

SB 1258

Measure Title: RELATING TO REAL ESTATE APPRAISERS.

Report Title: Real Estate Appraisers; Arbitration

Description: Requires real estate appraisers, acting as arbitrators, to record arbitration awards, the records of the awards, if separately issued, and any supplementary, dissenting, or explanatory opinions with the bureau of conveyances within 90 days of the determination of the award and its notification to the parties.

Companion: [HB693](#)

Package: None

Current Referral: CPN

Introducer(s): BAKER, CHUN OAKLAND, Kahele, Ruderman

<u>Sort by</u> <u>Date</u>		Status Text
1/24/2013	S	Introduced.
1/24/2013	S	Passed First Reading.
1/28/2013	S	Referred to CPN.
1/31/2013	S	The committee(s) on CPN has scheduled a public hearing on 02-13-13 8:30AM in conference room 229.



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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DEPUTY DIRECTOR

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

TO THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

TWENTY-SEVENTH LEGISLATURE
Regular Session of 2013

Wednesday, February 13, 2013
8:30 a.m.

**TESTIMONY ON SENATE BILL NO. 1258, 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. 1258, Relating to Real Estate Appraisers. The Department opposes this bill.

This bill seeks to require real estate appraisers, acting as arbitrators, to record arbitration awards, the records of awards, if separately issued, and any supplementary, dissenting, or explanatory opinions with the Bureau of Conveyances within 90 days of the determination of the award.

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 is in conflict with USPAP's Ethics Rule relating to confidentiality, 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.

Testimony on Senate Bill No. 1258
Wednesday, February 13, 2013
Page 3

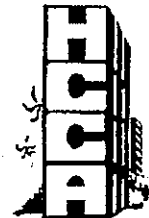
The amendment to Chapter 466K on Page 4, lines 1-8 requires public disclosure of the facts relating to the appraisal assignment and constitutes a direct violation of USPAP.

For this reason the Department believes this amendment is not necessary.

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



**Hawaii Council of Associations
of Apartment Owners**
DBA: Hawaii Council of Community Associations
1050 Bishop Street, #366, Honolulu, Hawaii 96813



February 6, 2013

Sen. Roslyn Baker, Chair
Sen. Brickwood Galuteria, Vice-Chair
Senate Committee on ConJudiciary & Labor

Re: SB1258 RELATING TO REAL ESTATE APPRAISALS
Hearing: Wed., Feb. 13, 2013, 8:30 a.m., Conf. Rm. #229

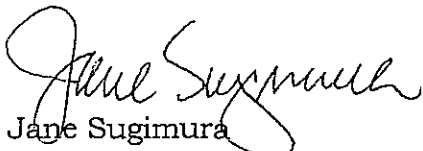
Chair Baker, Vice-Chair Galuteria and Members of the Committee:

I am Jane Sugimura, President of the Hawaii Council of Associations of Apartment Owners (HCAAO).

HCAAO agrees with the intent and purpose of the SB 1258, which would require real estate appraisers acting as arbitrators in ground rent arbitrations to fully disclose and record the arbitration awards, along with the record of the award and any opinions related to the arbitration award with the Bureau of Conveyance, and we ask that you pass it out unamended.

With the enactment of Act 227 (Session Laws of Hawaii 2011) the Legislature made it clear that real estate appraisers, when acting as arbitrators in long-term ground lease rent valuations, shall provide relevant data as to the findings of fact and methodologies employed to support their conclusions within the record of the award. Act 227 was intended to create a more open and transparent market from which both lessors and lessees would have data from which to make more informed decisions and passage of this bill will promote that goal.

Thank you for the opportunity to testify.


Jane Sugimura
President

February 11, 2013

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair
Senator Brickwood Galuteria, Vice- Chair
Members of the Committee
State Capitol
Honolulu, Hawaii 96813

RE: SB1258 Testimony in Support
Hearing: February 13, 2013, 8:30 am; Room 229

Dear Chair Baker, Vice-Chair Galuteria and Members of the Committees,

My name is Jason Ideta and I am writing in strong support of SB 1258. I work for a small auto parts business with 68 employees and am a lessee in the Mapunapuna area.

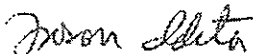
As a lessee, I am at a significant disadvantage when it comes to negotiating or arbitrating my leases with huge lessors like Common Wealth, Kamehameha Schools, etc. This bill will help to create transparency for both parties involved and create a more open and free market for everyone, especially for individual leases like me.

When the legislature passed Act 227, which tried to create transparency to the arbitration process, appraisers/arbitrators have insisted upon adding confidentiality clauses to hide the information and intentionally bypass the law. SB 1258 will help to fix this problem by requiring the recordation of the arbitration data with the Bureau of Conveyance.

I strongly encourage you to support and pass SB 1258 to bring openness and a little more fairness to the leasehold market that is controlled by a handful of very large landowners.

Thank you for your time and consideration.

Sincerely,



Jason Ideta
Pacific Jobbers Warehouse, Inc.
808-772-5922

February 9, 2013

**THE TWENTY-SEVENTH LEGISLATURE, REGULAR SESSION OF 2013
COMMITTEE ON COMMERCE AND CONSUMER PROTECTION**

Senator Rosalyn H. Baker, Chair

Senator Brickwood Galuteria, Vice- Chair

Members of the Committee

Testimony in Support of SB 1258 – Relating to Real Estate Appraisals

Aloha Chair Baker, Vice-Chair Galuteria and Members of the Committees,

I would first like to thank Chair Baker and the Senate for their past support for reform in this area. The passing of Act 227 (2011) was critical in establishing some equity to lessees who have long been at a disadvantage in the setting of ground lease rents by appraisers acting as arbitrators. I would also like to thank my island Senators, Sen. Gil Kahele and Sen. Russell Ruderman, for being Introducers of this bill.

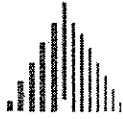
Unfortunately some lessees have seen an extraordinary increase in arbitrators fees, in some cases over 100% . Appraisers have stated the reason for this is the additional reporting requirements necessitated by HRS466k-6. From the perspective of the lessee, this is unjustified and only serves to suppress or intimidate lessees from engaging in the arbitration process. The report required by the statutory reform is a type that is similar to those provided in commercial work and is usually produced for less than 1/5 the cost of a single arbitrators proposed fees for a recent arbitration. In addition to the increase in fees some appraiser/arbitrators are requiring confidentiality clauses be added to the parties Submission Agreements (which govern the arbitration). This clearly subverts the intent of Act 227.

It is critical to note that ground leases tend to be long-term leases spanning decades. Ownership of the leased lands is concentrated in the hands of a very small, very wealthy, very sophisticated, group. These owners are not financially stressed by the high cost of arbitration, their expert witnesses, or legal representation. Lessors possess a high level of sophistication when participating in the arbitration process which creates a gross imbalance favoring land owners throughout rent negotiations and/or arbitration proceedings. This is compounded by a history of case law in Hawaii that leaves all legal interpretation of the lease contract in the hands of the appraisers/arbitrators, not trained lawyers. These leases, essentially standard form contracts, were written by, and in favor of, the Lessor. Judicial relief, as provided for in HRS658a-5, has not been available to the lessee's due to this case law, established in the 1960's.

