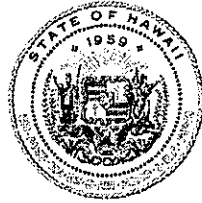
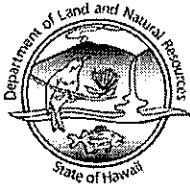


NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**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  
WATER, LAND, AND HOUSING**

**Thursday, February 3, 2011  
1:15 PM  
State Capitol, Conference Room 225**

**In consideration of  
SENATE BILL 977  
RELATING TO APPRAISALS**

Senate Bill 977 requires that the record of an arbitration award determining fair market value or rental of real property include findings of fact, rationale, and a basis for the award. The Department of Land and Natural Resources (Department) opposes this measure.

The Department believes that the subject additions to Chapter 658A, Hawaii Revised Statutes, would dramatically escalate the costs for parties subjecting real estate appraisal valuations to arbitration without necessarily providing a corresponding benefit. Arbitration is customarily viewed as an alternative means to dispute resolution that is less costly, less contentious, and less time-consuming than litigation. The subject bill would effectively escalate the dispute resolution process to something very akin to litigation. Under present law, an arbitration may already involve multiple hearings, the presentation of evidence and the testimony of witnesses. In practice, the parties to an arbitration very often volunteer to forgo these litigation-like aspects in the interest of resolving the dispute with a minimum of expense, time, and argument. The subject bill, by requiring the specification of findings of facts, rationales, evidence, data, methodologies, and analysis, effectively escalates the tasks of the arbitrators to the preparation of a legal brief justifying their conclusions.

Senate Bill 977 effectively serves the interests of a minority at the expense of the majority. The majority of our citizens see arbitration as an alternative to litigation. They should not be told that the requirements of arbitration are now akin to litigation, with a concomitant increase in expense, time, and stress for all parties involved. When they sought, generally by contract, to have their real estate disputes resolved by arbitration, they were bargaining for a simpler, less costly alternative than resorting to legal process. In contrast, a minority of our citizens enter into real estate agreements that specify that disputes will be resolved by arbitration. Depending on the magnitude of the dispute and the amount of money involved, this minority is sometimes not

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

GUY H. KAULUKUKUI  
FIRST DEPUTY

WILLIAM M. TAM  
INTERIM 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

comfortable with the binding nature of arbitration and the very limited opportunities to vacate the arbitration award through recourse to the courts. They would prefer to retain the option to appeal the results of the arbitration to a higher authority, despite not bargaining for this when they entered into the contract. Senate Bill 977 serves this minority, because by mandating that every arbitration award include findings of fact, rationales, data, methodologies and analysis, they vastly increase the opportunities to find fault with the process and to vacate the binding nature of arbitration.

It is exceedingly clear to the Department that the requirements of Senate Bill 977 will not be well-received by the professional appraisal community. In speaking with appraisers, we have found no appraiser who supports the additional requirements placed upon the arbitration process by Senate Bill 977. Under current law, arbitrators enjoy arbitral immunity, but the subject bill increases the likelihood that an arbitrator may lose that immunity. For context, in fiscal year 2010 to 2011, our Land Division had sixteen qualified appraisers on its professional services list. In an average fiscal year, Land Division will request appraisals for 75 to 100 real estate dispositions, the majority being lease reopenings and easements (each subject to arbitration) and 5-10 of which are remnant sales (not subject to arbitration.) For each appraisal job, Land Division will fax requests for proposals to all sixteen qualified appraisers. On average, only four appraisers will respond with a quotation. In other words, under current law, 75% of the qualified appraisers will not bother to bid on our real estate appraisals, apparently because they already have plenty of work. In the event that Senate Bill 977 becomes law, we expect that the response rate of 25% will go even lower because of the additional onerous requirements that must be met in the event their appraisal is subjected to arbitration.

