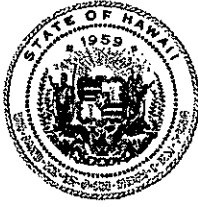


NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the House Committees on
CONSUMER PROTECTION & COMMERCE
and
JUDICIARY**

**Wednesday, March 30, 2011
2:00 PM
State Capitol, Conference Room 325**

**In consideration of
SENATE BILL 975, SENATE DRAFT 1, HOUSE DRAFT 1
RELATING TO APPRAISALS**

Senate Bill 975, Senate Draft 1, House Draft 1, requires a real estate appraiser to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) when acting as an appraiser in an arbitration proceeding to determine the fair market value, fair rental value, or fair and reasonable rent of real estate; clarifies that the Uniform Standards of Professional Appraisal Practice apply to appraisers providing appraisals in arbitration proceedings to determine the fair market value, fair rental value, or fair and reasonable rent of real estate. The Department of Land and Natural Resources (Department) opposes this measure.

The Department's primary reason for opposing this bill is that it will substantially increase the costs of an arbitration proceeding without necessarily providing a corresponding benefit.

The Department's Land Division contracts for the majority of appraisals in the Department, primarily for valuations of fair market rent for new leases, lease reopenings, and easements, and for remnant sales. Each of these requires an appraisal and each is subject to arbitration, with the exception of remnant sales. The majority of our applicants, who generally are required to absorb the cost of the appraisals (exception: lease reopenings, for which the Department pays) and half the cost of any arbitration, would object to a more onerous and costly arbitration process.

Arbitration is customarily viewed as an alternative means to dispute resolution that is less costly, less contentious, and less time-consuming than litigation. Senate Bill 975, Senate Draft 1, House Draft 1, by requiring an arbitrator to follow USPAP, effectively adds a significant labor burden

on the arbitrator, which will be reflected in their fees. A small percentage of our lessees might believe they will derive some benefit from Senate Bill 975, Senate Draft 1, House Draft 1 i.e. those that are paying significant lease rents of \$50,000 or \$100,000 or more a year, because of the economy of scale, but Senate Bill 975, Senate Draft 1, House Draft 1 applies indiscriminately to all arbitrations, and added arbitration fees would be a significant deterrent to the majority of our lessees.

The Department agrees with the testimony of the Appraisal Institute urging the Committee to deny the passage of this bill. "Arbitration" is not the same as "appraisal." An arbitrator does not serve the same function as an appraiser. Appraisers may act as arbitrators. However, when they are acting as arbitrators, they are undertaking an arbitration process and not an appraisal practice.

Senate Bill 975, Senate Draft 1, House Draft 1 has been introduced to the Legislature in prior years in various guises, most recently in 2010. The Department has reviewed prior testimony both for and against, and one email in our files dated March 12, 2010 from Attorney Rosemary T. Fazio to the Governor's Office of the previous Administration was especially persuasive. She writes (this is an excerpt): "Further, arbitration awards cannot be appealed. Arbitration awards can only be 'vacated' based upon very limited statutory grounds – for example if the arbitrator were bribed by one of the parties. Hawaii Revised Statutes 658A-23. Because arbitration awards cannot be appealed, what difference does it make whether or not the arbitrators issue lengthy decisions? Unlike labor arbitrations, where the parties have an ongoing relationship which will be affected by an arbitration award, a rent arbitration just settles rent as of a specific point in time. It does not alter the conduct of the parties for the rest of the lease contract. It does not apply to future rent renegotiations, when the real estate market has changed."

For the forgoing reasons, the Department opposes this measure.



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

KEALI'I S. LOPEZ
DIRECTOR

EVERETT KANESHIGE
DEPUTY DIRECTOR

**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

AND

TO THE HOUSE COMMITTEE ON JUDICIARY

TWENTY-SIXTH LEGISLATURE
Regular Session of 2011

Wednesday, March 30, 2011
2:00 p.m.

**TESTIMONY ON SENATE BILL NO. 975, S.D. 1, H.D. 1, RELATING TO
APPRAISALS.**

TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND
TO THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR,
AND MEMBERS OF THE COMMITTEES:

Opposed

My name is Alan Taniguchi, Executive Officer for the Real Estate Appraiser Program, Professional and Vocational Licensing Division ("PVL") of the Department of Commerce and Consumer Affairs ("Department"). Thank you for the opportunity to present testimony on Senate Bill No. 975, S.D. 1, H.D. 1, Relating to Appraisals. The Department is requesting that this bill be held.

This bill seeks to require a real estate appraiser to comply with the Uniform Standards of Appraisal Practice ("USPAP") when acting as an appraiser or as an arbitrator in an arbitration to determine the fair market value of real estate.

We are requesting that the Committees hold the bill to allow us to meet with all interested parties and resolve our differences regarding this issue. We are hopeful that a compromise proposal can be attained for consideration at the next legislative session.

Thank you for the opportunity to testify and we ask that this bill be held.

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is William Paik and I work for GP Roadway Solutions which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value**.. My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

National Appraisal Subcommittee Executive Director James R. Park wrote that "an appraiser is defined by USPAP as one who is expected to perform valuation services." He continued to say, "USPAP states the use of other nomenclature for an appraisal, appraisal review, or appraisal consulting assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to USPAP."

Requiring USPAP will bring transparency to the appraisal/arbitration process. Knowing that the procedural rules are uniform and set in advance will allow all parties to better prepare data and ask the right questions in determining value. With literally hundreds of thousands of dollars riding on the valuation of rents, I believe the licensed appraisers should be held to the highest of professional standards when participating in an appraisal/arbitration. Requiring licensed real estate appraisers to comply with USPAP in an arbitration will improve the integrity of the process allowing appraisers to better serve the public and the state.

As such, the Hawaii Revised Statutes should be amended to require appraisers to follow the nationally recognized ethical and professional standards covered under USPAP when providing appraisal related services through arbitration to determine value and/or rental rates of real estate.

The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo

William Paik
3940 Harding Ave
Honolulu, HI 96816
Email – williamapaik@aol.com Phone: 226-4641

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Chris Jimenez and I am the Hawaii District Manager for WESCO Distribution, Inc. which employs 50 people on the islands of Oahu, Maui, and Hawaii.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value.** My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

National Appraisal Subcommittee Executive Director James R. Park wrote that "an appraiser is defined by USPAP as one who is expected to perform valuation services." He continued to say, "USPAP states the use of other nomenclature for an appraisal, appraisal review, or appraisal consulting assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to USPAP."

Requiring USPAP will bring transparency to the appraisal/arbitration process. Knowing that the procedural rules are uniform and set in advance will allow all parties to better prepare data and ask the right questions in determining value. With literally hundreds of thousands of dollars riding on the valuation of rents, I believe the licensed appraisers should be held to the highest of professional standards when participating in an appraisal/arbitration. Requiring licensed real estate appraisers to comply with USPAP in an arbitration will improve the integrity of the process allowing appraisers to better serve the public and the state.

As such, the Hawaii Revised Statutes should be amended to require appraisers to follow the nationally recognized ethical and professional standards covered under USPAP when providing appraisal related services through arbitration to determine value and/or rental rates of real estate. The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo



Chris Jimenez
1030 Mapunapuna St
Cjimenez@wesco.com
808-839-7261

CPCtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 28, 2011 3:48 PM
To: CPCtestimony
Cc: napualani@consultant.com
Subject: Testimony for SB975 on 3/30/2011 2:00:00 PM

Follow Up Flag: Follow up
Flag Status: Flagged

Testimony for CPC/JUD 3/30/2011 2:00:00 PM SB975

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Napualani Wong
Organization: Individual
Address:
Phone:
E-mail: napualani@consultant.com
Submitted on: 3/28/2011

Comments:

Please support this very, very important issue. Appraisers must be held to a uniform standard when acting as an appraiser or arbitrator, otherwise their subjective "guestimates" can be all over the place without consistency or reliability.



Hawaii Chapter

P.O. Box 2774
Honolulu, HI 96803
T 808-845-4994
F 808-847-6575
Email: bkcorp2@hawaiiantel.net
www.ai-hawaii.org

March 28, 2011

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice-Chair
Committee on Consumer Protection and Commerce

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Committee on Judiciary

Ted Yamamura, Government Relations Chair
The Hawaii Chapter of the Appraisal Institute
(808) 270-0604
Wednesday, March 30, 2011

Testimony against SB 975 SD1, HD1, Relating to Appraisals

The Hawaii Chapter of the Appraisal Institute is part of an international organization of professional real estate appraisers with nearly 26,000 members and 91 chapters throughout the world. Its mission is to advance professionalism and ethics, global standards, methodologies, and practices through the professional development of property economics worldwide.

We reiterate our position against SB 975 SD1 HD1, Relating to Appraisals, which would require a real estate appraiser to comply with the Uniform Standards of Professional Appraisal Practice "when acting as an appraiser or as an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rent of real estate."

"*Arbitration*" is not the same as "*appraisal*". "*Appraisal*" is the process of estimating value. For real estate appraisals, USPAP provides generally accepted appraisal standards for 1) the process of analyzing information and arriving at a value conclusion and 2) reporting the appraisal process and value conclusion.

"*Arbitration*" is the last resort in dispute resolution. In arbitration the parties submit their cases to an impartial, disinterested person or panel for a final and binding decision.

An arbitrator does not serve the same function as an appraiser. Appraisers may act as arbitrators; however, when they are acting as arbitrators, they are undertaking an arbitration process and not an appraisal practice.

In *Wong v. Chalmers*, the federal district court concluded that the real estate appraisers, when acting as arbitrators, are not engaging in an appraisal function. As a result, the court rejected a claim that an arbitration award should be vacated because the arbitrators failed to comply with USPAP. The court stated:

As an initial matter, the court rejects KUA'S argument that Defendants disregarded the law by not following professional standards for appraisers. The court finds that these guidelines do not govern the arbitration proceeding because here Hallstrom, Hulten and Vernon were acting as arbitrators, not as appraisers. The fact that the arbitrators were required to be licensed appraisers is immaterial here¹.

