

SB2495

**DEPARTMENT OF DESIGN AND CONSTRUCTION
CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 11TH FLOOR
HONOLULU, HAWAII 96813
Phone: (808) 768-8480 • Fax: (808) 768-4567
Web site: www.honolulu.gov

PETER B. CARLISLE
MAYOR



LORI M.K. KAHIKINA, P.E.
DIRECTOR

CHRIS TAKASHIGE, P.E.
DEPUTY DIRECTOR

January 31, 2012

The Honorable Clayton Hee, Chair
and Members
Committee on Judiciary and Labor
State Capitol
Honolulu, Hawaii 96813

Dear Chair Hee and Members:

Subject: Senate Bill No. 2495, Relating to the Penal Code

The Department of Design and Construction (DDC) respectfully offers the following comments on SB 2495. The bill proposes to establish the offense of maintaining a property nuisance as a misdemeanor and also specifies the conditions that constitute maintaining a property nuisance.

DDC has no objection to the general intent of the bill. However, it is strongly recommended that all government construction and maintenance activities, and conditions related to such activities, be exempted from the offense of maintaining a property nuisance.

As written, the offense of maintaining a property nuisance could potentially apply to conditions related to activities at City construction projects. It is noted that §712-___ (1)(a)(iii) exempts storage of construction materials for a construction project with an active building permit. However, many City construction projects do not require a building permit, so a contractor's staging area for road work or utility work, for instance, could potentially be prosecuted as an offense under this bill.

Also, normal operations at many City baseyards, although not operated by DDC, could potentially constitute offenses under this bill.

For these reasons, we respectfully recommend that SB 2495 be amended to exempt conditions related to government construction, maintenance, and operational activities from the offense of maintaining a property nuisance.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lori M. K. Kahikina".

Lori M. K. Kahikina, P.E.
Director

NATHAN T. NATORI
Direct (808) 275-0155
nathan@natorilaw.com

1003 BISHOP STREET #1360
HONOLULU, HAWAII 96813

February 1, 2012

Chair Clayton Hee
Senate Committee on Judiciary and Labor
415 South Beretania Street, Room 407
Honolulu, Hawaii 96813

Re: Senate Bill No. 2495 (Relating to the Penal Code)

Dear Chair Hee:

My name is Nathan Natori and I represent Insurance Auto Auctions (“IAA”), a licensed motor vehicle dealer which handles the sale of damaged and theft-recovered vehicles for the insurance industry. IAA opposes Senate Bill No. 2495 because it would make it a crime for IAA to operate its business at the Campbell Industrial Park.

Salvage Vehicle Auctions

After an accident, if the car is not drivable, the car is typically transported to a repair facility or a towing and storage facility. If an insurance adjuster determines that the vehicle is a total-loss, the vehicle is then transported to a salvage auction where it is stored for some period of time until the proper title is received and the car is sold.

Salvage vehicle auctions and auto dismantling yards play an important role in the lawful disposal of wrecked vehicles. These industries have been providing local employment, consumer service, and environmental conservation for many decades. Salvage auctions and automobile dismantling yards are already subject to rigorous state and local licensing requirements.

Potential Violation Under Senate Bill No. 2495

Because IAA is in the business of selling “totaled” vehicles for the insurance industry, the auction vehicles many times are a mess, and could be considered a visual blight to some.

Section 712- ___1(a)(1) basically provides that a person commits the offense of maintaining a property nuisance if the person stores wrecked motor vehicles and the vehicles can be seen by anyone nearby. This provision would affect businesses such as salvage auctions, body shops, towing and storage facilities, auto recyclers, rental car companies and probably others.



ATTORNEYS

The exception in Section 712-___1(c) does not resolve the problem because while IAA is located in an industrial zone, it is not operating a junk yard or automobile dismantling yard. The author of the bill probably intended this carve out of industrial zoned businesses to apply to the entire proposed new section, but the language of the bill fails to do so as there is no general exemption.

