

JAN 20 2010

A BILL FOR AN ACT

RELATING TO REAL PROPERTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Act 189, Session Laws of Hawaii 2009, is
2 amended by amending section 5 to read as follows:

3 "SECTION 5. This Act shall take effect on July 1, 2009,
4 and shall be repealed on [~~June 30, 2010~~] June 30, 2015;
5 provided that the repeal of this Act shall not affect
6 renegotiations of any lease or sublease rental amount, the
7 renegotiation date for which occurred before [~~July 1, 2010~~]
8 July 1, 2015; provided further that this Act shall not apply to
9 any lease scheduled for renegotiation after [~~June 30, 2010~~]
10 June 30, 2015."

11 SECTION 2. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 3. This Act shall take effect on July 1, 2010.
14

INTRODUCED BY:

Randy H. Pelt

Carol Fukunaga
Francine Chun Oallana



Report Title:

Real Property; Leasehold; Lease Rent Renegotiation

Description:

Extends repeal date of Act 189, SLH 2009, to 6/30/2010.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



January __, 2010

TESTIMONY TO THE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
January 27, 2010, 9:00 A.M., Room 229
Hawaii State Capitol

Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair

TESTIMONY IN SUPPORT OF SB 2020 RELATING TO REAL PROPERTY

Dear Senators Baker, Ige and Members of the Committee:

I support SB 2020 and respectfully request that extend the life of Act 189. My name is Sanford S. Granger, I live in Honolulu. I (own or work at) 238 Sand Island Access Road _____, which is located in the Mapunapuna/Sand Island/Kalihi Kai area, and employ roughly (75) people.

Many of my neighbors have family members who have lost their jobs, had their hours reduced, or have businesses which are barely surviving. This past year, our business has slowed tremendously and we are trying to cut expenses before we have to cut benefits and lay off workers.

Rent is one of the largest expenses we face. Up to now, the rents charged by the Damon Estate were "fair and reasonable," which is what the lease specifically calls for. The new owner, HRPT, continues to demand rents that excess of the current market and, on top of that, are demanding we pay annual escalations of 3% to 4%. Rent escalations are not part of our lease terms and just not feasible in these times of decline. In addition, HRPT is requiring that we sign away our rights under the existing law (Act 189) now and throughout the life of our leases. Is this fair?

HRPT, by prohibiting access to comparable rent information is forcing lessees into take-it-or-leave-it deals, and denying the ability to negotiate a fair rent. Through their sheer size and oligopolistic control of the market, they are subverting market forces to provide unprecedented returns. The small businesses and consumers of Hawaii need Act 189 extended to remind HRPT that it needs to set fair rents.

The issues brought before the legislature during the last session have only worsened. HRPT has not abided by its word to improve relationships and honor the course of action set by the Damon Estate. Act 189 was written to redress these issues and unfortunately HRPT has failed in its obligation to provide "fair and reasonable" rents. Instead, it has redoubled its efforts to intimidate and force lessees into costly arbitrations proceedings while ignoring the arbitration results achieved by others. These actions seem to be driven by simple greed.

Passage of SB2020 will extend Act 189 and hopefully remind the landowner to negotiate terms based on what is happening here, in Hawaii's economy, rather than trying to make up for losses on the mainland. I want to stay in business and I want to keep my workers employed. Please continue what you agreed to do last session by passing SB2020. Thank you.

Name Sanford S. Granger

Company Grapac Properties

Address 15 Poipu Drive Honolulu, HI 96819

Phone 808-395-5106 Office 808-222-2206 Cell

Email ssahawaii@hawaii.rr.com

CITIZENS FOR FAIR VALUATION

841 Bishop Street, Suite 1500
Honolulu, HI 96813

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CAROL LAM, VICE PRESIDENT
CONNIE SMALES, SECRETARY
PHILLIP J. SILICH, TREASURER

CULLY JUDD, DIRECTOR
KEALI'I LOPEZ, DIRECTOR
GUS COSSETTE, DIRECTOR
MICHAEL STEINER, EXEC. DIRECTOR

January 26, 2010

Senator Rosalyn Baker, Chair
Senator David Ige, Vice-Chair
Senate Committee on Commerce & Consumer Protection
State Capitol
Honolulu, Hawaii 96813

Re: **Senate Bill 2020 - Re Real Property --Testimony in Support**
Hearing Date: January 27, 2010, 9:00 a.m., Conference Room #229

Dear Senators Baker, Ige and Members of the Committee:

My name is Michael Steiner. I am the Executive Director of Citizens for Fair Valuation ("CFV"), a non-profit coalition of businesses with long-term ground leases in the Mapunapuna, Kalihi Kai and Sand Island areas. These are the old Damon Estate lands which were purchased by HRPT, a large Real Estate Investment Trust (REIT) headquartered in Newton, Massachusetts.

With this purchase and others in West Oahu, HRPT is now the largest owner of commercial and industrial land in Hawaii with roughly 20 million square feet of land. HRPT controls rents on almost all of the near-town commercial and industrial land.

Need for SB 2020

SB 2020 seeks to extend the sunset date of Act 189 from June 30, 2010 to June 30, 2015. No other changes or amendments are contained in the bill.

With the passage of Act 189, Citizens for Fair Valuation had hoped that lessor, HRPT, would alter its business model such that open and transparent negotiations would lead to acceptable rents for both parties and that Act 189 would sunset as written. Unfortunately, HRPT has instead chosen to continue its campaign to intimidate lessees through take-it-or-leave-it (TIOLI) offers that are twice the going market rate, demanding lease amendments to include terms favorable just to HRPT, and going so far as to require lessees to waive their Act 189 rights now and forever.

HRPT appears to be obsessed with pushing rents well in excess of the current market. Even after a hard-fought arbitration award came in with a flat rate of \$5.26 per square foot for the next 10 years, HRPT continues to demand lessees accept rents in the \$7.00 per sq. ft. range along with annual escalations of between 3% and 4%. These rents average out to roughly \$8.40 per sq ft – a huge difference. Lessees' offers to pay the arbitrated rate of their neighbor have been ignored or returned with a TIOLI-type letter.

SB 2020 is needed to again remind HRPT that its contracts call for good faith negotiation and ultimately "fair and reasonable rents." HRPT seems to have deliberately chosen to ignore Act 189 and the spirit of its commitments to its lessees and the legislators over these past several months.

Act 189

During the 2009 legislative session, testimony was presented before this committee as well as the Committee on Judiciary and Government Operations regarding SB 764 which sought to remind lessors with leases that call for "fair and reasonable rents" that those rents shall be fair and reasonable to both the lessor and the lessee.

SB 764 was approved and passed by both the Senate and House and, Governor Lingle allowed the bill to become law without her signature. Citizens for Fair Valuation is before this committee again to seek, through SB 2020, an amendment to Act 189 in order to extend the sunset provision to June 30, 2015.

In allowing Act 189 to become law, Governor Lingle wrote:

[T]his bill addresses a case where the free market between lessor and lessee is not functioning. We have seen a concentration of land ownership of urban commercial and industrial properties become centered in a few large firms that distort market forces and leave businesses in Hawaii with little recourse.

It is unfortunate that the actions of a single land owner have created the situation where the Legislature has intervened between the parties, albeit only for a single year.

Commercial and industrial businesses have long been recognized as a fundamental part of a community's economic base and that those businesses are often the engine of economic growth within a community. The Legislature was aware that "[t]he commercial and industrial properties that exist within the State's urban districts are primarily owned by a few landowners" and that the small businesses on these lands supply crucial goods and services to Honolulu businesses (Act 189, §1).

It is therefore appropriate and legitimate for the Legislature to extend Act 189 in order to reduce the likelihood that industrial operations serving Honolulu would have to reduce their workforce, raise consumer prices or worse, be forced to close their doors forever.

HRPT's Stated Objective

In August of 2008, Adam D. Portnoy, Managing Director of HRPT, announced the company's plan during their 2nd Quarter Earnings call. Portnoy declared that,

"We are pushing rates very hard especially in places like Hawaii. If you want to Google us and look at some of the articles written about us in Hawaii press, we've gotten a lot of flack in that market because we're pushing rates so hard and trying to push the rates so hard. In fact, there's been a little bit of backlash from a lot of the tenants. So rest assured that we're doing everything we can, as much as we can and as fast as we can to try to increase the rates there to push cash flow to HRPT."

HRPT's corporate attitudes have not changed since then. HRPT appears to be looking to Hawaii to satisfy its cash requirements without regard to our local businesses' ability to keep their employees working and their businesses operating. Despite the fact that comparable rents have been dropping during this recession, Portnoy reaffirmed that "[y]ou're going to see over the next 18-24 months [HRPT] continue to try to push rates as much as we can."

HRPT has bent every effort and stratagem to further leverage its oligarchic control of the land to force rates artificially higher than the actual rental market. As the largest owner of near-town commercial and industrial land, HRPT apparently feels it is entitled to force lessees into astronomical rents without regard for its obligation under the lease to provide "fair and reasonable annual rents."

In February of 2009, Adam Portnoy told investors that, "[e]veryone wants to see what's going to happen [in Hawaii]? What's the state legislature going to do? Are they actually going to pass some sort of crazy bill that says that you can't raise rents ...?"

Act 189 does not change the terms of the existing leases. Act 189 does not set rents. Act 189 does not say rents should be below or above what is fair and reasonable to both the parties. Act 189 merely reminds HRPT of the terms of the contract and seeks rents that are fair and reasonable for both parties. It is not a measure that stops HRPT from raising rents, only from raising them beyond fair and reasonable. Clearly, that is exactly what HRPT would like to do, and what it is trying very hard to accomplish.

HRPT – Intimidation Continues

Most ground leases in the Mapunapuna area have a term of 50 years. Damon would work with its tenants during tough times to ensure the viability of their businesses and protect its long-term relationship. Lessees have relied upon this conduct, reminiscent of the "noblesse oblige" of earlier days, for the past 30 years.

With the sale of the property to Massachusetts-based HRPT, the old ways were discarded. Instead of "fair and reasonable" good faith negotiations, HRPT originally demanded that lessees sign confidentiality agreements before negotiations could begin. This was clearly an attempt to control the disclosure of rent comparables and pit neighbor against neighbor.

During the legislative hearings last year, David Lepore announced in a widely disseminated letter of April 9, 2009 that HRPT would "no longer require tenants or potential tenants in our Oahu industrial market to sign confidentiality agreements before entering negotiations for rent re-sets, lease renewals or new leases." He added, "In addition, going forward, we will release transaction comparables to commercial real estate brokers and appraisers upon request, when contractually permitted." This was a public promise, and HRPT has abandoned it.

To-date, only a few rent comparables have been widely distributed and while HRPT has stopped demanding confidentiality agreement before negotiations, HRPT has continued to demand confidentiality on lease assignments and certain rent resets.

In the same letter, Lepore stated, "Our Honolulu office is fully committed to meeting its goal of responding to any tenant inquiry within one business day, and we are in the process of increasing our

staffing levels to achieve this. Resolution of your request might take longer than one business day; however, you will receive a timely return call or email to let you know that your issue is being addressed.”

Unfortunately, HRPT turned its back on this public promise too. Lessees routinely report that phone calls are not returned and letters with rent counter-offers never receive a reply. In one instance, a tenant wrote to the local office in the middle of June 2009 only to receive a reply in mid-January of 2010, a delay of seven (7) months. How can a business do any kind of meaningful budgeting when the company that controls your rent, and effectively your business livelihood, does not communicate in a timely and efficient manner?

To make matters worse, HRPT is now forcing lessees to waive their rights under Act 189 before negotiations can begin. Current offer letters include the following paragraph:

Act 189: Lessor and Lessee acknowledge and agree that Act 189 of the 2009 Hawaii State Legislature, together with any similar related and/or unrelated, and/or successor act, statute, law, ordinance or regulation which purports to change existing lease terms, shall not apply to the terms of the Lease, and any and all rental and/or value determinations shall be made without regard thereto.

