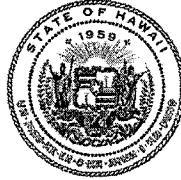


LINDA LINGLE
GOVERNOR

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
FAX NO: (808) 587-1560

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT & TAXATION

**TESTIMONY REGARDING SB 3167
RELATING TO KAKAAKO**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: FEBRUARY 7, 2008

TIME: 1:15PM

ROOM: 224

This bill provides a refundable income tax credit for an unspecified amount of real property tax assessed by the City & County of Honolulu for certain industrial property located in Kakaako.

The Department of Taxation (Department) opposes this tax policy.

I. THE DEPARTMENT OPPOSES THIS REAL PROPERTY TAX CREDIT.

Without commenting on the propriety or merits of the intent and purpose of this legislation, the Department opposes the real property income tax credit for the following reasons:

THE REAL PROPERTY TAX CREDIT, IN EFFECT, MERELY SUPPORTS THE COUNTIES—The Department believes that a real property tax credit in any amount is ultimately a subsidy to the City & County of Honolulu. There are several unintended consequences from this legislation. First, the county would be in a position to consider increasing the tax on industrial land because the State would be paying for the tax, regardless of the rate or amount. Second, no taxpayer would be interested in challenging any assessments because ultimately the State will pay the bill. The Department believes that this tax credit is poor tax policy because the county enjoys the ultimate subsidy.

If the intent of this legislation is to provide relief for the real property taxes on industrial land, the Department suggests appropriating a set amount of revenue to the county and requiring the counties to adopt a direct real property tax credit.

RECAPTURE—This legislation does not include language regarding the redesignation of land. Nor does it include specific recapture provisions. The bill suggests that in order to qualify the real property must be properly designated as industrial and must be used for industrial or commercial

purposes. However, the bill is devoid of any guidance as to what occurs if any of these events ceases to occur. To avoid abuse, the Department suggests that recapture language be added.

REFUNDABLE CREDIT—This tax credit is refundable. The Department questions whether a refundable tax credit is necessary.

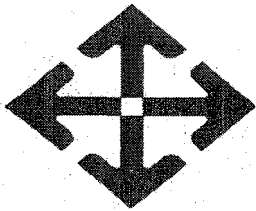
II. REVENUE ESTIMATE.

This legislation will result in an indeterminate revenue estimate since the limit (in terms of property size and credit amount) is not specified.

Assuming the credits are available upon this bill's approval and without regard to the unspecified size and amount limitation, there is an estimated revenue loss of \$1.3 million in FY2009 and \$2.5 million annually thereafter.

The Hawaii Community Development Authority reports the Kakaako district is approximately 600 acres. In the State of Hawaii Data Book (2006), industrial land in Honolulu totaled approximately 3,790 acres in 1998. It is assumed this figure remains relatively constant over time. Of the 600 acres (of mixed-use land) in Kakaako, it is further assumed approximately 15% qualifies for this tax credit (or approximately 90 acres). This represents approximately 3% of all industrial land in Honolulu.

According to the Real Property Tax Valuations prepared by the Real Property Assessment Division, approximately \$83.2 million was collected from industrial land in FY2008. The 3% estimate from above is applied to this value, which is approximately \$2.5 million annually.



The Hawaii Business League

820 Mililani St., Ste. 810 Honolulu, Hawaii 96813-2938
Phone: (808) 533-6819 ♦ Facsimile: (808) 533-2739

February 7, 2008

Testimony To: Senate Committee on Economic Development and Taxation
Senator Carol Fukunaga, Chair

Presented By: Tim Lyons
President

Subject: S.B. 3167 - RELATING TO KAKAAKO.

Chair Fukunaga and Members of the Committee:

I am Tim Lyons, President of the Hawaii Business League, a small business service organization.

We support this bill.

There are many small businesses located throughout Kakaako and they have for years provided services and goods to the people of urban Honolulu. As our downtown area including Kakaako is modernizing, many small businesses are fearful of being pushed out of the way, particularly so with the re-development of Kakaako and the development of the mass transit system. Many of these small businesses are the essence of Kakaako and they give the "flavor" to Kakaako that many people enjoy and treasure.

The purpose of this bill then, is to help provide some relief to those owners as this trend moves forward.

Based on that, we support this bill in hopes that it will assist these small business owners in some small way.

Thank you.



HAWAII COMMUNITY
DEVELOPMENT AUTHORITY



KAKAAKO
KALAELOA

Linda Lingle
Governor

Jonathan W. Y. Lai
Chairperson

Anthony J. H. Ching
Executive Director

677 Ala Moana Boulevard
Suite 1001
Honolulu, Hawaii
96813

Telephone
(808) 587-2870

Facsimile
(808) 587-8150

E-Mail
contact@hcdaweb.org

Web site
www.hcdaweb.org

STATEMENT OF

ANTHONY J. H. CHING, EXECUTIVE DIRECTOR
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

BEFORE THE

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TAXATION

Thursday, February 7, 2008

1:15 P.M.

State Capitol, Conference Room 229

S. B. 3167 - RELATING TO KAKAAKO.

Purpose: Provides a tax credit for existing light industrial, wholesaling, service or commercial operations in the Kakaako Community Development District zoned I-1 and I-2 and clarifies that the Hawaii Community Development Authority (HCDA) may, and not shall affix assessments against real property specifically benefiting from improvement district projects.

Position: With respect to the merits of awarding tax credits for existing and qualifying I-1 and I-2 operations in Kakaako, the HCDA defers to the Department of Taxation and the Department of Business, Economic Development & Tourism, but offers a technical comment.

With respect to amendment of the HCDA statute to clarify that the Authority may, and not shall assess the real property within an improvement district area according to the special benefits conferred by the public facilities or improvements developed, the HCDA offers the following comments.

Zoning Designations in Kakaako. As a function of the enabling legislation and the administrative rules creating the Kakaako Community Development District, only three mixed-use zones were established (i.e., MUZ-C, MUZ-R and MUZ-RA). Accordingly, there are no parcels within the Kakaako Community Development District that have the necessary designation of I-1 (limited industrial district) or I-2 (heavy industrial use). These are zoning classifications that are exclusive to the City & County of Honolulu and not the HCDA.

Improvement District Financing. Currently, only if less than the entire community district will benefit from an improvement district project will an assessment be levied “against the real property specially benefiting from such public facilities.” In this situation, the current assessment methodology requires that 27% of the construction cost is levied against the real property which benefits from the public facility. Planning, design, the remaining construction and any other costs are financed either by a legislative Capital Improvement Project (CIP) appropriation or from the HCDA Public Facility Revolving Fund.

HCDA staff is currently reviewing its assessment methodology and will report its findings to the Authority, Kakaako community and the general public. No timetable for the completion of this review has been set as of this date.

Thank you for the opportunity to provide these comments.

COMMITTEE ON ECONOMIC DEVELOPMENT AND TAXATION

Senator Carol Fukunaga, Chair
Senator Will Espero, Vice Chair

February 7, 2008, Committee Hearing
Conference Room 229
1:15PM

Senate Bill 3167
Relating to Kaka'ako

Chair Fukunaga and Committee Members:

I support the passage of Senate Bill 3167.


I am Dexter Okada. I am the president of U. Okada & Co., Ltd., a third generation small family business that has been located on Queen Street in Kaka'ako for over fifty years. I also represent the Kaka'ako Business and Landowners Association, a group of small businesses and small landowners.

As stated in Part I Section 1 of this bill, §206E-31 has tasked Hawaii Community Development Authority(HCDA) with developing a mixed-use district in which industrial, commercial, residential, and public use could coexist. HCDA's focus has been on residential and commercial which is easily recognizable by just looking at the Kaka'ako skyline. With the high-density developments come higher property taxes. Our property taxes have risen 84% over the past three years. Small industrial businesses in Kaka'ako will not be able to survive these increases in property taxes caused by HCDA encouraged high-density developments.

Just about everyone of our expenses is controllable to an extent except property tax. So until HCDA is able to figure out how to fit industrial use into mixed-use, this bill will provide some needed property tax relief.

In Part II Section 4 of this bill, changing of the wording from "shall" to "may" will give HCDA's Revised Mauka Area Plan flexibility. In 2006, one of the issues with HCDA's Improvement District 11(ID-11) was the assessment. For the property owners in the affected area, the costs would have far exceeded the benefits from ID-11. ID-11's benefits were for the general public. But since the wording was "shall", HCDA assessed the property owners in the affected area. The revised plan proposes that improvement districts be initiated by petition of a majority of the property owners of the affected area. Some improvement districts will "specially benefit" the general public and not the property owners of the affected area. The difference between "may" and "shall" assess may be the difference whether community consensus is achieved.

