

March 18, 2013

**The Honorable Angus L.K. McKelvey, Chair**

House Committee on Consumer Protection & Commerce  
State Capitol, Room 325  
Honolulu, Hawaii 96813

**RE: S.B. 502, S.D.1, Relating to Real Estate Seller Disclosure**

**HEARING: Monday, March 18, 2013 at 2:30 p.m.**

Aloha Chair McKelvey, Vice Chair Kawakami, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, testifying on behalf of the Hawai'i Association of REALTORS® (“HAR”), which is the largest trade association in the State of Hawaii and with approximately 8,000 members. HAR **strongly supports** on S.B. 502, S.D.1, which establishes a uniform standard for document disclosure for condominium projects, cooperative housing corporations, and other community associations and clarifies which documents are required under Hawaii law to be disclosed.

HAR supports this measure because of the benefit a uniform standard brings for consumers as well as real estate licensees involved in planned community associations, condominium projects and cooperative housing corporations transactions.

Under current law, there are several definitions of a planned community association. As a result, the nature and extent of document disclosures required of the seller is uncertain. Moreover, a seller that has property that falls within the definition of planned community, is required under HRS Chapter 508D to provide prospective buyers with “planned community declaration and association documents” at the time of the disclosure statement.

This is generally not possible as a practical matter because sellers are often do not know whether their property is subject to a planned community regime and do not have the requisite documents during the early stages of the transactions when initial disclosures are provided. Often, the first indication that a property is subject to planned community governance is upon receipt of the title report.

This bill addresses these concerns by providing clarity as to the documentation that is subject to disclosure by focusing upon the recorded restrictions that affect the property, and then requiring a list of documents that must be disclosed under Chapter 508D. Obviously, a list is simple and easy way to determine what must be disclosed. In addition, the documents to be provided generally follow the definition of “association documents” already found in HRS 421J.

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Rather than requiring reference to other statutes to determine what must be disclosed, this bill focuses on these specific documents and proscribes that disclosure of the documents by must be given to the purchaser within 10 days after the title report is received. Since the title search is the only sure way to know a property is located within a planned community, this bill requires disclosure only after the receipt of the title report.

In addition, the bill incorporates advanced technology by allowing for the electronic receipt of disclosure documents. Many of the documents that need to be disclosed regarding planned communities can be accessed electronically via hyperlinks in the title search or through accessing the association's website. It is more efficient (and saves paper) to provide these documents electronically to the extent they are available online or are hyperlinked.

HAR believes that this bill will make it easier for sellers to understand their disclosure obligations regarding condominium projects, cooperative housing corporations, and community associations documentation.

HAR offers the following technical amendment to the bill, and respectfully requests that it be included before passing this measure:

**1) Changing the effective date to May 1, 2014 in Section 8, page 9, line 20.**

HAR requests an effective date of May 1, 2014, to allow HAR to educate members about the changes to the new law, and allow time for necessary amendments to HAR's standard purchase contract.

Mahalo for the opportunity to testify.