# CITIZENS FOR FAIR VALUATION

841 Bishop Street, Suite 1500  
Honolulu, HI 96813

ROBERT M. CREPS, PRESIDENT  
CAROL LAM, VICE PRESIDENT  
CONNIE SMALES, SECRETARY  
PHILLIP J. SILICH, TREASURER

CULLY JUDD, DIRECTOR  
OSWALD STENDER, DIRECTOR  
MICHAEL STEINER, EXEC. DIRECTOR

February 1, 2011

Honorable Senator Donovan M. Dela Cruz, Chair  
Honorable Senator Malama Solomon, Vice-Chair  
Distinguished Members of the Committee on Water, Land and Housing  
Committee on Water, Land and Housing

**RE: Testimony in Support of SB 977 – Relating to Appraisal  
Hearing: Feb 2, 2011, 1:15 p.m., Room 225**

Dear Senators Dela Cruz, Solomon and Members of the Committee,

My name is Michael Steiner and I am the Executive Director of Citizens for Fair Valuation (CFV), a non-profit coalition of lessees. I support passage of Senate Bill 977 which would require commercial appraisers, when sitting on an arbitration panel to set fair market value or rents, to produce a written reasoned report that supports and explains their decision and provides rationale, including the data, methodologies, and analysis, for the award.

This report would supply all interested parties (buyers, sellers, lessors, lessees, investors, banks, etc.) with valuable information upon which more informed decisions can be based. Businesses like predictability and having rationale reports would provide a key component to making future decisions regarding lease options.

Appraisers will complain that a reasoned report will add cost to the arbitration process. While perhaps somewhat true, with current arbitrations proceeding costing \$50,000 to \$75,000 or more, CFV members indicate that the additional hour or two of appraiser time for a reasoned report would be worth the expense.

Clarity, transparency and openness will add great value to the parties in commercial rent arbitrations. Over time, a history of reasoned reports will create a "book of knowledge" from which interested parties, banks, brokers and other appraisers can draw information to assist in the decision making process and provide a level of predictability business needs in order to properly plan and allocate resources.

The appraisal community should not keep this data a secret any longer and SB 977 is the vehicle to make this happen.

Thank you for your support.

*Michael Steiner*

Michael Steiner  
Executive Director  
Citizens for Fair Valuation  
Telephone: (808) 221-5955  
Email: [MSteiner@SteinerAssoc.com](mailto:MSteiner@SteinerAssoc.com)  
Web Site: [www.FairValuation.org](http://www.FairValuation.org)



Ocean Tourism Coalition

*The Voice for Hawaii's Ocean Tourism Industry*  
1188 Bishop St., Ste. 1003  
Honolulu, HI 96813-3304  
(808) 537-4308 Phone (808) 533-2739 Fax  
timlyons@hawaiiantel.net

Testimony to the Senate WLH Committee  
Thursday, February 3, 2011; 1:15 p.m.  
Conference Room 225

Speaking in Support

RE: SB 977

Chair Senator Dela Cruz, Vice Chair Senator Solomon and Members of the  
Water, Land, Housing Committee:

My name is James E. Coon, President of the Ocean Tourism Coalition.  
The OTC represents over 300 small ocean tourism businesses state wide. We  
appreciate the efforts being made by the Legislature in addressing the need for  
a reasonable method to resolve appraisal disputes.

We believe this bill will go a long way in helping to resolve this issue.

Please pass this bill which will help provide some legal guidelines and security  
for disputed appraisals.

Thank you for the opportunity to submit testimony. If you have any questions,  
please contact me at 808-870-9115.

Sincerely,

James E. Coon, President

**CENTRAL PARK COMMUNITY ASSOCIATION  
99-1046 IWAENA STREET  
AIEA, HAWAII 96701**

February 2, 2011

Senator Donovan M. Dela Cruz, Chair  
Senator Malama Solomon, Vice-Chair  
Members of the Committee on Water, Land and Housing  
Committee on Water, Land, and Housing

RE: SB 977-Relaing to Appraisal-Testimony in Support  
Hearing Date: February 3, 2011, 1:15 PM, Room 225

Dear Senators Dela Cruz, Solomon and Members of the Committee,

My name is William S. Alexander and I am the President of Central Park Community Association (CPCA) in Halawa Valley on Oahu. I am writing to you to express strong support for passage of Senate Bill SB 977 which would require appraisers of commercial property when sitting on an arbitration panel to determine fair market value, fair market rental or fair and reasonable rent for commercial property, to provide a written and reasoned report to support their decision.

CPCA was formed in 1982 and is an association of businesses that operate in Central Park, Halawa Valley and are land lessees in that Park. Our members and their sub-tenants employ hundreds of individuals and most members are small businesses as are their tenants.

As businesses and lessees we are acutely aware of the critical role land rent plays in the survival and success of our businesses. SB 977 should help both lessor and lessee of commercial/industrial land in understanding the process for setting new land rent by creating an open and transparent process when appraisers are arbitrating new rent. Given the dominance of only seven land owners in the ownership of such land in Hawaii, law such as SB 977 is needed to help keep excessive land rent increases from destroying many small businesses in the State and saving the jobs of their thousands of employees.

