

SB2456

Measure Title: RELATING TO LEASES.

Report Title: Commercial and Industrial Leases; Renewal; Fair Market Value

Description: Requires lessors of commercial and industrial property to afford lessees the option of renewing their leases. Requires, in leasehold renegotiations, that a rent based on fair market value shall apply even if that value is lower than existing rent and the lease contract bars the lowering of rent upon renegotiation.

Companion:

Package: None

Current Referral: CPN, JDL

Introducer(s): CHUN OAKLAND, Baker, Fukunaga, Solomon, Taniguchi

<u>Sort by Date</u>		Status Text
1/20/2012	S	Introduced.
1/23/2012	S	Passed First Reading.
1/23/2012	S	Referred to WLH/CPN, WAM.
1/27/2012	S	Re-Referred to CPN, JDL.
1/30/2012	S	The committee(s) on CPN has scheduled a public hearing on 02-09-12 9:00AM in conference room 229.

NEIL ABERCROMBIE
GOVERNOR



KAREN SEDDON
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

WRITTEN ONLY

Statement of
Karen Seddon
Hawaii Housing Finance and Development Corporation
Before the

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

February 9, 2012 at 9:00 a.m.
Room 229, State Capitol

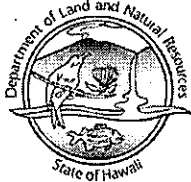
In consideration of
S.B. 2456 RELATING TO LEASES.

The HHFDC opposes S.B. 2456. While we have no position on the overall purpose of this bill, HHFDC does not have the capacity or the expertise in commercial leaseholds to handle the responsibilities this bill would assign to our agency.

Residential leasehold renegotiation is an ancillary responsibility of the HHFDC, as set forth in Chapter 519, Hawaii Revised Statutes. However, activity in the residential leasehold renegotiations program has dwindled over time to the point where it is now handled by the dedication of 0.5 of a full time equivalent position. Without an appropriation of funds and additional positions, HHFDC could not carry out the responsibilities proposed in this bill without jeopardizing our affordable housing mission.

Accordingly, the HHFDC respectfully requests that the Committee defer this bill. Thank you for the opportunity to provide written comments.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the Senate Committee on
COMMERCE AND CONSUMER PROTECTION**

**February 9, 2012
9:00AM**

State Capitol, Conference Room 229

**In consideration of
SENATE BILL 2456
RELATING TO LEASES**

Senate Bill 2456 proposes to: (1) Require lessors of commercial and industrial property to afford lessees the option of renewing their leases; and (2) Require, in leasehold renegotiations, that a rent based on fair market value shall apply even if that value is lower than existing rent and the lease contract bars the lowering of rent upon renegotiation. The Department of Land and Natural Resources (Department) opposes this bill.

The bill as drafted appears to apply to leases of public lands. The definition of "[l]essors", "lessees", "fee owners", and "legal and equitable owners" for the new Hawaii Revised Statutes chapter includes the "State of Hawaii and any county or other political subdivision of the State". By contrast, the substantive provision in SECTION 2 of the chapter only mentions "leases of private lands". If the intent of the bill is to regulate private land leases by mandating renewal options and prohibiting provisions that bar the lowering of rent at renegotiation, then the State and public lands should be expressly excluded from the new chapter's application.

Chapter 171, Hawaii Revised Statutes ("HRS"), imposes a maximum lease term of 65 years for leases of public lands. This limit is intended to allow a lessee sufficient time to occupy the property and recoup its investment, while also precluding that lessee from using and occupying public lands in perpetuity. Upon expiration of a lease, the Department may offer a new lease with a term of up to 65 years. Chapter 171, HRS, provides for leases to be offered by public auction to allow any interested member of the public the opportunity to use public lands.¹

¹ Some people wait all their lives for an opportunity to obtain a State lease. Allowing existing lessees the option to renew their leases for an additional 65 years and lockup the land for a total of 130 years will assure some other interested folks will never have an opportunity to even bid on a State lease.

This bill, while providing a benefit to existing lessees, does so at the expense of ensuring fair competition for the leasing of public lands by effectively excluding other potential bidders seeking to participate in the public disposition process. The Department acknowledges the need for long-term leases in order for certain business ventures to be economically viable. However, options to renew have a chilling effect on other prospective bidders' willingness to bid on the property. Many prospective bidders would be reluctant to invest the substantial time, effort and resources to prepare and submit a bid with the knowledge that the existing lessee can exercise his or her right and nullify the bid at any time. Options to renew provide an unfair benefit to the current lessee by depriving persons awaiting the published termination of the lease a fair opportunity to compete for the use of those lands at public auction. That inherent inequity ensures lower bids and consequently less revenue to the State.

An option to renew clearly goes against all the provisions for fairness in the leasing of state land in Chapter 171, HRS, and inappropriately impinges on the Board of Land and Natural Resources' (Board) discretionary authority to control the use of state lands. When seeking public lands for private use, potential lessees are well aware of the benefits and drawbacks of leasing state lands as opposed to conducting their activities on private lands. First and foremost is the knowledge that those lands are public assets that must serve primarily the interests of the general public and the public trust purposes, and secondarily the needs of a private user.

The safeguards and terms for leasing public lands are codified in Chapter 171, HRS, to ensure transparency and fairness in the disposition of state assets. Paramount in that process is the need to ensure and maintain the State's ability to use its land resources when and as needed to meet all of the State's obligations and priorities as well as the greater public needs of all of Hawaii's residents. Fundamental to that responsibility is the preservation and protection of the discretionary authority of the Board to consider and determine the most appropriate use of state land at any given time, including when and if an ongoing use should continue. The Board's ability to fulfill its fiduciary obligations to promote all five public trust purposes equally should never be compromised by any erosion of this authority.

Additionally, requiring a fair market value rent to apply in leasehold renegotiations even if that value is lower than existing rent and the lease bars the lowering of rent upon renegotiation would jeopardize a lessor's ability to plan by subjecting future revenue streams to uncertainty. Chapter 171, HRS, with very limited exceptions, requires that public lands can only be rented at no less than fair market value. However, since nearly all State lands are public trust lands, the State has a fiduciary duty to seek the highest possible lease rent for its beneficiaries whenever possible. The proposed requirement to use a lower fair market rent at renegotiation would undermine the State's fiduciary obligations to its public trust beneficiaries.

For all of the foregoing reasons, the Department respectfully requests this bill be deferred.