Whereas for Lessees/consumers, the arbitration process presents a serious financial strain and a dauntingly complex, legalistic, maze requiring many months, even years, to navigate. The current reality is that absent public access to open and transparent arbitration data land owners can use the high cost and complexity of arbitration, in combination with their cartel-like dominance, as a lever to their exclusive advantage. Unlike the US mainland, Lessees/consumers have never been able to benefit from public access to transparent market data, real estate cycles or supply/demand dynamics that level the playing field for all parties. This leads to greater costs to consumers and inefficiencies in our local economy. The bill before you would strengthen 466k-6, ensuring accountability and transparency as the Legislature intended. This reform should provide further protection for the consumers in Hawaii. Please support SB1258.

Mahalo,

James McCully



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February 12, 2013

Senator Rosalyn H. Baker, Chair
Senator Brickwood Galuteria, Vice Chair
Committee on Commerce and Consumer Protection

Ted Yamamura, Government Relations Chair
The Hawaii Chapter of the Appraisal Institute
(808) 270-0604
Wednesday, February 13, 2013
Conference Room 229, 8:30 AM

Testimony Against SB 1258, 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 23,000 members in almost 60 countries 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 1258, Relating to Real Estate Appraisers, which proposes to amend Chapter 466K, Hawaii Revised Statutes.

The Bill incorrectly asserts that there is lack of openness and transparency provided by Act 227 which the legislature passed in 2011. The parties and their counsel involved in an arbitration proceeding are consistently afforded the opportunity to participate in the proceedings and there is continuous contact, openness and transparency with all parties and their counsel during the arbitration. Furthermore, there is already judicial relief in an arbitration proceeding under §658A-5, HRS, if a party has cause.

Furthermore, in compliance with Act 227, appraisers acting as arbitrators certify compliance with the Uniform Standards of Professional Appraisal Practice ("USPAP") in addition to fully reporting the basis of the award in comprehensive Record of Award and Award documents.

Contrary to language in the Bill, there are ample state-licensed appraisers in the State of Hawaii who have the knowledge and experience to determine market value or market rents of leasehold properties in Hawaii. It is the **PARTIES** to the arbitration or their counsel that select appraisers-arbitrators, and it is totally incorrect to suggest that there are "relatively few commercial appraisers" in Hawaii.

Regarding recordation of an arbitration award at the bureau of conveyance. We believe it is improper to include a public recordation requirement of a private proceeding.

Regarding confidentiality, the arbitration proceeding is a quasi-judicial process and has subpoena powers. In many arbitration proceedings, the Arbitration Panel will request confidential information from Parties of the arbitration in order to more objectively and fairly determine fair market rent. Understandably, Parties may be reluctant to divulge confidential information; however, under the threat of subpoena, Parties will provide confidential information to the Panel with the understanding that the information provided will be kept confidential.

In many situations, the Arbitration Panel will consider the confidential information in the final award of fair market rent; however, the information contained in the confidential document will be identified by reference only and the sanctity of the confidential information will be preserved by the Arbitration Panel.

The language in this Bill violates §466K-6, HRS, which states in part "....the state-licensed appraiser's certification of compliance with the most current Uniform Standards of Professional Appraisal Practice as approved by the director..."

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.

A copy of the Ethics Rule in the 2012-2013 edition of the USPAP is attached for your information and use.

The provisions of this Bill will violate the confidentiality of information provided to the arbitration panel and may increase the number of awards vacated by the Court or increase the number of legal actions against the arbitration panel. Based upon current arbitration

procedures, these additional costs of litigation will typically be passed on to the lessor and lessee which further increases the time and costs of arbitrations.

Finally, the nature of our profession is built upon public trust. The amendment proposed in SB 1258 directly works to undermine the process and procedures currently in place during arbitration proceedings, and is also contrary to the intent of USPAP, the Appraisal Foundation, and federal law (Gramm-Leach-Bliley).

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 1258. Thank you for this opportunity to submit testimony.



Ted Yamamura
Government Relations Chair

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UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE

2012-2013 EDITION

APPRAISAL STANDARDS BOARD



THE APPRAISAL FOUNDATION

*Authorized by Congress as the Source of Appraisal
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EFFECTIVE:

**January 1, 2012 through
December 31, 2013**

196 ETHICS RULE

197 **An appraiser must promote and preserve the public trust inherent in appraisal practice by observing**
 198 **the highest standards of professional ethics.**

199 **An appraiser must comply with USPAP when obligated by law or regulation, or by agreement with**
 200 **the client or intended users. In addition to these requirements, an individual should comply any time**
 201 **that individual represents that he or she is performing the service as an appraiser.**

202 Comment: This Rule specifies the personal obligations and responsibilities of the individual
 203 appraiser. An individual appraiser employed by a group or organization that conducts itself in a
 204 manner that does not conform to USPAP should take steps that are appropriate under the
 205 circumstances to ensure compliance with USPAP.

206 This ETHICS RULE is divided into three sections: Conduct, Management, and Confidentiality
 207 which apply to all appraisal practice.

208 **Conduct:**

209 **An appraiser must perform assignments with impartiality, objectivity, and independence, and**
 210 **without accommodation of personal interests.**

211 **An appraiser:**

- 212 • **must not perform an assignment with bias;**
- 213 • **must not advocate the cause or interest of any party or issue;**
- 214 • **must not accept an assignment that includes the reporting of predetermined opinions and**
 215 **conclusions;**
- 216 • **must not misrepresent his or her role when providing valuation services that are outside of**
 217 **appraisal practice;**
- 218 • **must not communicate assignment results with the intent to mislead or to defraud;**
- 219 • **must not use or communicate a report that is known by the appraiser to be misleading or**
 220 **fraudulent;**
- 221 • **must not knowingly permit an employee or other person to communicate a misleading or**
 222 **fraudulent report;**
- 223 • **must not use or rely on unsupported conclusions relating to characteristics such as race,**
 224 **color, religion, national origin, gender, marital status, familial status, age, receipt of public**
 225 **assistance income, handicap, or an unsupported conclusion that homogeneity of such**
 226 **characteristics is necessary to maximize value;**
- 227 • **must not engage in criminal conduct;**
- 228 • **must not willfully or knowingly violate the requirements of the RECORD KEEPING RULE; and**
- 229 • **must not perform an assignment in a grossly negligent manner.**

230 Comment: Development standards (1-1, 3-1, 4-1, 6-1, 7-1 and 9-1) address the requirement that
 231 “an appraiser must not render appraisal services in a careless or negligent manner.” The above
 232 requirement deals with an appraiser being grossly negligent in performing an assignment which
 233 would be a violation of the Conduct section of the ETHICS RULE.

ETHICS RULE

234 **If known prior to accepting an assignment, and/or if discovered at any time during the assignment,**
235 **an appraiser must disclose to the client, and in the subsequent report certification:**

- 236 • **any current or prospective interest in the subject property or parties involved; and**
237 • **any services regarding the subject property performed by the appraiser within the three**
238 **year period immediately preceding acceptance of the assignment, as an appraiser or in any**
239 **other capacity.**

240 Comment: Disclosing the fact that the appraiser has previously appraised the property is permitted
241 except in the case when an appraiser has agreed with the client to keep the mere occurrence of a
242 prior assignment confidential. If an appraiser has agreed with a client not to disclose that he or she
243 has appraised a property, the appraiser must decline all subsequent assignments that fall within the
244 three year period.

