adds no value to the owners. If the condominium uses a managing agent there will be additional costs levied to complete the form and provide the proposed documents. In the end this Has an adverse effect on increased maintenance fees that will have an adverse effect on affordable housing. Associations are already under increased economic pressure simply with inflation. The proposed additional requirements for document production will significantly increase management costs and provide no value. Ten day notice of record production is inadequate.

**RICO:** Currently condominiums must produce documents for owners within 30 days. RICO enforces this requirement now. There is little evidence that this is an industry problem with nominal complaints each year. Annual production of documents serves little value as they become stale dated. Furthermore, the volume will be huge for Hawaii's 2,700 condominiums to provide such documents. I estimate the production to be more than 125,000 copies a month. The larger management companies already provide these documents on an association website.

**PRIVACY:** Condominiums are private organizations so their records are private except to its members. For example, having contracts available only makes information available to competitors which is adverse to the condominium's best interest. At times private information regarding a homeowner dispute is in the minutes that now becomes public. The records are available now to owners with enforcement by RICO.

**DOCUMENTS:** Most of these documents are provided to the owner at time of purchase and many are static. Others are already provided to the owner such as the reserve study as a part of the annual budget. The document file may expose a condominium or the State to liability if not adequately maintained.

This is simply a Bad Bill with no justification. It is also unaffordable. I strongly **OPPOSE** SB 1201.

*s/s Richard Emery*

**Testimony of the Real Estate Commission**

**Before the  
Senate Committee on Commerce and Consumer Protection  
Tuesday, February 28, 2023  
9:45 a.m.  
Conference Room 229 and Videoconference**

**On the following measure:  
S.B. 1201, RELATING TO CONDOMINIUMS**

Chair Keohokalole and Members of the Committee:

My name is Derrick Yamane, and I am the Chairperson for the Hawai'i Real Estate Commission (Commission). The Commission offers comments on this bill.

The purposes of this bill are to: (1) require registration for condominium associations to be on an annual basis, rather than on a biennial basis; (2) add an additional annual condominium education trust fund fee to be used to support the annual registration with attached documents of the association; (3) amend the documents required for association registration; (4) broaden the list of documents an association must maintain; and (5) clarify when such documents must be provided to unit owners.

The Commission supports the intent to assist condominium unit owners and prospective purchasers by establishing a central repository of association documents but has concerns with and questions the necessity of an additional database. Currently, the Commission maintains an electronic searchable database of registered condominium associations, which provides an association's developer's public reports, fidelity bond coverage, contact information of its designated officer, and other pertinent data. However, this proposal requires a new database be made available to the general public; the Commission is concerned that the State may be held liable in the event documents containing personal identifiable information protected by the U.S. Privacy Act of 1974 or other confidential information is inadvertently uploaded to the database. Consequently, the Commission respectfully requests language indemnifying the State should an association inadvertently upload confidential information into the proposed database.

Further, the proposed legislation may be confusingly duplicative of existing government services provided by the Bureau of Conveyances (Bureau) of the Department of Land and Natural Resources. The Bureau maintains an electronic searchable database of condominium declarations, bylaws, and any amendments or restatements, and operates the permanent document recording system for the State. For amendments to an association's governing documents to be enforceable, the amendments must be recorded at the Bureau. The Commission is concerned associations may misinterpret this proposed database as the official repository to record amendments to their governing documents.

For clarification purposes, the Commission asks whether the documents enumerated from page 5, line 10, to page 8, line 3, are intended for unit owners, prospective purchasers, and/or the general public. Section 514B-154(d), Hawai'i Revised Statutes, presently provides unit owners and prospective purchasers the right to receive most, if not all, of the aforementioned documents, and complaints regarding the withholding of documents would be handled by the Regulated Industries Complaints Office.

As this new proposal will require all registered associations, large and small, to upload the required documents, the Commission is also concerned that smaller, self-managed associations may not have the technological capability to comply with the proposed registration requirements and may require the services of a third-party to handle the uploading of documents. Should an association fail to satisfy the registration requirements prior to the established deadline, the association loses its standing to maintain any action or proceed in court until submitting a complete registration application, including payment of a penalty fee.

In addition, the Commission anticipates an influx of inquiries about annual association registrations and proposed requirements. For the Committee's information, the Commission has one staff member who processes the biennial association registrations. Should this measure move forward, the Commission requests sufficient appropriation and additional personnel to timely address association inquiries, and

facilitate the capability to process annual registrations and maintain association documents.

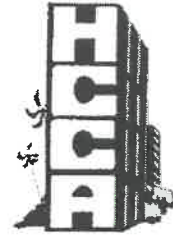
With respect to administrative issues related to implementation of this measure, the Commission's database currently does not have the capability for associations to upload the documents proposed for registration. Along with 51 other professional and vocational licensing authorities, the Commission is administratively attached to the Department of Commerce and Consumer Affairs' Professional and Vocational Licensing Division (Division); and accordingly, the Commission relies on the Division to provide for the maintenance and appropriate upgrades to its database. The Commission respectfully requests the Committee consider a delayed implementation date to provide time for associations to compile documents and for the Commission to work with the Division in upgrading its electronic database.

Finally, the Commission notes that this bill does not specify a retention period in the maintenance of documents which may consequently overwhelm the storage capacity of its database. To alleviate this matter, the Commission requests language providing an exemption from any records retention schedule as determined in chapter 94-3, HRS, relating to the retention and disposition of these newly uploaded association documents.

Thank you for the opportunity to testify on this bill.



