

**HB-226**

Submitted on: 2/13/2023 7:58:25 PM

Testimony for HSG on 2/15/2023 9:30:00 AM

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

Comments:

Our association opposes Hb226. Please defer this bill.

Mike Golojuch, Sr., President



**HAWAII STATE ASSOCIATION OF PARLIAMENTARIANS  
LEGISLATIVE COMMITTEE  
P. O. Box 29213  
HONOLULU, HAWAII 96820-1613  
E-MAIL: [STEVEGHI@GMAIL.COM](mailto:STEVEGHI@GMAIL.COM)**

February 13, 2023

Honorable Rep. Troy N. Hashimoto, Chair  
Honorable Rep. Micah P.K. Aiu, Vice-Chair  
House Committee on Housing (HSG)  
Hawaii State Capitol, Room 312  
415 South Beretania Street  
Honolulu, HI 96813

**RE: Testimony in OPPOSITION to HB226; Hearing Date: February 15, 2023 at 9:30 a.m. in House Comm. conference room 312/videoconference; sent via Internet**

Dear Rep. Troy N. Hashimoto, Chairman; Rep. Micah P.K. Aiu, Vice-Chair; Committee Members:

Thank you for the opportunity to provide testimony on this bill.

The Hawaii State Association of Parliamentarians (“HSAP”) has been providing professional parliamentary expertise to Hawaii since 1964.

I am the chair of the HSAP Legislative Committee. I’m also an experienced Professional Registered Parliamentarian who has worked with condominium and community associations every year since I began my parliamentary practice in 1983 (more than 2,000 meetings in 40 years). I was also a member of the Blue Ribbon Recodification Advisory Committee that presented the recodification of Chapter 514B to the legislature in 2004.

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.

This testimony is presented in OPPOSITION to HB226.

### **Summary of Bill**

The bill provides that members of the board of directors shall owe the corporation a fiduciary duty and exercise the degree of care and loyalty required of an officer or director of a corporation organized under chapter 414.

### **Comments**

The bill appears well-intentioned. However, we maintain it is not necessary.

HRS §421I-11 states,

**§421I-11 Application of Hawaii business corporation act.** The provisions of the Hawaii Business Corporation Act, chapter 414, shall apply to cooperative housing corporations, except to the extent that the provisions of chapter 414 are inconsistent with this chapter.

**Cooperatives already have to comply with Chapter 414 unless the provisions of chapter 414 are inconsistent with this chapter [Chapter 421I].**

HRS §414-221 states,

**[§414-221] General standards for directors.** (a) A director shall discharge the director's duties as a director, including the director's duties as a member of a committee:

- (1) In good faith;
- (2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
- (3) In a manner the director reasonably believes to be in the best interests of the corporation.

(b) In determining the best interests of the corporation, a director, in addition to considering the interests of the corporation's shareholders, may consider, in the director's discretion, any of the following factors:

- (1) The interests of the corporation's employees, customers, suppliers, and creditors;
- (2) The economy of the State and the nation;
- (3) Community and societal considerations, including, without limitation, the impact of any action upon the communities in or near which the corporation has offices or operations; and
- (4) The long-term as well as short-term interests of the corporation and its shareholders, including, without limitation, the possibility that these interests may be best served by the continued independence of the corporation.

(c) In discharging duties as a director, the director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

- (1) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;
- (2) Legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence; or
- (3) A committee of the board of directors of which the director is not a member if the director reasonably believes the committee merits confidence.

(d) A director is not acting in good faith if the director has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (c) unwarranted.

(e) A director is not liable for any action taken as a director, or any failure to take any action, if the director performed the duties of the director's office in compliance with this section.

**The limited requirement in “degree of care and loyalty” in HB226 could lead to disputes over whether the more detailed requirement in HRS §414-221 is overridden by HB226 as provided in the last clause of HRS §421I-11.**

**Summary:**

The bill is not needed and will have unintended consequences. Board members are clearly held to a high standard by the existing statutory construction.

**We respectfully ask that the Committee defer or hold this bill.**

If you require any additional information, your call is most welcome. I may be contacted via phone: 423-6766 or through e-mail: [Steveghi@Gmail.com](mailto:Steveghi@Gmail.com). Thank you for the opportunity to present this testimony.

