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DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
830 PUNCHBOWL STREET, ROOM 221
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To: The Honorable Angus L.K. McKelvey, Chair
and Members of the House Committee on Economic Development & Business

Date: Wednesday, January 30, 2019
Time: 10:00 A.M.
Place: Conference Room 309, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: H.B. 475, Relating to Taxation of Real Estate Investment Trusts

The Department of Taxation (Department) provides the following comments regarding H.B. 475 for your consideration.

H.B. 475 eliminates conformity to Internal Revenue Code section 857(b)(2)(B), and disallows the deduction for dividends paid by a Real Estate Investment Trust (REIT). The measure is effective upon approval and applies to taxable years beginning after December 31, 2019.

First, while a REIT must report all of its income on a tax return, it is not mandatory to report all of its allowable deductions. This is because the dividends paid for the deduction alone will eliminate any tax liability. In other words, to properly estimate the potential revenue gain we must also consider the other allowable deductions that can be used to offset tax liability, as well as behavioral responses due to tax planning.

Second, the Department notes that it always prefers conformity with the Internal Revenue Code (IRC) where possible, as it provides clear guidance to both the Department and to taxpayers; the Internal Revenue Service has issued substantial guidance in the form of rules and regulations, and there are many court decisions regarding the various sections of the IRC. Conformity greatly minimizes the burden on the Department and taxpayers, thereby assisting compliance with Hawaii's tax law.

Thank you for the opportunity to provide comments.

O`ahu County Committee on Legislative Priorities (OCCLP)

January 28, 2019

TO: Honorable Chair McKelvey & EDB Committee Members
RE: HB 475 RELATING TO TAXATION OF REAL ESTATE INVESTMENT TRUSTS
Support for hearing on Jan. 30

Aloha mai kakou:

The O`ahu County Committee on Legislative Priorities (OCCLP) of the Democratic Party of Hawai`i (DPH) hereby submits its testimony in **SUPPORT of HB 475 relating to the Taxation of Real Estate Investment Trusts.**

OCCLP supports HB 475 as it would no longer allow the deduction for dividends paid for real estate investment trusts (REITS). REITs own about $17 billion worth of Hawaiʻi real estate and earn profits of about $1 billion every year, but they have a special tax status that exempts them from paying millions of dollars in corporate income tax. HB 475 would close the REITs tax loophole and make them pay their fair share of taxes.

Mahalo for your kind consideration on this measure.

Mahalo nui loa
Me ka `oia`i`o

/s/ *Melodie Aduja*

Melodie Aduja
Chair, O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i
Ph. (808) 258-8889
Email: legislativepriorities@gmail.com

SUBJECT: INCOME, Disallow REIT Deduction for Dividends Paid

BILL NUMBER: HB 475

INTRODUCED BY: BROWER, HOLT, MORIKAWA, OHNO, QUINLAN, Takayama

EXECUTIVE SUMMARY: This bill would disallow the dividends paid deduction that real estate investment trusts, or REITs, now enjoy. The numerous REITs who now own and manage Hawaii real estate would be taxed like any other corporation doing business in Hawaii.

SYNOPSIS: Amends HRS section 235-2.3(b) to provide that section 857(b)(2)(B) (with respect to the dividends paid deduction for real estate investment trusts) shall not be operative for Hawaii income tax purposes.

Amends HRS section 235-71(d) to provide that for tax years beginning after December 31, 2019, no deduction for dividends paid shall be allowed for REITs for Hawaii income tax purposes.

EFFECTIVE DATE: Taxable years beginning after December 31, 2019.

STAFF COMMENTS: Currently under federal and state income tax law, a real estate investment trust (REIT) is allowed a dividend paid deduction, unlike most other corporations, resulting in that dividend being taxed once, to the recipient, rather than to the paying corporation. The proposed measure would make that section of the IRC inoperative for Hawaii income tax purposes for tax years beginning after 12/31/19, meaning that REITs would be subject to double taxation like other corporations.

All state income tax systems in the United States, including ours, have a set of rules that are used to figure out which state has the primary right to tax income. For example, most tax systems say that rent from real property is sourced at the location of the property, so if a couple in Florida rents out a property they own on Maui they can expect to pay our GET and our net income tax on that rent. These sourcing rules, which do vary by state but are relatively consistent across state lines, are there to assure consistent and fair treatment between states.

Sourcing rules, however, can yield strange results. Here, there is a Hawaii Supreme Court case saying that when real property is sold on the installment basis under an “agreement of sale,” where the seller remains on title until the price is paid (although the buyer can live in the house), then the interest on the deferred payments is Hawaii source income and is subject to our net income tax and our GET. There is also a Hawaii Tax Appeal Court case holding that when the seller instead finances the deal by taking a purchase money mortgage on the property, and does not remain on title, then the mortgage interest is sourced to the residence of the seller, who in that case did not live in Hawaii. In the second case the court applied the rule for income from intangibles such as interest, royalties, and dividends, which says that income is sourced to the residence of the recipient unless you can connect it with some active business that the recipient is conducting somewhere else.

Real estate investment trusts (REITs) are source shifters. For income tax purposes, they take in rent income, which is sourced to the location of the property being rented. They don't pay income tax on that income as long as they distribute the money to their shareholders as dividends. The dividend income of their shareholders, on the other hand, is generally sourced to the residence of the shareholders. So, the income that the property states expected to tax is instead taxed in the states in which the shareholders live. And, to the extent that REIT shares are held by tax-exempt entities such as labor unions and retirement funds, passive income such as dividends may not be taxed at all. Source shifting is an issue specific to state taxation.

Apparently, the evil sought to be addressed by the bill is that (1) REITs are very visible in Hawaii, but do not get taxed because of the deduction allowed for dividends paid, while (2) many REIT owners who receive the dividend income are either (a) outside of Hawaii and don't get taxed either because they are outside of Hawaii, or (b) are exempt organizations that normally are not taxed on their dividend income. Normally we like to have our income tax law conform to the Internal Revenue Code to make it easier for people and companies to comply with it, but our legislature has departed from conformity when there's a good reason to do so (such as if it is costing us too much money). The issue is whether such a good reason exists here.

REITs do pay general excise and property taxes on rents received and property owned – as do the rest of us who are fortunate enough to have rental income or property to our name.

Digested 1/25/2019

ADA HAWAI'I
AMERICANS FOR DEMOCRATIC ACTION

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Dylan Armstrong, Secretary	Gloria Borland	Jenny Nomura		

Jan 26, 2018

TO: Honorable Chair McKelvey & EDB Committee Members

RE: HB 475 RELATING TO TAXATION OF REAL ESTATE INVESTMENT TRUSTS

Support for hearing on Jan. 30

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support HB 475 as it would no longer allow the deduction for dividends paid for real estate investment trusts (REITS). REITs own about $17 billion worth of Hawai'i real estate and earn profits of about $1 billion every year, but they have a special tax status that exempts them from paying millions of dollars in corporate income tax. HB 475 would close the REITs tax loophole and make them pay their fair share of taxes.

Thank you for your favorable consideration.

Sincerely,

John Bickel President

ADA

HB 475, RELATING TO TAXATION OF REAL ESTATE INVESTMENT TRUSTS

JANUARY 30, 2019 · HOUSE ECONOMIC DEVELOPMENT AND BUSINESS COMMITTEE · CHAIR REP. ANGUS L.K. MCKELVEY

POSITION: Support.

RATIONALE: IMUAlliance supports HB 475, relating to taxation of real estate investment trusts, which disallows the dividends paid deduction for real estate investment trusts. A REIT, notably, is a corporation that owns income-producing real estate, like hotels and shopping malls, in which individuals may purchase shares to earn a portion of the income generated.

Under state taxation law, REIT's are currently afforded an exemption from paying corporate income taxes on dividends paid to shareholders. REIT shareholders, however, pay federal and state income taxes on their earnings from the REIT in which they have invested. Unfortunately, since most shareholders of Hawai'i REITs don't live in the Aloha State, they pay income taxes in other locations. Thus, income generated by Hawai'i property is getting taxed elsewhere, sending sorely needed tax dollars for local schools, infrastructure, climate change mitigation, human and social services, and affordable housing outside of our shores.

Eliminating REIT dividend deductions will uplift Hawai'i's people. Over 30 REITs operate in Hawai'i, the most prominent of which is Alexander and Baldwin. Collectively, Hawai'i REITs own $13 billion worth of real estate. In 2014, Hawai'i REITs produced $721 million in dividend income exempt from the corporate income tax, amounting to $35 million in lost tax revenue–a number that has only increased since that time, as real estate values have continued to soar.

Testimony in supporting HB 475 with an amendment
House Committee on Economic Development and Business
January 30, 2019 at 9:00 in Conference Room 309

My name is Rev.. David Turner, and I am the pastor of The Church of the Crossroads, Hawaii's first intentionally multi-cultural church, founded in 1923. We have 200 members residing all over Oahu and have as a congregation unanimously adopted a position of supporting taxation of REITs as a revenue source for affordable housing. Both our church and myself are also very involved in Faith Action an inter-faith organization advocating for justice and community equity here in Hawaii. Faith Action is also in support HB 475

Thank you for this opportunity to testify in support of HB 475. Real Estate Investment Trusts (REITs) are corporations that use a loophole to avoid the Hawaii corporate tax. That loophole should be closed, and the new tax revenue that is generated should be dedicated 100% to increase the supply of affordable housing.

REITs own income-producing property in Hawaii such as Ala Moana Center, the Hilton Hawaiian Village Resort, as well as office buildings and many other shopping centers and hotels. Together, they own property with an estimated total value of $18 billion that earns an estimated $1 billion in profits annually. If Hawaii's corporate tax were applied to REITs, an estimated $60 million in tax revenue would be generated.

Meanwhile, Hawaii faces an enormous shortage of housing that is affordable to low- and middle-income individuals and families. New housing is being built, but most of it is priced for the high-income strata. Some efforts are being made to build affordable housing for low- and middle-income levels, but much greater efforts must be made because the need is so great and the cost of housing is so high.

Various ideas to finance affordable housing are contained in an action plan for workforce/affordable housing that was funded by the Legislature and issued in 2017. Those ideas include dedicating new tax revenue for affordable/workforce housing or infrastructure, with the funds kept separate from the general fund. (Housing Action Plan Final Report to the State Legislature, 2017, p. xii)

This bill should be amended to separate the new tax revenue from the general fund and to dedicate 100% of it to the creation of affordable housing in Hawaii. With that amendment, the Church of the Crossroads supports this bill.

Mahalo for your time and dedication.

Aloha, Rev. David Turner
Church of the Crossroads – 1212 Univeristy Ave. / Honolulu, HI 96826

January 28, 2019

Hearing Date: January 30, 2019
Time: 10:00 A.M.
Place: Conference Room 309

The Honorable Angus L.K. McKelvey, Chair
The Honorable Lisa Kitagawa, Vice Chair
House Committee on Economic Development & Business

Re: Testimony ***Opposing*** Repeal of the REIT Dividends Paid Deduction - HB 475

Dear Chair McKelvey, Vice Chair Kitagawa, and Members of the Committee on Economic Development & Business:

My name is Lily Yan Hughes and I am the Senior Vice President, Chief Legal Officer and Corporate Secretary of Public Storage. We are ***strongly opposed*** to HB 475. The bill would eliminate the "dividends paid deduction" (DPD) for Hawaii income tax purposes for real estate investment trusts (REITs). The DPD is a central feature of the taxation of REITs. REITs get the deduction because they are effectively required to distribute their income to their shareholders, who are currently taxable on those dividends.

Enactment of HB 475 or a similar measure would make REITs separately taxable in Hawaii, imposing a double tax regime that is completely contrary to the accepted federal and state tax treatment of REITs. Imposing an added 6.4% tax on REITs operating in Hawaii predictably would lead REITs to redirect investments away from the state.

Public Storage and Hawaii. Public Storage is a real estate investment trust that is the largest owner and operator of self-storage facilities in the United States, with almost 162 million rentable square feet of real estate in 38 states. In the United States we have approximately 2,425 facilities and 1.4 million tenants. We own 11 facilities in Hawaii. In 2018, those Hawaii properties generated more than $30 million of gross revenue and we paid the state about $1.4 million of general excise tax. For the 2018/2019 fiscal year, we will pay almost $2.25 million of real estate taxes in Hawaii.

Because we are taxed as a REIT, Public Storage is effectively required to distribute all taxable income to our shareholders. The shareholders then report and pay state and federal tax on those dividends. Our shareholders in Hawaii are taxable by the state on the full amount of our dividends (not just the limited portion of those dividends attributable to the 11 properties we have in the state), so the state benefits from the REIT regime.[1]

The bill offers no explanation or justification for the proposed DPD repeal. It may be motivated by a misguided effort to raise added tax revenue. If so, the bill may well have the opposite effect. Such an anti-business tax would strongly incentivize REITs to reduce or avoid future investment in, and possibly redirect investments away from, the state. This could be

[1] We are confident that investors in Hawaii directly and indirectly hold significant PSA shares, but we cannot specifically identify our Hawaiian shareholders. Our common stock is traded publicly on the New York Stock Exchange under the symbol PSA. Publicly traded companies typically cannot specifically identify their shareholders, as most publicly traded stock is held by depositaries in street name.

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publicstorage.com

expected to have adverse long term effects on the Hawaii economy and the state's tax collections.

Similar bills in prior years have presented two spurious "fairness" points to try to justify a repeal of the REIT DPD in Hawaii: (1) asserting that repeal would somehow level the playing field between REITs and other corporations/entities that are subject to Hawaii's taxes (in fact, REITs are treated differently for tax purposes and not subject to federal or state corporate level tax for good reasons; REITs, unlike regular corporations, are required to distribute their income and are subject to significant operating restrictions governing their income and assets); and (2) a suggestion that because REIT shareholders in other states do not pay Hawaii taxes on the dividends they receive, Hawaii taxpayers somehow are subsidizing the shareholders in other states (there is no subsidy for shareholders in other states; note that Hawaii REIT shareholders do not pay taxes to other states for REIT dividends attributable to properties in other states; and in the case of Public Storage, the great bulk of our dividends are attributable to properties in other states).