Is this fair and reasonable?

Fair and Reasonable

Merriam-Webster's Online Dictionary defines "fair" as, "marked by impartiality and honesty; free from self-interest, prejudice, or favoritism." To be fair, then, means not to be unfair. The same dictionary defines "reasonable" as, "being in accordance with reason; not extreme or excessive." To be reasonable, then, means not to be unreasonable.

By the nature of these definitions, the term "fair and reasonable rent" should imply negotiations that are good faith, open and honest with results that are not excessive. In other words, the conflicting interests of both the lessor and lessee are to be balanced in determining rent and that extremes on either side are to be avoided.

Negotiating under Duress

To state the obvious, ground leases are for just the ground. It is the lessees' responsibility to construct and maintain their buildings, which will revert to the land owner at the end of lease. In addition to the good-will built up over years of occupying the same location, the lessees' buildings represent a huge investment for them. Moving to another location is not an option - the lessee is bound to pay rent to the lessor whether or not they occupy the land for the duration of the long-term lease. Most lessees in the area have at least 20 years to go on their lease obligations.

Without parameters to ensure that "fair and reasonable" rents will apply to both parties, the mainland owner can use the leverage of its sheer size, power and market control to unilaterally impose rents that are intentionally way above market. In essence, they are using their monopolistic power to manipulate what might otherwise be a free market and in so doing make it difficult or impossible for tenants to stay

in business. In the circumstances, public policy and concern about the economy has demanded legislative action.

Arbitration

Should the lessor and lessee fail to reach agreement through negotiation, the lease requires the parties to enter arbitration. This process is extremely expensive, time consuming and intimidating. Lessees need to hire attorneys, appoint an appraiser to sit on the panel, contract with experts to provide economic information, and appraisers to express their expert opinion as to the rent. This is like a trial and the costs can be huge. For the everyday small business owner in the area, arbitration is an economically terrifying process. It means having to confront the oligarchic landowner in an arena that is alien and unknown.

During this past year, although some 20 businesses have been awaiting rent resets, only one company has gone through a completed arbitration - Servco. Although the arbitration costs were quite large, instead of paying the rent of \$7.00 per square foot plus 4.0% annual increase that HRPT demanded, an equivalent of \$8.40 per foot over that period, the arbitration panel awarded Servco a rate of \$5.26 flat with no annual increases and none of the lease amendments that HRPT has customarily, and inappropriately demanded, i.e., like a right of first refusal to HRPT, nor a waiver of the lessees' rights under Act 189.

In the Damon days, a hard-fought arbitration like this would have been an important comparable and set the rental precedent for the area. However, HRPT has refused to settle other negotiations on the basis of this award even though it moved to confirm the award in court. Copies of HRPT's court confirmation documents are enclosed.

Despite the Servco arbitration award, when other lessees have written to HRPT to set their rents in accordance with the \$5.26 flat rate, HRPT have responded with take-it-or-leave-it (TIOLI) offers back in the \$7.00 plus 3% to 4% per year range. And, if lessees do not accept the TIOLI offer, HRPT immediately initiates costly arbitration proceedings. Why does HRPT continue to bully and gouge its lessees? Is this unconscionable greed or profound insensitivity, or is it both?

Failure to Respond to Community Needs

HRPT is an extremely large Real Estate Investment Trust (REIT) that must return at least 90% of its profits to its Stakeholders in order to maintain its preferred tax status. Most of its holdings are commercial high-rise office buildings located on the mainland and not long-term ground leases. HRPT is not accustomed to doing business here and by all indications, cares little for the responsibilities of Aloha and Pono that come with the privilege of owning land in Hawaii.

In Mapunapuna, the tidal flooding on Ahua Street continues unabated. HRPT has stated they know how to fix the problem, but they have done nothing. Lessees, customers and suppliers are forced to either drive through or around the brackish waters. This adds time and expense to everyone concerned. HRPT seems content to own the land, providing little or no investment, care or concern for maintenance or improvement, but only for pushing up rents to twice the neighboring market. Is this fair and reasonable?

Citizens for Fair Valuation ("CFV") is a non-profit coalition of businesses that lease land from HRPT. We have sent letters to HRPT offering to meet with them to discuss how we can mutually resolve these issues to the benefit of all concerned. However, HRPT has universally rejected our supplications and has gone so far as to have their Washington, D.C., attorney threaten legal recourse for harassment. Where is the Aloha and Pono that we had hoped would come from HRPT as Hawaii's largest and most powerful commercial and industrial landowner? In opposing Act 189 last year, HRPT made a spate of promises to this legislature, promising respect and consideration for the businesses whose future it controls. Now only a few months later, where have all those promises gone?

Conclusion

The lessees with HRPT leases are hard working business people who would rather conduct their businesses, which is getting harder to do each day, than campaign for new or extended legislation. They do not object to paying rent that is fair and reasonable and fairly negotiated and determined by applicable economic and market factors including, but not limited to, applicable comparables, and the use and characteristics of property and neighborhood (i.e., regular flooding on the streets and in the streams). They do, however, strongly object to a lessor who uses "take-it-or leave-it" tactics while continuing to insist on rents from \$7.00 to \$10.00 per sq. ft., with annual increases from 3.0% to 4.5 % even after the Servco arbitration awarded a flat \$5.26 for the next 10 years.

In these hard times, small businesses need support and assistance from government. The state cannot afford to suffer more closures and loss of employment. In particular, the businesses in the Mapunapuna, Kalihi Kai and Sand Island area are an important part of the economy of these islands. Their proprietors are proud people who are not looking for a hand-out. They want so much to be able to trust their landlord. Absent that, they just want the comfort of knowing that their landlord will negotiate in good faith, in an open, transparent and fair-minded manner that will produce "fair and reasonable" rents for all concerned. It's not asking much, but without it they face disaster.

The members of CFV sincerely appreciate your consideration of their concerns and tribulations and respectfully request that you please pass SB 2020 extending the sunset date of Act 189 to June 30, 2015.

Thank you.

Michael Steiner

Michael Steiner
Executive Director
Citizens for Fair Valuation
Telephone: (808) 221-5955
Email: MSteiner@SteinerAssoc.com
Web Site: www.FairValuation.org



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 16, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: Senate Bill No. 764 SD2 HD2 CD1

On July 15, 2009, Senate Bill No. 764, entitled "A Bill for an Act Relating to Real Property" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to change the process for renegotiating the amount of rent during the term of an existing commercial or industrial lease, unless expressly stated otherwise in the lease. The bill requires the term "fair and reasonable" annual rent of any lease of commercial or industrial leasehold property to be construed as fair and reasonable to both the lessor and the lessee to the lease, and to consider other relevant circumstances relating to the lease, such as surface characteristics of the property. If the lessee is a master lessee, these requirements shall apply if the master lessee agrees to act comparably when determining the renegotiated sublease rental amount charged to a sublessee.

This measure appears to be targeted at a single landowner for the benefit of its lessees. The ability to freely negotiate contracts without government intrusion is essential to a fair and open marketplace and a principle that I support.

However, this bill addresses a case where the free market between lessor and lessee is not functioning. We have seen a concentration of land ownership of urban commercial and industrial properties become centered in a few large firms that distort market forces and leave businesses in Hawaii with little recourse.

It is unfortunate that the actions of a single land owner have created the situation where the Legislature has intervened between the parties, albeit only for a single year.

This bill impacts the renegotiations of lease rent by interjecting, unless otherwise stated in the lease, its construction of "fair and reasonable annual rent" in commercial or industrial

The Honorable Colleen Hanabusa, President
and Members of the Senate
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leases. In addition, this bill requires master lessees to limit any sublease rental amount negotiated or renewed during the period the lease rent is renegotiated with the master lessee to the lesser of a) the "fair and reasonable" amount determined according to the aforementioned requirements or b) the rental amount as calculated under the renegotiation or renewal provisions of the sublease.

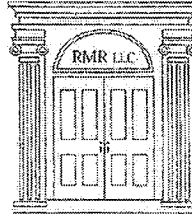
For the foregoing reasons, I allowed Senate Bill No. 764 to become law as Act 189, effective July 15, 2009, without my signature.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE

Property Management & Leasing
Pacific Guardian Center - Makai Tower
733-Bishop Street, Suite 1820
Honolulu, HI 96813



tel: (808) 599-5800 fax: (808) 599-5806

Reit Management
& Research LLC
PROPERTY MANAGEMENT
DIVISION

September 2009

**VIA E-MAIL AND CERTIFIED MAIL,
RETURN RECEIPT REQUESTED**

[REDACTED]

Re:

[REDACTED]

[REDACTED]

The following are the terms upon [REDACTED] Properties LLC would offer to continue lease rent negotiations with [REDACTED]

Lessor: [REDACTED] wholly-owned subsidiary of HRPT Properties Trust.

Lessee: [REDACTED]

Premises: [REDACTED] Honolulu, Hawaii, [REDACTED]

Annual Rental Rate: For the period beginning [REDACTED] (10 years), [REDACTED] per square foot of land, increasing annually on each anniversary date [REDACTED]. Rent will be payable monthly, in advance. Lessee shall pay General Excise Tax (currently 4.712%) on all amounts payable to Lessor, and Lessee shall pay the Conveyance Tax imposed by the State of Hawaii with respect to the Lease.

Act 189: Lessor and Lessee acknowledge and agree that Act 189 of the 2009 Hawaii State Legislature, together with any similar related and/or unrelated, and/or successor act, statute, law, ordinance or regulation which purports to change existing lease terms, shall not apply to the terms of the Lease, and any and all rental and/or value determinations shall be made without regard thereto.

Office Locations:

Albuquerque, NM • Austin, TX • Kansas City, KS • Los Angeles, CA • Minneapolis, MN • Newton, MA • Philadelphia, PA • San Diego, CA • Syracuse, NY • Washington, DC

[REDACTED]

Page Two

Other Terms and
Conditions:

All other terms and conditions shall remain as set forth in the Lease.

It is understood by both Lessor and Lessee that this proposal is non-binding and is subject to changes, modification and/or withdrawal at any time without notice. There shall be no binding agreement between Lessor and Lessee unless and until a mutually acceptable, final lease amendment has been executed and delivered by both Lessor and Lessee. In any event, the terms of this letter will expire at 2:00 PM (HST) [REDACTED] October [REDACTED] 2009.

If the foregoing terms and conditions are acceptable, please sign below and return to me via fax to (808) 599-5806 or email to jyokota@reitmr.com by 2:00 PM (HST) [REDACTED]. As you may be aware, Section (B) of the Lease provides that if the Lessor and Lessee fail to agree on the rent payable, such rent shall be determined by three impartial real estate appraisers. If your signed acceptance is not received as set forth above, Lessor will initiate the appraisal process.

If you have any questions, please contact me at (808) 599-5800. I look forward to hearing from you.

Sincerely,



Jan S. Yokota
Vice President – Pacific Region

Agreed and Accepted:

[REDACTED]

By: _____

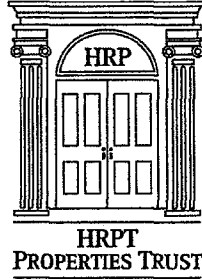
Name:

Its:

Date:

400 Centre Street, Newton, MA 02458-2076

tel: (617) 332-3990 fax: 617-332-2261



April 9, 2009



Honolulu, HI 96810

Dear [REDACTED]

I am the Chief Operating Officer and Senior Vice President of HRPT Properties Trust, and I would like to share with you some recent developments regarding HRPT and the Hawaii office of its affiliate and property manager Reit Management & Research LLC (RMR).

