

SB2089

Measure Title: RELATING TO TRANSIENT ACCOMMODATIONS.

Report Title: Transient Accommodations; Property Manager

Description: Requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence, including an apartment, unit, or townhouse, to employ a property manager approved by the real estate commission.

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

FREDERICK D. PABLO
DIRECTOR OF TAXATION

RANDOLF L. M. BALDEMOR
DEPUTY DIRECTOR

To: The Honorable Donna Mercado Kim, Chair,
and Members of the Senate Committee on Tourism

Date: Thursday, February 2, 2012
Time: 1:15 p.m.
Place: Conference Room 224, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. No. 2089, Relating to Transient Accommodations

The Department of Taxation (Department) supports S.B. 2089.

S.B. 2089 requires nonresident owners who operate a transient accommodation located in a private residence, including an apartment, unit or townhouse, shall employ a property manager. The property manager must be approved by the real estate commission to operate a transient accommodation.

The Department supports this measure as it will increase education about and compliance with our transient accommodations tax.

Thank you for the opportunity to submit comments.



NEIL ABERCROMBIE
Governor

MIKE MCCARTNEY
President and
Chief Executive Officer

Hawai'i Tourism Authority

Hawai'i Convention Center, 1801 Kalākaua Avenue, Honolulu, Hawai'i 96815
Website: www.hawaiitourismauthority.org

Telephone: (808) 973-2255
Fax: (808) 973-2253

Testimony of
Mike McCartney
President and Chief Executive Officer
Hawai'i Tourism Authority
on
S.B. 2089
Relating to Transient Accommodations

Senate Committee on Tourism
Thursday, February 2, 2012
1:15 p.m.
Conference Room 224

The Hawai'i Tourism Authority (HTA) offers the following **comments** on S.B. 2089, which would require a nonresident owner of a transient accommodation to rent the property through a licensed real estate broker or salesperson, and provides a penalty.

Under the transient accommodations tax law, the operator of a transient accommodations, who may be an "owner or proprietor or ...lessee, sublessee, ...licensee, or otherwise" is required to pay the transient accommodations tax. The law, in section 237D-8.5, provides for the collection of the rent on behalf of an owner by a third party and the filing of required tax information. Chapter 237D already provides for penalties for engaging or continuing in the business without registering as required by the law.

Under the provisions of S.B. 2089, a nonresident owner of a transient accommodation, who rents the accommodations for thirty days or less, will be required to rent the property through a real estate broker or licensed real estate sales person, who shall collect and remit the appropriate taxes.

We defer to the Real Estate Commission, who under this proposal, will be responsible for enforcing compliance with the requirements.

Thank you for the opportunity to offer these comments.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
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PETER B. CARLISLE
MAYOR



DAVID K. TANOUE
DIRECTOR

JIRO A. SUMADA
DEPUTY DIRECTOR

February 2, 2012

The Honorable Donna Mercado Kim, Chair
and Members of the Committee on Tourism
State Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Kim and Members:

Subject: Senate Bill No. 2089
Relating to Transient Accommodations

The Department of Planning and Permitting **supports** Senate Bill No. 2089, which requires nonresident owners who operates a transient accommodation located in the nonresident owner's private residence, including an apartment, unit or townhouse, to employ a property manager approved by the real estate Commission.

The Department of Planning and Permitting is responsible for the administration of the Nonconforming Use Certificates (NUC), which are issued to qualified applicants to allow for the conduct of transient vacation rental operations. Without the NUC, the use is prohibited in all zoning districts except hotel resort. However, enforcement efforts against illegal vacation rental operations have been difficult, partly because many property owners, who are conducting vacation rental operations illegally, are nonresidents of Oahu. This makes it difficult for our inspectors to contact the homeowner. For this reason, the proposals in this bill will provide us two immediate benefits: 1) There would be a designated contact person, who should be more familiar with the City's Land Use Ordinance and the restrictions for conducting the vacation rental operations; and 2) The licensed real estate brokers will be subject to the regulatory provisions enforced by the Real Estate Commission and the State Department of Commerce and Consumer Affairs, Regulated Industry Complaints Office. This bill will serve as a catalyst for enhanced enforcement efforts between State and City agencies.

The Honorable Donna Mercado Kim, Chair
and Members of the Committee on Tourism
State Senate
Re: Senate Bill No. 2089
February 2, 2012
Page 2

Please adopt Senate Bill No 2089. Thank you for this opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read 'David K. Tanoue', with a long horizontal flourish extending to the right.

David K. Tanoue, Director
Department of Planning and Permitting

DT:jmf

Sb2089-TransientAccomm-mf.doc

**PRESENTATION OF THE
REAL ESTATE COMMISSION**

TO THE SENATE COMMITTEE ON TOURISM

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Thursday, February 2, 2012
1:15 p.m.

