

SB 2089 LATE TESTIMONIES

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Bonnie & Tex Driver
Organization: Individual
E-mail: napili4you@aol.com
Submitted on: 2/27/2012

Comments:

I am writing this to oppose SB2089. I am sure you will be hearing from many of us, if not all, out of state owners

We believe SB-2089 is an ill conceived plan to catch the scofflaws that don't pay their taxes. I do pay mine. and I don't mind providing proof that we pay a couple of thousand dollars in taxes every month

The idea that the Counties of Hawaii will collect more in taxes by requiring our out of state owners to rent through an agent or rental service in Hawaii, is being pushed by the special interest groups who would like to eliminate their competition.

Take for example the "real life Example" cited by Whalers Realty Management,. Mr Marchello lost 30 properties to VRBO in the past 5 year. If he can't provide the service, you lose the business or you make it up somewhere else. Is he stating for a fact that the taxes he paid for these owners are not getting paid now. If so, could he not provide that information to the state and let them take action against the offenders. I believe he mentioned \$40,000.00 in taxes that his company paid for two owners in one 2011,

Penalize those who Don't Pay Their Taxes not Those who do. Don't throw out the baby with the bath water.
Require a tax permit to be posted.

The Management Companies could not handle all the rentals that the out of state owners would give up. They certainly don't give their guests the special attention that owners like myself do. We provide a cell phone # of a Hawaii person who handles the cleaning and any repairs. We accommodate specifically the needs of each guest. If he guests want information or instructions on how to operate the DVD player. They call a specific person and receive help any hour of the day..

Our specific property is at a resort that maintains a front desk for our guests to check in through and get keys to their room. We pay for this service but it is personal. The guests like being treated special. In the event of an emergency, our association sends security or paramedics to be on the scene.

In the event of a Tsunami the guests are given evacuation instructions. This has happened twice in the recent past when there were earthquakes in Japan and Chile. Each time it was handled well and all my guests left the condos for higher ground.

IT SHOULD BE OUR RIGHT TO HANDLE OUR OWN PROPERTY WITH THE HELP OF ISLAND RESIDENTS WHO PROSPER FROM THE EMPLOYMENT I GIVE THEM.

MY HUSBAND AND I PAY OUR TAXES, both GET and TAT every month on line.. HE DOES THE REMODLEING WITH THE HELP OF ISLAND CONTRACTORS. I do the advertising and the reservations. We have a Property Manager on Maui but she is not a licensed Real Estate Agent and the Real Estate Commission has no means set up to approve her, . We do not want just anyone to handle my condominiums.

The Real Estate Commission calls the requirements of this bill unnecessary. They don't support it.

My Realtor does not want to handle rentals. He would sell our properties for us, but who will he sell them to if the Hawaii laws are against out of state owners. Make us Outsiders, be unfriendly and we will find other places to go.

We break no laws. We bring between two and three hundred families to Hawaii every year. They go to Luaus, on snorkeling trips, out to restaurants, to the grocery stores and to the Malls. They spend MONEY in Hawaii.. Ask those people if they would like use to see our visitors leave.

Licensed property managers could not handle our units as efficiently as we do.. Let them handle the properties of people who don't want to be bothered. We remodel our rooms regularly and employ the vendors and construction people. We visit regularly and see to the needs of our property in your state. We don't want to block out time in our own property a year in advance to insure that we have a place to stay when we want to use our property. ..We are a Resort Condominium complex, We have a front desk to check our guests in, give them their keys and handle emergencies, We have a housekeeper and maintenance people who live here on Maui.

The more out of state owners bringing people to Hawaii, the more Hawaiian economy prospers. We advertise all over world. We bring guests from Australia, Europe, the US, and Canada. And our guests are given VIP treatment. They go home and send their friends and relatives back to Hawaii. DON'T DRIVE US AWAY. WE ARE HERE TO HELP.

This bill will quite obviously cost me 35% more than I am paying at the moment under the existing laws...I cannot afford that as an investor. BUT let me remind you, from a different perspective, what it will cost the state of Hawaii. Think a minute. Here you have many thousands of condominium and home owners that live elsewhere, and rent their dwellings in their absence. These owners living in the other 49 states and Canada are similar to a huge sales force spread out all over North America selling vacations TO HAWAII !

The last time I looked... the Hawaiian Visitors Bureau was spending millions of dollars trying to entice travelers and vacationers to visit Hawaii. Does Hawaii not depend quite heavily on tourism ?

SB-2089 is in direct conflict with that effort.

I am a small part of a condominium complex which has only 150 units. These units are largely owned by people living in 150 different places through-out the USA and Canada. Each owner probably averages about 3 to 4 tax paying guests each month. Do the math: 150 units X 12 months X 3 guests per month = 5400 visits per year. Each visit is generally composed of a family of 3 to 4 persons. Assume 3 persons. So multiply 5400 visits X 3 family members....what do you have....16,000 visitors from one very small condominium complex. Ask Hawaii Visitors Bureau how many dollars 16000 tourists spend in one day. I'd wager it is over a million dollars a day from ONE SMALL COMPLEX

In summary,

SB-2089 is illegal/unconstitutional - The Law Firm sends a very compelling argument. See attached letter from Mr Kugle.

HB 1707 has already been defeated in the House because of its illegality. Please follow suit with SB-2089

SB-2809 will cost Hawaii tens of million of dollars in lost TA/GE taxes Say "NO" to the special Interest groups that are striving to drive out competition. Monopolies are illegal. They are also driving out your tax dollars.

Respectfully,

Bonnie & Tex Driver
Property owners on Maui.

Attachments:

1. letter from Attorney Kugle.
2. SB2089_TESTIMONY_TSM_02-02-12.pdf

I am opposed to SB 2089. My cost to rent Hawaii vacation condos/houses will go up substantially and I may have to rethink our family's vacations to Hawaii.

We have had great experiences renting from owners and have found owners efficient and accurate to deal over the past 30 years of renting.

I have always dealt with owners that have charged us Hawaii taxes when renting.

Please do not let the Hawaii real estate lobby dictate how residential property is rented to non-Hawaii residents.

Thank You Sincerely,

Glen Aronson

[Iron Gate Properties, LLC](#)

305 Camino Bravado

San Clemente, CA 92673

Office: 949-481-7488

Mobile: 360-281-9455
Fax: 866-681-0889

email: irongate1@me.com
www.irongatestorage.com

To Whom It Concerns,

Please don't let this pass! We love coming to Kauai. We stay at a special condo that we always want to return to because it is so well maintained. The place is always clean and waiting for our next visit. Please don't pass SB 2089!!! Thank you! Travis and Debra Westermeyer

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Linda Mitchell
Organization: Individual
E-mail: Lindafinearts@gmail.com
Submitted on: 2/27/2012

Comments:

Please do not pass SB2089. As a non-resident property owner who has paid thousands of dollars in Hawaii State Taxes, I do not want to turn my business over to someone else. The cost of management is prohibitive to a successful business. I am successful in renting our properties, maintaining the property, and paying taxes. Please don't take away my rights to do business.

I had a great experience dealing directly with the owner of a lovely Poipu condo - Molla Wallace. I paid tax. That was one of the most memorable vacations of my life, and I think the personal service that Molla gave was a big part of that. Please consider my comments as you vote on SB 2089.

Sincerely,
Lindsay Eun, MD

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Douglas Mitchell
Organization: Individual
E-mail: mitdoug43@yahoo.com
Submitted on: 2/27/2012

Comments:

As an owner of vacation rental property in Maui, I oppose this legislation. We keep careful records of our rentals and pay the taxes due on all of these rentals. We have worked with rental agencies in the past and have been dissatisfied with their work. It seems like we are doing most of the work and getting the majority of renters ourselves. Why should we be forced to pay for this type of service. Also, doing it ourselves provides better opportunities for renters to get favorable rates and deal directly with the owner. In this process the renters have a better idea of what they are getting than through impersonal agencies. The result of this legislation will be higher rental prices and fewer visitors to the islands.

I recently visited Kauai for 8 nights in April/May of 2011. Not only did I rent from an individual owner at a great rate, I paid taxes and had an excellent experience.

If this same condo were to cost 20-40% more due to SB 2089, I would certainly rethink my trip.

I visit Hawaii annually. Please don't make me change my annual vacation destination.

Sincerely,
Holly Nickerson

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: teri carpenter
Organization: Individual
E-mail: gtjkd@aol.com
Submitted on: 2/27/2012

Comments:
its best for me to rent from the individual owner. Thankyou.!

Aloha, Esteemed Officials,

My wife and I own and rent a vacation condo in the Waikoloa Resort area of the Big Island, and we are incensed by the threat of the state's proposed intercession upon the management of our property. We feel this legislation would adversely effect the high standards we maintain at our condo and the rates we would have to charge to accommodate the burden of a middleman.

From where we stand, SB 2089 reads as a naked power grab by the on-island realty interests, masked as a tax-enforcement measure -- one that defames off-island landowners as tax cheats and offers slippery support data in the bargain.

Our single, licensed business (Hawai'i Tax ID Number W53007738-01) generates thousands of dollars in GE

and TA Taxes for Hawai'i, and we pay income tax to the state as well. SB 2089 attempts to tariff off-island landowners with an unconstitutional new restraint of business.

What was that catchy phrase about "taxation without representation", anyway?

Mahalo for your consideration,

Love,
- B

Brendan Hickey



www.bigislandbliss.com
Vista
Waikoloa A301
1261 Lattie Lane
Mill Valley, CA 94941-3407
415.389.1450

Sent from my iPad

Begin forwarded message:

From: Rose Puddicombe <rosepudd@telusplanet.net>

Date: 27 February, 2012 6:24:05 PM MST

To: "CPNTESTIMONY@CAPITOL.HAWAII.GOV" <CPNTESTIMONY@CAPITOL.HAWAII.GOV>

Subject: **Opposed to SB 2089**

We enjoy renting directly from the owners so hope this bill does not pass. We did pay taxes to the owner & have done so with any we have rented from.

Thank you.

Sent from my iPad

Dear members,

I have rented condos several times through websites such as VRBO because of availability and a decent price. Many of these condos hire help: cleaning crew, and neighbors to watch over the property. If I had to pay a lot more for the cost of a management company to hassle through, then I might look someplace else. In fact, I recently rented a condo in Kona and I contacted the owner who put me in touch with their management company. That condo today runs \$219.00 a night. I found the same condo, with more amenities for \$165.00 per night. Although my first

experience was great, I will decide to rent the lower cost unit to save money. Hawaiian flights for the mainland cost me over \$2,000.00 for a family of 3 and then you tack on the rental car. If it's Christmastime it will cost you as much as your room, which is another \$2,000. Food, excursions and the cost of your room and you can easily reach \$10,000. We went to Florida for Christmas this past year.

Rental car for 10 days was \$700.00 for a mid size car, room was about \$500.00 cheaper and the flights were \$1,600 per family. I love Hawaii and would love to go yearly. I'm lucky at this point if I can go every other year. Facing retirement and less pay, it will have to be every 4 or 5 years. Unfortunately, only the rich will be able to go to Hawaii. Please reconsider this bill, so you can fill up your flights and get more of us here from the mainland.

Sincerely,
Heather Tortoreti

Hello Hawaii government officials;

We write this message to you today to **urge you to NOT pass the upcoming SB 2089** in regards to rentals by owners vs rentals by property managers.

Our reasons for your not passing this bill are these:

* assuming that many think or say that we who rent from homeowners have bad experiences, you are wrong. Last Fall we rented 3 condos from homeowners on Kauai, and 2 condos from rental management companies on The Big Island. Our only complaint with service and cleanliness was our rental of a condo from the property manager of a high-end condo/resort. The unit was not clean! Yes, they did clean it, but not until the next day!

* It is erroneous to also assume that owners do not charge renters taxes. They do! It is also erroneous to assume that renters do not pay State and Local Taxes when we rent units. We do! **Every place we stayed (5 condos and 2 B&B's) on Kauai and Big Island charged us State and Local Taxes of approx. .1342%.** In addition, ALL lodging we looked at, which was numerous for each location, charged taxes.

* Our rental experiences with home/condo owners has been very comfortable and the experiences wonderful: correspondences before, during, and after our stays. All lodging were comfortable and nicely appointed with furnishings and kitchen supplies and amenities.

*** In addition, if this bill passes and if the cost of rentals is 25% to 40% more for the same condos, we will rethink future visits. Hawaii is already quite expensive for our vacation. Passage of this bill would be a hardship on ourselves, and for the owners. This likely will prevent us from visiting Hawaii again, as we had been planning to do.**

Sincerely,
Betsy G. Nielsen and Christian F. Nielsen

222 W. 20th Ave.
Eugene, Oregon 97405

Aloha....I am writing this email in complete and total opposition to the SB2089 or any legislation that you may be considering that will inflict itself upon the running of my vacation rental business. I am a consummate business professional...my wife is a CPA and we have been judicious in our approach since day one.[Kauai Beach Front Condo](#) BTW.....So has every other condo owner that I know....these are million dollar properties that we are talking about here.... owned by absentee owners that have the resources to own and maintain them....this is not a foolsbusiness or a thieves profession. This is a serious money commitment for us out of state owners.

It take commitment and trust of the State of Hawaii to enter into this business....and to hear that a group of vacation rental "managers" want to influence legislation to kill our businesses for the sakes of their own is appalling. Hawaii will essentially KILL the independent rental business...it will BY ITS VERY DESIGN artificially raise the market cost for rentals to vacationers that like everyone else in America are already stretched in their real world lives...adding 15-30% management fee to the cost of every condo rental transaction so that some third part can control the collection and reimbursement of state taxes...that is insane....It sounds like "protection money"no thank you. NO THANK YOU....

Don't be duped into thinking this makes sense on any level....it does not....It is self serving and will destroy my desire to remain on the Hawaiian Islands.....Hawaiians of all people.....should be very concerned about a state or governmental entity that forces itself upon the legitimate businesses of legitimate individuals,..THIS IS NOT the state's business.....it is MY business.....and I abide by the letter of the law.....JUST LIKE YOU DO.....Taxes are collected and remitted monthly and everyone I know of does the same.

We have been in the vacation rental business here on Kauai for nearly 12 years and own 5 vacation rentals that we have been dutifully running and providing employment to several Island owned and operated business in order to support our endeavor. This legislation is draconian....unnecessary and an attempt to monopolize an industry. I am shocked that someone would want to legislate my livelihood on the presumption that we are stealing from the state or assumed derelict in the collection of room taxes.We are presumed GUILTY?.....In AMERICA.....I don't think so...not the last time I read the constitution.

Just follow the money.....so what else in new....JUST FOLLOW THE ONEY....Who benefits at everyone else's expenses...the handful of property managers.....Sure sounds like Capone and the 30's to me.

