**STARWOOD**
VACATION OWNERSHIP
9002 San Marco Court
Orlando, Florida 32819
(407) 418-7271

**LATE TESTIMONY**

February 5, 2010

Honorable Rosalyn Baker
Senate Committee on Commerce and Consumer Protection

**Re:** **SB 2887, Relating to Taxation - Support**
Hawaii State Capitol Conference Room 229, 9 AM

Aloha Chair Baker, Vice Chair Ige, and Committee members:

I'm Robin Suarez, Vice President & Associate General Counsel for Starwood Vacation Ownership, ("SVO"). We support the changes proposed in SB 2887, Relating to Taxation.

As currently written, all non-resident sellers of real property must either pay the Hawaii Department of Taxation ("HDOT" or the "Department") five percent of the gross proceeds or file a Form N-288 with HDOT. The N-288 is to substantiate that the property was sold at a loss. HDOT must then quickly review and approve the N-288 and return it to the seller prior to closing. If the Department cannot timely do this, the seller will have to have the five percent withheld and then file a non-resident return, claiming a refund for the full amount of the withholdings.

This bill clarifies that no withholding tax or related paperwork is required to be submitted for transactions involving a non-resident seller where there is no monetary gain. This clarification would apply to timeshare transactions such as property exchanges wherein the timeshare owner upgrades their current timeshare interest by buying a more expensive one or timeshare transactions involving a deed in lieu of foreclosure process. The deed in lieu foreclosure process occurs when a timeshare owner who is in default of the terms of their mortgage or assessment payment deeds the property back to the developer or owners association to avoid foreclosure. In either circumstance, there is no taxable gain by the timeshare owner as they are either spending more money on the upgraded interest than their original timeshare was worth or they are simply deeding over their timeshare interest to the developer for no monetary gain.

This bill provides important clarification to the withholding provisions and will create significant streamlining by eliminating unnecessary and unproductive paperwork and filings with the State of Hawaii. In addition, New Section (h) is intended to insure that inadvertent failures to file by non-residents will not have their liability (other than interest and penalties) exceed the actual taxable amount owed to the State had the consumer timely filed.

For these reasons, we respectfully request your support and passage of this bill.

As always, I thank you for the opportunity to share our views on this matter.

Sincerely,

Robin Suarez
Vice President & Associate General Counsel for Starwood Vacation Ownership