**TESTIMONY ON SENATE BILL NO. 2089 - RELATING TO TRANSIENT
ACCOMMODATIONS.**

TO THE HONORABLE DONNA MERCADO KIM, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Carol Ball and I am the Chairperson of the Hawaii Real Estate Commission ("Commission"). The Commission appreciates the opportunity to present testimony on Senate Bill No. 2089, Relating to Transient Accommodations, and provides the following comments.

Senate Bill No. 2089 requires any nonresident owner who operates a transient accommodation located in the nonresident owner's private residence, including an apartment, unit, or townhouse, to employ a property manager approved by the real estate commission. As proposed the bill:

- creates an unnecessary but new specialized license of property managers within the real estate licensing statute of Chapter 467, Hawaii Revised Statutes ("HRS");
- changes the legislative policy set forth in the exceptions to the real estate licensing statute that an individual, i.e., a natural person and not an entity, who, as an owner of any real estate, may handle the management and

sale of their own real estate without a real estate license or without retaining a real estate licensee (§467-2 (1), HRS); and

- creates ambiguity with a current regulated area of condominium hotel operators as set forth in §467-30, HRS.

Thank you for the opportunity to provide comments on Senate Bill No. 2089.



Exclusive
GETAWAYS

January 29, 2012

RE: Testimony Supporting SB 2089

I am providing testimony in support of SB 2089.

We are all aware of the present economic circumstances our State presently finds itself in. I wanted to highlight a very significant concern of real estate professionals throughout Hawaii, as well as a major opportunity for the State to recover major tax revenues it has clear rights to, which it is presently losing every day. The loss of these tax revenues can be avoided in a very straight forward manner as described in SB 2089.

Our State's economy runs on tourism. One aspect of this from a State revenue perspective is tax, both TAT as well as the Excise, for visitors lodging. Our lodging industry is a mature and professional industry, appropriately regulated via licensees of the State, serving our State's guests well, while insuring appropriate tax monies are provided to the State on all visitor stays.

With the advent of the internet, there has been an explosion of Rental By Owner (RBO) activities occurring outside the State via the internet. Owners who reside primarily on the mainland are renting their Hawaii second homes over the internet, without the appropriate on-island representation for, or management of, this rental activity, in direct violation of HRS 521-43(f).

These mainland owners may or may not charge Hawaii Tax on their reservations, and if they do, there is no way to know if some or all of these collected tax revenues are ever provided to the State of Hawaii. This transaction takes place outside of Hawaii invisible to Hawaii tax authorities. The potential loss of TAT and Excise tax revenues from this illicit activity is in the tens of millions of dollars annually, and increases daily.

These tax collected monies, as well as guest rental monies, are intended by regulation to be held in FDIC insured bank Trust accounts in the State of Hawaii where they can be accounted for by state authorities, and consumer's/visitor's interests can be protected. Monies collected by mainland owners of Hawaii properties can be deposited to the property owner's mainland checking account, comingled with their personal funds, and where Hawaii has no means to monitor or protect its tax rights.

Tourism being one of our State's core industries, it is in our vested interest to insure that we do everything we can to insure a positive guest experience, as well as the State capturing as much of the tax revenue that it is entitled to.

We have a whole industry of lodging and real estate companies here in Hawaii that abide by State regulations, and bear the costs of following these rules. These Hawaii companies are being placed in an increasingly difficult and noncompetitive position due to the magnitude of the problem. Where not long ago, this RBO activity was a nuisance, it is now approaching 40 to 50% of all condo rental units in Hawaii. Persons who don't abide by laws and regulations, don't bear the costs attributable to them, and can offer goods & services at significant discounts to Hawaii businesses following regulations, and who pay salaries and employee costs.

Lastly, illegal vacation rental activity in locations where this activity should not occur due to zoning, deed restriction, or ordinance is a major issue in several of the counties. Professional property management firms are highly unlikely to involve themselves with properties where rental activity is not permitted. The bulk of the rental activities occurring in locations where short term rentals are not permitted is being conducted via owner direct bookings through the internet. Addressing illegal RBO rental activity, would not only have the beneficial impacts upon Hawaii and its tax revenue short fall as discussed previously, it would significantly reduce this very contentious and emotional issue for Kauai, Oahu and Maui counties.

I would strongly request that for all the good reasons cited above that SB 2089 be enacted into law.

Dan Monck
Exclusive Getaways
www.ExclusiveGetawaysHawaii.com
Kailua-Kona

kim2 - Evan

From: Gina Williams
Sent: Monday, January 30, 2012 6:31 PM
To: TSM Testimony
Subject: Please support SB 2089
Attachments: Real Life Example!.pdf

Importance: High

From: WRM Mark Marchello [mailto:mmarchello@vacation-maui.com]
Sent: Monday, January 30, 2012 5:49 PM
To: Sen. Donna Mercado Kim
Subject: Urgent - Please support SB 2089
Importance: High

Aloha Senator Kim,

There is a serious leak in the State's tax revenue pipeline. This invisible leak is bursting in to the tens of millions!

