

STAND. COM. REP. NO. 3158

Honolulu, Hawaii

MAR 24 2008

RE: H.B. No. 2492
H.D. 1
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Madam:

Your Committee on Commerce, Consumer Protection, and
Affordable Housing, to which was referred H.B. No. 2492, H.D. 1,
entitled:

"A BILL FOR AN ACT RELATING TO PLANNED COMMUNITY
ASSOCIATIONS,"

begs leave to report as follows:

The purpose of this measure is to provide further clarity and
procedural guidance with respect to planned community associations
in the State by requiring the votes of each board member of a
planned community association to be recorded in the minutes of the
board of directors meetings, and requiring the inclusion of
property restrictions or conditions of use in a seller's
disclosure statement.

Specifically, this measure:

- (1) Requires the minutes of board of directors' meetings for
a planned community association to include the recorded
vote of each board member present on all motions except
motions voted upon in executive session;
- (2) Requires sellers of residential real property to
disclose all restrictions or conditions on use relating
to the property and contained in a recorded document,
including any unrecorded rules or guidelines issued by



entities responsible for enforcing the restrictions or conditions; and

- (3) Specifies the types of planned communities for which seller disclosure statements must include the planned community declaration and association documents.

Testimony in support of this measure was submitted by the Hawaii Association of Realtors and the Hawaii Chapter of the Community Associations Institute.

There is a lack of disclosure that commonly affects the sale of properties in projects that are not condominiums or residential cooperatives, but are nonetheless subject to restrictive covenants or controlled by a homeowners' association. The parties to the purchase and sale of these types of properties frequently overlook the fact that the purchaser is subject to restrictions on the purchaser's ability to use the property being purchased. This omission often leads to disputes and misunderstandings when the purchaser subsequently discovers that the purchaser is required to comply with those restrictions.

Your Committee finds that requiring the inclusion of property restrictions or conditions of use in a seller's disclosure statement will ensure that a purchaser of property is fully aware of the restrictions imposed on the property. Your Committee further finds that requiring the votes of each board member to be recorded in the minutes of meetings of the board of directors for a planned community association will provide further clarity on procedures relating to planned community association board of director meetings.

Your Committee has amended this measure by:

- (1) Changing the effective date of this measure from January 1, 2050, to effective upon its approval; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee believes that this measure, as amended, fulfills its intent, which is to provide further clarity and procedural guidance with respect to planned community associations in the State.



As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Affordable Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2492, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2492, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Affordable
Housing,



RUSSELL S. KOKUBUN, Chair



The Senate
Twenty-Fourth Legislature
State of Hawaii

Record of Votes
Committee on Commerce, Consumer Protection and Affordable Housing
CPH

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2492 HD1	CPH	3/12/2008		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KOKUBUN, Russell S. (C)	✓			
IGE, David Y. (VC)	✓			
ESPERO, Will	✓			
IHARA, Jr., Les	✓			
SAKAMOTO, Norman				✓
TANIGUCHI, BRIAN T.	✓			
TRIMBLE, Gordon	✓			
TOTAL	6			1
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<i>David Y. Ige</i>				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes