



HAWAII INDEPENDENT CONDOMINIUM & COOPERATIVE OWNERS
1600 ALA MOANA BLVD. - APT. 3100 - HONOLULU - HAWAII 96815

March 10, 2008

Representative Robert N. Herkes, Chair
Representative Angus L. K. McKelvey, Vice-Chair
Committee on, Consumer Protection and Commerce

Testimony on SB 3196 Relating to Lease To Fee Conversion

Dear Senators:

Thank you for this opportunity to testify in strong support of SB 3196 on behalf of the Hawaii Independent Condominium and Co-op Owners (HICCO). The members of our organization have been strong supporters of the rights of unit owners with respect to Lease to Fee conversion.

We believe it has always been the intent of the Hawaii State Legislature that condominium unit owners would always have the first right of refusal in purchasing the land under their units. Unfortunately, the unscrupulous lessor of the Kailuan found a way around the current State statute by simply letting the lease expire before selling to the lessor. The effect of the lessor's decision has resulted in an unconscionable eviction of long time unit owners and the loss of their equity in their homes.

The Legislature needs to take action before additional condominium owners are evicted from their homes.

HICCO respectfully requests that your committee approve SB 3196.

Sincerely,

Richard Port

Richard Port, Chair
Legislative Committee



KAMEHAMEHA SCHOOLS

WRITTEN TESTIMONY TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

By

Sydney W.C.K. Keli'ipuleole, Director
Endowment/Residential Assets Division

Hearing Date: Monday, March 10, 2008
2:00 p.m., Conference Room 325

March 8, 2008

To: Rep. Robert N. Herkes, Chair
Rep. Angus L.K. McKelvey, Vice Chair
Members of the Committee on Consumer Protection & Commerce

Re: SB 3196 – Relating to Lease to Fee Conversion.

Thank you for the opportunity to comment on Senate Bill 3196, Relating to Lease to Fee Conversion. SB 3196 proposes two material changes to HRS 514C-2, Right of First Refusal. First is that the event which triggers the first right of refusal offer to the AOA is expanded to when a "lessor has displayed an objective intent to sell". This is in addition to the current triggering action of an accepted written offer to purchase. Second, this right of first refusal offer for the AOA would be extended for two years after termination of the lease.

The term "objective intent to sell" is vague and ambiguous making it subject to litigation. Furthermore, even if the lessor has such an intent, it would not have a "complete and correct copy of the purchaser's written offer" to present to the AOA in order to comply with the statute.

As for the two-year period, we believe that this right cannot survive after the lease contract is terminated. Such a right amends and arguably extends the lease contract unilaterally without agreement of both parties to the contract (lessee and lessor) all for the benefit of a third party not currently bound by the contract (AOA). Therefore such legislation will be subject to constitutional issues.

March 8, 2008

Rep. Robert N. Herkes, Chair

Rep. Angus L.K. McKelvey, Vice Chair

Members of the Committee on Consumer Protection & Commerce

Page 2 Of 2

Attached is an editorial entitled "Let leasehold problem die a market-force death." The legislation before you will not result in more affordable housing but may prevent or discourage redevelopment for new affordable housing units.

We respectfully request the committee allow market forces to resolve the leasehold issue instead of passing a law that only invites legal challenges by lessors and lessees.

00107

Article URL: <http://starbulletin.com/2007/12/18/editorial/editorial01.html>
© 1996-2007 The Honolulu Star-Bulletin | www.starbulletin.com

Star-Bulletin

mobile edition

Vol. 12, Issue 352 - Tuesday, December 18, 2007

OUR OPINION

Let leasehold problem die a market-force death

THE ISSUE

Leases of about 1,500 condos and apartments are set to expire in the next decade.

Owners of about 1,500 apartments and condominiums on Oahu face tough choices as the terms of their leased properties expire in the next 10 years.

Some will confront higher payments to stay put. Others will have to move away as landowners decline to extend leases, perhaps to redevelop low-rise buildings to larger high-rises or convert sites to different uses.

Because housing is in short supply, particularly for middle- and low-income people, and homelessness an ever-growing problem, it is tempting for state and city leaders to seek solutions. But with the difficulties of dealing fairly with private property owners -- some charitable trusts -- and with real estate experts predicting leasehold markets will die away, it might be best to let matters lie.

In two reports, the Star-Bulletin's Allison Schaefer noted that residential leaseholds began in postwar Hawaii to provide needed housing on a less costly basis. Buyers could own homes with long-term leases without paying expensive land costs. But as time went on, people feared losing their homes as lease rents increased, and the instability proved damaging to Hawaii's economic health.

The 1967 Land Reform Act empowered more than 14,600 residents to buy their home lots, many of which had been retained since the mid-1800s by fewer than 40 large landowners.

In 1991 the city adopted an ordinance allowing condo owner-occupants similar rights to buy the leasehold land under their buildings. But when the lease-to-fee conversion law was repealed in 2005, many who had bought leasehold units in hopes of future conversions saw their dreams disappear.