KAMEHAMEHA SCHOOLS®

February 8, 2012

WRITTEN TESTIMONY TO THE
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

By
Walter Thoemmes III, Chief of Staff
Kamehameha Schools

Hearing Date: Thursday, February 9, 2012
9:00a.m. Conference Room 229

To: Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair
Members of the Senate Committee on Commerce and Consumer Protection

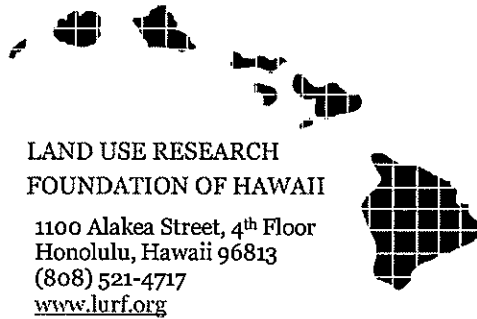
RE: **Senate Bill No. 2456 - Relating to Leases**

Chairman Baker, Vice Chair Taniguchi and members of the Senate Committee,

Mahalo for the opportunity to testify in opposition to **S.B. 2456 - Relating to Leases**. This bill impermissibly delegates the right of Eminent Domain to private individuals by allowing any lessee with a lease of five years or more to force its lessor to extend the lease for a minimum of thirty-five years or to sell the leased-fee interest to the lessee at below market value, all without requiring any broad public purpose for the taking of private property. On a rent renegotiation, this bill impermissibly caps and is designed to decrease the rent payable by the lessee. The bill encourages speculative re-sales by the lessee who has taken the lessor's land or who has obtained the benefits of the capped rents.

The Attorney General has opined that a similar but less intrusive bill proposed by the House violated the Contract Clause of the United States constitution.

No public purpose is served by S.B. 2456 and we request that it be held in committee.



February 6, 2012

Senator Roslyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair
Senate Committee on Commerce and Consumer Protection

Strong Opposition to SB 2456 Relating to Leases. (Requires lessors of commercial and industrial property to afford lessees the option of renewing their leases.)

Thursday, February 9, 2012, 9:00 a.m., in CR 229

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF **strongly opposes SB 2456**, which requires lessors of commercial and industrial property to afford lessees the option of renewing their leases. The bill also requires in leasehold negotiations, that a rent based on fair market value shall apply even if that value is lower than the existing rent and the contract between the parties bars the lowering of rent upon renegotiation.

SB 2456. The bill is based on the unfounded belief that underlying inequities exist in the relationship between owners of commercial and industrial land in Hawaii (lessors) and the holders of leasehold interests in such land (lessees).¹ The bill unreasonably mandates the renewal of leases of commercial, business, manufacturing, mercantile, or industrial or other nonresidential property, if for a term of five years or more, upon terms that are favorable only to lessees and unjustly detrimental to lessors, including an extended lease term of not less than

¹ SB 2456 is vague and somewhat confusing with respect to its application to commercial and industrial land owned by the State of Hawaii. LURF understands, however, that the State is one of the largest owners of commercial and industrial leasehold parcels which are targeted by this bill, and must therefore assume, for purposes of this testimony, that this proposed measure (which is based on the justification expressly provided in its Section 1), applies to all lessors, including the State. To assume otherwise would render this bill even more unjust and susceptible to legal challenge based on the constitutional concerns discussed *infra*, as well as discrimination against private lessors.

thirty-five years, with fixed rent and a limited rate of return. The bill also imposes punitive consequences upon the lessor should the parties fail to agree on the terms of a lease renewal, specifically, the forced sale of the leased property by lessor to lessee, or if lessee should decide not to purchase the fee simple title, the assessment to the lessor, of a one hundred per cent windfall surcharge tax based upon the then tax-assessed valuation of the leasehold improvements made by the lessee.

SB 2456 violates the Contract Clause of the U.S. Constitution by mandating material changes in the existing lease contracts between the parties, to the sole benefit of lessees. Such changes are unconstitutional and illegal as they will **result in substantial and severe impairment** of leasehold contracts by depriving lessors of important rights and opportunities afforded under existing leases, and destroying the contractual expectations and relationships of the parties to those lease contracts, **without significant and legitimate public purpose**.

The bill is just yet another unconstitutional attempt to change the terms of existing leases, similar in intent to Act 189 (2009), which was found to be unconstitutional by the U.S. District Court, District of Hawaii, in 2010.

LURF's Position. LURF strongly opposes SB 2456 based on the following:

➤ **SB 2456 violates Article I, Section 10, Clause 1 (the Contract Clause) of the United States Constitution ("U.S. Constitution").**

SB 2456 is unconstitutional because it alters major terms and provisions in existing lease contracts and would substantially impair the contractual relationships underlying such leases. The proposed bill would change the terms and provisions of existing leases, which have already been negotiated and agreed to by the parties, and is an attempt to have the Legislature change contractual remedies and obligations, to the sole detriment of lessors and to the sole benefit of lessees.

- **The State of Hawaii Department of the Attorney General has opined that legislation such as SB 2456, which would change existing contract rights, violates the Contract Clause, and is therefore illegal.**

Prior legal opinions issued by the State of Hawaii Department of the Attorney General (AG) have repeatedly cautioned that analogous legislation, which would alter the terms and conditions of existing lease agreements, would violate the Contract Clause of the U.S. Constitution.

As recently articulated by the AG in an opinion censuring similar legislation (HB 845, H.D. 2, Relating to Ground Leases) which was attempted to be passed in the 2011 legislative session, "Although [the bill] no longer requires a lessor who does not extend its lease to sell its fee interest, it still makes significant changes to the existing terms of the lease contract by forcing the lessor to rent to the lessee...The essence of the Contract Clause is that "No State shall...pass any...Law impairing the Obligation of Contracts." (citing the U.S. Const. Art. I § 10, cl.1).

LURF likewise believes that if challenged in court, the provisions of SB 2456 would fail to meet the test of constitutionality under the Contract Clause, to an even greater degree in this case, as 1) the bill operates as a substantial impairment of a contractual relationship (adjusting the financial terms [such as rent] of the lease contract has already been found to constitute a substantial impairment [see *HRPT, infra*, at 1137], however, the subject bill's forced sale of title to the property if the terms of the renewal are not agreed upon, would constitute not only substantial impairment, but complete transformation of the contractual relationship from a lease to a sale agreement); 2) the proposed state law is not designed to promote a significant and legitimate public purpose (must be a broad societal interest, rather than a narrow class such as lessees of commercial and industrial property); and 3) the proposed state law is not a reasonable and narrowly-drawn means of promoting the significant and legitimate public purpose.