The internet is making it much easier for off Island owners to setup their rentals as Vacation Rentals by Owner. They don't work with professional management companies who issue 1099's to the State at year end and the guests monies are not held in trust accounts as required by State law. Guests send their monies directly to the owners on the mainland. There is no way to know if they are paying their excise and transient taxes or their income tax at year end.

Five years ago there were only a hand full of VRBO owners at the Whaler on Kaanapali Beach now there are over 100! Please click this link to see the [Whaler VRBO Owners](#) This is happening all across the State. I have talked to property managers on Oahu, Kauai and the Big Island everyone is losing business as more and more owners start to self manage their properties. [Who ends up paying to support these Off Shore owners properties – the people of Hawaii!](#) Sounds outrageous but its happening in every vacation rental property in the State!

These owners who don't have the management companies overhead (no management fees or taxes) are able to cut their prices and take the business away from the management companies. The remaining management company owners become unhappy with their returns, sign up on VRBO themselves to boost their occupancies and the wheel keeps spinning. Management companies lower their rates to compete, the VRBO owners lower their rates and the income and taxes on the income keeps spiraling downwards. As this spiral continues many management companies will go out of business. If we don't grab the bull by the horns now, in another five years the majority of vacation rental properties in the Islands will be self managed by Off Shore owners and the State will have no way to verify their income or taxes.

Our company has lost over 30 properties in the past 5 years. I am in the trenches dealing with this daily it's a life and death issue for the small business management companies who are required to play by the rules and a huge loss for the State.

Real Life Example – Whalers Realty Management: Over 30 properties lost in five years to VRBO – no 1099's to the State – minimum average gross income \$65,000/year x 30/units = \$1,950,000 x 13.42% = \$261,690/taxes x 100 management companies = \$26,169,000 in invisible lost taxes. I have attached last years history of income for 2 of the rentals that we lost the end of last year to VRBO. We mailed the State a 1099 on this income for 2011 = \$296,319. We also made sure the State taxes were collected \$40,000. The State won't receive a 1099 for these two properties in 2012 and they are already missing thousands of 1099's for 2011!!!!!!

Please plug the leak - support: **SB 2089**,

Greatly appreciate your consideration and support.

Mahalo,

Mark

Mark A. Marchello, R
Sales & Property Management
Whalers Realty Management Company Inc.
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www.Vacation-maui.com mark@vacation-maui.com
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Reservations Report
For Arrivals From 10/01/10 To 10/01/11
For All Complexes

Folio	Last Name	Arrival	Departure	Type	Nqhts	Src	Dp	Rent
F545C	Lahaina Surf & Sand Shangri-la							
64025	Fluger	10/03/10	10/10/10	ST	7	TA	Y	3720.00
64379	Protasel	10/10/10	10/17/10	ST	7	TA	Y	4600.00
63957	Cervantes	10/22/10	10/29/10	ST	7	TA	Y	3720.00
64074	Andrade	11/06/10	11/12/10	ST	6	TA	Y	3720.00
64592	Boldon	11/14/10	11/20/10	ST	6	RG	Y	4050.00
62840	Dinsmore	11/20/10	11/27/10	ST	7	TA	Y	4200.00
65967	Yamamoto	12/04/10	12/11/10	ST	7	TA	Y	4170.00
62476	Sammons	12/20/10	01/05/11	SE	16	RG	Y	13888.00
66292	Currier	01/05/11	01/06/11	ST	1	*O	N	0.00
65614	Krause	01/06/11	01/16/11	ST	10	OG	Y	5220.00
65772	Coppola	01/17/11	01/21/11	ST	4	TA	Y	2900.00
64362	Cook	01/25/11	02/02/11	SE	8	TA	Y	5800.00
65542	Reichel	02/02/11	02/06/11	ST	4	TA	Y	2612.00
66169	Sager	02/06/11	02/17/11	ST	11	OG	Y	5489.00
64356	Powers	02/17/11	02/24/11	ST	7	TA	Y	4080.00
65367	Fishman	02/27/11	03/04/11	SE	5	TA	Y	3625.00
66187	Whitman	03/04/11	03/08/11	ST	4	OG	Y	1996.00
66351	Bolger	03/09/11	03/21/11	ST	12	TA	Y	7975.00
63673	Hofherr	03/29/11	04/10/11	SE	12	RG	Y	7250.00
66520	Travis	04/10/11	04/18/11	ST	8	TA	Y	4865.00
65841	Fonner	04/20/11	04/27/11	ST	7	TA	Y	4170.00
66916	Wilson	05/03/11	05/05/11	ST	2	FK	Y	1251.00
66696	Foral	05/30/11	06/05/11	SE	6	TA	Y	4170.00
67689	Webber	06/05/11	06/12/11	ST	7	TA	Y	4170.00
64862	Ogle	06/13/11	06/20/11	ST	7	TA	Y	6015.00
65325	Twiggs	06/21/11	07/01/11	ST	10	TA	Y	6000.00
68131	Magon	07/04/11	07/12/11	ST	8	TA	Y	3465.00
66614	Baker	07/17/11	07/24/11	ST	7	TA	Y	5075.00
66841	Harris	07/26/11	08/01/11	ST	6	FK	Y	4350.00
67774	Giangrande	08/01/11	08/06/11	ST	5	TA	Y	3475.00
67261	Whitney	08/06/11	08/13/11	ST	7	TA	Y	5075.00
67393	McFadden	08/13/11	08/19/11	ST	6	TA	Y	4350.00
68728	McGill	08/19/11	08/22/11	ST	3	INT	Y	2115.00
68862	Lais	08/22/11	09/03/11	SE	12	RG	Y	6886.00
68988	Glesnes	09/03/11	09/11/11	ST	8	TA	Y	4000.00
67805	Brown	09/11/11	09/23/11	ST	12	TA	Y	6865.00
Total					262			165312.00

