



STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO

Statement of
Orlando "Dan" Davidson

Hawaii Housing Finance and Development Corporation
Before the

**SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND
AFFORDABLE HOUSING
SENATE COMMITTEE ON HUMAN SERVICES AND PUBLIC HOUSING**

February 1, 2008, 9:00 a.m.
Room 229, State Capitol

In consideration of
S.B. 2392
RELATING TO HOUSING.

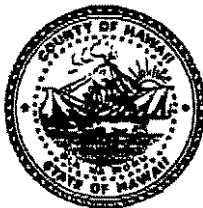
The HHFDC opposes sections 2 through 5 of S.B. 2392, and defers to the Hawaii Public Housing Authority with respect to the remainder of the bill.

Section 2 establishes a new chapter in the Hawaii Revised Statutes (HRS) superseding chapter 516, HRS (Residential Leaseholds). This proposed chapter is problematic for several reasons. We specifically oppose section 3 (page 4, lines 9-20) which allows lessees to redeem their leases to obtain fee simple title to their properties, and section 13 (page 9, lines 10-14), which mandates that any lease of residential real property executed after its enactment be for a period of 99 years, automatically renewable for another 99 years. This proposed chapter would be the end of residential leaseholds as a means to provide affordable for-sale options for Hawaii families.

The HHFDC is partnering with non-profit entities by providing suitable land at a nominal lease rent upon which they can develop affordable housing. Under this model, the leasehold transfer of land is a means by which the HHFDC may retain sufficient control to ensure that affordable housing developments remain affordable over the long term. However, the HHFDC may not be able to continue to do so if a leasehold transfer becomes essentially the equivalent of a fee simple transfer.

Sections 3 through 5 of S.B. 2392 impose an anti-speculation capital gains tax on real property and deposits the proceeds thereof into the HHFDC's Rental Housing Trust Fund. We appreciate the intent of these provisions, but oppose the imposition of a new tax. Thank you for the opportunity to testify.

Harry Kim
Mayor



Edwin S. Taira
Housing Administrator

County of Hawaii
OFFICE OF HOUSING AND
COMMUNITY DEVELOPMENT

50 Wailuku Drive • Hilo, Hawai'i 96720-2456
V/TT (808) 961-8379 • FAX (808) 961-8685

January 31, 2008

The Honorable Russell S. Kokubun, Chair
The Honorable David Y. Ige, Vice Chair
and Committee Members
Committee on Commerce, Consumer Protection, and Affordable Housing

Twenty-Fifth Legislature
Regular Session of 2008

SUBJECT: Senate Bill 2392
Relating to Housing
Hearing Date: February 01, 2008
Time: 9:00 A.M.
Conference Room 229

The Office of Housing and Community Development (OHCD) strongly opposes Senate Bill 2392.

The OHCD believes this bill will have a severe negative impact on both existing and planned affordable housing. Furthermore it would strip the County of the ability to provide long-term ground leases to non-profit developers and operators of homeless, transitional and workforce housing as well as endanger the continuation of services they provide to the community.

The U.S. Department of Housing and Urban Development (HUD), the Internal Revenue Service (IRS), and Hawai'i Housing and Finance Development Corporation (HHFDC) require renters to meet median income guidelines for participation in affordable housing development loans and grants, such as the Low Income Housing Tax Credits and Community Development Block Grants. Senate Bill 2392 would negate the County's ability to provide the necessary controls and restrictions to assure compliance with renter eligibility and would further jeopardize the development of affordable housing throughout the State of Hawai'i.

The OHCD also believes it is important for both the State and the Counties to have proper controls to ensure compliance with State and Federal agencies, including renter eligibility. Thank you for the opportunity to provide testimony.

Edwin S. Taira
Housing Administrator



EQUAL HOUSING OPPORTUNITY
"HAWAII COUNTY IS AN EQUAL OPPORTUNITY
PROVIDER AND EMPLOYER"



2392

KAMEHAMEHA SCHOOLS

Written Testimony

To The Senate Committee on Commerce, Consumer Protection, and Affordable Housing
And The Committee on Human Services and Public Housing

By

Sydney WCK Keli'ipuleole, Director
Endowment/Residential Assets Division

Hearing Date: Friday, February 01, 2008
9:00 a.m., Conference Room 229

Wednesday, January 30, 2008

Re: SB 2392 - Relating to Housing

To: Sen. Russell S. Kokubun, Chair and Sen. David Y. Ige, Vice Chair
Sen. Suzanne Chun Oakland, Chair and Sen. Les Ihara, Jr., Vice Chair

Thank you for the opportunity to comment on this bill and in particular the proposal for "Redemption". Under redemption a residential lessee is granted the right to terminate their lease upon 30-days notice to the lessor, provided the lessor is paid the capitalized value of the rent after lease termination, plus twelve percent interest. Upon termination and payment the fee simple interest in the property shall vest to the lessee.

