

## **Testimony of the Real Estate Commission**

**Before the  
House Committee on Consumer Protection and Commerce  
Wednesday, March 29, 2023  
2:10 p.m.  
Conference Room 329 and Videoconference**

**On the following measure:  
H.R. 106, URGING THE REAL ESTATE COMMISSION TO DEVELOP POLICIES AND  
PROGRAMS TO INFORM AND EDUCATE CONDOMINIUM ASSOCIATION OWNERS  
AND BOARD MEMBERS OF CERTAIN MATTERS TO PROMOTE THE EFFICIENT  
ADMINISTRATION OF CONDOMINIUM ASSOCIATIONS**

Chair Nakashima 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 supports this concurrent resolution, but questions its necessity.

The purpose of this resolution is to urge the Commission to develop policies and programs to inform and educate condominium association owners and board members of certain matters to promote the efficient administration of condominium associations.

For the Committee's information, Hawaii Revised Statutes section 514B-71, the Commission's current mandate is to administer the Condominium Education Trust Fund (CETF) for education and research in areas including condominium management, the efficient administration of associations, and support for mediation and arbitration. Condominium education is the focus of the Commission.

The Commission currently offers an extensive menu of educational programs both in-person and on-line, and reaches out to communities throughout the State. In addition to answering in-office inquiries via walk-ins, emails, and mailed correspondence, the Commission created and provided the following educational opportunities:

- Brochures, flyers; magazine articles, quarterly Commission Condominium Bulletin;
- Educational fairs;
- In-person and virtual Condorama educational panel series;
- Regular informational email distribution;

- Educational presentations to association management companies, the Hawaii State Bar Association; Title companies; the Community Council of Maui; Kauai Board of REALTORS; Hawaii Home Ownership Center; Condo Insider - Think Tech;
- Subsidized workshops, seminars, and newsletter articles through CAI Hawaii; and
- Hawaii Condo Living Guide video series.

Additionally, over the last several years, the Commission's programs have been recognized locally and nationally for their educational excellence. It is the mission of the Commission to protect the interests of Hawai'i consumers regarding real estate and condominium matters; the Commission continues to strive to educate the condominium community through creating and providing multiple and varied condominium educational opportunities.

Thank you for the opportunity to testify on this resolution.

**HR-106**

Submitted on: 3/24/2023 5:48:46 PM

Testimony for CPC on 3/29/2023 2:10:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Andrew Crossland	Individual	Support	Written Testimony Only

Comments:

I support this Resolution.

**HR-106**

Submitted on: 3/25/2023 10:38:13 AM

Testimony for CPC on 3/29/2023 2:10:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jeff Sadino	Individual	Support	Written Testimony Only

Comments:

I SUPPORT HR 106 / HCR 99.

Many people from the trade industry say that this bill is “well intentioned” but they still oppose it. It is amazing how many problems they can come up with for why Board members should not be educated about their governance duties but how few solutions they can come up with!

Currently, a large majority of Board members have an adolescent relationship to their responsibilities. They say they are “just volunteers” and think that is a good enough excuse. It is not. Not when they are entrusted with an incredible amount of power and too often, they have used that power to great harm of individual Owners, both on purpose or out of reckless ignorance of their governance duties. This is an objective fact supported by the fact that Hawai’i has a huge, outsized number of lawsuits against Board members for breaching their responsibilities to the AOA than States many, many times our size.

The trade industry proposes that if this Bill passes, then nobody will run for the Board and there will be anarchy. It’s a strange argument that basically says that giving somebody power who will use it incorrectly (as already proven many times in Court!) is better than not giving them that power in the first place.

The trade industry also says that the education already exists. While somewhat true, the problem is that there is no course that provides a methodic, systematic crash-course on how to be a Board member. The current education typically takes a 60-minute deep-dive on just one random topic. As the trade industry says, they are “just volunteers” and I don’t think they have the time, motivation, or incentive to do a bunch of deep-dives on random topics.

If someone does not want to know the rules of the AOA then they have no business being on the Board in the first place and will likely (as already proven many times in Court) cause more harm than good. Yes, they are volunteers, but that does not give them carte blanche to ruin the lives of a condo owner because they are recklessly ignorant of their governance duties (as already proven many times in Court).

Thank you for the opportunity to provide testimony,

Jeff Sadino

## Testimony In Support of HR106

**Submitted for:** Consumer Protection & Commerce Committee Hearing, scheduled to be heard on Wednesday, 3/29/23 at 2:10 PM.