Also, a key fairness issue supports continuing the DPD. If Hawaii breaks from the national REIT template and repeals the DPD, it would subject shareholders in Hawaii to double taxation on income that REITs earn in the state (Public Storage would pay tax to Hawaii on its Hawaii earnings, and our Hawaii shareholders would pay tax to Hawaii again when those earnings are included in their dividends); shareholders virtually everywhere else would only be subject to a single level of state income tax.

We note too that no state that imposes income tax upon REITs (other than New Hampshire) denies the dividends paid deduction as proposed by HB 475. Indeed, over the past decade or so, a number of states (*e.g.*, Idaho, Louisiana, New Jersey, North Carolina, and Rhode Island) have examined, and then rejected, legislation that would have disallowed a widely-held REIT's DPD in those states.

As when Hawaii's legislature considered similar proposals in recent years, Hawaii should decline to enact this bill, so that the DPD for widely-held REITs will continue. We respectfully request that you do ***not*** move HB 475 or any similar bill forward.

Sincerely,

Lily Yan Hughes
Senior Vice President, Chief Legal Officer
& Corporate Secretary of Public Storage
lhughes@publicstorage.com
818.244.8080, extension 1537

cc: Department of Taxation
Department of Business, Economic Development & Tourism

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[redacted]

Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business

1/28/19

SUBJ: Support for H.B. No. 475, Relating to Taxation of Real Estate Investment Trusts

Dear Representatives McKelvey & Kitagawa:

As a business person concerned about Hawaii's economy and long-term community development, I strongly support H.B. No. 475, Relating to Taxation of Real Estate Investment Trusts.

These bills correct a glaring loophole in our state income tax law that allow mainland corporations operating profitably as REITs in Hawaii to take the net income out of our state without paying income tax like the rest of us. ***In fact, my firm pays over $500,000 per year in ground rent to such a mainland-based REIT and it is frustrating to know that they give nothing back to this community!*** Overall, this loophole results in a loss of $30 to $60 million annually to the state. These funds are desperately needed to shore up our poor fiscal position (38th of 50 States according to the Mercatus Center); with unfunded pension and health care liabilities of some $44 Billion.

There is more REIT-owned property in Hawaii per capita than any other state in the nation. And with our attractive real estate market, this will only increase in the future to further deplete our tax base. Ala Moana Shopping Center, Pearlridge Shopping Center, Hilton Hawaiian Village, International Marketplace, plus hundreds of other properties owned by mainland companies operate here without paying any income tax. This loophole must be closed so that REITs are taxed the same way as other real estate investors.

For these reasons, I urge the committee to pass H.B 475 related to the taxation of REITs. Thank you for the opportunity to testify.

Very Sincerely,

Bob Dewitz

Bob Dewitz
Chairman

[redacted]

American Electric
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[redacted]

WAIKELE

An American Assets Trust Property

January 30, 2019

Honorable Angus McKelvey, Chair
Honorable Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business
State Capitol
415 South Beretania Street Room 308
Honolulu, Hawaii 96813

Re: Written Testimony to House Bill No. 475, Relating to Taxation of Real Estate Investment Trusts

Dear Chair McKelvey, Vice-Chair Kitagawa, and Committee Members:

My name is Pamela Wilson, and I am the General Manager of Hawaii Real Estate for American Assets Trust (AAT). I am a life-long resident of our Islands. I have worked for American Assets Trust for the past fourteen years and have witnessed the positive impact that they have had on our communities. American Assets Trust is a New York Stock Exchange-listed Real Estate Investment Trust (REIT) engaged in acquiring, improving, developing and managing premier retail, office and residential properties primarily in Hawaii, Southern California, Northern California, Oregon, and Washington State.

H.B. 475 seeks to eliminate the dividends paid deduction (or DPD) for all REITs operating in Hawaii.

REITs allow ordinary Americans to invest in real estate. As with all REITs, and unlike other non-REIT property owners, we must satisfy many strict and expensive requirements in order to maintain our REIT status. One of the requirements is to distribute annually all of our taxable income to shareholders in order for all of our earnings to be taxed at the shareholder level. Another requirement is to own properties for the long-term, rather than to develop and sell properties. This bill would penalize not only the REITs themselves, but also Hawaii residents and pension funds who invest in REITs owning Hawaii real estate.

Like most REITs, American Assets Trust is a long-term property investor. AAT owns four properties in Hawaii: The Shops at 2150 Kalakaua; Waikele Center; Waikiki Beach Walk and the Embassy Suites-Waikiki Beach Walk. We are committed to creating sustainable value at our properties. We have helped to nurture local businesses that provide jobs, increase business activity, and contribute to the state's economy (through generation of additional payroll, general excise, property taxes and income taxes earned by residents employed at these properties). We play a valuable role in support of the local communities. Additionally, the growth in tourism over the last decade is in part a result of the long term capital allocation by REITs to create high quality, world class retail and resort destinations that tourists enjoy and are drawn back to time and time again.

Notably, the REIT business model does not depend on "flipping" properties but on providing sustainable returns to our investors from distributions of current earnings and modest capital appreciation of our stock. Thus, we are incentivized (assuming state law regarding REITs does not change) to continue making additional investments in Hawaii at these properties.

94-849 Lumiania Street Suite 100 Waipahu, Hawaii 96797
Telephone: 808 671-7977 Facsimile: 808 678-8170
Email: pwilson@americanassets.com

As a REIT that invests in multiple states, a double taxation would make Hawaii less attractive and encourage the placement of investments in other states that do permit the Dividend Paid Deduction (DPD). HB 475 would make Hawaii only one of two states that would subject REITs to corporate income taxation, upsetting the uniformity of state taxation principles between all states except New Hampshire, which has about a fourth of REIT investment compared with Hawaii.

Furthermore, House Bill 475 proposes an unworkable system. Unlike an S corporation, a publicly traded REIT is not limited to 100 shareholders who can be easily identified. In fact, many such REITs have millions of shares outstanding, with approximately 99 percent held in "street name" by a central securities depository on behalf of the ultimate owners. It is and would be impossible for a given REIT to provide the name, address and federal identifying information required under House Bill 475 with respect to all of these shares. And the way in which capital markets operate, with thousands of shareholders entering and leaving the market in a single day or an hour, further compounds an already impossible challenge.

I ask that you consider the very real financial contributions and community benefits that REITs bring to our State. I ask that you consider how burdensome this new legislation as proposed would be and how difficult compliance would be. Please hold Bill 475. Thank you for the opportunity to submit this testimony.

Sincerely,

Pamela R. Wilson

Pamela R. Wilson
General Manager, Hawaii Real Estate
American Assets Trust

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Black Development Corporation

125 MERCHANT STREET, SUITE 200
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TELEPHONE (808) 739-5501
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January 31, 2019

Rep. Angus L.K. McKelvey, Chair
Rep. Lisa Kitagawa, Vice Chair

RE: Support for HB 475, Relating to Taxation of Real Estate Investment Trusts (REITs)

It is my belief that all businesses operating in Hawaii should pay income tax. There is $18 billion of REIT property in Hawaii not paying income tax, up from $10 billion ten years ago. While the REIT structure can be beneficial to small investors, it is a huge loophole for big investors. For example, the founder of Public Storage, Wayne Hughes and his family own $6 billion of Public Storage stock; Ala Moana Center is now owned by a Canadian firm. Do we need to be subsidizing rich people and Canadians? Is it so much to ask that REITs operating in Hawaii pay a 6.4% corporate income tax like other businesses?

Very Truly Yours,

Michael J. Fergus
President
Black Development Corporation

Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business

ALOHA SHOYU CO LTD.
96-1205 WAIHONA ST
PEARL CITY, HI 96782

Wednesday, January 25, 2019

Support for H.B. No. 475, Relating to Taxation of Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support H.B. No. 475, Relating to Taxation of Real Estate Investment Trusts.

These bills correct a glaring loophole in our state income tax law that allow mainland corporations operating profitably as REITs in Hawaii to take the net income out of our state without paying income tax like the rest of us. This results in a loss of $30 to $60 million annually to the state. These funds are desperately needed to support the costs of education, social services, and other state commitments, which continue to struggle.

There is more REIT-owned property in Hawaii per capita than any other state in the nation. And with our attractive real estate market, this will only increase in the future to further deplete our tax base. Ala Moana Shopping Center, Pearlridge Shopping Center, Hilton Hawaiian Village, International Marketplace, plus hundreds of other properties owned by mainland companies operate here without paying any income tax. This loophole must be closed so that REITs are taxed the same way as other real estate investors.

For these reasons, I urge the committee to pass H.B 475 related to the taxation of REITs. Thank you for the opportunity to testify.

Thank you,

PRESIDENT

BRIAN K TANIGAWA

January 25, 2019, 10.00am, Conference Room 309

TO: Committee on Economic Development & Business
Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair

FROM: David Ward; F&W Land LLC
2035 Main Street, Wailuku, HI 96793

RE: In Support of the Taxation of Real Estate Investment Trusts in Hawaii. HB475

I strongly support HB475 which will eliminate the tax deductibility of dividends for Real Estate Investment Trusts (REITs). A loophole in our state income tax law that came from the '60's allows mainland corporations to take the net income that they earn in Hawaii out of state, tax free. These corporations, which own and operate the major shopping centers in Hawaii, most of the Class A office buildings downtown, major industrial tracts like Mapunapuna, and many of the hotels in Waikiki and on the neighbor islands, are called Real Estate Investment Trusts (REITs). They pay no Hawaii corporate income tax.

The vast majority of REIT shareholders live on the mainland and they pay taxes on their REIT dividends in the mainland states where they reside. So other states are receiving the tax revenue earned in Hawaii even while our residents and local businesses foot the bill for the infrastructure, emergency and social services required to support the commercial properties owned by these REITs.

REITs companies are earning over an estimated $1 billion every year in Hawaii, but they pay zero income tax. That is a loss of many millions of dollars annually in taxes for Hawaii.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and by a wide margin. The REITs argue that if we tax them and make them pay their fair share of taxes, they will no longer invest here. That is simply not true. The state of New Hampshire has taxed REITs for years and still has more REIT-owned property per capita than the median U.S. state. All we are asking is that they pay 6.4% of the income earned in Hawaii to the state to support our community like the rest of us do.

There is no reason why any investor in Hawaii should be operating tax-free when our state is struggling to pay for our children's education, services for our elderly, and to deliver promised benefits to its retirees. REITs don't pay sufficient taxes to support Hawaii's infrastructure and don't support our local charities in a meaningful way, then they ship our money out of state, tax free. There are plenty of local, mainland, and foreign tax-paying real estate investors here. We should level the playing field and tax REITs the same way as other real estate investors. We need to protect our tax base for the benefit of our community.

Thank you,

Dave Ward

Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business

Anne Oliver - Coldwell Banker Pacific Properties
4211 Waialae Ave Ste 9000
Honolulu, HI 96816

Wednesday, January 25, 2019

Support for H.B. No. 475, Relating to Taxation of Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support H.B. No. 475, Relating to Taxation of Real Estate Investment Trusts.

These bills correct a glaring loophole in our state income tax law that allow mainland corporations operating profitably as REITs in Hawaii to take the net income out of our state without paying income tax like the rest of us. This results in a loss of $30 to $60 million annually to the state. These funds are desperately needed to support the costs of education, social services, and other state commitments, which continue to struggle.

There is more REIT-owned property in Hawaii per capita than any other state in the nation. And with our attractive real estate market, this will only increase in the future to further deplete our tax base. Ala Moana Shopping Center, Pearlridge Shopping Center, Hilton Hawaiian Village, International Marketplace, plus hundreds of other properties owned by mainland companies operate here without paying any income tax. This loophole must be closed so that REITs are taxed the same way as other real estate investors.

For these reasons, I urge the committee to pass H.B 475 related to the taxation of REITs. Thank you for the opportunity to testify.

Thank you,

Anne Oliver

Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business

Wednesday, January 30, 2019

RE: Support for H.B. No. 475

As a Hawaii resident, I am disheartened to continually hear that the State does not have the means to fix our public schools, improve our public health services, and pay promised benefits to our retirees, even while my tax bill seems to increase every year. I support H.B. No. 475, Relating to Real Estate Investment Trusts, because it is a necessary remedy for our State's depleting tax base.

It is unfair that the mainland owners of the major shopping centers, hotels, and office buildings in Hawaii are permitted to profit from our local and visitor trade without paying any income tax to our State. REITs should be required to contribute to the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. H.B. No. 475 would close the REIT income tax loophole in order to keep more revenues in Hawaii for the benefit of our community and all of its members.

We need to protect our tax base. I strongly urge you to pass H.B. 475. Thank you.

Sincerely,

Marissa Steinfeld
General Manager
Professional Image, Inc.

LAND USE RESEARCH
FOUNDATION OF HAWAII

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January 28, 2019

Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
House Committee on Economic Development & Business

Comments and Concerns in Strong Opposition to HB 475, Relating to Real Estate Investment Trusts (REITs); Disallows Dividends Paid Deduction for REITs.

Wednesday, January 30, 2019, 10:00 a.m., in Conference Room 309

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF's mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources, and public health and safety.

HB 475. The purpose of this bill is to amend subsection (b) of Section 235-2.3, Hawaii Revised Statutes, to deem Internal Revenue Code Section 857(b)(2) (with respect to the dividends paid deduction for real estate investment trusts) inoperative, thereby disallowing the dividend paid deduction for REITs. Should HB 475 be adopted, REITs will be taxed on their net income in Hawaii, while REIT shareholders will continue to be taxed on dividend income received, resulting in a double tax.