Kamehameha Schools opposes this section of the bill allowing for redemption by the lessee.

1. The formula for determining Lessor's compensation is unfair and does not recognize accepted valuation and appraisal methodology and is defined as "owner-basis" in HRS Chapter 516-1. At any time throughout the lease term the value of the Lessor's interest is the discounted present value of the rent under the contract and the value of the reversionary interest. Furthermore as the lease term expires, the value of the reversionary interest grows. And for many condominium leases the lease contract stipulates that the reversionary interest includes both the condominium apartment, as well as the land there under. Thousands of lessees have purchased the landowner's leased fee interest based on this methodology. The proposed formula is also unfair to those thousands of lessees that purchased under that pricing methodology.
2. Redemption creates another form of eminent domain which is now provided for in HRS Chapter 516, but without fairness and due process for the lessor. Redemption will circumvent HRS Chapter 516 for the purposes of taking private and public leased fee interests in residential leaseholds.



KAMEHAMEHA SCHOOLS

Page 2 of 2

Wednesday, January 30, 2008

3. While the stated purpose of SB 2392 is to address the State's housing shortage, the Redemption clause conflicts with HRS Chapter 516's provision for Sustainable Affordable Development residential leasing. Sustainable Affordable Development is provided in HRS Chapter 516 to provide for affordable housing utilizing residential leases. Furthermore, Sustainable Affordable Development leases are exempt from HRS Chapter 516 provisions for leasehold condemnation. Redemption may prevent landowners from considering Sustainable Affordable Development residential leases.

We therefore ask that the provision for Redemption be deleted from the proposed bill. And thank you for this opportunity to comment on SB 2392.

February 1, 2008

The Honorable Russell S. Kokubun, Chair
Senate Committee on Commerce, Consumer Protection,
and Affordable Housing

The Honorable Suzanne Chun Oakland, Chair
Senate Committee on Human Services and Public Housing
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 2392 Relating to Housing
Hearing Date: February 1, 2008 @ 9:00 a.m., Room 229

On behalf of our 10,000 members in Hawaii, the Hawaii Association of REALTORS® (HAR) **strongly opposes Section 3** of S.B. 2392 which: (a) assesses a graduated anti-speculation tax on the capital gains realized on real property held from less than six months and up to twenty four months before sold; and (b) deposits the realizations to the Rental Housing Trust Fund.

S.B. 2392 imposes an additional anti-speculation capital gains tax of: (a) 60% of the capital gains tax owed if real property was held by the seller for less than six months; (b) 30% of the capital gains tax owed if real property was held by the seller for six months but less than twelve months; and (c) 15% of the capital gains tax owed if real property was held by the seller for twelve months up to and including twenty-four months.

Please note that under federal and Hawaii income tax law, gain received by a real estate dealer from his or her business operations will be taxed as ordinary income (not capital gain).

A real estate dealer is a person who buys and sells real property with a view to the trading profits to be derived and whose operations are so extensive as to constitute a separate business.

Whether the taxpayer is a real estate dealer or investor is a question of fact. A taxpayer may be found to be engaged in the business of buying and selling real estate by reason of the taxpayer's organization and method of activities.

The IRS is unlikely to challenge a taxpayer who claims to be a real estate dealer in order to pay tax at the ordinary income rate (which is the same as the short-term capital gain rate) and thereby avoid the anti-speculation capital gains tax under Section 3 of S.B. 2392. The entire burden of enforcing the anti-speculation capital gains tax will therefore fall on the State of Hawaii Department of Taxation.

HAR questions why the sale of unimproved land is not subject to Section 3 of S.B. 2392 as this could encourage the premature demolition of existing improvements and resulting eviction of tenants so that an investor can sell vacant land and possibly avoid the additional tax imposed under Section 3 of S.B. 2392.