**Hawaii Council of Associations  
of Apartment Owners**  
**DBA: Hawaii Council of Community Associations**  
1050 Bishop Street, #366, Honolulu, Hawaii 96813



February 25, 2023

Sen. Jarrett Keohokalole, Chair  
Sen. Carol Fukunaga, Vice-Chair  
Senate Committee on Commerce and Consumer Finance

Re: Testimony in Opposition to SB1201 Re Condominiums  
Hearing: Tuesday, February 28, 2023, 9:45a.m., Conf. Rm. #229

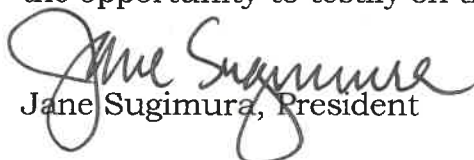
Chair Keohokalole and Vice-Chair Fukunaga and Members of the Committee:

I am Jane Sugimura, President of the Hawaii Council of Associations of Apartment Owners (HCAAO dba HCCA).

HCCA opposes this bill for the following reasons:

- There is no need to change the registration from biennial to annual or to increase the registration fee, which is currently about \$10/unit, to support the cost of collection and administration of condominium documents.
- Condominium governing documents, e.g., the Declaration, By-laws, House Rules, AOA Policies, are provided to unit owners when they buy their units. Current Hawaii law, i.e., HRS 514B-154.5 already requires associations to provide access or copies of the documents described in the bill, e.g., governing documents, meeting minutes, contracts, financials, etc., to owners.
- Condominium contracts and contact information of board members and condominium management should not be given to the DCCA and treated as public information. This information is already available to unit owners of their respective condominiums.
- This bill would change the time for a board to respond to an owner's request or inquiry from 30 days to 10 days, which is not reasonable or feasible since most boards meet only once every month.
- HCCA joins in the objections to this bill as specified in Richard Emery's testimony in opposition.

Accordingly, HCCA respectfully requests that you defer action on this bill. Thank you for the opportunity to testify on this matter.

  
Jane Sugimura, President

## Testimony In Support of SB1201

**Submitted for:** Commerce and Consumer Protection (CCP) Committee Hearing, scheduled to be heard on Tuesday, 2/28/23 at 9:45 AM.

Aloha Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee,

My name is Greg Misakian and I am the 2<sup>nd</sup> Vice President of the Kokua Council, one of Hawaii's oldest elder advocacy groups. The Kokua Council sponsored SB1201 on behalf of its membership and kupuna throughout Hawaii.

I am also a Board Member of the Waikiki Neighborhood Board, which adopted a resolution at the February 2023 Board Meeting to support Bills related to better consumer protections for condominium owners.

**I speak on behalf of both groups to say, I strongly support SB1201.**

**The reasons why are as follows:**

- 1) Currently registration for condominiums is done biennially. This poses issues when associations do not update information as required, including Directors names and titles, and management company agents. As an example, the registration information found online for my association, the Keoni Ana, has incorrect information including; the wrong Board President, incorrect Directors, incorrect officer titles, incorrect mailing address, incorrect contact information, incorrect Community Manager, incorrect reserve information, and incorrect answer to the mediation/arbitration question. To summarize, almost all of the information is incorrect. This has also caused problems when others were trying to contact the correct managing agent. As associations have annual meetings and elect new Directors each year, requiring the registration to be annual makes more sense, and will help to ensure that data is more current and up-to-date.
- 2) When the information is incorrect, as stated above in my first example, then any prospective buyers will also have this "incorrect" information when making purchasing decisions. If they rely on this information to make their purchase, then that poses a potential liability to both the seller and the association. Knowing if there is a mediation at an association and how much the reserves are funded are extremely important pieces of information.
- 3) Having the registration done annually will also provide an efficient process for submitting and making available documents published annually, including; Financials, Insurance, Reserve Study, Annual Meeting Minutes, as well as contracts and other documents. Owners have a right to access these documents and not have to jump

through hoops to do so, by sending written requests, signing affidavits, paying high costs, or denied access. My management company, Associa, has been trying to charge me \$1/page for electronic copies of documents, on top of hours of administrative time charged to the 8 hours of free time allocated annually. This practice needs to stop.

- 4) There needs to be transparency and accountability at associations, and disclosure of documents is paramount to ensuring the association is being managed properly, the building is being maintained properly, and the finances are being spent properly.
- 5) There is no cost to the State, and the proposed cost to each owner is just \$1.50/year.

SB1201 and other condominium bills introduced this year are urgently needed to protect all owners of condominiums from the predatory practices of rogue; Directors, Boards, Attorneys, Management Companies, Community Managers, and others overseeing or managing associations or their meetings.

There is also one group of people who regularly testify against many of the most common-sense bills that would provide better consumer protections to condominium owners. Some of them make large donations to the campaigns of many legislators and the decision makers who chair committees, and some of them meet regularly and spread their narrative wherever they present.



The image shows a YouTube video player interface. At the top, there is a search bar and the YouTube logo. The video content features a man, Rich Emery, speaking in front of a tropical background with palm trees and a beach. A caption below the video reads "Rich Emery Host, Condo Insider". In the bottom right corner of the video frame, there is a "Think Tech Hawaii" logo. Below the video player, the video title "The Perks of Parliamentarians - Steve Glanstein" is displayed. To the left of the title is the "ThinkTech Hawaii" channel logo, which includes the text "17.3K subscribers" and a "Subscribe" button. To the right of the title are icons for likes (8), comments, share, download, and a menu icon.