LURF's Position. LURF acknowledges the intent of this and prior, similar iterations of this measure given what may be perceived to be the potential for tax avoidance and abuse by foreign/mainland corporations and wealthy individuals through real estate ownership arrangements structured through REITs, however, stated justifications for this bill have not, to date, been proved or supported by any credible facts or evidence.

The State's Final Report on the Impact of REITs in Hawaii Has Failed to Validate the Alleged Purpose of and Need for this Proposed Legislation.

Given that an unwarranted change of a universal tax rule in place since 1960 could undoubtedly affect investments made by REITs in Hawaii, significantly reduce the availability of capital in this State, as well as result in other economic repercussions, the Legislature determined in 2015 that it was necessary and prudent to require support for this type of measure prior to considering its passage. Thus, Act 239, Session Laws of

Hawaii 2015, was passed which required the State Department of Business, Economic Development & Tourism (DBEDT) and the State Department of Taxation (DOTAX) to study the impact of REITs in Hawaii, and to present material facts and evidence which could show that such proposed legislation is in fact needed, and whether the State's economy will not be negatively affected because of taking the action proposed.

An interim report was released in December 2015 (the "Interim Report"),[1] followed by a final report issued in September 2016 (the "Final Report"),[2] however, even the Final Report is based on assumptions and estimates; relies on inconclusive results of surveys admittedly taken with a small sample size and low response rate; and is fraught with uncertainties, inconsistencies and weighting errors, making it unfeasible and ill-advised to rely upon for presenting any conclusive calculations or impacts.

Inquiries which critically must be, yet have not been proficiently or accurately addressed in the Final Report, include the amount of income the State would in fact receive as a result of the proposed legislation,[3] especially given the likelihood that REIT investment in Hawaii will in turn decline (i.e., whether the proposed measure is fiscally reasonable and sound); and whether it would be possible to replace the billions of dollars in investments currently being made by REITs should they elect to do business elsewhere if this proposed legislation is passed.

Given the inadequacy, inaccuracy and unreliability of the tenuous findings contained in the Interim and Final Reports, as well as the complete failure of said Reports to come to any meaningful and valid conclusions required to be made pursuant to Act 239, it should be brought to this Committee's attention that another study on the economic impacts of REITs in Hawaii dated December 2015, was prepared by economic expert Paul H. Brewbaker, PhD., CBE for the National Association of Real Estate Investment Trusts (the "Brewbaker Study").[4] The Brewbaker Study concludes that the repeal of the dividend paid deduction (DPD) for REITs in Hawaii would likely result in a net revenue loss to the State due to a number and combination of negative consequences which would be experienced by the local economy.

In view of the inconsistency between findings contained in the Final Report and the Brewbaker Study, LURF believes it would be irresponsible for this Committee to consider, let alone support HB 475 which may potentially stifle, if not reverse the current growth of the State's economy, in reliance solely upon the untenable findings of the Final Report, and must respectfully urge this Committee to at the very least, conduct

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[1] Department of Business, Economic Development & Tourism Research and Economic Analysis Division. *Real Estate Investment Trusts in Hawaii: Preliminary Data and Analysis - Interim Report*. December 2015.

[2] Department of Business, Economic Development & Tourism Research and Economic Analysis Division. *Real Estate Investment Trusts in Hawaii: Analysis and Survey Results*. September 2016.

[3] LURF understands that even the State DOTAX does not know how much tax income the government might receive as a result of the proposed legislation.

[4] Paul H. Brewbaker, Ph.D., CBE. *Economic Impacts of Real Estate Investment Trusts in Hawaii*. December 2015.

an independent investigation and analysis of all the available facts and information relating to the disallowance of the DPD, and the potential financial and economic consequences thereof, prior to making any decision on this bill.

In view of the inability of the Final Report to conclusively support the validity of this measure, LURF must oppose HB 475 based on the following reasons and considerations:

1. **The "Double-Tax" Resulting from this Proposed Measure is Contrary to the Underlying Intent of REITs.**

REITs are corporations or business trusts which were created by Congress in 1960 to allow small investors, including average, every day citizens, to invest in income-producing real estate. Pursuant to current federal and state income tax laws, REITs are allowed a DPD resulting in the dividend being taxed a single time, at the recipient level, and not to the paying entity. Most other corporations are subject to a double layer of taxation – on the income earned by the corporation and on the dividend income received by the recipient.

Proponents of this measure attempting to eliminate the DPD, however, appear to ignore that the deduction at issue comes at a price. REITs are granted the DPD for good reason - they are required under federal tax law to be widely held and to distribute at least 90% of their taxable income to shareholders,[5] and must also comply with other requirements imposed to ensure their focus on real estate. In short, REITs earn the DPD as they must comply with asset, income, compliance and distribution requirements not imposed on other real estate companies.

According to the Brewbaker Study, repealing the DPD for REITs would subject Hawaii shareholders to double taxation and may reduce future construction and investment by REITs locally, thereby resulting in revenue loss to the State.[6] Moreover, replacement investor groups may likely be tax-exempt institutions such as pension plans and foundations which would generate even less in taxes from their real estate investments.[7]

2. **HB 475 is Contrary to the Tax Treatment of REITs Pursuant to Current Federal Income Tax Rules and Laws of Other States with an Income-Based Tax System.**

HB 475 would enact serious policy change that would create disparity between current Hawaii, federal, and most other states' laws with respect to the taxation of REIT income.

The laws of practically every state with an income-based tax system now allow REITs a deduction for dividends paid to shareholders. Hawaii, as well as other states which

[5] The State of Hawaii thus benefits from taxes it collects on dividend distributions made to Hawaii residents.

[6] *Brewbaker Study* at pp. 1, 32, 38.

[7] *Id.*

impose income taxes currently tax REIT income just once on the shareholder level (not on the entity level), based on the residence of the shareholder that receives the REIT dividends and not on the location of the REIT or its projects.

By now proposing to double tax the REITs that do business in Hawaii as well as their shareholders, HB 475 would upset the uniformity of state taxation principles as applied between states. Other states which have similarly explored the possibility of such a double tax over the past years have rejected the disallowance of the DPD for widely held REITs.

3. Hawaii REITs Significantly Contribute to and Benefit the Local Economy.

Elimination of the DPD would result in a double taxation of income for Hawaii REITs which would certainly mitigate, if not extinguish interest and incentive in investing in Hawaii-based REITs, which currently contribute significantly to Hawaii's economy.

Results from the Final Report indicate that even as of September 2016, approximately 42 REITs operating in Hawaii reportedly held assets in the amount of an estimated $7.8 billion at cost basis[8], which has resulted in substantial economic activity in local industries including construction, retail, resort, healthcare and personal services, as well as employment for many Hawaii residents, and considerable tax revenues for the state and city governments. Such tax revenues include State General Excise Tax (GET) on rents and retail sale of goods, business income tax on profits made by tenants, income tax from employment of Hawaii residents, and millions of dollars in property taxes.

Proponents of this bill should be mindful that significant economic growth experienced in this State over the past years, and which is expected to continue in the future, is undoubtedly attributable in part to REIT investment in Hawaii. Outrigger Enterprises partnered with REIT American Assets Trust to successfully develop the Waikiki Beach Walk. General Growth' Properties' expansion and renovation of the Ala Moana Shopping Center, as well as its partnering with Honolulu-based, local companies (The MacNaughton Group, The Kobayashi Group and BlackSand Capital) to develop the Park Lane residential condominium project is another example. The capital invested in that project to construct additional retail space and luxury residences will reportedly exceed $1 billion, and the development will have created an estimated 11,600 full- and part-time jobs and over $146 million of state revenue. Taubman Centers, Inc., another REIT, also partnered with CoastWood Capital Group, LLC to revitalize Waikiki through the redevelopment of the International Market Place at a cost of approximately $400 million.

REIT projects have helped to support Hawaii's construction industry immensely[9] by providing thousands of jobs, and continue to significantly contribute to the local

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[8] *Final Report* at pages 3, 15-16.

[9] In the past five years, REIT-related construction activity alone is estimated to have generated $3 billion in Hawaii GDP.

economy through development of more affordable housing (more than 2,000 rental housing units for Hawaii's families, such as the Moanalua Hillside expansion of more affordable housing rentals), student housing near the University of Hawaii, health care facilities, offices, shopping centers (Pearlridge Center renovations; Ka Makana Ali'i), and hotels.

Despite claims made by detractors, the multibillion-dollar investments and contributions to Hawaii's economy made by REITs may not be so easily generated through other means or resources. Attracting and obtaining in-state capital for large projects is very difficult. The State should also be concerned with the types of entities willing and able to invest in Hawaii and should be wary of private investors looking only to make quick gains when the market is booming. Because federal regulations preclude REITs from "flipping" properties, REITs are by law, long-term investors which help to stabilize commercial real estate prices, and which are also likely to become a part of the local community.

4. The Disallowance of the DPD Proposed by this Bill will Unfairly Affect REITs and the Small Investors Which Have Already Made Substantial Investments in Hawaii.

Disallowance of the DPD and resulting increased taxation of REITs is expected to reduce investment returns as well as dividend payments to shareholders, which will no doubt have a significant negative effect on future investment by REITs in Hawaii.

Proponents of this bill attempt to minimize the negative consequences of disallowing the DPD by claiming that very few Hawaii taxpayers invest in REITs with property in Hawaii, however, LURF understands that in 2014 over 9,000 Hawaii investors had investments in over 70 public, non-listed REITs and received almost $30 million in distributions, and that tens of thousands more directly or indirectly own shares in stock exchange-listed REITs.

Supporters of this measure also ignore the fact that tax law changes proposed by HB 475 will unfairly impact those publicly traded REITs which have already made substantial investments in Hawaii and have contributed greatly to the State's economy in reliance on the DPD, which, as discussed above, is considered a fundamental principle of taxation applicable to REITs.

If passed, this measure would strongly discourage future investment by REITs in Hawaii, which would ultimately impact jobs, reduce tax revenue and result in significant consequences for the State's future economy.

Conclusion. LURF's position is that the findings of the Final Report which have not been updated or amended since issuance, have failed to credibly present any material facts or circumstances to prove that this proposed legislation is in fact necessary, or that the State's economy will significantly improve because of taking the action proposed. The intent and application of HB 475 thus arguably remain unreasonable, unwarranted, and exceedingly anti-business.

Act 239, SLH 2015 was specifically enacted by the State Legislature to validate the alleged purpose of disallowing the DPD. The results of the Final Report are thus considered vital to confirm the need for this type of measure. Therefore, based on the inability of said Report to convincingly and conclusively determine that the State's economy will be negatively impacted as a result of the action proposed, or that this proposed legislation is otherwise warranted, and given that an unjustifiable change of a universal tax rule in place since 1960 could significantly reduce the availability of capital in this State, as well as result in other negative economic repercussions, LURF must **strongly oppose HB 475**, and respectfully requests that this bill be **held in this Committee.**

Testimony of Church of the Crossroads
Supporting HB 475 with an amendment
House Committee on Economic Development and Business
January 30, 2019 at 9:00 in Conference Room 309

The Church of the Crossroads was founded in 1922 and is Hawaii's first intentionally multicultural church.

Thank you for this opportunity to testify in support of HB 475. Real Estate Investment Trusts (REITs) are corporations that use a loophole to avoid the Hawaii corporate tax. That loophole should be closed, and the new tax revenue that is generated should be dedicated 100% to increase the supply of affordable housing.

REITs own income-producing property in Hawaii such as Ala Moana Center, the Hilton Hawaiian Village Resort, as well as office buildings and many other shopping centers and hotels. Together, they own property with an estimated total value of $18 billion that earns an estimated $1 billion in profits annually. If Hawaii's corporate tax were applied to REITs, an estimated $60 million in tax revenue would be generated.

Meanwhile, Hawaii faces an enormous shortage of housing that is affordable to low- and middle-income individuals and families. New housing is being built, but most of it is priced for the high-income strata. Some efforts are being made to build affordable housing for low- and middle-income levels, but much greater efforts must be made because the need is so great and the cost of housing is so high.

Various ideas to finance affordable housing are contained in an action plan for workforce/affordable housing that was funded by the Legislature and issued in 2017. Those ideas include dedicating new tax revenue for affordable/workforce housing or infrastructure, with the funds kept separate from the general fund. (Housing Action Plan Final Report to the State Legislature, 2017, p. xii)

This bill should be amended to separate the new tax revenue from the general fund and to dedicate it 100% to the creation of affordable housing in Hawaii. With that amendment, the Church of the Crossroads supports this bill.

Park Hotels & Resorts Inc.
Scott Winer, SVP Tax
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7th Floor
Tysons, VA 22102
+1 571 302 5757 Main

WRITTEN TESTIMONY OF

SCOTT D. WINER

SENIOR VICE PRESIDENT, TAX

PARK HOTELS & RESORTS INC.

IN OPPOSITION TO H.B. 475

BEFORE THE HAWAII HOUSE of REPRESENTATIVES

COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS

Rep. Angus L.K. McKelvey, Chair

Rep. Lisa Kitagawa, Vice Chair

HEARING ON H.B. 475

JANUARY 30, 2019

On behalf of Park Hotels & Resorts Inc. ("PARK"), thank you for this opportunity to provide our testimony on H.B. 475. PARK submits this testimony in opposition to H.B. 475. PARK is a publicly traded lodging real estate investment trust ("REIT") (NYSE:PK) that owns 53 premium branded hotels and resorts globally. Included within PARK's portfolio of hotels are (i) the Hilton Hawaiian Village Waikiki Beach Resort located along Oahu's prestigious Waikiki Beach, and (ii) the Hilton Waikoloa Village located on the Kohala Coast of the Big Island of Hawaii. PARK strives to be the preeminent lodging REIT, focused on consistently delivering superior, risk adjusted returns for shareholders that invest in the hotel sector. PARK, like most REITs, has a long-term investment focus and is committed to creating sustainable value at its properties.

