

Testimony of the Hawai'i Real Estate Commission

**Before the
House Committee on Consumer Protection & Commerce
Tuesday, February 3, 2026
2:00 p.m.
Via Videoconference**

**On the following measure:
H.B. 1897, RELATING TO CONDOMINIUM ALTERNATIVE DISPUTE RESOLUTION**

Chair Matayoshi and Members of the Committee:

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

The purpose of this bill is to amend the conditions and procedures of alternative dispute resolution methods for condominium-related disputes, including the use of evaluative mediation or binding arbitration.

This bill establishes minimum qualifications of mediators and arbitrators who provide alternative dispute resolution (ADR) supported by the Condominium Education Trust Fund (CETF). The Commission takes no position on the experience requirements specified under proposed section 514B-F. However, the Commission notes that it does not contract with individual mediators; instead, it contracts with mediation providers to provide ADR supported by the CETF.

The Commission supports the proposed initial fee of \$150 to be paid by each party to the mediator (page 8, line 1) and arbitrator (page 9, line 16). This amount represents a reduction from the current statutory fees of \$375 for evaluative mediation and \$175 for voluntary binding arbitration. The reduced fee would address anecdotal concerns from condominium owners who were reluctant to pursue ADR due to its cost, while also ensuring that both parties have a tangible commitment to participating in mediation or arbitration.

Page 8, lines 2-6, authorizes the Commission to waive the initial fee for individuals who provide satisfactory evidence that the fee would pose an unreasonable economic burden. As the Commission meets on a monthly basis, it believes that requests for fee waivers could be processed more efficiently if the mediation providers, rather than the Commission, were provided with this authority.

Testimony of the Hawai'i Real Estate Commission

H.B. 1897

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Currently, the Commission, through the CETF, provides subsidized support for facilitative mediation, evaluative mediation, and voluntary binding arbitration. As drafted, proposed section 514B-C, HRS, appears to limit CETF support to evaluative mediation and binding arbitration. The Commission opposes reducing the number of ADR options eligible for the CETF to provide subsidized support and respectfully requests that facilitative mediation remain among the options for subsidized ADR.

Thank you for the opportunity to testify on this bill.



P.O. Box 976
Honolulu, Hawaii 96808

January 31, 2026

Honorable Scot Z. Matayoshi
Honorable Tina Nakada Grandinetti
Committee on Consumer Protection & Commerce
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **HB 1897 SUPPORT**

Dear Chair Matayoshi, Vice Chair Grandinetti and Committee Members:

CAI supports HB 1897 because it provides targeted and sensible amendments to Chapter 514B of the Hawaii Revised Statutes. The amendments protect consumers by, among other things, enhancing due process procedures for the imposition of fines and by improving alternative dispute resolution processes overall.¹

The potential for abusive imposition of fines is constrained by requiring that fines be reasonable, and robust due process procedures are required. An appeal process must be provided, and remaining disputes will be finally resolved by the small claims court. Moreover, HB 1897 prohibits the reported practice of charging attorney's fees to collect a disputed fine.

HB 1897 provides support from the condominium education trust fund for evaluative mediation and for voluntary binding arbitration. This valuable subsidy contributes to the prompt and economical resolution of condominium-related disputes.

The fee to participate in evaluative mediation is substantially lowered by HB 1897. Waiver is authorized if an unreasonable economic burden is shown. Minimum qualifications and disclosure requirements are established, to ensure that mediators and arbitrators constructively serve those roles. SB HB 1897 promotes easy access to alternative dispute resolution processes and is user friendly.

¹ A total of 75 subsidized mediations (10 facilitative/65 evaluative) are reported in the 2025 Annual Report, Real Estate Commission ("Report") (DC 132). Report at 31. The number of condominium units existing in 2025 was 175,509. Report at 32.

Honorable Scot Z. Matayoshi
Honorable Tina Nakada Grandinetti
January 31, 2026
Page 2 of 2

Please pass HB 1897.

CAI Legislative Action Committee, by

Philip Neary
Its Chair

HB-1897

Submitted on: 2/2/2026 8:18:07 PM
Testimony for CPC on 2/3/2026 2:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
Idor Harris	Honolulu Tower	Oppose	Written Testimony Only

Comments:

Please excuse the lateness of this testimony. The Board of Directors of the Association of Apartment Owners of Honolulu Tower did not meet until the evening of February 2, 2026 so was unable to submit testimony by the deadline.

Honolulu Tower is a fee simple 396 unit condominium located at the corner of Maunakea and Beretania Streets. At its February 2, 2026 meeting the board unanimously voted to oppose HB1897. Among our reasons are:

Page 3, lines 7-12, provides for a right to appeal a fine within 30 days. This may override longer appeal periods in bylaws and house rules. It needs clarification.

The definition of condominium related dispute on page 12, line 19-21, page 13, lines 1-2, should be revised to include disputes between a unit owner and the association as well as the board.