The Perks of Parliamentarians - Steve Glanstein  
ThinkTech Hawaii 17.3K subscribers  
8 likes, Share, Download

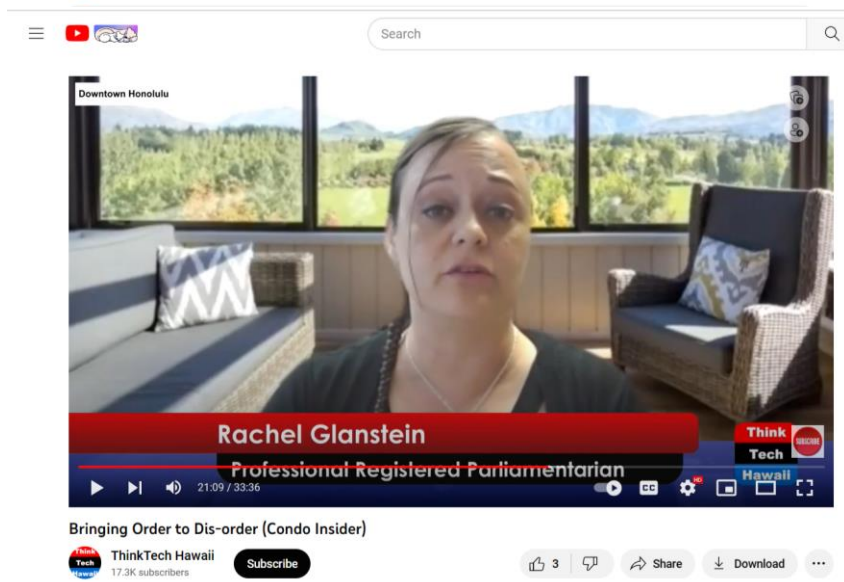
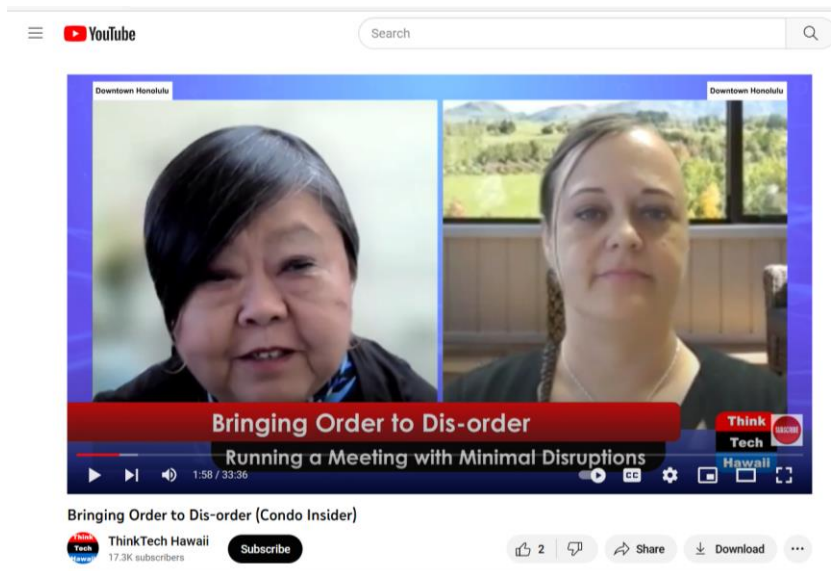


The Perks of Parliamentarians - Steve Glanstein  
ThinkTech Hawaii 17.3K subscribers  
8 likes, Share, Download



Bringing Order to Dis-order (Condo Insider)  
ThinkTech Hawaii 17.3K subscribers  
2 likes, Share, Download





**Because there are those who testify that do not always provide full disclosure:**

**Richard Emery** is currently on the Real Estate Commission. He previously owned Hawaii First Inc., which he sold to Associa in 2011. Certified Management Inc., dba Associa Hawaii, is where the merger rolled into. He is also currently employed by Associa Hawaii as their V.P. of Governance, which in my opinion I see as a conflict of interest. Mr. Emery has been a Director of the Hawaii Council of Community Associations (HCCA) and may still currently be. Mr. Emery often testifies in opposition of condominium related measures which would provide better consumer protections for owners.

**Yuriko Sugimura (aka Jane Sugimura)** is an attorney. She states she is the president of the Hawaii Council of Associations of Apartment Owners (HCAAO), dba Hawaii Council of Community Associations (HCCA). She does not speak on my behalf or my association's behalf. Ms. Sugimura often testifies in opposition of condominium related measures which would provide better consumer protections for owners.

**Steve Glanstein** is a Professional Registered Parliamentarian (PRP) with the National Association of Parliamentarians (NAP), who often testifies in opposition of condominium related measures which would provide better consumer protections for owners.

**Rachel Glanstein** identifies herself as a Professional Registered Parliamentarian (PRP), (although I could not find her listed at the NAP website). Ms. Glanstein often testifies in opposition of condominium related measures which would provide better consumer protections for owners.

My understanding is that parliamentarians are supposed to be "unbiased" professionals, and I truly do not understand how parliamentarians are providing testimony related to condominium measures in front of our State Legislators. Especially since; when there is more conflict within associations, parliamentarians have more opportunity to profit.

**Some additional facts:**

- 1) Parliamentarians are not licensed in the State of Hawaii, which is something that I think should be required.
- 2) One or two parliamentarians seem to have a great deal of influence. Their testimony, which often opposes condominium bills, is frequently seen at the top of the published testimony.