As you know, Congress enacted the REIT legislation in 1960 to allow individual investors the ability to own and benefit from professionally managed, institutional quality, income-producing real estate. As with all REITs, PARK must meet multiple stringent, complex and costly requirements in order to maintain its status as a REIT, including: organizational requirements, asset holding requirements, passive income generation requirements, and importantly REITs must distribute at least 90% of their taxable income annually. Further, as REITs are passive real estate companies, they cannot actively trade in real estate properties without being subject to a 100% tax on the gain. In addition, because of the taxable income distribution requirement, REITs are required to continuously access the debt and equity capital markets to obtain capital for maintenance, improvements and growth projects.

By meeting these stringent, costly and complex requirements REITs are allowed to claim a dividend paid deduction ("DPD") essentially passing through their taxable income to shareholders. H.B. 475 proposes to eliminate the DPD for all REITs operating in Hawaii, effective for taxable years beginning after December 31, 2019. We believe the DPD should not be eliminated. The elimination of the DPD would be inconsistent with federal tax rules and the existing rules of virtually all other states with an income-based tax system.

Additionally, we believe that our investment and the investments by other REITs in Hawaii are beneficial to the state and that eliminating the DPD would have the undesirable consequence of discouraging future investment by REITs. We believe the proposed legislation will not increase tax revenue for the state as the cost of doing business in Hawaii will diminish investment returns and result in less investment. Further, elimination of the DPD could result in foundations or pension funds replacing REIT ownership of real property. Foundations and pension funds generally are passive owners that pay no income taxes and do not make the same investments as REITs.

PARK's two landmark, oceanfront resorts cater to residents from Hawaii and the mainland, and international travelers. PARK's Hawaiian resorts provide significant economic benefit to the State of Hawaii. We have made extensive renovations in excess of ~$228 million at Hilton Hawaiian Village and Hilton Waikoloa Village, over the last 5 years.

PARK's economic footprint benefits the State of Hawaii in many ways, including:

> JOBS: PARK's hotels directly employ more than 2,728 employees. The payroll and associated benefits for these direct employees is in excess of $188,843,121 million annually.
>
> CAPITAL MAINTENANCE: Over the next five years, PARK will likely spend almost $200 million at Hilton Hawaiian Village and Waikoloa Village on capital maintenance projects.

CAPITAL IMPROVEMENTS. Given the long-term nature of our investment, PARK is currently analyzing meaningful capital investment at both resorts. These investments are sizeable and at various stages of feasibility / underwriting.

TAXES GENERATED BY PARK in HAWAII:

- Payroll Taxes. Payroll taxes on employee wages totaled $10,069,127 in 2018.
- General Excise and Use Tax - Operations. The tax revenues generated from our operations totaled $25,238,236 in 2018.
- General Excise Tax – Rent. As a REIT, unlike other real estate owners, PARK must use a lease structure. As a result, we are required to pay General Excise Tax on the rent paid between our related companies. Effectively a double taxation of the same revenue. This additional GET was $8,068,335 in 2018.
- Property taxes. Property taxes at PARK's two resorts totaled $18,378,954 in 2018.

CHARITABLE ENDEAVORS BY PARK and ITS ASSOCIATES in HAWAII:

- PARK associates spend thousands of hours annually volunteering for local events and charities.
- PARK and its associates provide cash and in-kind charitable contributions in excess of $600,000.

We believe that PARK's hotels benefit the State of Hawaii and its residents tremendously in a variety of economic and charitable ways. If adopted, this controversial legislation would (i) put Hawaii at a competitive disadvantage for REIT investment, (ii) penalize Hawaii citizens who invest in REITs by reducing their returns, (iii) discourage REITs from investing in Hawaii, and (iv) require PARK to reassess the level of its investment or reinvestment, and form of operation, in Hawaii. Further, this legislation would have a chilling effect on the motivation of PARK to improve its Hawaii assets and grow their positive economic and charitable impact through additional capital investment.

We thank you again for this opportunity to provide testimony against H.B. 475 and sincerely hope you consider our strong opposition to this proposed legislation.

Respectfully submitted,

Scott Winer
Senior Vice President, Tax

HB-475
Submitted on: 1/29/2019 7:53:53 AM
Testimony for EDB on 1/30/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joyce Midori Charles	Faith Action, MoveOn.org Honolulu	Support	No

Comments:

I support Hawaii receiving our fair share of income tax from REITs. Revise our existing tax system to benefit our citizens.

HB-475
Submitted on: 1/29/2019 8:47:33 AM
Testimony for EDB on 1/30/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dara Bernstein	Nareit	Oppose	Yes

Comments:

Thank you for the opportunity to submit the attached testimony in opposition to H.B. 475.

ALA MOANA
HAWAII'S CENTER

January 29, 2019

Hearing Date: January 30, 2019
Time: 10:00 a.m.
Place: Hawaii State Capitol, Conference Room 309

Honorable Angus L.K. McKelvey, Chair
Honorable Lisa Kitagawa, Vice Chair
House Committee on Economic Development & Business
415 South Beretania Street
Honolulu, Hawaii 96813

Re: Testimony in Opposition to House Bill No. 475

Dear Chairman McKelvey, Vice-Chairwoman Kitagawa and Committee Members:

Thank you for the opportunity to provide written testimony on House Bill No. 475. The intent of the Bill is to disallow the dividends paid deduction, thereby subjecting REIT investment in Hawaii to double taxation contrary to the taxation of REITs nationwide. As we have previously testified, we are not in support of these types of measures and believe this is not the appropriate legislative path to take with respect to REITs. We are Francis Cofran, the Senior General Manager of Ala Moana Center, the largest retail center in the state of Hawaii, and Jared Chupaila, EVP, Chief Operating Officer of Brookfield Properties, an owner of Ala Moana Center.

GGP has now become Brookfield Property REIT and is an affiliate of Brookfield Asset Management. Brookfield Properties' retail group, which encompasses the former GGP portfolio as well as other retail properties within the Brookfield group, has an extensive portfolio of mall properties encompassing 161 locations across 42 U.S. states. Brookfield Properties assures premier quality and optimal outcomes for our tenants, business partners and the communities in which we do business. Brookfield Properties continues GGP's legacy of being a part of the economic fabric of Hawaii for more than 30 years (since 1987) -- managing, owning and reinvesting in its Hawaii real estate assets as part of a long-term commitment that provides economic stability, growth, and jobs through all economic cycles.

Brookfield Properties operates three major retail shopping centers in Hawaii – the Prince Kuhio Plaza in Hilo, Whalers Village in Lahaina, and the Ala Moana Center in Honolulu. The latter two are iconic visitor attractions that help sustain Hawaii's important tourism industry. In addition to their important role in tourism, all three centers directly benefit the state and local economy through the Hawaii general excise tax.

These centers are also key gathering places for our local communities. Efficient REIT capital allows us to constantly reinvest in and enhance the customer experience. For example, we are very supportive and proud of the activities that take place at the new Center Stage at Ala Moana Center, our sponsorship of the Fourth of July firework celebration, our enhancements at Whaler's Village, and our ability to introduce to Hawaii residents, retailers and retail concepts which are on the cutting edge and brand new to the State of Hawaii. Efficient REIT capital also allows us to make infrastructure and other improvements which bear fruit in projects such as Foodland Farms at Ala Moana Center and the new Lanai food court, which opened last year.

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In prior-year legislative sessions, we have testified in opposition to attempts to eliminate the deduction for dividends paid by REITs. That testimony has focused on the following points:

- If Hawaii enacts this legislation, it will be out of step with all other states with respect to the dividends paid deduction for REITs (with the exception of New Hampshire, where we believe REIT investment has been inhibited).
- The deduction for dividends paid by REITs results in a single level of taxation at the shareholder level which is consistent with how limited liability companies, Subchapter S corporations and partnerships that own real estate are taxed. Changing this would put REITs at a disadvantage in relation to these other forms of doing business.
- REITs produce substantial economic benefits to the State of Hawaii in the form of jobs, general excise tax, income tax from persons working or engaging in business at REIT properties, and real property taxes. The three properties annually pay more than $32 million in real property and general excise taxes – metrics that clearly demonstrate that REITs are investing in the economic well-being of the state and its residents.
- During 2012-2016, Brookfield Property REIT invested almost $1 billion in capital to construct additional retail square footage and residential condominiums based on the existing Hawaiian tax regime. During the construction period, we estimated economic activity of 11,600 full- and part-time jobs and over $146 million of state revenue including indirect community benefits. Post-construction, the additional retail will produce an incremental $33 million of state revenue and 3,000 jobs annually.
- Future expansion plans could be reconsidered if the attractiveness of investing in Hawaii relative to the rest of the United States is diminished through the enactment of this bill.

In September 2016, the Department of Business, Economic Development & Tourism ("DBEDT") released its final study on REITs in Hawaii. The report specifically notes that the estimates do not take into account changes in behavior, including the likelihood of reduced future REIT investment, if there are additional impediments to REIT or shareholder returns. Similarly, the report does not address the revenue loss to the State resulting from future reduced REIT investment.

Please do not allow the perception of a revenue increase override the long-term economic benefits that REIT investment under the existing tax regime brings to the state of Hawaii and its residents. For the foregoing reasons, we respectfully oppose House Bill No. 475 and urge you to not let it move forward. Thank you for your consideration.

Sincerely,

Francis Cofran
Senior General Manager

Jared Chupaila
EVP, Chief Operating Officer

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January 25, 2019, 10:00am, Conference Room 309

TO: Committee on Economic Development & Business
Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair

FROM: Chad Buck
CEO
Hawaii Foodservice Alliance LLC

RE: In **Support** of the Taxation of Real Estate Investment Trusts in Hawaii. HB475

I strongly support HB475 which will eliminate the tax deductibility of dividends for Real Estate Investment Trusts (REITs). A loophole in our state income tax law that came from the '60's allows mainland corporations to take the net income that they earn in Hawaii out of state, tax free. These corporations, which own and operate the major shopping centers in Hawaii, most of the Class A office buildings downtown, major industrial tracts like Mapunapuna, and many of the hotels in Waikiki and on the neighbor islands, are called Real Estate Investment Trusts (REITs). They pay no Hawaii corporate income tax.

The vast majority of REIT shareholders live on the mainland and they pay taxes on their REIT dividends in the mainland states where they reside. So other states are receiving the tax revenue earned in Hawaii even while our residents and local businesses foot the bill for the infrastructure, emergency and social services required to support the commercial properties owned by these REITs.

REITs companies are earning over an estimated $1 billion every year in Hawaii, but they pay zero income tax. That is a loss of many millions of dollars annually in taxes for Hawaii.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and by a wide margin. The REITs argue that if we tax them and make them pay their fair share of taxes, they will no longer invest here. That is simply not true. The state of New Hampshire has taxed REITs for years and still has more REIT-owned property per capita than the median U.S. state. All we are asking is that they pay 6.4% of the income earned in Hawaii to the state to support our community like the rest of us do.

There is no reason why any investor in Hawaii should be operating tax-free when our state is struggling to pay for our children's education, services for our elderly, and to deliver promised benefits to its retirees. REITs don't pay sufficient taxes to support Hawaii's infrastructure and don't support our local charities in a meaningful way, then they ship our money out of state, tax free. There are plenty of local, mainland, and foreign tax-paying real estate investors here. We should level the playing field and tax REITs the same way as other real estate investors. We need to protect our tax base for the benefit of our community.

Thank you.

Chad Buck
Hawaii Foodservice Alliance LLC

Dear Legislators,

As a Hawaii resident I believe all businesses in Hawaii should pay state income taxes. I've learned that certain mainland companies known real estate investment trusts currently exploit a loophole to avoid paying income tax in Hawaii, costing our state millions of dollars in tax revenue every year.

I support the efforts of House Bill 475 requiring real estate investment trust companies to pay income tax to support our state.

Mahalo,

Brandon Fergus [signature]
President/C E & S Corp.

Douglas
Emmett

January 29, 2019

Representative Angus McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
House Committee on Economic Development & Business

RE: HB 475 Relating to Taxation of Real Estate Investment Trusts – In Opposition
Wednesday, January 30, 2019; 10:00 AM; Conference room 309

Aloha Chair McKelvey, Vice Chair Kitagawa and Members of the Committee:

On behalf of Douglas Emmett, Inc. ("Douglas Emmett"), we appreciate this opportunity to present testimony expressing concerns on HB 475, which disallows a dividends-paid deduction for real estate investment trusts ("REITs").

Douglas Emmett has been investing in Oahu for over fifteen years. We currently own approximately 1,800 workforce rental apartment units and have almost completed new construction of 475 workforce rental units at the Moanalua Hillside Apartments. We also own three large office properties in downtown Honolulu, including Bishop Square, Bishop Place and Harbor Court.

Douglas Emmett has been an active member of the local communities, most recently sponsoring the Prince Lot Hula Festival, which is organized by the Moanalua Gardens Foundation, and Bishop Museum's Annual Dinner. We are also large regular donors to the Boys & Girls Club of Hawai'i, and were one of the largest donors to The Shelter (First Assembly's initiative to provide transitional housing to homeless people that looks like igloos). Our CEO, an active environmentalist, also co-founded Waiwai Ola Waterkeepers Hawai'ian Islands.

HB 475 will unfairly negatively impact those that invest in real estate through REITs, including Hawai'i residents and Hawai'i pension funds, because they will be subject to double taxation (the REIT will pay tax on its income and then the individual will pay tax again on his or her distributions from the REIT).