Reservations Report
For Arrivals From 10/01/10 To 10/01/11
For All Complexes

Folio	Last Name	Arrival	Departure	Type	Nights	Src	Dp	Rent
F545D	Lahaina Surf & Sand Villa							
65116	Arnold	10/13/10	10/23/10	ST	10	REF	Y	4850.00
63622	Hicks	10/27/10	11/03/10	SE	7	TA	Y	3600.00
64554	Ireland	11/07/10	11/14/10	ST	7	TA	Y	4050.00
64593	Boldon	11/14/10	11/20/10	ST	6	RG	Y	4050.00
62842	Dinsmore	11/20/10	11/27/10	ST	7	TA	Y	4080.00
63779	Rose	12/20/10	12/28/10	ST	8	RG	Y	5894.00
66061	Nevin	12/31/10	01/05/11	SE	5	OG	Y	3750.00
66293	Currier	01/06/11	01/08/11	ST	2	*O	N	0.00
65777	Karr	01/11/11	02/01/11	ST	21	TA	Y	13146.00
64854	Metzger	02/03/11	02/11/11	ST	8	TA	Y	5212.50
63836	Chappelear	02/12/11	02/19/11	ST	7	TA	Y	4080.00
63851	Roaldson	02/19/11	02/26/11	ST	7	TA	Y	4080.00
65690	Yellig	02/26/11	03/05/11	SE	7	TA	Y	3570.00
66361	Siegman	03/05/11	03/11/11	ST	6	TA	Y	3000.00
64290	Ekrut	03/11/11	03/19/11	ST	8	IOT	Y	5160.00
65560	Wampler	03/19/11	03/28/11	ST	9	TA	Y	6255.00
64948	Brady	04/02/11	04/11/11	ST	9	TA	Y	5560.00
66152	Allen	04/14/11	04/22/11	ST	8	HA	Y	4725.00
66452	McLaughlin	04/22/11	04/27/11	ST	5	TA	Y	3375.00
67016	Gee	05/29/11	06/05/11	SE	7	TA	Y	4050.00
66071	Ringewald	06/22/11	06/26/11	ST	4	TA	Y	2780.00
65760	Potter	07/02/11	07/09/11	ST	7	TA	Y	4865.00
66938	Do	07/11/11	07/21/11	ST	10	TA	Y	7255.00
67330	Cupparo	07/21/11	07/29/11	ST	8	ISL	Y	5560.00
68265	Cleave	07/30/11	08/07/11	SE	8	TA	Y	3500.00
68726	McGill	08/18/11	08/22/11	ST	4	INT	Y	2760.00
67618	Trella	09/01/11	09/06/11	ST	5	TA	Y	4375.00
66615	Gulbin	09/14/11	09/25/11	ST	11	INT	Y	7425.00
Total					211			131007.50

Tuesday, January 31, 2012

Aloha,

In support of bill Sb2089 ... My name is Joshua Rudinoff and I own Kauai Exclusive Management. I manage 25 vacation rentals on Kauai and this task takes 100% of my attention with 2 assistants and a Broker. I have also been an owner @ Waipouli Beach Resort on Kauai where the new style of condo hotel has emerged. With the power of technology, keyless door entry systems, internet marketing and smart phone systems our industry has been prey to a new kind of pirate! Marketing and sales can be done from anywhere though our guests need a managing agent ON ISLAND that is held to a standard that would properly represent our industry of ALOHA!

These rouge managers can be as small as an owner who is helping 2 or three owners to large operations out of Utah that are drawn by commissions and not motivated to follow the sale with hosting the guest while on island. Small or large the story always seems to be the same ... "We have a cleaner that manages for us!" To shed light on the challenges that I face.. Our company has an office filled with computers phones, cribs, highchairs, air beds, amenities and more. We have a full time staff that will answer our 1-877-Go-Kauai # 24/7 (on the first few rings!). We have 4 maintenance people & we use Hawaii Care and Cleaning to clean our rooms. HCC is an army of uniformed professionals that bring proper employment practices, insurances and quality to the table. In February I will have over 90 arrivals with a few hundred guests and I am the keeper of their Hawaiian experience!!

Being born and raised on Kauai I take a very personal approach to the vacation experience that we provide. From honeymoons to desperately needed family vacations I see myself and other vacation rental professionals as the ambassadors of ALOHA, while also being a marketing leg for millions of future guests. Here are just a few horrible realities of the transient manager...

- Guest arrives on honey moon on a late Kauai flight to Waipouli Beach Resort. They have not been registered and security is not allowed to give emergency entry. They have a phone # that no one will answer with a message service that is full. They resort to crying and sleeping on couch in the Lobby of our new 200 million dollar resort on what was supposed to be THE NIGHT. Security finally called me knowing we answer @ 1AM and we get them in an ocean front suite for the night. It takes me 2 weeks to retrieve our cleaning cost for this stay (no rental revenue!) and the only thanks we get is from the honeymooners.
- Guest lets the door shut behind her on the 4th floor with her toddler on the other side, all of the sliding glass doors are open & her phone with the door code is locked on the other side. She runs to a common area phone to call her property manager / house cleaner & owner of suite in Colorado to find that the last option is the fire department! We always answer and have emergency entry codes available 24/7..
- An owner who is renting the room while living on the mainland takes a booking for 5 nights in the high season and realizes that they rented the suite for a low amount. 2 weeks before arrival the owner gets a top dollar 2 week offer that they decide to take. They call the guest with one week notice and tell them that the room has maintenance issues and they have been cancelled. We get a frantic call from a family of 4 who have air tickets, a car rented and nowhere to stay with one week to figure it out. We are booked solid and can only help to find them a place. They arrive to a less desirable one bedroom with a sleeper sofa that is so bad that one family member is hospitalized for back pain. When one owner resorts to going it alone they often times will regret a reservation and cancel this last minute. this is a very bad trend that we continue to

catch owners doing as there supposed management is not taking care of the guest they are simply cleaning up after departure. Rooms control and the ability to move or upgrade guests is key to a successful vacation rental operation. I hosted these guests for a cocktail at our luxury resort and they unfortunately went to the room they had booked months before to find a family in it! They will not be coming back to Hawaii and this event has been shared with nearly everyone in their community.

- A company called XXXXXXXXX based out of Utah starts their own vacation rental company due to owner ties from developing a Poipu Property. Due to their expertise in online marketing they win a large amount of Luxury rentals at Waipouli Beach Resort and the Regency in Poipu. I begin to get calls from owner wanting my help as they have not received their owner checks for 3 to 4 months!!! Call it comingling, a lapse of reasoning or simply theft Luxury Kauai is still conducting business on Kauai under XXXXXXXXXX! What good are the rules if there is no penalty for stealing money from the sacred trust account! If a company is ever caught comingling funds they should be shut down and not allowed to re-open without training and payment retribution to victims.

Just to name a few. I hope our industry stops allowing unorganized, un-licensed and transient manager pirates to ruin our world of ALOHA. When you book with Kauai Exclusive Management you will not be alone on an island and you will have a host with ALOHA. I have no problem with owner participating in the sales and marketing end of things, though without management and a 24/7 ON ISLAND point of contact... Our guests will arrive to a potential disaster! I do have owners who work to get their own bookings and I discount my commission to 15% to send the contract, charge the damage insurance, do a pre arrival inspection, cover the 3% merchant fee, be the 24/7 point of contact, e-mail the arrival instructions, give the guest a welcome call and be prepared for any problem solving during the visit. You can read about us on Trip Advisor as each property we manage has an account. If we drop the ball ... we give three balls back!

Please protect the quality of this industry from pirates and thieves who lurk overseas! When the individual owner who simply can't afford Outrigger @ 45% commission finds that I can help @ 15% and they can continue their marketing and sales journey. I am sure they would be happy to raise and the quality of the guest experience with a legitimate managing agent ON ISLAND.

Mahalo Joshua

.....

Josh Rudinoff

Direct: 808.651.0040

josh@kauaiexclusive.com

1.877.GO.KAUAI (1.877.465.2824)

<http://www.kauaiexclusive.com>



Luxury Vacation Rentals in Kauai, Hawaii

February 2, 2012

The Honorable Donna Mercado Kim, Chair

Senate Committee on Tourism
State Capitol, Room 224
Honolulu, Hawaii 96813

RE: S.B. 2089, Relating To Transient Accommodations

HEARING: Thursday, February 2, 2012, at 1:15 p.m.

Aloha Chair Kim, Vice Chair Kouchi, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,500 members. HAR opposes S.B. 2089, which requires any nonresident owner who operates a transient accommodation location in the nonresident owner's private residence, including an apartment, unit, or townhouse, to employ a property manager approved by the Real Estate Commission.

The bill calls for a non-resident property owner to hire a property manager approved by the Real Estate Commission to operate the transient accommodation. However, there is no separate approval process for the licensing of property managers by the Real Estate Commission.

HAR understands the importance of ensuring that the State collects the appropriate amount of taxes owed by non-resident property owners, but we believe this bill does not achieve the intended goal.

Furthermore, the requirement that the property manager be responsible for filing and remitting taxes is contrary to the current requirement in the tax code, which provides that the owner of the property, not the property manager, is responsible for paying the General Excise Tax and Transient Accommodations Tax.

HAR notes that, under 237D-8.5, the property manager is required to either register the first page of the property management agreement with the Department of Taxation, or provide the Department with the a copy of the 1099, the social security number or federal ID number, and the GET/TAT numbers if available. This information is provided to the Department, which should enable them to follow up with the owner regarding the payment of taxes.

For the foregoing reasons, HAR opposes S.B. 2089 and respectfully requests that this Committee hold this measure.

Mahalo for the opportunity to testify.

kim2 - Evan

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 01, 2012 8:54 AM
To: TSM Testimony
Cc: Kim@resorticahawaii.com
Subject: Testimony for SB2089 on 2/2/2012 1:15:00 PM

Testimony for TSM 2/2/2012 1:15:00 PM SB2089

Conference room: 224
Testifier position: **Support**
Testifier will be present: No
Submitted by: Kim Horton
Organization: Resorticahawaii.com
E-mail: Kim@resorticahawaii.com
Submitted on: 2/1/2012

Comments:

As an owner of a property management company I am in full support HB1707.

There are many benefits on many levels to the state government local businesses, tourists and homeowners.

The amount of revenue that can be generated from not just COLLECTED but PAID taxes will be substantial. It is my hope that full collection of taxes will allow us to reduce the GETITAT back under 10% in the near future.

The fees we need to charge as a legitimate property management company to pay our taxes, liability insurance, healthcare for employees, salaries etc will be supported with the passing of this bill. We will not be undercut by individuals offering "home management" services who are in fact operating as unlicensed property management companies. I just had a client cancel our services because a "home management" company will do everything we do for less because they can afford to. They are not held to the standards a Real Brokerage company is held to. These types of companies are offering property management services disguised as "handy man" and "concierge" and "home management" services.

This particular company pays her helpers in "cash". They don't pay taxes and they are not insured for liability or medical.

This law will protect the consumer. Guests will have the confidence to know their money is held in a legitimate client trust account. We have had several last minute bookings because of properties sold or lost in foreclosure. Not only did many of these people lose money, they did not have a place to stay.

My personal opinion is that the time should be in line with the transient accommodation tax that this is required on any properties rented for less than 6 months.

We manage approximately 40 properties. Only 10 subscribe to the automatic GET/TAT tax service to pay the taxes. If the other 30 don't pay the full tax that is passed thru that is a staggering number.

I think the management company should be required to pay the tax or at minimum report how much is paid. We are in an ideal situation to collect on behalf of the state to guaranty payment.

The benefit to the homeowner is their taxes get paid.

kim2 - Evan

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 31, 2012 1:35 PM
To: TSM Testimony
Cc: annemarie@resorticahawaii.com
Subject: Testimony for SB2089 on 2/2/2012 1:15:00 PM

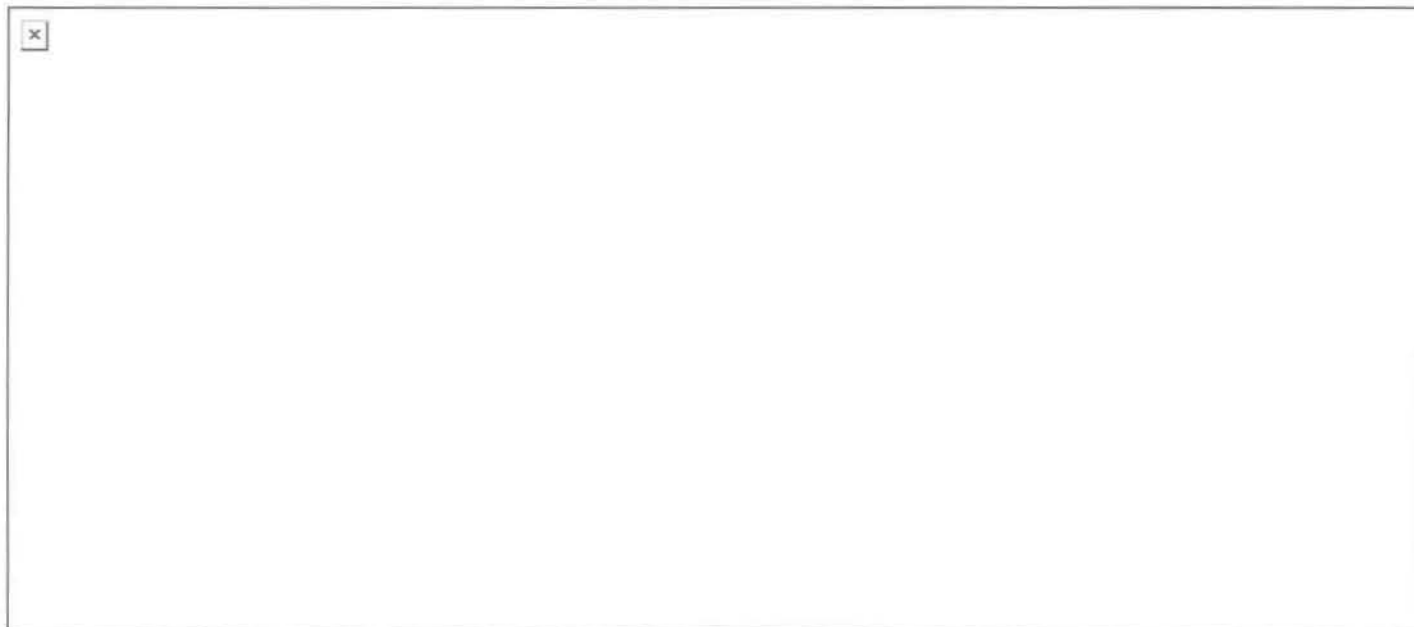
Testimony for TSM 2/2/2012 1:15:00 PM SB2089

Conference room: 224
Testifier position: Support
Testifier will be present: No
Submitted by: Anne Marie Moynahan
Organization: Individual
E-mail: annemarie@resorticahawaii.com
Submitted on: 1/31/2012

Comments:

kim2 - Evan

From: SonHawai'i [sonhawaii@hawaii.rr.com]
Sent: Wednesday, February 01, 2012 11:55 PM
To: TSM Testimony
Subject: Support SB2089



Senate Tourism Committee,

Please pass SB 2089 with slightly more precise language - expand "owner" to include "lessee, operator, agent, or the like" to ensure that any nonresident who has legal control of the property is included.

Also, the term "nonresident", if not specifically defined somewhere, should be defined as either a nonresident of the island where the subject property is located, or nonresident of the state - whichever is the intention of the author.

Larry Bartley
Executive Director
Save O'ahu's Neighborhoods (SONHawai'i)
224-4040

kim2 - Evan

From: Lillie McAfee [lilliemcafee@gmail.com]
Sent: Thursday, February 02, 2012 4:24 AM
To: TSM Testimony
Subject: OPPOSE Senate Bill 2089

PLEASE OPPOSE

Senate Bill 2089

This is a BAD BILL that opposes small business, the backbone of our nation.

kim2 - Evan

From: Andy Iuliano [andyiuliano@gmail.com]
Sent: Thursday, February 02, 2012 6:10 AM
To: TSM Testimony
Subject: House Bill No. 1707 and 2089, Transient Accommodations

Subject: House Bill No. 1707 and 2089, Transient Accommodations

Aloha...Rep. Tom Brower, Chair, and James Tokioka, Vice Chair and Members of the Committee; Senator Donna Kim Mercado:

I OPPOSE THESE BILLS.

These Bills are supposedly based on an attempt to gain more funds for the State of Hawaii. In reality, it is solely to ban many vacation rentals and for those left to force them to use property management companies, booking agents, brokers, etc. All amounting to extensive loss of tax funds for the State of Hawaii.

The idea that owners are not paying their TAT and GET taxes is an old and baseless argument. The fact is an audit was already performed and they found that the majority were in fact paying their taxes. Further assault on homeowners with no factual basis will result in many going underground, banned, or increased rates to cover ridiculous fees. This will destroy the vacation home industry and all the tourism it brings, ie, less tax funds for the State of Hawaii.

Mahalo, Andy Cabrera, Oahu

kim2 - Evan

From: Pam Corbin [pamcorbin@msn.com]
Sent: Wednesday, February 01, 2012 5:39 PM
To: TSM Testimony
Subject: Oppose Taxation on Vacation Rentals

Importance: High

I strongly oppose this taxation, and also having to deal with property managers. I have found vacation rentals to be a very needed and desirable option for thousands of visitors. The visitors spend tons of money all around the island. Most tell me Waikiki is too crowded for their vacation needs, and if you mess with the vacation rentals, the island will lose many valuable spending tourists, because they will not go to a hotel.

Dealing with property managers is un acceptable, because they are in the business to do long term rentals, and can not give the vacation people the service they desire and need.

Hawaii needs to look into their gifting of welfare, and medical. We have a neighbor who has been on welfare, is addicted to drugs, which the state supply's, plus her monthly check. She was married 2 years ago, never told the state, and they didn't check, as a result, she gets checks and medical care.

Her husband has a good job, with medical insurance. If Hawaii need money, they really need to look into this area.

Thank you for your time,

Pam and Al

kim2 - Evan

From: Dixon [dixoninhawaii@gmail.com]
Sent: Wednesday, February 01, 2012 10:34 PM
To: TSM Testimony
Subject: We strongly oppose Senate Bill 2089.