245 **Management:**

246 **An appraiser must disclose that he or she paid a fee or commission, or gave a thing of value in**
247 **connection with the procurement of an assignment.**

248 Comment: The disclosure must appear in the certification and in any transmittal letter in which
249 conclusions are stated; however, disclosure of the amount paid is not required. In groups or
250 organizations engaged in appraisal practice, intra-company payments to employees for business
251 development do not require disclosure.

252 **An appraiser must not accept an assignment, or have a compensation arrangement for an**
253 **assignment, that is contingent on any of the following:**

- 254 1. **the reporting of a predetermined result (e.g., opinion of value);**
255 2. **a direction in assignment results that favors the cause of the client;**
256 3. **the amount of a value opinion;**
257 4. **the attainment of a stipulated result (e.g., that the loan closes, or taxes are reduced); or**
258 5. **the occurrence of a subsequent event directly related to the appraiser's opinions and specific**
259 **to the assignment's purpose.**

260 **An appraiser must not advertise for or solicit assignments in a manner that is false, misleading, or**
261 **exaggerated.**

262 **An appraiser must affix, or authorize the use of, his or her signature to certify recognition and**
263 **acceptance of his or her USPAP responsibilities in an appraisal, appraisal review, or appraisal**
264 **consulting assignment (see Standards Rules 2-3, 3-6, 5-3, 6-9, 8-3, and 10-3). An appraiser may**
265 **authorize the use of his or her signature only on an assignment-by-assignment basis.**

266 **An appraiser must not affix the signature of another appraiser without his or her consent.**

267 Comment: An appraiser must exercise due care to prevent unauthorized use of his or her signature.
268 An appraiser exercising such care is not responsible for unauthorized use of his or her signature.

269 **Confidentiality:**

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

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

273 An appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations
274 applicable in an assignment.²

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

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

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

285 Comment: When all confidential elements of confidential information and assignment results are
286 removed through redaction or the process of aggregation, client authorization is not required for
287 the disclosure of the remaining information, as modified.

² Pursuant to the passage of the Gramm-Leach-Bliley Act in 1999, numerous agencies have adopted privacy regulations. Such regulations are focused on the protection of information provided by consumers to those involved in financial activities “found to be closely related to banking or usual in connection with the transaction of banking.” These activities have been deemed to include “appraising real or personal property.” (Quotations are from the Federal Trade Commission, Privacy of Consumer Financial Information; Final Rule, 16 CFR Part 313.)

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February 13, 2013

The Twenty-seventh Legislature, Regular Session Of 2013
Committee On Commerce and Consumer Protection
Senator Rosalyn H. Baker, Chair
Senator Brickwood Galuteria, Vice- Chair
Members of the Committee

RE: Testimony in Support of SB 1258 - Relating to Real Estate Appraisals
Hearing: February 13, 2013, 8:30 am; Room 229

Aloha Chair Baker, Vice-Chair Galuteria and Members of the Committees,

My name is Don O'Reilly and I am writing as a DLNR leaseholder to support SB 1258, which requires real estate appraisers acting as arbitrators in ground rent arbitrations to completely disclose and record the arbitration awards, along with the record of the award and any opinions related to the arbitration award with the Bureau of Conveyance.

Act 227, passed in 2011, was intended to create a more open and transparent market, enabling both the State and lessees to evaluate, compare, and make important decisions in an open and responsible way.

Now that Act 227 is law, many appraisers have added confidentiality requirements into agreements in order to limit the disclosure of the award details and processes, effectively limiting vital information that should be unambiguous and readily available to lessees and the public.

There is no reason why documentation of this public information with the Bureau of Conveyance should not be mandatory, is there?. I urge you to support and pass SB 1258 and put an end to this back room secrecy.

Please do the right thing and pass SB 1258.

Mahalo



Don O'Reilly

CITIZENS FOR FAIR VALUATION

841 Bishop Street, Suite 1500
Honolulu, HI 96813

ROBERT M. CREPS, PRESIDENT
CULLY JUDD, VICE PRESIDENT
CONNIE SMALES, SECRETARY

PHILLIP J. SILICH, TREASURER
OSWALD STENDER, DIRECTOR
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February 13, 2013

**THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2013
COMMITTEE ON COMMERCE AND CONSUMER PROTECTION**

Senator Rosalyn H. Baker, Chair
Senator Brickwood Galuteria, Vice-Chair
Members of the Committee

Testimony in Support of SB 1258 – Relating to Real Estate Appraisals

**Hearing: February 13, 2013, 8:30 am; Room 229
State Capitol, 415 South Beretania Street**

Aloha Chair Baker, Vice-Chair Galuteria and Members of the Committees,

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 1258 which would require real estate appraisers, when acting as arbitrators, to record all arbitration awards, the records of the arbitration awards and any supplementary, dissenting, or explanatory opinions with the bureau of conveyances within ninety days of the determination of the arbitration award and the notification of its determination to the parties.

Under HRS 466K-4, real estate appraisers are required to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an appraisal/arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate. Act 227 (Session Laws of Hawaii 2011) requires these same appraisers to prepare a record of the award which,

“shall include but not be limited to findings of fact; the state-licensed appraiser's rationale for the award; the state-licensed appraiser's certification of compliance with the most current Uniform Standards of Professional Appraisal Practice as approved by the director; and information regarding the evidence, including the data, methodologies, and analysis that provided the basis for the award.”

Since the passage of Act 227, real estate appraisers when acting as arbitrators have required participants in an arbitration to agree to confidentiality agreements which effectively negate the intent of the legislature, which was to bring data, openness and transparency to market controlled by few landowners and very few commercial/industrial appraisers. Without the release of the data and analysis that support the arbitration awards, lessees are ill-equipped to make decisions involving hundreds of thousands of dollars.

Long-term ground lessees are not free to leave their leases as they still have 10 or more years on the lease. In essence, lessees are “captive” to lease and unable to obtain information to assist them in the reset process. SB 1258 will provide that relief.

Ua Mau Ke Ea O Ka Aina I Ka Pono The Life of the Land is Perpetuated in Righteousness

Long-Term Ground Leases:

The majority of commercial and industrial businesses throughout the State of Hawaii lease their properties under long-term ground leases. While the landowners takes some risk in leasing the property, the lion's share of the risk falls to the lessee, business owner who must finance the construction of the building, pay for the ongoing maintenance of the building and the leased land while also working to run a successful business. And, for all of this risk, at the end of the lease, the property, including any and all improvements, reverts back to the landowner.

Throughout the 50 years of the long-term lease, the lease will require the lessor and lessee to reset rental rates usually every 10 years. If the parties are unable to negotiate a "fair" rental rate, the lease contract requires the parties to engage three licensed real estate appraisers to set a final and binding valuation.

In Hawaii, the overwhelming majority of commercial and industrial land is held by just a small number of large landowners. From a very small pool of licensed commercial/industrial appraisers, these landowners routinely employ appraisers on an ongoing, year-after-year basis as their properties are continually appraised for valuation reporting, financing and lease rates.

In contrast, the thousands of smaller companies that lease and "work" the land very rarely engage an appraiser. With the exception of perhaps a new lease or bank required financed-based valuation, lessees do not generally require appraisal service. This, of course, creates the potential for appraisal abuse.

Unfortunately, it seems the number of lease related appraisal/arbitrations is skyrocketing as landowners demand rents that lessees feel, in this economy, are well above and beyond the "fair market" value. The small pool of licensed real estate appraisers are being engaged at an unprecedented rate where they, in effect, sit as judge and jury to create "market" rents. As more and more arbitrations take place, the need to bring uniformity and transparency is greater than ever before.

