

SB2938

Measure Title: RELATING TO REAL ESTATE APPRAISERS.

Report Title: Real Estate Appraisers; Arbitration

Description: Requires real estate appraisers acting as arbitrators to provide information about the arbitration proceedings to any person upon request. Requires unresolved questions of law to be submitted for judicial relief.

Companion:

Package: None

Current Referral: CPN, JDL

Introducer(s): CHUN OAKLAND

<u>Sort by Date</u>		Status Text
1/25/2012	S	Introduced.
1/25/2012	S	Passed First Reading.
1/27/2012	S	Referred to CPN, JDL.
1/31/2012	S	The committee(s) on CPN has scheduled a public hearing on 02-10-12 9:00AM in conference room 229.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

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

**Friday, February 10, 2012
9:00 AM
State Capitol, Conference Room 229**

**In consideration of
SENATE BILL 2938
RELATING TO REAL ESTATE APPRAISERS**

Senate Bill 2938 would allow parties in a rental reopening arbitration to submit disputed legal issues to the courts for determination, and would require arbitrators to make information about an arbitration proceeding available to any person who requested it. The Department of Land and Natural Resources (Department) opposes this bill.

Senate Bill 2938 has the potential to undermine the arbitration system established under Chapter 658A, Hawaii Revised Statutes (HRS). The bill would amend Chapter 466K, HRS, by adding a provision to the effect that if the parties to an arbitration fail to reach agreement on any legal issue necessary to the determination of fair market value, fair market rent, or fair and reasonable rent, the issue shall be submitted for judicial determination pursuant to Section 658A-5, HRS.

In the dispute resolution process, the dividing line between legal issues and factual issues is often blurred. The trier-of-fact must frequently resolve mixed questions of law and fact. Under the bill as drafted, a disgruntled party will likely be able to find a way to present almost any disputed issue as a legal issue that must be submitted for judicial determination. This is especially likely in an appraisal situation where various appraisal methodologies are often at issue. Arbitration was developed as a means of taking cases out of the judicial system for a quicker and more cost-effective resolution, and to relieve the burden on the courts. If this bill is passed, the whole intent of the alternative dispute resolution process of arbitration could be undermined with the courts being asked to resolve disputed "legal issues" that arise in the proceedings.

The bill would also require a real estate appraiser licensed under Chapter 466K, HRS, to make information regarding an arbitration proceeding available to any party or stranger to the dispute, whoever in the world requests it. The bill says nothing about who is to pay for the administrative time and documentary or electronic duplication services required to make the information

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

available. If not paid for by the requester, the cost will be passed on to the arbitrating parties including the State. That is not acceptable. At worst, imposing such an obligation on arbitrators will deter qualified appraisers from seeking to serve as arbitrators.

For the reasons stated above, the Department opposes Senate Bill 2938 and asks that it be deferred indefinitely.



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

KEALI'I S. LOPEZ
DIRECTOR

**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

**TO THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION**

**TWENTY-SIXTH LEGISLATURE
Regular Session of 2012**

Friday, February 10, 2012
9:00 a.m.

**TESTIMONY ON SENATE BILL NO. 2938, RELATING TO REAL ESTATE
APPRAISERS.**

**TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:**

My name is Alan Taniguchi, Executive Officer for the Real Estate Appraiser Program, Professional and Vocational Licensing Division ("PVLD") of the Department of Commerce and Consumer Affairs ("Department"). Thank you for the opportunity to present testimony on Senate Bill No. 2938, Relating to Real Estate Appraisers. The Department opposes this bill.

This bill seeks to require real estate appraisers acting as arbitrators to provide information about the arbitration proceedings to any person upon request and requires unresolved questions of law to be submitted for judicial relief.