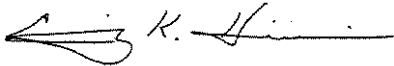
HAR respectfully submits that Section 3 of S.B. 2392 is unfair to small investors, will not materially impede the turnover of real property in Hawaii, and may not raise much additional revenue for the Rental Housing Trust Fund.

HAR strongly believes that the State's present course of increasing the supply of rental housing and owner occupied for sale housing is by far the better long-term solution to the present workforce and affordable housing shortage.

HAR looks forward to working with our state lawmakers in building better communities by supporting quality growth, seeking sustainable economies and housing opportunities, embracing the cultural and environmental qualities we cherish, and protecting the rights of property owners.

Mahalo for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig K. Hirai". The signature is fluid and cursive, with a large initial "C" and "H".

Craig Hirai, Member
Subcommittee on Taxation and Finance
Government Affairs Committee



Hawaii Reserves, Inc.
A LAND MANAGEMENT COMPANY

January 31, 2008

Via Facsimile (808) 586-6659

Senate Committee on Commerce, Consumer Protection, and Affordable Housing
Senator Russell S. Kokubun, Chair

Senate Committee on Human Services & Public Housing
Senator Suzanne Chun Oakland, Chair

Re: S.B. 2392 (Relating To Housing)
Testimony In Opposition
Hearing: Friday, February 1, 2008, 9:00 a.m., Conf. Rm. 229

Honorable Chair Kokubun, Chair Chun Oakland and Committee Members:

Thank you for allowing me the opportunity to testify in opposition to Senate Bill 2392 on behalf of Hawaii Reserves, Inc., a land management company.

This bill would, among other things, allow a single lessee under a long-term residential lease to force the sale of the fee interest in the land. While the stated intent of this bill is to help address the State's housing shortage, it would actually threaten a viable means for government and private landowners to create and preserve affordable housing – the leasehold property interest.

Our company is planning to build a number of affordable housing units through the use of "sustainable affordable leases". Such leases are granted in a "sustainable affordable development" – development projects where 30% of the units must be affordable to persons in the county's median income range, and the sales price of at least 51% of the residential lots must be no higher than 80% of the fair market value of the lots in fee (HRS 516-1). *Because such leases help address the State's affordable housing crisis, they were specifically exempted from Hawaii's lease to fee conversion law (HRS 516-201).*

The passage of this bill would undermine the leasehold foundation of sustainable affordable developments and would therefore worsen, rather than help address, the State's housing shortage.

For these reasons and others we respectfully request that you hold S.B. 2392.

Kind regards,

Steve Keali'iwahamana Hoag, Esq.
Director of Human Resources
& Government Relations
and Assistant to the President

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Anti-speculation capital gains tax

BILL NUMBER: SB 2392; HB 2733 (Identical)

INTRODUCED BY: SB by Fukunaga; HB by Rhoads

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to impose an anti-speculation, short-term capital gains tax on the net capital gains realized from the sale of real property, less commissions, fees, and other charges related to the sale. The tax shall be imposed on the seller and shall be 60% of the capital gains tax owed on the sale of real property if held by the seller for less than six months prior to the sale; 30% if the real property was held for six months but less than 12 months; or 15% if the real property was held between 12 months and 24 months.

This tax shall not apply to real property sold to provide affordable housing to a resident earning less than 140% of the median Hawaii income as determined by the department of taxation which will not be resold in less than ten years. Stipulates that the sale of unimproved real property shall be not be subject to this section. Requires the department of taxation to deposit all tax realizations pursuant to this section into the rental housing trust fund.

Makes conforming amendments to HRS sections 235-51 and 201H-202 and other nontax amendments and appropriations to address the state's housing shortage.

EFFECTIVE DATE: Tax years beginning after December 31, 2007

STAFF COMMENTS: It appears that this measure is being proposed as a means of penalizing "speculators" as it proposes an anti-speculation capital gains tax on the "profit" realized from the sale of residential real property if the property is sold within two years after acquisition unless the property is to be utilized as affordable housing.

It should be noted that the additional tax may not deter prospective investors as there is nothing magical about holding property for a number of years before selling the property as any additional costs incurred, such as proposed by this measure, will no doubt be passed on to the buyer or figured into the selling price of the residence. Thus, the proposed measure may increase the selling price of housing in the state rather than deter so-called speculative buying.