- **SB 2456 contradicts the ruling of U.S. District Judge Susan Oki Mollway in *HRPT Properties Trust, et al., v. Linda Lingle, in her capacity as Governor of the State of Hawaii*, Civil No. 09-0375 (U.S. District Court, D. Hawaii), in which Plaintiff lessor successfully challenged the constitutionality of Act 189 (2009).**

In 2009, the Hawaii State Legislature passed Act 189, which was targeted to apply to only one lessor. The Act mandated material changes in existing long-term commercial or industrial ground leases solely to the benefit of lessees, and such changes resulted in substantial and severe impairment of leasehold contract terms.

The targeted lessor challenged the constitutionality of Act 189 in a lawsuit brought in federal court entitled *HRPT Properties Trust, et al., v. Linda Lingle, in her capacity as Governor of the State of Hawaii*, Civil No. 09-0375 (U.S. District Court, D. Hawaii). On May 31, 2010, U.S. District Judge Susan Oki Mollway issued her decision in the *HRPT* case, finding that Act 189 was unconstitutional, as it violated the Contract Clause of the U.S. Constitution.

Similar in intent to Act 189, SB 2456 applies to lessors who have entered into long-term commercial and industrial ground leases, and by attempting to change major terms and provisions in existing leases, would result in substantial and severe impairment of those lease contracts, for the following reasons:

- **The bill would change major lease terms, thereby depriving private lessors of significant rights and causing severe impairment of existing lease agreements.** SB 2456 would strip lessors of significant rights afforded to them pursuant to lease terms and conditions which are inherent or freely negotiated in lease agreements, including:
 - the right to determine and uphold the nature of the contractual relationship which has been freely and openly agreed to by, and continues to validly exist between the parties – in this case, a lease, and NOT a sale agreement;

- the right to freely determine the rent and financial obligations of the parties (which adjustment of financial terms of the lease contract was expressly found by the court in the *HRPT* case to constitute a substantial impairment [*See HRPT* at 1137]);
 - the right to freely determine the length of the lease (by requiring renewal of leases upon expiration for a minimum of 35 additional years, SB 2456 is, in effect, **mandating a PERPETUAL lease term**);
 - the right to freely make decisions relating to use and development of the property within a time period freely determined by lessor (by requiring renewal of the lease term upon expiration for a minimum of 35 years, the bill in effect precludes lessors from free use of their property);
 - the right to terminate or extend the lease based on terms specified by lease provisions, or if there are no such provisions, the right to terminate or extend the lease based on freely negotiated terms;
 - the right to freely change the lease terms upon extension (which may be required, particularly for long-term leases due to changes in economic and market conditions over time, unforeseen and/or uncontrollable circumstances, etc.);
 - the right to execute specific lease provisions relating to the timing of lease termination or extension, or if there are no such provisions, the right to freely determine the timing of negotiations to terminate or extend the lease;
 - the right to seek arbitration under specific lease provisions, or if there are no such provisions, the right to freely seek other dispute resolution alternatives; and
 - any and all other rights which may in any way relate to, or be affected by the termination or extension of the lease or the timing thereof; and
 - the right to freely sell or transfer the interest in the land upon termination of the lease to whomever the lessor may choose, based upon freely and openly negotiated terms and conditions.
- **The bill destroys the contractual expectations and relationships of the parties to existing leases.** SB 2456 changes the parties' bargain by requiring lessor who had fairly negotiated a lease with a definite end date to now unreasonably extend the lease term, or even worse, to sell the fee simple title to the property regardless of any plans lessor may have with respect to the property. As such, the bill completely transforms the nature of the agreement between the parties (potentially from a lease agreement to a sales contract), and imposes new requirements onto the contractual relationship which had not originally, and do not currently exist in the lease, and which were never "bargained for" by the lessor and lessee.
- **The bill alters substantial financial terms of the existing leases.** The bill precludes or affects the unrestricted establishment (or re-establishment) of financial terms and obligations such as rent which is a critical term in any lease. Adjustments in financial terms constitute substantial impairments of contractual obligations thereby intensifying the unconstitutional character of the bill. *See HRPT* at 1137.

As shown above, similar to the *HRPT* case, the impairment of lessors' rights under SB 2456 is **substantial** as it deprives lessors of important rights; defeats the expectations of the parties; alters financial terms; and destroys contractual expectations, and therefore **violates the Contract Clause of the U.S. Constitution**.

- **SB 2456 is yet another unconstitutional attempt in a long line of unsuccessful past attempts to introduce Hawaii legislation which unconstitutionally alters the terms and provisions of existing leases to the detriment of lessors, and to the benefit of a narrow class of lessees.**

Over the past years, recurring attempts have been made to legislatively alter the terms and conditions of existing leases to the benefit of lessees and to the detriment of lessors. These efforts, including all of the following, were unsuccessful; however, similar legislation continues to be introduced despite, and with complete disregard to warnings by the AG that the measures proposed are constitutionally unsound and susceptible to legal challenge, thereby potentially exposing the State to significant liability and expense:

- In 2011, HB 844 and 845, both conceptually similar, if not identical, to the subject bill, versions of which imposed unreasonable conditions on leases, including mandatory term renewals and the forced sale of property to lessees, was introduced, then deferred and carried over to the current session.
- In 2009, SB 770, which proposed alterations of existing lease contracts to favor the lessee, was introduced, however, the members of the Senate Committee on Commerce and Consumer Protection unanimously voted to hold the bill in Committee. By operation of the legislative rules, SB 770 was carried over to the 2010 Regular Session, however, was never set for hearing in 2010.

Prior to 2009 and 2010, a number of other attempts to introduce similar legislation were also made **unsuccessfully, having been declared unconstitutional**:

- In 2008, HB 1075 proposed alterations of existing lease contracts to favor the lessee, however, the Senate Economic Development and Tourism Committee (EDT) held the bill. EDT placed the contents of HB 1075 into HB 2040, SD2, however this bill was held in Conference Committee.
- In 2007, SB 1252 and SB 1619 proposed alterations of existing lease contract to favor the lessee;
- In 2006, SB 2043 would have imposed a surcharge tax on the value of improvements to real property subject to reversion in a lease of commercial or industrial property;
- In 2000, SB 873 SD 1, HD 2 also attempted to alter existing lease contract terms to the detriment of lessors and to the benefit of lessees by proposing to alter existing lease terms to require a lessor to purchase a lessee's improvements at the expiration of the lease term. The Department of Attorney General opined that SB 873, SD 1, HD 2 violated the Contract Clause of the U.S. Constitution. Governor Cayetano, relying on the Attorney General's opinion, vetoed SB 873, SD 1, HD 1.
- In 2001, in response to HB 1131, HD 1, yet another bill which proposed to alter existing lease contracts to favor lessees, the Attorney General again reaffirmed its opinion that the proposed bill violated the Contract Clause of the U.S. Constitution.