We urge the Committee to deny the passage of SB 975 SD1, HD1. Thank you for this opportunity to testify.



Ted Yamamura
Government Relations Chair

¹ *Wong v. John F. Chalmers 1990 Revocable Trust*, Civil No. 94-811 DAE (D. Haw., Jan 24, 1996).

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Jared Watumull and I own Watumull Brothers LTD. which employs 26 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value.** My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

National Appraisal Subcommittee Executive Director James R. Park wrote that "an appraiser is defined by USPAP as one who is expected to perform valuation services." He continued to say, "USPAP states the use of other nomenclature for an appraisal, appraisal review, or appraisal consulting assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to USPAP."

Requiring USPAP will bring transparency to the appraisal/arbitration process. Knowing that the procedural rules are uniform and set in advance will allow all parties to better prepare data and ask the right questions in determining value. With literally hundreds of thousands of dollars riding on the valuation of rents, I believe the licensed appraisers should be held to the highest of professional standards when participating in an appraisal/arbitration. Requiring licensed real estate appraisers to comply with USPAP in an arbitration will improve the integrity of the process allowing appraisers to better serve the public and the state.

As such, the Hawaii Revised Statutes should be amended to require appraisers to follow the nationally recognized ethical and professional standards covered under USPAP when providing appraisal related services through arbitration to determine value and/or rental rates of real estate.

The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo

Jared Watumull
307 Lewers St Suite 600 Honolulu, HI 96815
jared@lava.net



March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Robert Creps and I am the Senior Vice President Administration with Grace Pacific Corporation.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three licensed real estate appraisers perform a final and binding appraisal to set the rental value. My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

National Appraisal Subcommittee Executive Director James R. Park wrote that "an appraiser is defined by USPAP as one who is expected to perform valuation services." He continued to say, "USPAP states the use of other nomenclature for an appraisal, appraisal review, or appraisal consulting assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to USPAP."

Requiring USPAP will bring transparency to the appraisal/arbitration process. Knowing that the procedural rules are uniform and set in advance will allow all parties to better prepare data and ask the right questions in determining value. With literally hundreds of thousands of dollars riding on the valuation of rents, I believe the licensed appraisers should be held to the highest of professional standards when participating in an appraisal/arbitration. Requiring licensed real estate appraisers to comply with USPAP in an arbitration will improve the integrity of the process allowing appraisers to better serve the public and the state.

As such, the Hawaii Revised Statutes should be amended to require appraisers to follow the nationally recognized ethical and professional standards covered under USPAP when providing appraisal related services through arbitration to determine value and/or rental rates of real estate.

The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Thank you,

A handwritten signature in black ink, appearing to read "Robert M. Creps", is written over a horizontal line.

Robert M. Creps
Grace Pacific Corporation
PO Box 78, Honolulu Hawaii 96810

Sentinel Silent Alarm Co.

99-1036 Iwaena Street

Aiea, Hawaii 96701

Ph: (808) 487-0088 or Fax: (808) 486-7360

March 29, 2011

COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS

Chairman Angus McKelvey

Vice Chairman Isaac Choy

Members of the Committee

**RE: Testimony in Support of SB 975 – Relation to Appraisals – Use of USPAP
Hearing: March 30, 2011**

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

I write on behalf of Sentinel Silent Alarm Co., a Corporation that has been doing business ever since we became a State 1959. Sentinel is one of the oldest alarm company's to do business here in Hawaii. Sentinel has maintained operations in the Central Park area under a ground lease for the last 30 years. In addition to being a proud member of the Hawaiian business community, Sentinel Supports the Fire Dept. and HPD in their efforts to keeping Hawaii Safe from Harm.

Sentinel Silent Alarm Co., supports passage of Senate Bill 975 (SB 975). If enacted, SB 975 will provide companies like Sentinel Alarm to continue to invest and create jobs in Hawaii and provide security for our business and homes.

This Senate Bill 975 would require real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of the real estate.

Simply put, please help business in Hawaii, there should be a single standard that real estate appraisers follow whether they are performing appraisals in or outside of an arbitration proceeding. Applying USPAP in all such circumstances would provide additional transparency and trust in the process and results.

Please help support SB 975 the business in Hawaii need your support.

Mahalo,

Tammy Beaumont
Vice President

From the desk of:

Vince M. Kimura

Central Supply Inc. 31 Makaala Street, Hilo HI 96720

March 29, 2011

To: Ccommittee on Consumer Protection & Commerce, Judiciary Committee

RE: SB 975

Aloha,

I believe commercial appraisers should uphold their standards and comply with the Uniform Standards of Professional Appraisal Practices when appraising property or acting as an arbitrator to determine fair market value. More specifically I think appraisers should be willing to outlay how they arrive at such values and information, and display their data accordingly so the client can fully understand the report.

I worked for a real estate appraisal company during the 80's and there is value to uphold and a responsibility to fulfill as an appraiser. If an appraiser slacks off on research, can't find a comparable sale, or makes poor choices – then I feel the client should be able to see this. If appraisers are required to comply with USPAP in an arbitration process, then I believe the value, integrity, and ethics will be restored to our system.

I think SB 975 will provide for a more uniform real estate valuation, and I support SB 975.

Mahalo,

Vince M. Kimura

President – Central Supply Inc.

Email: vinniek@csinchawaii.com

Ph: 808-938-7742

31 Makaala Street, Hilo HI 96720

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Bob Peterson and I work at GP Roadway Solutions which employs 175 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value**. My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

National Appraisal Subcommittee Executive Director James R. Park wrote that "an appraiser is defined by USPAP as one who is expected to perform valuation services." He continued to say, "USPAP states the use of other nomenclature for an appraisal, appraisal review, or appraisal consulting assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to USPAP."

Requiring USPAP will bring transparency to the appraisal/arbitration process. Knowing that the procedural rules are uniform and set in advance will allow all parties to better prepare data and ask the right questions in determining value. With literally hundreds of thousands of dollars riding on the valuation of rents, I believe the licensed appraisers should be held to the highest of professional standards when participating in an appraisal/arbitration. Requiring licensed real estate appraisers to comply with USPAP in an arbitration will improve the integrity of the process allowing appraisers to better serve the public and the state.

As such, the Hawaii Revised Statutes should be amended to require appraisers to follow the nationally recognized ethical and professional standards covered under USPAP when providing appraisal related services through arbitration to determine value and/or rental rates of real estate.

The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo

Bob Peterson
BPeterson@GPRoadwaySolutions.com
Phone: 808-275-5294

on the arbitrator, which will be reflected in their fees. A small percentage of our lessees might believe they will derive some benefit from Senate Bill 975, Senate Draft 1, House Draft 1 i.e. those that are paying significant lease rents of \$50,000 or \$100,000 or more a year, because of the economy of scale, but Senate Bill 975, Senate Draft 1, House Draft 1 applies indiscriminately to all arbitrations, and added arbitration fees would be a significant deterrent to the majority of our lessees.

The Department agrees with the testimony of the Appraisal Institute urging the Committee to deny the passage of this bill. "Arbitration" is not the same as "appraisal." An arbitrator does not serve the same function as an appraiser. Appraisers may act as arbitrators. However, when they are acting as arbitrators, they are undertaking an arbitration process and not an appraisal practice.

Senate Bill 975, Senate Draft 1, House Draft 1 has been introduced to the Legislature in prior years in various guises, most recently in 2010. The Department has reviewed prior testimony both for and against, and one email in our files dated March 12, 2010 from Attorney Rosemary T. Fazio to the Governor's Office of the previous Administration was especially persuasive. She writes (this is an excerpt): "Further, arbitration awards cannot be appealed. Arbitration awards can only be 'vacated' based upon very limited statutory grounds – for example if the arbitrator were bribed by one of the parties. Hawaii Revised Statutes 658A-23. Because arbitration awards cannot be appealed, what difference does it make whether or not the arbitrators issue lengthy decisions? Unlike labor arbitrations, where the parties have an ongoing relationship which will be affected by an arbitration award, a rent arbitration just settles rent as of a specific point in time. It does not alter the conduct of the parties for the rest of the lease contract. It does not apply to future rent renegotiations, when the real estate market has changed."

For the forgoing reasons, the Department opposes this measure.

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Phillip J. Silich and I own Bacon Universal Co., Inc. which employs 38 people on the island of Oahu and 27 people on the Islands of Kauai, Maui and Big Island.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

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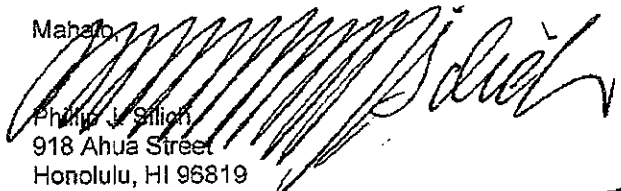
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Requiring USPAP will bring transparency to the appraisal/arbitration process. Knowing that the procedural rules are uniform and set in advance will allow all parties to better prepare data and ask the right questions in determining value. With literally hundreds of thousands of dollars riding on the valuation of rents, I believe the licensed appraisers should be held to the highest of professional standards when participating in an appraisal/arbitration. Requiring licensed real estate appraisers to comply with USPAP in an arbitration will improve the integrity of the process allowing appraisers to better serve the public and the state.

As such, the Hawaii Revised Statutes should be amended to require appraisers to follow the nationally recognized ethical and professional standards covered under USPAP when providing appraisal related services through arbitration to determine value and/or rental rates of real estate.

The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo,



Phillip J. Silich
918 Ahua Street
Honolulu, HI 96819
Phone: 808-839-7202
Fax: 808-839-9813
Email: psilich@baconuniversal.com

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Phillip J. Silich and I own Bacon Universal Co., Inc. which employs 38 people on the island of Oahu and 27 people on the Islands of Kauai, Maui and Big Island.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value.** My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

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Phillip J. Silich
918 Ahua Street
Honolulu, HI 96819
Phone: 808-839-7202
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March 29, 2011

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Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1: Relating to Appraisals – Use of USPAP – Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes and Gilbert-Agaran, Vice-Chairs Yamane and Rhoads and Members of the Committees:

I write on behalf of Sony Hawaii, a division of Sony Electronics Inc. that has been doing business in Honolulu since 1968 and since 1985 has maintained operations in the Mapunapuna area under a ground lease. In addition to being a proud member of the Hawaiian business community, Sony Hawaii, along with Sony Corporation, sponsors the Sony Open golf tournament, the largest charity event in Hawaii and a tournament that has raised over \$10 million for local not-for-profits since 1999.

