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**STATE OF HAWAII
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TESTIMONY
OF
RUSS K. SAITO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
HOUSE COMMITTEE
ON
WATER, LAND, & OCEAN RESOURCES
ON
April 3, 2009

S.B. 382, S.D. 1, H.D. 1

RELATING TO THE STADIUM AUTHORITY

Chair Ito and members of the Committee, thank you for the opportunity to testify on S.B. 382, S.D. 1, H.D. 1.

The Department of Accounting and General Services (DAGS) opposes this bill because it is unnecessary. The bill proposes to change the way Stadium Authority (Authority) members are appointed without changing any of the qualifications or selection criteria. This will not improve the quality of selections over the current method, which works well. In addition, if this bill passes, the Authority members would be appointed from a combination of lists submitted by the Senate President and Speaker of the House, and directly by the Governor. The selection from the list submitted by the Senate President will be for the first, third, and fifth vacancies, and the selection from the lists submitted by the Speaker of the House will be the second, fourth and sixth vacancies. This may result in the Governor not directly appointing Authority members

until the end of the Governor's term, or perhaps not even that. Further, this fractionalized selection process may produce candidates that do not represent the cross section of business and civic backgrounds needed to complement each other and make the Authority more effective in its deliberations. This appears to be change without any advantages, and in fact disadvantages over the current method. DAGS recommends that this bill be held.

Thank you for the opportunity to testify on this matter.

TESTIMONY TO
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COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

HOUSE OF REPRESENTATIVES
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009
ON
APRIL 3, 2009 10:30 AM

BY
NEUMANN SHIM
PRESIDENT,
ALOHA STADIUM SWAP MEET VENDOR'S ASSOCIATION

SB 382 SD1 HD1

To House Committee on Water, Land, & Ocean Resources Representative Ken Ito, Chair, Representative Sharon E. Har, Vice Chair, members of the committee.

Thank you for the opportunity to testify before you today. My name is Neumann Shim. I have been a vendor of the Aloha Stadium Swap Meet for over ten years and the current President of the Aloha Stadium Swap Meet Vendor's Association, since 2007. I represent close to 400 vendors.

Regarding SB 382 HD1 which revises the appointment process for the Stadium Authority, I support this bill.

Over the past year the Aloha Stadium Swap Meet vendors have tried unsuccessfully to gain any positive support from the current Aloha Stadium Authority. We have sincerely tried to negotiate our concerns with the three decision making entities of the Swap Meet, the Stadium Authority, Stadium Management, and the Swap Meet Management Contractor, Centerplate. We have sat in many meetings with these entities trying desperately to get them to rule in favor of our voiced concerns. We've suggested many ideas, brought in marketing professionals, submitted a detailed petition and expressed what we as small business owners felt were important to our success and the success of the Aloha Stadium's largest revenue source, the Swap Meet. Whatever was most important to us was totally ignored. As a result, changes that we felt were detrimental were made, and many vendors have suffered greatly, some to the point of businesses folding.

In the monthly Stadium Authority meetings, where discussions follow the agenda of the day, unless we ask to be on the agenda at least 24 hours in advance, are not allowed to speak, comment, ask questions or participate in any of the discussions as instructed by the

Stadium Authority Chairman, Kevin Chong Kee. Instead, we are required to quietly accept any decision made at the time or ask to be given a chance to comment in 30 days.

The Stadium Authority at the request and payment from Centerplate, hired a consultant to submit recommendations in regards to the Swap Meet. In the discussions between the Vendors Association and management, all parties agreed that the hiring the consultant would be okay, provided he would be allowed to observe, interview vendors, and gather information on his own, without company from any of the parties to insure an honest and unbiased gathering of information from the vendors. However, the day the consultant arrived, Centerplate manager Davy Maruyama insisted in escorting the consultant. The vendors felt the consultant would only be used as a conduit for Centerplate to accomplish the changes Centerplate wanted for Centerplate's interest. Subsequently, a special meeting was held with the consultant, the Stadium Authority, Stadium Management, Centerplate and 120 vendors. In that meeting, the consultant claimed that he had talked to over 100 vendors. Yet when all 120 vendors were asked if they talked to the consultant, only 1 raised his hand. Eventually, the recommendations of the consultant, in his report, and much to the demise of the vendors, were accepted by the Stadium Authority, even though he apparently lied.