- In 1987, the Hawaii Supreme Court in *Anthony v. Kualoa Ranch*, 69 Haw. 112, 736 P.2d 55 (1987), ruled that a statute requiring a lessor to purchase a lessee's improvements at the expiration of the lease term violated the Contract Clause. The Court in the *Anthony* case observed that:

"This statute, as applied to leases already in effect, purely and simply, is an attempt by the legislature to change contractual remedies and obligations, to the detriment of all lessors and to the benefit of all lessees, without relation to the purposes of the leasehold conversion act; without the limitations as to leaseholds subject thereto contained in the conversion provisions; not in the exercise of the eminent domain power; but simply for the purpose of doing equity, as the legislature saw it. If there is any meaning at all to the contract clause, it prohibits the application of HRS §516-70 to leases existing at the time of the 1975 amendment. Accordingly, that section, as applied to leases existing at the time of the adoption of the 1975 amendment, is declared unconstitutional."

- **SB 2456 does not serve any legitimate public purpose and is simply bad public policy.**

The bill undermines the integrity of contracts and agreements entered into openly and willingly between private parties. Moreover, it allows the State to unfairly alter the terms and conditions of agreements to favor one party to a contract over the other, thereby creating uncertainty as to the ability of any individual or business organization to legally enforce contractual terms and agreements.

CONCLUSION. For the reasons set forth above, LURF believes that SB2456 is unconstitutional, potentially illegal, and profoundly anti-business, and should therefore **be held in this Committee.**

Thank you for the opportunity to provide testimony **strongly opposing** this bill.



Reit Management & Research LLC

Real Estate Services

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

February 8, 2012

Senator Rosalyn Baker, Chair
Senator Brian Taniguchi, Vice Chair
Senate Committee on Commerce and Consumer Protection

Thursday, February 9, 2012; 9:00 AM
Hawaii State Capitol, Conference Room 229

Re: SB 2456 - Relating to Leases - In Opposition

Aloha Chair Baker, Vice Chair Taniguchi and Members of the Committee:

My name is Jan Yokota, Vice President of the Pacific Region for Reit Management & Research LLC, the property manager for a large owner of industrial zoned land in Mapunapuna and Sand Island and in the James Campbell Industrial Park that leases many of its Hawaii properties under long-term leases.

S.B. 2456 proposes to change the terms of long-term commercial and industrial ground leases in the State of Hawaii. Among other things, S.B. 2456 would require lessors to either extend leases for at least 35 years under rental terms set forth in this bill, or sell the fee simple title in the leasehold property to the lessee.

S.B. 2456 violates the Contracts Clause of the U.S. Constitution and U.S. District Judge Susan Oki Mollway's 2010 ruling in HRPT v. Lingle. S.B. 2456 substantially impairs lease contracts between lessors and lessees, does not state any significant and legitimate public purpose, and does not demonstrate any reasonable and justifiable relationship between the contractual impairment and any claimed public purpose.

Because S.B. 2456 is unconstitutional on its face, we respectfully request that the Committee hold this Bill. Thank you for the opportunity to testify on S.B. 2456.



SB2456
RELATING TO LEASEHOLD CONVERSION
Senate Committee on Commerce & Consumer Protection

February 9, 2012

9:00 a.m.

Room 229

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB2456, which forces landowners to renew commercial and industrial leases for at least 35 years based on an appraisal favoring the leaseholder and requires the landowner to sell the land in fee simple to the lessee if the lessee does not agree on the lease renewal terms.

The Bill's proposal is not entirely supported by the Legislature's underlying report, and it could be highly detrimental to OHA's beneficiaries. As written, this Bill would undermine Hawai'i's private property rights by allowing individuals that negotiated at arm's length for a lease to force their landlord to sell the property fee simple. This will negatively affect Hawaiian landholders, particularly Kamehameha Schools and other Hawaiian ali'i trusts, and it will deprive their beneficiaries, who in many cases are also OHA's beneficiaries, of valuable resources and programs.

For these reasons, OHA urges the committee to HOLD SB 2456. Mahalo for the opportunity to testify on this important measure.



QUEEN EMMA LAND COMPANY

1099 Alakea St., Ste. 1100 ▪ Honolulu, HI 96813 ▪ (808) 532-6100 ▪ FAX: (808) 535-5415 ▪ www.queens.org

February 8, 2012

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair and
Members of the Senate Committee on Commerce and
Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: Senate Bill No. 2456 - Relating to Leases

My name is Eric Martinson and I am the President of Queen Emma Land Company (QEL), a non-profit entity whose mission is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawaii, primarily through The Queen's Medical Center, a sister company under The Queen's Health Systems. QEL accomplishes its mission by managing and enhancing the income-generating potential of the lands left by Queen Emma, who along with her Husband King Kamehameha IV had strong commitments to the health care needs of the people of Hawaii. The income from QEL is solely dedicated to supporting and improving healthcare services offered primarily through The Queen's Medical Center, but also through a number of other health care entities and programs throughout the state.

As an owner and lessor of commercial, industrial and residential real property, **QEL strongly opposes this bill.** Bills of similar language and intent have been heard previously in the state legislature and have repeatedly been identified as violating the Contracts Clause of the U.S. Constitution by mandating changes to existing leases for the benefit of only one party, the lessee. For any existing lease, the parties at that time of the agreement settled on mutually acceptable terms and conditions benefiting and balancing the goals and objectives of the parties over the term of the agreement. Mandating changes at the end of the term of the lease destroys pre-existing contractual expectations and obligations that the parties originally entered into. The extension of an existing agreement should be treated like a new agreement with both parties negotiating new terms and conditions mutually beneficial to each. Mandating term, rate of return and valuation with the further threat of forced fee sale, all to the benefit of the lessee, does not provide the basis for an equitable agreement.

Thank you for the opportunity to strongly oppose SB 2456.

McCully Works

40 Kamehameha Ave.
Hilo, Hi. 96720

February 7, 2012

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO LEASES

Dear Honorable Chair Rosalyn Baker, Vice Chair Brian Taniguchi, and
Members of the Senate Committee on Commerce and Consumer
Protection:

I support passage of Senate Bill SB2456 which would require Lessors of commercial and industrial properties to afford Lessees the option of renewing their leases at expiration and require in renegotiations that a rent based on fair market value shall apply even if the value is lower than the existing rent and the contract bars the lowering of rent upon renegotiation.