For the reasons described above, **IAA opposes Senate Bill No. 2495 and requests it be held, or at minimum amended as follows:**

On page 4, after line 13 add:

(3) Nothing in this section shall apply to:

(a) an auction that handles the disposition of abandoned, wrecked or dismantled motor vehicles or boats or vessels; or

(b) a person who holds a license in an automotive-related business, which license has been issued by the state or any county or city in the state.

Please feel free to contact me should you have any comments or concerns regarding the above.

Very truly yours,

Natori Law Office LLLC

Nathan T. Natori

**Jeff & Karen
716 Uili Street
Honolulu, Hawaii 96816**

January 31, 2012

The Honorable Clayton Hee, Chairman
Committee on Judiciary and Labor
The Senate
The Twenty-Sixth Legislature Regular Session of 2012

Dear Senator Hee and Committee Members,

RE Testimony in Support of S.B. 2495 Relating to the Penal Code
& S.B. 2496 Relating to Landowner Liability

Please be advised that we wish to testify in support of S.B. 2495 and 2496 as they are designed to address and correct matters of grave concern to us regarding our neighborhood.

As you already know many neglected properties in our neighborhood have blighted the district and are in stark contrast to the valued and well maintained home properties in Kahala. In fact, some properties are so dreadful that if one did not know better, they'd think these properties were abandoned and marked for demolition, just as one would find in an economically devastated city urban renewal project.

Both bills promote improved homeowner and property values; not only for our neighborhood, but all in Hawaii.

Sincerely,

A handwritten signature in black ink that reads "Jeff & Karen Deer". The signature is written in a cursive, flowing style.

Jeff & Karen Deer

hee6 - Dinna

From: Sherrie Seki [sherrieseki@gmail.com]
Sent: Wednesday, February 01, 2012 7:22 AM
To: hee3 - Keiki; hee2 - Nahelani; hee6 - Dinna
Subject: Fwd:

Testimony for thursday.

----- Forwarded message -----

From: Sen. Clayton Hee <senhee@capitol.hawaii.gov>
Date: Wed, Feb 1, 2012 at 6:38 AM
Subject: RE:
To: Nina Reppun Carney <ulala@hawaii.rr.com>, "Sen. Maile Shimabukuro" <senshimabukuro@capitol.hawaii.gov>
Cc: "Sen. Mike Gabbard" <sengabbard@capitol.hawaii.gov>, "Sen. Sam Slom" <senslom@capitol.hawaii.gov>, "Sen. Les Ihara, Jr." <senihara@capitol.hawaii.gov>, "Rep. Barbara Marumoto" <repmarumoto@capitol.hawaii.gov>, "sherrieseki@gmail.com" <sherrieseki@gmail.com>

Thank you for your email. The testimonies shall be forwarded to Committee Clerk Sherrie Seki. Please contact Ms. Seki directly for further communications. Aloha.

clayton hee

From: Nina Reppun Carney [ulala@hawaii.rr.com]
Sent: Tuesday, January 31, 2012 5:35 PM
To: Sen. Clayton Hee; Sen. Maile Shimabukuro
Cc: Sen. Mike Gabbard; Sen. Sam Slom; Sen. Les Ihara, Jr.; Rep. Barbara Marumoto
Subject:

Dear Senators,

Please accept my testimony in support of S.B. 2495 and S.B. 2496 which are scheduled to be heard by JDL on Thursday, February 2nd at 9:30am in conference room 016.

SB 2495<http://www.capitol.hawaii.gov/session2012/Bills/SB2495_.pdf> RELATING TO THE PENAL CODE.

Establishes the offense of maintaining a property nuisance as a misdemeanor. Specifies conditions that constitute maintaining a property nuisance.

SB 2496<http://www.capitol.hawaii.gov/session2012/Bills/SB2496_.pdf> RELATING TO LANDOWNER LIABILITY.

Creates a cause of action against any person who maintains a property nuisance that causes injury or damage to the person or property of another person.

