

HOUSE OF REPRESENTATIVES
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2013

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Angus L.K. McKelvey, Chair
Rep. Derek S.K. Kawakami, Vice Chair

NOTICE OF HEARING

DATE: Wednesday, January 30, 2013
TIME: 2:00 p.m.
PLACE: Conference Room 325
State Capitol
415 South Beretania Street

The Hawaii Smokers Alliance is Strongly Opposed to HB34.

This bill is a dangerous step against established condo law that currently requires a 2/3 majority for such a major alteration in the terms and conditions that existed when a person bought their condo.

Take for example the condo I live in and own. It has over 240 units and a board of nine members. To allow a split vote of nine people to override the will of hundreds is not just. People spend large amounts of money to buy a condo, and a few people should not override the will of the majority. Owners such as myself would have to spend thousands of dollars in fees and much effort to sell my unit (at a loss from the purchase price mind you) and relocate to a building with a non-bigoted board. And then there would be no guarantee it would stay that way.

What is clear that this bill is purely an attempt at social engineering the lifestyles of others, spearheaded by a tiny ring of professional lobbyists called "Tobacco Free Hawaii" who make their living primarily off the settlement agreement. Please let constituents that own their condos decide this issue for themselves.

Respectfully, Michael Zehner, Co-Chair of the Hawaii Smokers Alliance
808-952-0275

Note: The Hawaii Smokers Alliance is a citizens group formed in 2006 to promote through education and advocacy the civil rights and liberties of those who enjoy tobacco. The group is self funded by its' members. Hawaiiismokersalliance.net

kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 28, 2013 9:52 AM
To: CPCtestimony
Cc: sawonglaw@hawaii.rr.com
Subject: Submitted testimony for HB34 on Jan 30, 2013 14:00PM

HB34

Submitted on: 1/28/2013

Testimony for CPC on Jan 30, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
	Individual	Oppose	Yes

Comments: I am a non-smoking condo owner, but I oppose this bill because I do not believe it is appropriate for the Government or Condo Association to tell people what they can or cannot do in their homes.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, January 27, 2013 12:15 PM
To: CPCtestimony
Cc: chinooker@gmail.com
Subject: *Submitted testimony for HB34 on Jan 30, 2013 14:00PM*

HB34

Submitted on: 1/27/2013

Testimony for CPC on Jan 30, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Alvarez	Individual	Oppose	No

Comments:

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888 Mililani Street, 2nd Floor
Honolulu, Hawaii 96813-2918
January 28, 2013

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
REGARDING HOUSE BILL 34

Hearing Date: WEDNESDAY, January 30, 2013
Time : 2:00 p.m.
Place : Conference Room 325

Chair McKelvey, Vice Chair Kawakami, and Members of the Committees,

My name is John Morris and I am testifying against HB 34. For decades, the general rule has been that prohibitions on the use of individual units - as opposed to the use of the common elements - must be included in the declaration and bylaws of a condominium, not just in the house rules. The reason for this restriction is: those two documents require the approval of a considerable percentage of the owners to be amended. This bill would turn that long-standing principle on its head.

While the intent of this bill is certainly worthwhile - to eliminate smoking in a condominium or co-operative project - it could put considerable power into the hands of a very small percentage of the owners in a project, i.e., just a handful of board members. A board of directors already has the authority to prohibit smoking in the common areas of any project, but not within the units. This bill would extend that authority considerably, to include the units.

For example, in most condominiums, the board of directors, alone, has the authority to adopt rules, whereas amendments to the declaration and bylaws require the approval of between 67% and 75% of all the owners. This means that if a 500 unit project has a board of nine members: (i) five of those nine members would be considered a quorum sufficient to conduct board business; and (ii) three of those five members - a majority of the quorum - could make a decision on the rules, including a rule prohibiting smoking in units in the project. In other words, less than 1% of the members of that association could prohibit conduct within the units of the other 99%.

Finally, as HB 34 clearly indicates, if a particular smoker is causing a particular nuisance in a condominium, section 514 B-105(b)(2) already provides a means to control that specific nuisance by stating that rules may be adopted to:

TESTIMONY REGARDING HOUSE BILL 34

January 28, 2013

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2) *Regulate any behavior in or occupancy of a unit [which] that violates the declaration or bylaws or unreasonably interferes with the use and enjoyment of other units or the common elements by other unit owners;*

Please contact me at 523-0702 if you have any questions. Thank you for this opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "John A. Morris", written over a horizontal line.

John A. Morris

JAM:alt

G:\C\2013 Testimony HB 34 (01.28.13)

kawakami2 - Rise

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 29, 2013 12:36 PM
To: CPCtestimony
Cc: mikenakas@hotmail.com
Subject: *Submitted testimony for HB34 on Jan 30, 2013 14:00PM*

HB34

Submitted on: 1/29/2013

Testimony for CPC on Jan 30, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Michael S. Nakasone	Individual	Oppose	No

Comments:

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