Act 227 was enacted to bring righteousness back to the arbitration process by requiring the parties to adhere to the highest ethical and professional standards as found in the Uniform Standards of Professional Appraisal Practices (USPAP). SB 1258 seeks to complete that process by requiring transparency through recordation of the records of the arbitration awards with the Bureau of Conveyance.

Act 227 (Session Laws of Hawaii 2011):

On the day Act 227 became law, the local appraisal community met. The panel discussion, led by prominent appraisers, and attendee comments focused solely on how to provide the bare minimum and remain "legal." Shortly thereafter, I met with members of the appraisal community and was informed they would simply require confidentiality agreements to "get around" the reporting requirement. Indeed, their prediction has become a reality. Confidentiality agreements are being forced upon the arbitration process and this bodes ill for the consumers of the State.

With very few industrial and commercial appraisers in State, the same few appraisers are being called upon to provide valuation reports, rotate between the roles of experts, presenting testimony to an arbitration

panel or sitting as an arbitrator upon a panel. In essence, rather than buyers and sellers coming together at arm's length, our local appraisal community is determining and controlling the "market" with confidentiality as their shield.

Many appraisers cry that their arbitral immunity is no longer available. They feel their very core (licensure) is at stake as they now must reveal the magic behind the curtain of appraisal. Unlike all other professionals in the community, appraisers seek to make a market without fear of question.

Act 227 was enacted to bring understating to the market making process. Its intent was to provide data to the market such that others would be better equipped to make informed judgments as to the value of their properties and the rents being demanded by lessors.

Added Expenses:

Opponents of this bill may argue that SB 1258 will cause additional expense in rendering and recording the records of awards. Over the past two years, appraisers have consistently raised their fees from roughly \$15,000 per arbitration to what is now close to \$50,000 per arbitration. With the cost of recordation at the Bureau of Conveyance in the \$30 range, this should not present a hardship to the arbitrator.

Vacating an Award:

Opponents of this bill seem to be afraid that SB 1258 will create a basis for lessees to vacate arbitration awards. Again, this is just not the case. The truth is that it remains extremely difficult to vacate the award of an arbitration panel. Arbitration awards are given wide deference by the courts and judicial review is limited. There are only certain enumerated grounds under which an arbitration award can be vacated, which include evident partiality of the panel, corruption of the panel, misconduct of the panel, and the panel exceeding its powers. Mistakes of law or fact by the panel in making its award are generally not sufficient grounds to vacate an arbitration award.

Captive Lessees:

Citizens for Fair Valuation believes informed decisions are better decisions. Considering most long-term lessees are "captive" to their leases – meaning they are the only ones who can bid on the rent – they are already at a distinct disadvantage. They are contractually obligated to continue the lease and, if they do not agree with a lessor's "take-it-or-leave-it" offer, costly arbitration is their only option.

Making the data available to the public, will help create a more open and transparent market. The long-term ground lease rent valuation market controls what lessees pay and that in turn is reflected in the cost of goods and services provided to the public. It is time the process is unveiled.

Please pass SB 1258 to continue the work this Committee started with Act 227.

Mahalo



Michael Steiner

Executive Director, Citizens for Fair Valuation

Telephone: (808) 221-5955

Email: MSteiner@SteinerAssoc.com



GracePacific CORPORATION

GP Roadway Solutions • GPRM Prestress • GLP Asphalt • Maui Paving • Mid Pac Petroleum

February 13, 2013

**THE TWENTY-SEVENTH LEGISLATURE, REGULAR SESSION OF 2013
COMMITTEE ON COMMERCE AND CONSUMER PROTECTION**

Senator Rosalyn H. Baker, Chair
Senator Brickwood Galuteria, Vice- Chair
Members of the Committee

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

RE: Testimony in Support of SB 1258 – Relating to Real Estate Appraisals
Hearing: February 13, 2013, 8:30 am; Room 229

Aloha Chair Baker, Vice-Chair Galuteria and Members of the Committees,

My name is Robert Creps and I am writing in strong support of SB 1258, which would require real estate appraisers acting as arbitrators in ground rent arbitrations to fully disclose and record the arbitration awards, along with the record of the award and any opinions related to the arbitration award with the Bureau of Conveyance.

With the enactment of Act 227 (Session Laws of Hawaii 2011) the Legislature made it clear that real estate appraisers, when acting as arbitrators in long-term ground lease rent valuations, shall provide relevant data as to the findings of fact and methodologies employed to support their conclusions within the record of the award. Act 227 was intended to create a more open and transparent market from which both lessors and lessees would have data from which to make more informed decisions.

Unfortunately in response to Act 227, appraiser/arbitrators have insisted upon adding confidentiality clauses into their engagement agreements in order to prevent the disclosure of the award data and methodologies thereby limiting the information consumers could obtain to make better and more informed decisions. This action frustrates the intent of Act 227 and severely constrains the development of a true “open” market valuation process.

Recordation of the arbitration data with the Bureau of Conveyance will allow interested consumers to better understand the market. I urge you to support and pass SB 1258 and bring light unto a market that is controlled by too few individuals.

Please pass SB 1258.

Mahalo,

Robert M. Creps
Senior Vice President Administration
Grace Pacific Corporation



215A Railroad Ave., Hilo, HI 96720 • Ph: (808) 935-8595 • Fax: (808) 935-1696
800 Alua St., Waialuku, Maui, HI 96793 • Ph: (808) 244-9158 • Fax: (808) 242-5815
1856 Haleukana St., Lihue, Kauai, HI 96766 • Ph: (808) 245-8472 • Fax: (808) 246-6156
74-5039B Queen Kaahumanu Hwy., Kailua, Kona, HI 96740 • Ph: (808) 326-1212 • Fax: (808) 326-1822
918 Ahua Street, Honolulu, HI 96819 • Ph: (808) 839-7202 • Fax: (808) 839-9813 • PARTS Ph: (808) 839-7707

February 13, 2013

THE TWENTY-SEVENTH LEGISLATURE, REGULAR SESSION OF 2013
COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Senator Rosalyn H. Baker, Chair
Senator Brickwood Galuteria, Vice- Chair
Members of the Committee

VIA EMAIL
CPNTestimony@Capitol.hawaii.gov

RE: Testimony in Support of SB 1258 – Relating to Real Estate Appraisals
Hearing: February 13, 2013, 8:30 am; Room 229

Aloha Chair Baker, Vice-Chair Galuteria and Members of the Committees,

My name is Phillip J. Silich and I am writing on behalf of my company – Bacon Universal Co., Inc. in strong support of SB 1258, which would require real estate appraisers acting as arbitrators in ground rent arbitrations to fully disclose and record the arbitration awards, along with the record of the award and any opinions related to the arbitration award with the Bureau of Conveyance.

It is my belief that Act 227 was intended to give the Hawaiian Lessees some transparency in reviewing their lease renewal costs, in a similar way that USPAP was legislated at the federal level. After wages & salaries the Hawaiian ground lease rent costs are often the next largest expense item for Hawaiian small business to absorb.