Act 227, Session Laws of Hawaii 2011, requires appraisers in arbitration proceedings to certify compliance with the most current Uniform Standards of Professional Appraisal Practice ("USPAP"). This bill appears to be in conflict with USPAP's Ethics Rule relating to confidentiality and is stated as follows:

1. An appraiser must protect the confidential nature of the appraiser-client relationship.
2. An appraiser must act in good faith with regard to the legitimate interests of the client in the use of confidential information and in the communication of assignment results.
3. An appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations applicable in an assignment.
4. An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than:
 - a. the client;
 - b. persons specifically authorized by the client;
 - c. state appraiser regulatory agencies;
 - d. third parties as may be authorized by due process of law;
 - e. a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation.

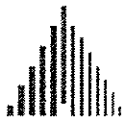
Section (b) on Pages 5 - 6, lines 16-22 and 1-3, would require judicial relief if the parties fail to reach agreement on any legal issue necessary to determine the fair

Testimony on Senate Bill No. 2938
Friday, February 10, 2012
Page 3

market value. However, the sole purpose of arbitration is to avoid judicial relief and its time and expense. This amendment would allow a disgruntled party to seek judicial relief despite agreeing to resolve the matter through arbitration.

For these reasons the Department believes these amendments are not necessary.

Thank you for the opportunity to testify and we ask that this bill be held.



**Appraisal
Institute™**

*Professionals Providing
Real Estate Solutions*

Hawaii Chapter

P.O. Box 2774
Honolulu, HI 96803
T 808-845-4994
F 808-847-6575
Email: hkcorp2@hawaiiantel.net
www.ai-hawaii.org

February 9, 2012

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair
Committee on Commerce and Consumer Protection
Ted Yamamura, Government Relations Chair
The Hawaii Chapter of the Appraisal Institute
(808) 270-0604
Friday, February 10, 2012

Testimony against SB 2938, Relating to Real Estate Appraisers

The Hawaii Chapter of the Appraisal Institute is part of an international organization of professional real estate appraisers with nearly 26,000 members and 91 chapters throughout the world. Its mission is to advance professionalism and ethics, global standards, methodologies, and practices through the professional development of property economics worldwide.

We speak against SB 2938, Relating to Real Estate Appraisers, which proposes to amend Chapter 466K, Hawaii Revised Statutes, by adding a new section regarding arbitration, non-confidentiality and judicial relief.

The language on Page 4 of SB 2938, Line 4 to Line 15 states as follows:

"Act 227, Session Laws of Hawaii 2011, addressed this problem by requiring appraisers acting as arbitrators to fully report the basis for an award and to comply with nationally accepted Uniform Standards of Professional Appraisal Practice standards when valuing properties and determining market value or market rent. Since the passage of Act 227, confidentiality clauses have been incorporated into many of the agreements that govern individual arbitration panels. Inclusion of these confidentiality clauses frustrates the legislature's intent in enacting Act 227 and works to the exclusive advantage of lessors and appraisers, particularly businesses that operate on leasehold land. The legislature finds that all information necessary to accurately determine a market value should be available to all interested participants in the market."

The language in this Bill contradicts Act 227 which was passed by this legislature last session. Act 227 requires appraiser-arbitrators to comply with the Uniform Standards of Professional Appraisal Practice (USPAP).

The **Ethics Rule, Confidentiality Section** of the 2012-2013 Edition of the Uniform Standards of Professional Appraisal Practice (USPAP) (<http://www.appraisalfoundation.org/>) states as follows:

Confidentiality:

An appraiser must protect the confidential nature of the appraiser-client relationship.

An appraiser must act in good faith with regard to the legitimate interests of the client in the use of confidential information and in the communication of assignment results.

An appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations applicable in an assignment.

An appraiser must not disclose: (1) confidential information; or (2) assignment results to anyone other than:

- the client;
- persons specifically authorized by the client;
- state appraiser regulatory agencies;
- third parties as may be authorized by due process of law; or
- a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation.

A member of a duly authorized professional peer review committee must not disclose confidential information presented to the committee.

