



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-NINTH LEGISLATURE, 2018**

**LATE**

**ON THE FOLLOWING MEASURE:**

S.B. NO. 2722, RELATING TO OFFENSES AGAINST PUBLIC ADMINISTRATION.

**BEFORE THE:**

SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND  
MILITARY AFFAIRS

**DATE:** Tuesday, February 13, 2018      **TIME:** 2:05 p.m.

**LOCATION:** State Capitol, Room 229

**TESTIFIER(S):** Russell A. Suzuki, Acting Attorney General, or  
Lance Goto, Deputy Attorney General.

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Chair Nishihara and Members of the Committee:

The Department of the Attorney General ("the Department") appreciates the intent of the bill and submits comments.

The purpose of this bill is to create the class C felony offense of obstructing county real property zoning enforcement operations, which prohibits a person from knowingly making a false or misleading statement to a bona fide county inspector in the course of the inspector's investigation.

On line 7, the word "misleading" is vague and could result in enforcement issues.

On line 8, "bona fide" is not defined, and appears unnecessary.

While the offense is entitled "obstructing county real property zoning enforcement operations," the broad reference to "a bona fide county inspector" means that the offense could apply to statements made to any county inspector, even those not involved in real property zoning enforcement.

With respect to the grading of the offense as a felony, the Department notes that the felony grading has to be justified and consistent with the grading of existing offenses. Perjury, in violation of section 710-1060, Hawaii Revised Statutes (HRS), is a very serious offense and is graded as a class C felony offense. False Swearing in Official Matters, in violation of section 710-1061, HRS, is a misdemeanor. False Reporting to Law-enforcement Authorities, in violation of section 710-1015, HRS, is a

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misdemeanor. Unsworn Falsification to Authorities, in violation of section 710-1063, HRS, is very similar to the proposed offense in this bill, and is a misdemeanor.

The Department also notes the unusually narrow focus of the proposed offense. The offense appears intended to only address an issue related to real property zoning enforcement by county inspectors. But a state law should not only prohibit false statements to county inspectors. Such a limitation could imply that it would be acceptable to make false statements to a state inspector or investigator. The narrow issue might be more appropriately addressed by a specific county through its own ordinances.

If the Committee would like to address the issue of false statements to inspectors, the Department respectfully suggests that it consider an amendment to an existing criminal statute. The proposed offense is similar to the existing offense of Unsworn Falsification to Authorities, set forth in section 710-1063, HRS. As such, it may be simpler and more effective to amend section 710-1063 by adding another subsection that reads:

Makes any statement, in oral, written, printed, or electronic form, which the person does not believe to be true, to a public servant engaged in criminal, civil, or administrative enforcement activity.

"Public servant" is broadly defined in section 710-1000, HRS, to mean any officer or employee of any branch of government.

The Department appreciates the opportunity to provide comments.

# Hawai'i Construction Alliance

P.O. Box 179441  
Honolulu, HI 96817  
(808) 348-8885

February 12, 2018

The Honorable Clarence K. Nishihara, Chair  
The Honorable Glenn Wakai, Vice Chair  
and Members  
Senate Committee on Public Safety, Intergovernmental,  
and Military Affairs  
415 South Beretania Street  
Honolulu, Hawai'i 96813



**RE: Support for SB2722, Relating to Offenses Against Public Administration**

Dear Chair Nishihara, Vice Chair Wakai, and Members:

The Hawai'i Construction Alliance is comprised of the Hawai'i Regional Council of Carpenters; the Operative Plasterers' and Cement Masons' Union, Local 630; International Union of Bricklayers & Allied Craftworkers, Local 1; the Laborers' International Union of North America, Local 368; and the Operating Engineers, Local Union No. 3. Together, the member unions of the Hawai'i Construction Alliance represent 15,000 working men and women in the basic crafts of Hawai'i's construction industry.

Along with many advocates in the community, we have been deeply concerned with the proliferation of large residential structures, otherwise known as "monster homes" throughout Honolulu's urban neighborhoods. We are also concerned with their potential use as short-term rentals for non-residents.

In response to these concerns, we have begun to examine in detail many of the construction sites where these large residential structures are being built. Our initial findings have been extremely troubling, including serious safety violations, the existence of hazards to potential occupants, environmental issues, and potential violations of worker safety and contractor laws.

One of the most troubling aspects of this issue, however, is the potential for the builders and operators of these structures to make false or misleading statements to county building or tax inspectors to avoid scrutiny or penalties. SB2722 would help to address this problem by making it a felony to make false or misleading statements to a county inspector in the course of the inspector's investigation.

We believe that additional tools, such as the one proposed in SB2722, would assist the various counties in addressing the issues created by the builders and operators of "monster homes." We remain ready and available to assist the State, the various county building departments, and community groups in these areas to solve the ever-growing issue of large residential structures or "monster homes" in our residential neighborhoods.

Aloha,

Tyler Dos Santos-Tam  
Executive Director  
Hawai'i Construction Alliance

**SB-2722**

Submitted on: 2/12/2018 2:48:24 PM

Testimony for PSM on 2/13/2018 2:05:00 PM

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Charles Prentiss	Individual	Support	No

Comments:

This bill is strongly needed to enforce existing law.

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**SB-2722**

Submitted on: 2/12/2018 4:46:39 PM  
Testimony for PSM on 2/13/2018 2:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Paul Spriggs	Individual	Support	No

Comments:

I adamantly support **SB2722** as written. It's very apparent County officials are being asked to enforce zoning laws without the tools and State laws to support their efforts. Making a false statement to a county inspector a crime within the offense of unsworn falsification will assist county officials tremendously.

