

February 23, 2012

The Honorable David Y. Ige, Chair
Senate Committee on Ways and Means
State Capitol, Room 211
Honolulu, Hawaii 96813

RE: S.B. 2112, Relating To Leasehold Conversion

DECISION MAKING: Thursday, February 23, 2012, at 9:00 a.m.

Aloha Chair Ige, Vice Chair Kidani and Members of the Committee:

I am Myoung Oh, Government Affairs Director, submitting written comments on behalf of the Hawai'i Association of REALTORS® (“HAR”), the voice of real estate in Hawai'i, and its 8,500 members. HAR **supports** S.B. 2112, which extends the sunset provision of Act 166, SLH 2007, to extend the exemption from taxation of capital gains realized from the sale of leased fee interest in condominium units to association of apartment owners or residential cooperative corporations until January 1, 2018.

HAR believes that the exempting of one-hundred percent of the gain on the sale of a lessor's underlying fee interest should help to induce lessors to voluntarily sell lessees the fee interests in their homes.

Lessor representatives have cited exemption from state and federal income taxes as an incentive that could induce a significant number of lessors to voluntarily sell underlying fee interests to their residential lessees.

Mahalo for the opportunity to submit written comments.

MONARCH PROPERTIES, Inc.

February 21, 2012

Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice Chair
Committee On Ways and Means

RE: **SB 2112; Relating to Leasehold Conversion**

Dear Chair Ige, Vice-Chair Kidani and Committee Members:

I am in support of SB 2112 as it would extend the Act 166 exemption which I believe creates a win-win situation: lessees get fee simple home ownership, fee owners would be incentivized by tax savings to sell their fee interests and there would be millions of dollars put into the economy, likely also generating use tax dollars that would not be generated otherwise.

My company, Monarch Properties, Inc., has specialized in condo and co-op fee conversions and lease rent renegotiations since 1993. Over the past 10 years, we have represented condo and co-op projects in about 90% of all leased-fee purchases that have occurred, which includes 18 condo association and cooperative housing corporation purchases since Act 166, SLH 2007, was enacted and became available beginning in 2008.

The 18 condo and co-op project fee purchase transactions over the past four years are all we know of. They involved 1,482 units and about \$113 million in aggregate sales price.

Excluding one purchase by a condo project (the seller was a tax-exempt entity) and presuming all proceeds were taxable (most of these properties had a very low tax basis), about \$107 million of these sales would have been taxable (none of the 17 taxable sales involved an exchange to defer gains).

I am told the state's tax rate for sales of the magnitude such as these is 7.25% which means there could have been as much as \$7,757,500 in tax, revenue to the State or an average of about \$1,940,000 per year over the past four years since Act 166 has been in effect.

The Department of Taxation said Act 166 exemptions may have cost the State about \$900,000 per year over the past four years, about half the possible taxable amount. There are many variables that can be involved when talking about tax issues involving 17 different sales and sellers. However, the Act 166 exemption:

1. Is known and of interest to lessors and their counsel.
2. Incentivizes landowners to sell their multi-family residential leased-fee interests. Fee sales provide permanent fee simple ownership for many lessees as their lease terms are getting short.

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3. Appears to have provided about \$1 million per year in state income tax revenue and hundreds of thousands of dollars per year in conveyance tax revenue.
4. Incentivizes use of cash proceeds rather than exchanging them into another property to defer gains. This puts millions of dollars into the economy, aids commerce and generates use taxes like GET and conveyance tax.

Further, by public record search, there are still about 16,714 leasehold condo, co-op and PUD units in Hawaii. Most lessees of these units would dearly like to have a fee purchase opportunity and the Act 166 exemption will help incentivize fee owners to sell, especially elderly fee owners who may want cash proceeds instead of reinvesting into another property at their age.

Please feel free to contact me at 735-0000 if there are any questions or I may be of any assistance.

Sincerely,

MONARCH PROPERTIES, INC.



Michael E. Pang (R)
President and Principal Broker