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Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Commerce and Consumer Affairs
Tuesday, February 2, 2021
9:30 a.m.
Via Videoconference

On the following measure:
S.B. 52, RELATING TO RENT CONTROL

Chair Baker and Members of the Committee:

My name is Stephen H. Levins, and I am the Executive Director of the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection (OCP). The Department opposes section 2 of this bill and takes no position on the remaining sections.

The purposes of this bill are to: (1) prohibit landlords from increasing rent above a certain percentage over any twelve-month period; (2) establish provisions for rent control; (3) exclude certain properties from rent control; and (4) require a report regarding the effectiveness of rent control in the State.

The Department opposes section 2, which requires the OCP to prepare and submit reports analyzing the effectiveness of rent control in Hawaii. The OCP's primary function is to investigate and enforce Hawaii's consumer protection laws, not to render analyses regarding the economic utility of statutes on landlords and tenants. In addition, the OCP lacks the expertise and resources necessary to submit these reports, whose preparation is more appropriate for an entity that employs economists, urban planners, and statisticians. In view of the foregoing, it would be inappropriate for the OCP to be tasked with this reporting requirement.

Thank you for the opportunity to testify on this bill.

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February 2, 2021

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection
Via Videoconference

RE: Senate Bill 52, Relating to Rent Control

HEARING: Tuesday, February 2, 2021, at 9:30 a.m.

Aloha Chair Baker, Vice Chair Chang, and Members of the Committee,

I am Ken Hiraki, Director of Government Affairs, testifying on behalf of the Hawai‘i Association of REALTORS® (“HAR”), the voice of real estate in Hawai‘i, and its over 10,000 members. HAR **opposes** Senate Bill 52 which prohibits landlords from increasing rent above a certain percentage over any 12-month period. Excludes certain properties from rent control. Requires a report regarding the effectiveness of rent control in the State. Repeals on December 31, 2031.

HAR believes that rent control does nothing to increase the supply of rental housing and, ultimately, increasing supply is the true long-term solution to Hawaii’s rental housing shortage. Legislating price caps will likely lead to unintended consequences reminiscent of what Hawai‘i experienced with the gas cap law.

Rent control discourages the construction of more rental units making the problem even worse. Unless a rent control law permits a fair rate of return over time, housing providers may not be able to maintain their units.

Mahalo for the opportunity to testify on this measure.

SB 52, RELATING TO RENT CONTROL

FEBRUARY 2, 2021 · SENATE COMMERCE AND CONSUMER PORTECTION COMMITTEE · CHAIR SEN. ROSALYN H. BAKER

POSITION: Support.

RATIONALE: Imua Alliance supports SB 52, relating to rent control, which prohibits landlords from increasing rent above a certain percentage over any twelve-month period; establishes provisions for rent control; excludes certain properties from rent control; and requires a report regarding the effectiveness of rent control in the state.

Hawai'i is facing a looming eviction crisis. During COVID-19, unemployment skyrocketed to levels not seen since the Great Depression. A recent study found that our state is experiencing the slowest unemployment rate recovery in the nation, moreover, with our rate hovering at approximately 9 percent in December. Thousands of people who haven't lost their jobs have instead seen their employment hours and earnings slashed, as the economic downturn lingered throughout 2020 and into the new year.

Financial precarity has become the norm for many families, who are unable to pay their full rent and have accumulated rental debts. Currently, the state's eviction moratorium protects these families from being removed from their homes. Yet, the eviction moratorium will eventually expire as the public health emergency passes, leaving thousands of people at risk of losing their housing. Rent control would extend a substantial benefit to renters who've been harmed by the recession and are navigating a path back to financial and housing security, especially low-income families who are relying on expiring rental subsidies to survive. **It is entirely plausible, though heartbreaking, that landlords may try to increase rental prices to recover economic losses that they incurred during the pandemic, which would take a huge toll on renters who are still struggling to get back on their feet.**

Today, **our state's ongoing lack of affordable housing exacerbates the economic insecurity suffered by local families, which sex traffickers use to prey upon potential victims with false promises of financial stability and prosperity.** Hawai'i residents face the highest housing costs in the nation, at more than twice the national average. Researchers who authored the National Low Income Housing Coalition's *Out of Reach 2020* report found that a full-time worker would need to earn $38.76/hour to afford a two-bedroom apartment at fair market value in our state, with Honolulu experiencing a 67 percent increase in fair market rent between 2005 and 2015. Average rent for a two-bedroom unit surpassed $2,000 in recent years, with minimum wage workers needing to log 117 hours per week to afford a modest one-bedroom apartment at fair market value and 153 hours per week to afford a two-bedroom–a number that is equivalent to working over 20 hours a day with no days off year-round. In the past five years alone, Honolulu rent has increased by more than 25 percent. While 42 percent of Hawai'i residents are renters (a number that does not include individuals and families renting outside of the regulated rental market), they earn an average wage of $17.17/hour, according to NLIHC, scarcely enough to meet their basic needs.