Hawaii has a very high disproportionate amount of business properties on leasehold lands with hundreds of leases beginning to expire in the very new future. If lessors are unwilling to extend leases at reasonable rents, this could result in closure of many businesses since there is a scarcity of available and suitable properties available for such businesses to relocate to. There would be more leases expiring as compared to the number of available properties such businesses could relocate to. This could also result in lessors charging exorbitant rents since the lessor is currently not required to renew leases with current tenants and lessees would face extremely high costs in relocation and reconstruction cost. In either case, the results would negatively impact the consumer by increased costs of products and services.

Please approve SB2456.

Aloha,

«GreetingLine»

February 7, 2012

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

**RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
LEASES – HEARING SCHEDULED FOR THURSDAY, 02/09/2012, AT
9:00 A.M., STATE CAPITOL, CONFERENCE ROOM 229**

Dear Honorable Chair Rosalyn Baker, Vice Chair Brian Taniguchi, and Members of the Senate Committee on Commerce and Consumer Protection:

I support passage of Senate Bill SB2456 which would require Lessors of commercial and industrial properties to afford Lessees the option of renewing their leases at expiration and require in renegotiations that a rent based on fair market value shall apply even if the value is lower than the existing rent and the contract bars the lowering of rent upon renegotiation.

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Please approve SB2456.

Aloha,

Dr. Gregory J. Witteman, gregoryjw@gmail.com
3651 Puuku Makai
Honolulu, Hawaii 96818

February 7, 2012

VIA FACSIMILE
586-6071

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

**RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
LEASES - HEARING SCHEDULED FOR THURSDAY, 02/09/2012, AT 9:00 A.M.,
STATE CAPITOL, CONFERENCE ROOM 229L**

Dear Honorable Chair Rosalyn Baker, Vice Chair Brian Taniguchi, and Members of
the Senate Committee on Commerce and Consumer Protection:

I support passage of Senate Bill SB2456 which would require Lessors of commercial and industrial properties to afford Lessees the option of renewing their leases at expiration and require in renegotiations that a rent based on fair market value shall apply even if the value is lower than the existing rent and the contract bars the lowering of rent upon renegotiation.

Hawaii has a very high disproportionate amount of business properties on leasehold lands with hundreds of leases beginning to expire in the very new future. If lessors are unwilling to extend leases at reasonable rents, this could result in closure of many businesses since there is a scarcity of available and suitable properties available for such businesses to relocate to. There would be more leases expiring as compared to the number of available properties such businesses could relocate to. This could also result in lessors charging exorbitant rents since the lessor is currently not required to renew leases with current tenants and lessees would face extremely high costs in relocation and reconstruction cost. In either case, the results would negatively impact the consumer by increased costs of products and services.

Please approve SB2456.

Aloha,



1903 Kihikihi St.
Honolulu, HI 96821

February 7, 2012

VIA FACSIMILE

586-6071

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
LEASES - HEARING SCHEDULED FOR THURSDAY, 02/09/2012, AT 9:00 A.M.,
STATE CAPITOL, CONFERENCE ROOM 229

Dear Honorable Chair Rosalyn Baker, Vice Chair Brian Taniguchi, and Members of
the Senate Committee on Commerce and Consumer Protection:

PETITION:

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commercial and industrial properties to afford Lessees the option of
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based on fair market value shall apply even if the value is lower than the
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to renew leases with current tenants and lessees would face extremely high
costs in relocation and reconstruction cost. In either case, the results would
negatively impact the consumer by increased costs of products and services.

We urge your approval of this bill.

Print Name	Signature	Address
<u>ROSALVA VICENTE</u>	<u>[Signature]</u>	<u>1903 Kih. St Honolulu HI 96821</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

February 1, 2012

VIA FACSIMILE
586-6071

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

**RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
LEASES – HEARING SCHEDULED FOR THURSDAY, 02/09/2012, AT
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Please approve SB2456.

Aloha,



Nicole Tom, 1469 Kanapuu Drive, Kailua, Hawaii 96734

February 1, 2012

VIA FACSIMILE

586-6071

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

**RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
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Please approve SB2456.

Aloha,



Linda Tom, 1469 Kanapuu Drive, Kailua, Hawaii 96734

February 7, 2012

VIA FACSIMILE

586-6071

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

**RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
LEASES - HEARING SCHEDULED FOR THURSDAY, 02/09/2012, AT 9:00 AM.,
STATE CAPITOL, CONFERENCE ROOM 229**

Dear Honorable Chair Rosalyn Baker, Vice chair Brian Taniguchi, and Members of
the Senate Committee on Commerce and Consumer Protection:

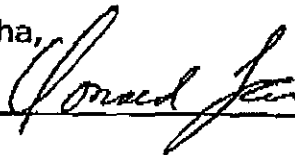
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commercial and Industrial properties to afford Lessees the option of
renewing their leases at expiration and require in renegotiations that a rent
based on fair market value shall apply even if the value is lower than the
existing rent and the contract bars the lowering of rent upon renegotiation.

The majority of business properties are on on leasehold lands due to scarcity
of available fee simple properties. In fact studies show that 60% of
businesses are on leasehold properties. Hundreds of leases will expire in the
very new future. A number of leases have already expired without the
leases being extended. This has resulted in closures of businesses that have
provided a valuable commodity to Hawaii consumers for years. Other
businesses have had to relocate at much cost due to relocation fees and cost
of reconstruction of buildings and other improvements. If lessors are
unwilling to extend leases at reasonable rents, this could result in closure of
many more businesses since there is a scarcity of available and suitable
properties available for such businesses to relocate to. Lessors could
demand more rent than they are currently receiving as they know of the
scarcity of available land their lessees could relocate to along with the high
costs of relocation. Unfortunately this not only affects businesses but also
we the consumer because invariably the increased costs are passed on to
the consumer by increased costs of products and services.

I urge your approval of this bill.

Please approve SB2456.

Aloha,



February 7, 2012

VIA FACSIMILE
586-6071

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
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PETITION:

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We urge your approval of this bill.