The market for such land is very limited in Hawaii as the seven large land owners do not wish to sell thus creating an artificial scarcity which leads to high land valuations which are not economically justified. Land rent needs to fair and reasonable if Hawaii is to continue to be economically successful. Excessive land rent destroys businesses and constantly drains Hawaii businesses of working capital and sends much of the rent collected out of the State to the further detriment of our economy.

Most of our industrial areas are rundown and not great places to operate a business. Lessees often can't afford to maintain their buildings and improvements due to high land

rent. Such conditions lead to lower productivity and higher costs in the long run. SB 977 is a small step in the right direction to improve this situation.

CPCA's lessees are in the process of negotiating/arbitrating new land rent with Kamehameha Schools and Queen Emma Land Company for the first time in thirty years since the start of our leases. The trusts have offered rent based on land value in the \$66 per square foot range or higher. Lessees have obtained appraisals from \$37 to \$48 in land value. Why is there such a wide variance? At present, appraiser arbitrators do not make any information available when they render a decision on new land rent. Awards simply state the amount of new rent. This leaves both the lessor and the lessee in the dark as to the rationale behind the award and what values were used in the determination and how they were arrived at. A reasoned report would provide a foundation upon which both parties can learn and better anticipate these valuation decisions and perhaps avoid costly arbitration by negotiating fair and reasonable rent. In our current situation CPCA has already spent over \$130,000 for legal services and our members have spent in excess of \$50,000 on appraisal services and we are only now beginning arbitration with one of the lessors after starting the negotiating process in June of 2009. We expect our costs will be at least another \$180,000 before we finally receive arbitrated new rent with the two lessors.

Lessees fear arbitration because they have no idea what their costs will be and how the decision is reached. In general, lessees only face this issue every ten years (CPCA's situation in the future) and it is a nightmare for us. The large landowners do this every day and are very experienced at it. This leads to a coercive environment in the negotiating process and to the landowners having an undue influence with the appraisal community. Instead of rent being determined based on an independent and economically rational basis, it is often simply a deal between appraisers who are more interested in keeping the large landowners happy than providing a reasoned, rational and economically justifiable decision. It is time to bring transparency to the process of commercial/industrial rent arbitrations and SB 977 will do just that.

Please support SB 977 and its passage into law. Thank you for your consideration of my testimony.

Mahalo,

William S. Alexander, President

208-265-0270

wsalema@aol.com

Also President of Earle M. Alexander, Ltd

Lessee at 99-1046 Iwaena St. Aiea, Hi 96701

# JN Group, Inc.

fka WHOLESALE MOTORS, INC.

ESTABLISHED IN 1981

2999 N. Nimitz Highway Honolulu, Hawaii 96819-1903

Phone: 808.831.2500 Fax: 808.831.2594 www.jnautomotive.com

JN Automotive Group

February 1, 2011

JN Chevrolet

JN Mazda

Senator Donovan M. Dela Cruz, Chair  
Senator Malama Solomon, Vice-Chair  
Members of the Committee on Water, Land and Housing  
Committee on Water, Land and Housing

Audi of Hawaii

**RE: SB 977 – Relating to Appraisal – Testimony in Support**  
**Hearing Date: Feb 2, 2011, 1:15 p.m., Room 225**

Ferrari of Hawaii

Aloha Senator Dela Cruz, Senator Solomon and Members of the Committee,

Maserati of Hawaii

My name is Joseph P. Nicolai and I am the President of JN Group, Inc.

Lamborghini Hawaii

I support passage of Senate Bill SB 977 which would require commercial appraisers, when sitting on an arbitration panel to determine the fair market value, fair market rental or fair and reasonable rent for a commercial property, to produce a written reasoned report that supports and explains their decision. The report should, at a minimum, include information concerning the findings of fact, the appraiser's rationale for the award, and information regarding the evidence that, including the data, methodologies, and analysis, provided the basis for the award.

Bentley Honolulu

JN Lotus

At present, appraisal arbitrators do not make any of this information available. Awards simply state a go-forward dollar value. This leaves both the lessor and the lessee in the dark to guess at the rationale behind the rent award. A reasoned report will provide a foundation upon which businesses can learn and better anticipate valuation decisions. A reasoned report will, for the first time, allow others to make a more informed decision regarding their rent negotiations.