We have made a change in leadership, and for the interim Chris Woodard will be Acting Vice President in charge of our Hawaii office. Chris has been with HRPT and its affiliates for five years working in our headquarters office outside Boston and is highly respected throughout our organization. He has been on the ground in Honolulu for the past 10 weeks and is committed to remain in place until we fill the Hawaii Vice President role on a permanent basis. Chris can be reached by calling 808-599-5800 or via email at cwoodard@reitmr.com.

Our Honolulu office is fully committed to meeting its goal of responding to any tenant inquiry within one business day, and we are in the process of increasing our staffing levels to achieve this. I would remind you that we have an emergency hotline for property management issues (808-945-1185). Resolution of your request might take longer than one business day; however, you will receive a timely return call or email to let you know that your issue is being addressed. In addition, if you have questions regarding any upcoming rent re-opening, I encourage you to call our Honolulu office to schedule a meeting.

I also would like to inform you of two changes in our policies regarding rent negotiations and comparable market data. We no longer require tenants or potential tenants in our Oahu industrial market to sign confidentiality agreements before entering negotiations for rent re-sets, lease renewals or new

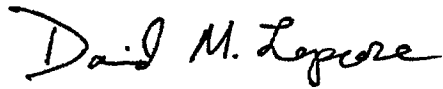
*A Maryland Real Estate Trust with transferable shares of beneficial interest listed on the New York Stock Exchange.
No shareholder, Trustee or officer is personally liable for any act or obligation of the Trust.*

leases. In addition, going forward, we will release transaction comparables to commercial real estate brokers and appraisers upon request, when contractually permitted. It is our hope that these changes will help tenants make better informed decisions and result in a smoother renegotiation process for all parties.

For our James Campbell Industrial Park tenants, we will be opening an onsite office and establishing regular business hours there. We will notify you when the office opens and of its hours of operations in a subsequent letter.

We remain committed to supporting our Hawaii tenants and thank you for the opportunity to strengthen our relationship.

Best regards,

A handwritten signature in black ink that reads "David M. Lepore". The signature is written in a cursive, flowing style.

David M. Lepore
Senior Vice President and Chief Operating Officer
HRPT Properties Trust

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

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August 25, 2009

Mr. Michael Steiner
Citizens for Fair Valuation
841 Bishop Street, Suite 1500
Honolulu, HI 96813

HRPT Properties Trust

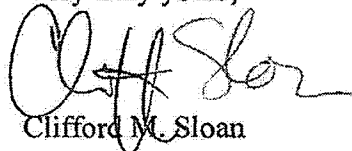
Dear Mr. Steiner:

HRPT Properties Trust has forwarded your letter of August 10, 2009 to us. I also understand that you have contacted Jan Yokota to schedule a meeting.

As you know, issues related to HRPT's leases are currently the subject of litigation. As a result, please direct any further inquiries to me.

Thank you in advance for your cooperation.

Very truly yours,



Clifford M. Sloan

cc: Ms. Jan Yokota
Mr. David M. Lepore

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September 9, 2009

Mr. Michael Steiner
Citizens for Fair Valuation
841 Bishop Street, Suite 1500
Honolulu, HI 96813

Dear Mr. Steiner:

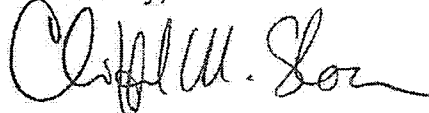
I have your letter of September 2.

HRPT does not consider you to be a legitimate representative of its tenants.

HRPT continues to engage in numerous rent negotiations with its tenants. If you attempt to interfere in those negotiations or if you continue your campaign of harassing HRPT and its representatives, you should expect that HRPT will respond appropriately.

If any representatives of HRPT, including Ms. Yokota and me, do not respond to any further communications you make, please understand that our silence does not imply agreement to anything you write or say.

Yours truly,



Clifford M. Sloan

cc: Ms. Jan Yokota
Mr. David Lepore

Of Counsel:
NING LILLY & JONES

KE-CHING NING 1940
VALERIE M. KATO 7449
707 Richards Street, Suite 700
Honolulu, HI 96813
Telephone: (808) 528-1100
Mtn to CONFIRM award.doc

FIRST CIRCUIT COURT
STATE OF HAWAII
FILED

2009 DEC -8 AM 11:28

H. CHING
CLERK

Attorneys for Claimant
MASTERS PROPERTIES, LLC

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

09-1-0396 RAT

In the Matter of the Arbitration Between

MASTERS PROPERTIES LLC, a Maryland
Company,

Claimant,

vs.

SERVCO PACIFIC INC., a Hawaii
Corporation,

Respondent.

) S.P. NO. _____
) (Special Proceeding)
)
) MASTERS PROPERTIES LLC'S
) MOTION TO CONFIRM ARBITRATION
) AWARD; DECLARATION OF VALERIE
) M. KATO; EXHIBITS "A" - "B"; NOTICE
) OF HEARING AND CERTIFICATE OF
) SERVICE
)
) HEARING:
) DATE: Jan. 14, 2010
) TIME: 9:30 A.M. CFSL
) JUDGE: ROM A. TRADER
)

MASTERS PROPERTIES LLC'S MOTION TO CONFIRM ARBITRATION AWARD

MASTERS PROPERTIES LLC ("Masters"), by and through undersigned counsel Ning Lilly & Jones, and pursuant to Hawaii Revised Statutes § 658A-22, hereby applies to this Court for confirmation of the Decision and Award of the Arbitrators issued and dated November 19, 2009 ("Arbitration Award"). A true and correct copy of the Arbitration Award is attached hereto as Exhibit "A".

RECEIVED
LDB (ELA) NOV 30 2009

Masters is at all times relevant hereto, a Maryland Limited Liability Company doing business in the State of Hawaii. Respondent SERVCO PACIFIC INC. (“Servco”) is at all times relevant hereto, a Hawaii corporation. Venue is proper in this Court pursuant to Section 658A-22, Hawaii Revised Statutes.

Masters is the Lessor and Servco is the Lessee under the Lease dated October 2, 1981 for Lot 1083 in Mapunapuna. TMK: (1) 1-007-031, consisting of 418,502 sq. feet, whose address is 2810 Pukoloa Street, Honolulu, HI. The Lease’s term is for 50 years from February 1, 1979 to January 31, 2029 with fixed rent for the first 10 years, reopening every 10 years thereafter beginning February 1, 1989.

The reopening that was the subject of the instant arbitration, is for the fourth 10-year period from February 1, 2009 to January 31, 2019. Under the Lease, in case the parties fail to agree on the net annual rent payable for any rental period at least 90 days before the commencement of such period, “said rent shall be such fair and reasonable annual rent for the demised land (exclusive of buildings) as shall be determined by three impartial real estate appraisers[.]” Lease, ¶ B, p.12.

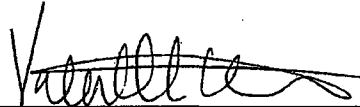
No agreement on the rent was reached for the fourth period. Therefore, pursuant to the terms of the Lease, on February 17, 2009 Servco appointed Jan R. Medusky as its appraiser and on February 26, 2009 Masters appointed James Hallstrom as its appraiser. Thereafter, Mr. Medusky and Mr. Hallstrom appointed Ted Yamamura. A true and correct copy of the Submission Agreement is attached hereto as Exhibit “B”. After 5 days of arbitration hearings, from October 12 through 16, 2009, and the submission of written briefs, the Arbitration Panel issued its Arbitration Award attached hereto as Exhibit “A”. To date, there has been no

modification or correction to the Arbitration Award pursuant to § 658A-20 or 658A-24, nor has it been vacated pursuant to §658A-23. See Declaration of Valerie M. Kato.

WHEREFORE, Masters respectfully requests that:

1. The Court enter an Order and Judgment confirming the Arbitration Award; and
2. The Court retain jurisdiction to enforce the terms of its Order confirming the Arbitration Award.

Dated: Honolulu, Hawaii, November 30, 2009.



KE-CHING NING
VALERIE M. KATO
Attorneys for Claimant
MASTERS PROPERTIES LLC

5. The arbitration hearing was held from October 12 through 16, 2009. To date, there has been no modification or correction to the Arbitration Award attached as Exhibit "A" pursuant to § 658A-20 or 658A-24, nor has it been vacated pursuant to §658A-23.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 30th day of November, 2009, in Honolulu, Hawaii.


VALERIE M. KATO

November 19, 2009

Ke-ching Ning, Esquire
ning@nljlaw.com
Valerie M. Kato, Esquire
vkato@nljlaw.com
Ning, Lilly & Jones
707 Richard Street Suite 700
Honolulu, Hawaii 96813

Bruce Lamon, Esquire
blamon@goodsill.com
Vincent A. Piekarski, Esquire
vplekarski@goodsill.com
Goodsill Anderson Quinn & Stifel
Alii Place, Suite 1800
1099 Alakea Street
Honolulu, Hawaii 96813

**Re: DECISION AND AWARD OF THE ARBITRATORS
Ground Rent Determination in Accordance with the Terms of the Lease Dated
October 2, 1981, by and between the Trustees Under the Will and of the
Estate of Samuel M. Damon, Deceased (Lessor), and Servco Pacific Inc.
(Lessee), for the Premises identified as Lot 1083, TMK (1) 1-1-7-31, 2810
Pukoloa Street, Honolulu, Oahu, Hawaii**

Dear Ms. Ning, Ms. Kato, Mr. Lamon and Mr. Piekarski:

The current Lessor under the Lease is Masters Properties, LLC, and the current Lessee is Servco Pacific Inc. The Lease demises the premises identified as Lot 1083, 2810 Pukoloa Street, Honolulu, Hawaii, Tax Map Key (1) 1-1-07:31, and more particularly described in Exhibit "A" of the Lease, and contains 418,502 square feet of land area.

The Lease provides for the reopening and redetermination of the fair and reasonable annual rent for the demised land (exclusive of buildings) for the 10-year period commencing on February 1, 2009.

James E. Hallstrom, Jr., MAI, CRE, the appraiser appointed by the Lessor, Jan R. Medusky, MAI, CRE, the appraiser appointed by the Lessee, and Ted Yamamura, SRA, the appraiser appointed by Messrs. Hallstrom and Medusky, have been duly constituted to perform the function of a board of arbitration and serve as "Arbitrators" in determining the fair and reasonable annual rent of the demised premises.

The Arbitrators have reviewed the Lease, conducted procedural meetings with the agents for the Lessor and Lessee, inspected the demised Premises, conducted a hearing, considered all documents and other written communications submitted by or on behalf of the Lessor and Lessee, analyzed relevant market and other data, and discussed and shared their analyses and findings.

EXHIBIT " A "

July 21, 2009

Ke-ching Ning, Esquire
ning@njlaw.com
Valerie M. Kato, Esquire
vkato@njlaw.com
Ning, Lilly & Jones
707 Richard Street Suite 700
Honolulu, Hawaii 96813

Bruce Lamon, Esquire
blamon@goodsill.com
Vincent A. Piekarski, Esquire
vpiekarski@goodsill.com
Goodsill Anderson Quinn & Stifel
Aiih Place, Suite 1800
1099 Alakea Street
Honolulu, Hawaii 96813

**Re: STATEMENT AND AGREEMENT OF PROCEDURES, SCHEDULING AND FEES
RELATING TO:
Ground Rent Proceeding in Accordance with the Terms of the Lease Dated
October 2, 1981, by and between the Trustees Under the Will and of the
Estate of Samuel M. Damon, Deceased (Lessor), and Servco Pacific Inc.
(Lessee), for the Premises identified as Lot 1083, TMK (1) 1-1-7-31, 2810
Pukoloa Street, Honolulu, Oahu, Hawaii**

Dear Ms. Ning, Ms. Kato, Mr. Lamon and Mr. Piekarski:

OVERVIEW

The current Lessor under the Lease is Masters Properties, LLC, and the current Lessee is Servco Pacific Inc. We understand that the Lessor and the Lessee have been unable to reach agreement as to the fair and reasonable annual rent for the demised land (exclusive of buildings) "Premises" as it relates to the establishment of the annual rent for the 10-year period commencing on February 1, 2009, as stipulated in the Lease. Lessee has therefore invoked the appraisal provision of the Lease and both Lessor and Lessee mutually agree that the matter is to be determined by arbitration according to the Lease.