Sony Hawaii supports passage of Senate Bill 975 (SB 975). If enacted, SB 975 will provide companies like Sony Hawaii with the market certainty and consistency necessary to continue to invest and create jobs in Hawaii.

Senate Bill 975 would require real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

Although current law requires all real estate appraisers to comply with USPAP when performing appraisals in connection with federally or non-federally related real estate transactions, it is appropriate that the Hawaii Revised Statutes mandate the same ethical consideration when an appraiser is sitting on a panel that will ultimately determine the value or rental rates for real estate.

As suggested above, companies like Sony Hawaii cannot make important decisions that affect their ability to properly plan for future investment or hiring needs unless they have confidence that those directly affecting their cost of doing business act in a consistent and transparent manner. Indeed, with rents higher than ever and leases covering terms of a decade or more, the cost of such leases is one of the most important variables

affecting the cash flow and profitability of a company doing business in Hawaii. How can a company be expected to take the risk inherent in building a new plant or hiring new employees when those determining one of its primary costs – arbitration appraisers – are not required to follow a fundamental set of standards?

Simply put, there should be a single standard that real estate appraisers follow whether they are performing appraisals in or outside of an arbitration proceeding. This law would promote speed, efficiency, and certainty for all parties concerned. Moreover, applying USPAP in all such circumstances would provide additional transparency and trust in the process and results.

Sony Hawaii urges you to support SB 975.

Mahalo,



Karl Okemura
Senior Vice President
Sony Hawaii Company
960 Mapunapuna Street
Honolulu, Hawaii 96819
Telephone 808-834-6611
Fax 808-834-1459
karl.okemura@am.sony.com

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

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Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 - Relating to Appraisals - Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Tricia Louie and I work at GP Roadway Solutions, Inc. which employs about 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value**. My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

National Appraisal Subcommittee Executive Director James R. Park wrote that "an appraiser is defined by USPAP as one who is expected to perform valuation services." He continued to say, "USPAP states the use of other nomenclature for an appraisal, appraisal review, or appraisal consulting assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to USPAP."

Requiring USPAP will bring transparency to the appraisal/arbitration process. Knowing that the procedural rules are uniform and set in advance will allow all parties to better prepare data and ask the right questions in determining value. With literally hundreds of thousands of dollars riding on the valuation of rents, I believe the licensed appraisers should be held to the highest of professional standards when participating in an appraisal/arbitration. Requiring licensed real estate appraisers to comply with USPAP in an arbitration will improve the integrity of the process allowing appraisers to better serve the public and the state.

As such, the Hawaii Revised Statutes should be amended to require appraisers to follow the nationally recognized ethical and professional standards covered under USPAP when providing appraisal related services through arbitration to determine value and/or rental rates of real estate.

The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo,



Tricia Louie
660 Mapunapuna Street, Honolulu, HI 96819
tlouie@gracepacificcorp.com, (808) 833-2502

JACK ENDO ELECTRIC, INC.

2814 KILIHOU STREET
HONOLULU, HAWAII 96819-2024
LIC. NO. ABC-155 C-13 C-62

Telephone No. (808) 839-7717
Facsimile No. (808) 833-9178

E-mail address: todd@endoelectric.com
steve.jee@hawaiiantel.net
herbert.endo@endoelectric.com

March 29, 2011

Committees of Consumer Protection and Judiciary
Chairs Representatives Robert N. Herkes and Gilbert S. C. Keith-Agaran

Subject: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals

Dear Chairs Herkes, Keith-Agaran and Members of Both Committees:

My name is Herbert Endo and I am the President of Jack Endo Electric, Inc. This Company which employs 27 persons was founded in 1946 by Jack Endo, passed on to Herbert and David Endo and now in transition to be passed on again.

We support SB 975, using licensed real estate appraisers to act as an appraiser or arbitrator in arbitration proceedings in lieu of lawyers, judges or others to determine fair market rent valuations.

Sincerely,



Herbert K. Endo

Herbert.endo@endoelectric.com
2814 Kilihou Street (Lower Mapunapuna)
Honolulu, HI 96819

Patrick S. Fukuhara AB-RME

Herbert k. Endo RME C-13, C-62

"AN EQUAL OPPORTUNITY EMPLOYER"

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony In Support of SB 975, SD1, HD1 - Relating to Appraisals - Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is David Takiguchi and I work at GP Roadway Solutions which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three licensed real estate appraisers perform a final and binding appraisal to set the rental value. My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.


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The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo


David Takiguchi
2625 Myrtle Street
Honolulu, HI 96816
808-479-5289

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

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Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is 'Auli'i Adviento and I work for GP Roadway Solutions which employs 200+ people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three licensed real estate appraisers perform a final and binding appraisal to set the rental value. My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.


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Mahalo


'Auli'i Adviento
110 Puuhale Road
eadviento@gproadwaysolutions.com
808.848.3111

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Pattie Anderson and I work/own GPRS which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

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Mahalo

Pattie Anderson
98-867 "C" Kaonohi St., Aiea, HI 96701
panderson@petersonsign.com
368-2864

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

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Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Tricia Uehara and I work at GP Roadway Solutions which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value.** My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

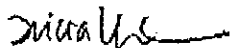
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Mahalo



Tricia Uehara
660 Mapunapuna Street
Honolulu, HI 96819

March 29, 2011

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RE: Testimony in Support of SB 975, SD1, HD1 - Relating to Appraisals - Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Jeffrey Hung and I work at GP Roadway Solutions which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

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Mahalo



Jeffrey Hung
660 Mapunapuna Street
Honolulu, HI 96819
808-833-2502 ext 224

March 29, 2011

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Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

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Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Kori Murray and I work for GP Roadway Solutions which employs 200+ people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.


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Makalo

Kori Murray
110 Puuhale Road
kmurray@gproadwaysolutions.com
808.848.3100

March 29, 2011

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Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Lenny Santos and I work at GP Roadway Solutions, Inc. which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value.** My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

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Requiring USPAP will bring transparency to the appraisal/arbitration process. Knowing that the procedural rules are uniform and set in advance will allow all parties to better prepare data and ask the right questions in determining value. With literally hundreds of thousands of dollars riding on the valuation of rents, I believe the licensed appraisers should be held to the highest of professional standards when participating in an appraisal/arbitration. Requiring licensed real estate appraisers to comply with USPAP in an arbitration will improve the integrity of the process allowing appraisers to better serve the public and the state.

As such, the Hawaii Revised Statutes should be amended to require appraisers to follow the nationally recognized ethical and professional standards covered under USPAP when providing appraisal related services through arbitration to determine value and/or rental rates of real estate.

The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo

Lenny Santos
660 Mapunapuna Street
lsantos@gproadwaysolutions.com
833-2502

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Shirley Fujimoto and I work for Grace Pacific Corporation which employs almost 600 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value.** My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

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As such, the Hawaii Revised Statutes should be amended to require appraisers to follow the nationally recognized ethical and professional standards covered under USPAP when providing appraisal related services through arbitration to determine value and/or rental rates of real estate.

The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo

Shirley Fujimoto
P. O. Box 78
Hon., HI. 96810
sfujimoto@gracepacificcorp.com

**CENTRAL PARK COMMUNITY ASSOCIATION
99-1046 IWAENA STREET
AIEA, HAWAII 96701**

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice-Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S. C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

415 South Beretania St.
Honolulu, HI 96813

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of
USPAP

Hearing Date: March 30, 2011, 2:00 pm; Room 325

Dear Chairs Herkes & Keith-Agaran, Vice Chairs Yamane & Rhoads and Members of
the Committees,

My name is William S. Alexander and I am the President of Central Park Community
Association (CPCA) in Halawa Valley on Oahu. I am writing to you to express strong
support for passage of Senate Bill SB 975, SD1, HD1 which would require real estate
appraisers to comply with their national professional standards (USPAP) when acting as
an appraiser or an arbitrator in an arbitration proceeding to determine the fair market
value, fair market rental or fair and reasonable rent of real estate.

CPCA was formed in 1982 and is an association of businesses that operate in Central
Park, Halawa Valley and are land lessees in that Park. Our members and their sub-
tenants employ hundreds of individuals and most members are small businesses as are
their tenants.

Current law requires all appraisers to comply with USPAP when performing appraisals in
connection with real estate transactions; however, even when a lease contract specifically
calls for a licensed appraiser to determine value, opponents of this bill will argue that
appraisers acting as arbitrators in determining value and rent should be exempt from
USPAP in direct violation of these national standards which are observed elsewhere in
the US.

Hawaii Revised Statutes should be amended to require all appraisers in Hawaii to follow the nationally recognized ethical and professional standards established in USPAP whether appraising or establishing value as an arbitrator in real estate transactions. There should be a single standard for all such transactions including the establishment of land rent.

As businesses and lessees we are acutely aware of the critical role land rent plays in the survival and success of our businesses. SB 975, SD1, HD1 should help our lessees of commercial/industrial land when appraisers are arbitrating new rent or appraising real estate for fair market value for establishing rent. Given the dominance of seven land owners in the ownership of such land in Hawaii and their influence on the appraisal industry and appraisers, law such as SB 975, SD1, HD1 is needed to help keep excessive land rent increases from destroying many small businesses in the State and saving the jobs of their thousands of employees.

The market for such land is very limited in Hawaii as the seven large land owners do not wish to sell thus creating an artificial scarcity which leads to high land valuations which are not economically justified when such land is improved with buildings and then rented in the open market for such facilities. Land rent needs to be fair and reasonable if Hawaii is to continue to be economically successful. Excessive land rent destroys businesses and constantly drains Hawaii businesses of working capital and sends much of the rent collected out of the State to the further detriment of our economy.