Thank you,


Dexter Okada


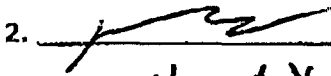
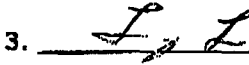

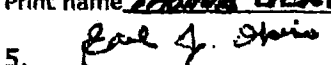
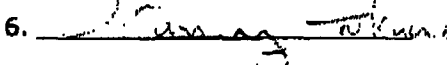

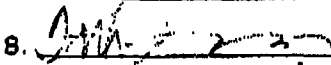
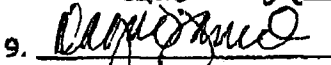
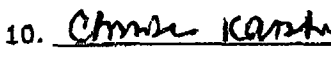
Revised

SB 3167

Wednesday, 2/6/08 at 2:45pm
EDT/TIA/HSP Committees
GR-224

Thursday, 2/7/08
at 1:15 pm
Room 229

We, the undersigned businesses in Kakaako, are in SUPPORT of SB 3167.

| Signature | Business | Address |
|---|----------------------------|---------------------------|
| 1.  | City Fender | 859 Queen St. |
| Print name Paul Kimura | City Fender Body Svc., Ltd | 859 Queen St Hm, HI 96813 |
| 2.  | Wayne's Auto Electric | 858 Queen St 96813 |
| Print name Jarret Young | Young Enterprises | |
| 3.  | NOETHER AUTO M/C | 848 QUEEN ST HNL HI 96813 |
| Print name Larry Lin | | |
| 4.  | THOMAS T UENO CPA | 844 QUEEN ST |
| Print name Thomas UENO | | HNL HI 96813 |
| 5.  | KAKAAKO AUTO R. | 852A QUEEN ST. |
| Print name EARL OWENS | | HNL, HI 96813 |
| 6.  | Kiyu's Insurance Services | 874 Queen St. HNL HI |
| Print name Nyaning Takama | | |
| 7.  | CHUCK'S CORRECTIVE CARE | 505 KAKAOKO ST 96815 |
| Print name Chuck Emeren | | |
| 8.  | Okumura Machine | 762 Queen St |
| Print name Helene Okumura | ENTER, LLC | HNL 96813 |
| 9.  | S. EBISUZAKI, INC. | 851 Queen St. |
| Print name DAYNA TAMASHIKO | | |
| 10.  | Business Letter Services | 845 Queen St |
| Print name Christine Kaneshiro | | Honolulu, HI 96813 |

Provides an unspecified tax credit for real property in the Kakaako community development district zoned I-1 and I-2 for a portion of the industrial real property tax assessment imposed by the city and county of Honolulu; provided that the property was in use for light industrial, wholesaling, or service and commercial operations in the year in which the tax credit is taken and retains I-1 or I-2 zoning; clarifies that the HCDA may, not shall, affix assessments against real property for district-wide improvements.

COMMITTEE ON ECONOMIC DEVELOPMENT AND TAXATION

Senator Carol Fukunaga, Chair
Senator Will Espero, Vice Chair

**February 7, 2008, Committee Hearing
Conference Room 229
1:15PM**

**Senate Bill 3167
Relating to Kaka'ako**

Chair Fukunaga and Committee Members:

I'm writing in support for Senate Bill 3167.

Kakaako is unique in compared to other neighborhoods in regards to the rate and amount of expected growth. Real Estate News in June 2006 said city planners expect Kakaako's population to increase 178% by 2031. Kakaako rules require developers to provide 20% reserved housing as part of the development plans. On the surface this sounds like a good idea. However, by putting the required reserved units as part of the market priced luxury development, profitability doesn't pencil out. Instead, industrial properties have been purchased at inflated cost relative to industrial values if it were to remain industrial to build the reserve housing offsite. The inflated cost is passed on to the market condos prices. This practice has results in a skewed increase of industrial property values. This results in an unrealistic increase of property taxes. Businesses who try to remain in Kakaako find it difficult to afford the increase.

The state through HCDA is violating its legislative purpose to preserve industrial use in Kakaako. The state is breaking its own law. Chapter 206E, HRS paragraph (c), states "the legislature authorized the empowered Hawaii Community Development Authority (HCDA) to develop a community development plan for the district of Kakaako. It noted the plan for Kakaako should include a mix-used district **whereby industrial, commercial, residential and public uses may coexist compatibly in a vertical as well as horizontal mixture within a single development lot.** The legislature further directed that in a planning for such mixed uses, the Authority shall also **respect and support the function of Kakaako as a major center providing significant employment in such areas as light industrial, wholesaling, service and commercial activities.**"

Likewise, when HCDA plans an Improvement District (ID) project in Kakaako, it has been large in scale. The infrastructure as part of the ID is necessary to introduce the necessary development of large scale condominium and retail developments. The added capacity of the new infrastructure, however, does nothing for industrial or small property owners. Yet, industrial and small property owners are mandated to share in its cost with

out any consideration of its benefit or ability to pay for the cost. The state has forced another dagger into the heart of small business. It is necessary to change the language of Part II Section 4 of this bill from "shall" be assessed to "may" be assessed to allow HCDA the flexibility to work with affected properties.