John Zihla
Derjen Corporation
619-980-9802 cell

To whom this may concern,

I am Opposed to SB 2089. As an owner of two vacation homes in the state and former resident, I stand to incur a serious financial crisis should this bill be passed. With real estate values depressed and our current struggling economy, this is not the time to be limiting who may rent out vacation rental properties.

I was on the verge of foreclosure, barely able to make my mortgage payments until I took on the rental and management of my own units. I have an on island friend to assist me with needs when I am not on island. With the 42% savings of

what I am not paying my rental company in rental commissions, I now use that money toward the mortgage. I am just hanging on and even to pay out 15 or 20% to a property rental company would put me in foreclosure.

I wonder how many other vacation property owners are in my same predicament. I have always collected and paid all related TA and GET taxes to the state as required by law. If I lose these properties to foreclosure, the income to the state from these taxes will be gone.

The property owners, the vacation rental guests, and the State of Hawaii all lose with this bill. The only benefit will be to the property managers. Vacation rentals rented directly from the owners work in all states, why should Hawaii be any different.

Please, please DO NOT SUPPORT this bill.

Respectfully,
James R. Sadler

I have been an annual renter from a VBRO condo on Maui for several years. I have recommended it to friends who have had the same wonderful experience dealing directly with the owner. If this bill SB 2089 I can see that the owner will have to increase the rents in order to make the overhead. And with the up coming increasing air fair going to Hawaii may just be out of our budget. There are other choices for less you know. Please vote no on SB 2089.

To whom this may concern,

I am Opposed to SB 2089. As an owner of two vacation homes in the state and former resident, I stand to incur a serious financial crisis should this bill be passed. With real estate values depressed and our current struggling economy, this is not the time to be limiting who may rent out vacation rental properties.

I was on the verge of foreclosure, barely able to make my mortgage payments until I took on the rental and management of my own units. I have an on island friend to assist me with needs when I am not on island. With the 42% savings of what I am not paying my rental company in rental commissions, I now use that money toward the mortgage. I am just hanging on and even to pay out 15 or 20% to a property rental company would put me in foreclosure.

I wonder how many other vacation property owners are in my same predicament. I have always collected and paid all related TA and GET taxes to the state as required by law. If I lose these properties to foreclosure, the income to the state from these taxes will be gone.

The property owners, the vacation rental guests, and the State of Hawaii all lose with this bill. The only benefit will be to the property managers. Vacation rentals rented directly from the owners work in all states, why should Hawaii be any different.

Please, please DO NOT SUPPORT this bill.

Respectfully,
Leesa R. Sadler

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Laurence McDaniel
Organization: Individual
E-mail: lmcdaniel1@cox.net
Submitted on: 2/27/2012

Comments:

We are strongly opposed to SB2089. As non resident owners of a condo in Kauai this bill's mandate that we hire an on island real estate agent to manage our property is an unjust taking of property, discriminating against us as non resident property owners and is blatantly unconstitutional. You should strongly oppose passage of this unconstitutional bill.

Sincerely,

Laurence McDaniel

Hi

As a condo renter myself I disagree with SB 2089. I've always had a wonderful experience renting directly from the condo owner. I've always paid the tax and see no need to add another layer of bureaucracy to be paid between the condo owner and myself.

Fran Spencer

Hi,

We have rented in the past from an owner and had paid taxes for our rental. If the cost is 25-40% more than we would not be able to afford it. Please don't pass this bill.

Diane Nunes

To Whom It May Concern;

In my prior correspondence I forgot to mention Ms. Wallace did charge all appropriate taxes as well. Still, with the taxes added, I found her rates to be reasonable and affordable. If not for that my family would not have been able to experience the beauty of Kauai as we did or possibly to visit as frequently as we do.

Sincerely,
Gayle Tarkington
17801 Doty Avenue
Torrance, CA. 90504

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: David Myerson
Organization: Individual
E-mail: dmyerson@fhcrc.org
Submitted on: 2/27/2012

Comments:

Eight years ago I purchased a condo on Maui, and have rented it out ever since, as a transient accommodation. For the last 5 years, I have done it via the internet, but have an agent on Maui to take care of it. That has worked out well. I pay taxes, including the GET and TAT. I have lost money every year.

HB1707 is going to change a losing proposition to an impossible proposition. What could I do? Sell it at a \$400,000 loss to someone who wants to live there? Sell it to a Real Estate agent for nothing, who can then rent it out? I couldn't go on holding it.

Please vote against SB2089, or anything like it. It isn't in my interest, or the interest of Hawaii.

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Nancy Bertson
Organization: Individual
E-mail: nbertson@yahoo.com
Submitted on: 2/27/2012

Comments:

HB 2089 has nothing to do with TAT and excise taxes being paid and everything to do with greedy realtors making a money grab. After watching the House Finance Committee member grill the state taxation representative at the HFA hearing, it became apparent to me that this bill had just been thrown at the wall with the hope it would stick. The state tax person at the meeting could come up with no numbers or any studies at all to demonstrate why HB1707 was needed or even whether it would do anything positive for anyone but Hawaii realtors and their vacation rental businesses. Unless the state taxation people have suddenly found supportive figures, the same would hold true for SB2089.

This bill would have a negative ripple effect throughout the Hawaiian economy and would mean a loss of jobs and businesses at a time of economic adversity. The good income that independent housekeepers earn working at taking care of rentals by owners (RBOs) would be lost. Even if they found jobs cleaning for realtor's vacation rentals, their incomes would be drastically reduced. Realtors rent these units at higher rates. This would force many visitors to vacation somewhere more affordable: not Hawaii. Many jobs would be negatively affected. Airlines and any shops and services and their employees that depend on tourism would be negatively affected, as would condo/hotel bellmen, laundry, concierge and other workers.

Visitors that do end up renting here through realtors would likely have less to spend per day on other aspects of their stays, especially in this economy.

Property values would go down even further as owners endeavor to rid themselves of properties that they have no control over to whom they rent and their rental incomes are reduced even more than they already are. Buyers would find Hawaii second homes less attractive when they find they will not be able to rent out their own properties.

In the unlikely case that SB2089 passes constitutional muster, it would have a negative economic ripple effect across Hawaii. Please say no to greedy realtors and think of Hawaii. Please vote no on SB2089. Mahalo.

I am emailing to oppose SB 2089. Hawaii is our respite home. We miss it so. We spend the extra \$\$ on food and gifts in support of the local economy and tourism. Don't punish the rental owners organization.

Consider the Ohana.

Mahalo,

Pio and Suzy Villegas

Opposed to SB 2089

With the economy and travel expense the way it is, and if the cost is 25% - 40% more for the same condo, I may not re-visit Hawaii. Renting from an owner or a condo was a good experience, and made me feel "at home". Also, I paid an additional rental tax when I rented from the private condo owner.

Dr. Jan Suckut
Chiropractic Health Professional
Take Shape For Life, Executive Director
drjanshands.tsfl.com
Ofc: 805-583-0895
Fax: 805-583-0896
Cell: 805-813-3987

i am opposed to SB 2089

Regarding SB 2089
I, Michel Fontaine, an individual, oppose bill SB 2089 and will not be present to express my opposition.
Submitted on: 2/25/2012.
Sincerely,
Michel Fontaine

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Kenneth Martin
Organization: Individual
E-mail: martink004@hawaii.rr.com
Submitted on: 2/27/2012

Comments:

I OPPOSE SB2089. This Bill is not for the good of the majority of all concerned. It is a self centered attempt to gain control of a cottage industry. Reasonable regulation is welcomed. But not this type which will create a Monopoly.

Dear CPN,

I have been a Maui County Tax Payer for the past 7 Years. We rent our vacation home on various vacation rental websites in which we are very successful. Every Quarter we Faithfully Pay our GET & TAT Taxes in which I'm positive you can verify through the Small Business Authority we were set up with through the State of Hawaii.

We have on island Contacts of Contractors, Electricians, Housekeeper, Furniture, Plumber ect as Well as The Complex On Site Resident Manager whom help in taking care of necessary needs or maintenance.

I have had family members stay in a unit next to ours which was ran by a Professional Management Group and what a dump they let it become. No phone calls were returned to resolve the issues ,but I did let the owner know.

If these Bills Pass.. we will have no other choice than to put our overpriced Retirement Home up for Sale. It's hard enough to make ends meet and we DO NOT want to be forced to use or Pay a Management Company who does not care about our Investment.

I'm sure you will find most off Island owners are also Small Business Owners on the Mainland who know the importance of Paying Taxes
These Bills will cause more financial damage to the State of Hawaii in All aspects of retail sales.

I hope you can find another way to pinpoint the individuals who scam their obligations versus the percentage of us who are honest.

Sincerely,
Jeannie Lawrence
KauHale Makai, Maui

Gentlemen:

I am writing to express our opposition to SB 2089. This bill does nothing but interfere with property owners rights, unnecessarily increase costs to those of us who love to visit Hawai'i (which we do every year), and reduces competition for renters and tourists alike. I see no purpose to this legislation other than to protect vested real estate interests at the cost of independent property owners and visitors. Thank you for the opportunity to comment.

Larry Crowley, Director
The Energy Strategies Institute, Inc.
5549 S Cliffsedge Ave
Boise, ID 83716
Phone: (208) 344-5459
Mobile: (208) 890-1871
E-mail: crowleyla@aol.com

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Ken and Jackie Fulgham
Organization: Individual
E-mail: hawaiigrassshack@gmail.com
Submitted on: 2/27/2012

Comments:

We oppose this legislation. It represents a "takings" of our property rights to determine and control our ability to rent or not rent our condo.

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Marie Nguyen
Organization: Individual
E-mail: Nguyen9648@sbcglobal.net
Submitted on: 2/27/2012

Comments:

We strongly oppose the SB2089. If passed, we will be seeking other alternative vacation places since this is our home away from home choice in the last 10 years. Mahalo.

To Whom It May Concern:

My husband I travel to Kauai at least once a year and star for about three weeks. We will not afford to take our annual tropical vacation if we have to pay for a "middle-man" property management company. We always rent directly from owners. We pay the full taxes each and every time. We have never had a bad experience when renting directly from an owner. Each time the owner has gone out of his/her way to be sure we were comfortable. Our experiences with the owners are nothing but positive.

Please do not pass SB 2089.

Respectfully submitted,
Kathy Crowley
5549 S. Cliffsedge Avenue
Boise, ID 83716

January 30, 2012

Pamela Higgins, RBS
SunQuest Vacations
77 6438 Kuakini Hwy.
Kailua Kona, HI 96738

Dear Senator

Over the last few years of economic downturn we have seen an alarming change to owners handling their own vacation rentals. VRBO, Homeaway and other online vacation websites have made marketing online calendars and worldwide contact with guests possible. This should be positive, but more and more owners are using this tool to start managing their own properties from the US mainland and Canada. These owners are not on Island and generally they find a person to clean in between stays and call that on Island management. The person cleaning their condo or vacation home is often doing others as well. Most times this party is not a licensed Real Estate Agent or Hotel Operator.

We are losing condos at an alarming rate and when I speak to the owner they say why should they pay for someone to manage their property. It normally starts with them telling us they or a family member are coming in and not reporting income. When more and more the unit is occupied with friends and family and owners are telling us they are collecting no income it tell us not only are they circumventing our fee but also not reporting income and taxes. Eventually these owners will pull out all together as we question them on income. We are paying their GE and TAT taxes and issuing 1099's that need to be accurate! Normally these owners end up going out on their and if they informing us of their income they are not informing the state and federal government. We have also found sites were people are actually saying they are just putting owners in touch with clients but find them handling services as well. These individuals have no license.

We always have tried to give our owners and guests great service, but we nor can the state compete with 0. That is what many of these owners are reporting or a small percentage of what they are actually receiving. For the visitors they arrive to have little or no help in case of an emergency. When they lock themselves out or when they are unhappy with the accommodations all together.

Honorable Senators,

We are Hawaii Residents and we are appealing to you to vote against the passage of Senate Bill No. 2089. This bill is flawed, misguided, punitive and would have severe negative consequences to Hawaii's economy and tourist industry.

* There are literally thousands of condominium rentals in Hawaii which are managed by owners. Most of these rentals are listed on VRBO (Vacation Rental By Owner) or Homeway sites, which list vacation rentals world wide. Many tourists vacationing in Hawaii prefer to book their rentals directly with the owner for many reasons. One of these is the direct personal contact from an individual owner. If this bill goes into effect, you will remove that option for tourists for the entire state of Hawaii! You will lose a huge market and revenue for the state! We know for example that our guests do not want to deal with a rental management company, much less a realtor!

* If such a bill is passed, Hawaii will be the first state to eliminate the option for an owner to rent their unit! Imagine the message that this law would send to mainland companies that want to do business in Hawaii! You will be creating a hostile business environment for all to see!

* The passage of this bill will also have a negative impact on our real estate market. The recession has taken a toll on the real estate market for condominiums. Potential buyers for such properties are mostly investors from the mainland. What impact do you think this law would have if a potential investor realizes that they do not even have the right to rent their own unit!

* If you believe that you need this bill to collect delinquent transient accommodation and state excise taxes, you are misinformed. These people, ourselves included, are honest people, not deadbeats who avoid paying their taxes! We do not need legislation that takes away our constitutional right to manage our private condominiums and transfers it to a separate entity because the State believes that realtors have integrity that we do not!

Respectfully submitted,
Sophie and Robert Greeno
Waikoloa, Hawaii

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Thomas Martinez
Organization: Individual
E-mail: mauiyc@me.com
Submitted on: 2/27/2012

Comments:
Oppose SB2089

Thomas Martinez
414-788-6334
Against HB2089

We own vacation rentals here in Maui and have paid GE/TA taxes since our initial purchase in 1998.

This type of small business supports countless other small businesses such as cleaning and maintenance services, remodeling contractors, home stores and furniture stores. Our customers patronize many other types of businesses such as restaurants, tour operators, grocers, rental car companies and many more. Mandating us to use a realtor to manage our business could drive our costs up by 40%. We cannot raise our rates as our customers are budget oriented, they will not visit the islands which in turn affects all the related business, not just ours. The lower occupancy will lead to less taxes paid toward GE/TA and will without question drive some of us out of business.

I have to believe that the intent of this bill is not to drive small business off the islands but to fairly collect taxes that are due.

If there are individual businesses that are not reporting their income, this bill will not change that fact. It will only negatively affect those of us who are legitimate business owners. There are certainly many ways in which to enforce tax collection, imposing undue sanctions on law-abiding taxpayers should not be the answer.