In accordance with the procedure for appointment of arbitrators as specified in the Lease, James E. Hallstrom, Jr., MAI, CRE, has been appointed by the Lessor, Jan R. Medusky, MAI, CRE, has been appointed by the Lessee; and Ted Yamamura, SRA, has been appointed by Messrs. Hallstrom and Medusky (Messrs. Hallstrom, Medusky, and Yamamura are collectively referred to as the "Panel"). Mr. Yamamura shall serve as the chairman of the Panel.

This agreement sets forth the procedures, scheduling and fees relative to this arbitration proceeding to determine the fair and reasonable annual rent for the Premises (the "Proceeding"). The Panel understands that all expenses of this Proceeding shall be borne equally between Lessor and Lessee, except that each party shall pay the fees of its own attorneys and witnesses.

EXHIBIT " B "

Within this agreement, the Lessor and Lessee are collectively referred as the "Parties of Interest" and each as a "Party of Interest". The Parties of Interest and the Panel are collectively referred to as the "Parties" and each as a "Party".

The Matter to be Determined: The Panel is to determine the fair and reasonable annual rent for the Premises, as of February 1, 2009 (commencement date of the ten-year rent reopening period), all in accordance with the Lease. The Premises is identified as follows:

Lot 1083, 2810 Pukoloa Street, Honolulu, Hawaii, Tax Map Key (1) 1-1-07:31

The land area to be utilized by the Panel is as provided in Schedule "A" of the Lease. The Panel has been furnished with a copy of the Lease which contains a total of twenty (20) pages and constitute the total contract and agreement between the Parties of Interest with respect to the Premises. The Panel is informed that there are no additional documents or amendments to the Lease in effect on the date of this agreement that amend or modify the rent setting provisions of the Lease.

- **Procedures and Scheduling Conference:** An initial procedures and scheduling conference was held on Friday, June 5, 2009, in connection with this arbitration. Each of the Parties of Interest was represented at this meeting.
- **Site Visit:** The Panel's site visit is scheduled for October 12, 2009, and will commence at 9:00 a.m. The Parties of Interest and their authorized representatives are invited, but are not required, to be present. It is requested that the Parties of Interest give prior notice to the Panel in the event either Party of Interest decides not to attend. The Panel may question a Party of Interest or their counsel during the site visit regarding physical issues, provided, however, the other Party of Interest or their counsel shall be given the opportunity to comment on the Panel's inquiries. Further, neither Party of Interest nor their counsel shall attempt to present any valuation evidence to the Panel during the site visit.
- **Hearing:** A hearing is scheduled for October 12, 2009, immediately following the site visit, and will take place at the offices of The Hallstrom Group, Inc., located at 1003 Bishop Street, Pauahi Tower, Suite 1350 in Honolulu.
 - **Schedule.** The Panel has set aside the hours of 9:00 a.m. to 12:00 noon, and 1:30 to 5:00 p.m. for five (5) days commencing on October 12, 2009, to October 16, 2009, to conduct the Hearing. If necessary, the Hearing will be continued on October 17, 2009, under the same hours. If the Hearing is not completed on October 17, 2009, the Parties shall schedule mutually acceptable and convenient dates to continue the Hearing until completed.
 - **Presentation of Evidence.** At the Hearing, the Parties of Interest may present expert or lay witnesses for the purpose of assisting the Panel in understanding their position on the issues being considered. Each witness may be subject to cross examination by the other Party of Interest and the Panel, in that order. Re-direct examination shall be limited to matters raised in the questioning. Each Party of Interest shall have its witnesses available to testify sequentially on the scheduled date to ensure that there are no breaks in the conduct of the Hearing. No undisclosed witnesses may be called. The witness exclusion rule shall apply.
 - **Order of Presentation.** The Hearing shall be conducted in phases in the following order:
 - Presentation by the Lessor, including expert and lay witnesses.
 - Presentation by the Lessee, including expert and lay witnesses.

- Rules of Evidence. Conformance to Hawaii Rules of Evidence will not be strictly adhered to but will serve as guidance in considering the permissible scope and weight of evidence presented.
- **Attendance at the Property Inspection and Hearing:** Any person who is not an expert witness that has a direct interest in the arbitration may attend the property visit and hearing.
- **Briefs, Expert Reports and Other Evidence:** Each Party of Interest intends to submit expert reports and may elect to conduct depositions of expert witnesses.
 - Exchange of Expert Reports and Witness Disclosures. The Parties of Interest shall have until 4:00 p.m. on July 31, 2009, to exchange written expert reports, which may be in summary form, and witness disclosures.
 - Supplemental Expert List Witness Disclosures. The Parties of Interest shall have until 4:00 p.m. on August 14, 2009, to exchange supplemental written expert reports, which may be in summary form, and supplemental witness disclosures.
 - Deposition of Experts. The Parties of Interest shall conduct their depositions (if any) of expert witnesses during the week of August 24, 2009.
 - Opening Brief. The Parties of Interest shall have until 4:00 pm on October 5, 2009, to submit an Opening Brief to the Panel, and exhibits including expert reports and appraisals.
 - Post Hearing Briefs. If desired, the Parties of Interest shall each submit a post hearing brief not later than 4:00 pm on the date that is fourteen (14) days after the conclusion of the Hearing as evidenced by the close of testimony. Post hearing briefs shall be limited to issues and topics previously raised in the submissions by the Parties of Interest or at the Hearing. No new evidence shall be submitted with the post hearing briefs except as specifically authorized by the Panel.
 - Copy to Other Party of Interest. A copy of each submittal made to the Panel by either Party of Interest shall be served concurrently on the other Party of Interest by the same method of delivery used for the Panel.
 - Requests for Additional Information. From time to time during the course of the Proceeding, the Panel may seek additional facts or opinions from the Parties of Interest. Responses to such requests must be copied to the other Party of Interest.
 - Independent Research. The Panel may engage in additional independent research and analysis.
- **Questions of Fact or Law:** If a definitive award by the Panel requires their resolution of any legal question, or any other question which involves information that is known or conveniently available only to the Parties of Interest, the Panel will not resolve the question without first (a) advising the Parties of Interest of the issue or question and (b) allowing each of them ten (10) calendar days to deliver to the Panel a written response, and (c) duly considering the merits of each response.
- **Contact with the Parties of Interest:** The Panel will be impartial in its conduct of the Proceeding and, except as provided herein, will neither initiate nor accept any *ex parte* communication, either oral or written, to or from the Parties of Interest or their counsel.

- **Notices:** All notices and documents that may or are required to be given hereunder shall be in writing and shall be sent by (a) email, (b) personal delivery, (c) registered or certified mail, return receipt requested, postage prepaid, addressed as set forth below, (d) Federal Express or other reputable courier service regularly providing evidence of delivery, or (e) confirmed facsimile transmission ("Fax") to the Fax number of such Party set forth below.
- Notices and documents shall be deemed served or given for all purposes hereunder at the time such notice, demand or request shall be delivered (as established by acknowledgment of the recipient, return receipt, or courier's proof of delivery), the Fax thereof is successfully transmitted to the recipient, or upon confirmation of receipt by the recipient (if transmitted by email). Any refusal to accept delivery of a written notice or document delivered or mailed to the addresses set forth below shall be deemed to be receipt of such notice or document for the purposes of this agreement. Any Party may change its address for notice, Fax number or email address by delivering written notice thereof to the other party in the manner set forth hereinbefore, and thereafter such party's notice address, Fax number or email address shall be the new address or Fax number.
- The addresses, Email and Fax numbers of the Parties for notices shall be as follows:

Panel Chair: Ted Yamamura, SRA
ACM Consultants, Inc.
2073 Wells Street Suite 100
Wailuku, Hawaii 96793
Telephone: (808) 270-0604
Facsimile: (808) 242-1852
Email: ted@acmmaui.com

Lessor: Masters Properties, LLC
c/o Ning, Lilly & Jones
Ke-ching Ning, Esquire
ning@nljlaw.com
Valerie M. Kato, Esquire
vkato@nljlaw.com
707 Richards Street, Suite 700
Honolulu, Hawaii 96813
Fax: (808) 531-2415

Lessor: Servco Pacific Inc.
c/o Godsill Anderson Quinn & Stifel
Bruce Lamon, Esquire
blamon@godsill.com
Vincent A. Piekarski, Esquire
vpiekarski@godsill.com
Alii Place Suite 1800
1099 Alakea Street
Honolulu, Hawaii 96813
Fax: (808) 547-5880

- **Disclosure:** Each of the arbitrators in this matter has previously submitted a letter of disclosure to the Parties of Interest. Consistent with Hawaii Revised Statutes Subsection 658A-12(b), supplemental disclosures will be made as appropriate.
- **Arbitration Decision (Award):** The Panel will complete the Proceeding pursuant to the Lease and the terms of this agreement and will execute, acknowledge, and serve its award in

- writing upon the Parties of Interest, as provided herein. The award shall be issued within a reasonable time but not later than forty five (45) calendar days following the close of testimony at the Hearing, or the deadline to submit post hearing briefs. In accordance with the provisions of HRS Section 658A-19, the decision and award shall be in the form of a notarized statement signed by the three arbitrators setting forth an identification of the Premises, the nature of the assignment, and the final decision. In the case of a lack of unanimity, the decision of two of the three arbitrators (majority) shall represent the findings of the Panel. The notarized statement shall be delivered personally or by registered mail to the Parties of Interest or such Parties attorney. No report will be issued, nor will the Panel be obligated to review their decision, the specific valuation methodology or methodologies or other aspects of the decision with the Parties of Interest.
- **Confirmation, Vacation, Modification, or Correction of Arbitration Decision (Award):**
A Party of Interest will pay the reasonable fees and costs necessarily and reasonably incurred by each Panel Member in responding to discovery requests and court appearances requested by such Party of Interest if:
 - (1) That Party of Interest files a motion to vacate, modify, or correct the award of the Panel pursuant to Chapter 658A, Hawaii Revised Statutes, and the motion is denied; or
 - (2) That Party of Interest opposes a motion to confirm the award of the Panel pursuant to Chapter 658A, Hawaii Revised Statutes, and the motion is granted.

Furthermore, if any of the Panel Members shall be compelled to collect any of the foregoing expenses for fees through legal process, the responsible Party of Interest hereby agrees to pay any individual amount due on account of such collection action, including attorney's fees incurred.

In addition, if either Party of Interest files a motion, lawsuit or other proceeding against any or all of the Panel Members for any action taken by the Panel Member(s) during the Proceeding, and if such motion is denied or such proceeding is found to be without merit, the Party of Interest filing such proceeding will indemnify the Panel Member(s) against all reasonable costs and expenses, including attorney's fees, reasonably paid or incurred in connection with such proceeding.

- **Non-refundable Arbitration Fees:** Each Party of Interest shall pay all proper costs and expenses of such arbitration in the following manner:

For services rendered under this agreement, the fee for *each* Panel Member shall be \$30,000 which is inclusive of general excise tax, travel and expenses. The Lessor and Lessee shall each pay one-half of all costs and expenses of this Proceeding in the following manner. The fee for each Panel Member at the time of execution of this letter shall be made payable to the respective Panel Member as follows:

<u>Party of Interest</u>	<u>Fee</u>	<u>Payee</u>
Lessor	\$15,000.00	The Hallstrom Group, Inc.
	\$15,000.00	Medusky & Company, Inc.
	\$15,000.00	ACM Consultants, Inc.
Lessee	\$15,000.00	The Hallstrom Group, Inc.
	\$15,000.00	Medusky & Company, Inc.
	\$15,000.00	ACM Consultants, Inc.