La Collezione Nicolai

JN Car and Truck Rentals

With appraisal arbitrations now costing between \$50,000 and \$75,000 and rents higher than ever before, the business community should not be deprived of knowledge that will affect their economic decisions.

JN Leasing

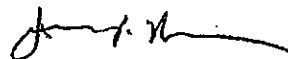
JN Advertising

It is time to bring transparency to the process of commercial arbitrations and SB 977 will provide the basis to do just that.

JN Development

Please support SB 977 and approve this bill.

Sincerely,



Joseph P. Nicolai  
JN Group, Inc.  
2999 N. Nimitz Highway  
Honolulu, HI 96819-1903  
Email: [ctoma@jnautomotive.com](mailto:ctoma@jnautomotive.com)  
Phone: (808) 831-2500



**AMERICAN ELECTRIC** CO., LLC  
2308 Pahouui Drive \ Honolulu, HI 96819 \ T: 808.848.0751 \ F: 808.842.7980  
www.american-electric.co \ CONTRACTOR'S LICENSE #C-24422

February 1, 2011

Senator Donovan M. Dela Cruz, Chair  
Senator Malama Solomon, Vice-Chair  
Members of the Committee on Water, Land and Housing  
Committee on Water, Land and Housing

**RE: SB 977 – Relating to Appraisal – Testimony in Support**  
**Hearing Date: Feb 2, 2011, 1:15 p.m., Room 225**

Aloha Senators Dela Cruz, Solomon and Members of the Committee,

My name is Bob Dewitz and I own American Electric Co, a long established Kaamaina firm located at 315 Sand Island Access Rd.

I support passage of Senate Bill SB 977 which would require commercial appraisers, when sitting on an arbitration panel to determine the fair market value, fair market rental or fair and reasonable rent for a commercial property, to produce a written reasoned report that supports and explains their decision. The report should, at a minimum, include information concerning the findings of fact, the appraiser's rationale for the award, and information regarding the evidence that, including the data, methodologies, and analysis, provided the basis for the award.

At present, appraisal arbitrators do not make any of this information available. Awards simply state a go-forward dollar value. This leaves both the lessor and the lessee in the dark to guess at the rationale behind the rent award. A reasoned report will provide a foundation upon which businesses can learn and better anticipate valuation decisions. A reasoned report will, for the first time, allow others to make a more informed decision regarding their rent negotiations.

With appraisal arbitrations now costing between \$50,000 and \$75,000 and rents higher than ever before, the business community should not be deprived of knowledge that will affect their economic decisions.



It is time to bring transparency to the process of commercial arbitrations and SB 977 will provide the basis to do just that. I can see no valid reason for arbitrators not to provide the report; after all, in other legal arbitrations, the arbitrator must provide a written basis for his/her decision.

Please support SB 977 and approve this bill.

Mahalo

A handwritten signature in black ink that reads "Bob Dewitz". The signature is written in a cursive, slightly slanted style.

Bob Dewitz

Chairman, American Electric Co. LLC

315 Sand island Access Rd. Honolulu, HI 96819

[bdewitz@american-electric.cc](mailto:bdewitz@american-electric.cc), Ph. 808-848-0751

McCully Works  
40 Kamehameha Ave.  
Hilo, Hi. 96720

February 1, 2011

In SUPPORT of SB-977- Relating to Appraisal

Committee on Water, Land, and Housing  
Hon. Senator Donovan Dela Cruz, Chairman  
Hon. Senator Malama Solomon, Vice-Chair

Aloha Senators Dela Cruz, Solomon and Members,

I am a small businessman in Hilo who is a Lessee of commercial leasehold property both on the Island of Hawaii and Oahu. I have purchased or constructed the leasehold improvements in order to provide warehouse and commercial space and services to more than 40 small businesses' that employ more than 200 workers. This has made me acutely aware of the necessity of reforming the practice of how commercial leasehold negotiations are decided in our State. There is a real problem that needs to be addressed.

Senate Bill 977 would require Appraisers, when determining the value of leasehold land, or the market rent for leasehold land, to reveal to the participating parties which data and methodologies they used to decide the matter before them when acting as Arbitrators. This explanation would alleviate the current situation in which Arbitrations are "black boxes" that provide no guidance to any future renegotiations

Appraisers, landowners, and real estate attorneys are likely to oppose this legislation. They have in the past, and the position they take is that there are no problems with the way things are, so why change it. Yet there have been numerous attempts to reform this process for more than 20 years, always with the same opposition.