The state is violating its own law by not providing an environment where industrial properties can exist and continue to be a major center of employment. Passing SB 3167 will help to bring the state back into compliance.

Thank you,

Gary Onishi

COMMITTEE ON ECONOMIC DEVELOPMENT AND TAXATION

Senator Carol Fukunaga, Chair
Senator Will Espero, Vice Chair

**February 7, 2008, Committee Hearing
Conference Room 229
1:15PM**

**Senate Bill 3167
Relating to Kaka'ako**

Chair Fukunaga and Committee Members:

I support the passage of Senate Bill 3167.

I am Neal Tamura. I am the owner of Ray's Transmission Service Center, LLC, a 2nd generation small family business that has been located in Kaka'ako for over forty years, with over twenty of those years on Queen St.

As stated in Part I Section 1 of this bill, §206E-31 has tasked Hawaii Community Development Authority (HCDA) with developing a mixed-use district in which industrial, commercial, residential, and public use could coexist. HCDA's focus has been on residential and commercial which is easily recognizable by just looking at the Kaka'ako skyline. With the high-density developments come higher property taxes. Our property taxes have risen 84% over the past three years. Small industrial businesses in Kaka'ako will not be able to survive these increases in property taxes caused by HCDA encouraged high-density developments.

Just about everyone of our expenses is controllable to an extent except property tax. So until HCDA is able to figure out how to fit industrial use into mixed-use, this bill will provide some needed property tax relief.

In Part II Section 4 of this bill, changing of the wording from "shall" to "may" will give HCDA's Revised Mauka Area Plan flexibility. In 2006, one of the issues with HCDA's Improvement District 11 (ID-11) was the assessment. For the property owners in the affected area, the costs would have far exceeded the benefits from ID-11. ID-11's benefits were for the general public. But since the wording was "shall", HCDA assessed the property owners in the affected area. The revised plan proposes that improvement districts be initiated by petition of a majority of the property owners of the affected area. Some improvement districts will "specially benefit" the general public and not the property owners of the affected area. The difference between "may" and "shall" assess may be the difference whether community consensus is achieved.

Thank you.


Neal Tamura

COMMITTEE ON ECONOMIC DEVELOPMENT AND TAXATION

Senator Carol Fukunaga, Chair
Senator Will Espero, Vice Chair

**February 7, 2008, Committee Hearing
Conference Room 229
1:15PM**

**Senate Bill 3167
Relating to Kaka'ako**

Chair Fukunaga and Committee Members:

I support the passage of Senate Bill 3167.

My name is Gary Tamura. I am the owner of The Converter Factory, a 2nd generation small family business that has been located in Kaka'ako on Queen Street for over 10 years.

As stated in Part I Section 1 of this bill, §206E-31 has tasked Hawaii Community Development Authority (HCDA) with developing a mixed-use district in which industrial, commercial, residential, and public use could coexist. HCDA's focus has been on residential and commercial which is easily recognizable by just looking at the Kaka'ako skyline. With the high-density developments come higher property taxes. Our property taxes have risen 84% over the past three years. Small industrial businesses in Kaka'ako will not be able to survive these increases in property taxes caused by HCDA encouraged high-density developments.

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Thank you,


Gary Tamura

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Kakaako development industrial use tax credit

BILL NUMBER: SB 3167, HB 3333 (Identical)

INTRODUCED BY: SB by Fukunaga, Chun Oakland and Slom; HB by Brower, Awana, Green, Lee, Luke, Magaoay, Mizuno, Saiki, Tsuji and 7 Democrats

BRIEF SUMMARY: Adds a news section to HRS chapter 235 to allow taxpayers to claim an income tax credit of ___% of any industrial real property tax assessment imposed by the city and county of Honolulu on any real property with a total area of less than _____ square feet located in the Kakaako community development district designated as I-1 or I-2 for the year the tax credit is claimed and the year following the year the credit is claimed.