When consumer protections are weak, attorneys also profit more, as mediation, arbitration, and litigation are the only ways to address violations of laws and governing documents. With less regulations and consumer protections, association Boards can use their power, association attorneys, and association funds against owners. If the action against an owner is unwarranted, unfair, or the result of a rogue; Director, Board, Attorney, Management Company Agent, Resident Manager or Site Manager, then the owner will suffer the consequences. These consequences are real, and often in the form of retaliation, adverse actions, fines, collections activities, and emotional and financial abuse. Many lead to litigation and claims against the D&O insurance policy, leading to increased costs to the association and sometimes special assessments to pay legal costs not covered by the D&O policy. Other serious concerns, including kickbacks, embezzlement, misappropriation of association funds, violations of HRS 514B, violations of the governing documents, and breach of fiduciary duty, need strong consumer protection laws and enforcement.

### **Some questions the committee members and every legislator need to ask.:**

- 1) Why are Senior Staff from the Real Estate Commission, the Regulated Industries Complaints Office (RICO), and the Department of Commerce and Consumer Affairs (DCCA), often seen opposing measures that are meant to help consumers and condominium owners?
- 2) Why are so many Attorneys showing up to testify? And who is paying them?
- 3) Why is a Site Manager or Resident Manager testifying? They are not stakeholders and should be focused on their job of managing and maintaining the property they oversee.
- 4) And who are the others who testify to oppose many of these measures? Just look at the names and you will see they are often the same group over and over.

When you dig a little deeper, as I have done, you will see some of them are also attorneys who do not disclose this. And others are on their boards in positions of power, or manage and oversee associations. Many know each other and work together in a coordinated effort to oppose these measures.

I respectfully ask the committee members and legislators that accept testimony from those on behalf of condominium owners or condominium associations, whether from a Council, Group, Association, National Association, or other organization, to please confirm that they are authorized to speak on others behalf. They do not speak on my behalf or my condominium association's behalf.

### **Management Company Concerns**

One of the big complaints repeated year after year is that Management Companies are not properly overseeing Associations. Community Managers are not licensed or required to be, and are often not qualified or experienced enough to be a Community Manager. There have also been numerous cases of improprieties and unlawful acts by Community Managers, including a very prominent one in the news in 2014 where the former CEO of Certified Hawaii (now Associa Hawaii) was charged with 14 felony counts of theft, involving numerous associations. She was later convicted and served jail time. At my association we also have concerns with Associa Hawaii, who was voted out last year at our Annual Meeting in March, yet our Board has done nothing to replace them and our 2023 Annual Meeting and Election is only weeks away. A management company that our membership has voted out, will be overseeing our annual election.

**Further, I would like to provide additional and relevant testimony on behalf of myself a condominium owner, and other owners at my association who have shared their concerns with me (some who are kupuna).:**

There is serious malfeasance at my association, including; numerous violations of Hawaii Revised Statutes 514B, our Governing Documents, Federal, State, and City laws, ordinances, and/or codes. Required Department of Planning and Permitting (DPP) permits for building projects and work requiring permits are not being obtained. Numerous notices of violation have been issued to my association by DPP and other agencies. Adverse actions and improper collections activities are being directed towards owners and kupuna. I have extensive evidence to support this, and would be happy to provide some to the Committee and others in the State Legislature. A public official on the Board of Directors is involved. That public official is a former Deputy Attorney General for the State of Hawaii, and is currently Corporation Counsel for the City and County of Honolulu. That same public official recently impeded the investigation of a Federal EPA Investigator related to lead paint. I ask Senator Moriwaki, my District Senator, to assist me in opening an investigation into the misconduct of this public official and others who colluded with him.

To further highlight just how bad things are at my association, our previous management company, Hawaiiiana and our previous association attorney, Milton Motooka, both quit us due to concerns they had with Directors on the Board (from what I have been told).

When our Legislators see what is really going on, which is being repeated often in associations throughout Hawaii, you will have the proper knowledge and understanding to make decisions that will help the people who are counting on you, and not help the people who are counting their profits.

I respectfully ask the Committee and all Legislators to please do what is right for the “people,” and not the “profit” of others who appear to be self-serving and not acting in the best interest of owners, many of which are kupuna. **And I respectfully ask the Committee and all State Legislators to please enact SB1201.**

Mahalo,

Gregory Misakian

2<sup>nd</sup> Vice President, Kokua Council  
Board Member, Waikiki Neighborhood Board

*The Kokua Council is one of Hawaii's oldest elder advocacy groups. We advocate for issues, policies, and legislation that impact the well-being of seniors and our community.*

**The Senate**  
**Committee on Commerce and Consumer Protection**  
**Tuesday, February 28, 2023**  
**9:45 a.m.**

To: Chair Jarrett Keohokalole  
Re: SB 1201, Relating to Condominiums

Aloha Chair Keohokalole, Vice-Chair Fukunaga, and Members of the Committee,

I am Lila Mower, president of Kokua Council, one of Hawaii's oldest advocacy groups, advocating for good governance for over 50 years. We focus on policies and practices which can impact the well-being of seniors and our community.

**Kokua Council supports Senate Bill 1201**, the creation of a Statewide database of condominium association documents to protect consumers.

The proposed online registry of documents:

- encourages integrity of association governance because of the transparency demanded,
- provides access to essential information at less than the cost of a cup of coffee per unit owner each year,
- allows prospective owners the opportunity to review more than the minimal documents currently provided to enable a more informed purchase and potential risk analysis, and
- modernizes, streamlines, and encourages good association governance.