Print Name	Signature	Address
DONALD LEE	<i>Donald Lee</i>	535 POKA ST, HONOLULU, HI 96816
PATRICIA LEE	<i>Patricia Lee</i>	535 POKA ST, HONOLULU, HI 96816
CHARLOTTE WONG	<i>Charlotte Wong</i>	535 POKA ST, HONOLULU, HI 96816

February 7, 2012

**VIA FACSIMILE
586-6071**

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

**RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 – RELATING TO
LEASES – HEARING SCHEDULED FOR THURSDAY, 02/09/2012, AT
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Please approve SB2456.

Aloha,



Martin Lee, 2206 University Avenue, Honolulu, Hawaii 96822

February 6, 2012

VIA FACSIMILE

586-6071

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
LEASES - HEARING SCHEDULED FOR THURSDAY, 02/09/2012, AT 9:00 A.M.,
STATE CAPITOL, CONFERENCE ROOM 229

Dear Honorable Chair Rosalyn Baker, Vice Chair Brian Taniguchi, and Members
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I support passage of Senate Bill SB2456 which would require Lessors of
commercial and industrial properties to afford Lessees the option of
renewing their leases at expiration and require in renegotiations that a rent
based on fair market value shall apply even if the value is lower than the
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to renew leases with current tenants and lessees would face extremely high
costs in relocation and reconstruction cost. In either case, the results would
negatively impact the consumer by increased costs of products and services.

Please approve SB2456.

Aloha,



ROY NAKAGAWA, P. O. BOX 235790, HONOLULU, HAWAII 96823

February 6, 2012

VIA FACSIMILE

586-6071

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2938 - RELATING TO REAL ESTATE APPRAISERS - HEARING SCHEDULED FOR FRIDAY, 02/10/2012, AT 9:00 A.M., STATE CAPITOL, CONFERENCE ROOM 229

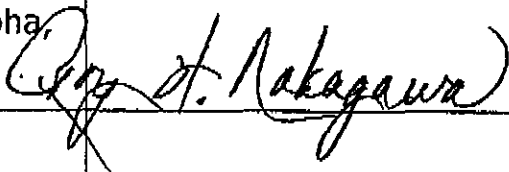
Dear Honorable Chair Rosalyn Baker, Vice Chair Brian Taniguchi, and Members of the Senate Committee on Commerce and Consumer Protection:

I support passage of Senate Bill SB2938 which would require real estate appraisers acting as arbitrators in ground rent renegotiation to provide information about the rent arbitration process to any person upon request and to require unresolved questions of law to be submitted for judicial relief.

More than half of businesses in the State are on leasehold properties and are subject to periodic rent renegotiation. Those business leases provide that when the lessor and lessee are unable to reach agreement on the ground rent that it would be resolved through binding arbitration. The process provides that only qualified real estate appraisers would serve as arbitrators. This resulted in the appraisers acting as appraiser, lawyer and judge while serving as an arbitrator whose decisions have limited or no grounds for appeal based on errors of either judgment or fact. Act 227 was enacted by the Legislature in 2011 to fully report the appraiser's basis for an award when valuing properties and determining market values or market rents however the appraisers have attempted to circumvent the legislative intent by incorporating confidentiality clauses into many of the arbitration agreements. Legal issues in rent renegotiation matters should not be left to the appraisers to decide on but rather left for a judicial determination if lessors and lessees are unable to reach agreement as those matters have nothing to do with setting values. I believe passage of this bill will improve and protect the process when determining fair market value, fair market rent or fair and reasonable rent as well as protect the interests of the Hawaii consumers.

Please approve SB2938.

Aloha,





Commercial Real Estate - Property Management

February 2, 2012

VIA FACSIMILE 586-6071

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian L. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

**RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
LEASES - HEARING SCHEDULED FOR THURSDAY, 02/09/2012, AT
9:00 A.M., STATE CAPITOL, CONFERENCE ROOM 229**

Dear Honorable Chair Rosalyn Baker, Vice Chair Brian Taniguchi, and Members of the Senate
Committee on Commerce and Consumer Protection:

PETITION:

We support passage of Senate Bill SB2456 which would require Lessors of commercial and industrial properties to afford Lessees the option of renewing their leases at expiration and require in renegotiations that a rent based on fair market value shall apply even if the value is lower than the existing rent and the contract bars the lowering of rent upon renegotiation.

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We urge your approval of this bill.

Print Name

Signature

Address

Jesse Sofos [Signature] 3228 Oahu Avenue
Honolulu, HI 96822

February 3, 2012

VIA FACSIMILE

586-6071

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of the Committee on Commerce and Consumer Protection (CPN)

RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
LEASES - HEARING SCHEDULED FOR THURSDAY, FEBRUARY 9, 2012, AT 9:00 A.M.,
STATE CAPITOL, CONFERENCE ROOM 229

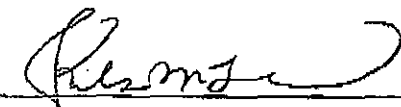
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to renew leases with current tenants and lessees would face extremely high
costs in relocation and reconstruction cost. In either case, the results would
negatively impact the consumer by increased costs of products and services.

Please approve SB2456.

Aloha,


Kelsi M-L Chan

1353 Miloiki St.
Honolulu, HI 96825

2/2/2012

TERESA BRINK WONG

1836 Punahou Street, Honolulu, Hawaii 96822

February 3, 2012

VIA FACSIMILE
586-6071

VIA EMAIL
baker1@capitol.hawaii.gov

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

**RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
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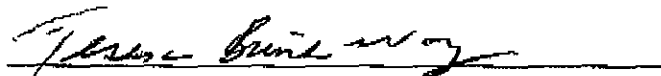
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I urge your approval of this bill.

Please approve SB2456.

Aloha,



DARRYL P. WONG

1835 Punahou Street, Honolulu, Hawaii 96822

February 3, 2012

VIA FACSIMILE
586-6071

VIA EMAIL
baker1@capitol.hawaii.gov

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

**RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
LEASES - HEARING SCHEDULED FOR THURSDAY, 02/09/2012, AT
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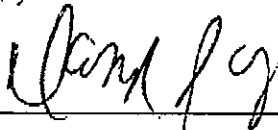
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Please approve SB2456.

Aloha,



JENNA WONG

1836 Punahou Street, Honolulu, Hawaii 96822

February 3, 2012

VIA FACSIMILE
586-6071

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection (CPN)

**RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
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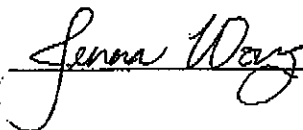
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I urge your approval of this bill.

Aloha,



AUDREY SAKAGUCHI

P. O. Box 240100, Honolulu, Hawaii 96824

February 1, 2012

VIA FACSIMILE
586-6071

VIA EMAIL
baker1@capitol.hawaii.gov

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

**RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
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I urge your approval of this bill.