With the enactment of Act 227 (Session Laws of Hawaii 2011) the Legislature made it clear that real estate appraisers, when acting as arbitrators in long-term ground lease rent valuations, shall provide relevant data as to the findings of fact and methodologies employed to support their conclusions within the record of the award. Act 227 was intended to create a more open and transparent market from which both lessors and lessees would have data from which to make more informed decisions.

Unfortunately in response to Act 227, appraiser/arbitrators have insisted upon adding confidentiality clauses into their engagement agreements in order to prevent the disclosure of the award data and methodologies thereby limiting the information consumers could obtain to make better and more informed decisions. This action frustrates the intent of Act 227 and severely constrains the development of a true "open" market valuation process.

Recordation of the arbitration data with the Bureau of Conveyance will allow interested consumers to better understand the market. I urge you to support and pass SB 1258 and bring light unto a market that is controlled by too few individuals.

Please pass SB 1258.

Mahalo,


Phillip J. Silich
Bacon Universal Company, Inc.
Phone: 808-839-7202

www.baconuniversal.com

PARTS: PH: (808) 839-7707 FAX: (808) 839-7351 RENTAL: FAX: (808) 839-0775
SALES: FAX: (808) 834-8110 SERVICE: FAX: (808) 833-3279

EARLE M. ALEXANDER, LTD.
141 Crystal Springs Rd, #301
SANDPOINT, IDAHO 83864-5170
(208) 265-0270

February 9, 2013

The Twenty-Seventh Legislature, Regular Session of 2013
Committee On Commerce and Consumer Protection
Senator Rosalyn H. Baker, Chair
Senator Brickman Galuteria, Vice-Chair
Members of the Committee

VIA EMAIL
CPNTestimony@Capitol.hawaii.gov

Re: Testimony in Support of SB 1258 – Relating to Real Estate Appraisers
Hearing: February 13, 2013, 8:30 am; Room 229

Dear Chair Baker, Vice-Chair Galuteria and Members of the Committee,

My name is William S. Alexander and my company is a lessee of the Queen Emma Land Company in Central Park, Halawa Valley. I am also the current President of the Central Park Community Association (CPCA), an association of lessee businesses in Central Park. I am writing in strong support of SB 1258 which would require real estate appraisers acting as arbitrators in ground lease rent arbitrations to fully disclose and record the arbitration awards, along with the record of the award and any opinions related to the arbitration award with the Bureau of Conveyance. Fifteen lessees of CPCA, including my company, have been in a long and arduous process to set new ground lease rent in Halawa Valley with Kamehameha Schools/Bishop Estate and Queen Emma Land Company since June of 2009. The leases provided for the new rent to begin on or about January 1, 2010 after an initial thirty year period when specific rent was set by the terms of the leases. The new rent for the Bishop land was settled by arbitration in January of 2012 but the new rent with Queen Emma is still pending due in part to Act 227.

With the enactment of Act 227 (Session Laws of Hawaii 2011) the Legislature made it clear that real estate appraisers, when acting as arbitrators in long-term ground lease rent valuations, shall provide relevant data as to findings of fact and methodologies employed to support their conclusions within the record of award. The act was intended to create a more open and transparent market process in which both lessors and lessees would have data from which to make more informed decisions.

Unfortunately appraiser/arbitrators in response to ACT 227 are insisting on adding confidentiality clauses to their engagement agreements in order to prevent the disclosure of the award data and methodologies thereby limiting the information available to consumers, lessors,

and lessees when making decisions about new ground lease rent. This action frustrates the intent of Act 227 and severely constrains the development of a true "open" market in the valuation and arbitration process. CPCA and its business lessees have been directly affected by this when our arbitration panel with Queen Emma resigned in November 2012 due to our resistance to their demands for confidentiality and excessive indemnification in their engagement agreement. This will cause further delay and needless additional cost to both lessor and lessee. Required recordation of the arbitration data with the Bureau of Conveyance will allow interested consumers, lessors, and lessees to better understand the ground lease rent reset market and perhaps avoid, in the future, the lengthy and costly process the CPCA lessees are still going through. I urge you to support and pass SB 1258 and bring increased transparency and a more level playing field into a market which is controlled by too few individuals.

Again, please pass SB 1258.

Mahalo,

William S. Alexander
President
wsalema@aol.com

February 5, 2013

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

Honorable Senator Rosalyn Baker, Chair
Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

RE: TESTIMONY IN SUPPORT OF SENATE BILL SB1258 - RELATING TO REAL ESTATE APPRAISERS - HEARING SCHEDULED FOR WEDNESDAY, FEBRUARY 13, 2013, AT 8:30 A.M.

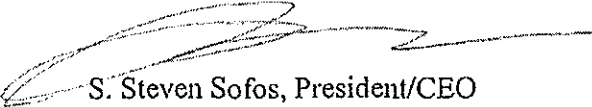
Dear Honorable Chair Rosalyn Baker, Vice Chair Brickwood Galuteria, and Members of the Senator Committee on Commerce and Consumer Protection:

I support passage of Senate Bill SB1258 which would require real estate appraisers acting as arbitrators in ground rent renegotiation to fully disclose arbitration awards, records of arbitration awards and any opinions related to such arbitration proceedings.

It was the intent of the Legislature in enacting Act 227 that the arbitrators would provide openness and transparency in the reporting of their awards and decisions in arbitration proceedings. However with the enactment of Act 227, the arbitrators have incorporated confidentiality clauses to prevent the disclosure of their awards and decisions to participants in the real estate market from understanding the real estate market in an open and transparent manner. This action frustrates the intent of Act 227. Passage of this bill will improve and protect the interests of the people of Hawaii by making data which affects commercial and industrial lease valuations available to everyone.

I urge your approval of this bill.

Aloha,


S. Steven Sofos, President/CEO
Sofos Realty Corporation
600 Kapiolani Boulevard, Suite 200
Honolulu, HI 96813

MUTUAL PLUMBING SUPPLY

2812 Awaawaloa Street, Honolulu, Hawaii 96819 Phone 808-839-9076 Fax 808-833-2085

February 13, 2013

**THE TWENTY-SEVENTH LEGISLATURE, REGULAR SESSION OF 2013
COMMITTEE ON COMMERCE AND CONSUMER PROTECTION**

Senator Rosalyn H. Baker, Chair
Senator Brickwood Galuteria, Vice- Chair
Members of the Committee

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

**RE: Testimony in Support of SB 1258 – Relating to Real Estate Appraisals
Hearing: February 13, 2013, 8:30 am; Room 229**

Aloha Chair Baker, Vice-Chair Galuteria and Members of the Committees,

My name is Clyde Kojima and I am writing in strong support of SB 1258, which would require real estate appraisers acting as arbitrators in ground rent arbitrations to fully disclose and record the arbitration awards, along with the record of the award and any opinions related to the arbitration award with the Bureau of Conveyance.

With the enactment of Act 227 (Session Laws of Hawaii 2011) the Legislature made it clear that real estate appraisers, when acting as arbitrators in long-term ground lease rent valuations, shall provide relevant data as to the findings of fact and methodologies employed to support their conclusions within the record of the award. Act 227 was intended to create a more open and transparent market from which both lessors and lessees would have data from which to make more informed decisions.

Unfortunately in response to Act 227, appraiser/arbitrators have insisted upon adding confidentiality clauses into their engagement agreements in order to prevent the disclosure of the award data and methodologies thereby limiting the information consumers could obtain to make better and more informed decisions. This action frustrates the intent of Act 227 and severely constrains the development of a true "open" market valuation process.