We submit that this bill is unnecessary and attempts to mandate appraiser-arbitrators to violate the Confidentiality provisions of USPAP.

We urge the Committee to deny the passage of SB 2938. Thank you for this opportunity to testify.


Ted Yamamura
Government Relations Chair

McCully Works

40 Kamehameha Ave.
Hilo, Hi. 96720

February 7, 2012

IN SUPPORT – SB-2938 Relating to Real Estate Appraisal and Arbitration

Committee on Commerce and Consumer Protection
Honorable Sen. Rosalyn Baker, Chair
Honorable Sen. Brian T. Taniguchi, Vice Chair

I am in full support of SB – 2938, an important improvement in the way arbitrations can and should be conducted in the State of Hawaii when performed by licensed or qualified real estate appraisers. As a lessee of ground leases with both private landowners and the State of Hawaii I have become familiar with both the inefficiencies, and frequently the unfairness, of the process of resetting lease rents during the term of the lease.

In 2011 the Hawaii State Legislature enacted Act 227, which addressed long-standing problems in the appraisal and arbitration process that controls the valuing of commercial leasehold properties in the State of Hawaii. This statutory reform was deemed important to both improve the economy and protect the consumers. One important component of this Act requires a complete report and award, to inform and benefit all interested parties when ground lease values are decided through the arbitration process. How and why real estate appraisers come to their conclusions regarding the value of leasehold properties has long been a contentious issue for lessees in the State. The reason for this is that lessee's are contractually bound to the lease on a long-term basis, they have no right to "walk away", which is a key component in a normal market transaction. Thus, the commercial leasehold market has shown dramatic increases in land valuation even during recessions, and the rate of return that the lessors have imposed on the lessees bares no relation to other financial markets, risk based returns, or common sense.

The modification of HRS466k was enacted in order to help address these problems. These reforms will only be effective if they are not subverted by confidentiality clauses. This would be a significant harm to the consumers in the State, and negates the potential positive effects that the modified HRS466k may have over time. Please do not allow confidentiality clauses to restrict the value of these reforms.

A significant problem in real estate appraisers serving as arbitrators in setting lease rents is that the courts have placed great power with the arbitrators in constructing the terms of the lease contracts. However, there is a provision, HRS658A-5 *, that allows the parties in an arbitration to seek judicial relief if there is a disagreement over legal issues. In this instance the legal interpretations of various terms and clauses in the contract. SB2938 seeks to clarify that the state licensed or qualified appraiser will expect the parties to the arbitration to clarify or resolve their differences prior to submitting the matter to them for arbitration. This is an important improvement for the parties in that the contract terms or

clauses that are in dispute will be resolved by an individual who is trained and experienced in matters of the law.

SB 2938 is another important step in resolving long standing problems that are imposing significant burdens and expenses on both small business and the consumers in the State of Hawaii. Please support this bill.

Aloha,

«GreetingLine»

* **[§658A-5] Application for judicial relief.** (a) Except as otherwise provided in section 658A-28, an application for judicial relief under this chapter shall be made by motion to the court and heard in the manner provided by law or rule of court for making and hearing motions.

(b) Unless a civil action involving the agreement to arbitrate is pending, notice of an initial motion to the court under this chapter shall be served in the manner provided by law for the service of a summons in a civil action. Otherwise, notice of the motion shall be given in the manner provided by law or rule of court for serving motions in pending cases. [L 2001, c 265, pt of §1]

Testimony for CPN 2/10/2012 9:00:00 AM SB2938

Conference room: 229

Testifier position: Oppose

Testifier will be present: No

Submitted by: John J. Mulligan

Organization: Appraisal Institute

E-mail: maac@maui.net

Submitted on: 2/9/2012

Comments:

RICHARD HENDERSON

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

February 8, 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 SB2938 - RELATING TO REAL ESTATE APPRAISERS – HEARING SCHEDULED FOR FRIDAY, 02/10/2012, AT 9:00 A.M., STATE CAPITOL, CONFERENCE ROOM 229

Dear 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.