Most of our industrial areas are rundown and not great places to operate a business. Lessees often can't afford to maintain their buildings and improvements due to high land rent. Such conditions lead to lower productivity and higher costs in the long run. Passage of SB 975, SD1, HD1 would be a step in the right direction to improve this situation.

With millions of dollars of rent riding on the valuation of land in Halawa Valley in the current negotiations/arbitrations between the land owners and CPCA members, we see this as a critical issue to our economic future.

Please support SB 975, SD1, HD1 and its passage into law. Thank you for your consideration of my testimony.

Mahalo,

William S. Alexander, President
208-265-0270
wsalema@aol.com
Also President of Earle M. Alexander, Ltd
Lessee at 99-1046 Iwaena St. Aiea, Hi 96701

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Gene Napoletano and I work at GP Roadway Solutions which employs 150+ people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value.** My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

National Appraisal Subcommittee Executive Director James R. Park wrote that "an appraiser is defined by USPAP as one who is expected to perform valuation services." He continued to say, "USPAP states the use of other nomenclature for an appraisal, appraisal review, or appraisal consulting assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to USPAP."

Requiring USPAP will bring transparency to the appraisal/arbitration process. Knowing that the procedural rules are uniform and set in advance will allow all parties to better prepare data and ask the right questions in determining value. With literally hundreds of thousands of dollars riding on the valuation of rents, I believe the licensed appraisers should be held to the highest of professional standards when participating in an appraisal/arbitration. Requiring licensed real estate appraisers to comply with USPAP in an arbitration will improve the integrity of the process allowing appraisers to better serve the public and the state.

As such, the Hawaii Revised Statutes should be amended to require appraisers to follow the nationally recognized ethical and professional standards covered under USPAP when providing appraisal related services through arbitration to determine value and/or rental rates of real estate.

The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo

Gene Napoletano
Address: 91-1000 Lele'oi St. Ewa Beach, Hawaii 96706
Email: gnapoletano@gproadwaysolutions.com
Phone: 808-674-5223

JAMES W. Y. WONG

HONOLULU OFFICE
3737 Manoa Road
Honolulu Hawaii 96822
Phone: (808) 946-2966
FAX: (808) 943-3140

ANCHORAGE OFFICE
411 West 4th Avenue, Ste 200
Anchorage, Alaska 99501
Phone: (907) 278-3263
FAX: (907) 222-4852

March 28, 2011

VIA FACSIMILE
586-6501

Honorable Representative Robert N. Herkes, Chair of CPC
Honorable Representative Ryan I. Yamane, Vice Chair of CPC
Honorable Representative Gilbert S. C. Keith-Agaran, Chair of JUD
Honorable Representative Karl Rhoads, Vice Chair of JUD

RE: SENATE BILL SB975 SD1 HD1- RELATING TO APPRAISALS
HEARING SCHEDULED FOR WEDNESDAY, MARCH 30, 2011,
AT 2:00 P.M., HAWAII STATE CAPITOL, CONFERENCE ROOM 325

Dear Honorable Chairs Robert Herkes and Gilbert Keith-Agaran, and Vice Chairs Ryan Yamane and Karl Rhoads:

I strongly support passage of Senate Bill SB975 which is a bill requiring real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value or fair market rental of real estate. Current law requires all real estate appraisers to comply with USPAP when performing appraisals in connection with federally or non-federally related real estate transactions. There should be only one standard real estate appraisers should follow when they are performing appraisals work. Without complying with USPAP, real estate appraisers performing an appraisal valuation in arbitration proceedings could arrive at a different value than if they were appraising the same property in connection with federally or non-federally related real estate transactions.

The passage of SB975 SD1 HD1 will provide for uniformity of valuations of real estate whether it's a federally or non-federally related real estate transaction or an arbitration proceeding.

Please approved Senate Bill SB975 SD1 HD1.

Sincerely,


James Wong

McCully Works
40 Kamehameha Ave.
Hilo, Hi. 96720

March 30, 2011

In SUPPORT of SB975- Relating to Appraisals

Committee on CPC-JUD Chairman Robert Herkes and Chairman Keith-Agaran

I am a small businessman on the Big Island of Hawaii, a farmer who has invested in industrial buildings on leasehold land to support my family and provide for my retirement. In the past 20 years I have built or invested in leasehold improvements that host more than 40 small businesses which employ more than 200 employees. It is essential to our economy that this process, the appraisal and arbitration leasehold lands, be done in an open, transparent, and verifiable way. This bill addresses this issue in a simple and direct way.

An argument by those opposed to this bill, SB975 is that it will add expense and no value to the process of determining valuation of leasehold lands. Last year, in testimony against SB771 and again this year, opponents to SB975 have stated;

Because arbitration awards cannot be appealed, what difference does it make whether or not the arbitrators issue lengthy decisions? Unlike labor arbitrations, where the parties have an ongoing relationship, which will be affected by an arbitration award, a rent arbitration just settles rent as of a specific point in time.

This argument is obviously self-serving, to the interests of the landowners, the appraisers and the specialist attorneys. A USPAP compliant appraisal/arbitration proceeding, providing rationale and basis for the arbitrated decision, becomes a **data point** that is likely superior to any other piece of information for subsequent leasehold valuation questions. It allows the market to be better understood by all participants, not just the above-mentioned insiders who currently control the arbitration process. It creates a verifiable history from which a pool of data can be established to help business's make better informed decisions in future negotiations and arbitrations.

The current system, with its unilateral and arbitrary control of information by the appraisers suggest more of a medieval "guild" economy than a modern, information based economy. The fact is, Real Estate is considered an *imperfect market* because buyers and sellers are not always well informed. Information, which includes sales prices, financing, lease terms (especially including leasehold renegotiation values) are frequently confidential and unavailable to individuals who are not parties to the transaction. It is difficult to find published information that contains data in the detail needed to analyze the accuracy of a transaction.

In commercial real estate, with relatively infrequent transactions as compared to residential, the problems are compounded. The one group of people who do have access to this closely held information, renegotiated lease valuations, is the appraisal community. The appraisers control the information and they wish to keep it that way. In practice this has worked to the exclusive benefit of the landowners. This should not be surprising given that the 5 largest landowners

control 73.83% of all leasehold lands (Maehara, LRB, 2003), and they constantly employ the same few appraisers. In the State of Hawaii fewer than 20 specialist appraisers do the vast majority of lease valuations and any subsequent arbitrations.

Yes, it's the same people who value the lands that then take turns arbitrating the value of lands. The fact is they create this information, these valuations, through selective application of appraisal principles and methodology. They do this as an advocate of their client's position, not as a neutral professional.

The negotiation process starts with the landowner demanding the highest rental value the landowner's appraiser can possibly generate. In Hawaii there are speculative bubbles that inflate land prices. We've just experienced one, and lessor appraisers are still holding these values 3 years later through the artful process of selection bias of information (data points), the misapplication of appraisal principals (exclusive use of Sales Comparison approach), and the interpretation of lease language in favor of the lessor (Appraisal Manual, 13th ed, pg.114 specifies that leased land must be valued as a Leased Fee interest, not as Fee Simple, local appraisal practice seems to always use F.S.). Results of this are best illustrated by the following current information. On Oahu:

Kapolei, Industrial zoned lots, fully improved F.S. asking \$25sq\ft.

Mililani, Industrial zoned lots, fully improved F.S., asking \$20sq\ft.

Halawa, Industrial, leasehold renegotiation(lessors appraiser) \$60sq\ft.

On the Big Island, in the Hilo area:

Kaumana Business Park, Industrial, fully improved F.S. asking \$6 sq\ft

Shipman Business Park, Industrial, fully improved F.S. asking \$8 sq\ft

Hilo Industrial Area (KIAA), LH renegotiation(lessor appraiser) \$16-24 sq\ft

A report showing how and why the appraisal/arbitration panel made their decisions could be compared to federally mandated principles and practices as contained in USPAP. I have included with my testimony a sample form, produced by the National Association of Review Appraisers and Mortgage Underwriters. This simple two page form, which is used by Appraisal reviewers to help determine the proper compliance by an appraiser of a property, could be used as a template by the appraisers acting as arbitrators to assure compliance with USPAP. It assures that the expert witness appraisers have submitted a complete and proper analysis of the property, and are not simply acting as advocates. In addition, Section IX could be easily modified to reflect a panels "arbitrated" conclusion. There are other USPAP compliant forms readily available for appraisal review. The point I am making by including this form is that complying with USPAP need not be a significant added expense, as the testimony of the landowners and appraisal community would lead you to believe.

Despite its limited scope SB975 is an important component in the revival of our small business economy, and it has the most basic elements of fairness and equity, as it's underlying principles. Please support SB975.