The procedure for imposing fines against owners should be the same as the procedures for imposing fines against tenants.

Page 32, lines 16-19, permits an association to collect unpaid assessment by any legal means except when collection efforts are stayed pursuant to 514B-146 (f). There are times that a lien must be recorded to preserve the priority of an association's lien, but the association will be barred from doing so because of the stay.

The right to demand non-binding arbitration should not be deleted.

Idor Harris
Resident Manager, Honolulu Tower

HB-1897

Submitted on: 2/1/2026 9:24:04 AM
Testimony for CPC on 2/3/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Richard S. Ekimoto	Individual	Support	Written Testimony Only

Comments:

This bill will supports alternative dispute resolution in the condominium setting to help resolve disputes. I strongly support the measure.

HB-1897

Submitted on: 2/1/2026 11:27:59 AM
Testimony for CPC on 2/3/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Richard Emery	Associa	Support	Written Testimony Only

Comments:

This Bill is a reasonable improvement to condominium dispute resolution. Support.

TESTIMONY IN OPPOSITION TO HB1897

Committee on Consumer Protection & Commerce (CPC)

DATE: Tuesday, February 3, 2026
TIME: 2:00 PM
PLACE: VIA VIDEOCONFERENCE
Conference Room 329
State Capitol
415 South Beretania Street

From: Gregory Misakian (as an individual)

Submitted: 2/1/26

Aloha Chair, Vice Chair, and Members of the CPC Committee,

I am in opposition to HB1897 as written, as it gives more power to condominium associations and the attorneys who represent them, **and less consumer protections for condominium owners.**

I am requesting that you please vote against this bill, and I would ask that every legislator ask the important questions regarding:

- 1) Who drafted the language in this bill?
- 2) What campaign contributions from attorneys are behind it?
- 3) Who may have a conflict of interest in lobbying for and proposing this bill?

To address the real needs of condominium owners in Hawaii, without either side having to waste money on attorneys, please read on.

My Background

I currently serve as:

- ❖ President, Kokua Council
- ❖ Vice President, Hawaii Alliance for Retired Americans (HARA)
- ❖ Director, Keoni Ana AAO

I previously served on the Waikiki Neighborhood Board from Jan. 2023 to June 2025.

I have been advocating for condominium owners in Hawaii since 2021, when I realized how bad things were here as an owner and from speaking with many other owners. I have a good understanding of HRS 514B and associated laws that govern condominium associations and management companies that oversee them. I also have experience with condominium issues in California for many years as Power of Attorney for a condominium owner in San Francisco, and have a good understanding of California's Davis-Stirling laws.

I have previously provided numerous testimony to the Legislature, along with others, that mediations in Hawaii for condominium disputes are not working. Mediations cost money, take time, and the majority of mediations from data reported by the DCCA have been unsuccessful. Many homeowners are also reluctant to engage in mediation knowing this, and also knowing that they may be retaliated against. And I also have first hand experience in Hawaii with a condominium related mediation, so I fully understand the process, the expense, and the wasted time with unsuccessful results.

The path forward, and the only path forward to properly address the problem facing Hawaii, is to enact an **Ombudsman's Office for Condominium Owners and Associations**.

BACKGROUND INFO AND REQUEST I RECENTLY SENT TO EVERY STATE LEGISLATOR

With the passing of Act 189 in 2023, the Hawaii State Legislature recognized that Hawaii has numerous unresolved issues related to disputes within condominium associations that require better laws to protect the public from unwarranted assessments, fines, legal fees, and retaliation.

Act 189 established a Condominium Property Regime (CPR) Task Force to study and make recommendations on issues within Hawaii's condominium laws, including disputes, board governance, and dispute resolution, with reports due to the legislature. The CPR Task Force published their formal findings and recommendations to the Legislature in December of 2023, and the Legislature passed on the baton to the Legislative Reference Bureau in the 2024 session with the passing of Act 43, which provided funding for a study and research report on condominium issues and how they are addressed in five pre-selected States (California, Delaware, Florida, Massachusetts, and Nevada). This report, at a cost of over \$300,000, was published in November 2025 and confirmed that some States have Ombudsman's Offices to assist the public with disputes, and some have additional enforcement elements. Ironically, this report did not include a review of Hawaii, which begs the question why not.

What is well known from years of testimony, numerous reports previously published, the December 2023 CPR Task Force report, and the Legislature via Act 189 (2023) and Act 43 (2024), is that the current structure in Hawaii to address condominium issues and disputes is not working. Hawaii urgently needs to shift to a better and more consumer friendly model, or face continuing discourse, more unnecessary condominium related litigation, and more homeowners at risk of losing their homes or facing unaffordable legal fees.

Better consumer protections are needed to ensure that condominium associations, their Boards, and their Managing Agents are compliant with the laws that govern condominium associations, including governing documents and HRS 514B statutes.