Real estate bubbles that distort the value of our lands periodically victimize our state. The prices paid by speculators have no relation to the lands ability to produce goods or services for the residents and consumers in our State. The current methodology practiced by most real estate appraisers has no relation to the lands ability to generate income. In a recent appraisal of property I lease on Oahu a prominent local appraiser recommended ground rent increases greater than the operating income of the entire improved property and the Lessor refused to negotiate, forcing Arbitration. In another lease that I have on the Island of Hawaii the appraiser recommended an increase of 250%, again forcing Arbitration.

The Lessors hired appraisers who rely on the Sales Comparison Approach to Value, which is based on prices paid for Fee Simple property. Since the majority of commercial land in our State is held as Leasehold there is a constant demand, and extremely high prices paid, for the rare Fee Simple commercial property. The appraisers hired by me to

arrive at valuations of the same properties used the Income Approach (how much business, or rent, is actually produced on these properties) and recommended values that were much less than the Lessors appraisals. These are very fundamental differences in determining the value of land. One approach, Sales Comparison, encourages speculation and inflationary land values, while the Income Approach reflects what is actually going on in our business community.

When the Arbitration Panel confers, and decides my future ground rents, what will they rely on, how will they make their decision?

No one can know, as things currently stand. That is why it is imperative that we improve the way Arbitrations are reported. Please support SB977 and the survival of small business in the State of Hawaii.

Aloha,

«GreetingLine»

McCully Works  
40 Kamehameha Ave.  
Hilo, Hi. 96720  
808-933-7000

February 2, 2011

Senator Donovan M. Dela Cruz, Chair  
Senator Malama Solomon, Vice-Chair  
Members of the Committee on Water, Land and Housing

**RE: SB 977 – Relating to Appraisal – Testimony in Support**  
**Hearing Date: Feb 2, 2011, 1:15 p.m., Room 225**

Aloha Senators Dela Cruz, Solomon and Members of the Committee:

I write on behalf of Sony Hawaii, a division of Sony Electronics Inc. that has been doing business in Honolulu since 1968 and since 1985 has maintained operations in the Mapunapuna area under a ground lease. In addition to being a proud member of the Hawaiian business community, Sony Hawaii, along with Sony Corporation, sponsors the Sony Open golf tournament, the largest charity event in Hawaii and a tournament that has raised over \$10 million for local not-for-profits since 1999.

Sony Hawaii supports passage of Senate Bill 977 ("SB 977"). If enacted, SB 977 will provide companies like Sony Hawaii with the information and market certainty necessary to continue to invest and create jobs in Hawaii.

Consistent with the fundamental tenets of a fair and open marketplace, SB 977 would require commercial appraisers, when sitting on an arbitration panel to determine the fair market value, fair market rental, or fair and reasonable rent for a commercial property, to produce a written, reasoned report that supports and explains their decision. The report should, at a minimum, include information concerning the findings of fact, the appraiser's rationale for the award, and information regarding the evidence that – including the data, methodologies, and analysis – provided the basis for the award.

Currently, appraisal arbitrators do not make any of this information available. Awards simply state a "go-forward" dollar value. This denies the lessor and the lessee without even the most basic of information regarding the rationale behind the rent award. A reasoned report will provide a foundation upon which businesses can learn and better anticipate valuation decisions. In addition, a reasoned report will, for the first time, allow others to make a more informed decision regarding their rent negotiations.

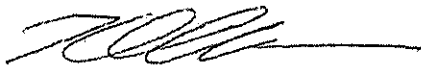
As suggested above, companies cannot make important decisions that affect their ability to properly plan for future investment or hiring needs without the essential information regarding something as fundamental and simple as the cost of doing business. And with rents higher than ever before and leases covering terms of a decade or more, the cost of such leases is one of the most important variables affecting the cash flow and profitability of a company doing business in Hawaii. Indeed, how can a company be expected take the risk inherent in building a new plant or hiring new

employees when one of its primary costs is left to the unsubstantiated and potentially capricious decision of appraisers? Simply put, the functionality of a fair market is premised up the free-flow of information. When such information is not made available the market fails all parties – businesses, employees, and consumers.

It is time to bring transparency to the process of commercial arbitrations, and SB 977 will provide the basis to do just that.

Sony Hawaii urges you to support SB 977.