Mahalo,

James McCully

McCully Works & Mauna Kea Orchids
www.maunakeaorchids.com

Testimony for SB975 on 3/30/2011 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Tuesday, March 29, 2011 12:39 PM
To: CPCtestimony
Cc: jwmccully54@gmail.com
Attachments: CommercialAppraisalReviewF~1.pdf (390 KB)

Testimony for CPC/JUD 3/30/2011 2:00:00 PM SB975

Conference room: 325
Testifier position: support
Testifier will be present: Yes
Submitted by: James McCully
Organization: Individual
Address:
Phone:
E-mail: jwmccully54@gmail.com
Submitted on: 3/29/2011

Comments:
I have included a second attachment, please advise if it has been included.
Mahalo,

Jim McCully

SECTION VI — Property Valuation

Comment and rate the approaches to value:

COST APPROACH:	Satisfactory	Unsatisfactory	DISCOUNTED CASH FLOW ANALYSIS (DCF)	Satisfactory	Unsatisfactory
Format	<input type="checkbox"/>	<input type="checkbox"/>	Format	<input type="checkbox"/>	<input type="checkbox"/>
Adequacy of data	<input type="checkbox"/>	<input type="checkbox"/>	Adequacy of data and support for:		
Source of costs	<input type="checkbox"/>	<input type="checkbox"/>	Holding Period	<input type="checkbox"/>	<input type="checkbox"/>
Land value estimate	<input type="checkbox"/>	<input type="checkbox"/>	Growth Rates	<input type="checkbox"/>	<input type="checkbox"/>
Estimated cost new	<input type="checkbox"/>	<input type="checkbox"/>	Discount Rate	<input type="checkbox"/>	<input type="checkbox"/>
Depreciation estimate	<input type="checkbox"/>	<input type="checkbox"/>	Development of Cash Flow Estimates	<input type="checkbox"/>	<input type="checkbox"/>
SALES COMPARISON APPROACH:			Reversionary Value	<input type="checkbox"/>	<input type="checkbox"/>
Format	<input type="checkbox"/>	<input type="checkbox"/>	Other Methods of Processing Income		
Adequacy of data	<input type="checkbox"/>	<input type="checkbox"/>	Stream (Mortgage Equity, Bond of		
Sources of data	<input type="checkbox"/>	<input type="checkbox"/>	Investments, etc.)	<input type="checkbox"/>	<input type="checkbox"/>
Summary of sales table	<input type="checkbox"/>	<input type="checkbox"/>	RECONCILIATION:		
Use of adjustment grid table	<input type="checkbox"/>	<input type="checkbox"/>	Indicated values are:		
Comparative analysis of sales	<input type="checkbox"/>	<input type="checkbox"/>	Cost Approach	\$ _____	
INCOME CAPITALIZATION APPROACH:			Sales Comparison Approach	\$ _____	
Format	<input type="checkbox"/>	<input type="checkbox"/>	Income Approach	\$ _____	
Selection of proper capitalization			DCF Analysis	\$ _____	
method	<input type="checkbox"/>	<input type="checkbox"/>	Other (Pending Sale, etc.)	_____	
Adequacy of data and support for:			Value Conclusion		\$ _____
Comparable Rentals	<input type="checkbox"/>	<input type="checkbox"/>	Allocation as Follows:		
Vacancy and Loss Factor	<input type="checkbox"/>	<input type="checkbox"/>	Land	\$ _____	
Operating History	<input type="checkbox"/>	<input type="checkbox"/>	Improvements	\$ _____	
Rent Roll	<input type="checkbox"/>	<input type="checkbox"/>	Personal Property	\$ _____	
Income Estimate	<input type="checkbox"/>	<input type="checkbox"/>	Other	\$ _____	
Expense Estimate	<input type="checkbox"/>	<input type="checkbox"/>	Total Value		\$ _____
Net Operating Income	<input type="checkbox"/>	<input type="checkbox"/>			
Capitalization Rate	<input type="checkbox"/>	<input type="checkbox"/>			

Comments:

Section VII — Other Report Requirements

Does the report contain a certification	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Does the principal appraiser make		
Is the report co-signed	<input type="checkbox"/> Yes	<input type="checkbox"/> No	statement of concurrence with value		
Did the principal appraiser sign the			conclusion	<input type="checkbox"/> Yes	<input type="checkbox"/> No
report	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Does the report contain appraiser(s)		
Did the principal appraiser personally			qualifications	<input type="checkbox"/> Yes	<input type="checkbox"/> No
inspect subject property	<input type="checkbox"/> Yes	<input type="checkbox"/> No			

Section VIII — Final Rating of Appraisal

	Acceptable	Unacceptable		Acceptable	Unacceptable
Report Format			Property Valuation:		
Readability and neatness	<input type="checkbox"/>	<input type="checkbox"/>	Feasibility/Profitability	<input type="checkbox"/>	<input type="checkbox"/>
Mathematical accuracy	<input type="checkbox"/>	<input type="checkbox"/>	Market Trends	<input type="checkbox"/>	<input type="checkbox"/>
Exhibits (Photos, Maps, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	Cost Approach	<input type="checkbox"/>	<input type="checkbox"/>
Appraiser's analytical ability	<input type="checkbox"/>	<input type="checkbox"/>	Sales Comparison Approach	<input type="checkbox"/>	<input type="checkbox"/>
Purpose and function of appraisal	<input type="checkbox"/>	<input type="checkbox"/>	Income Approach	<input type="checkbox"/>	<input type="checkbox"/>
Property identification	<input type="checkbox"/>	<input type="checkbox"/>	DCF	<input type="checkbox"/>	<input type="checkbox"/>
Locational analysis	<input type="checkbox"/>	<input type="checkbox"/>	Reconciliation	<input type="checkbox"/>	<input type="checkbox"/>
Property Description	<input type="checkbox"/>	<input type="checkbox"/>	Date of Appraisal	<input type="checkbox"/>	<input type="checkbox"/>
Site	<input type="checkbox"/>	<input type="checkbox"/>	Overall Rating of Appraisal		
Improvements	<input type="checkbox"/>	<input type="checkbox"/>			
Highest and Best Use	<input type="checkbox"/>	<input type="checkbox"/>			

Brief Comments on Unacceptable Ratings:

Section IX — Reviewer's Conclusions — Recommendations

Scope of Review:			If reviewer does not concur with the soundness of conclusion, then
Read report	<input type="checkbox"/> Yes	<input type="checkbox"/> No	what is the recommended action:
Interviewed appraiser	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Totally reject appraisal
Field Review	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Have appraiser rework, revise, update the appraisal
Does the Reviewer concur with			<input type="checkbox"/> Have another appraisal prepared by someone else
the soundness of conclusion:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Other

Concluding Comments:

Reviewer's Signature _____

Name of Reviewer _____ Date _____

Position _____ Department _____

Address _____ Telephone _____

City, State, Zip _____

COMMERCIAL APPRAISAL REVIEW FORM

The appraisal report which is the subject of this review is briefly identified and described as follows:

Name of Project/Property
Location/Legal
Type of property
Name of Appraiser
Address
Report Addressed to:
Address
Type of Appraisal Report: Narrative Printed Form Other (identify)

Section I - Purpose and Function of Appraisal

Value Sought: Market Value Other (identify)
Date of value: Current Future Past
Interests Valued: Fee Simple Leased Interest
Real Estate Valued: Land Improvements
Comments:

Section II - Property Identification, Ownership and Assessment

Does the report adequately contain or identify: Yes No N/A
Property Location/Address:
Legal Description
Real Estate Tax Information
Assessments, Bonds, etc.
Existence of:
Deed Restrictions
Covenants, Conditions, Restrictions
Moratoriums
Owners of Record
History of Ownership
If Applicable to Subject Property:
Amount of Purchase Price
Pending Sales Price
Asking Price
Option Price
Other

Section III - Location Analysis

Does the report adequately describe or identify:
Region
City
Neighborhood
Does report:
Sum up and rate the above area
Identify and discuss important trends
Identify nuisances or hazards

Section IV - Property Description

Comment upon the descriptions and analysis of the following:
SITE:
Adequate description of physical features
Identification of encumbrances
Does the report state adequacy of site for existing or proposed use
Utilities available
Special Problems:
Flood
Environmental Hazards, Seismic, Toxic etc.
Other (identify)
IMPROVEMENTS:
Adequate description of physical features
Attention given to:
Quality
Functional Utility and Appeal
Age
Condition
Hazardous Conditions
ZONING:
Statement
Definition

Section V - Highest and Best Use

Definition
Components
Conclusion of Highest and Best Use
Current zoning
Status zoning change
Status of building permit (if possible construction)
Does report discuss feasibility/profitability
Does property conform to zoning and neighborhood
Is use legal and physically possible
Has the report in this or other sections discussed:
Marketability (supply-demand, market trends, absorption occupancy levels)
Other (identify)
Were other studies/reports considered

CITIZENS FOR FAIR VALUATION

**841 Bishop Street, Suite 1500
Honolulu, HI 96813**

ROBERT M. CREPS, PRESIDENT
CAROL LAM, VICE PRESIDENT
CONNIE SMALES, SECRETARY
PHILLIP J. SILICH, TREASURER

CULLY JUDD, DIRECTOR
OSWALD STENDER, DIRECTOR
MICHAEL STEINER, EXEC. DIRECTOR

March 30, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP

Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees,

My name is Michael Steiner and I am the Executive Director of Citizens for Fair Valuation (CFV), a non-profit coalition of lessees. I support passage of Senate Bill 975, SD1, HD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an appraisal/arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

Under HRS 466K-4, real estate appraisers are required to comply with USPAP when performing appraisals in connection with federally or non-federally related real estate transactions. CFV strongly believes it is entirely appropriate to extend the same professional and ethical requirements to those appraisers who sit on appraisal/arbitration panels which determine fair market value, fair market rental or fair and reasonable rents of real estate.

Ua Mau Ke Ea O Ka Aina I Ka Pono The Life of the Land is Perpetuated in Righteousness

Long-Term Ground Leases:

The majority of commercial and industrial businesses throughout the State of Hawaii lease their properties under long-term ground leases. While the landowners takes some risk in leasing the property, the lion's share of the risk falls to the lessee, business owner who must finance the construction of the building, pay for the ongoing maintenance of the building and the leased land while also working to run a successful business. And, for all of this risk, at the end of the lease, the property, including any and all improvements, will revert to the landowner.

Throughout the 50 years of the long-term lease, the lease will require the lessor and lessee to reset rental rates every 10 years. If the parties are unable to negotiate a "fair" rental rate, the lease contract requires the parties to engage three licensed real estate appraisers to set a final and binding valuation.

In Hawaii, the overwhelming majority of commercial and industrial land is held by just a small number of large landowners. These landowners employ the services of licensed real estate appraisers on an ongoing, year-after-year basis. Their properties are continually appraised for valuation reporting, financing and lease rates.

In contrast, the thousands of smaller companies that lease and work the land very rarely engage an appraiser. With the exception of perhaps a new lease or bank required financed-based valuation, lessees do not generally require appraisal service. This, of course, creates the potential for appraisal abuse.