Dear committee members:

This is discrimination towards non-resident owners which account for a large percentage of investors in the state of Hawaii. These owners/investors are pumping much needed money to the state and attracting visitors to the state. I being one of them. We have invested in a vacation rental property and have been renting it out for the last 6 years. We have done all the hard work to make a successful rental and complying with all state and county's rules and regulations which include collecting and paying all the applicable taxes. Even as it is, we are finally barely breaking even after many years of losses as we built the business. All of our revenue goes towards mortgage, running the business and upkeep of the home. All the staff that we hire are local to Kauai.

Why would you force non-residents to do this when we are complying with all the rules and paying all the taxes? What's the purpose of inserting a third party to collect the rental fees and taxes when we are already doing that ourselves? Adding unnecessary bureaucracy or regulations that makes the business inefficient is very counter productive. Not business friendly at all.

Forcing use to use a third party that will charge us 25%+ service to handle our money would set us back a few years with no chance of recovery as we're already maxing out our occupancy now. If this happen, there's no incentive for us to have this business. We are upside down on the loan and there's no way we can sell. We will most likely not have any choice and let the property go into foreclosure. This would a loose-loose situation for all. To the state as there won't be any visitor taxes to be collected, all the HI staff that we hire will be out of work, there will be another foreclosure in the county and we lose the business we have worked so hard to build.

In summary, please looks at the Big Picture, this legislation will dramatically hurt the entire Hawaii tourism and real estate economies for these reasons:

1. It allows more unnecessary government intrusion into the financial investments of individuals.
2. Forcing owners/businesses to go through a 3rd party for something that they are already doing at an addition 25% cost is absolutely unreasonable. It hurts the business and eventually the tax revenue if the business seize to operate due to lack of incentive.
3. Forcing owners to only rent throught agents will drive up rental ratess.
4. Many new buyers considering a second home or income property will not purchase one, since they will not be permitted to self manage. They will invest in other markets.
5. Since there will be fewer buyers, real estate prices will fall.
6. Falling real estate prices will result in more negative equity.
7. Falling prices will also result in more foreclosures. I can think of many more reasons for this legislation to fail, however these reasons are incontestable and easy to see.

Why would you pass another unnecessary unfriendly business legislation? What purpose does it serve? If the purpose is to go after tax evaders, then go directly after the few that may be doing that. Do no put punish businesses/owners that are just trying to survive and ones that are actually bring money to the state of Hawaii. Please consider the bill very carefully and all of the unintended consequences that it will cause.

Sincerely,

Sunny Judo

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Ann C. Baker

Organization: Individual

E-mail: acbake@verizon.net

Submitted on: 2/28/2012

Comments:

My husband and I have been fortunate enough to travel to Hawaii once a year for many years. Each time we have used VRBO rentals and have been completely satisfied with the entire process. The variety of properties and the variety of prices make it possible for us to afford the vacation. Many of these properties had off island owners and not once was there a problem that wasn't resolved immediately. If this bill goes through and prices increase, we may not be able to continue our yearly 2 week vacation to your paradise of Maui. Please do not pass this bill. It's not broke, so don't try to "fix it".

Sincerely,

Ann and Bob Baker

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Susan McIntyre

Organization: Individual

E-mail: srmcintyre@comcast.net

Submitted on: 2/28/2012

Comments:

I strongly oppose this bill as a non-resident owner who occasionally rents out our property in North Kohala. I pay the required state accommodation tax for these short rental periods and would be willing to pay more tax to the State, but to pay a 20% or more fee to a realtor is abhorrent to me - for nothing/minimal work.

This bill seems like a heavy move toward BIG government, BIG brother telling a private property owner who pays high taxes that they themselves cannot manage their property. This bill tells a property owner they have to have an intrusive realtor choose their renters, clean their house and they have no say in the matter - a loss of personal rights.

I suggest to the Hawaii legislature that this bill will bring court challenges and cost the State of Hawaii many dollars/countless manpower hours of regulation and oversight if it is passed, but CERTAINLY as always realtors will line their pocket and gain a hefty fee for doing nothing.

Please do not pass this bill...go ahead and raise the accommodation tax if you so choose - the State of Hawaii needs the money more than the real estate industry. And I for one do not mind paying more taxes to help the State of Hawaii pay their bills.

Yes, who are the North Kohala Realtors behind the drafting of this bill? I would like to know.

Thank you.

As a returning kamaaina(born on Maui) I am much concerned re the ramifications costwise to me if this legislation is approved as I feel costs will be added to my rental of condos. Have always had great experience with the condo owners and no complaints at all! If this legislation is approved I believe I will just forego Hawaii and head for Key West or the Carribbean instead.

Don Wyeth
Big Canoe, GA 30143

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: eleanor arita
Organization: Individual
E-mail: eleanorarita@yahoo.com
Submitted on: 2/28/2012

Comments:

Please see the attached. We are property owners on Kauai and have a successful vacation rental business that has taken 5 years to develop. we believe that existing regulations allow owners to operate a vacation rental business and ask that the Senate carefully investigate the solution and its widespread negative ramifications. This proposes a solution that destroys successful small business and will do little to address the problem at hand, Get the facts and go after those who are not running legal operations. Leave the existing legal operations in place. Please.

February 28, 2012

We oppose SB2089.

The private vacation rental business is an important element in tourism to Hawaii. A successful vacation rental business, that is well managed grows and brings additional revenues to the State of Hawaii through the TA and GE taxes.

As owners of a vacation rental business on Kauai, we strongly oppose this bill. We have pride in ownership. Regulations do allow private owners to run a vacation rental business. We have invested time and money to develop a successful model and find the proposed bill to be shocking, the gift of our efforts and our earned revenue for a business entity simply because those entities have seen an opportunity to advance their own agenda. At the very least their testimony needs to be grounded with real data. Also, it is important not to extrapolate from isolated cases. Focus on what is working, keep that in place and then solve the remainder of the problem

A successful vacation rental business is based on very highest level of customer care. Owners of these properties are the best advocates for the property and their guests. This business is based on powerful communication, attention to detail, excellent care of the property and structure and awareness of the impact on neighbors. Who better to address this than the owners. The collection of rents and taxes is mechanical and is easily verified. If there is no reporting to the State and the property is advertised on line, it is also very easy to identify. This is not the place to go into such detail or to suggest the role or function of the state in this activity.

The assumption that there is no on island representative for nonresident owners is faulty. It would not be possible to manage without local contacts.

The data and testimony presented in favor of this bill either comes from a particular interest group, professional property management companies, and /or the data itself is vague. The solution is an old and tired one. Implementation has the potential of destruction of successful business and the consequences may serve to reduce the level of rental activity and ultimately the revenues to the State. Vacationers like to rent directly from owners, that is why this segment of business is growing. The data suggested in the committee notes does not reconcile with or reference past studies that show largely TA and GE taxes are collected and transferred to the Hi State Department of Taxation.

Please move this discussion on. Let's stop addressing the same story from the same interest groups. We acknowledge the concern expressed by the Department of Taxation. Collect the facts. Then develop a system to audit and collect where necessary. Do not add a cumbersome layer of management as proposed. Vote NO on SB2089.

Respectfully,
Alan and Eleanor Arita

I oppose the bill because it increases costs unnecessarily. What is the problem that the bill purports to solve? The solution certainly creates more problems, including discouraging tourists like myself who will go elsewhere rather than spend more money to go to Hawaii.

Diane Fontaine
Vancouver, BC

Gentlemen:

I'm writing to ask you to vote AGAINST SB 2089. I am a frequent user of vacation home rental services such as VRBO and HOMEAWAY and we have had many wonderful experiences with both. My wife and I take frequent vacations and almost always prefer to rent a home instead of using hotel facilities. We have been very careful as we are very selective and want to make sure we know what we are getting into. We deal directly with the property owners and find that, with a little due diligence, we can always find beautiful, well cared for and well managed properties.

We have done this several times in Hawaii and have always found the properties to be "as advertised". In most cases, the properties are much larger and offer far more amenities than most hotels and motels in the area. The biggest advantages are that the properties are bigger, offer more amenities, are far more private and are less expensive than hotels. If I have to pay more, especially 25% or more, I would have to rethink my plans to come back to Hawaii. I don't think that is the intention of this bill. The major Hotel owners may want a bill like this passed in order to make their properties more competitive! That is not fair to the individual property owners and it certainly is not fair to the "consumer." In fact, it sounds anti-consumer and would seem to discourage tourism in Hawaii. I can't believe that is the goal here.

When we visit Hawaii, we pay taxes on all products and services while we're there. We more than make up for the "lost" taxes from the absentee-owner of the property. We're there to eat in your restaurants, buy souvenirs, take part in tourist activities, etc. In those cases, we're likely spending far more per person and per visit than most local owners. We love Hawaii, having been there 4 times and are just beginning to plan our Anniversary trip there in the near future. If a bill like this passes, it could affect our plans and force us to go somewhere else.

The world is full of beautiful places offering great vacation packages. Many of those places are doing everything possible to make sure the vacationer is attracted to the area with great deals and a customer-friendly attitude. Please keep Hawaii among those places that everyone wants to visit. Do all you can to make Hawaii MORE attractive, not LESS.

VOTE NO on SB 2089

Thank you in advance for your consideration.

Gary A. Nadolny
Marinette, WI

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229
Testifier position: Comments Only
Testifier will be present: No
Submitted by: Cindy McWhorter
Organization: Individual
E-mail: cinderellamc1@aol.com

Submitted on: 2/28/2012

Comments:

By passing this bill, Hawaii would suffer as a state. Rental rates would have to increase to cover the cost of hiring a property manager. Less tenants = less money going into Hawaii's economy. We collect these taxes for Hawaii and lawfully pay our due. Please don't punish those of us who play by the rules and are making a significant contribution to the beautiful State of Hawaii.

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: Geraldine Brattin

Organization: Individual

E-mail: Bookings4you@aol.com

Submitted on: 2/28/2012

Comments:

Oppose this bill.

Aloha. My husband and I have owned condos in Hawaii since 1996.

We worked with Realtors and Brokers each time we purchased and hoped they would make us a lot of money with rentals.

Unfortunately, in each case we were either misled about the amount of rentals we could expect or disappointed in the focus on our condo so we started renting on our own.

We have done well by comparison. We pay our TA and GE taxes quarterly.

I understand some Realtors and Brokers are claiming people who have gone on their own do not pay their taxes. I'm sure there are few that do not but there are FAR more who do and those who are renting on their own are paying MORE taxes than if we were represented by agents because we charge higher prices, generate more income and therefore more taxes.

We need to consider more than TA and GE taxes in order to spur our economy.

Any realtor will tell you the sales of property in Maui the past 5-7 years have been in the doldrums.

Any potential buyer of a condo will ask if they can expect to make money or at least get a decent income to offset expenses. Hawaii already has very high taxes.

If this bill is passed realtors and sellers will have to disclose that they will have to pay 30% -50% of their income and they are going to ask WHY?

The realtor is going to do nothing but get a gift from the Senate if this bill passes.

If the realtors feel they have lost business due to the Internet they should "join the club"!

When someone like VRBO comes along with a better mouse trap the realtors need to get busy and build an even better one, not ask for you to give part of my profits to them.

Please DO NOT PASS this bill.

It is probably unconstitutional, it is discriminatory in that it pits off island owners vs. on island owners and would be a nightmare to implement.

I'm sure VRBO and other search engines will be happy to work with you in order to ensure you get your proper share of GE and TA taxes.

Lastly, I have heard Realtors testify that renters show up to nightmarish situations. Homes that have been foreclosed on, over billings etc.

They claim renters have no recourse.

If you go to VRBO.com and look at the "guarantee" you will see they offer up to \$10,000 for renters if they have these type problems.

Thank you for your time. Mahalo, Geraldine Brattin 417-335-1288.

If the cost is 25% - 40% more for the same condo, I may rethink my visit to your beautiful state.

Gordon Fall M. D.
27 February, 2012

Re: SB2089

Dear Legislators for The State of Hawaii:

I understand the need to collect both TA and GE taxes for all short term rentals in Hawaii. Have you solicited input from the independent renters in the State of Hawaii. This bill would cost owners dearly. For my one unit I would have to pay at least \$20,000 a year in commissions to a realtor and I would lose much of the control in choosing guests. This bill is merely a financial windfall to the realtors. Because many owners would chose not to rent or to sell their unit rather than rent it through a realtor, and the prices of rentals will go up dramatically you may well lose availability of many vacation rentals and reduce the number of visitors coming to Hawaii. You may very well end up collecting less tax. I have been renting privately for more than 25 years and I have always paid my TA and GE taxes.

There has to be a less onerous way to enforce collection of taxes which is what I understand is the goal of this bill. Work with the rental industry especially the private rental market to come to a less onorous solution. This bill is the epitome of government interference. Please vote no on SG2089. Sincerely,

Gordon Fall, owner
Unit 1252, The Whaler on Kaanapali Beach
Maui, Hawaii
E-mail: gfall@hotmail.com

I understand that the Hawaii legislature is considering a bill that would **require** owners of rental property to use the services of professional property managers. I can certainly see why property managers would support this idea but I do not see this as a benefit to a renter. I have rented a condo from a property owner in Kauai and have nothing but positive things to say about the experience. It would seem that the proposed bill would benefit only the property managers and would surely increase the cost of our stay in Hawaii. Please consider alternatives to this bill.

John Silcox
San Diego, CA

To Whom It May Concern,

My family and I have had wonderful experiences renting a Kauai condo directly from the owner. We would like to continue to do this in the future, but would have to seriously consider what a significant increase in rental prices would mean for our ability to do so. If SB 2089 passes, rental prices will certainly go up.

I would also like to add that we paid taxes on our condo rental. We want to continue coming and contributing to the state of Hawaii!

Sincerely,
Adrienne Caddell-Hopkins

I totally agree.

Thanks for taking the time
Kauhale Makai--527

--- On **Mon, 2/27/12**, greekgds11@aol.com <greekgds11@aol.com> wrote:

From: greekgds11@aol.com <greekgds11@aol.com>

Subject: Please hear our voice regarding Bills HB1707 and SB2089

To: senbaker@Capitol.hawaii.gov, sentaniguchi@Capitol.hawaii.gov,
sengaluteria@capitol.hawaii.gov, sengreen@capitol.hawaii.gov, sennishihara@Capitol.hawaii.gov,
sensolomon@capitol.hawaii.gov, senslom@Capitol.hawaii.gov, cpntestimony@capitol.hawaii.gov,
kmowner@googlegroups.com

Date: Monday, February 27, 2012, 1:27 PM

I am writing to oppose bills HB1707 and SB2089

We have successfully promoted and rented our condo to a lot of happy vacationers since 2006. One of the many attractions we condo owners offer to would be tourists, is that we provide a home away from home experience that typical hotels or resorts cannot offer. Given that choice, many tourists would prefer to rent a condo with all of the amenities they could get from their own homes compared to the more expensive options of a typical hotel settings. By offering a condo with the comfort of a home and with a very competitive price point, in our own small way, we have contributed to and benefited the State of Hawaii's tourism efforts and overall economy. With a successful program that yielded many renters, we also contributed to the State of Hawaii's coffers by paying regular GET and TAT.

