



February 5, 2009

**House Committee on Economic Revitalization, Business & Military Affairs
Hearing Date: February 5, 2009 at 8:00 AM in CR 312**

**Testimony in Opposition to HB 1606: Relating to Leasehold Conversion
(Mandatory Lease-To-Fee Conversion of Leasehold Business Property)**

Honorable Chair Angus McKelvey, Vice-Chair Isaac Choy & EBM Committee Members:

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawai'i's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to provide our testimony **in opposition** to HB 1606, which provides for mandatory lease-to-fee conversion of leasehold business properties.

LURF's Position. We believe that the attempt by HB 1606 to authorize the governments' power of eminent domain to require the lease to fee conversion of business properties, would constitute **an unconstitutional taking of private property**, in violation of the Fifth and Fourteenth Amendments of the U.S. Constitution. The law requires that an eminent domain statute be supported by, among other things, a **legitimate public purpose**, which may be proven by facts, statistics and studies; and also that the eminent domain statute must be **rationally related** to the legitimate public purpose. Thus, our opposition to HB 1606, is based on the following:

- **No justification of a legitimate public use or public purpose has been identified or proven.** There are no facts presented, statistics or studies to support any public purpose which would justify the government's use of its eminent domain powers;
- **No showing that the proposed lease to fee law is rationally related to a public use or public purpose.**

Based on the above, we respectfully request that the EBM Committee **hold HB 1606.**