The fee represents the Panel's estimate of its total fee for completing the Proceeding. *The checks for each Panel Member should be mailed to the Panel Chair at the address provided herein.* It should be noted that the total fee is due and payable upon acceptance and execution of this agreement.

In the event any additional fees become due as a result of unusual or unforeseen circumstances that may arise during the course of the Proceeding, the Parties of Interest will be notified as soon as the same is determined and shall determine whether additional fees should be incurred prior to incurring said fees. The Panel will not be paid such additional fees without prior agreement by the Parties of Interest. The foregoing does not include any allowances for significant out-of-pocket costs, such as outside professional fees, incurred after the Parties of Interest agree to such expenditure. *The Panel will not be obligated to proceed or continue with the Proceeding unless each Panel Member's fee is paid.*

The Panel will advise and request approval from the Parties of Interest if the Panel deems it necessary to obtain legal counsel to represent them in this proceeding to ensure that matters legal in nature are properly handled. Legal counsel fees will be borne equally by the Parties of Interest.

If the Parties of Interest should cancel the Proceeding by mutual agreement prior to submission of the appraisal reports and Opening Briefs, each Panel Member shall retain \$5,000.00 as a non-refundable fee, and shall return of the balance of the total fee remaining equally to each Party of Interest.

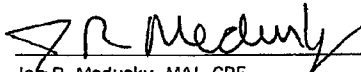
If the Parties of Interest should cancel the Proceeding by mutual agreement after submission of the appraisal report and Opening Briefs, non-refundable payments to the Panel Members shall be calculated as follows:

- o Each Panel Member shall retain \$10,000 as a non-refundable arbitration fee.
- o Each Panel Member's hourly billing rate for this Proceeding is \$350.00. At the time of cancellation by the Parties of Interest, each Panel Member shall determine the time expended and shall calculate the remaining arbitration fee based on the Panel Member's hourly billing rate and the hours expended in excess (if any) of the number of hours reflected in the non-refundable arbitration fee. Each Panel Member shall mail to the respective Party of Interest the refundable portion of the arbitration fee.

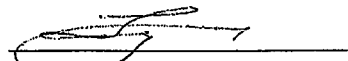
Acceptance of these conditions and authorization for the Panel to proceed as outlined herein shall be evidenced by delivery of a signed copy of this agreement together with the requested fees to the Panel Chair at the address provided herein. A signed copy should concurrently be sent to the other Party of Interest. It is understood that this agreement may be executed in counterparts but it will have no force or effect unless and until executed by each Panel Member and authorized representatives of the Lessor and Lessee. The Parties of Interest and the Panel will have each executed at least one but not necessarily the same counterparts.

[signatures appear on the following page]

James E. Hallstrom Jr., MAI, CRE



Jan R. Medusky, MAI, CRE

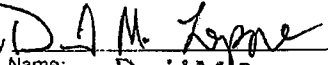


Ted Yamamura, SRA
Panel Chair

APPROVED AND ACCEPTED:

Lessor:

Masters Properties, LLC

By 

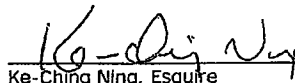
Name: David M. Lepore
Title: Senior Vice President

Servco Pacific Inc.

Lessee:

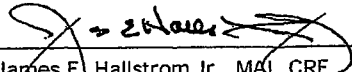
By _____
Name: Carol K. Lam
Title: Senior Vice-President

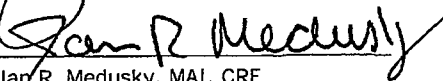
APPROVED AS TO FORM:

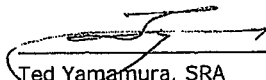


Ke-Ching Ning, Esquire
attorney for Lessor

Bruce Lamon, Esquire
attorney for Lessee


James E. Hallstrom Jr., MAI, CRE


Jar R. Medusky, MAI, CRE


Ted Yamamura, SRA
Panel Chair

APPROVED AND ACCEPTED:

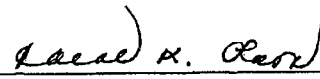
Lessor:

Masters Properties, LLC

By _____
Name:
Title:

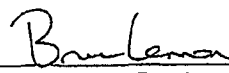
Servco Pacific Inc.

Lessee:

By 
Name: Carol K. Lam
Title: Senior Vice-President

APPROVED AS TO FORM:

Ke-Ching Ning, Esquire
attorney for Lessor



Bruce Lamon, Esquire
attorney for Lessee

Summary of Scheduled Events and Deadlines

Event	Date	Time
Exchange of Written Expert Reports, and Witness Disclosures	July 31, 2009	4:00 PM
Supplemental Written Expert Reports and Witness Disclosures	August 14, 2009	4:00 PM
Expert Witness Depositions	Week of August 24, 2009	
Pre-Hearing Brief, and Exhibits Including Expert Reports and Appraisals due to Panel	October 5, 2009	4:00 PM
Property Inspection	October 12, 2009	9:00 AM
Hearing	Week of October 12, 2009 (October 17, 2009 – Spillover Day)	Immediately after property inspection at office of the Hallstrom Appraisal Group, Inc.
Submission of Post Hearing Briefs	14 days after conclusion of the Hearing	4:00 PM
Arbitration Decision	45 days after conclusion of the hearing or deadline to submit post hearing briefs.	

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

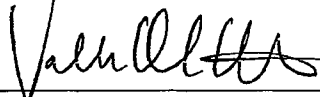
In the Matter of the Arbitration Between) S.P. NO. _____
) (Special Proceeding)
MASTERS PROPERTIES LLC, a Maryland)
Company,) NOTICE OF HEARING AND
) CERTIFICATE OF SERVICE
)
Claimant,)
)
vs.)
)
SERVCO PACIFIC INC., a Hawaii)
Corporation,)
)
Respondent.)

NOTICE OF HEARING

TO: VINCENT PIEKARSKI
BRUCE LAMON
Goodsill Anderson Quinn & Stifel
Alii Place, Suite 1800
1099 Alakea Street
Honolulu, Hawaii 96813
Attorneys for Respondent

PLEASE TAKE NOTICE that the foregoing motion will come on for hearing before the
Honorable ROM A. TRADER in ^{5c}his courtroom in the Kaahumanu Hale, 777
Punchbowl Street, Honolulu, Hawaii 96813, on 1-14-10 at 8:30 A.m. or as soon
thereafter as counsel can be heard.

DATED: Honolulu, Hawaii, November 20, 2009.



KE-CHING NING
VALERIE M. KATO
Attorneys for Claimant
MASTERS PROPERTIES LLC

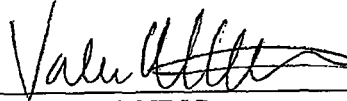
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document will be duly served via U.S. MAIL
and FACSIMILE upon following party at their last known addresses on

11/30/09 :

VINCENT PIEKARSKI
BRUCE LAMON
Goodsill Anderson Quinn & Stifel
Alii Place, Suite 1800
1099 Alakea Street
Honolulu, Hawaii 96813
Attorneys for Respondent

DATED: Honolulu, Hawaii, November 30, 2009.



KE-CHING NING
VALERIE M. KATO
Attorneys for Claimant
MASTERS PROPERTIES LLC

January 26, 2010

TESTIMONY TO THE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
January 27, 2010, 9:00 A.M., Room 229
Hawaii State Capitol

Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair

TESTIMONY IN SUPPORT OF SB 2020 RELATING TO REAL PROPERTY

Dear Senators Baker, Ige and Members of the Committee:

I support SB 2020 and respectfully request that extend the life of Act 189. My name is Chuck Allen. I reside on Maui. I am President of the company that owns the former A.L. Kilgos Co., Inc., which is still located at 180 Sand Island Access Rd., Honolulu. We own numerous parcels in the area immediately adjacent to and near our Kilgos main facility there. Our collective group of companies in Hawaii now make us the largest drywall, steel framing, insulation and roofing suppliers in the State of Hawaii. We employ hundreds of local people, mostly from the island of Oahu, however our business extends to all major neighbor islands.

Many of our business neighbors have family members who have lost their jobs, had their hours reduced, or have businesses which are barely surviving. This past year, our business has slowed tremendously and we are trying to cut expenses before we have to cut benefits and lay off workers.

Nearly all of our Honolulu based business resides on HRPT owned land and are thus subject to the terms and conditions of the former Damon Estate, now being administered and implemented by HRPT.

Rent is one of the largest expenses we face. Up to now, the rents charged by the Damon Estate were "fair and reasonable," which is what the lease specifically calls for. The new owner, HRPT Properties Trust, continues to demand rents that excess of the current market and, on top of that, are demanding we pay annual escalations of 3% to 4%. Rent escalations are not part of our lease terms and just not feasible in these times of decline. In addition, HRPT is requiring that we sign away our rights under the existing law (Act 189) now and throughout the life of our leases. Is this fair?

Additionally, HRPT has used every attempt at negotiating anything subject to the ground leases as a means to 'renegotiate' other terms and conditions of the leases. They have withheld usual and customary consents, altered language of documents during negotiation processes without alerting us to their proposed changes, and so on.

HRPT has been effectively unwilling to sit at the 'table' and negotiate rent re-open and resets that occur approximately every ten years in most of the old Damon leases. They have chosen to deal almost exclusively by litigation. Their actions have literally cost us hundreds of thousands of dollars in legal and other expense – and we have yet to complete the arbitration/appraisal process. We're just now beginning.

HRPT, by prohibiting access to comparable rent information is forcing lessees into take-it-or-leave-it deals, and denying the ability to negotiate a fair rent. Through their sheer size and oligopolistic control of the market, they are subverting market forces to provide unprecedented returns. The small businesses and consumers of Hawaii

A.L. Kilgo Company, Inc.

180 Sand Island Access Rd.

Honolulu, HI 96819

need Act 189 extended to remind HRPT that it needs to set fair rents and that it needs to deal in a fair and business-like manner.

The issues brought before the legislature during the last session have only worsened. HRPT has not abided by its word to improve relationships and honor the course of action set by the Damon Estate. Act 189 was written to redress these issues and unfortunately HRPT has failed in its obligation to provide "fair and reasonable" rents. Instead, it has redoubled its efforts to intimidate and force lessees into costly arbitrations proceedings while ignoring the arbitration results achieved by others. These actions seem to be driven by simple greed.

Passage of SB2020 will extend Act 189 and hopefully remind the landowner to negotiate terms based on what is happening here, in Hawaii's economy, rather than trying to make up for losses on the mainland. I want to stay in business and I want to keep my workers employed. Please continue what you agreed to do last session by passing SB2020. Thank you.

Respectfully,

Chuck Allen

President

A.L. Kilgo Company, Inc.

Mahalo Acquisition Corp.

chuck.allen@alliedbuilding.com

315 Hukilike St.

Kahului, HI 96732

(808) 286-0077 Direct

(808) 877-0083 Fax

Related Hawaii based companies:

Allied Building Products Corp.

GW Killebrew, Inc.

RSI Roofing Supply, Inc.

Acoustical Material Services, Inc.

RME Construction Supply, Ltd.

**CENTRAL PARK COMMUNITY ASSOCIATION
99-1046 IWAENA STREET
AIEA, HAWAII 96701**

January 26, 2010

Honorable Senator Rosalyn Baker, Chair
Honorable David Y. Ige, Vice Chair
Members of the Committee
Committee on Commerce and Consumer Protection

RE: Testimony in Support of SB 2020

Dear Senators Baker, Ige, and Members of the Committee:

Central Park Community Association (CPCA) was formed in 1982 and is an association of businesses that operate in Central Park, Halawa Valley and are land lessees in that Park. Our members and their sub-tenants employ hundreds of individuals and most members are small businesses as are their tenants. The board of CPCA supports passage of SB2020 which will extend the life of Act 189 which will assist the lessees of HRPT in the Mapunapuna, Sand Island, and Kalihi Kai areas in obtaining fair and reasonable land rent for their businesses from HRPT.