It is time for Hawaii to establish an Ombudsman's Office for Condominium Owners and Associations.

**RESULTS OF MY REACH OUT, WHICH WAS DONE IN JUST ONE WEEK
(From opening day of the 2026 session, Wed. 1/21, to Wed. 1/28.)**

Two Bills: HB2453 and SB3309

My draft preamble and proposed language was simple, and without impacting major changes to current statutes or requiring any State funding. Funding is via a small increase in the Condominium Education Trust Fund fee that all registered condominium associations pay into.

**MY CONCERNS AND REQUESTS TO THE CPR TASK FORCE
AND THE CPC COMMITTEE**

The CPR Task Force should be respectful of their duties, and also respectful to those legislators who enacted a law to convene the Task Force, representing thousands of condominium owners throughout Hawaii.

On agenda at the 1/30/26 CPR Task Force meeting, which I attended, were three draft meeting minutes from 2023 pending approval, and only placed online as a link to the drafts a short time prior to the meeting. This is unacceptable and does not give me or the public a good feeling regarding responsibilities of the Chair and others on the Task Force, and raises concerns regarding transparency. Not surprising, these three meeting minutes from over 2 years ago were still not approved at the 1/30/26 meeting. I am also unable to find a link to testimony I and others submitted to the Task Force.

To the Chair of the CPR Task Force, who did not convene a meeting of the Task Force prior to the start of the 2026 legislative session, and prior to the deadline to introduce legislation, the clear and obvious question is why not? This Task Force had an opportunity to meet and provide inputs prior to the 2026 session. You had the findings of the Legislative Reference Bureau's 5 State report since November of last year.

As we sadly watch the unrest in the State of Minnesota, where two sides disagree and there is conflict, it should be noted that **the State of Minnesota enacted legislation last year to create an Ombudsman's Office for condominium disputes.**

The Common Interest Community Ombudsman is established under Minnesota Statutes, section 45.0137. This law creates the position within the Minnesota Department of Commerce to:

1. *Assist unit owners, tenants, and associations in understanding their rights and responsibilities under Minnesota Statutes, Chapter 515B (the Minnesota Common Interest Ownership Act) and their governing documents.*
2. *Facilitate informal resolution of disputes between unit owners and associations.*

I am requesting that the CPR Task Force, the CPC Committee, and our legislators please act, and with urgency, on the issues and concerns that need attention and the clear and correct legislation that is needed now.

The State of Hawaii urgently needs an Ombudsman's Office for condominium owners and associations, and numerous States with many condominiums and many complaints have recognized this and have Ombudsman's Offices.

Respectfully,

Gregory Misakian

HB-1897

Submitted on: 2/2/2026 8:52:25 AM
Testimony for CPC on 2/3/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lourdes Scheibert	Individual	Support	Written Testimony Only

Comments:

LEGISLATIVE TESTIMONY**Support with Amendments****HB 1897 (2026)****Relating to Condominium Alternative Dispute Resolution****HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE**

Aloha Chair Scot Matayoshi, Vice Chair Tina Grandinetti, and Members of the Committee: Cory Chun, Linda Ichiyama, Greggory Ilagan, Kim Coco Iwamoto, Sam Kong, Nicole Lowen, Lisa Marten, Elijah Pierick, Adrian Tam

My name is **Lourdes Scheibert**, and I respectfully submit testimony **in support of HB 1897, with concerns and requested amendments**.

HB 1897 improves how disputes are handled, but without enforcement it does not prevent the financial crises owners face.

I am a long-time Hawai‘i condominium owner. I testify as an owner who has experienced firsthand how condominium governance failures affect real people — particularly seniors and fixed-income residents.

What HB 1897 Gets Right

HB 1897 correctly recognizes that condominium disputes are too costly and complex to be resolved primarily through litigation. By repealing the existing alternative dispute resolution framework in **HRS Chapter 514B, Part VI, Subpart D**, and replacing it with a new structure (**proposed HRS §§514B-C through 514B-G**), the bill creates a clearer and more uniform process.

The bill’s introduction of **mandatory evaluative mediation upon written request** for governing document disputes (**proposed HRS §514B-D**) is a meaningful improvement. Providing access to evaluative mediation and binding arbitration through the **Condominium**

Education Trust Fund (amended HRS §§514B-71 and 514B-72) helps reduce financial barriers that prevent owners from pursuing dispute resolution.

These reforms acknowledge a critical reality: many owners simply cannot afford court.

Core Concern: Process Without Enforcement

While HB 1897 improves *how* disputes are processed, it does not address *why* condominium disputes continue to arise.

The most serious problems facing condominium owners — deferred maintenance, manipulated or ignored reserve studies, surprise special assessments, and lack of financial transparency — persist because Hawai‘i’s condominium law remains largely unenforced.