Speculation is defined as to assume a business risk in hope of gain, especially to buy and sell in expectation of profiting from market fluctuations. Perhaps in another type of society or kind of economic philosophy, such a tax would be acceptable, if not mandatory. However, in our free-market economy speculation is encouraged. Unfortunately, when the speculation is in real estate or more specifically in homes, it elicits a negative response from a community where the availability of housing is limited. Thus, perhaps if one were to point a finger of blame for the rise in the cost of housing, it should be at government. With restrictions on conversion of lands from other uses to urban use and numerous

SB 2392; HB 2733 - Continued

regulations, building codes, infrastructure standards, lengthy approval processes, etc., it is no wonder that the supply of housing cannot meet the current demand. A good investor will see that where supply is limited, there is no doubt that prices will increase as the supply becomes even more constricted.

Speculation and the responding taxes were quite popular years ago when "foreign investors" invaded the real estate market and homeowners and commercial properties were eager to cash in on their real estate holdings. Once those investors left, the economic doldrums of the 1990's set in where many residents were over their heads in debt as the equity in their residences sank below mortgage levels. Those who were caught in this vacuum discovered that real estate is an illiquid and risky investment. Unlike a savings account, the funds invested in real property cannot be shifted or recouped very quickly nor do they pay a guaranteed interest rate. Property investors will buy and sell when conditions are most favorable. That favorable moment may occur within two years after purchase or it could occur in ten years after purchase. The market dictates when and if conditions are favorable for a sale of assets. A tax, such as this measure proposes, merely skews the market and may, in fact, deter any investment as there is the risk of incurring the tax should the asset be sold within the prescribed period.

A measure such as this speculation tax fails to recognize the forces and factors which make for an attractive environment in which to do business, one that recognizes that no investor plunks his money down so he can take a loss. If enacted, this measure would send out strong signals to investors that Hawaii is not a good place to invest capital if there is the potential that the philosophy reflected in this proposal will be extended to other types of investments whether it be real or personal property. Without the influx of new capital, the potential for economic growth in Hawaii will continue to be dismal.

While the proposed measure would earmark the receipts from the proposed tax into the rental housing trust fund, it should be remembered that earmarking such receipts should be approached with extreme caution. Reliance on an activity that may be affected by the tax imposed forebodes the inadequacy of the revenues to be realized. If the tax is successful in deterring quick turnovers of such land, then the revenues may prove to be insufficient to accomplish the goals of the fund.

On the other hand, if investors find the new tax a matter of course for doing business and investing in such land, then there may be a plethora of revenues for the fund. But, at the same time, it must be realized that the cost of the tax will be passed on to subsequent purchasers and the cost of all such real estate will continue to escalate at a much faster pace.

Instead of such draconian measures as this tax represents, lawmakers should be searching for ways to make Hawaii an attractive place to do business, to streamline the permitting and land use process, to provide the supporting infrastructure to the agricultural community that is so desperately needed, and reduce the burden of taxes and the commensurate spending that drives the greed for new and more revenues. Structural reform is needed in a community where government is the intimidating giant overshadowing the private sector that produces the jobs needed by Hawaii's people. It is time that lawmakers took a long hard look outside their ivory towers and if they did, measures such as this would never be forwarded.

One of the economists contracted for the 1989 Tax Review Commission was asked to look at the issue of nonresident investment and speculation in real estate in Hawaii which was rampant at the time and her conclusion was:

External investment has played a significant role in the growth and development of Hawaii's economy, and it appears that the state will continue to depend on external sources of capital. This creates a difficult problem for tax policy when returns to foreign investors are not taxed the same as returns to resident or domestic nonresident investors. On the one hand, discriminatory taxation is unconstitutional with negative impacts on desirable capital flows; on the other hand, uncaptured capital gains on foreign investment is a violation of the equity principle. . . . New capital formation has positive net benefits for the state. Policy changes should not act to discourage such investment. Indeed, they should encourage new capital formation. . .

In the drive for affordable housing, it is government that is the culprit, exacting costly requirements which delay the timely delivery of such housing and in turn drives up the cost. One has to also question whether or not all of the tax incentives thrown at the construction industry during the past half dozen years drove the cost of construction higher at a much faster pace making the term affordable housing an oxymoron.

Digested 1/31/08



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
HAWAII PUBLIC HOUSING AUTHORITY
1002 NORTH SCHOOL STREET
POST OFFICE BOX 17907
Honolulu, Hawaii 96817

LATE

Statement of
Chad K. Taniguchi
Hawaii Public Housing Authority
Before the

SENATE COMMITTEE ON HUMAN SERVICES & PUBLIC HOUSING

February 1, 2008, 9:00 a.m.
Room 229, Hawaii State Capitol

In consideration of
S.B. 2392
RELATING TO HOUSING

The Hawaii Public Housing Authority (HPHA) opposes this measure.