On the Island of Hawaii most of the businesses are on land leased from large private land owners, Hawaiian Homes and the State of Hawaii and after a fixed term are subject to periodic rent renegotiation. The 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 the lawyer, judge and juror while serving as an arbitrator and 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 we now find that 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 but rather left for a judicial determination if lessors and lessees are unable to reach agreement as those matters that 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,



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 SB2938 - RELATING TO
REAL ESTATE APPRAISERS - HEARING SCHEDULED FOR FRIDAY,
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as arbitrators in ground rent renegotiation to provide information about the rent
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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
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market value, fair market rent or fair and reasonable rent as well as protect the interests of
the Hawaii consumers.

Please approve SB2938.

Aloha,



Martin Lee, 2206 University Avenue, Honolulu, Hawaii 96822

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

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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 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.

We urge your approval of this bill.

Print Name

ROSALYN VICENTE

Signature

[Handwritten Signature]

Address

1903 Kihuna St, Ha, HI 96824

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

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We urge your approval of this bill.

Print Name	Signature	Address
A. Martynak	Anthony Martynak	520 Kunalilo Home Rd. #115 96825
Linda L Martynak	Linda L Martynak	520 Kunalilo Home Rd. #115 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 SB2938 - RELATING TO
REAL ESTATE APPRAISERS - HEARING SCHEDULED FOR FRIDAY, 02/10/2012
AT 9:00 AM., STATE CAPITOL, CONFERENCE ROOM 229**

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Members of the Senate Committee on Commerce and Consumer Protection:

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Please approve SB2938.

Aloha,



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

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 SB2938 - RELATING TO REAL ESTATE APPRAISERS – HEARING SCHEDULED FOR FRIDAY, 02/10/2012, AT 9:00 A.M., STATE CAPITOL, CONFERENCE ROOM 229

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Please approve SB2938.

Aloha



Linda Tom, 1469 Kanapuu Drive, Kailua, Hawaii 96734

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 SB2938 - RELATING TO REAL ESTATE APPRAISERS – HEARING SCHEDULED FOR FRIDAY, 02/10/2012, AT 9:00 A.M., STATE CAPITOL, CONFERENCE ROOM 229

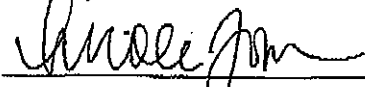
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Please approve SB2938.

Aloha,



Nicole 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 SB2938 - RELATING TO
REAL ESTATE APPRAISERS - HEARING SCHEDULED FOR FRIDAY, 02/10/2012, AT
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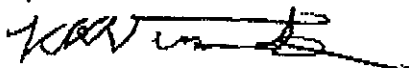
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Please approve SB2938.

Aloha,



1908 KIKI ST.

HON. 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 SB2938 - RELATING TO REAL ESTATE APPRAISERS - HEARING SCHEDULED FOR FRIDAY, 02/10/2012, AT 9:00 AM., STATE CAPITOL, CONFERENCE ROOM 229


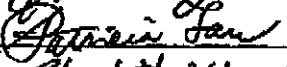

Dear Honorable Chair Rosalyn Baker, Vice Chair Brian Taniguchi, and Members of the Senate Committee on Commerce and Consumer Protection:

PETITION:

We support passage of Senate Bill 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.

We urge your approval of this bill.