As businesses and lessees ourselves we are acutely aware of the critical role land rent plays in the survival and success of our businesses. We have followed closely the activities of HRPT and Citizens for Fair Valuation as we are also negotiating land rent in Halawa with our land owners. HRPT has not negotiated in good faith with their lessees and Act 189 helps in leveling the playing field and causes the parties, lessor and lessee, to negotiate new land rent in an open and transparent manner in order to agree on a rent which is fair and reasonable to both parties. Given the dominance of only seven land owners in the ownership of commercial land in Hawaii, law such as Act 189 is needed to keep excessive land rent from destroying many small businesses in the State and saving the jobs of their thousands of employees.

The market for commercial land is very limited in Hawaii as the seven large land owners do not wish to sell and create an artificial scarcity which leads to high prices which are not economically justified. Land rent needs to be fair and reasonable if Hawaii is to be economically successful especially during these harsh economic times. Excessive and increasing land rent destroys businesses and constantly drains Hawaii businesses of working capital and sends much of it out of the State to the further detriment of our economy.

Most of our industrial areas are rundown and not great places to operate a business. Lessees often can't afford to maintain their buildings and improvements due to high land rent. Such conditions lead to lower productivity and higher costs in the long run. Act 189 is a small but necessary step in the right direction to improve this situation. Though

CPCA and its member lessees are not directly affected by Act 189, we believe it does have value in assisting us in our negotiations with our land owners for the same reasons it is valuable to HRPT's lessees.

Please continue what the legislature agreed to during your last session by passing SB2020. Thank you for your attention.

Aloha,

William S. Alexander, President
808-285-5877 or 208-265-0270
wsalema@aol.com
Also President of Earle M. Alexander, Ltd
Lessee at 99-1046 Iwaena St. Aiea, Hi 96701

baker4 - Cathy

From: bbauer@gproadwaysolutions.com
Sent: Tuesday, January 26, 2010 3:23 PM
To: CPN Testimony
Subject: support of SB2020 which extends the life of Act 189 for another 5 year period.
Attachments: ATT00001.jpg

The hearing is set for **Wednesday, January 27, 2010 at 9:00 in Room 229 at the Hawaii State Capitol.**

January 26, 2010

Honorable Senator Rosalyn Baker, Chair
Members of Committee on Commerce and Consumer Protection
Committee on Commerce and Consumer Protection

RE: Senate Bill SB2020

Dear Honorable Chair Baker and Members of the Committee on Commerce and Consumer Protection:

I support passage of Senate Bill SB2020 which is a bill to extend Act 189. The purpose of the Act is to help stabilize our economy by setting parameters that will encourage open and transparent negotiation in long-term ground leases which support Hawaii's critical commercial and industrial business community. Act 189 does not change the terms or language of the leases. In fact, Act 189 should strengthen the relationship between lessor and lessee. In 2009 Senate (SB764) which preceded Act 189 was passed by both House and Senate and the governor allowed it to become law.

The issues brought before the legislature during the last session have only worsened. However, extending Act 189 by the passing of SB2020 will help the welfare of the Hawaii community and businesses by stabilizing our downward spiraling economy.

I respectfully request that you approve Senate Bill SB2020.

Aloha,

Ben Bauer
General Manager
GP Roadway Solutions
660 Mapunapuna St.
Honolulu, HI 96819
(Ofc) 808-275-5287
(Fax) 808-834-5630
(Cell) 808-368-5209



Grace Pacific
CORPORATION
P.O. Box 78 / Honolulu, Hawaii 96810

Administrative Office (808) 674-8383 fax (808) 674-1040
Paving Office (808) 845-3991 fax (808) 842-3206
Quarry Office (808) 672-3545 fax (808) 672-3998



January 26, 2010

Honorable Senator Rosalyn Baker, Chair
Members of Committee on Commerce and Consumer Protection
Committee on Commerce and Consumer Protection

RE: Senate Bill SB2020

Dear Honorable Chair Baker and Members of the Committee on Commerce and Consumer Protection:

My name is Robert Creps, and I am the Senior Vice President of Administration for Grace Pacific Corporation. Grace Pacific holds five ground leases with affiliates of the HRPT Properties Trust in the Mapunapuna and Sand Island areas. I have also served as the President of the Citizens for Fair Valuation since December 2007.

Act 189 was passed last year with a one year sunset provision, based on the belief that HRPT needed a little more time to get its act together in the rent re-setting process. I am attaching a letter from Mr. David Lepore of HRPT Properties Trust dated April 9, 2009 evidencing this belief.

Based upon my personal observations, HRPT has failed to get their act together.

HRPT claims that Act 189 re-writes the lease contract. Nothing could be further from the truth. It is HRPT who for the past two years has attempted to unilaterally change the language of our leases.

HRPT claims that Act 189 precludes their ability to negotiate with lessees. Again, nothing could be further from the truth. One year ago, prior to Act 189, there were more than 20 leases pending, with re-set dates of January 1, 2009 and earlier. Today they all remain in limbo.

HRPT has not changed as they had promised.

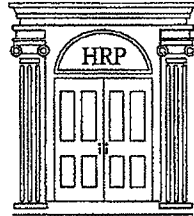
We need Act 189 extended for five years.

I respectfully ask that you approve Senate Bill SB2020.

Thank you.

Robert Creps

400 Centre Street, Newton, MA 02458-2076



tel: (617) 332-3990 fax: 617-332-2261

**HRPT
PROPERTIES TRUST**

April 9, 2009

Robert Creps, Sr. VP
Hawaiian Bitumuls Paving
Grace Pacific Corp.
P.O. Box 78
Honolulu, HI 96810

Dear Mr. Creps:

I am the Chief Operating Officer and Senior Vice President of HRPT Properties Trust, and I would like to share with you some recent developments regarding HRPT and the Hawaii office of its affiliate and property manager Reit Management & Research LLC (RMR).

We have made a change in leadership, and for the interim Chris Woodard will be Acting Vice President in charge of our Hawaii office. Chris has been with HRPT and its affiliates for five years working in our headquarters office outside Boston and is highly respected throughout our organization. He has been on the ground in Honolulu for the past 10 weeks and is committed to remain in place until we fill the Hawaii Vice President role on a permanent basis. Chris can be reached by calling 808-599-5800 or via email at cwoodard@reitmr.com.

Our Honolulu office is fully committed to meeting its goal of responding to any tenant inquiry within one business day, and we are in the process of increasing our staffing levels to achieve this. I would remind you that we have an emergency hotline for property management issues (808-945-1185). Resolution of your request might take longer than one business day; however, you will receive a timely return call or email to let you know that your issue is being addressed. In addition, if you have questions regarding any upcoming rent re-opening, I encourage you to call our Honolulu office to schedule a meeting.

I also would like to inform you of two changes in our policies regarding rent negotiations and comparable market data. We no longer require tenants or potential tenants in our Oahu industrial market to sign confidentiality agreements before entering negotiations for rent re-sets, lease renewals or new

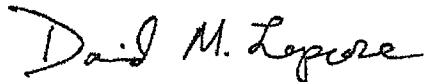
*A Maryland Real Estate Trust with transferable shares of beneficial interest listed on the New York Stock Exchange.
No shareholder, Trustee or officer is personally liable for any act or obligation of the Trust.*

leases. In addition, going forward, we will release transaction comparables to commercial real estate brokers and appraisers upon request, when contractually permitted. It is our hope that these changes will help tenants make better informed decisions and result in a smoother renegotiation process for all parties.

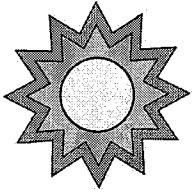
For our James Campbell Industrial Park tenants, we will be opening an onsite office and establishing regular business hours there. We will notify you when the office opens and of its hours of operations in a subsequent letter.

We remain committed to supporting our Hawaii tenants and thank you for the opportunity to strengthen our relationship.

Best regards,

A handwritten signature in cursive script that reads "David M. Lepore". The signature is written in dark ink and is positioned above the typed name and title.

David M. Lepore
Senior Vice President and Chief Operating Officer
HRPT Properties Trust



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January 26, 2010

Senate Committee on Commerce & Consumer Protection

Jan 27, 9 AM, Conference Room 229

In SUPPORT of SB 2020, Re Real Property

Chair Baker, Vice Chair Ige and Members of the Committee,

My name is Cully Judd, I have owned and operated Inter-Island Solar Supply since 1975. We are a renewable energy wholesale distribution company contributing to the growing green collar industry in Hawaii. We have been at our Oahu branch location, 761 Ahua Street, for nearly ten years and would like to stay. Although we have a few years till rent renegotiations, the veil of secrecy created by HRPT's non-disclosure agreements and overly aggressive rent increase suggestions resulted in our decision to join the efforts of Citizens for Fair Valuation to ensure businesses like ourselves continue to have a home in the industrial area of Mapunapuna.

While I applaud last year's passage of Act 189, I ask for your support of Senate Bill 2020 to provide a necessary 5 year extension to ensure "Fair and Reasonable" rent be reached through transparent negotiations for my fellow Mapunapuna, Kalihi Kai and Sand Island tenants.

Mahalo for your consideration,

Lawrence McCully Judd

MUTUAL PLUMBING SUPPLY

2812 Awaawaloa Street, Honolulu, Hawaii 96819 Phone 808-839-9076 Fax 808-833-2085

January 26, 2010

Honorable Senator Rosalyn Baker, Chair
Members of Committee on Commerce and Consumer Protection
Committee on Commerce and Consumer Protection

RE: Senate Bill SB2020

Dear Honorable Chair Baker and Members of the Committee on Commerce and
Consumer Protection:

We support the passage of Senate Bill SB2020 which is a bill to extend Act 189. As a lessee of industrial property in the Mapunapuna area we need Act 189 extended to stabilize the rents lessors charge and the rents that we as lessees pay.

Please approve Senate Bill SB2020.

Aloha,

Clyde & Allison Kojima (Owners)
Mutual Plumbing Supply Co., Inc.
2812 Awaawaloa Street
Honolulu, HI 96819
(808)839-9076
mutualpls@hawaiiantel.net



SERVCO PACIFIC INC.

2850 Pukoloa Street • Suite 300 • Honolulu, Hawaii 96819 • Telephone: (808) 561-1200 • Facsimile: (808) 523-3937 • www.servco.com

January 26, 2010

To: The Honorable Rosalyn H. Baker, Chair
The Honorable David Y. Ige, Vice-Chair
and Committee Members
Senate Committee on Commerce and Consumer Protection

From: Carol K. Lam (B)
Senior Vice President
Servco Pacific Inc.
2850 Pukoloa Street, Suite 300
Honolulu, Hawaii 96819

Hearing Date: Wednesday, January 27, 2009, 9:00 a.m.
Conference Room 229/State Capitol

In Support of Senate Bill 2020, Relating to Real Property

On behalf of Servco Pacific Inc. ("*Servco*"), I submit the following comments in support of the adoption of SB 2020 (the "*Bill*").

Servco recently completed a ground rent arbitration with HRPT for Servco's 10-acre site in Mapunapuna. The hearing lasted one-week, and both Servco and HRPT fully presented their views on rent. That arbitration panel unanimously decided on a rent of \$5.26/SF for the 10-year period beginning February 2009 *with no step ups or annual increases*.

We understand that since that arbitration award was announced, HRPT has continued to insist on *both* a first year rent that is well in excess of the Servco award *and* on 3% to 4% annual rent increases.