We have a licensed realtor/property manager in town to help us maintain the condo or be our mediator if there is any problem that need an immediate solution. Other than that, our property manager does not really bring us any significant business. They were only able to book 2 renters for a total of 15 nights for the whole 2011. With the way their businesses are set-up, most realtors/property managers are not prepared to promote and run our condos the way we would on our own. Further, with at least 75% commission (if the property manager is the one who get the renters for me or 25% commission if I get the renters myself), how do you expect us to maintain our investment and pay all our expenses which include the high cost of H.O.A. fee?

We work hard everyday and ,sometimes, do not even make any profit from this investment. And in these down market conditions, we cannot even sell it without losing a lot of money. If this bill passes,

we condo owners would simply cease promoting our condos for short term rental. Without competition, hotels and resorts would increase their prices and, as a consequence, a lot of tourists will skip vacationing in Hawaii because of the high cost of the plane fares, accommodations, and food.

Please listen to our voices. **Please do not pass this bill.**

Thank you,
Hera Tunggal

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229
Testifier position:
Testifier will be present: No
Submitted by: Elaine Frank
Organization: Individual
E-mail: efrank47@easystreet.net
Submitted on: 2/28/2012

Comments:

I am a condo owner in Maui and feel this bill is very unfair. For the first 8 years I owned my condo it was "managed" by real estate agents, property management companies and I had nothing but unhappy guests, so I took it over myself and I now have happy, returning guests. I faithfully pay my taxes to the State of Hawaii and also my property taxes, so why should I now go backwards? Plus I have twice as many guests and finally making money to keep my condo upgraded since I handle all the rentals myself. I think this bill is very, very unfair and if you are trying to catch the people that are not paying their state taxes, this is not going to help.

Thank you for listening to a concerned condo owner. Elaine Frank

Just want you to know I am very much opposed to SB 2089.

I am opposed to SB 2089 because it takes away the right for me to rent to whom I wish to instead of putting it in the hands of a property manager. Also it will coat 25-40% more which will mean some will chose to a cheaper place to vacation than Maui. We always collect and pay the tax anyway.

Thanks you

Jim Cash

Stanley Industries Inc.

641 N. Rochester Rd

Clawson, MI 48017

www.stanleyind.com

www.maui4-0.com

248-588-5750 ext. 107

This is ridiculous. I will be staying in Poipu from 4-9 thru 4-19. I have rented a condo thru an individual owner, paying the FULL Hawaiian tourist tax of 13.25%. I prefer dealing with owners, rather than

property managers who do not have a vested interest in either the property or return rentals. This is our third visit to Kauai and we plan to return every other year, if possible.

I have no interest in paying higher prices for renting privately owned property because some idiot thinks the owners are not collecting taxes...I can't afford to add that extra cost to my vacation.

Karen Pritchett
Desert Hot Springs, CA

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Bonnie Pauli
Organization: South Maui Condo Owners Direct Rental Network
E-mail: bonnie@mauiownercondos.com
Submitted on: 2/28/2012

Comments:

As manager of this network of owner rentals in south maui and owner of a condo I personally rent out in south Maui I oppose this bill and find it hard to believe any public official would support such a blatantly self serving bill.

I do support the intention of the bill to educate owners, protect renters and the state by seeing the current laws in place in the county and state are upheld and taxes paid - As structure this bill discriminates against non resident property owners. The effect of this bill is to increase costs of management to one group of owners creating unfair competition.

Our group is made up of both instate and out of state owners and all pay our GET, TAT and HOTEL Zone property taxes. We are willing to be "licensed" and would happily take a test that would insure our compliance with the intention of support stated above. Why would out of state owners be treated differently than in state? Both should understand the process.

Location of an owner is no guarantee a property is managed properly. Many of our group have used licensed Property Managers (realtors, etc) and have found their management did not meet our standards. As concerned owners we have better maintenance and customer service than most management companies and should be allowed to determine who we think can best watch out for our private property and guests when we are not on property.

We believe this bill also infringes on the rights of the counties to create their own rules re transient accommodations and should be defeated.

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Ingrid O'Connor
Organization: Individual

E-mail: ingrid2@shaw.ca
Submitted on: 2/28/2012

Comments:

I'm writing to oppose bill SB2089. I own three condos in Maui which my husband and I bought over 35 years ago. We worked very hard to pay for them over the years and have faithfully paid the General Tax as well as the Transient Tax in later years on every booking that we attained. Since the downturn in the economy it has been much more difficult to rent our units and we have just been able to keep afloat in the last few years.

If this bill was to pass it would be a financial disaster for most owners. We have a property manager on site now who does an excellent job for us and do not need the real estate commission to choose one for us. The cost of paying a realtor a percentage would be horrendous and I myself (my husband passed away one year ago) would not be able to keep these condos as the financial burden would be too great.

Also, if this bill were to pass, owners would obviously have to increase the rates on the rentals and that would be disastrous as well as it would make it even more difficult to attain bookings which I'm sure would cause many owners to sell their units.

I was in Mexico recently and was amazed at the low costs there and I believe that if this were to pass and condo rates go up that many a person thinking of holidaying in Hawaii will instead go to other destinations such as Mexico for their sun and relaxation.

Sincerely,

Ingrid O'Connor

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: David Arakawa
Organization: Land Use Research Foundation of Hawaii
E-mail: darakawa@lurf.org
Submitted on: 2/28/2012

Comments:

LURF supports the general intent of SB 2089 - to have non-resident owners pay their state taxes on transient accommodation rentals; and to have a local point of contact; and to assure that the GET and TAT taxes are paid by non-resident owners and whoever collects the rent on behalf of the non-resident owners. However, we must OPPOSE SB 2089, based on, among other things,

- (1) it punishes law-abiding non-resident owners who pay their taxes, by requiring them to hire property managers approved by the Real Estate Commission;
- (2) it does not impose the same requirement to hire a property manager approved by the Real Estate Commission on resident owners who do not pay their taxes;
- (3) Hawaii law already requires owners of transient accommodations to pay GET and TAT taxes, and the State Tax Department should make efforts to enforce those laws, rather than force non-residents to hire property managers approved by the Real Estate Commission; and
- (4) there are less Draconian ways of encouraging compliance with the requirement to pay taxes - perhaps requiring ALL OWNERS of transient accommodations (not just non-residents) to list their GET license number on their written and internet advertising (this would help the State Tax Department track the owners and whether they are paying taxes); and/or requiring anyone responsible for renting such units to take a training course developed by the State Tax Department which explains their responsibilities to pay state taxes - such courses could be free and include the option of taking the course via the internet.

My husband and I have owned a condo at Maalaea since 1984. During this time, we have had a tax payer identification number and have paid all applicable taxes, both when revenues were collected by an agent and when we collected revenues. Since we have been renting our own condo through a number of web sites, our revenues and the taxes collected by the state have increased. Previously our rental agents told us that our condo was not as desirable as others in the building (often owned by their relatives or friends). Since we have rented our unit, our visitor ratings have been excellent. We have maintained our rental agent relationship because our agents allowed us to rent on our own for a reasonable fee. They continue to clean and provide service to our condo. Everyone, including the State, is making more money under this relationship. If we were forced to rent only through an agent, I'm certain we would be back to an empty condo and revenues to the State would decrease.

It is unjust to penalize folks like us who have a long history of responsible taxpaying. We consider Hawaii our second home and our long stays contribute to the economy. If this law passes, it should apply only to those folks who have not been paying taxes. I can't understand why monitoring rental taxes is such a problem for the State.

If we are going to return to the low rental incomes we experienced prior to marketing and renting our own condo, it may be to our advantage to close the place and shut off the utilities when we are not on island. The state will lose tax income, the cleaning staff will lose work, and local merchants will lose my purchases of new furniture, pictures, towels, dishes etc.

This bill seems like make-work-for-rental agents legislation rather than a way for the State to increase revenue. If rental agents had been fairly renting and marketing units, the websites folks now use would not have caught fire so quickly. This bill is an example of big business interests and a powerful lobby setting an agenda that benefits a few rather than the public interest. Why not let the free market work and have on island agents provide a service that encourages owners to seek

their assistance. Requiring owners like us to use these third parties to collect our revenue means we don't know if they are passing collected revenue to us or honestly accounting for the taxes we owe.

Finally, this bill isn't an attempt to limit the choice the internet has provided Hawaii visitors and condo owners? This choice has made Maui affordable to visitors who previously may have gone elsewhere because their families could not afford the prices that included a 30% cut to a realtor. These visitors will be driven to the illegal in home rentals the state is trying to control. The effect of this legislation may be less State revenue and more pressure on the resident rental market.

Please reconsider this legislation.

Sincerely,

Jean Ann Alter
280 Hauoli Street
Wailuku, HI 96793

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Keith and Joanne Rathgaber
Organization: Individual
E-mail: rathgaber@shaw.ca
Submitted on: 2/28/2012

Comments:

Very Recently it came to my attention that the Realtors in the State of Hawaii were, very quietly, lobbying to have a bill passed. This bill would make it mandatory for all condo owners to have a realtor and real estate agency manage your condo for you. You would no longer be allowed to do this on your own.. Their concern supposedly is that there are too many not paying their taxes and therefore Hawaii is losing millions of dollars.

THIS REGULATION IS DISCRIMINATORY AND UNCONSTITUTIONAL!!

Why not simply go after the ones who do not pay???

This bill will be disastrous for the State of Hawaii and the fragile economy. Higher prices will surely ensue and that will negatively affect the tourism industry. Huge numbers of condo owners may decide not to rent their condos any longer which would lower the County's tax base as well as the State tax base. Hawaii has been showing signs of recovery this past year which will come to an immediate halt.

PLEASE RETHINK PASSING THIS! USE EXISTING LAWS!

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229

Testifier position: Oppose
Testifier will be present: No
Submitted by: Emily Starkie
Organization: Individual
E-mail: estarkie@gmail.com
Submitted on: 2/28/2012

Comments:

I oppose this bill SB 2089. It is discriminatory and takes away the rights of property owners. I urge you to not pass this bill. Thank you.

To Whom it may concern,

I had a wonderful experience renting from an owner during my visit to Kauai. The increase in cost to hire a property manager would be passed on to the consumers and I believe will hurt Hawaii over all. I spent money shopping, eating and sight-seeing on Kauai and may not have had that money to spend if the rental costs were even higher. With the Caribbean being so much less expensive than Hawaii.....I would think you would look for ways to boost tourism rather than creating more bureaucratic restraints.

Sincerely

Lynn Zastrow

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Anthony Cooney
Organization: Individual
E-mail: ascooney10@comcast.net
Submitted on: 2/28/2012

Comments:

I oppose this bill for the same reasons given in my testimony in opposition of HB 1707

Testimony for CPN 2/28/2012 10:00:00 AM SB2089

Conference room: 229
Testifier position: Oppose
Testifier will be present: No
Submitted by: Lloyd Kirchner
Organization: Individual
E-mail: darnleyk@sbcglobal.net
Submitted on: 2/28/2012

RANDY AND CATHY BODHAINE

P.O. Box 23366
Pleasant Hill, CA 94523
Fax: (925) 932-4184
Email: bodhaine@comcast.net

DATE: Feb. 29, 2012

TO: Senator Rosalyn Baker

Fax: (808) 586-6071

RE: SB2089/HB2078

Pgs. This Fax 1

We are property owners on the island of Maui.
We strongly oppose SB2089/HB2078 and respectfully plead with you to vote this bill down.
This Bill clearly is in violation of our constitutional rights. It is illegal and discriminatory.
This bill would most certainly create a monopoly for Property Managers/Realtors.
Furthermore this bill is not in compliance with the RICO Act.
There is no good that will come to the state of Hawaii, either tax wise, tourism, real estate, or to improve what we have ALL been subject to.....this down economy.
We urge you to please stop this Bill.

Thank You,



Randy and Cathy Bodhaine

Colin W. Radford
My Waii, LLC
10423 Main St, suite 4
Bellevue, WA 98004
Direct phone: 425.830.6854
c.radford@comcast.net

February 29, 2012

To: Senator Ros Baker
Chair of Committee of Commerce and Consumer Protection
Fax: 808.586.9121

Subject: House Bill 2078 and Senate Bill 2089 re vacation rentals

Pages: 1

Honorable Senator Ros Baker,

Please take a firm position to defeat the above bills as written.

Our family has owned property at 2128 Iliili Road since 1964. The property is zoned for apartments. It is improved with 2 small cottages, one which we take turns to use about 10 months a year, the other rented to provide money to pay taxes and repairs. We have consistently and timely paid our real estate taxes, Hawaii State Excise Tax, and Hawaii Transient Tax. HB 2078 and SB 2089 would adversely impact our ability to pay taxes and to maintain our property in good condition.

Renters typically rent from 1 week to one month. House and apartment rentals in Kihei are similar. To ask Realtors to write contracts for such short terms would be impractical and/or needlessly expensive. Nor should real estate management firms be mandated a monopoly that may lead to unintended consequences. More important we believe is that the county and state governments receive the taxes that have been levied. Please help defeat the Bills as written.

We would like to support the following alternative language: to require those advertising transient rental units to post Excise and Transient Tax numbers; to accept as legal rentals apartment zoned properties; and to grandfather homes and units which have traditionally been rented.

You are a strong advocate of so much that is good :We request your much needed voice to defeat SB 2089 and to also influence the defeat of HB 2078 .

Colin W Radford, mm
My Waii, LLC



RANDY AND CATHY BODHAINE

P.O. Box 23366
Pleasant Hill, CA 94523
Fax: (925) 932-4184
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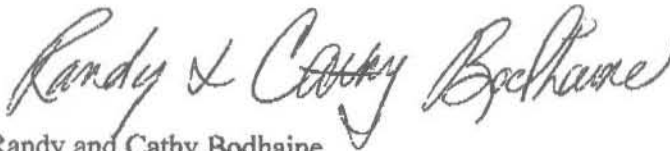
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Thank You,



Randy and Cathy Bodhaine

Mickey Roberts

832 Armada Terrace

San Diego, CA 92106

Owner: Honua Kai # 637

Opposed to SB2089 & HB2078

I am alarmed at the possibility of this legislation passing. The purported reason for this bill is "non-resident rental owners are not obeying the rules of the State of Hawaii regarding taxes," which is a direct assault on all non-residents that have invested in the economy of Hawaii. The passing of this bill would be bad news financially for the State of Hawaii because it will drive many of us away that prefer or cannot afford to have our properties managed by someone else. Hopefully this Committee will take closer look at this bill.