Mahalo,



Karl Okemura  
Senior Vice President  
Sony Hawaii Company  
960 Mapunapuna Street  
Honolulu, Hawaii 96819  
Telephone 808-834-6611  
Fax 808-834-1459  
[karl.okemura@am.sony.com](mailto:karl.okemura@am.sony.com)

**Dane Wicker**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 01, 2011 6:07 PM  
**To:** WLH Testimony  
**Cc:** cnrs@interpac.net  
**Subject:** Testimony for SB977 on 2/3/2011 1:15:00 PM

Testimony for WLH 2/3/2011 1:15:00 PM SB977

Conference room: 225  
Testifier position: support  
Testifier will be present: No  
Submitted by: Brian Nakano  
Organization: Chika Nakano Repair Shop Inc  
Address: 90 Pookela St Hilo, Hawaii 96720  
Phone: 808 9351862  
E-mail: [cnrs@interpac.net](mailto:cnrs@interpac.net)  
Submitted on: 2/1/2011

**Comments:**

I own a small business in hilo and the economy is really hurting us. The state is raising our ground rent and is hard to stay in business. I support this bill and is really important to me. Thank You

Brian Nakano

**Dane Wicker**

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 02, 2011 7:21 AM  
**To:** WLH Testimony  
**Cc:** clydekmps@hawaiiantel.net  
**Subject:** Testimony for SB977 on 2/3/2011 1:15:00 PM

Testimony for WLH 2/3/2011 1:15:00 PM SB977

Conference room: 225  
Testifier position: support  
Testifier will be present: No  
Submitted by: clyde kojima  
Organization: Mutual Plumbing Supply  
Address: 2812 Awaawaloa Street Honolulu  
Phone: 8399076  
E-mail: [clydekmps@hawaiiantel.net](mailto:clydekmps@hawaiiantel.net)  
Submitted on: 2/2/2011

**Comments:**

On behalf of all Mapunapuna businesses and employees, Mutual Plumbing Supply is full support of this bill for fair real estate market rent and valuation.

Respectfully,  
Clyde Kojima

## Dane Wicker

---

**From:** mutual plumbing [mutualpls@hawaiiantel.net]  
**Sent:** Tuesday, February 01, 2011 7:13 AM  
**To:** WLH Testimony  
**Subject:** SB 977

February 1, 2011

Senator Donovan M. Dela Cruz, Chair  
Senator Malama Solomon, Vice-Chair  
Members of the Committee on Water, Land and Housing Committee on Water, Land and Housing

**RE:** SB 977 - Relating to Appraisal - Testimony in Support  
Hearing Date: Feb 2, 2011, 1:15 p.m., Room 225

Aloha Senators Dela Cruz, Solomon and Members of the Committee,

My name is Allison Kojima and we have a family business, Mutual Plumbing Supply Co., Inc., that was started by my father in 1966.

I support passage of Senate Bill SB 977 which would require commercial appraisers, when sitting on an arbitration panel to determine the fair market value, fair market rental or fair and reasonable rent for a commercial property, to produce a written reasoned report that supports and explains their decision. The report should, at a minimum, include information concerning the findings of fact, the appraiser's rationale for the award, and information regarding the evidence that, including the data, methodologies, and analysis, provided the basis for the award.

At present, appraisal arbitrators do not make any of this information available. Awards simply state a go-forward dollar value. This leaves both the lessor and the lessee in the dark to guess at the rationale behind the rent award. A reasoned report will provide a foundation upon which businesses can learn and better anticipate valuation decisions. A reasoned report will, for the first time, allow others to make a more informed decision regarding their rent negotiations.

With appraisal arbitrations now costing between \$50,000 and \$75,000 and rents higher than ever before, the business community should not be deprived of knowledge that will affect their economic decisions.

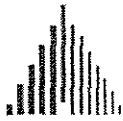
It is time to bring transparency to the process of commercial arbitrations and SB 977 will provide the basis to do just that.

Please support SB 977 and approve this bill.

Mahalo,

Allison Kojima  
Mutual Plumbing Supply Co., Inc.  
2812 Awaawaloa Street  
Honolulu, HI 96819  
PH: (808) 839-9076  
FAX: (808) 833-2085  
[mutualpls@hawaiiantel.net](mailto:mutualpls@hawaiiantel.net)





# Appraisal Institute™

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Hawaii Chapter

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F 808-847-6575  
Email: [bkcorp2@hawaiiintel.net](mailto:bkcorp2@hawaiiintel.net)  
[www.ai-hawaii.org](http://www.ai-hawaii.org)