Recordation of the arbitration data with the Bureau of Conveyance will allow interested consumers to better understand the market. I urge you to support and pass SB 1258 and bring light unto a market that is controlled by too few individuals.

Please pass SB 1258.

Mahalo,

Clyde T. Kojima
Mutual Plumbing Supply Co., Inc.
2812 Awaawaloa Street
Honolulu, HI 96819
mutualpls@hawaiiantel.net
(808)839-9076 (ph)/(808)833-2085 (fax)



GINOZA REALTY

Residential and Vacant Land Brokerage - Property Management - Development Consultant

February 8, 2013

**THE TWENTY-SEVENTH LEGISLATURE, REGULAR SESSION OF 2013
COMMITTEE ON COMMERCE AND CONSUMER PROTECTION**

Senator Rosalyn H. Baker, Chair
Senator Brickwood Galuteria, Vice- Chair
Members of the Committee

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

RE: Testimony in Support of SB 1258 – Relating to Real Estate Appraisals
Hearing: February 13, 2013, 8:30 am; Room 229

Aloha Chair Baker, Vice-Chair Galuteria and Members of the Committees,

My name is Russell Arikawa and I am writing in strong support of SB 1258, which would require real estate appraisers acting as arbitrators in ground rent arbitrations, to fully disclose and record the arbitration awards, along with the record of the award and any opinions related to the arbitration award with the Bureau of Conveyance.

Act 227 was intended to create a more open and transparent market so both lessors and lessees would have data from which to make more informed decisions. With the enactment of Act 227 (Session Laws of Hawaii 2011) the Legislature made it clear that real estate appraisers, when acting as arbitrators in long-term ground lease rent valuations, shall provide relevant data as to the findings of fact and methodologies employed to support their conclusions within the record of the award.

However, appraiser/arbitrators have insisted upon adding confidentiality clauses into their engagement agreements in order to prevent the disclosure of the award data and their methods of determining their appraisals, thereby limiting the information consumers could obtain to make better and more informed decisions. This action frustrates the intent of Act 227 and severely constrains the development of a true "open" market valuation process.

Recordation of the arbitration data with the Bureau of Conveyance will allow interested consumers to understand the market. I urge you to support and pass SB 1258. Please pass SB 1258.

Mahalo,



Russell M. Arikawa
Ginoza Realty, Inc.
808-969-1471
russell@ginozarealty.com

JN Group, Inc.

fka WHOLESale MOTORS, INC.

ESTABLISHED IN 1961

2999 N. Nimitz Highway Honolulu, Hawaii 96819-1903
Phone: 808.831.2500 Fax: 808.831.2594 www.jnautomotive.com

JN Automotive Group

February 4, 2013

JN Chevrolet

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

JN Mazda

Audi of Hawaii

Honorable Senator Rosalyn Baker, Chair
Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

Ferrari of Hawaii

Maserati of Hawaii

**RE: TESTIMONY IN SUPPORT OF SENATE BILL SB1258 -
RELATING TO REAL ESTATE APPRAISERS - HEARING
SCHEDULED FOR WEDNESDAY, FEBRUARY 13, 2013, AT 8:30
A.M.**

Lamborghini Hawaii

Dear Honorable Chair Rosalyn Baker, Vice Chair Brickwood Galuteria, and
Members of the Senator Committee on Commerce and Consumer Protection:

Bentley Honolulu

PETITION:

JN Lotus

I support passage of Senate Bill SB1258 which would require real estate appraisers acting as arbitrators in ground rent renegotiation to fully disclose arbitration awards, records of arbitration awards and any opinions related to such arbitration proceedings.

La Collezione Nicolai

JN Car and Truck Rentals

It was the intent of the Legislature in enacting Act 227 that the arbitrators would provide openness and transparency in the reporting of their awards and decisions in arbitration proceedings. However, with the enactment of Act 227, the

JN Leasing

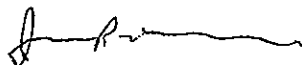
arbitrators have incorporated confidentiality clauses to prevent the disclosure of their awards and decisions to participants in the real estate market from understanding the real estate market in an open and transparent manner. This

JN Advertising

action frustrates the intent of Act 227. Passage of this bill will improve and protect the interests of the people of Hawaii by making data which affects commercial and industrial lease valuations available to everyone.

JN Development

I urge you to approve this bill.



Joseph P. Nicolai
Chairman

JAMES W. Y. WONG

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

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

January 31, 2013

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

Honorable Senator Rosalyn Baker, Chair
Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

**RE: TESTIMONY IN SUPPORT OF SENATE BILL SB1258 - RELATING TO
REAL ESTATE APPRAISERS - HEARING SCHEDULED FOR WEDNESDAY,
FEBRUARY 13, 2013, AT 8:30 A.M.**

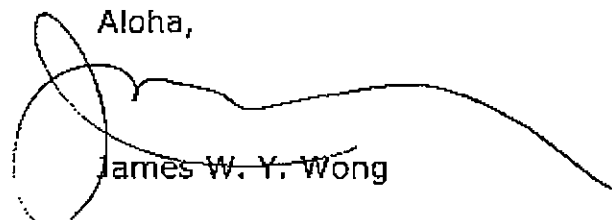
Dear Honorable Chair Rosalyn Baker, Vice Chair Brickwood Galuteria, and
Members of the Senator Committee on Commerce and Consumer Protection:

I support passage of Senate Bill SB1258 which would require real estate appraisers acting as arbitrators in ground rent renegotiation to fully disclose arbitration awards, records of arbitration awards and any opinions related to such arbitration proceedings.

It was the intent of the Legislature in enacting Act 227 that the arbitrators would provide openness and transparency in the reporting of their awards and decisions in arbitration proceedings. However with the enactment of Act 227, the arbitrators have incorporated confidentiality clauses to prevent the disclosure of their awards and decisions to participants in the real estate market from understanding the real estate market in an open and transparent manner. This action frustrates the intent of Act 227. Passage of this bill will improve and protect the interests of the people of Hawaii by making data which affects commercial and industrial lease valuations available to everyone.

Please approve SB1258.

Aloha,



James W. Y. Wong

February 13, 2013

**THE TWENTY-SEVENTH LEGISLATURE, REGULAR SESSION OF 2013
COMMITTEE ON COMMERCE AND CONSUMER PROTECTION**

Senator Rosalyn H. Baker, Chair
Senator Brickwood Galuteria, Vice- Chair
Members of the Committee

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

RE: Testimony in Support of SB 1258 – Relating to Real Estate Appraisals
Hearing: February 13, 2013, 8:30 am; Room 229

Aloha Chair Baker, Vice-Chair Galuteria and Members of the Committees,

My name is Mark Luria and I am writing in strong support of SB 1258, which would require real estate appraisers acting as arbitrators in ground rent arbitrations to fully disclose and record the arbitration awards, along with the record of the award and any opinions related to the arbitration award with the Bureau of Conveyance.

With the enactment of Act 227 (Session Laws of Hawaii 2011) the Legislature made it clear that real estate appraisers, when acting as arbitrators in long-term ground lease rent valuations, shall provide relevant data as to the findings of fact and methodologies employed to support their conclusions within the record of the award. Act 227 was intended to create a more open and transparent market from which both lessors and lessees would have data from which to make more informed decisions.