In terms of lease related appraisal/arbitrations, until recent years, historically very few took place. Indeed, in a 1993 affidavit, Damon Estate Trustee, Hebdon Porteus, stated that, ". . . **the Estate has not had a single rent arbitration in more than twenty years.**"

The reason, simply put, was that the Damon Estate provided rents which were fair and reasonable to both parties. In the same affidavit, Mr. Proteus declared,

It was thus never the intent or understanding of the parties that "fair and reasonable" rent defined in the terms of the lease be anything other than market rent, **as any rent below market would be unfair and unreasonable to the Estate, while any rent above market would similarly be unfair and unreasonable to the lessee.**

Unfortunately, it seems the number of lease related appraisal/arbitrations is skyrocketing as landowners demand rents that lessees feel, in this economy, are well above and beyond the "fair market" value. The small pool of licensed real estate appraisers are being engaged at an unprecedented rate. And, as more and more arbitrations are taking place, the need to bring uniformity and transparency is greater than ever before.

SB 975, SD1, HD1 will bring righteousness back to the arbitration process by requiring the parties to adhere to the highest ethical and professional standards as found in the Uniform Standards of Professional Appraisal Practices (USPAP).

Uniform Standards of Professional Appraisal Practices (USPAP):

Requiring the appraiser/arbitrator to follow USPAP will ensure that the right questions are being asked. For instance, if a lessee is behind in the rent and the lessor allows the past due to be incorporated into a new, higher lease rent, a USPAP-based discussion of the comparable rent would flush out the unique underlying circumstance of the comparable. USPAP would also provide a basis for the arbitrators to consider income-based or residual value methodologies in determining rents.

Standardization:

Opponents argue that the reporting requirements of USPAP will add additional cost and burden to the process. Actually, the standardization of a USPAP based arbitration would bring clarity and speed-up the process. A simple checklist form could easily be developed to use as a guide to ensure compliance.

Lease Contracts call for “Appraisal” not “Arbitration”:

When the lessor and lessee cannot negotiate a mutually acceptable valuation for rent or market value, most commercial ground leases call for “**appraisal**” — not “**arbitration**”. The following comes from a typical Damon Estate lease, currently in force with CommonWealth REIT:

Appraisal. In case the parties hereto shall fail to agree on the net annual rent hereunder payable . . . [said rent] shall be determined by three impartial real estate appraisers . . . **(who shall in this case be a member of the Honolulu Chapter of the American Institute of Real Estate Appraisers or other similar organization)** . . . and the three appraisers so appointed shall thereupon proceed to determine the matter in question and the decision of said appraisers or a majority of them shall be **final, conclusive and binding** upon both parties.

The Damon Estate leases, as is true with many other commercial leases, use the term “appraisal” to refer to the process in which the panel of appraisers is to determine the rent or market value. The term “arbitration” is not used anywhere in the lease contract. However, our judicial system has come to consider the term “appraisal,” when coupled with “final and binding,” to mean arbitration. Regardless of the term, it is clear that the appraisers who sit on the appraisal/arbitration panel are engaged to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

Lease Contracts Require Appraisers to Set Rents:

As shown above, most commercial ground leases specifically call for licensed appraisers to sit as appraiser/arbitrators. This was done for the obvious reason that their training and experience makes them more qualified than a lay person. Indeed, in a 1996 deposition, local attorney Bert Kobayashi stated,

It is ordinarily the function of appraisers to appraise market value of real property. By specifying the use of appraisers as the means of determining new rent, the subject leases obviously contemplated that the new ground lease rent will be determined in accordance with the standards, training, and expertise normally employed by appraisers in the evaluation of market rents...

National Appraisal Subcommittee:

In a February 2, 2010 letter, National Appraisal Subcommittee, Executive Director James R. Park wrote,

... an appraiser is defined by USPAP as one who is expected to perform valuation services ... When acting as an appraiser performing appraisal practices, compliance with USPAP is required. According to USPAP, an individual is performing *appraisal practice* when providing valuation services, including by not limited to appraisal, appraisal review or appraisal consulting.

Park clarified that,

USPAP states the use of other nomenclature for an appraisal, appraisal review, or appraisal consulting assignment (**e.g., analysis, counseling, evaluation, study, submission, or valuation**) does not exempt an appraiser from adherence to USPAP.

Professional Appraisers:

Appraisers should be held to the highest standards of their profession. This is especially true when engaged to perform “*appraisal practice*” as an appraisal/arbitration panelist in order to determine fair market value, fair market rental or fair and reasonable rents of real estate. Page 203 of Advisory Opinion 21 of the 2004 version of USPAP states,

Many appraisers have professional roles in addition to their appraiser roles. For example, some appraisers are also attorneys, accountants, brokers, or consultants. Appraisers sometimes also encounter questions in their personal lives about value. An appraiser who contemplates providing a valuation service in some other professional capacity should use special care in establishing whether that service is truly not part of appraisal service. **[A]ny valuation service by an appraiser falls within appraisal practice. If a person’s identity as an appraiser, appraisal expertise, and ethical reputation contribute to his or her being chosen to provide a service, that service likely is included in appraisal practice. As such, that service should be performed in compliance with USPAP.** (emphasis added)

It is clear that when an appraiser sits on an arbitration panel to determine the fair market value or rent of a property, that appraiser is providing a valuation service. Indeed, the lease document establishes the appraisal/arbitration process as the final and binding determination of value. As such it is the appraiser, sitting on the arbitration panel, who determines the ultimate valuation or rent of a property and the Uniform Standards of Professional Appraisal Practices (USPAP) must apply.

Appraisers are NOT exempt from statutory requirements when acting as Arbitrators:

Opponents of this bill will argue that regardless of the lease contract requirement to engage licensed appraisers, appraisers are acting as arbitrators and not appraisers when impaneled to perform an appraisal/arbitration. Opponents will cite the matter of Wong vs. Chalmers 1990 Revocable Trust, Civil No. 94-811 DAE (D. Haw., Jan 24, 1996), wherein Judge Ezra wrote,

As an initial matter, the court rejects KUA ‘S argument that Defendants disregarded the law by not following professional standards for appraisers. The court finds that these guidelines do not govern the arbitration proceeding because here Hallstrom, Hulten and Vernon were acting as arbitrators, not as appraisers. The fact that the arbitrators were required to be licensed appraisers is immaterial here.

However, this position was directly addressed and dismissed by Judge Susan Oki Mollway in the recent matter of HRPT Properties vs. Linda Lingle, 2009 WL5103309 (D. Hawaii Dec. 23, 2009). Judge Mollway specifically countered this argument and addressed Judge Ezra’s opinion as follows,

This argument misreads Judge Ezra’s ruling. Whether rent had to be set by appraisers in that case had been disputed, and a court order had issued compelling arbitration. In characterizing the appraisers as arbitrators, Judge Ezra was rejecting a lessee’s argument that the lessor had “disregarded the law by not following professional standards for appraisers.” **In no way did Judge Ezra suggest that appraisers acting as arbitrators were free to ignore a statute imposing requirements on appraisers.** When Judge Ezra said, “the fact that the arbitrators were required to be licensed appraisers is immaterial here,” **he was certainly not saying that arbitrators required to be licensed appraisers were unrestrained by statutory requirements applicable to appraisers.** (emphasis added)

Citizens for Fair Valuation

Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisal

CPC/JUD Hearing: Wednesday, March 30, 2011, 2:00 pm, Room 325

Added Expenses:

Opponents of this bill will argue that SB 975, SD1, HD1, HD1 will cause additional expense and time in rendering awards. This is simply not the case. Appraisers are currently charging between \$15,000 and \$25,000 each for their services on an arbitration panel. This typically includes background work, two days of hearings and finalization. Assuming \$20,000 per appraiser and a total of 40 hours work, the average hourly rate is \$500 per hour. At this rate, most lessees involved in arbitration, with total costs related to the arbitration easily surpassing \$75,000, would gladly pay an extra thousand or two to know that the panel followed the highest standards of their profession. (See Exhibit 1 attached.)

Vacating an Award:

Opponents of this bill seem to be afraid that SB 975, SD1, HD1 will create a basis for lessees to vacate arbitration awards. Again, this is just not the case. The truth is that it remains extremely difficult to vacate the award of an arbitration panel. Arbitration awards are given wide deference by the courts and judicial review is limited. There are only certain enumerated grounds under which an arbitration award can be vacated, which include evident partiality of the panel, corruption of the panel, misconduct of the panel, and the panel exceeding its powers. Mistakes of law or fact by the panel in making its award are generally not sufficient grounds to vacate an arbitration award.

Single Standard:

Citizens for Fair Valuation believes there should a single standard that real estate appraisers follow whether they are performing appraisals in or outside of an arbitration proceeding. By applying USPAP in all such circumstances, the appraisal community can be assured the public will hold them in their highest regard. Requiring conformance with USPAP will add much needed transparency to the process and results, and this will ultimately enhance public trust in the process and results.

The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and approve this bill.

Mahalo

Michael Steiner

Michael Steiner

Executive Director

Citizens for Fair Valuation

Telephone: (808) 221-5955

Email: MSteiner@SteinerAssoc.com

Web Site: www.FairValuation.org

Arbitration Panel: Cost per Appraiser (3 req'd)			
Engagement Costs / Hours Worked *			
Hrs	15,000	20,000	25,000
16	938	1,250	1,563
40	375	500	625
50	300	400	500
60	250	333	417
70	214	286	357
80	188	250	313
90	167	222	278
100	150	200	250
125	120	160	200
150	100	133	167

* Typical arbitration has 2 days of hearings

Estimated Costs for Real Estate Arbitration		
1	Your appraiser Arbitration Panelist	20,000
2	Half of 3rd arbitration panelist	10,000
3	Attorney (150 hrs @\$250 each)	37,500
4	Experts (one appraiser, rpt and 2 days)	7,500
5	Experts (economist or other, rpt, 2 days)	7,500
6	Court Reporter/transcripts (2 days est)	1,500
7	Online research (est)	1,500
8	Photocopies and other misc	1,500
Estimated Cost for Real Estate Arbitration *		87,000

* GET not included

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Grant Merritt and I own Sawdust which employs 3 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value**. My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

National Appraisal Subcommittee Executive Director James R. Park wrote that "an appraiser is defined by USPAP as one who is expected to perform valuation services." He continued to say, "USPAP states the use of other nomenclature for an appraisal, appraisal review, or appraisal consulting assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to USPAP."