We support the passage of SB 2020 to remind HRPT that it needs to set rents that are fair and reasonable to both the Lessor and Lessee.

We thank you for the opportunity to share our comments with you.

McCully Works / Mauna Kea Orchids
40 Kamehameha Ave., Hilo, Hi. 96720

January 26, 2010

Hon. Senator Rosalyn Baker, Chairperson
Committee on Commerce and Consumer Protection

Regarding SB 2020

Aloha Senator Baker,

I fully support the extension of Act 189 through the passage of Senate Bill 2020, with the intent to support the small business owners and Lessee's that are affected by this Act. This attempt to "level the field" between Lessor and Lessee is a small step in addressing the very dysfunctional commercial leasehold lands problem in our state of Hawaii, particularly on the island of Oahu. I say this as a Lessee of nearby Industrially zoned land that is currently beginning renegotiation of lease rents for the next 10 years, and the Lessor (KSBE) has asked for a 1,700% increase in Ground Rent!!! This will bankrupt my investment if they succeed in gaining this increase. While I know that SB 2020 is unique to the Lessees of a nearby area I believe that it is important to address the problems of commercial leases throughout the state whenever we can. With the current economic issues facing our State this is such a time.

I have read that more than 85% of all Industrial and Commercially zoned lands are controlled by 7 large landowners, and HRPT is one of them. They have taken advantage of this stranglehold through ever increasing prices of the small amount of land that is for sale in Fee Simple. This scarcity leads to unrealistic prices paid for the rare zoned property available for sale, and then the large landowners use this as a comparative sale when appraising the value of their lands. This is taking unfair advantage of our unique economic environment with limited lands and no alternative locations to conduct our business. Please support our economy by helping to keep small business in business.

Please pass S.B. 2020

Mahalo,

«GreetingLine»

Cc.
Sen. Russell Kokubun
Rep. Robert Herkes , Rep. Clift Tsuji , Rep. Jerry Chang

SAWDUST

January 26, 2010

Honorable Senator Rosalyn Baker, Chair
Members of Committee on Commerce and Consumer Protection
Committee on Commerce and Consumer Protection

RE: Senate Bill SB2020

Dear Honorable Chair Baker and Members of the Committee on Commerce and Consumer Protection:

I support passage of Senate Bill SB2020 which is a bill to extend Act 189. The purpose of the Act is to help stabilize our economy by setting parameters that will encourage open and transparent negotiation in long-term ground leases which support Hawaii's critical commercial and industrial business community. Act 189 does not change the terms or language of the leases. In fact, Act 189 should strengthen the relationship between lessor and lessee. In 2009 Senate (SB764) which preceded Act 189 was passed by both House and Senate and the governor allowed it to become law.

The issues brought before the legislature during the last session have only worsened. However, extending Act 189 by the passing of SB2020 will help the welfare of the Hawaii community and businesses by stabilizing our downward spiraling economy.

HRPT has not even responded to my landlord's efforts to negotiate. Our ground lease was up for renegotiation over a year ago, and HRPT expects to charge us penalties for not settling even though they are not responding. Hardball is too soft a term, financial terrorist is closer, I think. They are not good corporate citizens. There is no reason to consider them to be. I feel their goal is to push all of our industrial businesses (those that survive) into their Campbell property and to up-zone Mapunapuna and Kalihi Kai to commercial. Fair enough, but a viable city needs certain of it's industry within the city proper. Good for HRPT maybe, but not so good for Honolulu.

I respectfully request that you approve Senate Bill SB2020.

Mahalo,
Grant Merritt
Owner Sawdust
151-B Pu'uhale Road
Honolulu HI 96819
841-6066

January 26, 2010

TESTIMONY TO THE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
January 27, 2010, 9:00 A.M., Room 229
Hawaii State Capitol

Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair

TESTIMONY IN SUPPORT OF SB 2020 RELATING TO REAL PROPERTY

Dear Senators Baker, Ige and Members of the Committee:

I support SB 2020 and respectfully request that you extend the life of Act 189. My name is William Paik, I live in Kaimuki. I work at GP Roadway Solutions, which is located in Mapunapuna and we employ roughly 200 people.

Many of my neighbors have family members who have lost their jobs, had their hours reduced, or have businesses which are barely surviving. This past year, our business has slowed down and we are trying to cut expenses before we have to cut benefits and lay off workers.

Rent is one of the largest expenses we face. Up to now, the rents charged by the Damon Estate were "fair and reasonable," which is what the lease specifically calls for. The new owner, HRPT, continues to demand rents that are in excess of the current market and, on top of that, are demanding we pay annual escalations of 3% to 4%. Rent escalations are not part of our lease terms and just not feasible in these times of decline. In addition, HRPT is requiring that we sign away our rights under the existing law (Act 189) now and throughout the life of our leases. Is this fair?

HRPT, by prohibiting access to comparable rent information is forcing lessees into take-it-or-leave-it deals, and denying the ability to negotiate a fair rent. Through their sheer size and oligopolistic control of the market, they are subverting market forces to provide unprecedented returns. The small businesses and consumers of Hawaii need Act 189 extended to remind HRPT that it needs to set fair rents.

The issues brought before the legislature during the last session have only worsened. HRPT has not abided by its word to improve relationships and honor the course of action set by the Damon Estate. Act 189 was written to redress these issues and unfortunately HRPT has failed in its obligation to provide "fair and reasonable" rents. Instead, it has redoubled its efforts to intimidate and force lessees into costly arbitrations proceedings while ignoring the arbitration results achieved by others. These actions seem to be driven by simple greed.

Passage of SB2020 will extend Act 189 and hopefully remind the landowner to negotiate terms based on what is happening here, in Hawaii's economy, rather than trying to make up for losses on the mainland. I want to stay in business and I want to keep my workers employed. Please continue what you agreed to do last session by passing SB2020. Thank you.

Name: William Paik
Company: GP Roadway Solutions
Address: 660 Mapunapuna St, Honolulu, Hawaii 968719
Phone: (808) 833-2502
Email: williamapaik@aol.com

January 26, 2010

Honorable Senator Rosalyn Baker, Chair
Members of Committee on Commerce and Consumer Protection
Committee on Commerce and Consumer Protection

RE: Senate Bill SB2020

Dear Honorable Chair Baker and Members of the Committee on Commerce and Consumer Protection:

I support the passage of Senate Bill SB2020 which is a bill to extend Act 189. As a lessee of industrial property in the Mapunapuna area we need Act 189 extended to stabilize the rents lessors charge and the rents that we as lessees pay

Please approve Senate Bill SB2020.

Aloha,

Bob Peterson

Bob Peterson

94-1217 Keahua Loop

Waipahu, HI 96797

Ph. 808-275-5294

bpeterson@gproadwaysolutions.com



215A RAILROAD AVENUE / HILO, HAWAII 96720 / PHONE: (808) 935-8595 / FAX: (808) 935-1698
 800 ALUA STREET / WAILUKU, MAUI 96793 / PHONE: (808) 244-9158 / FAX: (808) 242-5815
 74-5039B QUEEN KAAHUMANU HWY. / KAILUA-KONA, HAWAII 96740 / PHONE: (808) 326-1212 / FAX: (808) 326-1822
 1856 HALEUKANA STREET / PUHI INDUSTRIAL PARK / LIHUE, HAWAII 96766 / PHONE: (808) 245-8472 / FAX: (808) 246-6156

918 AHUA ST. / HONOLULU, HAWAII 96819 / PH: (808) 839-7202 / FAX: (808) 839-9813

January 26, 2010

**TESTIMONY TO THE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
 January 27, 2010, 9:00 A.M., Room 229
 Hawaii State Capitol**

**Senator Rosalyn H. Baker, Chair
 Senator David Y. Ige, Vice Chair**

TESTIMONY IN SUPPORT OF SB 2020 RELATING TO REAL PROPERTY

Dear Senators Baker, Ige and Members of the Committee:

I support SB 2020 and respectfully request that extend the life of Act 189. My name is Phillip J. Silich, I live in Honolulu, Hi. I own Bacon-Universal Co., Inc., which is located in the Mapunapuna/Sand Island/Kalihi Kai area, and employ roughly 65 people.

Many of my neighbors have family members who have lost their jobs, had their hours reduced, or have businesses which are barely surviving. This past year, our business has slowed tremendously and we are trying to cut expenses before we have to cut benefits and lay off workers.

Rent is one of the largest expenses we face. Up to now, the rents charged by the Damon Estate were "fair and reasonable," which is what the lease specifically calls for. The new owner, HRPT, continues to demand rents that excess of the current market and, on top of that, are demanding we pay annual escalations of 3% to 4%. Rent escalations are not part of our lease terms and just not feasible in these times of decline. In addition, HRPT is requiring that we sign away our rights under the existing law (Act 189) now and throughout the life of our leases. Is this fair?

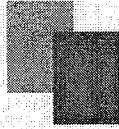
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Passage of SB2020 will extend Act 189 and hopefully remind the landowner to negotiate terms based on what is happening here, in Hawaii's economy, rather than trying to make up for losses on the mainland. I want to stay in business and I want to keep my workers employed. Please continue what you agreed to do last session by passing SB2020. Thank you.

Name	Phillip J. Silich
Company	Bacon-Universal Company, Inc.
Address	918 Ahua Street
City, State	Honolulu, Hi 96819
Phone	808-839-7202 Ext: 2400
Email	psilich@baconuniversal.com

www.baconuniversal.com



PLYWOOD HAWAII

1062 Kikowaena Place
Phone (808) 834-1144

Honolulu, Hawaii 96819
Fax (808) 834-1232

January 26, 2010

Senator Rosalyn Baker, Chair
Senator David Ige, Vice-Chair
Senate Committee on Commerce & Consumer Protection
State Capitol
Honolulu, Hawaii 96813

Re: **Senate Bill 2020 - Re Real Property --Testimony in Support**
Hearing Date: January 27, 2010, 9:00 a.m., Conference Room #229

Dear Senators Baker and Ige and Members of the Committee:

I am writing in support of SB 2020 to extend the provisions of Act 189 for another five years.

Our company faces renegotiation of rent in July of this year, one month after the expiration of Act 189. We advised our landlord of our intention to exercise our first 5 year option in June of 2009, and received a reply this month asking for a new lease rate of \$7.00 per foot per year plus a 3% annual increase. Our current rate is \$3.87 with no step-up per year. The letter advised that we had three weeks to accept the offer or settle through arbitration means. No offer to negotiate was included in the letter.

We are a small family owned business that employs 11 people. Our current base rent is \$120,000 per year. The new rent would increase to a total of \$216,713 per year in the first 12 months following the increase, and would increase to nearly \$244,000 in year five.

As you can imagine, arbitration is an expensive alternative, particularly in a year impacted so heavily by the economic downturn. The current situation is a "take it or leave it" choice leaving those who want to remain at their location little choice but to bear the heavy costs of the arbitration panel, attorneys and appraisers to set a reasonable rent. Added to that situation is the burden of defining the unique lease language if no guidance is set by the legislature.

I urge the approval of this bill to provide assistance to small businesses that face a very difficult rent renegotiation in very unsettling times. The impact of this renegotiation on our employees and customers is considerable.

Sincerely yours,

Connie Smales, President

JAMES W. Y. WONG

3737 Manoa Road • Honolulu, Hawaii 96822 • (808)946-2966 • Fax: (808)943-3140

January 25, 2010

Honorable Senator Rosalyn Baker, Chair
Members of Committee on Commerce and Consumer Protection
Committee on Commerce and Consumer Protection

Via Facsimile
586-6071

Via E-Mail
CPNTestimony@Capitol.hawaii.gov

RE: Senate Bill SB2020

Dear Honorable Chair Baker and Members of the Committee on Commerce and Consumer Protection:

I support passage of Senate Bill SB2020 which is a bill to extend Act 189. The purpose of the Act was to help stabilize our economy by addressing some of the vague provisions of existing commercial and industrial leases by clarifying provisions in such leases without substantial impact of the economic benefit to the owners or impact their ownership of the land, without impairing their lease contracts or without taking any property rights without due process of law. In 2009 Senate (SB764) which preceded Act 189 was passed by both House and Senate and the governor allowed it to become law.