HB 1897 does not expand the enforcement authority of the Department of Commerce and Consumer Affairs, nor does it create an independent oversight mechanism. As a result, owners must still rely on private legal action or alternative dispute resolution **after** financial harm has already occurred.

Of particular concern is the creation of a broad **prevailing-party attorneys’ fee rule** in **proposed HRS §514B-A**, which replaces the repealed **HRS §514B-157**. While intended to deter frivolous claims, this provision may have a chilling effect on good-faith owners who wish to challenge board actions but cannot risk paying the association’s legal fees.

Impact on Seniors and Fixed-Income Owners

For many seniors, condominiums are not an investment vehicle — they are their primary and often final housing option.

When maintenance fees increase by 40 or 50 percent, or when owners are assessed tens of thousands of dollars for deferred repairs, dispute resolution mechanisms under **proposed HRS §514B-D** come too late to prevent displacement. Fixed incomes do not rise in proportion to construction costs, insurance premiums, or long-deferred maintenance.

Although **amended HRS §514B-146** allows owners to dispute certain assessments through evaluative mediation, common expense assessments must still be paid first, leaving financially vulnerable owners with little practical relief.

Suggested Amendments

To strengthen HB 1897 and better protect condominium owners, I respectfully urge the Legislature to consider:

1. **Establishing an independent condominium ombudsman or enforcement mechanism**, with authority to investigate patterns of noncompliance with HRS Chapter 514B.
2. **Rebalancing prevailing-party attorneys' fee provisions in proposed HRS §514B-A**, particularly where owners act in good faith.
3. **Requiring transparency and reporting** on evaluative mediation outcomes under **proposed HRS §514B-D**, to identify recurring governance failures.
4. **Addressing reserve study integrity and accountability**, which is not resolved by amendments to **HRS §514B-104** (powers of associations) or **HRS §514B-106** (fiduciary duties), as currently drafted.

Conclusion

Alternative dispute resolution is a useful tool, and HB 1897 makes meaningful procedural improvements. However, **process alone cannot substitute for accountability**.

Without enforcement, HB 1897 risks formalizing a system in which owners are required to navigate disputes within structures that already failed them.

I respectfully request that the Committee **advance HB 1897 with amendments** to ensure condominium owners — particularly seniors and fixed-income residents — are protected **before** housing instability occurs, not after.

Mahalo for the opportunity to testify.

Lourdes Scheibert

HB-1897

Submitted on: 2/2/2026 8:59:39 AM
Testimony for CPC on 2/3/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Colonel Mark L Brown, USA (Ret.)	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

When you conference on HB 1897 beginning Monday, 2 February, PLEASE OPPOSE THE RESCISSION ON PAGES 37 to 40 because it rescinds an important HRS 514B-157 protection for Hawaii citizen condo owners who pursue legitimate claims against developer, and other, big-money interests.

The language, as currently written in HRS 514B-157, reads *“If any claim by an owner is not substantiated in any court action against an association, any of its officers or directors, or its board to enforce any provision of the declaration, bylaws, house rules, or this chapter, then all reasonable and necessary expenses, costs, and attorneys’ fees incurred by an association shall be awarded to the association, unless before filing the action in court the owner has first submitted the claim to mediation, or to arbitration under subpart D, and made a good faith effort to resolve the dispute under any of these procedures.”* Note that HB 1897 entirely repeals (lines out) this language on pages 37 to 40 and replaces it with lengthy, and ambiguous, language on pages 1 to 37 that is far more favorable to big-money developer and association interests, at the expense and peril of Hawaii citizen condo owner interests.

Had the protection currently provided by HRS 514B-157 not existed in 2019, I would have never taken the extra personal financial risk of pursuing my own legitimate claim against fraud, and the retaliation I experienced for reporting that fraud. The current statute further provides condo owners with a powerful financial incentive to pursue mediation or arbitration in good faith first, before filing a lawsuit. This I did in my case in 2020, but without any resolution. The highlights of my case, and the subsequent outcome three years later, were reported by Honolulu Civil Beat in a July 2023 article entitled “Prominent Condo Directors Pay \$600,000 To Settle Retaliation Claim”. This article, and the many supportive comments by Civil Beat readers, can be accessed via the following link: <https://www.civilbeat.org/2023/07/prominent-honolulu-condo-directors-pay-600000-to-settle-retaliation-claim/>

Importantly, Civil Beat described my case as one *“that pitted a retired Army colonel against executives with leading developers...”* and one that *“...had been closely watched by advocates for condo owners as the first major test of a 2017 law [HRS 514B-191] designed to prevent condominium boards from retaliating against owners, board members and managers who raise questions about potential violations of Hawaii condo law or association bylaws.”* I am hopeful

that my relative success may have helped prevent dozens of subsequent retaliation cases that Hawaii condo owners, board members and managers would have otherwise experienced.