Most document requests will no longer be needed,

- alleviating RICO of its primary function to condo owners, and
- saving owners as much as hundreds of dollars for each document requested, which fees accrue to benefit property management companies and not the owners' associations.\*

The accessibility of the documents proposed in this bill can reduce the burden of condo-related disputes on the Court system, which has the positive consequence of mitigating rising association insurance costs.

By requiring access to these documents, diligence and fidelity to fiduciary duty are encouraged, which can stimulate more directors to be educated and knowledgeable about their duties and responsibilities.

While opponents to this measure may claim that some associations provide access to documents on associations' websites, these sites are controlled by directors, managers, and management companies who do not have the same motives and do not provide crucial documents which are needed for community safety and harmony.

This bill may also be opposed by directors as this measure provides condo owners and prospective purchasers equal access to reports, investigations, and executed contracts that are currently availed to directors and advantages them with "insider information" and "insider trading," as those reports and investigations may reveal that the property demands costly repairs for which owners will need to prepare financially or to sell. By withholding those documents, some directors sell at elevated prices

Kokua Council

compared to later sales when those investigations are finally revealed, if ever, or when obvious deterioration demands repair.

This bill can prevent situations like the recently reported One Archer Lane condominium association incident, [https://www.kitv.com/news/hundreds-of-condo-owners-at-one-archer-lane-hit-with-up-to-21-000-repair/article\\_20b4fb00-b19d-11ed-b4fa-5f97730dfa25.html](https://www.kitv.com/news/hundreds-of-condo-owners-at-one-archer-lane-hit-with-up-to-21-000-repair/article_20b4fb00-b19d-11ed-b4fa-5f97730dfa25.html).

Without access to critical information, owners may be financially overwhelmed, having to spend their limited resources on special assessments, loan repayments, or both, while under the threat of liens and foreclosures, being penalized for years of unexposed inadequate planning by their boards.

SB 1201 protects associations, their owners, and prospective consumers, increases knowledge and prevents liability or worse, minimizes risks, reduces internal disputes, and encourages improved governance.

**Kokua Council encourages the Committee to pass SB 1201.**

Mahalo for the opportunity to testify.

\*In an estimate based on the sale of Hawaii's condo units from 2011 through 2022, using \$400 as the average cost of a Seller's document package, even if these were electronic copies <https://www.hawaiiirealtors.com/files?url=/wp-content/uploads/2023/01/2022-Annual-Statewide-Statistics-Report.pdf>, these fees generated approximately \$38 million. Additionally, because of the high demand to refinance during that same period as rates dropped to as low as 2.5% for a 30-year fixed-rate mortgage, <https://www.macrotrends.net/2604/30-year-fixed-mortgage-rate-chart>, and because lenders required the same or even more documents of borrowers, <https://selling-guide.fanniemae.com/Selling-Guide/Origination-thru-Closing/Subpart-B4-Underwriting-Property/Chapter-B4-2-Project-Standards/Section-B4-2-1-General-Project-Standards/1032996351/B4-2-1-01-General-Information-on-Project-Standards-04-07-2021.htm>, the fees earned from owners by management companies and their 3<sup>rd</sup>-party agents may have been more than double that estimate.

Hui 'Oia'i'o

**The Senate**  
**Committee on Commerce and Consumer Protection**  
**Tuesday, February 28, 2023**  
**9:45 a.m.**

To: Chair Jarrett Keohokalole  
Re: SB 1201, Relating to Condominiums

Aloha Chair Keohokalole, Vice-Chair Fukunaga, and Members of the Committee,

I am Lila Mower, the leader of Hui 'Oia'i'o, a coalition of over three hundred property owners--mostly seniors--from over 150 common-interest associations throughout Hawaii, and served as an officer on three condominium associations' boards.

**Hui Oia'i'o supports Senate Bill 1201**, the creation of a Statewide database of condominium association documents to protect consumers.

The proposed online registry of documents:

- encourages integrity of association governance because of the transparency demanded,
- provides access to essential information at less than the cost of a cup of coffee per unit owner each year,
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- modernizes, streamlines, and encourages good association governance.

Most document requests will no longer be needed,

- alleviating RICO of its primary function to condo owners, and
- saving owners as much as hundreds of dollars for each document requested, which fees accrue to benefit property management companies and not the owners' associations.\*

The accessibility of the documents proposed in this bill can reduce the burden of condo-related disputes on the Court system, which has the positive consequence of mitigating rising association insurance costs.

By requiring access to these documents, diligence and fidelity to fiduciary duty are encouraged, which can stimulate more directors to be educated and knowledgeable about their duties and responsibilities.

While opponents to this measure may claim that some associations provide access to documents on associations' websites, these sites are controlled by directors, managers, and management companies who do not have the same motives and do not provide crucial documents which are needed for community safety and harmony.

This bill may also be opposed by directors as this measure provides condo owners and prospective purchasers equal access to reports, investigations, and executed contracts that are currently availed to directors and advantages them with "insider information" and "insider trading," as those reports and investigations may reveal that the property demands costly repairs for which owners will need to prepare financially or to sell. By withholding those documents, some directors sell at elevated prices

Hui 'Oia'i'o

compared to later sales when those investigations are finally revealed, if ever, or when obvious deterioration demands repair.

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Without access to critical information, owners may become financially overwhelmed, having to spend their limited resources on special assessments, loan repayments, or both, while under the threat of liens and foreclosures, and being penalized for years of unexposed inadequate planning by their boards.