One out of every four households in Hawai'i report that they are "doubling up" or are three paychecks or less away from being homeless, per the Hawai'i Appleseed Center for Law and Economic Justice. Additionally, over 60 percent of households are severely cost-burdened, following NLIHC data, meaning that they pay more than 30 percent of their income for housing costs, a number that rises to over 80 percent of extremely low-income households, with only 74 homes available for every 100 households earning 80 percent of their respective area's median income.

Unsurprisingly, our state is now experiencing population decline. Hawai'i saw domestic out-migration increase for a third consecutive year in 2019, as the state's high cost of living continued to push people to the mainland. Census estimates show that our state's population dropped by

8,866 people from July 2019 to July 2020, when births, deaths, and migration were accounted for. That population drop is nearly double the loss seen in 201, when Hawai'i one of just ten states in the country to lose population, according to the U.S. Census Bureau. People are simply being priced out of paradise.

Without question, Hawai'i's lack of affordable housing exacerbates our state's homelessness crisis. In a recently released report, Chief Medical Examiner Dr. Masahiko Kobayashi said that 127 people who were considered homeless at the time of their deaths died on O'ahu in 2019, up from 120 deaths in 2018 and an increase of 46 percent from 2017 (87 deaths).

Furthermore, over 30 percent of juvenile arrests in Hawai'i are for running away from home, the highest proportion in the nation. Nationally, one in seven young people between the ages of 10 and 18 will run away. Approximately 75 percent of runaways are female, while 46 percent of runaway and homeless youth report being physically abused, 38 percent report being emotionally abused, and 17 percent report being forced into unwanted sexual activity by a family or household member, according to the National Conference of State Legislatures.

Roughly 30 percent of runaway children will be approached for sexual exploitation within 48 hours of being on the run, according to the National Center for Missing and Exploited Children, with over 80 percent being approached for the commercial sex trade during the course of their time on streets. A federal study found that an estimated 38,600 runaway youth have been sexually assaulted, in the company of someone known to be sexually abusive, or engaged in sexual activity in exchange for money, food, or shelter.

Runaways are perceived as easy targets for sex traffickers because they lack stable shelter, a supportive environment, and financial resources, placing them at greater risk of forced prostitution and sexual servitude. Traffickers exploit our limited number of available shelter beds to lure young people into exploitation. As the homeless childcare provider Covenant House observes, traffickers tell homeless youth that shelters are full and ask, "Where are you going to go? Why don't you come with me? I'll take care of you." Coupled with threats of and actual physical and sexual violence against the victims or their families, these coercive techniques compel runaway youth to remain enslaved.

LGBTQ youth, who comprise an estimated 40 percent of the runaway and homeless youth population in the United States, are exponentially more likely to fall prey to human traffickers because of discrimination, family and community trauma, and a longing for comfort and acceptance (an estimated 26 percent of LGBTQ adolescents are rejected by their families and put out of their homes simply for being open and honest about who they are). In providing care for victims of human trafficking, we have heard their stories hundreds of times.

We cannot continue to allow the islands to be used as a private Monopoly board for real estate speculators. To ensure that our islands are affordable for ourselves and future generations, we must take bold action ***now*** to guarantee access to affordable housing for working families and ensure that low-income families who are participating in our state's rental market–and who are often Native Hawaiian, Micronesian, Pacific Islander, or other people of color–do not face rental gouging as they strive to achieve a successful financial recovery.

NAIOP
COMMERCIAL REAL ESTATE DEVELOPMENT ASSOCIATION
HAWAII CHAPTER

February 1, 2021

The Honorable Senator Rosalyn Baker
The Honorable Senator Stanley Chang
Members of the Senate Committee on
Commerce and Consumer Protection

RE: **SB 52- Relating to Rent Control**
Hearing date: Tuesday, February 2, 2021 at 9:30AM

Aloha Chair Baker, and members of the committees,

Mahalo for the opportunity to submit testimony on behalf of NAIOP Hawaii in **OPPOSITION** of SB 52. NAIOP Hawaii is the local chapter of the nation's leading organization for office, industrial, retail, residential and mixed-use real estate. NAIOP Hawaii has over 200 members in the State including local developers, owners, investors, asset managers, lenders and other professionals. NAIOP Hawaii strongly supports the development of housing for Hawaii residents at all levels of income, especially affordable housing projects.

SB 52 amends Chapter 521, Hawaii Revised Statutes to establish rent control by prohibiting landlords of dwelling units from increasing rent above a certain percentage over any twelve-month period. Specifically, the measure restricts the rental rate from increasing more than five per cent (5%) plus the percentage change in the cost of living or ten per cent (10%), whichever is lower, of the lowest gross rental rate charged for the dwelling over the course of any twelve-month period. SB 52 also prohibits property owners from increasing rental rates more that twice over the course of a twelve-month period in which the tenant has occupied the unit for the entire duration.