Requiring USPAP will bring transparency to the appraisal/arbitration process. Knowing that the procedural rules are uniform and set in advance will allow all parties to better prepare data and ask the right questions in determining value. With literally hundreds of thousands of dollars riding on the valuation of rents, I believe the licensed appraisers should be held to the highest of professional standards when participating in an appraisal/arbitration. Requiring licensed real estate appraisers to comply with USPAP in an arbitration will improve the integrity of the process allowing appraisers to better serve the public and the state.

As such, the Hawaii Revised Statutes should be amended to require appraisers to follow the nationally recognized ethical and professional standards covered under USPAP when providing appraisal related services through arbitration to determine value and/or rental rates of real estate.

The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo
Grant Merritt
151-B Pu'uhale Road
Honolulu HI 96819
808-841-6066
sawdust@lava.net

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2: am, Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Hwa Y. Chung and I own Aloha Products which employs 45 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value**. My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

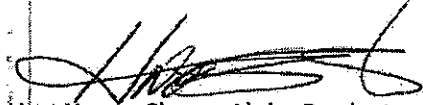
National Appraisal Subcommittee Executive Director James R. Park wrote that "an appraiser is defined by USPAP as one who is expected to perform valuation services." He continued to say, "USPAP states the use of other nomenclature for an appraisal, appraisal review, or appraisal consulting assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to USPAP."

Requiring USPAP will bring transparency to the appraisal/arbitration process. Knowing that the procedural rules are uniform and set in advance will allow all parties to better prepare data and ask the right questions in determining value. With literally hundreds of thousands of dollars riding on the valuation of rents, I believe the licensed appraisers should be held to the highest of professional standards when participating in an appraisal/arbitration. Requiring licensed real estate appraisers to comply with USPAP in arbitration will improve the integrity of the process allowing appraisers to better serve the public and the state.

As such, the Hawaii Revised Statutes should be amended to require appraisers to follow the nationally recognized ethical and professional standards covered under USPAP when providing appraisal related services through arbitration to determine value and/or rental rates of real estate.

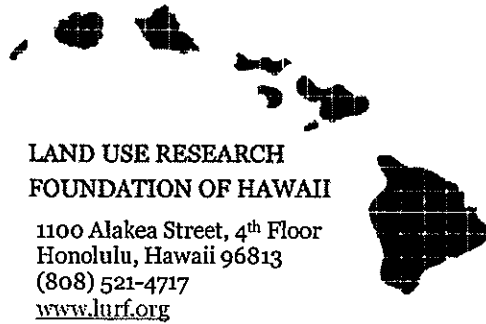
The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1, and pass this bill.

Mahalo,



3/29/2011 1:20 pm

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March 30, 2011

Representative Robert Herkes, Chair and Representative Ryan Yamane, Vice Chair
House Committee on Consumer Protection & Commerce
Representative Gilbert Keith-Agaran, Chair and Representative Karl Rhoads, Vice Chair
House Committee on Judiciary

Opposition to SB 975, SD1, HD1 Relating to Appraisals. (Requires a real estate appraiser to comply with the Uniform Standards of Professional Appraisal Practice, when acting as an arbitrator in arbitration proceedings)

Wednesday, March 30, 2011 at 2:00 p.m. in CR 325

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 Hawaii's significant natural and cultural resources and public health and safety.

LURF **opposes SB 975, SD1, HD1** which proposes that arbitrators who are also real estate appraisers must comply with the Uniform Standards of Professional Appraisal Practice (USPAP) when acting as an arbitrator in an arbitration proceeding. LURF's objections to SB 975, SD1, HD1 include the following:

- **SB 975, SD1, HD1 (2011) includes the same objectionable provisions that were vetoed by Governor Lingle in SB 771 (2010).**
- **The Revised Uniform Arbitration Act confirms that an "Arbitrator" is appointed to render an award (and not to render a separate appraisal or an appraisal report).**
- **USPAP does not govern arbitration proceedings because arbitrators are acting in the capacity as arbitrators, not as appraisers. See *Wong v. Chalmers 1990 Revocable Trust*, Civil No. 94-811 DAE (D. Haw., Jan 24, 1996, which is an unreported decision by Fed Judge David Ezra.**
- **The purpose and procedures for arbitration and the preparation of an appraisal report are not the same.**
- **Appraisers who serve in the capacity as arbitrators are not engaging in the practice of real estate appraisal.**

- **An Arbitrators' role and responsibilities are broader than and different from the role of an appraiser who prepares a USPAP appraisal report to justify a client's position.**
- **Bill 975, SD1, HD1 appears to be inconsistent with national appraisal laws, rules, guidelines and practice.**
- **Bill 975, SD1, HD1 appears to be inconsistent with national arbitration laws, rules, guidelines and practice.**
- **It is Basic Math - Forcing three arbitrators to comply with USPAP would require them to prepare three appraisal reports and will result in a more onerous, costly and lengthy arbitration process.**
- **The title of SB 975, SD1, HD1, "RELATING TO APPRAISALS" is legally flawed because the bill actually pertains to conduct of arbitration proceedings.**

SB 975, SD1, HD1. This bill would impose a new requirement for arbitrators, which would mandate that a real estate appraiser shall comply with the USPAP when acting as an arbitrator in arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rent of real estate.

LURF's Position. The appraisal and arbitration processes, while sometimes related, are not the same. LURF's objections to SB 975 are based on, among other things, the following:

- **SB 975, SD1, HD1 (2011) includes the same objectionable provisions that were vetoed by Governor Lingle in SB 771 (2010).** See attached Governor's Message No. 368 ("Gov. Msg. No. 368") In 2010, similar legislation, SB 771, SD1, HD1 was passed with **17 noes** in the House, which indicates some legislators were not comfortable with this measure. Governor Lingle vetoed SB 771 (2010) and the House did not override the Governor's veto.
- **The Revised Uniform Arbitration Act confirms that an "Arbitrator" is appointed to render an award (and not to render a separate appraisal or an appraisal report).** The Revised Uniform Arbitration Act provides as follows:

SECTION 1. DEFINITIONS. In this [Act]:

(1) "Arbitration organization" means an association, agency, board, commission, or other entity that is neutral and initiates, sponsors, or administers an arbitration proceeding or is involved in the appointment of an arbitrator.

(2) "Arbitrator" means an individual appointed to render an award, alone or with others, in a controversy that is subject to an agreement to arbitrate. (Emphasis added)

The above definition is in line with the fact that appraisers who serve as arbitrators are acting in the role similar to an impartial "judge" in an arbitration (to render an award) and are not acting in the role of an appraiser (rendering a value on behalf of a client's interests). Thus, mandating USPAP standards on the arbitrators in arbitration

proceedings, do not apply. In most rent arbitration cases, both parties submit appraisals prepared pursuant to USPAP standards to justify their position regarding value. These differing appraisal reports and other information are presented to the panel of arbitrators to consider and to make an arbitration award. An arbitration award does not create a new appraisal report and does not modify or void any of the appraisals which were submitted in the interests of a particular client.

- **USPAP does not govern arbitration proceedings because arbitrators are acting in the capacity as arbitrators, not as appraisers.** See *Wong v. Chalmers 1990 Revocable Trust*, Civil No. 94-811 DAE (D. Haw. Jan 24, 1996 and the February 25, 2011 testimony of the Appraisal Institute. In the *Wong v. Chalmers* case, which is an unreported decision, Federal Judge David Ezra ruled as follows:

“Lastly, KUA argues that the arbitration award should be vacated because the arbitrators “manifestly disregarded the law” by failing to comply with the rules of the Appraisal Institute (AI) and the Uniform Standards of Professional Appraisal Practice (USPAP).....

“As an initial matter, the court rejects KUA’s argument that Defendants disregarded the law by not following professional standards for appraisers. The court finds that these guidelines do not govern the arbitration proceeding, because here Hallstrom, Hulten and Vernon were acting as arbitrators, not as appraisers. The fact that the arbitrators were requested to be licensed appraisers is immaterial here. Their alleged failure to follow the USPAP is not sufficient basis to vacate the arbitration award.” (Emphasis added)

- **The purpose of, and procedures for the preparation of an appraisal report and an arbitration are not the same - The purpose of arbitration is to reach an impartial compromise solution and award, while the purpose of an appraisal in a rent arbitration is to determine, justify and advocate a value of land for one client’s interest.** Arbitration is an alternative dispute resolution process used to reach a compromise solution, and not an appraisal. In an arbitration proceeding, the parties submit their cases to an impartial person or panel for what is intended to be a final, binding decision. See Gov. Msg. No. 368 and the February 25, 2011 testimony of the Appraisal Institute.
- **An arbitrators’ role and responsibilities are broader than, and different from the role of an appraiser, who prepares a USPAP appraisal report to justify a client’s position—Arbitrators have the right to consider other issues, evidence and arguments, and are not limited to merely complying with the requirements of a USPAP appraisal report.** During an arbitration proceeding to determine the value of real estate, both sides typically hire their own expert appraiser witnesses. These expert appraiser witnesses are required by state statute to follow USPAP if they perform an appraisal and prepare a USPAP appraisal report. On the other hand, arbitrators do not perform a USPAP appraisal, and do not prepare their own appraisal reports as part of their role as arbitrators. Instead, arbitrators have a very different role – they review the opposing appraisal reports and other evidence, hear the arguments of the opposing appraisers, and judge credibility in order to make an informed decision and arbitration award. See Gov. Msg. No. 368 and the February 25, 2011 testimony of the Appraisal Institute.