With the exception of corporations, most companies and partnerships are subject to a single tax. Historically, real estate was held in one of these single tax entities and was owned by a small number of wealthy individuals. Larger properties were owned by tax exempt entities.

REITs were introduced to create a single tax structure for individuals to invest in real estate in order to "level the playing field" for small investors. Anyone can now buy a share of Douglas Emmett and own a "piece" of the REIT's buildings. Those individuals are treated similarly to other institutional investors and wealthy individuals who invest through partnerships and limited liability companies (which do not subject them to "double tax").

Although the dividends are deducted at the REIT level to avoid double taxation, REITs – just like any other property owner in Hawai'i – are required to pay all other taxes associated with their real estate holdings, including real property taxes, occupancy taxes, and general excise taxes.

By imposing a double tax on REITs, Hawai'i will be at a competitive disadvantage compared to other states for one of the best sources of capital to build workforce housing and improve our communities. Presumably, over time, the real estate would transfer back to single tax entities that are dominated by tax exempt entities with large sums to make direct investments, such as endowments, foundations and pension funds. These investors pay no state income tax.

As a stakeholder in Hawai'i, Douglas Emmett believes HB 475 will eliminate an important source of capital that generates substantial local economic activity. Inasmuch as HB 475 appears to be outside of the best interest of the residents of Hawai'i and the objectives of the State to encourage the investment into, and growth of, Hawai'i's economy, we respectfully ask that you defer HB 475.

Respectfully,

Kevin Crummy
Chief Investment Officer

Michele Aronson
Senior Vice President

ALEXANDER & BALDWIN
PARTNERS FOR HAWAIʻI

HB 475
RELATING TO TAXATION OF REAL ESTATE INVESTMENT TRUSTS

PAUL T. OSHIRO
DIRECTOR – GOVERNMENT AFFAIRS
ALEXANDER & BALDWIN, INC.

JANUARY 30, 2019

Chair McKelvey and Members of the House Committee on Economic Development & Business:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin (A&B) on HB 475, "A BILL FOR AN ACT RELATING TO TAXATION OF REAL ESTATE INVESTMENT TRUSTS." We respectfully oppose this bill.

While A&B has always been a Hawaii-based company, in 2012, A&B made a strategic decision to migrate its mainland investments back to Hawaii. Since then, A&B has sold all of its mainland properties and has reinvested the proceeds in Hawaii properties, including the acquisition of the Kailua Town commercial center, Pearl Highlands Center (Sam's Club), Manoa Marketplace, and Waianae Mall. To better support our Hawaii-focused strategy and increase our ability to invest in Hawaii, in an increasingly competitive environment, A&B made the decision to convert to a real estate investment trust (REIT) in 2017. A REIT structure enables A&B to attract new investors to its stock, giving us capital to invest in our Hawaii-focused strategy, and puts us in a better position to compete with large, out-of-state investors, with greater sources of capital, for the acquisition of Hawaii properties, thus keeping them in locally-operated hands. Furthermore, REITs are structured to be long-term holders of real estate, thus complementary to A&B's goal of being Partners for Hawaii, with a long-term presence in our communities.

In addition, the REIT structure does allow us to continue with our non-REIT businesses such as our Grace Pacific operations and other development activities, by placing these entities in a separate TRS, or taxable REIT subsidiary.

Real estate investment trusts were established by Congress in 1960 to expand access to real estate investments for all investors. REITs generally own, operate, or finance income-producing commercial real estate such as shopping malls, hotels, self-storage facilities, theme parks, and apartment, office, and industrial buildings. Unlike other corporations, REITs must comply with a restrictive regulatory regime, which include a requirement under Federal Law to distribute at least 90% of its taxable income to its shareholders as dividends. At present, all states except for one (New Hampshire) allow REITs to pass through the dividends to its shareholders, without the imposition of a corporate tax, with the tax on these dividends paid by the individual shareholders in their home state of residence.

The purpose of this bill is to repeal the dividend paid deduction for real estate investment trusts. Repeal of the dividend paid deduction will result in the double taxation of shareholder dividends for REIT properties situated in Hawaii. The passage of this bill will essentially result in Hawaii REIT properties distributing, as mandated by Federal Law, at least 90% of their taxable income to shareholders and in addition, paying Hawaii corporate income tax on these Federally required shareholder distributions. In addition, shareholders of Hawaii REIT properties will also be responsible to pay income tax on the Federally mandated REIT distributed dividends.

Greater Overall Impact On Hawaii Focused REITs

It is envisioned that the repeal of the dividend paid deduction in Hawaii will have a greater overall impact on locally focused REITs that have a large percentage of their commercial holdings in Hawaii such as A&B, as opposed to out of state entities that only have a few holdings in Hawaii and a number of properties in other states. If Hawaii becomes only the second state (along with New Hampshire) to double tax mandatory REIT dividends to shareholders, investors may prefer investing in non-Hawaii focused entities rather than investing in a REIT focused in one of only two states which double taxes dividends which must be paid to shareholders. Hawaii focused REITs such as A&B will be at a competitive disadvantage in attracting additional investors to support continued investment in Hawaii based properties.

Overall Impact On Hawaii's Economy

Today, every state except for New Hampshire that imposes a corporate net income tax allows the dividend paid deduction for REITs. Should the dividend paid deduction be repealed in Hawaii, REITs may be compelled to relocate their operations elsewhere or lessen their business activity in Hawaii. When combined with the direct reduction in general excise and income taxes from diminished REIT related construction, fewer jobs, lower earnings, and the reduction in business and individual incomes because of indirect and induced impacts of lower REIT related construction, the State of Hawaii may realize a significant negative impact to its overall economy.

Very few individual investors and a fairly small number of corporate players in Hawaii have capital market access equivalent to what is enabled by REITs. REITs are not limited to raising capital from one geographical area or from one type of investor, but generally seek investments from around the world. A REIT's ability to access and raise capital with equity offerings in the public markets to make these types of real estate investments in Hawaii and other states make it a unique investment vehicle and a major advantage over privately held real estate with a limited amount of investors.

In addition, if the DPD is repealed in Hawaii, REITs operating in Hawaii will likely pursue options to minimize their tax liability via tax deductions, tax credits, and other tax adjustments. Thus, the anticipated increase in State corporate tax revenue as a result of the DPD repeal may not meet initial projections.

Based on the aforementioned, we respectfully request that this bill be held in Committee. Thank you for the opportunity to testify.

LATE

LEAGUE OF WOMEN VOTERS®

49 South Hotel Street, Room 314 | Honolulu, HI 96813
www.lwv-hawaii.com | 808.531.7448 | voters@lwv-hawaii.com

COMMITTEE ON ECONOMIC DEVELOPMENT AND BUSINESS

WEDNESDAY, JANUARY 30, 10 AM, Room 309
HB475,RELATING TO TAXATION OF REAL ESTATE INVESTMENT TRUSTS

Beppie Shapiro, Legislative Committee, League of Women Voters of Hawaii

Chair McKelvey, Vice-Chair Kitagawa and Committee Members:

The League of Women Voters of Hawaii **supports HB475** that provides for taxation of profits of REITs investing in Hawaii real estate without deducting dividends paid to shareholders**.**

The League of Women Voters supports an equitable tax system that provides adequate and flexible funding of government programs, that is progressive overall and that relies primarily on a broad-based income tax.

In regards to HB475:

Our State government has many urgent needs for funding (for example the unfunded liabilities for public employees retirement benefits; affordable housing on all islands; protection of state lands and parks; replacing fossil fuels with renewable energy quickly; moving infrastructure away from rising seas; etc.)

The existing tax base does not provide adequate funds for all or even most of these urgent needs.

Taxing REIT profits from Hawaii real estate investments without deducting dividends would provide additional funds.

Investors in REITs are obviously not our poorest residents, so such taxes would make the state tax system more progressive.

Please support HB475.

Thank you for the opportunity to submit testimony.

TO: Representative Angus L.K McKelvey, Chair
Committee on Economic Development & Business

FROM: Evelyn Aczon Hao, President of Faith Action for Community Equity

Wednesday, January 30, 2019

Support for HB475 RELATING TO TAXATION OF REAL ESTATE INVESTMENT TRUSTS

Good morning, Chair McKelvey, Vice-Chair Kitagawa and committee members.

I am Evelyn Aczon Hao, President of Faith Action for Community Equity.

Faith Action for Community Equity (formerly FACE) is a 23-year-old grassroots, interfaith organization that includes 18 congregations and temples, a union, health center, housing association and 3 advocacy organizations on Oahu. Faith Action is driven by a deep spiritual commitment to improve the quality of life for our members and all people of Hawaii. We strive to address issues of social justice at all levels of government.

Our legislative focus aims to get more resources for truly affordable housing in Hawaii. Sadly, affordable housing/thus a stable home is still an impossible dream for so many of our residents. The high cost of housing is burdening the middle class and crushing the poor.

I don't know of any holy writing, no moral or ethical teachings that promote or defend what we have somehow allowed to happen—that is, to effectively shut people out of affordable housing.

Why is Faith Action so dedicated to finding ways to increase housing stock for all?

Home is the center of life. Making housing affordable so that people can begin to build a home for themselves and their children is a moral responsibility for those who have the power to help make it so.

It is a moral responsibility because affordability leads to stability. Stabiliity leads to community. Community leads to a place that can be truly called "home" where people can hope, contribute, and thrive.

My experience as a school principal at Kuhio Elementary in Moiliili made so clear to me how important stable housing is. *Eighty percent* of our students qualified for free or reduced cost lunch which means family income was below the poverty line. Also, 51 percent were English language learners. In fact, 21 languages were represented among our families. The DOE requires that schools meet statewide adequate yearly progress in statewide reading and math tests. Because of our innovative curriculum and hard-working teachers and students, our students met and even exceeded adequate yearly progress for seven straight years. Then one year, our scores dropped precipitously. We were shocked and could not figure out what went wrong. Later, we found out that during the second semester of that school year, our families had been slowly evicted from their substandard apartments which they shared with relatives. When students and their families were evicted from their apartments, they lost their stability. Their solid ground, as humble as it was, was gone. Besides suffering academically, how else did my students suffer?

Faith Action's HousingNow! task force has been a consistent and diligent force in striving to make affordable housing a reality for all Hawaii's residents. Making this happen is complicated; it requires creativity, persistence, and money.

HB475 can help to make this happen. The number of Hawaii commercial real estate owned by Real Estate Investment Trusts (REITS) is increasing, and because REITs do not currently pay Hawaii income tax, everyone else loses. Over 99% of their investors live and pay tax out of State and so REITS and almost all their investors are not contributing income tax to the support of Hawaii's economy on which their Hawaii investments depend on.

HB475 corrects this by taxing REITS just like any other corporation. This would produce approximately $60 million every year in tax revenue. We ask that the tax law be corrected so that the cost of supporting our communities is equitably shared by all who benefit. In addition, the hundreds of members of our organization want this bill amended so that the revenue from this taxation is designated to help relieve our dire housing crisis with the creation of affordable housing units.

Thank you for this opportunity to testify.

Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business

Frank A. Lane ATP, CRTS
dba: National Seating & Mobility
96-1173 Waihona Street Unit # A-3
Pearl City, HI. 96782

Wednesday, January 25, 2019

Support for H.B. No. 475, Relating to Taxation of Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support H.B. No. 475, Relating to Taxation of Real Estate Investment Trusts.

These bills correct a glaring loophole in our state income tax law that allow mainland corporations operating profitably as REITs in Hawaii to take the net income out of our state without paying income tax like the rest of us. This results in a loss of $30 to $60 million annually to the state. These funds are desperately needed to support the costs of education, social services, and other state commitments, which continue to struggle.

There is more REIT-owned property in Hawaii per capita than any other state in the nation. And with our attractive real estate market, this will only increase in the future to further deplete our tax base. Ala Moana Shopping Center, Pearlridge Shopping Center, Hilton Hawaiian Village, International Marketplace, plus hundreds of other properties owned by mainland companies operate here without paying any income tax. This loophole must be closed so that REITs are taxed the same way as other real estate investors.

For these reasons, I urge the committee to pass H.B 475 related to the taxation of REITs. Thank you for the opportunity to testify.

Thank you,

LATE

The Thirtieth Legislature
Regular Session of 2019

THE HOUSE
Committee on Economic Development and Business
Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
State Capitol, Conference Room 309
Wednesday, January 30, 2019; 10:00 a.m.

STATEMENT OF THE ILWU LOCAL 142 ON H.B. 475
RELATING TO TAXATION OF REAL ESTATE INVESTMENT TRUSTS

The ILWU Local 142 **supports** H.B. 475, which disallows dividends paid deduction for real estate investment trusts.

The State is losing out on millions of dollars in taxes because the tax deduction for dividends paid by Real Estate Investment Trusts. REITs are able to avoid paying state taxes as long as they distribute 90% of their taxable income to shareholders, who then pay taxes only in their home states. Most of the REITs with real estate holdings in Hawaii have shareholders/investors who do not live in Hawaii. Since REITs themselves currently enjoy a deduction for dividends paid, and most shareholders are not Hawaii taxpayers, the State receives virtually NO taxes from real estate activity of REITs in Hawaii.

The State can certainly use another revenue source. Requiring REITs to pay income taxes would be one means of generating revenues to support the services and programs needed to address a myriad of issues facing our residents—including public education, early childhood education, homelessness and affordable rental housing, access to quality health care, and support for the elderly and disabled as well as their caregivers.

Those who oppose repealing the deduction argue that REIT investment will dry up. We think this is most unlikely. Real estate in Hawaii is highly profitable. Investors would be foolish to pull out of Hawaii simply because of taxes they must pay. Paying taxes should be considered a cost of doing business. Everyone should pay their fair share of taxes to benefit the entire community. In fact, if this bill is not passed, more corporations with real estate holdings may seek to convert into Real Estate Investment Trusts in order to avoid paying taxes. If that happens, the State could potentially lose even more tax revenue.