I would like to share my story on Hospitality Rental Management. I bought a unit at Honua Kai in 2011 and signed a contract for a 50/50 split for management/owner split of gross rental income for the management of my unit. I knew it was excessive but I wanted to be sure things started out properly. I ended up with a rental unit being rented on average for a price 40% less than the "rack rate" that was quoted during the sales pitch for the management. With all the additional costs added on by the management company my share of the split at ended up at 40% and I lost nearly 15,000 in the 2011 tax year. During that time period, I acquired a Hawaii Business license and I was the one filed and paid my GET and TAT taxes, not the management company. Never for one moment did I consider taking advantage of the State of Hawaii. I have decided to self-manage, which I believe I should have the right to do, but have found myself in limbo waiting for the government to give me the support I need.

I am a retired, female, registered voting American and I can only ask humbly that you take into consideration that most of us "non-residents" that you are addressing here are Hawaii loving individuals. We have been fortunate enough to purchase a little piece of the dream and we have no intention of attempting tax fraud or injuring the economy of the state that we have invested in.

Please say no to this legislation that will take from us the right to manage our own property.

Thank you for your attention and consideration.

Regards,

Mickey Roberts

Senator Rosalyn H. Baker

I am opposed to the SB2089. I do not think that it is fair that owners living on the mainland or another island should have to pay management or realtors for a service that we as owner can do our self. This is a monopoly and it will really hurt the tourism since we have to charge a higher amount for rentals and I think that a lot of people would find another place for visiting (like the Caribbean)

And this change is not in Compliance with the RICO Act.

2/29/2012

Five
Back to
Danielle!

Dear Senator Baker,

I am writing you to voice my overwhelming opposition to the proposed SB2089 & HB2078. If passed, this ill-constructed and illegal legislation will only stand to fatten the wallets of the property management companies, which coincidentally are the only groups pushing for this legislation.

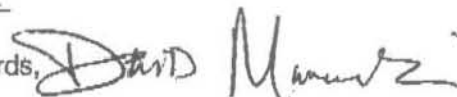
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Regards, 

Luna, HI Feb 29, 12

2/29/12

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Regards,


Daniel Muehle
Daniel Muehle, CA

2/24/12

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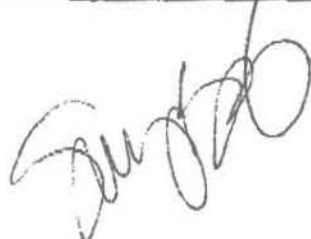
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Regards,

 , Kailua-Kona

2/29/12

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Regards,

Andrea Watson, Dallas, TX

02/29/12

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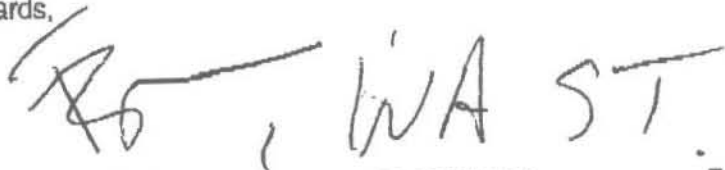
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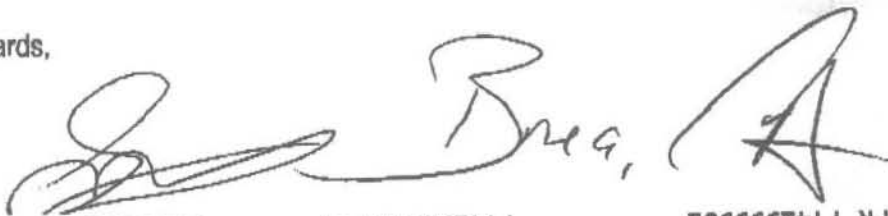
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Regards,



February 28, 2012

We oppose SB2089.

The private vacation rental business is an important element in tourism to Hawaii. A successful vacation rental business, that is well managed grows and brings additional revenues to the State of Hawaii through the TA and GE taxes.

As owners of a vacation rental business on Kauai, we stongly oppose this bill. We have pride in ownership. Regulations do allow private owners to run a vacation rental business. We have invested time and money to develop a successful model and find the proposed bill to be shocking, the gift of our efforts and our earned revenue for a business entity simply because those entities have seen an opportunity to advance their own agenda. At the very least their testimony needs to be grounded with real data. Also, it is important not to extrapolate from isolated cases. Focus on what is working, keep that in place and then solve the remainder of the problem

A successful vacation rental business is based on very highest level of customer care. Owners of these properties are the best advocates for the property and their guests. This business is based on powerful communication, attention to detail, excellent care of the property and structure and awareness of the impact on neighbors. Who better to address this than the owners. The collection of rents and taxes is mechanical and is easily verified. If there is no reporting to the State and the property is advertised on line, it is also very easy to identify. This is not the place to go into such detail or to suggest the role or function of the state in this activity.

The assumption that there is no on island representative for nonresident owners is faulty. It would not be possible to manage without local contacts.

The data and testimony presented in favor of this bill either comes from a particular interest group, professional property management companies, and /or the data itself is vague. The solution is an old and tired one. Implementation has the potential of destruction of successful business and the consequences may serve to reduce the level of rental activity adn ultimately the revenues to the State. Vacationers like to rent directly from owners, that is why this segment of business is growing. The data suggested in the committee notes does not reconcile with or reference past studies that show largely TA and GE taxes are collected and transferred to the Hi State Department of Taxation.

Please move this discussion on. Let's stop addressing the same story from the same interest groups. We acknowledge the concern expressed by the Department of Taxation. Collect the facts. Then develop a system to audit and collect where necessary. Do not add a cumbersome layer of management as proposed. Vote NO on SB2089.

Respectfully,

Alan and Eleanor Arita

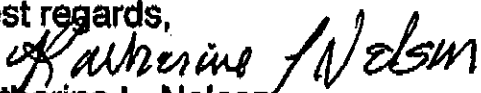
To the committee of bill 2089

Dear Senators:

My name is Kathie Nelson and for the last 21 years I have owned Too Clean Maui which acts as the on island representative for mainland owners. We schedule service, do housekeeping and other things required for their vacation rentals guests. I do not handle rental payments or pay GE or TAT for my owners. Currently I employ 6 people. This has worked well for many years.

If this bill passes, the owners I service will be required to move their properties to other agencies. In all likelihood, I will be forced out of business and will have to lay off my staff. I urge to vote against this bill. I hurts Hawaii small business owners and residents .

Best regards,


Katherine L. Nelson
175 Ahaaina Way
Kihei, HI 96753
808-879-0821
tooclean@hawaii.rr.com

OPPOSE SB 2089

"The purpose and intent of this measure is to **require any non-resident owner who operates a transient accommodationto employ a property manager** approved by the Real Estate Commission." The Bill's stated purpose is to **mandate employment** of a licensed real estate property manager. . This Bill will impact even those who have a business license and pay taxes.

I hope Hawaii will not mandate employment of one group of business people over the operation of another group of business people.

While those who support this Bill assert there is widespread non-compliance - this is not what the audits of the Hawaii Tourism Authority or the State Tax Departments have found. I believe most reviewers of this issue would rely upon these same sources. While giving written testimony dated 4/3/2007 (for another transient accommodation Bill) the State of Hawaii Tax Department states three separate times in their testimony that there is NOT an issue with transient tax compliance. Here are quoted excerpts of that testimony:

1. "The Department points out that after its last audit project with HTA, the Department concluded that, in general, those that rent transient accommodations are tax compliant."

2. "As stated above, the Department concludes that, for the most part, transient accommodations providers are tax compliant."

3. "The Department does not believe there is substantial non-compliance with tax obligations."

These are the conclusion based upon the last joint Tax Department and Hawaii Tourism Authority audit. Further as a result of this audit in the same testimony, "The Department initiated 123 audits on bed and breakfast operators that the Department believed were not properly reporting Hawaii taxes. The Department also initiated 182 audits on vacation renters."

If one studies the conclusion of the audits **this would be 123 (by definition resident owners)** operating Bed and Breakfast transient accommodations. Of the 182 vacation renters it is not broken down by resident or non-resident. .

While those that support this Bill would have everyone think otherwise, there is no data to support the assertion of wide scale non-compliance. Additionally, there is no merit in distinguishing between resident and non-resident. **I am sure that our Legislators will be able to see that this Bill is supported by groups that have a monetary gain in its outcome and that the premise of non-compliance by non-resident owners is baseless.**

As stated in many of the property managers' letters of testimony, they view themselves as being instrumental in solving a perceived problem of non-resident owners being non-compliant in payment of taxes. I would respectfully point out, **that property managers are licensed real**

estate sales people. They are not government agents, employees of the tax department or a regulatory agency. They are SALES people. They are not even accountants who are schooled in tax compliance even though they offer this service, it does not make them more ethical, honest or competent to prepare tax filings than anyone else. In fact, they are businesses just like the small "mom and pop" individual non-resident owners.

Some have stated the need for this Bill because the Tax Department can't perform audits to know what violations are going on. The Tax Department has testified that they are indeed able to perform audits of transient accommodation renters. I reference their action in the above audit. The Tax Department also audits by obtaining Federal information as discussed on 4/3/2007. Additionally, in their 2/15/2012 testimony the Tax Department states, "To date, the Department has had discussions with county real property tax officials to obtain updated out-of-state property owners. **This information would be used to notify them of their possible tax obligation.**"

The Tax Department has the authority already to enforce existing laws for tax compliance. As indicated in their testimony on numerous occasions, they are **capable** of determining who is **NOT** in compliance. Please let the Tax Department perform their responsibility and not use a property manager to intrude upon licensed businesses who conduct transient accommodation rentals. A property manager is not a government employee.

Please do not pass this Bill that will hurt so many property owners.

I thank you for reading this letter.

Rob Stewart

OPPOSE SB 2089

Dear Senator:

If one stops to consider the real costs of this it would be:

**Spend 30 - 40% to a Realtor to collect 13.42% for the State.
Surely, there must be a better way than this.**

I am a registered business, collect and pay GET and TAT. This is on record and verifiable with the Tax Department.

Please do not punish me with loss of control of running my own business. Please do not support a Bill that would so harshly impact ALL non-resident property owners when a minority are the problem. **Please do not project guilt on all of us because of a few.**

This Bill is a loss of my personal income and control over my property. I cannot understand why the State would feel it necessary for me to hand over the operation of my business to another business.

If the issue is taxes why is a Realtor/Property Manager more capable or ethical of complying with the law than my accountant?

As is the circumstance with many other people, I am "underwater" in my condo. The enforced payments to a property manager to do something that I, myself, have been doing in a legal way, seem unjust to me.

My husband and I purchased our condo because in a few years we hoped to retire to it. This has been our dream since we were married 32 years ago. We have saved for this for a long time. I feel like we as non-resident owners are being singled out without regard for whether we have complied with the law or not.

This leaves me feeling very unwelcome in Hawaii.

Respectfully,

L. Freltas

hawaiilawyer.com®

DAMON KEY LEONG KUPCHAK HASTERT
The Honorable Rosalyn Baker
February 24, 2012
Page 2

Under any analysis, SB 2809 will not pass constitutional muster. Laws requiring the payment of transient accommodation tax already exist. Taxes are paid, or not paid, by residents and non-residents alike. The Bill has absolutely no purpose other than to significantly increase the cost of owning and renting property for non-residents.

In addition to these insurmountable constitutional infirmities, the Bill has many other fatal flaws. It impermissibly infringes on the four Counties' home rule powers, each of which can differently define transient accommodations for purposes of their zoning laws. In addition, property owners are statutorily exempt from using a licensed realtor when renting their own property.

For the foregoing reasons, and others, HVROA respectfully requests that SB 2809 not be passed.

Very truly yours,

DAMON KEY LEONG KUPCHAK HASTERT



Gregory W. Kugle

GWK:ds

cc: Ms. Angie Larson
160982

OPPOSITION TO SB 2089 / HB 1707

Dear Senator:

We have been owners of rental property on Maui for over 15 years. With the help of an on island representative, we manage and rent the properties ourselves, collect and pay the excise tax, transient accommodations tax, property tax (4 times what residents pay) and if we are fortunate enough to make a profit, we pay Hawaii State income tax. With the monopoly created by the passage of this bill, our return on investment would be cut by 10 to 25%. It could easily cause us to make the decision to sell one property and turn the other into a second home that we do not rent. If many non-residents made the same decision, the tourism industry could be seriously hurt as well as State revenues. Rental rates will go up and property values would decline even further.

The legislature seems to be listening to several special interest groups whose sole purpose is to increase their own revenues. We feel if this passes, it will have the effect of driving more rentals "underground" to avoid the fees – then the State will collect no taxes. Speaking of underground, we have heard of many state residents who rent their ohana and charge no taxes at all. This legislation does nothing to address them.

We understand the State is in financial difficulty and is having trouble enforcing the current laws. We further agree that everyone should collect and pay their taxes. Unfortunately, this bill will only add to the enforcement problem. One idea put forth was to ask all visitors to give their island rental address and the owner's name. This would not be difficult as everyone arriving in the State must complete entry information. The enforcement authorities would have a good starting point to find those individuals not following the rules.

Please do not pass this misguided bill promoted by a small number realtors and rental agents.


David and Paulette Heilbrun

2960 South Kihei Road

Kihei Maui, Hawaii 96753

Phone- 808 875-1406

Cell- 215 510-0884

E-MAIL · PAULETTE HEILBRUN @GMAIL.COM

hawaii**lawyer.com**[®]

DAMON KEY LEONG KUPCHAK HASTERT

A LAW CORPORATION

February 24, 2012

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(1929-2008)

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District of Columbia

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The Honorable Rosalyn Baker
State Senate
415 South Beretania Street
Hawaii State Capital, Room 230
Honolulu, Hawaii 96813

Re: SB 2089

Dear Senator Baker:

We represent the Hawaii Vacation Rental Owners Association ("HVROA") in opposition to Senate Bill 2089, which purports to require non-resident owners of residential units to hire licensed property managers when renting their homes.

Bill 2089 is patently unconstitutional discrimination against non-resident property owners by the State of Hawai'i, in violation of the United States Constitution. The Constitution prohibits discrimination against non-residents through the Equal Protection, Privileges and Immunities and Commerce Clauses. It is well-settled law that the right to own and dispose of privately-held property is a "fundamental right" for purposes of the Constitution. *Daly v. Harris*, 215 F. Supp. 2d 1098, 1101 (D. Haw. 2002) (Honolulu's Hanauma Bay non-resident fee ordinance). Under the Equal Protection and Privileges and Immunities Clauses, discrimination on the basis of residency is reviewed under strict scrutiny. The statute is unconstitutional if it is not necessary to further a compelling state interest. *Walsh v. City and County of Honolulu*, 460 F. Supp. 2d 1207 (granting injunction against Hawai'i's residency requirements). In fact, the Hawai'i Supreme Court has held that Hawai'i's durational residency requirement "exists without a rational basis." *York v. State*, 53 Haw. 557, 561 (1972).