Section 6 of the bill prohibits HPHA from denying rent supplement benefits based on the number of persons sharing a bedroom in an apartment. This provision is problematic under current HPHA rules because it would allow two or more individuals sharing one bedroom to claim separate rent supplement benefits for the use of the same bedroom. However, if the Committee can let us know the outcome desired, HPHA will suggest language that could accomplish that outcome.

Section 6 also prohibits HPHA from denying rent supplement benefits to tenants in federally subsidized housing. While HPHA appreciates the intent of this measure to assist low-income individuals, the intent of the Rent Supplement Program is to assist gap group families whose income is just above the qualifying level low-income state and federal public housing. HPHA believes that this section counteracts the purpose of the Rent Supplement Program.

Section 7 of the bill expands the enrollment in the Family Self-Sufficiency Program to include residents of federal public housing. It would not be feasible to expand the program to include public housing tenants as this equates to a duplication of services by offering an individual federally subsidized housing in addition to a rent supplement. Rent in federal public housing is restricted to thirty percent of the resident's income. An additional housing subsidy is not needed since public housing is already the most affordable housing in the state. Furthermore, it does not promote self-sufficiency amongst public housing residents.

Lastly, Section 8 appropriates a blank general revenue appropriation to HPHA for the purposes of expanding enrollment in the program. Please note that HPHA is currently asking the Legislature for a \$10,000,000 emergency appropriation for a critical operating budget shortfall for the current fiscal year. Any appropriation made should not adversely impact HPHA's funding priorities in the Executive Supplemental Budget.

Thank you for the opportunity to testify.

LATE TESTIMONY

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

SANDRA L. YAHIRO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510
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SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION & AFFORDABLE HOUSING AND HUMAN SERVICES & PUBLIC HOUSING

TESTIMONY REGARDING SB 2392 RELATING TO HOUSING

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: FEBRUARY 1, 2008
TIME: 9:00AM
ROOM: 229

This legislation, among other things, provides for an anti-speculation capital gains tax equal to various percentages of the capital gains tax owed depending upon the sale event.

The Department of Taxation (Department) opposes this legislation as a tax increase.

NO CONSIDERATION FOR PROPERTIES WITH HOMEOWNERS EXEMPTIONS—This bill appears to punish every homeowner, regardless of whether the homeowner utilizes the property as their residence. The Department suggests that any punitive tax be specifically assessed on those that do not use the property as a residence. The Department suggests amending the bill to apply only to those properties that do not qualify for a county homeowners exemption.

EXCEPTIONS—The Department also has problems with the fact that this bill does not exempt military personnel or others that may have to sell the property for legitimate reasons. The federal government provides tax breaks for the military and their home sales—not tax increases, as provided in this bill. This bill should be amended to clarify that compelled sales, such as that which occurs when a soldier, sailor, or marine is called to duty elsewhere, be added.

NARROW TAX CALCULATION—This legislation only assesses the additional anti-speculation tax on the length of time the property is held. In all fairness, a proper tax would assess the increased penalty on the sale based upon both the time the property is held for sale, as well as based upon the percentage amount of gain realized. The Department suggests that a tax calculation similar to Vermont's is considered. *See 32 VERM. STAT. 10003.*

LACK OF STUDY—The Department is also concerned over the lack of analysis that has been conducted as to whether or not an increased tax actually deters speculative land sales.

THIS BILL WILL ONLY RESULT IN INCREASED HOUSING PRICES—Finally, the Department is also concerned over the fact that this bill will likely do little more than increase purchase prices of homes. Based on simple economics, it is likely that any seller subject to this tax will factor the tax into the purchase price, ultimately increasing the price and resulting in the opposite intended impact of this legislation. Sales prices will not be stabilized.

There is an expected general fund revenue loss of \$10.7 million annually. Monies generated by the anti-speculation tax will be deposited into the rental housing trust fund. The rental housing trust fund is expected to increase by approximately \$639,837 for FY2009 and every year thereafter.