Aloha Chair Nakashima, Vice Chair, Sayama, and Members of the Committee,

My name is Greg Misakian and I am submitting testimony as an individual in support of HR106.

While it is appreciated that there is a formal statement by resolution, your Committee and others within the Legislature had many opportunities to pass numerous bills that would have afforded better consumer protections to condominium owners throughout Hawaii. Words are words, and even the statutes within HRS 514B are only words, unless there is a substantive process of enforcement behind these words. The words of one well connected group, who often oppose these common-sense bills in written and oral testimony, seem to be the only words that are heard when decision making takes place. Most are Attorneys, Parliamentarians, Management Company Representative, or others in the Condominium Trade Industry.

I currently sit on three Boards, which can be seen at the end of my testimony, but the most recent Board I was elected to, and the one of most importance, is my condominium Association Board. As an owner and a former Building Committee member I did my best to inform the Board and Management Company whenever they were doing something improperly, in violation of our governing documents, in violation of HRS 514B statutes, or other federal, state, or local regulations, ordinances, or codes. Unfortunately this was often, and has resulted in many issues and problems that I now have a fiduciary duty and a duty of care to try to resolve as a Director and Officer of my association.

My personal experience with the DCCA Real Estate Branch and RICO, are that they are not helpful, and do not seem focused on properly investigating and helping to resolve issues. I have numerous examples of this and would be happy to share with our Legislators.

Regarding HR106, I'll focus on two sections which contain statements that need further clarification, or additional wording to better explain the ramifications or to be accurate.

WHEREAS, the imposition of increased maintenance fees and special assessments can create discord and conflict between the association unit owners and their boards and managing agents, resulting in frustration, hostility, and dissension; and

Aside from the likelihood of discord, conflict, frustration, hostility, and dissension, there are the real world issues of: 1) kupuna who are on fixed budgets, 2) owners and families who are on fixed budgets, 3) unlawful or improper activities sometimes resulting in increased maintenance fees, 4) improper deferred maintenance resulting in large and unfair maintenance fee increases to mitigate additional damage to the building, or to complete many projects all at once, 5) forced sales or foreclosures due to the inability to make higher payments.

WHEREAS, section 514B-71, HRS, requires the Real Estate Commission--a commission administratively attached to the Department of Commerce and Consumer Affairs that has oversight of condominiums--to establish the Condominium Education Trust

Fund to promote, among other things, education and research in condominium management, the improvement and more efficient administration of associations, and the expeditious and inexpensive resolution of association disputes; now, therefore,

Too many Legislators say “condominium associations are self-governed,” while simultaneously discussing bills or statutes that govern these associations. HRS 514B is in place because the residents of Hawaii need laws where there is a high probability that malfeasance can occur, and so much money and property is at stake. If 514B-71 requires the Real Estate Commission to promote the expeditious and inexpensive resolution of association disputes, why has my experience been the opposite. I have experience with the DCCA, RICO, and mediation, and there is nothing expeditious or inexpensive in my experience, and most importantly there is no resolution. Factual data previously presented in testimony has shown that the majority of mediations are not resolved, in addition to the many issues and concerns that never get reported or filed, as it costs \$375 just to file for a mediation.

To highlight just how bad things are:

As I write this today, the Management Company that oversees my association and many associations throughout Hawaii, and a company that oversees billions of dollars of property value, has a license that is “INACTIVE.” At the DCCA licensing portal for this Management Company it says: “LICENSE IS INACTIVE UNABLE TO PRACTICE.” I just found out it has been inactive since January of this year (and not from the Management Company, our Board, or anyone at my Association). The DCCA and RICO have both confirmed the license is inactive.

It is now my fiduciary duty to act, and I have begun that process. I hope our Legislators will act, and begin the much-needed reform needed to protect condominium owners throughout Hawaii.

I ask the Committee and all State Legislators to **please support HR106**.

And I ask you to support and act on HB178 and HB1501 in the 2024 Legislative Session, which will provide for an Ombudsman’s Office to oversee and resolve the many valid complaints and concerns homeowners have with their Boards and Management Companies.

Mahalo,

Greg Misakian

2<sup>nd</sup> Vice President, Kokua Council  
Board Member, Waikiki Neighborhood Board  
Treasurer, Keoni Ana AOA

**HR-106**

Submitted on: 3/28/2023 2:08:42 PM

Testimony for CPC on 3/29/2023 2:10:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kate Paine	Individual	Support	Written Testimony Only

Comments:

Any educational support to increase dwelling viability is sorely needed