Print Name	Signature	Address
DONALD LAN		535 PARKER ST., HONOLULU, HI 96814
PATRICIA LAN		535 PARKER ST., HONOLULU, HI 96814
CHARLOTTE WONG		535 PARKER ST., HONOLULU, HI 96814

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 SB2938 - RELATING TO
REAL ESTATE APPRAISERS - HEARING DATE: FRIDAY, 02/10/2012,
9:00 AM., STATE CAPITOL, CONFERENCE ROOM 229**

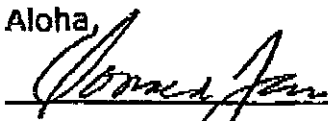
Dear Honorable Chair Rosalyn Baker, Vice Chair Brian Taniguchi, and
Members of the Senate Committee on Commerce and Consumer Protection:

I support passage of Senate Bill 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,



Donald Lau, 535 Paikau Street, Honolulu, Hawaii 96816

RITCHIE HENDERSON
16 HALE NANI PLACE
HILO HAWAII 96720-3906

February 2, 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 SB2938 - RELATING TO REAL ESTATE APPRAISERS - HEARING SCHEDULED FOR FRIDAY, 02/10/2012, AT 9:00 A.M., STATE CAPITOL, CONFERENCE ROOM 229

Dear 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.

Many businesses in the State are operated on leasehold properties and are therefore 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. A process resulting in the appraisers acting as appraiser, lawyer and judge while serving as an impartial unbiased arbitrator (jury) 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, 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



Ritchie Henderson

February 6, 2012

VIA FACSIMILE
586-6071

VIA EMAIL

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 SB2938 - RELATING TO REAL ESTATE APPRAISERS - HEARING SCHEDULED FOR FRIDAY, FEBRUARY 10, 2012, AT 9:00AM., 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 (CPN):

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,


Dale Rhee, 1/29 Nalulu Place, Honolulu, HI 96821

GILBERT SAKAGUCHI

P. O. Box 240100, Honolulu, Hawaii 96824

February 2, 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 SB2938 - RELATING TO REAL ESTATE APPRAISERS – HEARING SCHEDULED FOR FRIDAY, 02/10/2012, AT 9:00 A.M., STATE CAPITOL, CONFERENCE ROOM 229

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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,

AUDREY SAKAGUCHI

P. O. Box 240100, Honolulu, Hawaii 96824

February 2, 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 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:

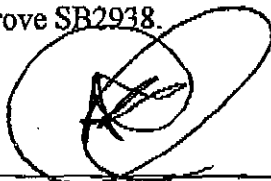
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The majority of Hawaii commercial and industrial businesses are on leasehold properties whose ground rents are subject to periodic rent renegotiation. When the lessor and lessee are unable to reach agreement on the ground rent, their leases require that the rents would be resolved through binding arbitration. The process provides that only qualified real estate appraisers would serve as arbitrators. This results 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 also 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 of values. 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.

I urge your approval of this bill.

Please approve SB2938.

Aloha,



DARRYL P. 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 SB2938 - RELATING TO REAL ESTATE APPRAISERS -- HEARING SCHEDULED FOR FRIDAY, 02/10/2012, AT 9:00 A.M., STATE CAPITOL, CONFERENCE ROOM 229

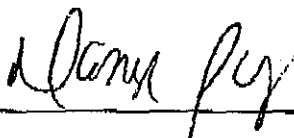
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I support passage of Senate Bill SB2938 which would require real estate appraisers acting as arbitrators in ground rent renegotiation to provide information about the rent arbitration process to any person upon request and to require unresolved questions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



JENNA 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 SB2938 - RELATING TO REAL ESTATE APPRAISERS – HEARING SCHEDULED FOR FRIDAY, 02/10/2012, AT 9:00 A.M., STATE CAPITOL, CONFERENCE ROOM 229

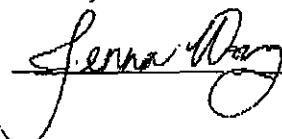
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I urge your approval of this bill.

Aloha,



H:\data\cl\bct45\LA577

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

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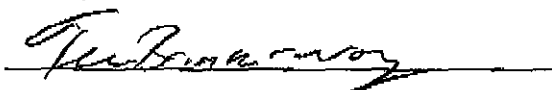
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I urge your approval of this bill.

Please approve SB2938.