Please approve SB2456.

Aloha,



GILBERT SAKAGUCHI

P. O. Box 240100, Honolulu, Hawaii 96824

February 1, 2012

VIA FACSIMILE
586-6071

VIA EMAIL
baker1@capitol.hawaii.gov

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

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Please approve SB2456.

Aloha,



February 6, 2012

VIA FACSIMILE
586-6071

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection (CPN)

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commercial and industrial properties to afford Lessees the option of
renewing their leases at expiration and require In renegotiations that a rent
based on fair market value shall apply even if the value is lower than the
existing rent and the contract bars the lowering of rent upon renegotiation.

Hawaii has a very high disproportionate amount of business properties on
leasehold lands with hundreds of leases beginning to expire in the very new
future. If lessors are unwilling to extend leases at reasonable rents, this
could result in closure of many businesses since there is a scarcity of
available and suitable properties available for such businesses to relocate to.
There would be more leases expiring as compared to the number of
available properties such businesses could relocate to. This could also result
in lessors charging exorbitant rents since the lessor is currently not requires
to renew leases with current tenants and lessees would face extremely high
costs in relocation and reconstruction cost. In either case, the results would
negatively impact the consumer by increased costs of products and services.

We urge your approval of this bill.

Print Name	Signature	Address
DAL RHEE	<i>[Signature]</i>	1729 Nalehu Pt. Honolulu 96824
MICHAEL RHEE	<i>[Signature]</i>	11

February 6, 2012

VIA FACSIMILE
586-6071

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection (CPN)

**RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
LEASES - HEARING SCHEDULED FOR THURSDAY, 02/09/2012, AT 9:00AM., AT
STATE CAPITOL, CONFERENCE ROOM 229**

Dear Honorable Chair Rosalyn Baker, Vice Chair Brian Taniguchi, and Members
of the Senate Committee on Commerce and Consumer Protection:

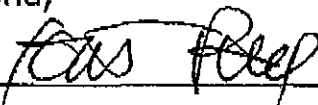
I support passage of Senate Bill SB2456 which would require Lessors of commercial and industrial properties to afford Lessees the option of renewing their leases at expiration and require in renegotiations that a rent based on fair market value shall apply even if the value is lower than the existing rent and the contract bars the lowering of rent upon renegotiation.

The majority of business properties are on on leasehold lands due to scarcity of available fee simple properties. In fact studies show that 60% of businesses are on leasehold properties. Hundreds of leases will expire in the very new future. A number of leases have already expired without the leases being extended. This has resulted in closures of businesses that have provided a valuable commodity to Hawaii consumers for years. Other businesses have had to relocate at much cost due to relocation fees and cost of reconstruction of buildings and other improvements. If lessors are unwilling to extend leases at reasonable rents, this could result in closure of many more businesses since there is a scarcity of available and suitable properties available for such businesses to relocate to. Lessors could demand more rent than they are currently receiving as they know of the scarcity of available land their lessees could relocate to along with the high costs of relocation. Unfortunately this not only affects businesses but also we the consumer because invariably the increased costs are passed on to the consumer by increased costs of products and services.

I urge your approval of this bill.

Please approve SB2456.

Aloha,



Dale Rhee
1729 Nalulu Place
Honolulu, Hawaii 96821

January 31, 2012

VIA FACSIMILE
586-6071

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection (CPN)

RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
LEASES - HEARING ON THURSDAY, FEBRUARY 9, 2012, AT 9:00 A.M.,
STATE CAPITOL, CONFERENCE ROOM 229

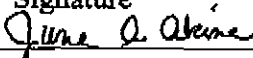

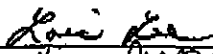

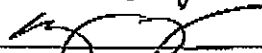



Dear Honorable Chair Rosalyn Baker, Vice Chair Brian Taniguchi, and Members of the Senate
Committee on Commerce and Consumer Protection:

PETITION:

We support passage of Senate Bill SB2456 which would require Lessors of commercial and
industrial properties to afford Lessees the option of renewing their leases at expiration and
require in renegotiations that a rent based on fair market value shall apply even if the value is
lower than the existing rent and the contract bars the lowering of rent upon renegotiation.

Hawaii has a very high disproportionate amount of business properties on leasehold lands with
hundreds of leases beginning to expire in the very new future. If lessors are unwilling to extend
leases at reasonable rents, this could result in closure of many businesses since there is a scarcity
of available and suitable properties available for such businesses to relocate to. There would be
more leases expiring as compared to the number of available properties such businesses could
relocate to. This could also result in lessors charging exorbitant rents since the lessor is currently
not requires to renew leases with current tenants and lessees would face extremely high costs in
relocation and reconstruction cost. In either case, the results would negatively impact the
consumer by increased costs of products and services.

We urge your approval of this bill.

Print Name	Signature	Address
June A AKINA		46-298 Kakuhiwa St. Kaneohe HI 96734
Windy Torres		PO Box 26843 Hon HI 96825
Loi Lee		906 6th Avenue Hon HI 96816
Gail Sugita		1044 12th Ave. Hon HI 96816
Kani Wong		1469 Kanapua Dr. Kailua, HI 96734
Rosalind Moore		3358 ALAHA AVE HON HI 96816
Ross Ison		45501 Makolei St. Kaneohe HI 96744
Foliciano Peralta		2222 Kula Kula Dr HI 96734

NAPUALANI V. WONG

1577 Nehoa Street, Honolulu, Hawaii 96822

January 31, 2012

VIA EMAIL

baker1@capitol.hawaii.gov

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection (CPN)

**RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
LEASES – HEARING ON THURSDAY, FEBRUARY 9, 2012, AT 9:00 A.M.,
STATE CAPITOL, CONFERENCE ROOM 229**

Dear Honorable Chair Rosalyn Baker, Vice Chair Brian Taniguchi, and Members of the Senate Committee on Commerce and Consumer Protection:

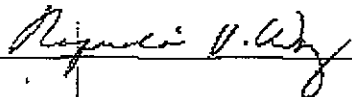
I support passage of Senate Bill SB2456 which would require Lessors of commercial and industrial properties to afford Lessees the option of renewing their leases at expiration and require in renegotiations that a rent based on fair market value shall apply even if the value is lower than the existing rent and the contract bars the lowering of rent upon renegotiation.