I believe that the language in HB 1897 which rescinds the consumer protection at issue was drafted by Attorney Phil Nerney who has made his career, and fortune, by mostly representing big-money developer and condo association interests. Mr. Nerney previously proposed this rescission in early 2024 when he first served as the Chairman of the CPR task force which was empowered by the legislature to examine Hawaii's condo statutes at the time. I know this because I testified via Zoom against Mr. Nerney's proposal. Fortunately, Mr. Nerney's proposal was voted down by the House and Senate members of the CPR task force as well as other members (such as Kokua Council Chairwoman Lila Mower) who stood up for Hawaii citizen interests.

Mr. Nerney attempted again last legislative session to rescind the HRS 514B-157 consumer protections in SB 146 which was substantially similar to the current HB 1897, with 37 pages of new language favoring big-money interests followed by the proposed rescission of HRS 514B-157 at the very end on page 38. For good, in the interest Hawaii citizen condo resident protection interests, SB 146 died a well-deserved death in committee.

I understand that Mr. Nerney may have gained his position as the CPR task force chairman due to the influence of former House Majority Leader Scott Saiki. Because of this, and other instances where Mr. Saiki favored big-money developer and association interests over Hawaii citizen condo owner interests, we the constituents of his House District voted him out of office in 2024.

Thank you.

Very Respectfully,

MARK L. BROWN

Colonel, U.S. Army (Retired)

February 2, 2026

RE: H.B. No. 1897 - Testimony in Support with Suggested Changes.

Dear Representative Matayoshi, Chair, Representative Grandinetti, Vice Chair, and Members of the Committee:

I support the intent of H.B. No. 1897, but believe that it needs to be amended to address issues that will arise in enforcement.

1. Comments Regarding SECTION 2.

The new Section 514B-B(a)(2)(C) (pg. 3, lines 7-12) provides for a right to appeal a fine within thirty days. While thirty days is a normal time period for the appeal of fines, there may be bylaws and house rules that provide for longer periods to appeal. It is not clear whether the new Section 514B-B(a)(2)(C) is intended to override longer appeal periods in bylaws and house rules. This should be clarified.

The new Section 514B-B(b) (pg. 4 lines 9-11) of the bill provides that “[n]o attorneys’ fees with respect to a fine shall be charged by an association to any unit owner or tenant before the fine is deemed collectable.” This could be construed as prohibiting an association from recovering attorneys’ fees incurred by it in having its lawyer send a demand letter to an owner who has violated a covenant if a fine resulting from the violation is later waived, rescinded, or set aside. The fact that a fine has been waived, rescinded, or set aside does not necessarily mean that there was no violation warranting the sending of a demand letter. It may be that the board agreed to waive or rescind the fine as a gesture of goodwill or that the fine was set aside by the small claims court for technical reasons. Furthermore, a board may be less inclined to waive fines if doing so means that it must also waive all attorneys’ fees incurred by the association in connection with the violation. To help clarify that the attorneys’ fees referenced are “attorneys’ fees incurred in connection with the imposition or collection of a fine,” it is suggested that line 9-11 on page 4 of the bill be revised to read:

“(b) No attorneys’ fees incurred in connection with the imposition or collection of a fine shall be charged by an association to any unit owner or tenant before the time when a fine is deemed to be collectable.”

The new Section 514B-B(c) (pg. 4 lines 12-14) of the bill provides that “[t]he imposition of a fine, and the determination of a small claims court, if any, shall be without prejudice to the exercise of any other remedy available to an association.” In order to make it clear that a decision of the small claims court, from which there is no right of appeal, shall not be deemed to constitute res judicata or collateral estoppel as to any issue other than the determination of whether a fine is valid and collectible, please consider adding the following sentence to the new subsection (c) found on page 4, lines 12-14: “Any determination of a small claims court regarding the validity or amount of a fine pursuant to this section shall be binding on the parties but shall not constitute res judicata or

collateral estoppel as to any issue, factual finding, or determination regarding the underlying violation, bases for the fine, or other issue.”

2. Comments on SECTION 3.

The new Section 514B-D(g)(3) (page 8, lines 10-11) states that evaluative mediation may include disputes and parties in addition to those “identified in subsection (a).” This is confusing because subsection (a) does not specifically identify any parties. Subsection (a) does refer to a condominium-related dispute which is defined to identify certain parties, but having to go to one section and then another to try to apply meaning to Section 514B-D(g)(3) is a bit confusing. This section should be amended to refer to the disputes and parties identified in the definition of “condominium-related disputes” if that is what is intended.

The new Section 514B-D(g)(3) goes on to state that additional claims and parties may be included “provided that a unit owner or a developer and board are parties to the evaluative mediation at all times and the unit owner or developer and board mutually consent in writing to the addition of the disputes and parties.” This is confusing because the developer is not even listed as a party in the definition of a condominium-related dispute found in SECTION 5 (pg. 12, lines 19-21 and pg. 13, lines 1-2) of the bill and it completely ignores managing agents, who are listed in the definition of a condominium-related dispute.