SB 1201 protects associations, their owners, and prospective consumers, increases knowledge and prevents liability or worse, minimizes risks, reduces internal disputes, and encourages improved governance.

**The many participants of Hui 'Oia'i'o encourage the Committee to pass SB 1201.**

Mahalo for the opportunity to testify.

\*In an estimate based on the sale of Hawaii's condo units from 2011 through 2022, using \$400 as the average cost of a Seller's document package, even if these were electronic copies <https://www.hawaiiirealtors.com/files?url=/wp-content/uploads/2023/01/2022-Annual-Statewide-Statistics-Report.pdf>, these fees generated approximately \$38 million. Additionally, because of the high demand to refinance during that same period as rates dropped to as low as 2.5% for a 30-year fixed-rate mortgage, <https://www.macrotrends.net/2604/30-year-fixed-mortgage-rate-chart>, and because lenders required the same or even more documents of borrowers, <https://selling-guide.fanniemae.com/Selling-Guide/Origination-thru-Closing/Subpart-B4-Underwriting-Property/Chapter-B4-2-Project-Standards/Section-B4-2-1-General-Project-Standards/1032996351/B4-2-1-01-General-Information-on-Project-Standards-04-07-2021.htm>, the fees earned from owners by management companies and their 3<sup>rd</sup>-party agents may have been more than double that estimate.



**SB-1201**

Submitted on: 2/26/2023 10:05:21 PM

Testimony for CPN on 2/28/2023 9:45:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>    |
|---------------------|---------------------|---------------------------|-------------------|
| Dale A. Head        | Individual          | Support                   | Remotely Via Zoom |

Comments:

SB1201 Testimony in SUPPORT

Aloha CPN Chair Jarret Keohokalole, Vice Chari Carol Fukunag, & Committee Members Angus McKelvey, Herbert M. 'Tim' Richards III, and, Brenton Awa.

This particular Bill is long overdue. Supposedly members of an HOA (Home Owners Association) are entitled to review and obtain copies of any Association documents. Yet, oftentimes the Managing Agent (Property Management Company) deems to deny such a request without explanation. Well, gee, there is something with the title of Regulated Industries Complaint Office (RICO). While they will accept a Complaint regarding denial of requested documents, does not mean they will enforce state law and obtain them of an HOA member. Although I reside in a condominium for about 35 years, with, more than a decade on its Board of Directors, on three occasions I filed Complaints with RICO and never did receive the requested documents. Bad Karma there.

Response time from RICO is untimely, taking weeks to months, creating an obstacle which is unnecessary. On my last try with them, even after pinpointing where said documents were kept on site in our HOA Office, and, or, in custody of the Managing Agent, RICO brushed me off choosing to except a ludicrous excuse that the documents had been "lost". What a joke of a state agency they are, in my opinion.

***Please pass SB1201 without amendments.***

***Respectfully, Dale A. Head (dale.head@aol.com)***

PS - I am attaching here PDFs of my Document Request (DocReq) and the very belated response, titled 'Rico Fails'.

**SB-1201**

Submitted on: 2/25/2023 10:09:01 AM

Testimony for CPN on 2/28/2023 9:45:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>    |
|---------------------|---------------------|---------------------------|-------------------|
| Jeff Sadino         | Individual          | Support                   | Remotely Via Zoom |

Comments:

**I SUPPORT SB 1201.**

I support this Bill because it promotes good governance by making it easier for Owners to access the documents of their association. This is needed because the poor training of the Managing Agents and AOA attorneys has made requesting documents much more difficult than it should be based on how it is described in existing law.

To highlight one point, I strongly support the sections where the requirement to submit a notarized affidavit is replaced with the more straightforward and largely equivalent “written certification.”

I also support the removal of the phrase from this attestation “for the protection of the interests of the association.” In my interpretation, this means that if I were to find fraud or board negligence in the documents, I would not be able to use this information (in a lawsuit or other format) against the association to correct this illegal behavior.

I was told by a RICO investigator that all they can do to assist Owners is to request documents. If the documents were available pursuant to this Bill, we could save money since RICO would not have to do this anymore.

Thank you for the opportunity to submit testimony,

Jeff Sadino

Committee on Commerce and Consumer Protection

February 28, 2023



**SB-1201**

Submitted on: 2/26/2023 1:27:10 PM

Testimony for CPN on 2/28/2023 9:45:00 AM

| <b>Submitted By</b> | <b>Organization</b>               | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|-----------------------------------|---------------------------|------------------------|
| Idor Harris         | Testifying for Honolulu Tower AOA | Oppose                    | Written Testimony Only |

Comments:

Honolulu Tower, a 396 unit condominium, was built in 1982. At the Board of Directors Meeting on February 6, 2023, the board voted to object to provisions in bills which require annual instead of biennial registration of condos, add to documents required for registration, add additional annual condo education trust fund fee to support the annual registration.

Please accept this testimony opposed to the above provisions in SB1201.

Idor Harris, Resident Manager



**OPPOSE - SB 1201**

February 26, 2023

My name is John Bouchie and I am a member of the Legislative Action Committee of the Community Associations Institute, Hawaii Chapter ("CAI-LAC"). We represent the condominium and community association industry. I am also Executive Vice President with Hawaiiana Management Company.