February 2, 2011

Senator Donovan M. Dela Cruz, Chair  
Senator Malama Solomon, Vice-Chair  
Committee on Water, Land, and Housing  
Ted Yamamura, Government Relations Chair  
The Hawaii Chapter of the Appraisal Institute  
(808) 270-0604  
Thursday, February 3, 2011

## **Testimony Against SB 977, Relating to Appraisals**

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 in opposition to SB 977, Relating to Appraisals, which would require real estate appraisers to comply with requirements specifically targeted at real estate appraisers who act as arbitrators. Our concerns are as follows:

- (1) The title of the Bill is misleading since the subject matter deals with Chapter 658A, HRS, Uniform Arbitration Act – not appraisals.
- (2) Section 1, Page 1 of SB 977. The “purpose” of the Act specifically identifies real estate appraisers. This is discriminatory against real estate appraisers and should apply to anyone acting as an arbitrator and providing an award.
- (3) The proposed Chapter 658A-19(b) is vague as to the nature and extent of the findings of fact, rational, and a basis for the award. SB 977 could increase litigation by parties seeking to vacate an award because they perceive the findings of fact, rational, and a basis for the award to be insufficient in detail. Courts may become more involved in matters surrounding arbitrations.
- (4) Any proposed modifications to Chapter 658A-19 should apply to anyone acting as an arbitrator.
- (5) Section 4, Page 3 of SB 977. Inasmuch as the Uniform Standards of Professional Appraisal Practice (USPAP) contains no provisions nor claims any jurisdiction with regard to arbitrators and arbitrations, Section 4 should be deleted in its entirety.

If it is the desire of the Senate Committee to pass SB 977, we respectfully propose the following changes:

**PROPOSED CHANGES TO SB 977** (Proposed changes are highlighted in red)

**SB 977 - RELATING TO APPRAISALS [ARBITRATION AWARDS]**

SECTION 1. The purpose of this Act is to require a[n] real-estate appraiser [arbitrator] to include a reasoned report, including the appraiser's rationale for the award and the data, methodologies, and analysis that provided the basis of the award.

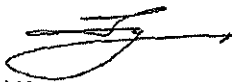
SECTION 2. Section 658A-19, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§658A-19]]~~ Award. (a) An arbitrator shall make a record of an award. The record of an award shall include but not be limited to findings of fact, the appraiser's [arbitrator's] rationale for the award, and information regarding the evidence that, including the data, methodologies, and analysis, provided the basis for the award. The record shall be signed or otherwise authenticated by any arbitrator who concurs with the award. The arbitrator or the arbitration organization shall give notice of the award, including a copy of the award, to each party to the arbitration proceeding.

~~—(b) In an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rent of real property where the arbitrator is a real-estate appraiser licensed under chapter 466K, the record of an award shall include but not be limited to findings of fact, the appraiser's rationale for the award, and information regarding the evidence that, including the data, methodologies, and analysis, provided the basis for the award.~~

~~SECTION 4. In the event of any conflict between the uniform standards of professional appraisal practice as developed by the Appraisal Standards Board of the Appraisal Foundation and any arbitration process, including chapter 658A, Hawaii Revised Statutes, the uniform standards of professional appraisal practice rules and standards then in effect shall prevail.~~

We urge the Committee to deny the passage of SB 977, or adopt and incorporate our proposed amendments to the Bill. Thank you for this opportunity to testify.



Ted Yamamura  
Government Relations Chair



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February 1, 2011

Senator Donovan M. Dela Cruz, Chair  
Senator Malama Solomon, Vice-Chair  
Members of the Committee on Water, Land and Housing  
Committee on Water, Land and Housing

RE: SB 977-Relating to Appraisal – Testimony in Support  
Hearing Date: Feb 2, 2011, 1:15 p.m., Room 225

Aloha Senators Dela Cruz, Solomon and Members of the Committee,

My name is Phillip J. Silich and I own Bacon Universal Co., Inc. at 918 Ahua Street, Mapunapuna.

This testimony is in support of the passage of Senate Bill SB977. At present the appraisers when sitting on an arbitration panel to determine the fair market value, fair market rental or fair & reasonable rent simply give a figure, but without any logic or reasoning??

In these cases, because the ramification and economic impact are so severe on Hawaiian businesses and their employees, we believe it only reasonable that these appraisers when sitting on an arbitration pannel to determine the fair market value or rental, should at a minimum produce a written reasoned report that supports and explains their decision.