Most of the co-ops and condo buildings where leases will expire between now and 2018 hold fewer than a few dozen units. Many are older but are in prime locations where increasing density could bring profits far exceeding current leases.

Landowners terminating leases to redevelop their properties should consider that selling new units fee-simple might prove more advantageous because today's potential buyers are shying away from leasehold properties. During the first nine months of this year, fee-simple condo sales significantly exceeded leasehold sales -- 3,729 compared with 615. In addition, average prices for fee-simple units have gone up 4.6 percent while leaseholds

have dropped 1.7 percent.

Reinstating mandatory conversions wouldn't necessarily ease Oahu's housing shortage. Instead, city leaders should increase or at least strictly enforce affordable-housing requirements, which often are waived or traded for concessions like lower building heights or larger so-called public spaces.

Honolulu Star-Bulletin
ONLINE EDITION

Oahu Publications, Inc. publishes
the Honolulu Star-Bulletin, MidWeek
and military newspapers

BOARD OF DIRECTORS

**David Black, Dan Case, Dennis Francis,
Larry Johnson, Duane Kurisu, Warren Luke,
Colbert Matsumoto, Jeffrey Watanabe, Michael Wo**

HONOLULU STAR-BULLETIN

Dennis Francis, Publisher **Lucy Young-Oda, Assistant Editor**
(808) 529-4762
lyoungoda@starbulletin.com

Frank Bridgewater, Editor **Michael Rovner, Assistant Editor**
(808) 529-4791 (808) 529-4768
fbridgewater@starbulletin.com mrovner@starbulletin.com

Mary Poole, Editorial Page Editor
(808) 529-4748; mpoole@starbulletin.com

The Honolulu Star-Bulletin (USPS 249460) is published daily by Oahu Publications at 500 Ala Moana Blvd., Suite 7-500, Honolulu, Hawaii 96813. Periodicals postage paid at Honolulu, Hawaii. Postmaster: Send address changes to Star-Bulletin, P.O. Box 3080, Honolulu, Hawaii 96802.

Article URL: <http://starbulletin.com/2007/12/18/editorial/editorial01.html>
© 1996-2007 The Honolulu Star-Bulletin | www.starbulletin.com

MONARCH PROPERTIES, Inc.

**Testimony to CPC Vice-Chair via facsimile: 586-6161
CPC Committee Hearing at 2:00 p.m. on 3/10/08; Conference Room 325**

March 7, 2008

Representative Robert N. Herkes, Chair
Representative Angus L.K. McKelvey, Vice-Chair
Committee On Consumer Protection and Commerce

RE: SB3196; Relating to Lease to Fee Conversion

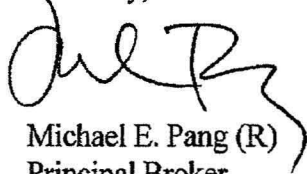
Dear Representative Herkes and Committee members:

My company, Monarch Properties, Inc., (MPI) has been involved in the majority of bulk fee conversion transactions in the state over the past few years.

MPI supports the intent of SB 3196 to amend Chapter 514C to preserve the legislature's original intent that condominium and co-op lessees should have a right of first refusal to purchase their leased fee if the owner plans to sell it. If this right is not protected, it would be too easy for landowners to simply wait for leases to expire in order to reveal their true plans and the consequence could be the displacement of thousands of mostly low to moderate income folks who would be hard pressed to find affordable replacement homes.

Please feel free to contact me at 735-0000 if I can be of any assistance.

Sincerely,


Michael E. Pang (R)
Principal Broker

HAWAII COUNCIL OF ASSOCIATIONS
OF APARTMENT OWNERS

P.O. Box 726
Aiea, Hawaii 96701
Telephone (808) 566-2122

March 8, 2008

Rep. Robert Herkes, Chair
Rep. Angus McKelvey, Vice-Chair
House Committee on Consumer Protection & Commerce

Re: **Testimony in Favor of SB 3196 Re Lease to Fee Conversion,
Hearing on Monday, March 10, 2008, 2:00 p.m. Conf. Rm. #325**


Chair Herkes, Vice-Chair Mckelvey and members of the Committee:

The Hawaii Council of Associations of Apartment Owners (HCAAO) represents 103 apartment associations with over 28,000 individual apartments. HCAAO strongly supports this bill and urges you to pass it.

HCAAO has supported lease to fee conversion legislation for over 20 years and this bill may help condominium and co-op lessees from being evicted from their homes.

Recently, the lessee owners of the Kailuan, a co-op project in Kailua, lost their homes when their lease expired. The Kailuan lessees relied on HRS 514C to try to stop their eviction, but a court found that the statute did not apply to their situation. The changes being proposed address the Court's concern and if passed, may prevent the eviction of some 1,500 lessees whose residential leases will be expiring in the next 10 years.

Thank you for allowing me to testify on this bill.


Jane Sugimura
President

00111