The ILWU urges passage of H.B. 475. Thank you for the opportunity to offer testimony on this measure.

LATE

Testimony in favor or HB 475

Jan. 30 2019

Aloha, Chair McKelvey and Committee Members,

My name is Catherine Graham. I am the co-chair of the Faith Action for Community Equity's Housing Now Committee.

Faith Action's focus is on equity – fairness for all Hawaii's residents. And as you know 1) Hawaii does not currently have enough housing stock to house all of the folks who live here and 2) Hawaii, a beautiful island in the middle of the Pacific Ocean attracks many people with a lot of money. Faith Action's concern, that I whole heartedly share, is that the wealthy people benefit from the beauty of Hawaii without giving back their fair share to those who live and work here.

I am, therefore, in favor of HB 475 which would tax REITS. 99% of REIT shareholders live out of state and pay NO income tax to Hawaii. The REIT owners, since they distribute most of their profit, pay NO income tax to Hawaii. HB 475 asks the REIT owners to pay tax on their profits before distributing the dividends to the shareholders. Hawaii would gain approximately $40 to 60 million annually which could go to supporting affordable housing.

Please pass HB 475. It is a fairness issue. The state of Hawaii is being totally taken advantage of and we residents are losing out.

Thanks you.

Catherine Graham
catgraham48@gmail.com
741-4317

HB-475
Submitted on: 1/25/2019 1:35:20 PM
Testimony for EDB on 1/30/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Greg and Pat Farstrup	Individual	Support	No

Comments:

HB-475
Submitted on: 1/25/2019 10:14:55 PM
Testimony for EDB on 1/30/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Golojuch Jr	Individual	Support	No

Comments:

Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business

Wednesday, January 25, 2019

Support for H.B. No. 475

As a resident born and raised in Hawaii, I am disheartened to continually hear that the State does not have the means to fix our public schools, improve our public health services, and pay promised benefits to our retirees, even while my tax bill seems to increase every year. I support H.B. No. 475, Relating to Real Estate Investment Trusts, because it is a necessary remedy for our State's depleting tax base.

It is unfair that the mainland owners of the major shopping centers, hotels, and office buildings in Hawaii are permitted to profit from our local and visitor trade without paying any income tax to our State. REITs should be required to contribute to the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. H.B. No. 475 would close the REIT income tax loophole in order to keep more revenues in Hawaii for the benefit of our community and all of its members.

We need to protect our tax base. I strongly urge you to pass H.B. 475. Thank you.

Sincerely,

Jacob Fergus
4300 Waialae Avenue, #A2401
Honolulu, HI 96816

HB-475
Submitted on: 1/27/2019 10:34:24 PM
Testimony for EDB on 1/30/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Linda Rich	Individual	Support	No

Comments:

Representative Mc Kelvey, Representative Kitagawa, Vice Chair, and Committee Members

My name is Linda Rich. I am testifying in support of HB475. I am a member of Faith Action‘s Housing Now Committee, Church of the Crossroads Peace Justice and Stewardship of Creation Mission Team, and Hawaii Chapter of National Association of Social Workers. I am a Licensed Social Worker and a Certified Substance Abuse Counselor, and serve on the Community Impact Council of Aloha United Way, chairing the Safety Net Committee. I am testifying as a private citizen.

Thank you for the opportunity to present this testimony in support of requiring shareholders of REITs earning revenue in Hawaii to pay Hawaii state tax on the income earned in Hawaii.

Real Estate Investment Trusts (REITs) use a loophole to avoid the Hawaii corporate tax. Closing that loophole could generate substantial funds, which I believe should be dedicated to increase the supply of affordable housing. Money earned in Hawaii should be taxed in our state to benefit our citizens. Meeting the need for truly affordable housing is a huge financial challenge and the state is allowing millions of dollars of potential revenue to go unclaimed.

Hawaii faces an enormous shortage of housing that is affordable to low and middle-income individuals and families. New housing is being built, but most of it is priced for the high-income strata. Some efforts are being made to build affordable housing for low- and middle-income levels. They are not enough. The need is so great and the cost of housing is so high that there are growing numbers of families unable to purchase homes or find affordable rentals. The funds currently being designated for affordable housing are appreciate bu are not adequate to meet the need. A state tax on the income of REITs operating in Hawaii could help to increase funding for truly affordable housing.

I am a retired social worker who has lived in Hawaii since 1972. I have worked in medical, mental health, and substance abuse programs in Honolulu since 1976. Time and time again I have seen individuals and families unable to find safe, affordable housing. The lack of affordable housing is a crisis and taxing the income from REITs offers an obvious and simple way to generate additional funds to respond.

REITs own income-producing property in Hawaii such as Ala Moana Center, the Hilton Hawaiian Village Resort, and Pearlridge Mall, as well as office buildings and many other shopping centers and hotels. REITs own property with an estimated total value of $18 billion that earns an estimated $1 billion in profits annually. If Hawaii's corporate tax were applied to REITs, an estimated $60 million in tax revenue would be generated and could help fund affordable housing.

Thank you.

Testimony of Ellen Godbey Carson
Supporting HB 475 with an amendment
House Committee on Economic Development and Business
January 30, 2019 at 9:00 in Conference Room 309

I am writing in SUPPORT of HB 475, with request for one amendment noted below. Real Estate Investment Trusts (REITs) should pay taxes in Hawaii for their profits earned off Hawaii properties. The loophole in our laws that has failed to tax REITS in the past has led to a large erosion in our tax base, since REITs own major commercial properties in Hawaii that are essentially going untaxed here. That loophole should be closed. **This bill should be amended to to dedicate 100% of its tax revenues to the creation of affordable housing in Hawaii.** With that amendment, I would be in full support of this bill.

REITs own many large income-producing properties in Hawaii such as Ala Moana Center, the Hilton Hawaiian Village Resort, as well as office buildings and many other shopping centers and hotels. Together, they own property with an estimated total value of $18 billion that earns an estimated $1 billion in profits annually. If Hawaii's corporate tax were applied to REITs, an estimated $60 million in tax revenue would be generated. Those revenues are lost for every year we fail to tax REITs.

Meanwhile, profitable activities of REITs and other large landholders increase the price of property for everyone in Hawaii. Hawaii now faces an enormous shortage of housing that is affordable to low- and middle-income individuals and families. New housing is being built, but most of it is priced for the high-income strata. Some efforts are being made to build affordable housing for low- and middle-income levels, but much greater efforts must be made because the need is so great and the cost of housing is so high. Devoting 100% of the tax revenues from REITs would provide a sustainable source of major funding for Hawaii's critical needs for affordable housing

Thank you.

Ellen Godbey Carson
1080 S. Beretania Street
Honolulu, HI 96814

Janice J. Lau

125 MERCHANT STREET, SUITE 200
HONOLULU, HAWAII 96813
TELEPHONE (808) 545-1700
FAX (808) 545-1788

January 30, 2019

Rep. Angus L.K. McKelvey, Chair
Rep. Lisa Kitagawa, Vice Chair

Re: Support for HB 475

As a Hawaii resident I believe all businesses in Hawaii should pay state income taxes. I've learned that certain mainland companies known real estate investment trusts currently exploit a loophole to avoid paying income tax in Hawaii, costing our state millions of dollars in tax revenue every year.

I support the efforts of House Bill 475 requiring real estate investment trust companies to pay income tax to support our state.

Our state needs money to pay our teachers, improve transportation, and pay retirement benefits. Please support House Bill 475.

Sincerely,

Janice J. Lau

Janice J. Lau

Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business

Wednesday, January 25, 2019

Support for H.B. No. 475, Relating to Taxation of Real Estate Investment Trusts

As a business person concerned about Hawaii's economy and long-term community development, I strongly support H.B. No. 475, Relating to Taxation of Real Estate Investment Trusts.

These bills correct a glaring loophole in our state income tax law that allow mainland corporations operating profitably as REITs in Hawaii to take the net income out of our state without paying income tax like the rest of us. This results in a loss of $30 to $60 million annually to the state. These funds are desperately needed to support the costs of education, social services, and other state commitments, which continue to struggle.

There is more REIT-owned property in Hawaii per capita than any other state in the nation. And with our attractive real estate market, this will only increase in the future to further deplete our tax base. Ala Moana Shopping Center, Pearlridge Shopping Center, Hilton Hawaiian Village, International Marketplace, plus hundreds of other properties owned by mainland companies operate here without paying any income tax. This loophole must be closed so that REITs are taxed the same way as other real estate investors.

For these reasons, I urge the committee to pass H.B 475 related to the taxation of REITs. Thank you for the opportunity to testify.

Thank you,

Gerald Yamada
16-212 Melekahiwa Pl
Keaau, HI 96749

HB-475
Submitted on: 1/28/2019 1:43:22 PM
Testimony for EDB on 1/30/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ashleigh Loa	Individual	Support	Yes

Comments:

January 25, 2019, 10:00am, Conference Room 309

TO: Committee on Economic Development & Business
Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair

FROM: Franklin M. Tokioka

RE: In Support of the Taxation of Real Estate Investment Trusts in Hawaii. HB475

I strongly support HB475 which will eliminate the tax deductibility of dividends for Real Estate Investment Trusts (REITs). A loophole in our state income tax law that came from the '60's allows mainland corporations to take the net income that they earn in Hawaii out of state, tax free. These corporations, which own and operate the major shopping centers in Hawaii, most of the Class A office buildings downtown, major industrial tracts like Mapunapuna, and many of the hotels in Waikiki and on the neighbor islands, are called Real Estate Investment Trusts (REITs). They pay no Hawaii corporate income tax.

The vast majority of REIT shareholders live on the mainland and they pay taxes on their REIT dividends in the mainland states where they reside. So other states are receiving the tax revenue earned in Hawaii even while our residents and local businesses foot the bill for the infrastructure, emergency and social services required to support the commercial properties owned by these REITs.

REITs companies are earning over an estimated $1 billion every year in Hawaii, but they pay zero income tax. That is a loss of many millions of dollars annually in taxes for Hawaii.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and by a wide margin. The REITs argue that if we tax them and make them pay their fair share of taxes, they will no longer invest here. That is simply not true. The state of New Hampshire has taxed REITs for years and still has more REIT-owned property per capita than the median U.S. state. All we are asking is that they pay 6.4% of the income earned in Hawaii to the state to support our community like the rest of us do.

There is no reason why any investor in Hawaii should be operating tax-free when our state is struggling to pay for our children's education, services for our elderly, and to deliver promised benefits to its retirees. REITs don't pay sufficient taxes to support Hawaii's infrastructure and don't support our local charities in a meaningful way, then they ship our money out of state, tax free. There are plenty of local, mainland, and foreign tax-paying real estate investors here. We should level the playing field and tax REITs the same way as other real estate investors. We need to protect our tax base for the benefit of our community.

Thank you.

Marshall W. Hung - Former Workforce Housing Developer for Honolulu
215 N. King Street, Suite 1000, Honolulu, HI 96817
W: 808.526.2027 ext. 6 F: 808.526-2066

To: Rep Tom Brower of the EDB Committee
House of Representatives
State of Hawaii

Re: HB 475 in January, 2019

I am in support of taxing the REITS, the same state tax as other Hawaii based companies must pay. The Federal law that provides for the exemption of REITS to avoid paying federal income tax does not have to be adopted by all states. New Hampshire has passed a law requiring the REITS to pay their corporate income tax and it has not interfered with their ability to attract investors. For Hawaii, these REIT tax payments have been sorely missed and a growing loss. Money that is needed for education, infrastructure, climate protection, etc.

The estimated $60 million loss of tax revenue from the REITS needs to be corrected.

Sincerely yours,

Marshall Hung, former real estate developer

DEAN K FRAMPTON
2035 MAIN STREET #1
WAILUKU HI 96793

January 25, 2019, 10.00am, Conference Room 309

TO. Committee on Economic Development & Business
Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair

RE. Support of the Taxation of Real Estate Investment Trusts in Hawaii. HB475

I strongly support HB475 which will eliminate the tax deductibility of dividends for Real Estate Investment Trusts (REITs). A loophole in our state income tax law that came from the '60's allows mainland corporations to take the net income that they earn in Hawaii out of state, tax free. These corporations, which own and operate the major shopping centers in Hawaii, most of the Class A office buildings downtown, major industrial tracts like Mapunapuna, and many of the hotels in Waikiki and on the neighbor islands, are called Real Estate Investment Trusts (REITs). They pay no Hawaii corporate income tax.

The vast majority of REIT shareholders live on the mainland and they pay taxes on their REIT dividends in the mainland states where they reside. So other states are receiving the tax revenue earned in Hawaii even while our residents and local businesses foot the bill for the infrastructure, emergency and social services required to support the commercial properties owned by these REITs.

REITs companies are earning over an estimated $1 billion every year in Hawaii, but they pay zero income tax. That is a loss of many millions of dollars annually in taxes for Hawaii.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and by a wide margin. The REITs argue that if we tax them and make them pay their fair share of taxes, they will no longer invest here. That is simply not true. The state of New Hampshire has taxed REITs for years and still has more REIT-owned property per capita than the median U.S. state. All we are asking is that they pay 6.4% of the income earned in Hawaii to the state to support our community like the rest of us do.

There is no reason why any investor in Hawaii should be operating tax-free when our state is struggling to pay for our children's education, services for our elderly, and to deliver promised benefits to its retirees. REITs don't pay sufficient taxes to support Hawaii's infrastructure and don't support our local charities in a meaningful way, then they ship our money out of state, tax free. There are plenty of local, mainland, and foreign tax-paying real estate investors here. We should level the playing field and tax REITs the same way as other real estate investors. We need to protect our tax base for the benefit of our community.

Thank you very much for your consideration.

D.K.F.