To address these issues, Section 514B-D(g)(3) (pg. 8, lines 10-11) could read: “May include disputes and parties in addition to those identified in the definition of a “condominium-related dispute” found in Section 3; provided that a condominium-related dispute is at all times part of the mediation and the parties to the condominium-related dispute consent, in writing, to the addition of the disputes or parties to the evaluative mediation.”

3. Comments on SECTION 5.

The definition of “condominium-related dispute” found in SECTION 5 (pg. 12, lines 19-21, pg. 13, lines 1-2) should be revised to include disputes between a unit owner and the “association” as well as the board.

4. Comments Regarding SECTION 8.

SECTION 8 amends HRS Section 514B-104(a)(11) (pg. 18, lines 12-21, pg. 19, lines 1-7) to clarify that the board may impose fines in accordance with the new section 514B-B (*i.e.*, the new provision on fines), but fails to delete HRS Section 514B-104(b) which pertains to fines against tenants and conflicts with the new Section 514B-B. The procedure for imposing fines against owners should be the same as the procedures for imposing fines against tenants. HRS Section 514B-104(b) should be eliminated to avoid conflict.

The amendment to HRS Section 514B-104(a)(11) states at page 19, lines 6-7 of the bill that it is subject to “subpart ____.” It is impossible to determine what subpart is being referenced to be able to comment on the unidentified subpart. More clarity should be provided so the public can comment on this section.

5. Comments on SECTION 11.

SECTION 11 of the bill amends HRS Section 514B-146 to add a new subsection (g) (pg. 32, lines 16-19) which permits an association to collect unpaid assessment by any legal means except when collection efforts are stayed pursuant to subsection (f). There may be times that a lien must be recorded to preserve the priority of an association’s lien, but an association will be barred from doing so because of the stay. To address this issue, please consider amending subsection (g) found on page 32 (lines 16-19) to read: “(g) An association may defend an assessment in court and in evaluative mediation. The association may proceed to collect an unpaid assessment by any legal means except when collection efforts are stayed pursuant to subsection (f), provided, however, that nothing herein shall preclude an association from recording a notice of lien while a stay pursuant subsection (f) is in effect.”

6. Comments on SECTION 12.

SECTION 12 completely eliminates Part VI Subpart D of HRS Chapter 514B. The deletion of HRS Section 514B-161 and 514B-162.5 makes sense because those sections are being replaced by new sections found in the bill. However, it is not clear why the bill is eliminating the right to demand nonbinding arbitration with a right to a trial de novo. Nonbinding arbitration has been used to resolve many condominium disputes in the past and should be preserved.

Respectfully submitted,


M. Anne Anderson

House of Representatives
The Thirty-Third Legislature, 2026
Committee on Consumer Protection and Commerce
Tuesday, February 3, 2026
2:00 p.m.

To: Representative Scot Z. Matayoshi, Chair
Re: HB 1897, Relating to Condominium Alternative Dispute Resolution

Aloha Chair Scot Matayoshi, Vice-Chair Tina Nakada Grandinetti, and Members of the Committee,

I am Lila Mower and I have over 45 years of experience as a condominium owner and resident. I have also served as an officer on three separate condominium associations' boards.

Mahalo for the opportunity to **oppose HB1897** because it weakens condominium owners' protections and rights.

The "prevailing party" rule gives the *appearance* of fairness, however, the proposed section, 514B-A(b), favors associations. In fairness, should an owner or owners prevail, they should also be "promptly paid on demand" and the section found in HRS 514B-157(c) should be added to HB 1897:

"If the claims upon which the association takes any action are not substantiated, all costs and expenses, including reasonable attorneys' fees, incurred by any applicable person or persons as a result of the action of the association, shall be promptly paid on demand to the person or persons by the association."

The word, "reasonable," is arbitrary and subjective. The most recent issues of the Hawaii Condominium Bulletin reveal that the cause of disputes for nearly all reported mediation cases is due to interpretations of associations' governing documents. Thus, leaving less to interpretation may resolve more disputes; see the addendum. The amounts of fines, penalties, and charges should be pre-defined in documents accessible to associations owners so that owners and residents are informed, and those fines, penalties, and charges are not arbitrary.

Other HRS 514B sections that should not be repealed include:

- HRS514B-146 (d) (3) "Payment in full of the common expense assessment shall not prevent the owner from contesting the common expense assessments or receiving a refund of amounts not owed."
- The section in HRS 514B-157 which protects owners who make good faith efforts to resolve disputes:

“If any claim by an owner is not substantiated in any court action against an association, any of its officers or directors, or its board to enforce any provision of the declaration, bylaws, house rules, or this chapter, then all reasonable and necessary expenses, costs, and attorneys' fees incurred by an association shall be awarded to the association, unless before filing the action in court the owner has first submitted the claim to mediation, or to arbitration under subpart D, and made a good faith effort to resolve the dispute under any of those procedures.”