The rental control restrictions proposed in SB 52 would have broad reaching impacts on property owners across the State. Rental housing is founded on the enforceability of the contractual relationships between tenants, landlords and lenders. Primarily, this form of rental control limits a landlord's ability to accommodate for increases in their obligations to maintain the property such as security, repairs and maintenance, damage to the property, insurance, and property tax increases. Many property owners have mortgages and imposing rent controls will handcuff landlords and their lenders potentially leading to more defaults, foreclosures and bankruptcies.

In addition, NAIOP finds that the market forces, and not legislation, should determine negotiations for rent increases between landlords and tenants. The decision should remain with the landlord to balance increases in rental rates and the frequency in which they increase the rates vs potentially making the dwelling unaffordable and remaining vacant without generating any income. Furthermore, many property owners are currently collaborating with tenants to provide rent relief during the pandemic. Each tenant's circumstances are unique and property owners work with each tenant to determine rental increases that are reasonable.

While NAIOP understands the State's concerns surrounding the potential economic and housing impacts on Hawaii residents resulting from COVID-19. However, this form of rental control may unfairly and disproportionally impact landlords who may also be currently under economic strains resulting from the pandemic. Accordingly, instead of imposing the restrictive regulations contained in SB 52, we recommend this bill be deferred to allow property owners and tenants to continue a dialogue to discuss, structure, and implement rental rate increases that are fair to both landlord and tenant.

Mahalo for your consideration,

Michael Iosua, Partner
Imanaka Asato LLLC

SB-52
Submitted on: 1/31/2021 5:39:43 PM
Testimony for CPN on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
cathy lee	Individual	Support	No

Comments:

So long as wages don't keep up with inflation, rent should remain controlled. So long as wealth disparity is at the preposterous levels we are currently seeing today, rent for the majority 95% should remain controlled.

SB-52
Submitted on: 1/31/2021 6:00:55 PM
Testimony for CPN on 2/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Glenn Nagao	Individual	Support	No

Comments:

I am writing in support of SB52.

As one of the major issues facing our State, we should be doing all we can to provide affordable housing for all and limit predatory practices such as large rent increases.

I am a general proponent of free markets but giving the housing supply issues in Hawaii, constraints should be put in place to protect renters. Reasonable and fair increases should be adopted. Monitoring and reporting will also be key to ensure that practices are instituted fairly and producing the desired outcomes.

Please vote in support of SB52.

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FEBRUARY 1, 2021

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair

Re: S.B. No.52 - RELATING TO RENT CONTROL

Dear Senators:

I am an attorney who practices in the field of landlord/tenant law, including residential matters. I have over 28 years' experience in the area and my clients manage over 10,000 residential dwellings across the State of Hawaii. I am writing regarding the above-referenced bill.

Clearly, the intent of this bill is to assist tenants by limiting rent increases when market prices are rising[1], thereby allowing stable, long-term rental occupancy.

This is a laudable goal. Unfortunately, S.B.52 may have the opposite effect. Since landlords are allowed to set rental rates at market value when tenants move in, a landlord who is intent on raising the rent beyond what the law allows to be charged to their current tenant will have an incentive to end their current tenant's lease. So, instead of a rent increase (which the tenant may have been willing and able to pay), the current tenant is forced to leave.

S.B.52 will also prevent landlords and tenants from working cooperatively together towards upgrades and repairs. If, for example, a landlord can only afford to make necessary repairs to a home if rent is increased beyond what is allowed by this bill, the landlord will need to forego the repairs or cause the existing tenant to move – even if the existing tenant is able and willing to pay the increased rent. As another example, if a tenant wants a landlord to upgrade a kitchen and is willing to pay an increased rent in consideration of the upgrades, this statute would interfere with the landlord and tenant's ability to make such a deal work.

This bill may make it more difficult for disabled persons to get landlords to make changes to rented units. Generally, under the laws relating to disabilities, if a tenant wants to make a change to a rental unit to accommodate a disability they will need to pay for the modifications and the cost to remove the modifications at the end of the tenancy. If a tenant becomes disabled during a tenancy and cannot afford to pay for necessary modifications up-front, a landlord may

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[1] Like everywhere else, rent in Hawaii is driven by supply and demand. Rental housing is a scarce resource, and Hawaii's high rents are a reflection of that reality. If the Legislature wants to make rental housing more affordable, the best solution is to provide government subsidized housing or to allow and incentivize private interests to build more rental units. Once housing becomes less scarce (more available), rents will drop.

agree to do so in exchange for a higher rent. This legislation would significantly limit the ability of a disabled tenant and landlord to structure such an agreement.

Additionally, this bill appears to be potentially at odds with HRS 127A-30(b) which provides that landlords may pass on additional operating expenses caused by emergencies on to tenants, regardless of the amount of the expense. I will also note that, during the pendency of the pandemic emergency that has been declared by the Governor, <u>all rent increases are prohibited</u>. <u>See</u>, HRS 127A-30(a). There is no indication that the Governor is planning to lift his emergency declaration. So, for the foreseeable future, this bill will not have any effect.

In conclusion, this bill will have significant unintended consequences. The Legislature should study this much more carefully before adopting this bill.

Please let me know if you have any questions.

Very truly yours,

/s/ David Chee

David W.H. Chee