Dean K Frampton

January 25, 2019, 10:00am, Conference Room 309

TO: Committee on Economic Development & Business
Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair

FROM: Steven & Sheila Gold

RE: In Support of the Taxation of Real Estate Investment Trusts in Hawaii. HB475

I strongly support HB475 which will eliminate the tax deductibility of dividends for Real Estate Investment Trusts (REITs). A loophole in our state income tax law that came from the '60's allows mainland corporations to take the net income that they earn in Hawaii out of state, tax free. These corporations, which own and operate the major shopping centers in Hawaii, most of the Class A office buildings downtown, major industrial tracts like Mapunapuna, and many of the hotels in Waikiki and on the neighbor islands, are called Real Estate Investment Trusts (REITs). They pay no Hawaii corporate income tax.

The vast majority of REIT shareholders live on the mainland and they pay taxes on their REIT dividends in the mainland states where they reside. So other states are receiving the tax revenue earned in Hawaii even while our residents and local businesses foot the bill for the infrastructure, emergency and social services required to support the commercial properties owned by these REITs.

REITs companies are earning over an estimated $1 billion every year in Hawaii, but they pay zero income tax. That is a loss of many millions of dollars annually in taxes for Hawaii.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and by a wide margin. The REITs argue that if we tax them and make them pay their fair share of taxes, they will no longer invest here. That is simply not true. The state of New Hampshire has taxed REITs for years and still has more REIT-owned property per capita than the median U.S. state. All we are asking is that they pay 6.4% of the income earned in Hawaii to the state to support our community like the rest of us do.

There is no reason why any investor in Hawaii should be operating tax-free when our state is struggling to pay for our children's education, services for our elderly, and to deliver promised benefits to its retirees. REITs don't pay sufficient taxes to support Hawaii's infrastructure and don't support our local charities in a meaningful way, then they ship our money out of state, tax free. There are plenty of local, mainland, and foreign tax-paying real estate investors here. We should level the playing field and tax REITs the same way as other real estate investors. We need to protect our tax base for the benefit of our community.

Thank you,

Janice J. Lau

125 MERCHANT STREET, SUITE 200
HONOLULU, HAWAII 96813
TELEPHONE (808) 545-1700
FAX (808) 545-1788

January 30, 2019

Rep. Angus L.K. McKelvey, Chair
Rep. Lisa Kitagawa, Vice Chair

Re: Support for HB 475

As a Hawaii resident I believe all businesses in Hawaii should pay state income taxes. I've learned that certain mainland companies known real estate investment trusts currently exploit a loophole to avoid paying income tax in Hawaii, costing our state millions of dollars in tax revenue every year.

I support the efforts of House Bill 475 requiring real estate investment trust companies to pay income tax to support our state.

Our state needs money to pay our teachers, improve transportation, and pay retirement benefits. Please support House Bill 475.

Sincerely,

Janice J. Lau

Janice J. Lau

Black Development Corporation

125 MERCHANT STREET, SUITE 200
HONOLULU, HAWAII 96813
TELEPHONE (808) 739-5501
FAX (808) 739-5521

January 31, 2019

Rep. Angus L.K. McKelvey, Chair
Rep. Lisa Kitagawa, Vice Chair

RE: Support for HB 475, Relating to Taxation of Real Estate Investment Trusts (REITs)

It is my belief that all businesses operating in Hawaii should pay income tax. There is $18 billion of REIT property in Hawaii not paying income tax, up from $10 billion ten years ago. While the REIT structure can be beneficial to small investors, it is a huge loophole for big investors. For example, the founder of Public Storage, Wayne Hughes and his family own $6 billion of Public Storage stock; Ala Moana Center is now owned by a Canadian firm. Do we need to be subsidizing rich people and Canadians? Is it so much to ask that REITs operating in Hawaii pay a 6.4% corporate income tax like other businesses?

Very Truly Yours,

Michael J. Fergus
President
Black Development Corporation

January 25, 2019, 10:00am, Conference Room 309

TO: Committee on Economic Development & Business
Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair

FROM: Ben Walin
12 Kaimau St
Paia Hi 96779

RE: In Support of the Taxation of Real Estate Investment Trusts in Hawaii. HB475

I strongly support HB475 which will eliminate the tax deductibility of dividends for Real Estate Investment Trusts (REITs). A loophole in our state income tax law that came from the '60's allows mainland corporations to take the net income that they earn in Hawaii out of state, tax free. These corporations, which own and operate the major shopping centers in Hawaii, most of the Class A office buildings downtown, major industrial tracts like Mapunapuna, and many of the hotels in Waikiki and on the neighbor islands, are called Real Estate Investment Trusts (REITs). They pay no Hawaii corporate income tax.

The vast majority of REIT shareholders live on the mainland and they pay taxes on their REIT dividends in the mainland states where they reside. So other states are receiving the tax revenue earned in Hawaii even while our residents and local businesses foot the bill for the infrastructure, emergency and social services required to support the commercial properties owned by these REITs.

REITs companies are earning over an estimated $1 billion every year in Hawaii, but they pay zero income tax. That is a loss of many millions of dollars annually in taxes for Hawaii.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and by a wide margin. The REITs argue that if we tax them and make them pay their fair share of taxes, they will no longer invest here. That is simply not true. The state of New Hampshire has taxed REITs for years and still has more REIT-owned property per capita than the median U.S. state. All we are asking is that they pay 6.4% of the income earned in Hawaii to the state to support our community like the rest of us do.

There is no reason why any investor in Hawaii should be operating tax-free when our state is struggling to pay for our children's education, services for our elderly, and to deliver promised benefits to its retirees. REITs don't pay sufficient taxes to support Hawaii's infrastructure and don't support our local charities in a meaningful way, then they ship our money out of state, tax free. There are plenty of local, mainland, and foreign tax-paying real estate investors here. We should level the playing field and tax REITs the same way as other real estate investors. We need to protect our tax base for the benefit of our community.

Thank you.

BWl

Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business

Matthew Raff
201 Merchant Street, Suite 2228
Honolulu, HI 96813

Wednesday, January 25, 2019

Support for H.B. No. 475, Relating to Taxation of Real Estate Investment Trusts

As a commercial real estate agent and a person concerned about Hawaii's economy, I strongly support H.B. No. 475, Relating to Taxation of Real Estate Investment Trusts.

These bills correct a glaring loophole in our state income tax law that allow mainland corporations operating profitably as REITs in Hawaii to take the net income out of our state without paying income tax like the rest of us. This results in a loss of $30 to $60 million annually to the state. These funds are desperately needed to support the costs of education, social services, and other state commitments, which continue to struggle.

There is more REIT-owned property in Hawaii per capita than any other state in the nation. And with our attractive real estate market, this will only increase in the future to further deplete our tax base. Ala Moana Shopping Center, Pearlridge Shopping Center, Hilton Hawaiian Village, International Marketplace, plus hundreds of other properties owned by mainland companies operate here without paying any income tax. This loophole must be closed so that REITs are taxed the same way as other real estate investors.

For these reasons, I urge the committee to pass H.B 475 related to the taxation of REITs. Thank you for the opportunity to testify.

Thank you,

Matthew Raff

Dear Legislators,

As a Hawaii resident I believe all businesses in Hawaii should pay state income taxes. I've learned that certain mainland companies known real estate investment trusts currently exploit a loophole to avoid paying income tax in Hawaii, costing our state millions of dollars in tax revenue every year.

I support the efforts of House Bill 475 requiring real estate investment trust companies to pay income tax to support our state.

Mahalo,

Azad Tirgardoon
92-1224 umena street
Kapolei Hi 96707

Alexander L. Fergus

125 MERCHANT STREET, SUITE 200
HONOLULU, HAWAII 96813
TELEPHONE (808) 545-1700
FAX (808) 545-1788

January 28, 2019

Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business

Support for H.B. No. 475, S.B. 301, and S.B. 675 Relating to Taxation of Real Estate Investment Trusts

As a local business owner and community member I have become increasingly concerned about Hawaii's economy and long-term community development. Accordingly, I strongly support H.B. No. 475, S.B. 301, and S.B No. 675, Relating to Taxation of Real Estate Investment Trusts.

These bills correct a glaring loophole in our state income tax law that allow mainland corporations operating profitably as REITs in Hawaii to take the net income out of our state without paying income tax like the rest of us. This results in a loss of $30 to $60 million annually to the state. These funds are desperately needed to support the costs of education, social services, and other state commitments, which continue to struggle.

There is more REIT-owned property in Hawaii per capita than any other state in the nation. And with our attractive real estate market, this will only increase in the future to further deplete our tax base. Ala Moana Shopping Center, Pearlridge Shopping Center, Hilton Hawaiian Village, International Marketplace, plus hundreds of other properties owned by mainland companies operate here without paying any income tax. This loophole must be closed so that REITs are taxed the same way as other real estate investors.

For these reasons, I urge the committee to pass any one of these following bills related to the taxation of REITs: H.B. 475, S.B. 301, S.B. 675. Thank you for the opportunity to testify.

Very truly yours,

Alexander L. Fergus

Colin and Diane Lau
47-695 Hui Ulili St.
Kaneohe, HI 96744
(808) 239-1515

January 28, 2019

Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business

Support for H.B. No. 475

As a resident of Hawaii for 69 years, I am disheartened to continually hear that the State does not have the means to fix our public schools, improve our public health services, and pay promised benefits to our retirees, even while my tax bill seems to increase every year. I support H.B. No. 475, Relating to Real Estate Investment Trusts, because it is a necessary remedy for our State's depleting tax base.

Just this last week, Governor Ige announced the State's proposal to increase our gasoline tax and vehicle registration fee in an effort to generate more tax revenues to maintain our roads...probably because there is not sufficient Hawaii income tax to do so. It is unfair that the mainland owners of the major shopping centers, hotels, and office buildings in Hawaii are permitted to profit from our local and visitor trade without paying any income tax to our State. REITs should be required to contribute to the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. H.B. No. 475 would close the REIT income tax loophole in order to keep more revenues in Hawaii for the benefit of our community and all of its members.

We need to protect our tax base. I strongly urge you to pass H.B. 475. Thank you.

Sincerely,

Colin and Diane Lau

Colin and Diane Lau

Rochelle N. Ito
41-860 Kakaina Street
Waimanalo, Hawaii 96795

January 25, 2019

Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business

Support for H.B. No. 475, Relating to Taxation of Real Estate Investment Trusts

As a person concerned about Hawaii's economy and long-term community development, I strongly support H.B. No. 475, Relating to Taxation of Real Estate Investment Trusts.

These bills correct a glaring loophole in our state income tax law that allow mainland corporations operating profitably as REITs in Hawaii to take the net income out of our state without paying income tax like the rest of us. This results in a loss of $30 to $60 million annually to the state. These funds are desperately needed to support the costs of education, social services, and other state commitments, which continue to struggle.

There is more REIT-owned property in Hawaii per capita than any other state in the nation. And with our attractive real estate market, this will only increase in the future to further deplete our tax base. Ala Moana Shopping Center, Pearlridge Shopping Center, Hilton Hawaiian Village, International Marketplace, plus hundreds of other properties owned by mainland companies operate here without paying any income tax. This loophole must be closed so that REITs are taxed the same way as other real estate investors.

For these reasons, I urge the committee to pass H.B 475 related to the taxation of REITs. Thank you for the opportunity to testify.

Sincerely,

Rochelle N. Ito

Rochelle N. Ito

Kathleen Centanni
3024 Diamond Head Road
Honolulu, HI. 96815

Wednesday, January 25, 2019

Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business

Support for H.B. No. 475, Relating to Taxation of Real Estate Investment Trusts

As a person concerned about Hawaii's economy and long-term community development, I strongly support H.B. No. 475, Relating to Taxation of Real Estate Investment Trusts.

These bills correct a glaring loophole in our state income tax law that allow mainland corporations operating profitably as REITs in Hawaii to take the net income out of our state without paying income tax like the rest of us. This results in a loss of $30 to $60 million annually to the state. These funds are desperately needed to support the costs of education, social services, and other state commitments, which continue to struggle.

There is more REIT-owned property in Hawaii per capita than any other state in the nation. And with our attractive real estate market, this will only increase in the future to further deplete our tax base. Ala Moana Shopping Center, Pearlridge Shopping Center, Hilton Hawaiian Village, International Marketplace, plus hundreds of other properties owned by mainland companies operate here without paying any income tax. This loophole must be closed so that REITs are taxed the same way as other real estate investors.

For these reasons, I urge the committee to pass H.B 475 related to the taxation of REITs. Thank you for the opportunity to testify.

Thank you for your consideration,

Kathleen Centanni

Barry A. Hyman
2850 Leialoha Place
Haiku, HI 96708

Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business

Wednesday, January 25, 2019

Support for H.B. No. 475

As a resident of Hawaii for 29 years, I am disheartened to continually hear that the State does not have the means to fix our public schools, improve our public health services, and pay promised benefits to our retirees, even while my tax bill seems to increase every year. I support H.B. No. 475, Relating to Real Estate Investment Trusts, because it is a necessary remedy for our State's depleting tax base.

It is unfair that the mainland owners of the major shopping centers, hotels, and office buildings in Hawaii are permitted to profit from our local and visitor trade without paying any income tax to our State. REITs should be required to contribute to the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. H.B. No. 475 would close the REIT income tax loophole in order to keep more revenues in Hawaii for the benefit of our community and all of its members.

We need to protect our tax base. I strongly urge you to pass H.B. 475. Thank you.

Sincerely,

Barry A Hy

Barry A. Hyman

Representative Angus L K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business

Monday, January 28, 2019

RE: Support for H.B. No. 475, Relating to Taxation of Real Estate Investment Trusts

Dear Representatives McKelvery and Kitagawa:

As a business person concerned about Hawaii's economy and long-term community development, I strongly support H.B. No. 475, Relating to Taxation of Real Estate Investment Trusts.