Mahalo for allowing me the opportunity to testify.

ADDENDUM

(source: Hawaii Condominium Bulletin, Volume 31, No. 3, December 2025)

Dispute Prevention and Resolution, Inc.

AOUO vs Owner	Dispute over the interpretation of the bylaws on approved flooring	Mediated to Agreement
Owner vs AOUO	Dispute over the interpretation of the bylaws and house rules on approved flooring	No Agreement
AOUO vs Owner	Dispute over the interpretation of the declaration and bylaws regarding water damage	No Agreement
AOUO vs Owner	Dispute over the interpretation of the bylaws and house rules on aggressive animals	Mediated to Agreement
Owner vs AOUO	Dispute over the interpretation of the governing documents related to financial management, reserves, and vendor contracts	Mediated to Agreement
Owner vs AOUO & Owner	Dispute over the interpretation of the bylaws regarding noise mitigation regarding health and safety	No Agreement

Mediation Center of the Pacific

Owner vs AOUO	Dispute over the interpretation of the bylaws related to fees and fines	Mediated to Agreement
Owner vs AOUO	Dispute over the interpretation of the governing documents related to maintenance, pipes, and repairs	No Agreement
Owner vs AOUO	Dispute over the interpretation of the declaration and bylaws regarding water damage and leaks	No mediation, neither party participated
Owner vs AOUO	Dispute over the interpretation of the bylaws and house rules regarding fines and fees	No Agreement
Owner vs Property Management Company	Dispute over the interpretation of the declaration and bylaws regarding water damage and leaks	No mediation, owner withdrew
Owner vs AOUO	Dispute over the interpretation of the bylaws and house rules regarding right of owners to participate in board meetings, access to records, and capital expenditures	No Agreement
Owner vs AOUO	Dispute over the interpretation of the bylaws regarding fees and fines	No mediation, neither party participated
Owner vs AOUO	Dispute over the interpretation of the declaration and bylaws regarding water damage and leaks	No Agreement

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cont. page 5

Mediation Case Summaries (cont. from page 4)

Lou Chang

Owner vs AOUO	Dispute over the interpretation of the governing documents over insurance and common area damages	No Agreement
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HB-1897

Submitted on: 2/2/2026 10:18:50 AM
Testimony for CPC on 2/3/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Julie Wassel	Individual	Support	Written Testimony Only

Comments:

I support HB No. 1897. I join in the testimony of M. Anne Anderson and urge the Committee to make the changes set forth in her testimony

Sincerely,

Julie Wassel

HB-1897

Submitted on: 2/2/2026 10:30:16 AM
Testimony for CPC on 2/3/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Leilani M.	Individual	Support	Written Testimony Only

Comments:

I support HB No. 1897. I join in the testimony of M. Anne Anderson and urge the Committee to make the changes set forth in her testimony.

HB-1897

Submitted on: 2/2/2026 10:41:31 AM
Testimony for CPC on 2/3/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael Ayson	Individual	Support	Written Testimony Only

Comments:

I support this bill.

HB-1897

Submitted on: 2/2/2026 11:04:22 AM
Testimony for CPC on 2/3/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mike Golojuch, Sr.	Individual	Support	Written Testimony Only

Comments:

I support HB1897.

HB-1897

Submitted on: 2/2/2026 11:23:17 AM
Testimony for CPC on 2/3/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
mary freeman	Individual	Support	Written Testimony Only

Comments:

I support HB No. 1897. I join in the testimony of M. Anne Anderson and urge the Committee to make the changes set forth in her testimony.

Mary Freeman

Ewa Beach

HB-1897

Submitted on: 2/2/2026 11:28:31 AM
Testimony for CPC on 2/3/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nancy Manali-Leonardo	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose HB 1897 for the simple reason that this Bill:

- Accelerates homelessness.
- Is overly aggressive.
- Is ripe for abuse by boards of directors in giving fines to owners, or taking owner properties.
- Encourages attorney monetary gain by litigation.
- Is unnecessary as the alternative dispute resolution method for condominium related disputes is minimal overall, and is currently more humane.

I am especially concerned about Part II, Section 2, #3 which states: "Interpretation or enforcement of the declaration, by laws, house rules"., etc.

Interpretation is a free for all term.

I have first hand knowledge/I am aware that some boards ignore certain by laws and can/will enforce other by laws if this Bill passes. It will result in unnecessary homelessness, even though the owners have never been late with any fees.

Hawai'i has the second highest homelessness population.

This Bill must not pass.