LATE TESTIMONY

Bryan J. Baptiste
Mayor

Gary K. Heu
Administrative Assistant



Housing Director

Kenneth N. Rainforth
Executive on Housing

KAUAI COUNTY HOUSING AGENCY
Pi'ikoi Building 4444 Rice Street Suite 330
Lihue, Hawaii 96766

January 31, 2008

The Honorable Russell S. Kokubun, Chair
The Honorable David Y. Ige, Vice Chair
and Committee Members
Committee on Commerce, Consumer
Protection, and Affordable Housing

The Honorable Suzanne Chun Oakland, Chair
The Honorable Les Ihara, Jr., Vice Chair
and Committee Members
Committee on Human Services and Public
Housing

Twenty-Fourth Legislature
Regular Session of 2008

**SUBJECT: Opposition to Senate Bill 2392, Relating to Housing
Committee: CPH/HSP**

Hearing: February 1, 2008 9:00 AM Conference Room 229

The Kaua'i County Housing Agency (KCHA) strongly opposes Senate Bill 2392.

The KCHA believes this bill will have a severe negative impact on both existing and planned affordable housing. It would adversely affect the County's ability to provide long-term ground leases to non-profit developers and operators of homeless, transitional, affordable and workforce housing. It would significantly impede the ability of community land trusts and government to provide sustainable affordable housing through leasehold ownership.

The U.S. Department of Housing and Urban Development (HUD), the Internal Revenue Service (IRS), and Hawaii Housing and Finance Development Corporation (HHFDC) require renters to meet median income guidelines for participation in affordable housing development loans and grants, such as the Low Income Housing Tax Credits and Community Development Blocks Grants. Senate Bill 2392 would negate the County's ability to provide the necessary controls and restrictions to assure compliance with renter eligibility. The KCHA believes it is important for both the State and the Counties to have proper controls to ensure compliance with State and Federal agencies, including renter eligibility.

We reiterate our strong opposition to SB 2392. Thank you for the opportunity to provide testimony.

Sincerely,


KENNETH N. RAINFORTH
Executive on Housing



TESTIMONY FOR SB 2392
HEARING DATE: FRIDAY, FEBRUARY 1, 2008
COMMITTEE: CPH/HSP

January 31, 2008

Please support SB 2392 expanding eligibility for the Rent Supplement Program and the Family Self Sufficiency Program of the Hawaii Public Housing Authority (HPHA); providing for a wind-fall profits tax on condominium developers; and mandating leasehold-to-fee simple conversion of residential properties.

The Rent Supplement Program and the Family Self Sufficiency Program:

My mother was receiving rent supplement until the apartment building we lived in was purchased by developers and converted to condominiums. We now live in public housing and are told my mother is ineligible for rent supplement because we now have only one bedroom and must have two bedrooms to qualify for "shared housing." Until the building we lived in was purchased by developers, we had a two bedroom apartment and paid \$965 per month. We now live in public housing, have only one bedroom, pay \$1058 per month, and have to cope with non-working elevators, insufficient laundry facilities, and filthy common areas of the building which are seldom, if ever, cleaned. We had no choice but to accept a one bedroom in public housing as we were facing imminent eviction and there are too few two bedroom apartments for the elderly and disabled to wait for an opening. From our perspective, we are much worse off than before, and ineligible for the benefit my mother received when we lived in better conditions. The definition that we are not in "shared housing" defies common sense, as we are now cramped into a smaller space, sharing one bedroom, and paying more. It would seem that such a reduction in circumstances should make one more eligible for benefits. Also, this program should be extended to people in HUD subsidized housing. We have been told by the HPHA that the building in which we live, although on the HPHA list and managed by them, does not qualify for the rent supplement program, that when it comes to public housing, only State subsidized public housing qualifies. I believe that the funding source should be irrelevant. If rent supplement is extended to people in both private housing and State subsidized housing, why discriminate against HUD subsidized housing, especially since this housing appears on the HPHA list and is managed by the HPHA?

Similarly, we fall between the gaps of the Family Self Sufficiency Program. The administration of this program has been out-sourced by HPHA to the City and County of Honolulu Work Links Program at 1505 Dillingham Blvd., Suite 110, phone number 843-0733, extension 230. The people there are very nice and willing to speak to us, but told us we do not qualify for this program. Formerly, this program allowed part of the rent paid by people living in public housing to be put into escrow, to save for a down payment on a home. We have been told that the program has "evolved" and we don't qualify because we are already paying the "rent cap", that is, the highest rent for public housing. The program is designed to provide incentive for self sufficiency by finding people work and rewarding them by allowing them to save in escrow the difference between the rent they would pay due to their wages and their "base" rent. Also, there are only 25 total slots in this program and the program does not apply to HUD housing.