At present, appraisal arbitrators do not make any of this information available. Awards simply state a go-forward dollar value. This leaves both the lessor and the lessee in the dark to guess at the rationale behind the rent award. A reasoned report will provide a foundation upon which businesses can learn and better anticipate valuation decisions. A reasoned report will, for the first time, allow others to make a more informed decision regarding their rent negotiations.

With appraisal arbitrations now costing between \$60,000 and \$100,000 and rents higher than ever before, the business community and their employees should not be deprived of knowledge that will affect their economic decisions.

SB977 will provide the basis of bringing transparency to all future commercial arbitrations.

It is time to bring transparency to the process of commercial arbitrations and SB 977 will provide the basis to do just that.

Please support SB 977 and approve this bill.

Mahalo,

Phillip J. Silich  
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Honolulu, HI 96819  
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Phone: 808-839-7202  
Cell: 808-721-1630

**JAMES W. Y. WONG**

3737 Manoa Road • Honolulu, Hawaii 96822 • (808)946-2966 • Fax: (808)943-3140

February 1, 2011

VIA EMAIL

WLHTestimony@Capitol.hawaii.gov

Honorable Senator Donovan M. Dela Cruz, Chair  
Members of Committee on Water, Land and Housing  
Committee on Water, Land and Housing

RE: Senate Bill SB977 -- Hearing Scheduled for Thursday, February 3, 2011  
at 1:15 p.m., Hawaii State Capitol, Conference Room 225

Dear Honorable Chair Donovan Dela Cruz and Members of the Committee on Water,  
Land and Housing:

I support passage of Senate Bill SB977 which is a bill requiring real estate appraisers to include a reasoned report, including the appraiser's rationale for the award and the data, methodologies and analysis that provided the basis of the award.

As a lessee of numerous leasehold commercial properties, I have been involved in 4 arbitration proceedings where real estate appraisers involved in the arbitration proceedings failed to disclose the data, methodologies and analysis that provided the basis of the award. In one arbitration proceeding I sought to vacate the award on the basis that the appraisers erred but was unable to require the appraisers to disclose the data, methodologies and analysis that provided the basis of the award.

We need SB977 passed to provide for the appraisers to be held accountable when they issue awards and to allow participants in an arbitration proceedings to clearly understand how the award is determined.

Please approve Senate Bill SB977.

Aloha,

  
James W. Y. Wong

f:\data\jw folder\2011 Legislation\SB977 - JW Testimony

February 1, 2011

VIA EMAIL  
WLHTestimony@Capitol.hawaii.gov

Honorable Senator Donovan M. Dela Cruz, Chair  
Members of Senate Committee on Water, Land and Housing  
Senate Committee on Water, Land and Housing

RE: **Senate Bill SB977 - Hearing Scheduled for Thursday, February 3, 2011, at  
1:15 p.m., Hawaii State Capitol, Conference Room 225**

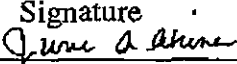
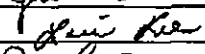
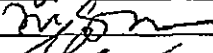


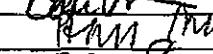
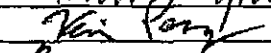
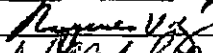
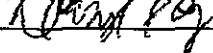
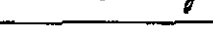
Dear Honorable Chair Donovan Dela Cruz and Members of the Senate Committee on Water,  
Land and Housing:

PETITION:

We wish to support passage of Senate Bill SB977 which is a bill requiring real estate appraisers to include a reasoned report, including the appraiser's rationale for the award and the data, methodologies and analysis that provided the basis of the award. Currently appraisers in an arbitration proceeding have only issued a one sentence statement identifying the award amount but fail to disclose how the award was determined.

The passage of Senate Bill SB977 will provide for transparency and a clear understanding by both parties in an arbitration proceeding as to how an award has been determined.

We urge your approval of this bill.

Print Name	Signature	Address
Juane A Akima		98-379 Pono St. Area, HI 96701
Lori Lee		906 6th Avenue, Honolulu 96816
Misty Torres		PO Box 25843 HNL 96825
Je PAREL		1902 Kilahele Dr Hon, HI 96817
Coleen Howard		439 Opihikao Place, Honolulu, HI 96825
Colin Lau		47-695 Hw. Ulili St., Kaneohe, HI 96744
Garri Sugita		1044 12th Ave. Br. HI 96810
Kai Penacosa		3747 Waiialae Ave Honolulu, HI 96816
Mapualani Wong		1577 Nelson St. Honolulu, HI 96822
Dorothy Wong		1836 Punahou Honolulu, HI 96822