

LATE TESTIMONY



WESLEY R. SEGAWA & ASSOCIATES, INC.
CONSULTING CIVIL & STRUCTURAL ENGINEERS
Committed to Quality Performance and Value

January 30, 2008

e-mail testimony to: CPCtestimony@Capitol.hawaii.gov

Hearing on HB2997, Relating to Torts
Before the House Committee on Consumer Protection & Commerce
on Wednesday, Jan. 30, 2008 at 2p.m. in Conference Room 325

Dear Chair Herkes, Vice Chair McKelvey, and members of the Committee:

Wesley R. Segawa & Associates, Inc. is a locally owned and managed small business engineering firm in business for 27 years. **We are in strong support of HB2997, Relating to Torts.**

This bill is about personal responsibility and accountability. Currently under the tort law when there is an accident on a public highway, the design professional who worked on the project, must cover one hundred percent (100%) of the liability. This is true even if the design professional is not negligent or nominally negligent. For example, even if a design professional may be five percent (5%) negligent, his/her insurance company will settle for the design professional's insurance policies limits, generally a million dollars, versus going to trial. Simply because under the current law there is no incentive for the design professional to go to trial because if he is found to be five percent (5%) negligent, or even one or two percent (1 or 2%) negligent under joint and several he would be responsible for 100% of the liability because he is the "deep pocket".

Needless to say, this is unfair and not good public policy because it does not encourage personal responsibility and accountability. Generally, when there is an accident on a public highway, it is usually contributed to, at least in part, by the fact that a driver has **chosen** to drive drunk, speed, and/or be reckless. Thus, the driver who has **chosen** to drive while drunk, speed and/or be reckless should be responsible for his/her share of the liability.

HB2997 offers a compromise solution. HB2997 would limit the design professional's liability to no more than its percentage share of the damage if the design professional is less than twenty-five percent (25%) liable. If the design professional is twenty-five percent (25%) or more liable, joint and several would apply.

101 Silva Street, Suite 201 • Hilo, Hawaii 96720-4755 • (808) 935-4677 • Fax (808) 935-2070 • E-Mail hilo@wrsa.biz

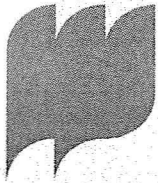
Honolulu (808) 536-4495 • Fax (808) 524-4466 • ¹ Kailua-Kona (808) 329-7542 • Fax (808) 329-7457

This will help resolve some of our firm's concern about being the "deep pocket" in every public highway accident case. Our firm has been so concerned about being the "deep pocket" that we have had to think twice before we take on any public highway contract. At times, we have had to make the difficult decision to not take a public highway contract because we simply cannot afford the potential liability, even absent any negligence on our part, because it could mean the end of our small local business.

Most design professionals are small local businesses and they are faced with this difficult decision every day. Currently, the only firms that can afford to absorb this unfair proportion of liability are huge firms, many times Mainland firms. This is not good for the State because it means that it is taking away jobs and income from the local economy. It also means that with less design professional bidding for public highway jobs, the State may not always get the best design professional for the job.

Wesley R. Segawa & Associates, Inc. appreciates the continuing efforts of your committee and the members of the House to improve the business climate for small business in Hawaii because we are truly the backbone of the Hawaii economy. Thank you for the opportunity to testify in support of this important measure, HB2997

By: 
Wesley R. Segawa, President



LATE TESTIMONY

Walters, Kimura, Motoda, Inc. / landscape architects / ASLA

January 29, 2008

e-mail testimony to: CPCtestimony@Capitol.hawaii.gov

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Before the House Committee on Consumer Protection & Commerce
on Wednesday, Jan. 30, 2008 at 2p.m. in Conference Room 325

Dear Chair Herkes, Vice Chair McKelvey, and members of the Committee:

Walters, Kimura, Motoda, Inc. is a locally owned and managed small business landscape architectural firm in business for 38 years. **We are in strong support of HB2997, Relating to Torts.**

This bill is about personal responsibility and accountability. Currently under the tort law when there is an accident on a public highway, the design professional who worked on the project, must cover one hundred percent (100%) of the liability. This is true even if the design professional is not negligent or nominally negligent. For example, even if a design professional may be five percent (5%) negligent, his/her insurance company will settle for the design professional's insurance policies limits, generally a million dollars, versus going to trial. Simply because under the current law there is no incentive for the design professional to go to trial because if he is found to be five percent (5%) negligent, or even one or two percent (1 or 2%) negligent under joint and several he would be responsible for 100% of the liability because he is the "deep pocket".

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LATE TESTIMONY



Garduque Architects, LLC

29 January 2008

E-mailed testimony to: CPCtestimony@Capitol.hawaii.gov

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Before the House Committee on Consumer Protection & Commerce
on Wednesday, Jan. 30, 2008 at 2p.m. in Conference Room 325

Dear Chair Herkes, Vice Chair McKelvey, and members of the Committee:

Garduque Architects, LLC is a locally owned and managed small business architecture firm in business for 20 years. **We are in strong support of HB2997, Relating to Torts.**

This bill is about personal responsibility and accountability. Currently under the tort law when there is an accident on a public highway, the design professional who worked on the project, must cover one hundred percent (100%) of the liability. This is true even if the design professional is not negligent or nominally negligent. For example, even if a design professional may be five percent (5%) negligent, his/her insurance company will settle for the design professional's insurance policies limits, generally a million dollars, versus going to trial. Simply because under the current law there is no incentive for the design professional to go to trial because if he is found to be five percent (5%) negligent, or even one or two percent (1 or 2%) negligent under joint and several he would be responsible for 100% of the liability because he is the "deep pocket".

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733 Bishop Street, Suite 2121, Honolulu, HI 96813
808-536-7077 Phone 808-536-9906 Fax

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Sincerely,
Garduque Architects, LLC

(Original signed)

T.E. Garduque, FAIA
President and Manager

American Institute of Architects, Honolulu
Finance Insurance, Karen Hong
Randall K. Schmitt, Esq.
Kenneth Kupchak, Esq.
Michael Yoshida, Esq.
Dave Shibata, Esq.