These bills correct a glaring loophole in our state income tax law that allow mainland corporations operating profitably as REITs in Hawaii to take the net income out of our state without paying income tax like the rest of us. This results in a loss of $30 to $60 million annually to the state. These funds are desperately needed to support the costs of education, social services, and other state commitments, which continue to struggle.

There is more REIT-owned property in Hawaii per capita than any other state in the nation. And with our attractive real estate market, this will only increase in the future to further deplete our tax base. Ala Moana Shopping Center, Pearlridge Shopping Center, Hilton Hawaiian Village, International Marketplace, plus hundreds of other properties owned by mainland companies operate here without paying any income tax. This loophole must be closed so that REITs are taxed the same way as other real estate investors.

For these reasons, I urge the committee to pass H.B 475 related to the taxation of REITs. Thank you for the opportunity to testify.

Thank you,

Francis U. Imada

Francis U. Imada, CPA, CFP

Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business

Monday, January 28, 2019

<u>Support for H.B. No. 475</u>

I am a life-long resident of Hawaii, so were my parents, so were my grandparents. It is very troubling to continually hear that the State is financially stretched and without the means to improve our public schools, our public health services, and pay promised benefits to our retirees - while my tax bill increases every year. I support H.B. No. 475, Relating to Real Estate Investment Trusts, because it is necessary for businesses, particularly large, mainland businesses to invest back into the local community thru our State's depleting tax base.

The tax burden is out of balance as mainland owners of the major shopping centers, hotels, and office buildings in Hawaii are profiting from our local and visitor trade without paying any income tax to Hawaii. REITs should be required to contribute to the costs of the infrastructure and services that support their properties, the same way our local businesses and Hawaii residents are. H.B. No. 475 would close the REIT income tax loophole and introduce fairness by keeping more revenues in Hawaii for the benefit of our community and all of its members.

I strongly urge you to pass H.B. 475. Thank you.

Sincerely,

Calvert Chun
1054-A Alewa Drive
Honolulu, HI 96817

EDBtestimony

From: Michelle Caron <mcaron23@gmail.com>
Sent: Tuesday, January 29, 2019 9:31 AM
To: EDBtestimony
Subject: Testimony in SUPPORT of HB475

Chair McKelvey, Vice Chair Kitagawa, members,

REITs operating in Hawaiʻi need to pay their fair share of state taxes.

As part of our community, they need to do their part in supporting our community. REITs already receive generous federal tax exemptions and benefit from Hawaiʻi's low property tax. They can operate and thrive in Hawaiʻi while still being a responsible community member and paying their share of the taxes needed build a strong Hawaiʻi for everyone.

Please pass HB475 and eliminate the corporate income tax exemption on dividends paid out by REITs.

Mahalo,
Michelle Caron

Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business

January 28, 2019

Support for H.B. No. 475

Dear Legislators,

As a Hawaii resident I believe all businesses in Hawaii should pay state income taxes. I've learned that certain mainland companies known real estate investment trusts currently exploit a loophole to avoid paying income tax in Hawaii, costing our state millions of dollars in tax revenue every year.

There is no reason why any investor in Hawaii should be operating tax-free when our state is struggling to pay for our children's education, services for our elderly, and to deliver promised benefits to its retirees. REITs don't pay sufficient taxes to support Hawaii's infrastructure and don't support our local charities in a meaningful way, then they ship our money out of state, tax free. There are plenty of local, mainland, and foreign tax-paying real estate investors here. We should level the playing field and tax REITs the same way as other real estate investors. We need to protect our tax base for the benefit of our community.

I support the efforts of all bills (House Bill 475, Senate Bills 301 & 675) requiring real estate investment trust companies to pay income tax to support our state.

Mahalo,

Nick W. Teves, Jr.

January 25, 2019, 10:00am, Conference Room 309

TO: Committee on Economic Development & Business
Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair

FROM: Scott Kenar

RE: In Support of the Taxation of Real Estate Investment Trusts in Hawaii. HB475

I strongly support HB475 which will eliminate the tax deductibility of dividends for Real Estate Investment Trusts (REITs). A loophole in our state income tax law that came from the '60's allows mainland corporations to take the net income that they earn in Hawaii out of state, tax free. These corporations, which own and operate the major shopping centers in Hawaii, most of the Class A office buildings downtown, major industrial tracts like Mapunapuna, and many of the hotels in Waikiki and on the neighbor islands, are called Real Estate Investment Trusts (REITs). They pay no Hawaii corporate income tax.

The vast majority of REIT shareholders live on the mainland and they pay taxes on their REIT dividends in the mainland states where they reside. So other states are receiving the tax revenue earned in Hawaii even while our residents and local businesses foot the bill for the infrastructure, emergency and social services required to support the commercial properties owned by these REITs.

REITs companies are earning over an estimated $1 billion every year in Hawaii, but they pay zero income tax. That is a loss of many millions of dollars annually in taxes for Hawaii.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and by a wide margin. The REITs argue that if we tax them and make them pay their fair share of taxes, they will no longer invest here. That is simply not true. The state of New Hampshire has taxed REITs for years and still has more REIT-owned property per capita than the median U.S. state. All we are asking is that they pay 6.4% of the income earned in Hawaii to the state to support our community like the rest of us do.

There is no reason why any investor in Hawaii should be operating tax-free when our state is struggling to pay for our children's education, services for our elderly, and to deliver promised benefits to its retirees. REITs don't pay sufficient taxes to support Hawaii's infrastructure and don't support our local charities in a meaningful way, then they ship our money out of state, tax free. There are plenty of local, mainland, and foreign tax-paying real estate investors here. We should level the playing field and tax REITs the same way as other real estate investors. We need to protect our tax base for the benefit of our community.

Thank you.

Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business

January 28, 2019

Support for H.B. No. 475

Dear Legislators,

As a Hawaii resident I believe all businesses in Hawaii should pay state income taxes. I've learned that certain mainland companies known real estate investment trusts currently exploit a loophole to avoid paying income tax in Hawaii, costing our state millions of dollars in tax revenue every year.

I support the efforts of all bills (House Bill 475, Senate Bills 301 & 675) requiring real estate investment trust companies to pay income tax to support our state.

Mahalo,

Tia Teves Fergus

LATE

Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business

Wednesday, January 25, 2019

Support for H.B. No. 475

As a lifelong resident of Hawaii, it is very concerning to continue to hear that our State does not have the funding to improve on necessary services for the public. Our public schools, health care services, retirement benefits, and road conditions among others continue to suffer due often times to a lack of adequate funding. As a result, I strongly support HB 475, Relating to Real Estate Investment Trusts, as this will immediately and significantly increase the amount of tax revenue received by our State.

It is unfair that the mainland owners of the major shopping centers, hotels, and office buildings in Hawaii are permitted to profit from our local and visitor trade without paying any income tax to our State. It is only logical that REITs should be required to contribute to the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. HB 475 would address this issue by closing the REIT income tax loophole in order to keep more revenues in Hawaii for the benefit of our local community and all of the people that call our beautiful island State home.

We need to close the current REIT tax loophole and protect our tax base. Please support and pass HB 475. Thank you.

Sincerely,

Ryan Matsumoto
3438 Niolopua Dr.
Honolulu, Hawaii 96817

LATE

EDBtestimony

From: Eric Schrager <peschrager@gmail.com>
Sent: Tuesday, January 29, 2019 2:00 PM
To: EDBtestimony
Subject: Testimony in SUPPORT of HB475

Chair McKelvey, Vice Chair Kitagawa, members,

REITs operating in Hawaiʻi need to pay their fair share of state taxes.

As part of our community, they need to do their part in supporting our community. REITs already receive generous federal tax exemptions and benefit from Hawaiʻi's low property tax. They can operate and thrive in Hawaiʻi while still being a responsible community member and paying their share of the taxes needed build a strong Hawaiʻi for everyone.

Please pass HB475 and eliminate the corporate income tax exemption on dividends paid out by REITs.

Mahalo,

Eric Schrager
Ewa Beach

LATE

HB-475
Submitted on: 1/29/2019 3:36:40 PM
Testimony for EDB on 1/30/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Tillotson	Individual	Comments	No

Comments:

Aloha,

While generally supportive of this measure, I believe it can be greatly improved by dedicating the additional monies raised through the tax on REITs to the funding of afforable housing.

Real Estate Investment Trusts (REITs) are corporations that use a loophole to avoid the Hawaii corporate tax. That loophole should be closed, and the new tax revenue that is generated should be dedicated to increase the supply of affordable housing.

REITs own income-producing property in Hawaii such as Ala Moana Center, the Hilton Hawaiian Village Resort, as well as office buildings and many other shopping centers and hotels. Together, they own property with an estimated total value of $18 billion that earns an estimated $1 billion in profits annually. If Hawaii's corporate tax were applied to REITs, an estimated $60 million in tax revenue would be generated.

Hawaii faces an enormous shortage of housing that is affordable to low- and middle-income individuals and families. New housing is being built, but most of it is priced for the high-income strata. Some efforts are being made to build affordable housing for low- and middle-income levels, but much greater efforts must be made because the need is so great and the cost of housing is so high.

Various ideas to fund affordable housing are contained in an action plan for workforce/affordable housing that was funded by the Legislature and issued in 2017. Those ideas include dedicating new tax revenue for affordable/workforce housing or infrastructure, with the funds kept separate from the general fund. (Housing Action Plan Final Report to the State Legislature, 2017, p. xii)

The revenue generated by this bill could easily be dedicated to funding affordable housing. The bill should be amended to separate the new tax revenue from the general fund and direct itto the creation of affordable housing in Hawaii.

Mahalo for considering this testimony and mahalo for your service.

Richard Tillotson

LATE

Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business

Wednesday, January 25, 2019

Support for H.B. No. 475

As a seventh generation resident of Hawaii, I am disheartened to continually hear that the State does not have the means to fix our public schools, improve our public health services, and pay promised benefits to our retirees, even while my tax bill seems to increase every year. I support H.B. No. 475, Relating to Real Estate Investment Trusts, because it is a necessary remedy for our State's depleting tax base.

It is unfair that the mainland owners of the major shopping centers, hotels, and office buildings in Hawaii are permitted to profit from our local and visitor trade without paying any income tax to our State. REITs should be required to contribute to the costs of the infrastructure, emergency, and social services that support their properties, the same way our local businesses and Hawaii residents are. H.B. No. 475 would close the REIT income tax loophole in order to keep more revenues in Hawaii for the benefit of our community and all of its members.

We need to protect our tax base. I strongly urge you to pass H.B. 475. Thank you.

Sincerely,

Gregory L Sheehan
Pukalani, Hawaii

LATE

HB-475
Submitted on: 1/30/2019 9:28:30 AM
Testimony for EDB on 1/30/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joanne Amberg	Individual	Support	No

Comments:

Please close the loop holes that afford tax benefits to REIT's. Our community needs fair and affordable housing!

Thank you.

LATE

PETER SAVIO
(808) 951-8976
1451 S. King Street, Suite 504
Honolulu, Hawaii 96814-2509

Representative Angus L.K. McKelvey, Chair
Representative Lisa Kitagawa, Vice Chair
Committee on Economic Development & Business

RE: In Support of the Taxation of Real Estate Investment Trusts in Hawaii. HB475

The REITs will tell you passing the measure will hurt Hawaii – not true. It will help by increasing the revenue.

The REITs will say they increase property value and buy more taxes – not true. They don't pay the taxes, the tenant pays it as a part of rent and pass it on to consumer in the price of goods.

The REITs will say we are capital poor state and need this investment in our economy – not true. We are capital poor but they are only one of many investors that would be available to invest and buy in Hawaii. They are the only group that pay not taxes.

REITs are a good investment vehicle they can be a valuable part of Hawaii economy but they must pay their share of taxes.

Insurance companies, large corporations, foreign investors are all willing to buy in Hawaii and do what the REITs do but all of them are paying state taxes only the REITs are tax free. We need to plug the loop hold and require REIT to pay their fair share like everyone else.

I strongly support HB475 which will eliminate the tax deductibility of dividends for Real Estate Investment Trusts (REITs). A loophole in our state income tax law that came from the '60's allows mainland corporations to take the net income that they earn in Hawaii out of state, tax

FV-E

free. These corporations, which own and operate the major shopping centers in Hawaii, most of the Class A office buildings downtown, major industrial tracts like Mapunapuna, and many of the hotels in Waikiki and on the neighbor islands, are called Real Estate Investment Trusts (REITs). They pay no Hawaii corporate income tax.

The vast majority of REIT shareholders live on the mainland and they pay taxes on their REIT dividends in the mainland states where they reside. So other states are receiving the tax revenue earned in Hawaii even while our residents and local businesses foot the bill for the infrastructure, emergency and social services required to support the commercial properties owned by these REITs.

REITs companies are earning over an estimated $1 billion every year in Hawaii, but they pay zero income tax. That is a loss of many millions of dollars annually in taxes for Hawaii.

There is more REIT-owned property in Hawaii per capita than any other state in the nation, and by a wide margin. The REITs argue that if we tax them and make them pay their fair share of taxes, they will no longer invest here. That is simply not true. The state of New Hampshire has taxed REITs for years and still has more REIT-owned property per capita than the median U.S. state. All we are asking is that they pay 6.4% of the income earned in Hawaii to the state to support our community like the rest of us do.

There is no reason why any investor in Hawaii should be operating tax-free when our state is struggling to pay for our children's education, services for our elderly, and to deliver promised benefits to its retirees. REITs don't pay sufficient taxes to support Hawaii's infrastructure and don't support our local charities in a meaningful way, then they ship our money out of state, tax free. There are plenty of local, mainland, and foreign tax-paying real estate investors here. We should level the playing field and tax REITs the same way as other real estate investors. We need to protect our tax base for the benefit of our community.

Thank you.