Once the consultant's report was accepted by the Authority, they chose not to review and decide on the suggestions, and instead, let the Stadium Manager, Scott Chan and Centerplate determine the resulting changes. The failure of the Stadium Authority to take the time and care in the best interest of a client was clearly evident.

One of the changes that were made was a reconfiguration of the vendor's stalls location placement. This reconfiguration forced vendors that have been in their same location many years, were now forced to be moved to less desired locations, resulting in severe loss of business. In communicating and processing these moves, vendors were promised that there would be enough empty stalls to accommodate them. However, there were not. The Vendors Association questioned the fairness of the process in placement as it appears that some Vendor's had an advantage over others in the process. Management failed to provide adequate explanations.

Some vendors, in the reconfiguration were forced to move under the premise that emergency vehicles needed access in any situation. Although the fire code requires 20 feet wide roadway access several vendors were forced to move even though their stalls fit within the required width. Vendors were also forced to move even though their stall location was NOT included in the list provided by Centerplate (as instructed by Stadium Management) of driveway areas that required emergency vehicle access.

The Vendors Association questioned the motive for the forced move of certain vendors whose stalls locations were okay as is. As documented by the Stadium Authority and Centerplate, one of the reasons was to establish food vendor locations in the vicinity of those areas. Removing certain vendors in certain driveways would allow for unobstructed view from customer foot traffic to the food vendor. The Vendors Association feels that this is a conflict of interest as Centerplate who is also the Food and

Concession Contractor for the Aloha Stadium would benefit at the loss of the Swap Meet Vendors. Additionally, the reconfiguration would lessen the inventory of stalls, the possible rent revenues the State would receive, and make it harder for new vendors to obtain stalls. The Stadium Authority chose to overlook the possible conflicts of interest and allowed Centerplate as the Swap Meet Manager and the Food Concession Contractor to have its way.

These situations may seem incidental, but in reality means the loss of thousands of vendors' revenues dollars. The Stadium Authority failed to intervene and allows these inequities to continually hurt the vendors.

A Petition from the Vendors Association was submitted to the Stadium Authority and Management on September 19, 2008 to address in detail, the concerns of the Swap Meet Vendors. One of our concerns, amongst many others was to determine if Centerplate under its agreement with the State of Hawaii to manage the Swap Meet had breach its contract by failing to "maintain at a minimum of 600 paid vendor stalls with an annual income of at least \$4 million," as stated in the RFP -04-087-0 dated April 26, 2004. With the reconfiguration it is not physically possible to maintain 600 stalls. Even before the reconfiguration, data showed that less than 600 paid vendors' stalls were maintained. The Stadium Authority and Stadium Management in response to our petition referred us to the contractor in question Centerplate, to voice our concerns. This made no sense to me.

A similar situation existed in the past when the Vendor's Association asked Stadium Management to investigate another possible breach of the contract. Centerplate management was allegedly taking unauthorized fees from vendors for special consideration in placement and overlooking of rules. Stadium Authority and Management allowed Centerplate investigate their own alleged breach, which resulted in no findings. Subsequently, the managers in question disappeared from operations.

Another questionable practice that the Stadium Authority allows through Stadium Management and Centerplate is to charge a vendor's rent twice for the same stall in the same day. If a vendor is only a few minutes late without consideration for any reason, after having prepaid the rent for the month, has the stall confiscated without reimbursement and the stall only returned if paid for again at the rate of \$75.00.