Sincerely,

*Steve Glanstein*

Steve Glanstein, Professional Registered Parliamentarian  
Chair, HSAP Legislative Committee  
SG:tbs/Amendments

Rachel M. Glanstein  
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February 14, 2023

House Committee on Housing (HSG)  
Hawaii State Capitol, Room 312  
415 South Beretania Street  
Honolulu, HI 96813

RE: Testimony in Opposition to HB226

Aloha,

Thank you for the opportunity to provide testimony on this bill. This testimony is provided in opposition to HB226. Please defer or hold this bill.

I am a professional registered parliamentarian and I am often engaged to chair association meetings, and sometimes even board meetings. I also serve as secretary for my own condo board.

Any legislation that makes it more difficult to serve in an unpaid volunteer position on an association board is not a good idea. Board members are already held to a high authority by existing statutes. The changes proposed in this bill are not necessary.

Mahalo,

Rachel M. Glanstein



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



February 14, 2023

Rep. Troy Hashimoto, Chair  
Rep. Micah Aiu, Vice-Chair  
House Committee on Housing

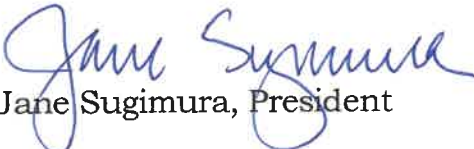
Re: Testimony in Opposition to  
HB226 Re Cooperative Housing Corporations  
Hearing: Wednesday, February 15, 2023, 9:30 a.m., Conf. Rm. #312

Chair Hashimoto, Vice-Chair Aiu and Members of the Committee:

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

HCCA opposes this bill and joins in the testimony of Steve Glanstein of the Hawaii State Association of Parliamentarians and asks that you defer action on this bill based on the language in HRS 421I-11.

Thank you for the opportunity to testify on this matter.

  
Jane Sugimura, President

**HB-226**

Submitted on: 2/13/2023 6:34:40 PM

Testimony for HSG on 2/15/2023 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Richard Emery	Individual	Oppose	Written Testimony Only

Comments:

Directors already have this duty under the nonprofit corporation act and in much more specificity.

February 14, 2023

Honorable Representative Troy N. Hashimoto  
Audrey  
415 South Beretania Street, Room 332  
Honolulu, HI 96813



Re: **Testimony in Support of HB226**

Honorable Representative Hashimoto:

My name is Audrey Bradley. This testimony is in support of HB226 which is being heard by the Housing Committee, of which you are Chair, on Wednesday, February 15, 2023 at 9:30 a.m.

I reside at Makalapa Manor Apartments (“MMA”) in Aiea, HI, near the Aloha Stadium. MMA is a 122-unit cooperative project and I serve on the Board of Directors. Last March, MMA elected a new President and upon his request, we did an informal investigation of MMA’s funds, which includes federal housing money. The research showed that prior Board Members had, unbeknownst to the Shareholders, enriched themselves, their friends and families on property, via expensive upgrades and additions and unnecessary repairs to their Units. The amount spent was estimated at approximately \$380,000.00. In the meantime, Units that needed repairs were either ignored or took years to get corrected.

When we discovered these questionable expenditure actions, we reached out to MMA’s legal counsel, various federal, state and city agency, including but not limited to, the FBI, HPD, State Attorney General’s Office, State DCCA Office, City Prosecutor, HUD, various federal, state and city housing agencies, in an attempt to get assistance in hopes of being able to recoup some or all of the funds. Despite of our best efforts, no one came forth to assist us in any way.

The DCCA Office told us that the statute does not cover cooperatives so there was nothing they could do to assist us in correcting our situation.

Therefore, I respectfully request your consideration and approval of this request to amend HRS, Chapter 414, which would hold board of directors accountable in their fiduciary duties to Shareholders of a cooperative.

Thank you for your kind consideration of this testimony. I look forward to HB226’s passage!

Very truly yours,

*/s/ Audrey N. L. Bradley*



Mr. David Simpson, Property Manager  
Hawaiian Properties, Ltd.  
and  
Board of Directors for Makalapa Manor Apartments  
(Sarah Salas, Jenny Hogan, Cheryl Foster, Audrey Bradley)  
February 23, 2021  
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