Likewise, under the Commerce Clause, the inquiry is whether the law regulates evenhandedly with only incidental effects on interstate commerce, or whether it discriminates against interstate commerce, which means different treatment of in-state and out-of-state economic interests. "If a restriction on commerce is discriminatory, it is virtually per se invalid." *Barber v. State of Hawai'i*, 42 F.3d 1185, 1194 (9th Cir. 1994).

Kathie and Manfred Wagner
Victoria, BC 250-388 5279
Property Owners on Kihei, Maui, 1299 Uluniu Road
February 29, 2012

Attn: Senator Rosalyn H. Baker
808-586 6071
Stop HB 1706 & SB 2089:

The above bills will only hurt the Maui economy. We purchased our unit just less than a year ago. We are non-island residents. We rent it out currently and have collected and will be submitted taxes for the renters who stay in our unit. As well, we employ a wonderful Kihei resident housekeeper who also collects taxes from us for her duties. As well as a Kihei resident contractor for any work (including all the renos he did for us last year).

With the economy as such, we are tight with our prices already. By having to have a property manager adding to those costs, we would only lose money as vacationers are already tight with their dollars.

We do not make a profit as yet, and probably won't for at least 10 years after owning our property. We currently cover our costs. We submit our taxes to the state.

This bill only creates a monopoly for Property Management companies and realtors. It is not in compliance with RICO Act.

Yours truly, Kathie Wagner

Ingrid O'Connor

From: Ingrid O'Connor [ingrid2@shaw.ca]
Sent: February 28, 2012 9:27 PM
To: 'Ingrid O'Connor'
Subject: FW: Opposition to bill SB2089

I am writing to oppose bill SB2089

I'm writing to oppose bill SB2089 which purports to require non-resident owners of residential units to hire licensed property managers when renting their homes.

I own three condos in Maui which my husband and I bought over 35 years ago. We worked very hard to pay for them over the years and have faithfully paid the General Tax as well as the Transient Tax in later years on every booking that we attained. My TIN number is 982 76 0557. Since the downturn in the economy it has been much more difficult to rent our units and we have just been able to keep afloat in the last few years.

If this bill was to pass it would be a financial disaster for most owners as it would add greatly to the costs of running our business. We have a property manager on site now who does an excellent job for us and do not need the real estate commission to choose one for us. The cost of paying a property manager a percentage on all rentals achieved by him or her would be horrendous and I myself (my husband passed away one year ago) would not be able to keep these condos as the financial burden would be too great.

Also, if this bill were to pass, owners would obviously have to increase the rates on the rentals and that would be disastrous as well as it would make it even more difficult to attain bookings which I'm sure would cause many owners to sell their units.

I was in Mexico recently and was amazed at the low costs there and I believe that if this were to pass and condo rates go up that many a person thinking of holidaying in Hawaii will instead go to other destinations such as Mexico for their sun and relaxation.

Please listen to our voices. **Please do not pass this bill.**

Sincerely,

Ingrid O'Connor

hawaii**lawyer.com**[®]

DAMON KEY LEONG KUPCHAK HASTERT

A LAW CORPORATION

February 24, 2012

Attorneys at Law

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Charles W. Key
(1929-2008)

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*Admitted in Hawaii and California

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The Honorable Rosalyn Baker
State Senate
415 South Beretania Street
Hawaii State Capital, Room 230
Honolulu, Hawaii 96813

Re: SB 2089

Dear Senator Baker:

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Bill 2089 is patently unconstitutional discrimination against non-resident property owners by the State of Hawai'i, in violation of the United States Constitution. The Constitution prohibits discrimination against non-residents through the Equal Protection, Privileges and Immunities and Commerce Clauses. It is well-settled law that the right to own and dispose of privately-held property is a "fundamental right" for purposes of the Constitution. *Daly v. Harris*, 215 F. Supp. 2d 1098, 1101 (D. Haw. 2002) (Honolulu's Hanauma Bay non-resident fee ordinance). Under the Equal Protection and Privileges and Immunities Clauses, discrimination on the basis of residency is reviewed under strict scrutiny. The statute is unconstitutional if it is not necessary to further a compelling state interest. *Walsh v. City and County of Honolulu*, 460 F. Supp. 2d 1207 (granting injunction against Hawai'i's residency requirements). In fact, the Hawai'i Supreme Court has held that Hawai'i's durational residency requirement "exists without a rational basis." *York v. State*, 53 Haw. 557, 561 (1972).

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DAMON KEY LEONG KUPCHAK HASTERT

The Honorable Rosalyn Baker

February 24, 2012

Page 2

Under any analysis, SB 2809 will not pass constitutional muster. Laws requiring the payment of transient accommodation tax already exist. Taxes are paid, or not paid, by residents and non-residents alike. The Bill has absolutely no purpose other than to significantly increase the cost of owning and renting property for non-residents.

In addition to these insurmountable constitutional infirmities, the Bill has many other fatal flaws. It impermissibly infringes on the four Counties' home rule powers, each of which can differently define transient accommodations for purposes of their zoning laws. In addition, property owners are statutorily exempt from using a licensed realtor when renting their own property.

For the foregoing reasons, and others, HVROA respectfully requests that SB 2809 not be passed.

Very truly yours,

DAMON KEY LEONG KUPCHAK HASTERT



Gregory W. Kugle

GWK:ds

cc: Ms. Angie Larson
160982

**Frank West
1821 Reeds Court
Westlake, Ohio 44145
216-373-2737**

To: Senator Rosalyn Baker

Dear Ms. Baker,

Re: SB2089 and HB2078

As a vacationer in Hawaii I am very much opposed to these bills.

I like the choices and personal service offered by Home Owners and will not rent from a management agency or real estate company.

I believe these bills to be special interest inspired not in the best interest of your state's tourism industry. Furthermore, it sets up a monopoly for the agencies and may possibly be in violations of the RICO Act.

Sincerely,



**Frank West
216-373-2737**

7200 Wesley Tyler Road
P.O. Box 290
Clifton, VA 20124-0290
Phone: (703) 631-2548
Fax: (703) 631-8514

Fax

To: Senator Rosalyn H. Baker

From: Bonnie Aitken

Date: 2/29/12

Pages: 2 (including cover sheet)

Aloha the Honorable Senator Rosalyn Baker,

I am very much OPPOSED to SB 2089 and HB 2078. These bills will have many unintended consequences. There are legal grounds for a lawsuit against the state should these bills pass. The resources you have collected in taxes will have to be used in the lawsuit. I am sure your legal counsel has told you of the problems you will be facing should you choose to pass a bill that is unconstitutional and discriminatory.

I tried a well-regarded real estate vacation rental company and was victimized by them. They even forgot sometimes to pay me the rent they collected. It was my job to pay the taxes however. They did not do that part. They also had bogus repair bills, many of them and as I was not there, I had to pay them. I had no choice but to learn how to self-manage my condo. Since I took over my own property, I have a good sense of what is legit. I have been self-managing for about 6 years now and my guests are very happy.

I have an excellent team in place to take care of all problems and care very much about my guests. I have run my little business well. I obey the laws and pay my taxes. My reviews have all been 5 star reviews on the internet web site. I have a merchant account and my clients use credit cards for payment. That way, they have recourse if they are unhappy. No one has ever complained and you can check with the credit card company to verify that. I would be shut down in a Nano second if I were not legit!

Because I use credit cards for payment, there is a paper trail and the IRS has these records as well. I do not cheat and resent the accusations that non-resident owners do not pay GET and TAT taxes. I own in a zoned vacation rental area and that is why I purchased there. I followed the rules and immediately registered my business with the state and have a registered agent in the state. This is what I was supposed to do.

These new bills will destroy my little business. This is an attempt by some unscrupulous real estate agents to get rid of their competition. One such agency that is in favor of these bills does not even advertise the correct state tax on their website.

Please recognize this effort by some for what it truly is: an attempt to ruin competition in the vacation rental business. Free market enterprise is always the best approach. I offer a better product and that is why I am successful and why some vacation rental management companies are not happy. They do not do as good a job as I do at keeping visitors happy. Isn't that the point of being in the vacation rental business? Please do not pass these bills.

Mahalo,

Bonnie Aitken

7200 Wesley Tyler Road
P.O. Box 290
Clifton, VA 20124-0290
Phone: (703) 631-2548
Fax: (703) 631-8514

Fax

To: Senator Russlyn H. Baker

From: Bonnie Aitken

Date: 2/29/12

Pages: 2 (including cover sheet)

Aloha the Honorable Senator Rosalyn Baker,

I am opposed to SB 2069 & HB 1707 and HB2078

These bills will create a monopoly for these Management/Realtors and as such would be NON COMPLIANT with the RICO Act.

Mahalo,

Bonnie Aitken

7200 Wesley Tyler Road
P.O. Box 290
Clifton, VA 20124-0290
Phone: (703) 631-2548
Fax: (703) 631-8514

Fax

To: Senator Rosalyn A. Baker

From: Bonnie Aitken

Date: 2/29/12

Pages: 4 (including cover sheet)

Aloha the Honorable Senator Rosalyn Baker,

In opposition to SB 2089 & HB 1707

One of the management companies that were in support of SB 2089 and HB 1707, Sullivan Properties, does not even advertise the correct Hawaii state tax rate. This is who we will be forced to use?????

Please do not pass these bills and help create a monopoly for unscrupulous management/realtors. This is not in compliance with the RICO Act.

Mahalo,

Bonnie Aitken



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VACATION RENTALS • REAL ESTATE • EXTENDED STAYS • ISLAND ACTIVITIES • CHECK AVAILABILITY • POLICIES • CONTACT US • HOME

Policies

Do you have your key to check into the condo that you have rented?

SULLIVAN PROPERTIES - TERMS AND CONDITIONS - IMPORTANT NOTES

Do you have your key to check into the condo that you have rented?

Cancellation Policy

No refunds unless we re-book your rental dates. We do advise you to purchase travel insurance. We charge a \$25.00 cancellation fee if we do re-book your rental dates.

Damage

Any damages caused by a guest will be the responsibility of the guest to repair, replace, or reimburse. Should the owner have to sue the guest for damages, the guest will be responsible for damages, all court costs and attorney fees.

Booking Deposit & Full Payment Requirements

A three night deposit is due when you make your reservation. Final payment is due 30 days before your arrival date. Final payment is due 60 days before the 12/15 - 1/05 arrival dates. Sullivan Properties retains any interest earned on all Client Trust Deposit accounts. We process credit cards due dates unless otherwise instructed.

Rates, Taxes & Register Fees

Descriptions and rates are subject to change without notice. State of Hawaii Transient Accommodations Tax (7.25%) and General Excise Tax (4.167%) are charged on each reservation. Rates do not include daily maid service. Housekeeping services are available at additional cost. All rates based on a seven-night visit, less than 7 nights the daily rate will be higher or an expense fee will be added on to your reservation billing. Minimum stay requirements may apply. Homeowner Association check-in fees, local telephone charges, parking fees or Resort fees may apply. Rates are subject to change without notice. Rates will vary depending upon the time of year or depending upon the season designation.

SO MUCH
for collecting
GET IT AT
Taxes!
correctly.

Check-in Procedures - Sorry, No Late Check-outs!

You need a key to check into 50% of the Condominiums, Please Call Us! Check-in time is after 3:00 PM. Check-out time is 11:00 AM. Red Eye Flights may need to rent another day! Sullivan Properties will mail you a key after we receive your reservation payment for rentals at The Hale Ono Loa, The Paki Maui, The Hololani, The Nohonani, The Kahana Reef, The Kapalua Bay, Ridge and Golf Villas, Kahana Outrigger, The Kuleana & Mahina Surf; you may go directly to your unit when you arrive on Maui. Call 800-326-5874 if you do not have a key. When you arrive on Maui during regular hours call 669-0423 if you do not have a key. After hours call our pager 242-3163 if you do not have a key to the condo, (note; pay phones do not ring when called back), Kapalua Bay Villas Only, your parking pass is next to unit phone at Bay Villas. If the pass is not there call S.P.I. at 669-0423. Parking pass for the Mahina Surf, Kahana Sunset, Sands of Kahana, Kuleana and the Kahana Outrigger must be obtained from the front desk or on-site manager. This is important, as they will tow your auto off property and charge you a fee. Kahana Outrigger permits are in a pickup box attached to the maintenance/groundskeeper's shed. Paki Maui 2007 New \$4. a day parking fee.

Sands of Kahana, Royal Kahana, Kahana Sunset, Papakea, Maui Eldorado, The Mahana: Please check in at the 24-hour front desk on arrival. Maui Eldorado guests to pay a check-in fee of \$60 at front desk at check-in. Other property register fees were posted to your account in advance. (Note: Sands of Kahana switchboard phone system charges a fee on all calls.)

Warning!!! Homeowner's Associations Do Not Give Construction Notice Anymore!

All guests must check in with the on-site homeowner's association office during normal working hours. When registering with them, please pick up the current house rules, pool rules, schedule for pest control, crime security alerts, construction or other property activity schedules and or permits that are required by the on-site Homeowners Association office.

Maid Service

No daily maid service is included in your rental rate. Housekeeping services are available at additional cost. Starter supplies provided but not replenished. Supplies include your first morning coffee, dishwashing liquid, dishwasher soap, laundry soap, paper towels, tissue, plastic trash liners, bar soap, toilet paper.

Air Conditioning

Air conditioning is only available at the Kapalua Golf Villas, The Maui Eldorado & The Mahana Resort. There are a few a/c exceptions at other properties so please call us if you need air conditioning.

Internet Access & Miscellaneous

High-Speed Internet access is available at most of the condos. Wi-Fi is available at Kahana Sunset for a fee. Most condominiums have washer & dryer inside the units. The exception is the Mahina Surf property where there are laundry facilities on site. We do not provide hair dryers. Please bring your own.

Smoking

We ask that if you smoke, please do so outdoors as smoking is not permitted in any of our rental accommodations. The State of Hawaii has outlawed smoking within 25 feet of a public door.

Occupancy

(Studios - 2 persons) (One-Bedroom units - 2 - 4 persons) (Two Bedroom units - 4 - 6 persons) (3 Bedroom units - 6 - 8 persons) Some restrictions may apply. (Note: We do not recommend sofa bed usage for adults!)

Room Assignments

Sullivan Properties acts as the rental agent for the individual condominium owners and we cannot completely control rental condominiums. Problems rarely occur but should such a situation arise whereby the condominium becomes unavailable; we reserve the right to substitute an alternate condominium property up to and including the day of arrival. All reservations are subject to cancellation or change for reasons including but not limited to, labor strikes, acts of God, failure of guests to vacate as scheduled, misinterpreted communications, sale of unit or change of management companies.