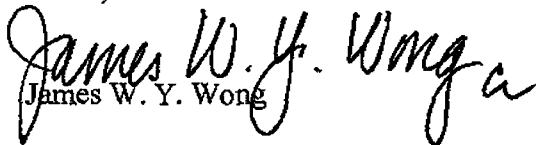
As a lessee of commercial real estate, the bill if passed would allow Act 189 to continue which would provide that fair and reasonable rents would be provided for leases that are up for renegotiation, at a time when our entire economy is gasping for survival.

The issues brought before the legislature during the last session have only worsened. However, extending Act 189 by the passing of SB2020 will help the welfare of the Hawaii community and businesses and to stabilize the rents lessors charge and lessees pay.

The leasehold properties for which I am or was a ground lessee includes King University Plaza, Moiliili Plaza, University Plaza, Hale Anue, Waiakamilo Shopping Center, Waialae Plaza, Central Plaza, Waipahu Shopping Plaza, Kapolei Medical Park, Kailua Post Office, Windward Town & Country Plaza Phase 1 and 2, Windward Shopping Center (former Kailua Daiei property), Kapalama Shopping Center, and Kapalama Industrial leases.

I urge your approving Senate Bill SB2020

Aloha,


James W. Y. Wong

Kakīlepo, LLC

*1577 Nehoa Street
Honolulu, Hawai'i 96822*

January 26, 2010

Hawai'i State Senate
Hawai'i State Capitol
Honolulu, HI 96813

Via E-Mail
CPNTestimony@Capitol.hawaii.gov

Attn: Honorable Senator Rosalyn Baker, Chair
Members of the Committee on Commerce and Consumer Protection

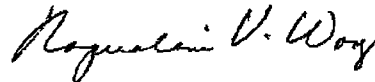
RE: **SB2020**

Dear Honorable Chair Baker and Members of the Committee on Commerce and Consumer Protection:

Please accept this letter as written testimony in support of SB2020 which is a bill to extend the repeal date of Act 189. I am a lessee and in these very difficult economic times, this legislation is important to ensure the viability of my business and my ability to negotiate conditions of my lease on equal terms with mutual respect and consideration. Extending Act 189 by the passage of SB2020 will help not only the future of my small business, but the Hawai'i economy in general.

I urge you to please approve Senate Bill SB2020.

Mahalo a nui loa,



Napualani V. Wong
Manager

nvw/

January 26, 2010

**TESTIMONY TO THE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
January 27, 2010, 9:00 A.M., Room 229
Hawaii State Capitol**

**Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair**

TESTIMONY IN SUPPORT OF SB 2020 RELATING TO REAL PROPERTY

Dear Senators Baker, Ige and Members of the Committee:

I support SB 2020 and respectfully request that extend the life of Act 189. My name is Lance Yamamura, I live in Aiea. I work at Electricians, Inc., which is located in the Mapunapuna area, and employ roughly 73 people.

Many of my neighbors have family members who have lost their jobs, had their hours reduced, or have businesses which are barely surviving. This past year, our business has slowed tremendously and we are trying to cut expenses before we have to cut benefits and lay off workers.

Rent is one of the largest expenses we face. Up to now, the rents charged by the Damon Estate were "fair and reasonable," which is what the lease specifically calls for. The new owner, HRPT, continues to demand rents that excess of the current market and, on top of that, are demanding we pay annual escalations of 3% to 4%. Rent escalations are not part of our lease terms and just not feasible in these times of decline. In addition, HRPT is requiring that we sign away our rights under the existing law (Act 189) now and throughout the life of our leases. Is this fair?

HRPT, by prohibiting access to comparable rent information is forcing lessees into take-it-or-leave-it deals, and denying the ability to negotiate a fair rent. Through their sheer size and oligopolistic control of the market, they are subverting market forces to provide unprecedented returns. The small businesses and consumers of Hawaii need Act 189 extended to remind HRPT that it needs to set fair rents.

The issues brought before the legislature during the last session have only worsened. HRPT has not abided by its word to improve relationships and honor the course of action set by the Damon Estate. Act 189 was written to redress these issues and unfortunately HRPT has failed in its obligation to provide "fair and reasonable" rents. Instead, it has redoubled its efforts to intimidate and force lessees into costly arbitrations proceedings while ignoring the arbitration results achieved by others. These actions seem to be driven by simple greed.

Passage of SB2020 will extend Act 189 and hopefully remind the landowner to negotiate terms based on what is happening here, in Hawaii's economy, rather than trying to make up for losses on the mainland. I want to stay in business and I want to keep my workers employed. Please continue what you agreed to do last session by passing SB2020. Thank you.

Lance Yamamura
Electricians, Inc.
2875 Paa Street
Honolulu, HI 96819
(808) 839-2242
lyamamura@electriciansinc.com

VIA E-MAIL
CPNTestimony@Capitol.hawaii.gov

January 26, 2010

Honorable Senator Rosalyn Baker, Chair
Members of Committee on Commerce and Consumer Protection
Committee on Commerce and Consumer Protection

RE: Senate Bill SB2020

Dear Honorable Chair Baker and Members of the Committee on Commerce and Consumer Protection:

I support the passage of Senate Bill SB2020 which is a bill to extend Act 189. My employer is a lessee and this legislation is important to ensure the viability of his business. Without his business operation, I may be unemployed. Extending Act 189 by the passing of SB2020 will help the Hawaii economy and to help me to retain my job.

Please approve Senate Bill SB2020

Aloha,

Print Name	Signature	Address
Jane A. AKEWA	Jane A. Akewa	98-379 Pono St., Aiea, HI 96701
Misty Torres	Misty Torres	PO Box 25843 HNL 96825
ROZ MOORE	Roz Moore	3358 Aloha Ave Hon., HI 96816
Cateen Howard	Cateen Howard	439 Opihikao Pl. Hon. 96825
JR Ponce	JR Ponce	2202 Kalahele Pl. Han., HI 96819
William Penason	William Penason	91-522 Maohaka Pl Ewa, HI 96706
Lori Lee	Lori Lee	906 6th Avenue, Honolulu 96816
Gail Sugita	Gail Sugita	1044 12th Ave. Hm 96816

GP Roadway Solutions

January 26, 2010

Honorable Senator Rosalyn Baker, Chair
Members of Committee on Commerce and Consumer Protection
Committee on Commerce and Consumer Protection

RE: Senate Bill SB2020

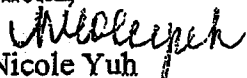
Dear Honorable Chair Baker and Members of the Committee on Commerce and Consumer Protection:

I support passage of Senate Bill SB2020 which is a bill to extend Act 189. The purpose of the Act is to help stabilize our economy by setting parameters that will encourage open and transparent negotiation in long-term ground leases which support Hawaii's critical commercial and industrial business community. Act 189 does not change the terms or language of the leases. In fact, Act 189 should strengthen the relationship between lessor and lessee. In 2009 Senate (SB764) which preceded Act 189 was passed by both House and Senate and the governor allowed it to become law.

The issues brought before the legislature during the last session have only worsened. However, extending Act 189 by the passing of SB2020 will help the welfare of the Hawaii community and businesses by stabilizing our downward spiraling economy.

I respectfully request that you approve Senate Bill SB2020.

Aloha,



Nicole Yuh
660 Mapunapuna Street
Honolulu, HI 96819
808-833-2502x238
NYuh@GPRoadwaysolutions.com

Peterson Sign Company

January 26, 2010

Honorable Senator Rosalyn Baker, Chair
Members of Committee on Commerce and Consumer Protection
Committee on Commerce and Consumer Protection

RE: Senate Bill SB2020

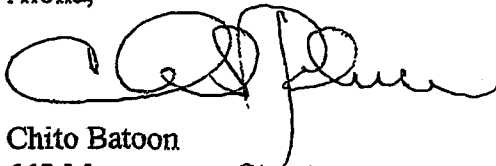
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The issues brought before the legislature during the last session have only worsened. However, extending Act 189 by the passing of SB2020 will help the welfare of the Hawaii community and businesses by stabilizing our downward spiraling economy.

I respectfully request that you approve Senate Bill SB2020.

Aloha,



Chito Batoon
660 Mapunapuna Street
Honolulu, HI 96819
808-833-2502
CBatoon@Petersonsign.com

GP Roadway Solutions

January 26, 2010

Honorable Senator Rosalyn Baker, Chair
Members of Committee on Commerce and Consumer Protection
Committee on Commerce and Consumer Protection

RE: Senate Bill SB2020

Dear Honorable Chair Baker and Members of the Committee on Commerce and Consumer Protection:

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The issues brought before the legislature during the last session have only worsened. However, extending Act 189 by the passing of SB2020 will help the welfare of the Hawaii community and businesses by stabilizing our downward spiraling economy.

I respectfully request that you approve Senate Bill SB2020.

Aloha,



Nicole Beaudoin
660 Mapunapuna Street
Honolulu, HI 96819
808-833-2502
NBeaudoin@GPRoadwaysolutions.com

GP Roadway Solutions

January 26, 2010

Honorable Senator Rosalyn Baker, Chair
Members of Committee on Commerce and Consumer Protection
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RE: Senate Bill SB2020

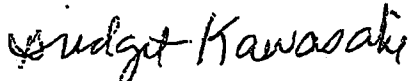
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I respectfully request that you approve Senate Bill SB2020.

Aloha,



Bridget Kawasaski
660 Mapunapuna Street
Honolulu, HI 96819
808-833-2502
BKawasaski@GPRoadwaysolutions.com

GP Roadway Solutions

January 26, 2010

Honorable Senator Rosalyn Baker, Chair
Members of Committee on Commerce and Consumer Protection
Committee on Commerce and Consumer Protection

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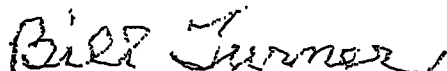
Dear Honorable Chair Baker and Members of the Committee on Commerce and Consumer Protection:

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The issues brought before the legislature during the last session have only worsened. However, extending Act 189 by the passing of SB2020 will help the welfare of the Hawaii community and businesses by stabilizing our downward spiraling economy.

I respectfully request that you approve Senate Bill SB2020.

Aloha,



Bill Turner
660 Mapunapuna Street
Honolulu, HI 96819
808-833-2502
BTurner@GPRoadwaysolutions.com

GP Roadway Solutions

January 26, 2010

Honorable Senator Rosalyn Baker, Chair
Members of Committee on Commerce and Consumer Protection
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RE: Senate Bill SB2020

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I respectfully request that you approve Senate Bill SB2020.

Aloha,

Jeffrey Hung
660 Mapunapuna Street
Honolulu, HI
808-833-2502
JHung@GPRoadwaysolutions.com

GP Roadway Solutions

January 26, 2010

Honorable Senator Rosalyn Baker, Chair
Members of Committee on Commerce and Consumer Protection
Committee on Commerce and Consumer Protection

RE: Senate Bill SB2020

Dear Honorable Chair Baker and Members of the Committee on Commerce and Consumer Protection:

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The issues brought before the legislature during the last session have only worsened. However, extending Act 189 by the passing of SB2020 will help the welfare of the Hawaii community and businesses by stabilizing our downward spiraling economy.

I respectfully request that you approve Senate Bill SB2020.

Aloha,

Noel Perreira
91-1341 Hoopio St
Ewa Beach, Hawaii 96706
479-0922
nperreira@gproadwaysolutions.com