

LATE TESTIMONY



February 9, 2009

**House Committee on Water, Land & Ocean Resources
Hearing Date: February 9, 2009, at 9:00 AM in CR 325**

**Testimony in Opposition to HB 1604: Relating to Land Use
(Leases – Tax on Improvements Surrendered)**

Honorable Chair Ken Ito, Vice-Chair Sharon E. Har
and Water, Land & Ocean Resources Committee Members:

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawai'i's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to provide our testimony **in strong opposition to HB 1604**, which establishes a tax on the value of improvements, surrendered by a lessee to a lessor, without compensation to the lessee, at the expiration of a long-term lease of non-residential real property.

We believe that the attempt by HB 1604 to establish a new tax, would constitute **an unconstitutional taking of private property**. We believe that a statute imposing a new tax must be supported by, among other things, a **legitimate public purpose**, which may be proven by facts, statistics and studies; and also the taxing statute should be **rationally related** to the legitimate public purpose. Thus, our opposition to HB 1604, is based on the following:

- **No justification of a legitimate public use or public purpose has been identified or proven.** There are no facts presented, statistics or studies to support any public purpose which would justify imposing a new tax;
- **No showing that the proposed tax law is rationally related to a public use or public purpose.**

Based on the above, we respectfully request that the House Committee on Water, Land and Ocean Resources **hold HB 1604**.

Thank you for the opportunity to express our opposition to HB 1604.