I am disabled, already working within the physical limits of my disability and the earning limits set by Social Security, have taken a first time home buyers course, have assets saved from before the occurrence of my

disability, pay the highest public housing rent, and do not qualify for this program. Therefore, the regulations exclude the very people who demonstrate the most initiative and motivation. Also, what of the disabled people who cannot work at all? Some, like me, may have worked and saved money before acquiring their disability. Allowing the disabled to save part of their rent in escrow would permit us to continue saving for a home and eventually remove us from public housing, freeing up much needed public housing units. Also, the Family Self Sufficiency Program should be expanded to include residents in HUD subsidized housing for the same reasons as described above.

A Windfall Profits Tax on Condominium Developers:

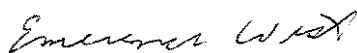
I also request that you support a tax on developers who have made windfall profits. During the last legislative session the bill to tax those who bought and resold properties within 2 years failed. This bill, at least, would have forced the developers who accrued windfall profits to provide monies which could then have been used by the state to more quickly replace the lost affordable housing. The situation we and others find ourselves in are due in large part through the short-sightedness of the state government which allowed private developers to buy up the majority of affordable apartment buildings and convert them to condominiums. This trend occurred over several years and was allowed to continue unimpeded and without making provision to replace the affordable units lost. There also seems to be a trend to create affordable housing for the elderly, excluding the disabled who don't meet age requirements - where are the disabled to go? The final affront is to then create programs with such narrow, stringent, inflexible rules that almost no one qualifies for them.

Leasehold-To-Fee Simple Conversion:

Finally, please support mandating leasehold-to-fee simple conversion of residential properties wherever a majority of leasehold owners desire it. There is legal precedent for this. Until recently the City and County of Honolulu had such a law, I believe it was called "Chapter 38", which was fought all the way to the United States Supreme Court, which upheld it. Then, Mayor Mufi Hanneman simply repealed the law when he took office. Also, the U.S. Court of Appeals reinstated on January 14, 2008 a lawsuit allowing owner-occupants of Waikiki's Discovery Bay condominium to buy the fee in their leaseholds or collect damages from the City and County of Honolulu. A state law would provide uniform application by all counties, eliminate the obsolete concept of residential leaseholds, and provide housing security for the elderly who find themselves out-living the terms of their leaseholds and cannot afford to repurchase.

My contact information is as follows: address: 1212 Kinau St., Apt. 1202, Honolulu, HI 96814; phone: 531-4652. Thank you for considering my testimony.

Sincerely,



Ms. Emerence West

January 31, 2008



Senator Russell S. Kokubun, Chair
Senator David Y. Ige, Vice-Chair
Committee on Commerce, Consumer Protection and Affordable Housing

Senator Suzanne Chun Oakland, Chair
Senator Les Ihara, Jr. Vice Chair
Committee on Human Services and Public Housing
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Re: S.B. NO. 2392, RELATING TO HOUSING

Dear Chairs Kokubun and Oakland, Vice Chairs Ige and Ihara, and Committee Members:

Thank you for allowing me the opportunity to testify in opposition to Senate Bill 2392 on behalf of UniDev Hawaii, LLC, a workforce housing development company.

UniDev Hawaii, along with others is engaged in the development of affordable housing units that will be sold subject to long term "sustainable affordable leases". Such leases are granted in a "sustainable affordable development", where 30% of the units must be affordable to persons within the County's median income range, and the sales price of at least 51% of the residential units must be no higher than 80% of the fair market value of the units in fee (HRS 516-1). Because "sustainable affordable leases" provide for the creation of permanently affordable residential units they have been granted an exemption from the lease to fee conversion law (HRS 516.201).

The passage of this bill will allow a single lessee under a long term residential lease to force the sale of the fee interest in the land and would undermine the leasehold foundation of sustainable affordable developments. This would undermine the State's efforts to promote the development of affordable housing for the residents of Hawaii.

For this reason, we respectfully request that projects being developed as "sustainable affordable development" utilizing a "sustainable affordable lease" program be specifically exempted from the provisions of S.B. 2392.

Thank you for your consideration of the foregoing.

Very truly yours,

UNIDEV HAWAII, L.L.C.

By: 

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