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**PRESENTATION OF THE  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**

TO THE HOUSE COMMITTEE ON JUDICIARY

TWENTY-EIGHTH LEGISLATURE  
Regular Session of 2016  
Thursday, March 31, 2016  
2:01 p.m.

WRITTEN COMMENTS ONLY

**TESTIMONY ON HOUSE CONCURRENT RESOLUTION NO. 63/HOUSE  
RESOLUTION NO. 28, REQUESTING THE CONVENING OF A TASK FORCE TO  
CONDUCT A STUDY ON IMPOSING MANDATORY ALTERNATIVE DISPUTE  
RESOLUTION TO RESOLVE HOMEOWNERS ASSOCIATION DISPUTES.**

TO THE HONORABLE KARL RHOADS, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Catherine Awakuni Colón, Director of the Department of Commerce and Consumer Affairs (“DCCA” or “Department”). DCCA would like to offer comments on House Concurrent Resolution No. 63/House Resolution No. 28 (“Resolutions”).

These Resolutions request DCCA to convene a task force to conduct a study and develop a plan for requiring homeowners association disputes to be resolved by alternative dispute resolution as an initial option before any litigation. The task force is

also requested to report its findings and recommendations, including any proposed legislation, to the Legislature prior to the Regular Session of 2017.

The Department takes no position on the study requested by these Resolutions, but it has two concerns about being charged with convening such a task force. First, the Resolutions state that existing dispute resolution and mediation systems may meet the needs of homeowners associations, so the Department asks the Committee to consider whether DCCA is the most appropriate entity to head this task force given that existing dispute resolution programs have been identified in these Resolutions as possible viable solutions. Second, the Department would note for the Committee's consideration that there do not appear to be any resources provided for the facilitating, study, and reporting functions requested to cover this unregulated area. As such, the Department would require funding and resources to fulfill the requirements of this resolution.

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

March 31, 2016

**The Honorable Karl Rhoads, Chair**

House Committee on Judiciary  
State Capitol, Room 325  
Honolulu, Hawaii 96813

**RE: H.C.R. 63 / H.R. 28, REQUESTING THE CONVENING OF A TASK FORCE TO CONDUCT A STUDY ON IMPOSING MANDATORY ALTERNATIVE DISPUTE RESOLUTION TO RESOLVE HOMEOWNERS ASSOCIATIONS DISPUTES.**

**HEARING: Thursday, March 31, 2016 at 2:01 p.m.**

Aloha Chair Rhoads, Vice Chair San Buenaventura, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® (“HAR”), the voice of real estate in Hawai'i, and its 8,800 members. **HAR offers comments** on H.C.R. 63/H.R. 28.

Mediation and dispute resolution is a voluntary and confidential process in which two or more parties involved in a dispute work with an impartial party, the mediator, to generate their own solution to settling a conflict. One of the benefits of mediation is that it empowers the parties to reach an agreement that they can both live with. Furthermore, it can serve as a better alternative to expensive litigation.

Litigation for homeowner associations is expensive and often affects other homeowners through subsidizing the cost for litigation through increases in the Association fees or affects the reserves, so anticipated projects or repairs are unable to be conducted while litigation is pending. As such, this Task Force will be valuable in exploring solutions, such as mediation and dispute resolution, as a means to avoid the added costs associated with litigation.

Furthermore, REALTOR® Boards throughout the State, offer consumers, buyers, sellers, or tenants, the ability to resolve their dispute through mediation. HAR appreciates being included in this Task Force and looks forward in providing valuable expertise on this issue.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 29, 2016 10:07 AM  
**To:** JUDtestimony  
**Cc:** KaleleKai002@Hawaii.rr.com  
**Subject:** Submitted testimony for HCR63 on Mar 31, 2016 14:01PM

**HCR63**

Submitted on: 3/29/2016

Testimony for JUD on Mar 31, 2016 14:01PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Alan Takumi	Individual	Comments Only	No

Comments: I have been in the association management business for 16 years and I do agree with having an avenue for homeowners to resolve disputes with their boards, I would suggest that having only one homeowner representative for the thousands of homeowners may result in a narrow point of view. I suggest that a representative be selected from the Community Associations Institute be added to the task force. I believe this will add to the working group.

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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