Tax credits that exceed a taxpayer's income tax liability shall be refunded to the taxpayer provide such amounts are over \$1. Requires all claims, including any amended claims, to be filed on or before the end of the twelfth month following the close of the tax year. Directs the director of taxation to prepare the necessary forms to claim the credit, validate a claim and adopt rules pursuant to HRS chapter 91. In the case of a partnership, S-corporation, estate, trust, or developer of a commercial building, the tax credit allowable is for a percentage of the industrial real property tax imposed by the city and county of Honolulu for the tax year with the cost on which the credit is computed to be determined at the entity level.

The credit shall be available for tax years beginning after December 31, _____ and shall not be available for tax years beginning after December 31, _____.

Makes conforming amendments to HRS chapter 206E.

EFFECTIVE DATE: Tax years beginning after December 31, 2007

STAFF COMMENTS: This measure proposes to encourage small business and light industrial development in the Kakaako community development district by establishing an income tax credit to offset a portion of the property tax assessments imposed by the city and county of Honolulu. If the proposed measure is enacted, it would merely grant preferential tax treatment to a select group of taxpayers and do so without regard to the taxpayer's need for tax relief. What it does open is the ability for the county to raise real property tax rates on such light industrial properties and thus create a back door grant-in-aid program for the city & county from the state.

Although the measure attempts to use tax credits to encourage the retention of light industrial property use in the Kakaako district, it fails to recognize that if there is a higher and better use of the property, the landowner will probably develop the property to that use in order to maximize the return on the investment in the property. As such, this measure a day late and a dollar short as it also fails to recognize the poor business climate that will ultimately run many small light industrial businesses out of business

with the crush of development in this district.

Instead of tax credits for a handful of businesses that happen to be located in this particular district, lawmakers need to improve the overall business climate beginning with a reduction of the tax burden on all businesses, an improvement in heavy handed labor regulations, and the draconian maze of permitting compliances within both the state and county government. Because the county has elected to shift much of the tax burden of the city & county of Honolulu to nonresidential property, it has become increasingly difficult for businesses to remain profitable while remaining competitive. This is evidenced in the restaurant business where the competition is stiff and the profit margin almost negligible. The higher real property tax burden is showing up in the price of consumer goods thus affecting families across the state. Without some kind of tax relief, surviving in Hawaii will get all that more difficult.

It should be remembered that tax credits generally are designed to alleviate an undue burden on those who are unable to carry that burden, largely the poor and low income. This measure would merely result in a partial subsidy by the state of the taxpayer's real property tax while the exempted revenues will add to the tax burden of other taxpayers who are not eligible for the proposed tax credit.

Digested 2/06/08

Chauncey T. K. Ching
3625 Yuma Street NW | Washington DC 20008 | Phone 202.262.6619 | Fax 508.632.0245 | email cc@cching.com

February 6, 2008

Committee on Economic Development and Taxation

Senator Carol Fukunaga, Chair
Senator Will Espero, Vice Chair

**February 7, 2008, Committee Hearing
Conference Room 229
1:15PM**

**Senate Bill 3167
Relating to Kaka'ako**

Chair Fukunaga and Committee Members:

I support the passage of Senate Bill 3167.

My name is Chauncey Ching. My family owns and leases property on Queen Street to small businesses and has done so for many years. We believe that this area is critical to supporting the development of small businesses and urge actions on your part to realize this vision.

As stated in Part I Section 1 of this bill, §206E-31 has tasked Hawaii Community Development Authority (HCDA) with developing a mixed-use district in which industrial, commercial, residential, and public use could coexist. HCDA's focus has been on residential and commercial which is easily recognizable by just looking at the Kaka'ako skyline. With the high-density developments come higher property taxes. Our property taxes have risen 84% over the past three years. Small industrial businesses in Kaka'ako will not be able to survive these increases in property taxes caused by HCDA encouraged high-density developments.

Our tenants indicate that practically all expenses are controllable to some extent with the exception of property taxes. So until HCDA is able to figure out how to fit industrial use into mixed-use, this bill will provide some needed property tax relief.

In Part II Section 4 of this bill, changing of the wording from "shall" to "may" will give HCDA's Revised Mauka Area Plan flexibility. In 2006, one of the issues with HCDA's Improvement District 11(ID-11) was the assessment. For the property owners in the affected area, the costs would have far exceeded the benefits from ID-11. ID-11's benefits were for the general public. But since the wording was "shall", HCDA assessed the property owners in the affected area. The revised plan proposes that improvement districts be initiated by petition of a majority of the property owners of the affected area. Some improvement districts will "specially benefit" the general public and not the property owners of the affected area. The difference between "may" and "shall" assess may be the difference whether community consensus is achieved.

Thank you,

A handwritten signature in black ink, appearing to be 'C. Ching', with some decorative flourishes.

Chauncey Ching