**CAI-LAC opposes this Bill.**

The registration is currently done every two years. There is no purpose to conduct an annual registration. This additional cost for annual registration would be an expense of the unit owner and thus increase maintenance fees in an environment that does so already with the high inflation rate here in the State. In addition to the cost annual registration vs. only being done every two years, Management Companies would more than likely charge the Associations an additional fee to complete this task every year.

This Bill requires the production and submission of additional documents. This will absolutely increase monthly fees from the unit owner and the cost of production will be passed on to the condominium by the Managing Agent. Given the volume of documents involved, a ten day production time is unrealistic.

In accordance with 514B, Management Agents and condominiums are required to produce documents for owners within 30 days. This is enforced by RICO and in reviewing filed complaints received by RICO vs. the number of condominiums in the State, the complaint number is extremely low. Additionally, the annual production of documents will only prove to be quickly outdated as many condominiums amend their documents from time-to-time. If such filed documents are used for the sale or re-finance of units and are outdated, certain liability may exist. The true custodian of record of the condominium is the Managing Agent and documents are already provided to the requesting unit owner in accordance with 514B. The State having the documents available in a public forum would create the perception that they are the custodial of documents and thus creating a transfer of liability from the Managing Agent to the State if documents are outdated or incomplete. I believe there will be a financial burden on the State as there will be a need to create positions handle the 10's of thousands of document involved and questions that certainly will be asked.

This Bill changes procedures which prove to already work. This Bill will increase unit owner's fees, create liability on the State level, and reduce the privacy of the condominium.

John Bouchie  
CAI LAC Hawaii

**SB-1201**

Submitted on: 2/25/2023 8:18:23 PM

Testimony for CPN on 2/28/2023 9:45:00 AM

| <b>Submitted By</b> | <b>Organization</b>                          | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|--|---------------------------|------------------------|
| Mike Golojuch, Sr.  | Testifying for Palehua Townhouse Association | Oppose                    | Written Testimony Only |

Comments:

Palehua Townhouse Association opposes SB1201.

Mike Golojuch, Sr., President



WAIKIKI NEIGHBORHOOD BOARD NO. 9

/o NEIGHBORHOOD COMMISSION • 925 DILLINGHAM BLVD. SUITE 160 • HONOLULU, HAWAII, 96817  
PHONE (808) 768-3710 • FAX (808) 768-3711 • INTERNET: <http://www.honolulu.gov>

Date: February 26, 2023

At the February 14, 2023 Regular Meeting of the Waikiki Neighborhood Board the board supported the concept of Senate Bill 1201.

The Waikiki Community is heavily housed in Condominiums and each owner and board of director must be assured that documents are properly maintained and available for review by owners upon request.

As this process will add to the workload of the management agency or to a board that self-manages a project it is reasonable that funding for this process should be considered when preparing the annual budget for a condominium.

Mahalo for your concern,

*Robert Finley*

Robert Finley  
Chair

**SB-1201**

Submitted on: 2/24/2023 6:23:03 PM

Testimony for CPN on 2/28/2023 9:45:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>            |
|---------------------|---------------------|---------------------------|---------------------------|
| Harendra Panalal    | Individual          | Support                   | Written Testimony<br>Only |

Comments:

We need more transparency in AOUO matters



**SB-1201**

Submitted on: 2/24/2023 9:07:33 PM

Testimony for CPN on 2/28/2023 9:45:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>            |
|---------------------|---------------------|---------------------------|---------------------------|
| Marcia Kimura       | Individual          | Support                   | Written Testimony<br>Only |

Comments:

I support this long overdue measure that would make possible free access by owners to condominium records and documents, and end benefitting from document review charges by management or third parties.

**SB-1201**

Submitted on: 2/25/2023 8:58:31 AM

Testimony for CPN on 2/28/2023 9:45:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>            |
|---------------------|---------------------|---------------------------|---------------------------|
| Jan Kershner        | Individual          | Support                   | Written Testimony<br>Only |

Comments:

As a board member for Sunset Towers, I see many documents that I believe should be available to every condo owner. I joined the board when I had a chance so that I could repair all the problems created by previous board members. Receiving documents that the board has in a timely manner is the only way to have an understanding of what the condo board is doing and why. Most distrust of condo boards is due to the lack of information that owners have and this can be mostly eliminated by this bill.

**SB-1201**

Submitted on: 2/25/2023 6:29:01 PM

Testimony for CPN on 2/28/2023 9:45:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>            |
|---------------------|---------------------|---------------------------|---------------------------|
| R Laree McGuire     | Individual          | Oppose                    | Written Testimony<br>Only |

Comments:

Aloha,

I concur with the personal testimony dated 2/25/23, submitted by Richard Emery in opposition to SB 1202 and incorporate by reference herein the arguments made by him in that testimony.

Mahalo for the opportunity to testify in strong opposition to SB 1201.

Respectfully submitted,

R. Laree McGuire

**SB-1201**

Submitted on: 2/26/2023 1:27:29 PM

Testimony for CPN on 2/28/2023 9:45:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|---------------------|---------------------------|------------------------|
| lynne matusow       | Individual          | Oppose                    | Written Testimony Only |

Comments:

First let me express my displeasure by not knowing who or what requested this bill be introduced. All it says is by request. That is not transparency. Was it a developer, if so, who? A managing agent, if so who? A dissatisfied condo owner? If so who? The public has a right to know. I don't see you accepting testimony from "anonymous." Why should the public be subject to an anonymous requester?