We strongly oppose Senate Bill 2089. Another burden on the taxpayer. We vote.
Dixon & Penny Smith

kim2 - Evan

From: Kelly La'a [kellylaa@aol.com]
Sent: Wednesday, February 01, 2012 4:49 PM
To: TSM Testimony
Subject: Bill SB 2089

I am OPPOSED TO THIS BILL!

Mahalo,
Kelly La'a
REALTOR-ASSOCIATE®, e-PRO®
130 Kailua Road, Suite 110 Kailua, HI 96734
Century 21 Kailua Beach Realty
(808)-**368-2714 Cell**
(808) 262-8275 Fax
www.kellylaa.com

kim2 - Evan

From: Michael Newman [newmiefish@hotmail.com]
Sent: Wednesday, February 01, 2012 10:01 AM
To: TSM Testimony
Subject: SB 2089

Dear REP MERCADO

I OPPOSE SB 2089

Why is it that Out of state Property owners need to have somebody watch over them to make sure they pay their taxes.

It implies that these people are more likely to cheat than owners who live here in Hawaii.

Mufi tried the same logic for Property taxes and he was shot down on that.

TREAT EVERYBODY THE SAME. Property owners are adults and responsible for their actions no matter where live.

kim2 - Evan

From: traderjoehi@gmail.com on behalf of Joe Lopez [madjoe@hawaii.rr.com]
Sent: Tuesday, January 31, 2012 3:06 PM
To: TSM Testimony
Subject: I oppose Bill SB 2089

Please do not make life harder for property owners.

Life is hard enough,

Joe Lopez

kim2 - Evan

From: nancy sweatt [nsweatt@earthlink.net]
Sent: Wednesday, February 01, 2012 8:42 PM
To: TSM Testimony
Subject: House Bills 1707 and 2078, Transient Accomodations

Aloha, Senator Donna Kim Mercado:

I **OPPOSE** BILL HB 1707 and 2078 relating to Transient Accommodations.

These Bills are allegedly presented on the premise of bringing in more tax funds to the State of Hawaii. Instead, they will result in just the opposite, a huge reduction in collected tax funds right along with thousands of lost jobs.

Tourism is the core of the economy in Hawaii. This is another way of self-destruction. As has been established in many hearings before now, millions will be lost from tourism without vacation rentals; they will go elsewhere to areas that welcome them. Many homeowners will not be able to obtain agents or brokers **RESULTING IN THE LOSS OF MULTI-MILLIONS** to the State of Hawaii.

This Bill discriminates against owners who live off the island and violates several existing Hawaii laws. Such laws are unnecessary as there are already several laws requiring the payment of taxes. These Bills were initiated just to direct more income into management companies, booking agents, brokers and sales personnel at the same time making it impossible for the majority to even hire any of these companies. Those that can will be forced to raise their rates beyond the affordability of the families that try to come to Hawaii the only way they can.

Mahalo, Nancy Sweatt, Oahu

kim2 - Evan

From: tarasweet@earthlink.net
Sent: Thursday, February 02, 2012 5:21 AM
To: TSM Testimony
Subject: House Bill No. 1707 and 2078, Transient Accommodations

Aloha, The Honorable Rep. Tom Brower, Chair, and The Honorable Rep. James Tokioka, Vice Chair, and Members of the Committee; and The Honorable Senator, Dona Kim Mercado:

I OPPOSE BILL HB 1707 and 2078 relating to Transient Accommodations.

This appears to be yet another backdoor way to try and ban vacation rentals instead of proceeding with permits and regulations. As you look at the testimony, there are recognizable names from Kailua, Oahu, whose sole purpose is to ban vacation rentals. Testimony from booking agencies or management companies, brokers, etc., are obvious bias to compel everyone to use their services for the sole purpose of more money in their pockets and banning competition which in turn will allow increased rates...but not more money to the State of Hawaii. There will be a huge loss of rentals entirely.

Here are some reasons owners do not use these big agencies to manage their homes:

- Agencies charge anywhere from 20% - 40% of the income. This will result in higher rentals and less rentals as it becomes unaffordable for the families that come to these homes, and again less for the State of Hawaii. Vacation rentals allow an affordable way for many families to come to the Islands.
- Agencies are too big to give personal attention to any home. What results is they do little screening of tenants resulting in far too many people being booked into homes and large events. The type of tenants is not monitored, and they care little about the homes and neighbors. The best people to manage their homes are the owners who do care.

As for owners on the mainland, it would be extremely difficult to rent your home without a local contact person for tenants and neighbors as well as the owner in maintaining the home. The idea that there is no local contact is an assumption without factual basis. Renting your home to vacationers requires extensive and constant maintenance and attention. These Bills are discriminating and unnecessary. The alleged reason that mainland owners do not pay their taxes is unfounded as shown in a prior audit on this issue.

Mahalo
Tara Sweatt, Oahu