Lastly, of utmost importance is the selling environment that the Stadium Authority has created by allowing managements' changes. Until the changes were implemented, Vendors were allowed to operate under Placement dependent on Product Categories. In other words, vendors were allowed to sell only products within their categories and were not allowed to sell their category of products within four stalls of another vendor selling under the same category. This careful merchandizing placement minimized predatory pricing through excessive competition, and allowed safe levels of pricing to insure adequate cash flow for reinvestment and expenses. Once the changes were allowed by the Stadium Authority, all Product Categories and Stall Placement rules were abolished. Stadium supported the idea of a "free market" to supposedly give value to customers and

allow for introduction of new products. However, it's been five months, with many resulting incidents of the exact same products being sold next to each other, forcing many vendors to lose or close their business, unable to compete with price. Previously, vendors were forced to be creative in their own categories. Now they don't have to be creative and can sell whatever is moving, even if the same item as their neighbors, adding more redundancy to the market place.

It's been over four years since the current Stadium Authority has attempted to direct the success of the Swap Meet. It is obvious that they have acted without sincere regard for the vendors. It has resulted in a constant downward trend of the numbers, with little hope of significant recovery. Their actions are reflected in the extremely low moral, hopelessness and fear in the faces of the vendors, afraid to speak any longer, feeling that no matter what, nothing can be done. The vendors operate in an environment where three management entities are only accountable to each other and need not be accountable to their largest revenue producing source. Management will constantly tell us that they are trying to do what is best for everyone and that not everyone will be happy and that some will suffer. They will say that because of these hard economic times it cannot be helped. A close friend and teaching partner said, "that it is exactly true that these are hard economic times. Even more so, we need to take care of each and every small business person, as they affect not only themselves, but their families and their families, families. The ripple down effect into the population is significant."

I have poured my heart and soul, sacrificing my family and personal business to help insure the livelihood of all these vendors. Honestly, until a few weeks ago, I myself had given up hope... resigning to the fact the only solution was there is no solution. After reviewing the status of Bills and Committee reports, reading inquiries and witnessing Hearings from this legislative session, I began to realize that there is hope in this legislative process. I have confidence that you as our representatives have the ability to do the right thing and insure our fair and just representation. I would feel this assurance undoubtedly, knowing that all your highly qualified abilities were being used to select some of the future Stadium Authority members as outlined in this bill.

Lastly if possible, I would like your committee to amend SB 382 HD1 to allow for the Vendor's Association through its President, to select one qualified nominee to be appointed to the Stadium Authority, to insure the interest of vendors as your biggest revenue generating source of the Aloha Stadium for the State of Hawaii.

Thank you again, for allowing me to testify today in support of SB 382 HD1

Neumann Shim
President, Swap Meet Vendor's Association

Shannon Wood



COMMITTEE ON WATER, LAND & OCEAN RESOURCES

Rep. Ken Ito, Chair

Rep. Sharon E. Har, Vice Chair

SB 382 SD1 HD1 - RELATING TO THE STADIUM AUTHORITY

Strongly Support With Amendment

PUBLIC HEARING

10:30 am

Friday, April 3, 2009

Conference Room 325

My name is Shannon Wood, a resident of Kailua, O`ahu, speaking on my own behalf and not representing any organization in strong support of **SB 382 SD1 - RELATING TO THE STADIUM AUTHORITY.**

Throughout the year I attend as many meetings of the *Stadium Authority* as my schedule permits and have tracked its decisions closely for many years. I believe that modifying and reducing the power of an incumbent governor would help make sure that all the *Stadium Authority's* decisions are made with the best interests of the people first. This can best be accomplished by sharing the nomination process between the administrative and legislative branches of government.

The Senate Committee on Economic Development & Technology has deferred decision-making concerning five nominees to the *Stadium Authority* - all incumbents - who will be around for years after the current governor has left office. If reconfirmed and without this law in place, that will have a profound impact on everything from transit-oriented development to when or if to build a replacement stadium somewhere on O`ahu to how the public participates in the *Authority's* decision-making..

The only amendment I suggest is to move the effective date back to 2009.

***Mahalo* for the opportunity to testify in support of SB 382 SD1 HD1 - RELATING TO THE STADIUM AUTHORITY.**