**From:** [Al Sieverts](#)  
**To:** [PSMTestimony](#)  
**Subject:** Vacation rentals and short term ARNB  
**Date:** Tuesday, February 13, 2018 9:39:04 AM



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To whom it may concern,

I have reviewed the senate bills 2092 and 2722 which addresses the illegal short term rentals in our communities outside of Waikiki and I m in full support of both bills.

Over the past few years I have seen the housing situation for REAL resident evaporate because of greedy home owners trying to capitilize on the short-term rental of rooms or houses to the expense of those in need of place to live. Our kids are being pushed out and end up moving to the mainland because of this situation. I have four children who have all looked for a place to live in Hawaii Kai in recent years and have not been able to find very much available. It is a sad situation. People coming and going and walking up and down the street with their luggage in tow. What is going on? Basically, in my opinion, it is the influx of vacation rentals I know of someone who has seven rooms for rent in one house. Crazy, this is not what a nice bedroom community is about.

Please consider these two bills and help us restore the balance of long-term rentals in our community.

Sincerely,  
Al Sieverts

**From:** [Linda Wong](#)  
**To:** [PSMTestimony](#)  
**Subject:** SB 2092 & SB2722  
**Date:** Monday, February 12, 2018 11:36:54 PM

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Dear Senators:

The challenge with enforcement for illegal vacation rentals and monster homes is that people know that they can get out of an offense by lying to county inspectors.  
Please pass SB 2092 & SB 2722 to make these offenses a class C Felony.

Aloha Pumehana,  
Linda Wong  
Member Diamond Head, Kapahulu, St. Louis Heights Neighborhood Board 5



**From:** [J Otto](#)  
**To:** [PSMTestimony](#)  
**Cc:** [Cameron Sato](#)  
**Subject:** Support for SB2092 and SB2722  
**Date:** Monday, February 12, 2018 6:05:37 PM

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Aloha Senators,

I've been working in law enforcement for nearly 20 years. In my experience, weak laws have allowed criminals to continue their criminal behavior. Implementing these bills is the most common sense approach to addressing these criminal acts. We need to call it what it is. Don't consider making this only a violation or a citation with a nominal monetary fine because we all know the profits far outweigh the cost of paying fines, especially when they settle with the city or county pennies on the dollar.

I fully support SB2092 and SB2722. Please ensure the definition of "county inspectors" includes fire inspectors. These monster home builders/owners will look for every loophole to dodge our laws. These bills will provide the necessary tools for effective enforcement and deterring criminal intent and behavior.

Any opposition to this bill would ONLY come from people with criminal intention. THINK ABOUT IT!

Sincerely,

John Otto





**From:** [Melissa Maii](#)  
**To:** [PSMTestimony](#)  
**Subject:** Support SB 2092 and SB 2722  
**Date:** Monday, February 12, 2018 5:53:01 PM

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I support both SB 2092 and SB 2722. Our Aina and our resources are being destroyed by people that don't respect our precious home. They are here to make money for themselves and have no problem lying. Is this how we raise our children? NO. If this keeps up our children will have nothing left an Hawaii will not be Hawai'i.

Sent from Missy's iPhone  
Mahalo, Hawaiian, Missy

**LATE**

**From:** [christine otto zaa](#)  
**To:** [PSMTestimony](#)  
**Cc:** [Cameron Sato](#)  
**Subject:** Support of SB2092 and SB2722  
**Date:** Monday, February 12, 2018 4:58:24 PM

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Aloha Senators,

I wholeheartedly support SB2092 and SB2722. The monster "apartment home" and illegal rentals need to stop and **enforcement is key**. Lying to an inspector should be a CRIME and fines need to be bumped up considerably to deter the illegal activity.

Let's stop being passive and allowing these deceitful, self-serving investors/developers, who only care about making money, from ruining our aloha state. They have no respect for their neighbors, our communities, our culture and our beautiful state. It really is a crime what these people are doing to our residential neighborhoods and to our local families who are getting outbid by these greedy people who have turned our neighborhoods into a business.

Thank you for your consideration.

Respectfully,  
Christine Otto Zaa

**LATE**

**From:** [karasu@hawaii.rr.com](mailto:karasu@hawaii.rr.com)  
**To:** [PSMTestimony](#)  
**Subject:** SB 2092 and SB 2722 - Lying to Government Inspectors/Civil Servants  
**Date:** Monday, February 12, 2018 2:31:01 PM

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I support any measure that gives our civil servants the means to enforce the rules they are charged to uphold.

In regards to government inspections, why have them at all if there are no consequences? Whether it is construction that is in violation of city or state rules or businesses in areas not zoned for them or landlords exploiting their tenants, inspectors are on the front line for the rest of the citizenry. One lawbreaker getting away with it encourages others -- when lying to our inspectors, and make no mistake, our good public servants are our people as they represent all of us as the arm of our government, a criminal is lying to all of us. If they get away with it, they will do it again and again until something or someone makes them stop.

We already have seen the effectiveness of the inspection program the Department of Health does with food service so we know that money and reputation is one way to get folks to follow rules.

Support our public servants so they can protect us as they are charged to -- it must be dreadfully demoralizing for them to try to do their jobs and see their efforts ignored or undercut because there are no consequences to blatant falsehood and misbehavior. Hit the bad guys where it hurts the most -- in their bank accounts -- until they have none left to continue bad behavior or change their ways.

Thank you for your consideration of my testimony.

Sharon K. Ouchi.