Office Hours

Office Hours M-F 8:00 AM - 5:00 PM. Weekends 8:00 AM - 4:00 PM (Hawaii Time Zone) Office 808-669-0423 Toll Free 800-326-9874 Fax 808-669-8405 Emergency Pager Number 808-242-3163 www.MauiResorts.com



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10 Hoohuli Road #110 • P.O. Box 55 • Lahaina, HI 96761-9257
Phone: (808) 669-0423 • Toll Free: (800) 332-1137 • info@mauiresorts.com

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ELKE RILEY

February 29, 2012

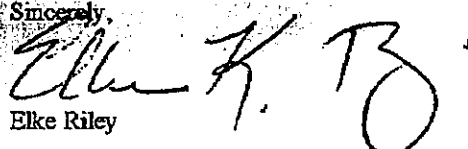
Dear Senator Baker

I am an out-of-state homeowner of two condos on the beautiful island of Kauai. I am deeply opposed to the horrible, ill thought out legislation of SB 2089 and HB 2078. This is nothing more than an ugly power grab by the realtors who are taking their chops at the prospect of getting up to 50% of all the rental revenues. As a struggling homeowner I am finally seeing a rebound in the economy and if the realtors take my revenues I will certainly have difficulty making ends meet. Homeowners are going to have trouble paying their mortgages and other expenses and you are looking at a looming foreclosure crisis due to this ill thought out greedy action by the real estate commission.

There has got to be a better way to make sure homeowners pay their TAT and GE taxes than to REQUIRE them to pay up to half their rental revenues to greedy realtors.

I urge you to reconsider this horrible piece of legislation and look at the bigger picture here. Undoubtedly, if this passes, there will be countless class action lawsuits against the state of Hawaii challenging the constitutionality of this discriminatory bill. This will cost the state millions of tax dollars in the long run.

Sincerely,


Elke Riley

2790 Cultus Court
Coquitlam, BC V3C 5A8
Facsimile: 604-468-2403

Richard Waugh

Fax

To: Senator Baker	From: Richard Waugh
Fax: 808-586-6074	Pages: (8 including cover)
Tel:	Date: February 29, 2012
Re: OPPOSE SB2089 and HB1707	Phone: 604-616-6174

Urgent For Review Please Comment Please Reply Please Recycle

● **Comments:**

RE: OPPOSED TO SB2089 and HB1707

I have attached the following documents for review:

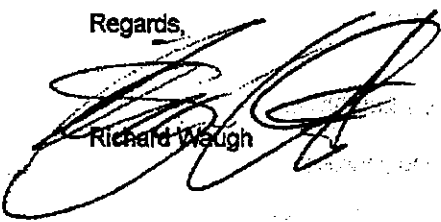
- Testimony
- Sullivan Property Management Website, which states the tax rate incorrectly

We oppose these Bills as:

- They will create a monopoly for HI Property Management/Realtors.
- They discriminate against non-resident property owners.
- They are not in compliance with the RICO Act and are not supported by RICO.
- They violate the most basic and fundamental right to own and dispose of privately-held property including the right to rent and exclude others from doing this to our property.

Please do not pass these Bills.

Regards,



Richard Waugh

February 26, 2012

Nina Nychporuk and Richard Waugh
2780 Cultus Court
Coquitlam, BC
Canada V3C 5A8

Members of the Senate Committee on Commerce and Tourism

Re: OPPOSE Senate Bill 2089 (SB2089)

Honorable Senate Members,

Thank you for the opportunity to provide testimony with respect to Senate Bill 2089. Our names are Richard Waugh and Nina Nychporuk.

We oppose this Bill. If enacted, the proposed legislation will give property managers and realtors a significant and unfair competitive advantage in the vacation rental market, and add an extraordinary expense, with no value-added, to small business owner-operators who contribute significant economic benefits to the state of Hawaii.

In 2008, we invested in Hawaii's economy by purchasing a condominium at the Mauna Lani Resort on the Big Island. As non-residents of Hawaii, we are fortunate to be able to spend several weeks each year at our condominium. Although we do not offer our condominium as a vacation rental on a full-time basis, we have chosen to market our property through such low-cost internet channels as Flipkey.com and VRBO.com, rather than high-priced property managers and realtors.

Our business is licensed to operate in Hawaii, and we faithfully collect and remit the statutory transient accommodation tax (TAT) and general excise tax (GET) in a timely fashion. In addition, our property tax levy is the same as a hotel business, which is the highest of all assessment rates.

Property managers and realtors have experienced shrinking market share because they charge homeowners exorbitant management fees. Instead of finding ways to adapt to the evolution of natural, competitive market forces, property managers and realtors have chosen to lobby politicians to discriminate against non-resident property owners.

SB2089 is *unconstitutional discrimination* against non-resident property owners. The Bill violates the most basic and fundamental right to own and dispose of privately-held property, including the right to use, sell, *rent as we see fit*, mortgage, transfer, exchange or destroy, *or to exclude others from doing these things to our property*.

This Bill also violates *United States antitrust law*. The legislation imposes a *restraint of trade* on independent owner-operators by granting property managers and realtors the

exclusive right to market vacation rental properties in Hawaii. This Bill will harm consumers by limiting competition and restricting their choice, and create a significant and unfair competitive advantage for a small but powerful cartel of property managers and realtors. From our own personal experience, we know that property managers and realtors in Hawaii charge homeowners a management fee between 30%-50% or more of gross rental revenue (and, in some cases, rental revenue plus the TAT and GET).

Property managers and realtors who support SB2089 complain that non-resident owners allow friends and families to use their property, without charging these parties rents and taxes. Forcing friends and family members to book individually-owned properties through a property manager is yet another violation of individual property rights. It is our constitutional right to allow anyone we want to stay in our property.

Property managers and realtors who support this Bill argue that the internet has ruined their business. One could also say that mass production of automobiles "ruined" the horse and buggy industry. They claim, without providing any independent, quantitative or verifiable evidence, that independent owner-operators undercut their nightly rates by "1/3." Yes, the internet has impacted the tourism industry's vacation rental sector by lowering prices for consumers and distribution costs for vendors. Again, it is not the role of state legislators to interfere with competition in the marketplace. Hawaii state legislators have no power to turn back the clock, or to legislate away market forces that are dynamic, competitive and responsive to innovation and technology.

If property managers and realtors in Hawaii are unable to compete with new entrants, then they need to charge more reasonable management fees or exit the industry. Legislators have no business interfering with the natural causes and effects of an efficient marketplace, particularly when such intervention creates an unfavourable competitive advantage for a small minority.

Supporters of SB2089 contend that non-resident owners are unable to respond in a timely manner to their guests' issues, but they can because they are residents of Hawaii. However, not all property managers and realtors have staff on call 24 hours a day. Independent owner-operators, on the other hand, are on call 24 hours a day. A guest can send us an email or phone us any time of the day, 7 days a week.

Property managers and realtors who support SB2089 claim that they alone are in a position to protect renters from foreclosure. However, it is common practice for owner-operators to encourage their guests to purchase travel insurance and/or trip cancellation insurance. In addition, most credit card companies offer recourse in when a vendor is in breach of a contract. Recent history is the best example of the fall-out that occurs when property management companies close their doors overnight, which is what Kona-based *Property Network Ltd* did in 2009, owing a sizeable amount of money to the property owners, and leaving renters and vacationers in a bind.

The Department of Taxation's unfortunate position on this issue is that they are not in the business of "web crawling" to audit non-resident, independent owner-operators of

vacation rentals who market their properties on the intranet. If the Department of Taxation is not in the business of tax collection, then the state legislature has a far more serious problem to address. The existing legal and regulatory framework has numerous provisions that grant tax officials the authority to enforce compliance. Whether the problem is a lack of resources or a lack of competence (or a combination of both), it is obvious that state legislators need to remind the Department of Taxation to adapt to the realities of the marketplace and do its job.

As members of the CPN Committee discuss SB2089, we encourage you to consider the following questions:

- Have state legislators considered creating an independent task force, comprised of various stakeholders tourism industry and vacation rental sector, to determine the extent of the problems that have given rise to this Bill?
- Have state legislators considered the motivations of those who support this Bill, as well as who is most likely to benefit and who is most likely to be harmed if it is enacted?
- Have any of the state departments responsible for tourism, commerce and taxation attempted to determine who the vacation rental owners are that fail to collect and remit the TAT and GET, and if these owners are more likely to be non-residents or residents of Hawaii?
- What input have state legislators obtained, through consultation with officials from the state departments responsible for tourism, commerce and taxation, to determine why existing enforcement provisions are ineffective, and what can be done within the existing legislative and regulatory framework to ensure both resident and non-resident owners of vacation rental properties collect and remit the TAT and GET?

Tax evasion is a serious crime. The TAT and GET should be collected and remitted by everyone who owns and/or manages a vacation rental property. We urge you to work within the existing legislative and regulatory framework, or consider establishing a task force comprised of independent vacation rental owners, property managers, realtors, state regulators and other tourism industry stakeholders. Stakeholders who are willing to work in collaboration have a better chance of developing an effective solution than legislation that gives an unfair competitive advantage to one group by penalizing another one. Passing this Bill is not the solution. It is illegal, immoral and unethical.

We kindly ask you not to pass SB2089.

Sincerely,



Nina Nychyporuk and Richard Waugh
Non-Resident Owner-Operators and Visitors

hawaiikey.com

DAMON KEY LEONG KUPCHAK HASTERT

A LAW CORPORATION

February 21, 2012

Attorneys at Law

1001 Bishop Street, Suite 1400
Honolulu, Hawaii 96813-6452

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- Carol N. Heide
- Courtney S. Kaji
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- Christ-Anne H. Mado Chock
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HAND DELIVER

The Honorable Marcus Oshiro
House of Representatives
415 South Beretania Street
Hawaii State Capital, Room 306
Honolulu, Hawaii 96813

Re: HB 1707 HD 2

Dear Representative Oshiro:

We represent the Hawaii Vacation Rental Owners Association ("HVROA") in opposition to House Bill 1707 HD 2, which purports to require non-resident owners of residential units to hire licensed real estate brokers or salespersons when renting their homes for thirty (30) days or less.

Bill 1707 is patently unconstitutional discrimination against non-resident property owners by the State of Hawaii, in violation of the United States Constitution. The Constitution prohibits discrimination against non-residents through the Equal Protection, Privileges and Immunities and Commerce Clauses. It is well-settled law that the right to own and dispose of privately-held property is a "fundamental right" for purposes of the Constitution. *Daly v. Harris*, 215 F. Supp. 2d 1098, 1101 (D. Haw. 2002) (Honolulu's Hanalei Bay non-resident fee ordinance). Under the Equal Protection and Privileges and Immunities Clauses, discrimination on the basis of residency is reviewed under strict scrutiny. The statute is unconstitutional if it is not necessary to further a compelling state interest. *Walsh v. City and County of Honolulu*, 460 F. Supp. 2d 1207 (granting injunction against Hawaii's residency requirements). In fact, the Hawaii Supreme Court has held that Hawaii's durational residency requirement "exists without a rational basis." *York v. State*, 53 Haw. 557, 561 (1972).

Likewise, under the Commerce Clause, the inquiry is whether the law regulates evenhandedly with only incidental effects on interstate commerce, or whether it discriminates against interstate commerce, which means different treatment of in-state and out-of-state economic interests. "If a restriction on commerce is

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DAMON KEY LEONG KUPCHAK HASTERT

The Honorable Marcus Oshiro

February 21, 2012

Page 2

discriminatory, it is virtually per se invalid." *Barber v. State of Hawai'i*, 42 F.3d 1185, 1194 (9th Cir. 1994).

Under any analysis, HB 1707 will not pass constitutional muster. Laws requiring the payment of transient accommodation tax already exist. Taxes are paid, or not paid, by residents and non-residents alike. The Bill has absolutely no purpose other than to significantly increase the cost of owning and renting property for non-residents.

In addition to these insurmountable constitutional infirmities, the Bill has many other fatal flaws. It impermissibly infringes on the four Counties' home rule powers, each of which can differently define transient accommodations for purposes of their zoning laws. In addition, property owners are statutorily exempt from using a licensed realtor when renting their own property. Even the State's own agencies oppose the Bill, including the Real Estate Commission and the Regulated Industries Complaints Office.

For the foregoing reasons, and others, HVROA respectfully requests that HB 1707 not be passed.

Very truly yours,

DAMON KEY LEONG KUPCHAK HASTERT



Gregory W. Kugle

GWK:ds
166710

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Do you have your key to check into the condo that you have rented?

SULLIVAN PROPERTIES - TERMS AND CONDITIONS - IMPORTANT NOTES

Do you have your key to check into the condo that you have rented?

Cancellation Policy

No refunds unless we re-book your rental dates. We do advise you to purchase travel insurance. We charge a \$25.00 cancellation fee if we do re-book your rental dates.

Damage

Any damages caused by a guest will be the responsibility of the guest to repair, replace, or reimburse. Should the owner have to sue the guest for damages, the guest will be responsible for damages, all court costs and attorney fees.

Booking Deposit & Full Payment Requirements

A three night deposit is due when you make your reservation. Final payment is due 30 days before your arrival date. Final payment is due 60 days before the 12/15 - 1/05 arrival dates. Sullivan Properties retains any interest earned on all Client Trust Deposit accounts. We process credit cards due dates unless otherwise instructed.

Rates, Taxes & Register Fees

Descriptions and rates are subject to change without notice. State of Hawaii Transient Accommodations Tax (7.25%) and General Excise Tax (4.167%) are charged on each reservation. Rates do not include daily maid service. Housekeeping services are available at additional cost. All rates based on a seven-night visit, less than 7 nights the daily rate will be higher or an expense fee will be added on to your reservation billing. Minimum stay requirements may apply. Homeowner Association check-in fees, local telephone charges, parking fees or Resort fees may apply. Rates are subject to change without notice. Rates will vary depending upon the time of year or depending upon the season designation.

Incorrect tax rate stated on Sullivan Properties website.

Check-In Procedures - Sorry, No Late Check-outs!

You need a key to check into 50% of the Condominiums, Please Call Us! Check-in time is after 3:00 PM. Check-out time is 11:00 AM. Red Eye Flights may need to rent another day! Sullivan Properties will mail you a key after we receive your reservation payment for rentals at The Hale Ono Loa, The Paki Maui, The Holoiani, The Nohonani, The Kahana Reef, The Kapalua Bay, Ridge and Golf Villas, Kahana Outrigger, The Kuleana & Mahina Surf; you may go directly to your unit when you arrive on Maui. Call 800-326-9874 if you do not have a key. When you arrive on Maui during regular hours call 669-0423 if you do not have a key. After hours call our pager 242-3163 if you do not have a key to the condo, (note; pay phones do not ring when called back), Kapalua Bay Villas Only, your parking pass is next to unit phone at Bay Villas. If the pass is not there call S.P.I. at 669-0423. Parking pass for the Mahina Surf, Kahana Sunset, Sands of Kahana, Kuleana and the Kahana Outrigger must be obtained from the front desk or on-site manager. This is important, as they will tow your auto off property and charge you a fee. Kahana Outrigger permits are in a pickup box attached to the maintenance/groundskeeper's shed. Paki Maui 2007 New \$4. a day parking fee.