I have been the owner occupant of a high rise condo for 35 years. Each year I notice bills in the legislature which affect me financially. Every added cost raises my maintenance. Why should there be annual registration, which causes more work and costs to comply with, when there isn't annual renewal of drivers' licenses? There have been numerous bills at the legislature which will increase my mainenance fees and force the property to not spend money on needed structural repairs. There was the towing bill, which is now dead. There was the required earthquake insurance bill, which is also dead. That bill would have increased our insurance, which is skyrocketing, to go up at least 25% more. One year, when you were looking for more money for the state, you tried to impose the GET on maintenance.

SB1201 is an unnecessary burden, from an anonymous source. It should die now.

**SB-1201**

Submitted on: 2/26/2023 4:41:18 PM

Testimony for CPN on 2/28/2023 9:45:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|---------------------|---------------------------|------------------------|
| Diann Karin Lynn    | Individual          | Support                   | Written Testimony Only |

Comments:

Dear CPN Committee Members,

We Condo Owners already pay for documents pertaining to the governance of our Associations through contributions to the AOA. Depending on details, if we want to get copies of these documents, we must first fill out a notarized affidavit and then pay (again) on the order of \$1/page (even for electronic versions). This money doesn't go to the AOA but to third parties who share the fees with management companies. How is that right?

This bill, SB1201, would provide Owners free online access to these "condo docs" through an existing Statewide database, which would obviate the time and expense we must currently go through to get copies. The bill would also allow access to pertinent contracts our Associations (AKA we, the Owners) are party to or have obligations or liabilities under; insurance policies (which we are paying for); a list of our AOAs' planned annual capital expenditures; a 10-year record of our structural assessments; and a description of the location where permits for work in common areas are posted, so we know we are in compliance with building codes, bond requirements, and insurances.

Any single family home Owner would of course have unfettered access to all of these documents as a matter of course. Condo Owners are no different and should not be held hostage to third parties and additional fees to be able to access their important owner materials.

Please pass this important bill ensuring this access to enable effective self-governance of our properties.

Mahalo  
Karin Lynn  
Mō'ili'ili

**SB-1201**

Submitted on: 2/26/2023 7:43:18 PM

Testimony for CPN on 2/28/2023 9:45:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>            |
|---------------------|---------------------|---------------------------|---------------------------|
| Raelene Tenno       | Individual          | Support                   | Written Testimony<br>Only |

Comments:

Aloha, I am in support of SB1201 and would like to suggest that the registration include the email for the condo. The email should be one that would remain constant. This will tremendously help the Realtors, Mortgage Industry and buyers in communicating directly with the condo property. Uploading these documents to DCCA, I hope will put a stop to the problems of receiving condo documents from the Managing Agent, Condo Property or the board.

Thank you for allowing for testimony. Raelene Tenno

**SB-1201**

Submitted on: 2/27/2023 7:52:04 AM

Testimony for CPN on 2/28/2023 9:45:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|---------------------|---------------------------|------------------------|
| Peter R Daspit      | Individual          | Support                   | Written Testimony Only |

Comments:

My Testimony for SB1201

Dear CPN Committee,

It seems unfair that condo owners have to pay twice for documents – once through fees to the AOA, and then again to third parties who share fees with management companies (surprise).

SB1201 would provide online access to needed documents through the ALREADY existing Statewide database, and so make things so much smoother and easier, and eliminate the fees to the third-party middlemen. The bill would also allow access to contracts the owners are party to, pertinent insurance policies, AOA capital expenditures, records of past structural assessments (often overlooked but sometimes vital, as we've seen of late).

Any single-family home Owner would of course have easy access to all of these documents, since they'd be important enough to keep in a handy file at home. Condo Owners are no different, and should not be held hostage to third parties and additional fees to be able to access their equally important papers related to home ownership.

Please consider these thoughts, and pass this important bill ensuring fair access to owners of condos – condos are homes too.

Mahalo,

Peter Daspit

**SB-1201**

Submitted on: 2/27/2023 7:59:10 AM

Testimony for CPN on 2/28/2023 9:45:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|---------------------|---------------------------|------------------------|
| Lourdes Scheibert   | Individual          | Support                   | Written Testimony Only |

Comments:

The key to "self-governance" is transparency. Without transparency, Democracy does not exist.

SB1201 offers transparency to public documents owned by the members of the Association. In a time when digital information provides quick access, this proposal is timely to access anytime and not have to wait for the management company or the 3rd party to make available the requested documents. A fee of \$1 per page can amount to hundreds of dollars. Today, digital copies are more than likely emailed while still incurring the \$1 per page fee. Currently, the free administrative fee offers 8 hours allowed per association limits the time and can be viewed as a discouragement. Another fee can be imposed by administration to the owner who exceeds 8 hours for research. I think an hourly wage is paid for the administrator to remain in the room while reviewing the documents after eight hours for security reasons.

These fees are paid to a 3rd party administrator or your property management company. That amount can accumulate to a large \$ amounts of income for documents that are owned by the Association members. Multiplied by hundreds of registered condominium associations. Thats a lot of money. What if these fees were paid to the Association and the administrator was paid on an hourly fee to retrieve the documents and transfer digital copy per email?

Please pass SB1201

Lourdes Scheibert



**SB-1201**

Submitted on: 2/27/2023 8:11:37 AM

Testimony for CPN on 2/28/2023 9:45:00 AM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>            |
|---------------------|---------------------|---------------------------|---------------------------|
| Kate Paine          | Individual          | Support                   | Written Testimony<br>Only |

Comments:

Owners, not industry / lobbyists, need ledgislative support on a known problem facing underserved. Overpricing, stonewalling are common issues that need relief.