The majority of business properties are on on leasehold lands due to scarcity of available fee simple properties. In fact studies show that 60% of businesses are on leasehold properties. Hundreds of leases will expire in the very new future. A number of leases have already expired without the leases being extended. This has resulted in closures of businesses that have provided a valuable commodity to Hawaii consumers for years. Other businesses have had to relocate at much cost due to relocation fees and cost of reconstruction of buildings and other improvements. If lessors are unwilling to extend leases at reasonable rents, this could result in closure of many more businesses since there is a scarcity of available and suitable properties available for such businesses to relocate to. Lessors could demand more rent than they are currently receiving as they know of the scarcity of available land their lessees could relocate to along with the high costs of relocation. Unfortunately this not only affects businesses but also we the consumer because invariably the increased costs are passed on to the consumer by increased costs of products and services.

I urge your approval of this bill.

Please approve SB2456.

Aloha,



JAMES W. Y. WONG

HONOLULU OFFICE
3737 Manoa Road
Honolulu Hawaii 96822
Phone: (808) 946-2966
FAX: (808) 943-3140

ANCHORAGE OFFICE
411 West 4th Avenue, Ste 200
Anchorage, Alaska 99501
Phone: (907) 278-3263
FAX: (907) 222-4852

January 31, 2012

VIA FACSIMILE
886-6071

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of the Senate Committee on Commerce and Consumer Protection (CPN)

RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
LEASES - HEARING ON THURSDAY, FEBRUARY 9, 2012, AT 9:00 A.M.,
SENATE CAPITOL, CONFERENCE ROOM 229

Dear Honorable Chair Rosalyn Baker, Vice Chair Brian Taniguchi, and Members
of the Senate Committee on Commerce and Consumer Protection:

I support passage of Senate Bill SB2456 which would require Lessors of commercial and industrial properties to afford Lessees the option of renewing their leases at expiration and require in renegotiations that a rent based on fair market value shall apply even if the value is lower than the existing rent and the contract bars the lowering of rent upon renegotiation.

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Please approve SB2456.

Aloha,



COLIN LAU
47-695 Hui Ulili St.,
Kaneohe, HI 96744

January 31, 2012

VIA FACSIMILE
586-6071

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Senate Commerce & Consumer Committee

**RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
LEASES - HEARING ON THURSDAY, FEBRUARY 9, 2012, AT 9:00 A.M.,
STATE CAPITOL, CONFERENCE ROOM 229**

Dear Honorable Chair Rosalyn H. Baker, Vice Chair Brian T. Taniguchi, and Members of the Senate Commerce & Consumer Committee:


I support passage of Senate Bill SB2456 which would require Lessors of commercial and industrial properties to afford Lessees the option of renewing their leases at expiration and require in renegotiations that a rent based on fair market value shall apply even if the value is lower than the existing rent and the contract bars the lowering of rent upon renegotiation.

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I urge your approval of this bill.

Please approve SB2456

Thank you,


Colin Lau

February 7, 2012

VIA FACSIMILE 586-6071

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

**RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
LEASES - HEARING SCHEDULED FOR THURSDAY, 02/09/2012, AT 9:00 AM.,
STATE CAPITOL, CONFERENCE ROOM 229**

Dear Honorable Chair Rosalyn Baker, Vice Chair Brian Taniguchi, and
Members of the Senate Committee on Commerce and Consumer Protection:

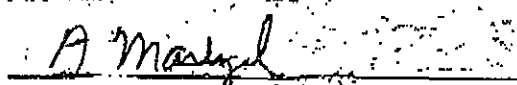
I support passage of Senate Bill SB2456 which would require Lessors of commercial and industrial properties to afford Lessees the option of renewing their leases at expiration and require in renegotiations that a rent based on fair market value shall apply even if the value is lower than the existing rent and the contract bars the lowering of rent upon renegotiation.

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I urge your approval of this bill.

Please approve SB2456.

Aloha,



Anthony Martyak, 520 Lunalilo Home Road, #115, Honolulu, Hawaii 96825

February 7, 2012

VIA FACSIMILE 586-6071

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
LEASES - HEARING SCHEDULED FOR THURSDAY, 02/09/2012, AT 9:00 AM.,
STATE CAPITOL, CONFERENCE ROOM 229

Dear Honorable Chair Rosalyn Baker, Vice Chair Brian Taniguchi and Members
of the Senate Committee on Commerce and Consumer Protection:

PETITION:

We support passage of Senate Bill SB2456 which would require Lessors of commercial and industrial properties to afford Lessees the option of renewing their leases at expiration and require in renegotiations that a rent based on fair market value shall apply even if the value is lower than the existing rent and the contract bars the lowering of rent upon renegotiation.

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We urge your approval of this bill.

Print Name/	Signature	Address
<u>B. Mantyak</u>	<u>Anthony P. Mantyak</u>	<u>520 Lunalilo Home Rd. # 115 96825</u>
<u>Linda L. Mantyak</u>	<u>Linda L. Mantyak</u>	<u>520 Lunalilo Home Rd. # 115 96825</u>

RICHARD HENDERSON

P.O. BOX 655
HILO, HAWAII 96721-0655

February 9, 2012

VIA FACSIMILE
586-6071

Honorable Senator Rosalyn H. Baker, Chair
Honorable Senator Brian T. Taniguchi, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

**RE: TESTIMONY IN SUPPORT OF SENATE BILL SB2456 - RELATING TO
LEASES - HEARING SCHEDULED FOR THURSDAY, 02/09/2012, AT
9:00 A.M., STATE CAPITOL, CONFERENCE ROOM 229**

Dear Honorable Chair Rosalyn Baker, Vice Chair Brian Taniguchi, and Members of the Senate Committee on Commerce and Consumer Protection:

I support the intent of Senate Bill SB2456 which would require Lessors of commercial and industrial properties to afford Lessees the option of renewing their leases at expiration and require in renegotiations that a rent based on fair market value shall apply even if the value is lower than the existing rent and the contract bars the lowering of rent upon renegotiation.

Hawaii has a very high disproportionate amount of business properties on leasehold lands with hundreds of leases beginning to expire in the very near future. If lessors are unwilling to extend leases at reasonable rents, this could result in closure of many businesses since there is a scarcity of available and suitable properties available for such businesses to relocate to. There would be more leases expiring as compared to the number of available properties such businesses could relocate to. This could also result in lessors charging exorbitant rents since the lessor is currently not required to renew leases with current tenants and lessees would face extremely high costs in relocation and reconstruction cost. In either case, the results would negatively impact the consumer by increased costs of products and services.

I urge your approval of this bill.

Aloha,