Sands of Kahana, Royal Kahana, Kahana Sunset, Papakea, Maui Eldorado, The Mahana: Please check in at the 24-hour front desk on arrival. Maui Eldorado guests to pay a check-in fee of \$60 at front desk at check-in. Other property register fees were posted to your account in

advance. (Note: Sands of Kahana switchboard phone system charges a fee on all calls.)

Warning!!! Homeowner's Associations Do Not Give Construction Notice Anymore!

All guests must check in with the on-site homeowner's association office during normal working hours. When registering with them, please pick up the current house rules, pool rules, schedule for pest control, crime security alerts, construction or other property activity schedules and or permits that are required by the on-site Homeowners Association office.

Maid Service

No daily maid service is included in your rental rate. Housekeeping services are available at additional cost. Starter supplies provided but not replenished. Supplies include your first morning coffee, dishwashing liquid, dishwasher soap, laundry soap, paper towels, tissue, plastic trash liners, bar soap, toilet paper.

Air Conditioning

Air conditioning is only available at the Kapalua Golf Villas, The Maui Eldorado & The Mahana Resort. There are a few a/c exceptions at other properties so please call us if you need air conditioning.

Internet Access & Miscellaneous

High-Speed Internet access is available at most of the condos. WI-FI is available at Kahana Sunset for a fee. Most condominiums have washer & dryers inside the units. The exception is the Mahina Surf property where there are laundry facilities on site. We do not provide hair dryers. Please bring your own.

Smoking

We ask that if you smoke, please do so outdoors as smoking is not permitted in any of our rental accommodations. The State of Hawaii has outlawed smoking within 25 feet of a public door.

Occupancy

(Studios - 2 persons) (One-Bedroom units - 2 - 4 persons) (Two Bedroom units - 4 - 6 persons) (3 Bedroom units - 6 - 8 persons) Some restrictions may apply. (Note: We do not recommend sofa bed usage for adults!)

Room Assignments

Sullivan Properties acts as the rental agent for the individual condominium owners and we cannot completely control rental condominiums. Problems rarely occur but should such a situation arise whereby the condominium becomes unavailable; we reserve the right to substitute an alternate condominium property up to and including the day of arrival. All reservations are subject to cancellation or change for reasons including but not limited to, labor strikes, acts of God, failure of guests to vacate as scheduled, misinterpreted communications, sale of unit or change of management companies.

Office Hours

Office Hours M-F 8:00 AM - 5:00 PM. Weekends 8:00 AM - 4:00 PM (Hawaii Time Zone)
Office 808-669-0423 Toll Free 800-326-9874 Fax 808-669-8409 Emergency Pager Number 808-242-3163 www.MauiResorts.com



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10 Hoohei Road #110 • P.O. Box 55 • Lahaina, HI 96761-9257

To: Hawaii Senate Members

From: Dolores and Frank Smith, 6 Whitechapel Drive, Mt. Laurel, NJ 08054

Date: February 28, 2011

RE: KILL THE BILL - SB2089 IS ILLEGAL AND UNCONSTITUTIONAL

As part time residents and owners on Maui for the past 25 years we are very upset that you are considering passage of SB2089. It is unconstitutional and discriminates against non-Hawaii residents. My husband is an 81 year old veteran of the Korean war who has been disabled with Parkinson's Disease for the past 12 years. If this bill passes we cannot meet our expenses (re: increased real estate taxes, increased GE and TAT fees). In the past we tried using a real estate company for property management and found many problems with it. They take 40% of the rent collected and do not provide honest service. We (along with most other off island owners) will be forced to sell at greatly reduced prices, which will force the Tax Assessor to lower valuations used for the purpose of real estate taxes. I can foresee a rash of foreclosures because owners will not be able to meet their mortgage payments and Hawaii taxes. You will be collecting much less in real estate taxes etc. I would like to add that in the 25 years of our ownership we have always paid the required taxes on time and using true rental information. The existing laws need to be enforced if that is your purpose. If your purpose is to cater to special interests you will pass this bill.

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KILL THE BILL - SB2089 IS ILLEGAL AND UNCONSTITUTIONAL

To: Senator Rosalyn H. Baker

From: Karen & Don Raymond

2 pages

RE: OPPOSED TO SB2089 AND HB2078

These bills are discriminatory to off island homeowners. If there is a tax problem in Hawaii there are laws in place to address this. Please don't punish all honest taxpayers for the sins of the dishonest ones. There are remedies in place for tax evaders that should be enforced. We pay our taxes and contribute heavily to Maui's economy through our tax contributions as well as hiring local people to help with the maintenance of our home and being a great ambassador for Hawaii. Our guests spend a great deal of money here and also contribute more tax dollars.

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One of the biggest proponents of these bills "Sullivan Properties" has stated that he has found many errors of tax rates on VRBO websites which of course means that these people are tax cheats! I am attaching a copy of Sullivan Properties "professional" web page which has the wrong TAT! Maybe the tax department should investigate Mr. Sullivans books! I certainly don't want the likes of this company remitting my taxes! We are Canadians who pay ALL of our taxes in the US and in Canada. Before we bought on Maui we looked all over the world for a vacation property. **We chose Hawaii for many reasons but #1 was the stability of the US government. We have heard horror stories of people buying in places like Mexico, Costa Rica, Panama etc. losing their life savings because of sudden changes in government policy. We are scared that this is about to happen to us in the United States!**

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Respectfully,

Don and Karen Raymond



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VACATION RENTALS - REAL ESTATE - EXTENDED STAYS - ISLAND ACTIVITIES - CHECK AVAILABILITY - POLICIES - CONTACT US - HOME

Policies

Do you have your key to check into the condo that you have rented?

SULLIVAN PROPERTIES - TERMS AND CONDITIONS - IMPORTANT NOTES

Do you have your key to check into the condo that you have rented?

Cancellation Policy

No refunds unless we re-book your rental dates. We do advise you to purchase travel insurance. We charge a \$25.00 cancellation fee if we do re-book your rental dates.

Damage

Any damages caused by a guest will be the responsibility of the guest to repair, replace, or reimburse. Should the owner have to sue the guest for damages, the guest will be responsible for damages, all court costs and attorney fees.

Booking Deposit & Full Payment Requirements

A three night deposit is due when you make your reservation. Final payment is due 30 days before your arrival date. Final payment is due 60 days before the 12/15 - 1/05 arrival dates. Sullivan Properties retains any interest earned on all Client Trust Deposit accounts. ~~We process credit cards due dates unless otherwise instructed.~~

Rates, Taxes & Register Fees

Descriptions and rates are subject to change without notice. State of Hawaii Transient Accommodations Tax (7.25%) and General Excise Tax (4.167%) are charged on each reservation. Rates do not include daily maid service. Housekeeping services are available at additional cost. All rates based on a seven-night visit, less than 7 nights the daily rate will be higher or an expense fee will be added on to your reservation billing. Minimum stay requirements may apply. Homeowner Association check-in fees, local telephone charges, parking fees or Resort fees may apply. Rates are subject to change without notice. Rates will vary depending upon the time of year or depending upon the season designation.

IS THIS WHO I SHOULD TRUST TO FKE MY TAXES?!

Check-In Procedures - Sorry, No Late Check-outs!

You need a key to check into 50% of the Condominiums, Please Call Us! Check-In time is after 3:00 PM. Check-out time is 11:00 AM. Red Eye Flights may need to rent another day! Sullivan Properties will mail you a key after we receive your reservation payment for rentals at The Hale Ono Loa, The Paki Maui, The Hololani, The Nohonani, The Kahana Reef, The Kapalua Bay, Ridge and Golf Villas, Kahana Outrigger, The Kuleana & Mahina Surf; you may go directly to your unit when you arrive on Maui. Call 800-326-9874 if you do not have a key. When you arrive on Maui during regular hours call 669-0423 if you do not have a key. After hours call our pager 242-3163 if you do not have a key to the condo, (note; pay phones do not ring when called back), Kapalua Bay Villas Only, your parking pass is next to unit phone at Bay Villas. If the pass is not there call S.P.I. at 669-0423. Parking pass for the Mahina Surf, Kahana Sunset, Sands of Kahana, Kuleana and the Kahana Outrigger must be obtained from the front desk or on-site manager. This is important, as they will tow your auto off property and charge you a fee. Kahana Outrigger permits are in a pickup box attached to the maintenance/groundskeeper's shed. Paki Maui 2007 New \$4. a day parking fee.

Sands of Kahana, Royal Kahana, Kahana Sunset, Papakea, Maui Eldorado, The Mahana: Please check in at the 24-hour front desk on arrival. Maui Eldorado guests to pay a check-in fee of \$60 at front desk at check-in. Other property register fees were posted to your account in advance. (Note: Sands of Kahana switchboard phone system charges a fee on all calls.)

Warning!!! Homeowner's Associations Do Not Give Construction Notice Anymore!

All guests must check in with the on-site homeowner's association office during normal working hours. When registering with them, please pick up the current house rules, pool rules, schedule for pest control, crime security alerts, construction or other property activity schedules and or permits that are required by the on-site Homeowners Association office.

Maid Service

No daily maid service is included in your rental rate. Housekeeping services are available at additional cost. Starter supplies provided but not replenished. Supplies include your first morning coffee, dishwashing liquid, dishwasher soap, laundry soap, paper towels, tissue, plastic trash liners, bar soap, toilet paper.

2/29/12

7:45AM

TO SEN ROSALYN H. BAKER

808-586-6071

I AM OPPOSED TO

SB2089+ HB2078

IT IS A MONOPOLY FOR
MANAGEMENT COMPANIES
THEY ARE UNREGULATED.
THIS IS NOT IN COMPLIANCE
WITH THE RICO ACT.

D. PRINGLE
WAIKOLOA RESORT

Linda R. Owen
3538 207th S E
Sammamish, WA 98075
Local phone: (425) 961-0063 Toll free: (877) 802-6863
Fax: (425) 391-9121
E-mail: LindaROwen@comcast.net

Date: February 29, 2012

To: Rosalyn Baker fax: (808)586-6071

From: Linda Owen
Pages, including cover sheet (1)
Re: HB2078 & SB2089

We have owned a small home in Kihei since 1964 and have rented it out as a vacation rental when we are not there. We are next door to the Punahoa Condominiums and the managers of the condo are our onsite managers. We pay the Hawaii State Excise Tax (4.166%) and the Hawaii Transient Tax (9.25%). We are zoned Apartment and we are a "legal" vacation rental.

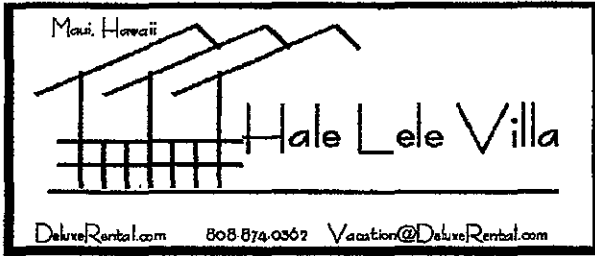
Please vote NO on these bills. Posting Excise and Transient Tax numbers in all advertising would eliminate the issue of the State not receiving taxes on vacation rentals.

If passed, these would create a monopoly for Real Estate Management firms. Also, these bills are not in compliance with the RICO Act.

Your help is needed. We appreciate what you do for the island of Maui.

Linda R. Owen
Member
My Waii, LCC

Fax: 808-874-3974
e-mail- Vacation@DeluxeRental.com
www.DeluxeRental.com



Facsimile transmittal

To: Attn. Senator Baker and others From: Scarlett DeShong

Fax: 586-6071 Date: February 29, 2012

Phone: Pages: 1

Re: Bills re : vacation rentals CC:

TO: Rosalyn Baker fax: (808)586-6071

Re: HB2078 & SB2089

My husband and I have been managing this legal vacation rental for the owner for over 10 years and he has always paid his GE and TAT taxes (4.166%) and the Hawaii Transient Tax (9.25%). We are Zoned Short Term Apartments and We are a "legal" vacation rental.

Please vote NO on these bills. Posting Excise and Transient Tax numbers in all advertising would eliminate the issue of the State not receiving taxes on vacation rentals.

If passed, these would create a monopoly for Real Estate Management firms and put us out of a job; as well, the property would not be as well taken care of and have on-site managers to deal with any issues as it does currently. Also, these bills are not in compliance with the RICO Act.

Your help is needed. We appreciate what you do for the island of Maui.

Scarlett DeShong

2833 Firebrand Drive
Alpine, CA 91901
February 29, 2012

Dear Senator Baker:

As a non-resident owner of a vacation rental condo in at the Waikoloa Beach Resort on the Big Island, I strongly oppose SB 2089 and HB 2078, and respectfully ask that you vote to oppose them.

These laws would create a monopoly that would benefit realtors and property management companies at the expense of individual condo owners and tourists. It has also been brought to my attention that they are not in compliance with the RICO act.

Please consider the effect on the Hawaii economy if owners like myself are forced to sell our vacation homes, or even go into foreclosure because we can't afford to pay the commissions charged by these realtors/property management companies.

Non-resident condo owners like myself (who collect and submit GE and TA tax) help to stimulate the Hawaii tourism industry by independently promoting vacation travel to the islands. Please do not force us to hand over a large percentage of our income to someone who is providing an unnecessary service at our expense. As it is, I've operated at a loss every year since purchasing my vacation home/condo in 2003, and can't afford to lose even more.

By the way, one of the management companies that is pushing this legislation (and we are supposed to hire to represent us), DOES NOT EVEN HAVE THE CORRECT TAX RATE ON HIS WEBSITE. I THINK YOUR OFFICE SHOULD INVESTIGATE WHETHER THEY HAS BEEN COLLECTING AND REMITTING THE LEGALLY REQUIRED AMOUNT FOR TA FOR THE PAST TWO YEARS. (see attachment)

Mahalo for considering my comments.



Laurel Pupa
Fairway Villas owner



SULLIVAN PROPERTIES INC

1.800.332.1137

VACATION RENTALS • RESORTS • EMBROIDERED TOWNS • ISLAND ACTIVITIES • CHECK-IN PROCEDURES • POLICIES • RESORTS • HOME

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★ I collect & remit 9.25%

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