Aloha,

Nina Reppun Carney, President

Kahala Community Association

president@kahalacommunity.org<<mailto:president@kahalacommunity.org>>

734-8108

Fax to Rep Barbara Marumoto 586 6311

1/30/12

In Support of SB2495 and SB2496

We have lived in Waialae Kahala for over fifty years. In recent years there has been an increase in home owners or renters who fail to maintain their property in a presentable manner or use the property to repair or work on vehicles or boats in their front yards for extended periods of time – month after month. We certainly support SB2495 and 2496.

Doris and Merle Crow 752 Onaha Street

DC

Dear Committee on Judiciary and Labor,

I am Richard Turbin and testifying in support of SB 2495 and SB 2496. I plan to be present to testify in person at the hearing to be held on Thursday, February 2, 2012 at 9:30 A.M. Thus, I will save some of the points I would like to make for the hearing. In the past I have been Chair of the Waiialae-Kahala Neighborhood Board and am still an officer of that Board. I have also served as Interim President of the Kahala Community Association. I mention that because I am quite familiar with the issues which SB 2495 and SB 2496 relate to. However, I am testifying as a private individual and citizen of the State of Hawaii and not for the above organizations.

I believe that it is extremely important to enact SB 2495 and SB 2496 because there must be an effective mechanism to protect our neighborhoods and state from individual investors who come into our neighborhoods and purchase large blocks of property for the purpose of blighting the neighborhood. This is a practice called block busting and the goal is to lower the overall property values which makes it easier for the investor to buy up the neighborhoods at a lower price, than to blight the neighborhood and then change the zoning and then do what he wants which might include turning what was once a beautiful residential neighborhood into a factory zone, a garbage dump or a new hotel district. The point is we do not know what the exact goal of the investor is but in any event the near term result is the blighting of what was once one of the most beautiful neighborhoods in the entire Asia/Pacific region.

Kahala is not only an important community for its residents but it is an important asset for the entire State of Hawaii. It is a premier tourist site as well as the locale for important statewide events such as the Sony Open and the Honolulu Marathon which brings in millions of dollars for the entire State of Hawaii. Its beaches are enjoyed by all of our citizens. We must not allow Kahala to be blighted and SB 2495 and SB 2496 will help give us the tools to protect and preserve Kahala. Thank you for considering my testimony.

With sincere aloha,
Richard Turbin

To: Committee on Judiciary and Labor

Sen. Clayton Hee, Chair, Sen. Maile Shimabukuro, Vice Chair

SB 2495

I write in favor of SB 2495.

As a member of Neighborhood Board #3 Waiialae-Kahala, and currently its Chair, I can assure the committee that this subject is a large part of meeting agenda.

Unless a system is in place to confront irresponsible property owners with a true penalty this type of matter will never be resolved.

Thank you for your consideration.

F.M. Scotty Anderson
2435 Aha Aina Place
Honolulu, Hi 96821
808-306-5697

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: sjfhawaii@gmail.com
Subject: Testimony for SB2495 on 2/2/2012 9:30:00 AM
Date: Wednesday, February 01, 2012 7:04:14 AM

Testimony for JDL 2/2/2012 9:30:00 AM SB2495

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: Stan Fichtman
Organization: Individual
E-mail: sjfhawaii@gmail.com
Submitted on: 2/1/2012

Comments:

I would like to state my strong support for SB 2495, relate to enhancing the penal code to include property nuisance as an offence, which could be prosecuted as a misdemeanor.

My background on this issue includes being a life-long Hawaii resident whom has both lived next to a property described in this bill as well as addressing various concerns in the Kahala neighborhoods on nuisance properties. In both cases, current law at both the County and State levels are ineffective in helping persuade landowners that their properties need to be cleaned up "or else". Typically landowners, knowing the current laws have very little bite, flaunt the rules and continue to maintain properties poorly which affect the whole neighborhood, not just the affected property.

Bills like this, upon passage, will give all landowners comfort in knowing that their neighbor can be punished for poorly maintaining their property. This in turn will give confidence to both current landowners and future homeowners that their property value will not be adversely affected by home or land owners who intentionally let their properties deteriorate.

Thank you for this opportunity to present testimony in support of SB 2495.