Aloha,



February 2, 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 SB2938 - RELATING TO REAL ESTATE APPRAISERS – HEARING SCHEDULED FOR FRIDAY, 02/10/2012, AT 9:00 A.M., STATE CAPITOL, CONFERENCE ROOM 229

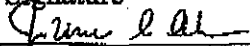
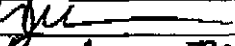

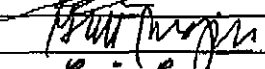
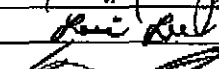
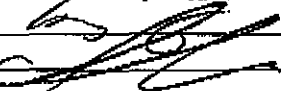

Dear Honorable Chair Rosalyn Baker, Vice Chair Brian Taniguchi, and Members of the Senate Committee on Commerce and Consumer Protection:

PETITION:

We 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.

We urge your approval of this bill.

Print Name	Signature	Address
Juan A. Alcala		46-298 Kahukupu St. Kaneohe 96744
Mish Torres		PO Box 75843 HNL 96825
ROSALIND MOORE	Rosalind Moore	3358 ALBERTA AVE HON. HI 96826
Kass Goss		485507 Nalukhai St. Kaneohe HI 96744
WILL SUGITA		10111 DM Bldg. Bldg. Bldg. Aloha
Lori Lee		906 6th Avenue Honolulu, HI 96816
Kass Wong		1469 Kamehameha Dr, Keolu, HI 96734
Richard P. ...		7200 Kalia Rd Honolulu HI 96825



Commercial Brokerage + Property Management

February 2, 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

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PETITION:

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We urge your approval of this bill.

Print Name

Signature

Address

Steven Sofos

3228 Alhambra Ave

Honolulu, 96822

NAPUALANI V. WONG

1577 Nehoa Street, Honolulu, Hawaii 96822

February 2, 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 SB2938 - RELATING TO REAL ESTATE APPRAISERS - HEARING SCHEDULED FOR FRIDAY, 02/10/2012, AT 9:00 A.M., STATE CAPITOL, CONFERENCE ROOM 229

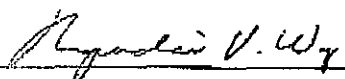
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I urge your approval of this bill.

Aloha,



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

February 2, 2012

VIA FACSIMILE 586-6071

VIA EMAIL

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 SB2938 - RELATING TO REAL ESTATE APPRAISERS
HEARING DATE: February 10, 2012 -- 9:00am, Conf. Rm. #229

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


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I urge your approval of this bill.

Please approve SB2938.

Thank you,



Colin Lau

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

February 2, 2012

VIA FACSIMILE
586-6071

VIA EMAIL

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**

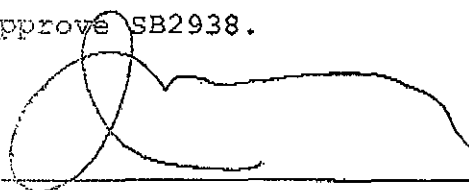
Dear Honorable Chair Rosalyn Baker, Vice Chair Brian Taniguchi, and
Members of the Senate Committee on Commerce and Consumer Protection:

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,



February 2, 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 SB2938 - RELATING TO REAL ESTATE APPRAISERS – HEARING SCHEDULED FOR FRIDAY, 02/10/2012, AT 9:00 A.M., STATE CAPITOL, CONFERENCE ROOM 229

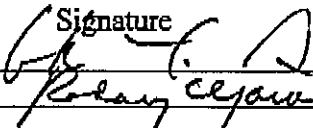
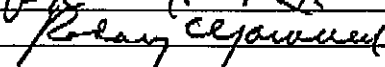
Dear Honorable Chair Rosalyn Baker, Vice Chair Brian Taniguchi, and Members of the Senate Committee on Commerce and Consumer Protection:

PETITION:

We 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.

We urge your approval of this bill.

Print Name	Signature	Address
OK TAEK SIM		1624 KAHUNA ST #402
Rodney Yamamoto		3228 NINAM AVE