Unfortunately in response to Act 227, appraiser/arbitrators have insisted upon adding confidentiality clauses into their engagement agreements in order to prevent the disclosure of the award data and methodologies thereby limiting the information consumers could obtain to make better and more informed decisions. This action frustrates the intent of Act 227 and severely constrains the development of a true "open" market valuation process.

Recordation of the arbitration data with the Bureau of Conveyance will allow interested consumers to better understand the market. I urge you to support and pass SB 1258 and bring light unto a market that is controlled by too few individuals.

Please pass SB 1258.

Mahalo,

Mark Luria
808-592-0707

COLIN LAU

47-695 Hui Ulii Street, Kaneohe, HI 96744

January 31, 2013

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

Honorable Senator Rosalyn Baker, Chair
Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

RE: TESTIMONY IN SUPPORT OF SENATE BILL SB1258 - RELATING TO REAL ESTATE APPRAISERS - HEARING SCHEDULED FOR WEDNESDAY, FEBRUARY 13, 2013, AT 8:30 A.M.

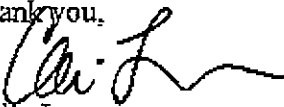
Dear Honorable Chair Rosalyn Baker, Vice Chair Brickwood Galuteria, and Members of the Senator Committee on Commerce and Consumer Protection:

I support passage of Senate Bill SB1258 which would require real estate appraisers acting as arbitrators in ground rent renegotiation to fully disclose arbitration awards, records of arbitration awards and any opinions related to such arbitration proceedings.

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. It was the intent of the Legislature in enacting Act 227 that the arbitrators would provide openness and transparency in the reporting of their awards and decisions in arbitration proceedings. To the contrary, the arbitrators have incorporated confidentiality clauses to prevent the disclosure of their awards and decisions to participants in the real estate market from understanding the real estate market in an open and transparent manner. This action frustrates the intent of Act 227. Passage of this bill will improve and protect the interests of the people of Hawaii by making data which affects commercial and industrial lease valuations available to everyone.

I urge your approval of Senate Bill SB1258.

Thank you,



Colin Lau

RICHARD HENDERSON

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

February 4, 2013

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

Honorable Senator Rosalyn Baker, Chair
Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

RE: TESTIMONY IN SUPPORT OF SENATE BILL SB1258 - RELATING TO REAL ESTATE APPRAISERS

Dear Honorable Chair Rosalyn Baker, Vice Chair Brickwood Galuteria, and Members of the Senator Committee on Commerce and Consumer Protection:

I support passage of Senate Bill SB1258 which would require real estate appraisers acting as arbitrators in ground rent renegotiation to fully disclose arbitration awards, records of arbitration awards and any opinions related to such arbitration proceedings.

It was the intent of the Legislature in enacting Act 227 that the arbitrators would provide openness and transparency in the reporting of their awards and decisions in arbitration proceedings. However with the enactment of Act 227, the arbitrators have incorporated confidentiality clauses to prevent the disclosure of their awards and decisions to participants in the real estate market from understanding the real estate market in an open and transparent manner. This action frustrates the intent of Act 227. Passage of this bill will improve and protect the interests of the people of Hawaii by making data which affects commercial and industrial lease valuations available to everyone.

I urge your approval of this bill.

Sincerely yours,



January 31, 2013

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

Honorable Senator Rosalyn Baker, Chair
Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

RE: TESTIMONY IN SUPPORT OF SENATE BILL SB1258 - RELATING TO REAL ESTATE APPRAISERS - HEARING SCHEDULED FOR WEDNESDAY, FEBRUARY 13, 2013, AT 8:30 A.M.

Dear Honorable Chair Rosalyn Baker, Vice Chair Brickwood Galuteria, and Members of the Senator Committee on Commerce and Consumer Protection:

PETITION:

We support passage of Senate Bill SB1258 which would require real estate appraisers acting as arbitrators in ground rent renegotiation to fully disclose arbitration awards, records of arbitration awards and any opinions related to such arbitration proceedings.

It was the intent of the Legislature in enacting Act 227 that the arbitrators would provide openness and transparency in the reporting of their awards and decisions in arbitration proceedings. However with the enactment of Act 227, the arbitrators have incorporated confidentiality clauses to prevent the disclosure of their awards and decisions to participants in the real estate market from understanding the real estate market in an open and transparent manner. This action frustrates the intent of Act 227. Passage of this bill will improve and protect the interests of the people of Hawaii by making data which affects commercial and industrial lease valuations available to everyone.

We urge your approval of this bill.

Print Name <i>A. Kamehameha</i>	Signature <i>A. Kamehameha</i>	Address <i>1777 Kamehameha Ln., Hon.</i>
------------------------------------	-----------------------------------	---

January 31, 2013

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

Honorable Senator Rosalyn Baker, Chair
Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

RE: TESTIMONY IN SUPPORT OF SENATE BILL SB1258 - RELATING TO REAL ESTATE APPRAISERS - HEARING SCHEDULED FOR WEDNESDAY, FEBRUARY 13, 2013, AT 8:30 A.M.

Dear Honorable Chair Rosalyn Baker, Vice Chair Brickwood Galuteria, and Members of the Senator Committee on Commerce and Consumer Protection:

PETITION:

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We urge your approval of this bill.

Print Name

Signature

Address

JD Watson	J. Watson	307 Leeward St 96815
Jerry Mount	Jerry Mount	3853 Kapaolu Place 96815

February 5, 2013

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

Honorable Senator Rosalyn Baker, Chair
Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

RE: TESTIMONY IN SUPPORT OF SENATE BILL SB1258 - RELATING TO REAL ESTATE APPRAISERS - HEARING SCHEDULED FOR WEDNESDAY, FEBRUARY 13, 2013, AT 8:30 A.M.

Dear Honorable Chair Rosalyn Baker, Vice Chair Brickwood Galuteria, and Members of the Senator Committee on Commerce and Consumer Protection:

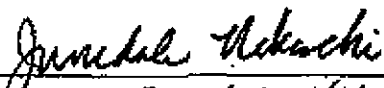
PETITION:

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We urge your approval of this bill.

Sincerely,



Print Name Junedate Nakachi
Address 2385 Okoa St, Honolulu, HI 96821

February 5, 2013

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

Honorable Senator Rosalyn Baker, Chair
Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

RE: TESTIMONY IN SUPPORT OF SENATE BILL SB1258 - RELATING TO REAL ESTATE APPRAISERS - HEARING SCHEDULED FOR WEDNESDAY, FEBRUARY 13, 2013, AT 8:30 A.M.

Dear Honorable Chair Rosalyn Baker, Vice Chair Brickwood Galuteria, and Members of the Senator Committee on Commerce and Consumer Protection:


PETITION:

We support passage of Senate Bill SB1258 which would require real estate appraisers acting as arbitrators in ground rent renegotiation to fully disclose arbitration awards, records of arbitration awards and any opinions related to such arbitration proceedings.

It was the intent of the Legislature in enacting Act 227 that the arbitrators would provide openness and transparency in the reporting of their awards and decisions in arbitration proceedings. However with the enactment of Act 227, the arbitrators have incorporated confidentiality clauses to prevent the disclosure of their awards and decisions to participants in the real estate market from understanding the real estate market in an open and transparent manner. This action frustrates the intent of Act 227. Passage of this bill will improve and protect the interests of the people of Hawaii by making data which affects commercial and industrial lease valuations available to everyone.

We urge your approval of this bill.