HB-1897

Submitted on: 2/2/2026 12:14:52 PM
Testimony for CPC on 2/3/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Joe M Taylor	Individual	Support	Written Testimony Only

Comments:

I support HB No. 1897. I join in the testimony of M. Anne Anderson

HB-1897

Submitted on: 2/2/2026 12:40:04 PM
Testimony for CPC on 2/3/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Oppose	Written Testimony Only

Comments:

There are so many objectionable things in this bill I don't know where to begin. And since it would take too much time to suggest revisions that will work, I strongly object to this bill. This testimony is not all inclusive.

1. There is a right to appeal a fine within 30 days. This could override longer periods in bylaws and house rules.
2. A board may be less inclined to waive fines if it means that it must also waive all attorneys fees incurred by the association in connection with the violation.

3. Definition of condominium related dispute is incomplete. There is at least one category missing.
4. Procedures for imposing fines should be same for both owners and tenants.
5. Non binding arbitration has been deleted. Some insurance companies will not agree to settlements if they do not agree beforehand.

HB-1897

Submitted on: 2/2/2026 1:04:43 PM
Testimony for CPC on 2/3/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Mark McKellar	Law Offices of Mark K. McKellar, LLLC	Support	Written Testimony Only

Comments:

I support HB No. 1897. I join in the testimony of M. Anne Anderson and urge the Committee to make the changes set forth in her testimony.

Sincerely,

Mark McKellar

HB-1897

Submitted on: 2/2/2026 1:05:40 PM
Testimony for CPC on 2/3/2026 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lance S. Fujisaki	Individual	Support	Written Testimony Only

Comments:

I support HB No. 1897, subject to the comments in the testimony of M. Anne Anderson, in whose testimony I join. I urge the Committee to make the changes set forth in her testimony.

Lance Fujisaki

CPC Testimony

From: Julie Sparks <juliesparks808@gmail.com>
Sent: Monday, February 2, 2026 3:54 PM
To: CPC Testimony
Subject: Julie Sparks - HB 1897

You don't often get email from juliesparks808@gmail.com. [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I would like to register my support as an individual for this measure.

Thank you,

Julie Sparks, Esq.

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

HB-1897

Submitted on: 2/2/2026 2:00:31 PM
Testimony for CPC on 2/3/2026 2:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
Pamela J. Schell	Individual	Support	Written Testimony Only

Comments:

I join in Anne Anderson's testimony

HB-1897

Submitted on: 2/2/2026 2:19:08 PM
Testimony for CPC on 2/3/2026 2:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
Paul A Ireland Koftinow	Individual	Support	Remotely Via Zoom

Comments:

Dear Representative Matayoshi, Chair, Representative Grandinetti, Vice Chair, and Members of the Committee:

I am a condominium unit owner and an attorney. As an attorney, my practice is focused on the area of condominium law. While I support this measure, I respectfully suggest the following revisions to address potential unintended consequences:

- 1) I join in the written testimony of M. Anne Anderson, and support the revisions proposed in her testimony.**
- 2) Additional comments and proposed revisions regarding SECTION 9:**

SECTION 9 of this measure amends HRS Section 514B-105(c). I respectfully suggest that Section 514B-105(c) be further amended to clarify that condominium associations may apply any payment from or on behalf of an owner to amounts due by the owner under a money judgment in favor of the condominium association. This could be done by including the following proposed language, which includes the current amendment this measure would make to Section 514B-105(c):

"(c) Any payments made by or on behalf of a unit owner shall first be applied to outstanding common expenses that are assessed to all unit owners in proportion to the common interest appurtenant to their respective units, including commercial property assessed financing assessment expenses incurred for improvements financed pursuant to section 196-64.5. Only after the outstanding common expenses have been paid in full may the payments be applied to other charges owed to the association, including assessed charges to the unit such as ground lease rent, utility sub-metering, storage lockers, parking stalls, boat slips, insurance deductibles, and cable. After these charges are paid, other charges, including unpaid late fees, legal fees, collectible fines, and interest, may be assessed in accordance with an application of payment policy adopted by the board; provided that if a unit owner has designated that any payment is for a specific charge that is not a common expense as described in this subsection, the payment may be applied in accordance with the unit owner's designation even if common expenses remain outstanding. Notwithstanding any other provision of this section, any payments made by or on behalf of a unit owner may be applied to any unpaid judgment interest, judgment principal, and

all costs and reasonable attorneys' fees incurred in attempting to obtain satisfaction of the money judgment."

Thank you for considering my written testimony.

Respectfully submitted,

Paul A. Ireland Koftinow

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

HB-1897

Submitted on: 2/2/2026 3:40:39 PM
Testimony for CPC on 2/3/2026 2:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
Julie Sparks	Individual	Support	Written Testimony Only

Comments:

Support.

HB-1897

Submitted on: 2/2/2026 5:02:42 PM
Testimony for CPC on 2/3/2026 2:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
Marcia Kimura	Individual	Support	Written Testimony Only

Comments:

With some reservations, I support this. There still are too many opportunities for the predatory attorneys to deceive owners and interpret this to favor the status quo of overcharging owners.