Sincerely,



Print Name Gordon L. K. Smith
Address 2395 OLOA ST APO HI 96321

February 5, 2013

VIA EMAIL

CPNTestimony@CapitolHawaii.gov

Honorable Senator Rosalyn Baker, Chair
Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

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We urge your approval of this bill.

Sincerely,

June A. Akina
Print Name June A. Akina
Address 46-298 Kahuhipa St Kaneohe HI 96744

January 31, 2013

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

Honorable Senator Rosalyn Baker, Chair
Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

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We urge your approval of this bill.

Print Name

Darryl Wong

Signature

Darryl Wong

Address

1836 Punchbun St Honolulu

February 5, 2013

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

Honorable Senator Rosalyn Baker, Chair
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We urge your approval of this bill.

Sincerely,



Print Name Kawi Wong

Address 1469 ^{Kanama} ~~Kanama~~ Dr, Kailua, HI 96734

SB1258

Submitted on: 2/7/2013

Testimony for CPN on Feb 13, 2013 08:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
GARRET KANAI	CITIZENS FOR FAIR VALUATION	Support	Yes

Comments: Good Morning, My name is Garret Kanai with Island Lighting Co., Inc. I am in strong support of SB 1258. Please pass SB 1258. Thank you.

February 11, 2013

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

Honorable Senator Rosalyn Baker, Chair
Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

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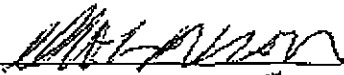
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We urge your approval of this bill.

Sincerely,



Print Name Ewen Chock
Address 1431 Hikeke Pl
96816

January 31, 2013

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

Honorable Senator Rosalyn Baker, Chair
Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

RE: TESTIMONY IN SUPPORT OF SENATE BILL SB1258 - RELATING TO REAL ESTATE APPRAISERS - HEARING SCHEDULED FOR WEDNESDAY, FEBRUARY 13, 2013, AT 8:30 A.M.



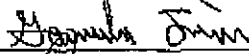
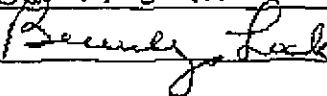
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We urge your approval of this bill.

Print Name	Signature	Address
ALLAN LOCK		5301 MALU PL
Albert Hamai		1457 Ala Moana St Honolulu HI 96814
Gordon Loui		3263 Alani Dr 96822
Beverly Lock		5301 Malu Pl. HI 96814

February 11, 2013

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

Honorable Senator Rosalyn Baker, Chair
Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

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We urge your approval of this bill.

Sincerely,



Print Name Gentry Ono

Address 484B HA. Makihana 2583 Dole St
Honolulu, HI 96822

January 31, 2013

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

Honorable Senator Rosalyn Baker, Chair
Honorable Senator Brickwood Galuteria, 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
DALE RHEE	<i>[Signature]</i>	1729 Nahuolu Pl. Honolulu 96821
NIGON RHEE	<i>[Signature]</i>	"
DANIEL RHEE	<i>[Signature]</i>	"

February 11, 2013

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

Honorable Senator Rosalyn Baker, Chair
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Senate Members of Committee on Commerce and Consumer Protection

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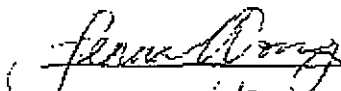
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We urge your approval of this bill.

Sincerely,



Print Name Jenda Wong
Address 1836 Punahoa st Honolulu HI 96812

February 5, 2013

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

Honorable Senator Rosalyn Baker, Chair
Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

RE: TESTIMONY IN SUPPORT OF SENATE BILL SB1258 - RELATING TO REAL ESTATE APPRAISERS - HEARING SCHEDULED FOR WEDNESDAY, FEBRUARY 13, 2013, AT 8:30 A.M.

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We urge your approval of this bill.

Sincerely,



Print Name Gail Sugiya
Address 1064 12th Ave.

February 5, 2013

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

Honorable Senator Rosalyn Baker, Chair
Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

RE: TESTIMONY IN SUPPORT OF SENATE BILL SB1258 - RELATING TO REAL ESTATE APPRAISERS - HEARING SCHEDULED FOR WEDNESDAY, FEBRUARY 13, 2013, AT 8:30 A.M.

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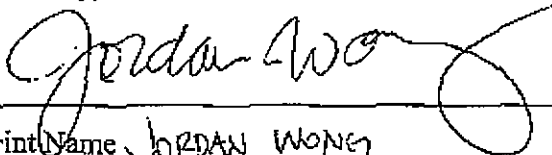
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We urge your approval of this bill.

Sincerely,



Print Name JORDAN WONG

Address 23592 Roundtop Dr. Honolulu, HI 96872

February 5, 2013

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

Honorable Senator Rosalyn Baker, Chair
Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

RE: TESTIMONY IN SUPPORT OF SENATE BILL SBI258 - RELATING TO REAL ESTATE APPRAISERS - HEARING SCHEDULED FOR WEDNESDAY, FEBRUARY 13, 2013, AT 8:30 A.M.

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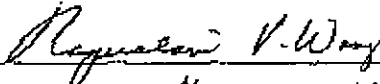
PETITION:

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We urge your approval of this bill.

Sincerely,



Print Name Napuatani V. Wong
Address 1577 Nekoa St., Honolulu, HI 96822

February 5, 2013

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

Honorable Senator Rosalyn Baker, Chair
Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

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We urge your approval of this bill.

Sincerely,



Print Name

Ron Iyama

Address 45-507 Nalekuai St. Kaneohe, HI 96744

February 5, 2013

VIA EMAIL

CPNTestimony@CapitolHawaii.gov

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Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

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We urge your approval of this bill.

Sincerely,



Print Name

Dennis H. Fisher

Address

144 So. King St. #232 Honolulu, HI 96814

January 31, 2013

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

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Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

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We urge your approval of this bill.

Print Name

Donald Lau

Signature



Address

555 Kalia St. Honolulu HI 96816

~~555 Kalia St. Honolulu, HI 96816~~

February 5, 2013

VIA EMAIL

CPNTtestimony@Capitol.hawaii.gov

Honorable Senator Rosalyn Baker, Chair
Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

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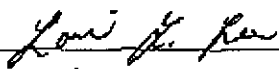
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We urge your approval of this bill.

Sincerely,



Print Name Loni L. Lee
Address 906 6th Avenue, Honolulu 96816

February 5, 2013

VIA EMAIL

CPNTestimony@Capitol.hawaii.gov

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Honorable Senator Brickwood Galuteria, Vice Chair
Senate Members of Committee on Commerce and Consumer Protection

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We urge your approval of this bill.

Sincerely,

Rosalind Moore
Print Name ROSALIND MOORE
Address 3358 ALOHEA AVE.
HON, HI 96816

SB1293

Submitted on: 2/11/2013

Testimony for CPN on Feb 13, 2013 08:30AM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
oswald K. stender	Individual	Support	Yes

Comments: Chair and Members: My name is Oswald K. Stender and I am writing in strong support of SB 1258. The reason for disclosure is to provide transparency to a process that has dire economic consequences to many of the small businesses impacted by the appraisal and arbitration processes. Small businesses who are the backbone of our Hawaii community cannot afford to challenge the numbers that large owners put forth if all of these numbers, that form the basis for their lease rents which is their lifeline to continue in business, are kept "confidential". Please support and pass SB 1258. Mahalo and aloha. O. K. Stender