- **Appraisers who serve as arbitrators are not engaging in the practice of real estate appraisal.** The fact that the arbitration may be conducted for the purpose of determining the value of real estate does not cure this objection. See, Gov. Msg. No. 368. Appraisers, are hired by interested private clients, prepare appraisal reports to justify a value for their private clients, and advocate for their clients in arbitration proceedings (like attorneys representing opposing clients in a trial). Arbitrators who review and evaluate competing USPAP appraisal reports, other evidence and credibility, serve in a capacity similar to a referee or judge in making an arbitration award. The following definitions provide clarification that appointed arbitrators are not practicing as a privately hired “appraisers,” whose duty is to their individual clients:
 - ❖ “Appraiser. A person selected to appointed by competent authority or interested party to make an appraisement; to ascertain and state the true value of goods or real estate.” *Black’s Law Dictionary*, Fifth Edition, 1979. (Emphasis added)
 - ❖ “Arbitrator. A private disinterested person, chosen by the parties to a disputed question, for the purpose of hearing their contention, and giving judgment between them; to whose decision (award) the litigants submit themselves voluntarily, or, in some cases compulsorily. See **Referee; Umpire.**” *Black’s Law Dictionary*, Fifth Edition, 1979.
 - ❖ “Referee. A person to whom a cause pending in a court is referred by the court, to take testimony, hears the parties, and report thereon to the court. Person who is appointed to exercise judicial powers, to take testimony, to hear parties, and report his findings...” (citations omitted) *Black’s Law Dictionary*, Fifth Edition, 1979.
- **SB 975, SD1, HD1 appears to be inconsistent with appraisal laws, rules, guidelines or practices and the application of USPAP across the nation.** Attached is a publication of the Appraisal Foundation, entitled, *The Appraisal Standards Board and USPAP (“ASB & USPAP”)*. There is no evidence that the national Appraisal Standards Board (ASB) or any other states have appraisal laws, rules, guidelines or practices which impose USPAP requirements on arbitrators who are also professional appraisers:
 - ❖ **The Appraisal Foundation does not require real estate appraisers to comply with USPAP when acting as an arbitrator in arbitration proceedings.** The Appraisal Foundation is a Congressionally authorized non-profit organization established in 1987. The Appraisal Foundation is dedicated to the advancement of the appraisal profession and accomplishes its mission through the work of its two independent Boards: the Appraisal Standards Board (ASB) and the Appraiser Qualifications Board. See *ASB & USPAP*.
 - ❖ **The ASB does not require real estate appraisers to comply with USPAP when acting as an arbitrator in arbitration proceedings.** The ASB is an independent Board of The Appraisal Foundation. The ASB is responsible for writing, amending and interpreting the USPAP. The ASB has up to seven members appointed by the Appraisal Foundation’s Board of Trustees. The current Board members are experienced in commercial, residential and agricultural real property and in business valuation. See *ASB & USPAP*.

- ❖ **The USPAP does not require real estate appraisers to comply with USPAP when acting as an arbitrator in arbitration proceedings.** The USPAP are the generally accepted standards for professional appraisal practice in the United States. USPAP contains standards for all types of appraisal services including real property, personal property, business valuation and mass appraisal. The purpose of USPAP is to promote and maintain a high level of public trust in appraisal practice by establishing requirements for appraisers. *See ASB & USPAP.*
- **SB 975, SD1, HD1 appears to be inconsistent with arbitration panel laws, rules, guidelines and practices across the U.S.** There is no evidence that any other states have arbitration laws, rules guidelines or practices which impose USPAP requirements on arbitrators who are also professional appraisers.
- **It is Basic Math - Forcing three arbitrators to comply with USPAP would require them to prepare three appraisal reports and will result in a more onerous, costly and lengthy arbitration process.** Imposing USPAP on arbitrators could add a significant labor burden on arbitrators, as each could be required to prepare his/her own USPAP appraisal report. This will result in increased arbitrator fees and will result in a more onerous and costly arbitration process, which would be a significant deterrent to a majority of lessees. See February 28, 2011 testimony of Department of Land and Natural Resources.
- **The title of SB 975, SD1, HD1 “RELATING TO APPRAISALS” is legally flawed.** The bill applies to standards and conduct in “an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rent of real estate.” The title of this bill and the proposed amendment of the Real Estate Appraiser statute, Hawaii Revised Statutes (“HRS”) §466K, is not the appropriate statute for this amendment, as the bill deals with “arbitration.” See February 28, 2011 testimony of the Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs. Instead of trying to impose USPAP, which is an unnecessary and unwarranted requirement, on arbitrators, it might be more appropriate to assure that such arbitration panels follow the Uniform Arbitration Act, as set forth in HRS Chapter 658A.

Based on the above, we respectfully request that **SB 975, SD1, HD1 be held in this Committee.**

Thank you for the opportunity to testify.



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March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

**RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325**

Dear Sirs: Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

Please allow me to introduce myself. My name is Marcia Moreno, Principal Broker/Owner of MK Real Estate Services, LLC, located on the island of O'ahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If a Lessee is unable to come to a mutual agreement for new rent terms with their Lessor, then per the lease, the arbitration process may have to commence which requires a panel of three **licensed real estate appraisers to determine the final and binding appraisal to set the rental value**. The ground lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

National Appraisal Subcommittee Executive Director James R. Park wrote that "an appraiser is defined by USPAP as one who is expected to perform valuation services." He continued to say, "USPAP states the use of other nomenclature for an appraisal, appraisal review, or appraisal consulting assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to USPAP."

Requiring USPAP will bring transparency to the appraisal/arbitration process. Knowing that the procedural rules are uniform and set in advance will allow all parties to better prepare data and ask the right questions in determining value. With literally hundreds of thousands of dollars riding on the valuation of rents, I believe the licensed appraisers should be held to the highest of professional standards when participating in an appraisal/arbitration. Requiring licensed real estate appraisers to comply with USPAP in an arbitration will improve the integrity of the process allowing appraisers to better serve the public and the state.

As such, the Hawaii Revised Statutes should be amended to require appraisers to follow the nationally recognized ethical and professional standards covered under USPAP when providing appraisal related services through arbitration to determine value and/or rental rates of real estate.

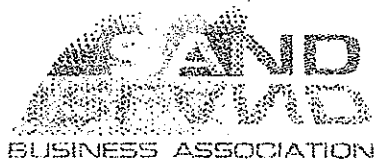
March 29, 2011
Page Two

The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Respectfully,

A handwritten signature in black ink that reads "Marcia Moreno". The signature is written in a cursive, flowing style.

Marcia Moreno
Principal Broker/Owner
P.O. Box 434, Aiea, Hawaii 96701
marcia@mkrealestatehawaii.com
Office #: (808) 486-2035



PO Box 17603 • Honolulu, HI 96817-0603 • (808) 842.1359 • Fax (808) 841.1270
 www.siba-hawaii.org

COMMITTEE ON CONSUMER PROTECTION
 Honorable Robert N. Herkes, Chair and Committee
 Members

COMMITTEE ON Judiciary
 Honorable Gilbert S.C. Keith-Agaran, Chair and
 Committee Members

RE: Support for SB 975, SD1, HD1, Relating to Appraisals

Dear Chairs Herkes and Keith-Agaran, Committee Members:

The Sand Island Business Association and its 112 members/tenants are in support of the above bill. We have a long term lease with the Department of Land and Natural Resources, State of Hawaii covering the Sand Island Industrial Park, Honolulu.

Our lease requires negotiation of lease rental terms in 10 year periods. WE believe that passage of SB 975, SD 1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of arbitration proceedings.

Mahalo and Aloha,

A handwritten signature in black ink, appearing to read "Rodney Kim", is written over a faint, stylized graphic element.

Rodney Kim
 Executive Director,
 Sand Island Business Association

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Darrell Goo and I work for Grace Pacific Corporation which employs over 500 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three licensed real estate appraisers perform a final and binding appraisal to set the rental value. My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

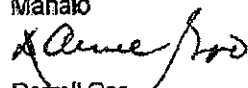
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Requiring USPAP will bring transparency to the appraisal/arbitration process. Knowing that the procedural rules are uniform and set in advance will allow all parties to better prepare data and ask the right questions in determining value. With literally hundreds of thousands of dollars riding on the valuation of rents, I believe the licensed appraisers should be held to the highest of professional standards when participating in an appraisal/arbitration. Requiring licensed real estate appraisers to comply with USPAP in an arbitration will improve the integrity of the process allowing appraisers to better serve the public and the state.

As such, the Hawaii Revised Statutes should be amended to require appraisers to follow the nationally recognized ethical and professional standards covered under USPAP when providing appraisal related services through arbitration to determine value and/or rental rates of real estate.

The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo



Darrell Goo
77 Kaikaina Street, Kailua, HI 96734
dgoo@gracepacificcorp.com
Phone: 479-0241

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Shirley Simao and I work for Grace Pacific Corporation which employs about 500 people in the State of Hawaii.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value**. My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

National Appraisal Subcommittee Executive Director James R. Park wrote that "an appraiser is defined by USPAP as one who is expected to perform valuation services." He continued to say, "USPAP states the use of other nomenclature for an appraisal, appraisal review, or appraisal consulting assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to USPAP."

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As such, the Hawaii Revised Statutes should be amended to require appraisers to follow the nationally recognized ethical and professional standards covered under USPAP when providing appraisal related services through arbitration to determine value and/or rental rates of real estate.

The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo,



Shirley Simao
C/O P.O. Box 78
Honolulu, HI 96810

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 -- Relating to Appraisals -- Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Lani H. Fukunaga and I work for Grace Pacific Corporation which employs 500 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three licensed real estate appraisers perform a final and binding appraisal to set the rental value. My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

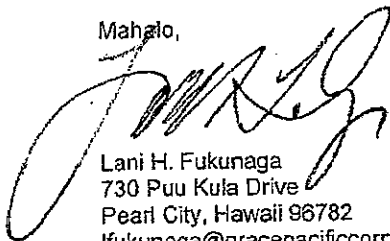
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Requiring USPAP will bring transparency to the appraisal/arbitration process. Knowing that the procedural rules are uniform and set in advance will allow all parties to better prepare data and ask the right questions in determining value. With literally hundreds of thousands of dollars riding on the valuation of rents, I believe the licensed appraisers should be held to the highest of professional standards when participating in an appraisal/arbitration. Requiring licensed real estate appraisers to comply with USPAP in an arbitration will improve the integrity of the process allowing appraisers to better serve the public and the state.

As such, the Hawaii Revised Statutes should be amended to require appraisers to follow the nationally recognized ethical and professional standards covered under USPAP when providing appraisal related services through arbitration to determine value and/or rental rates of real estate.

The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo,



Lani H. Fukunaga
730 Puu Kula Drive
Pearl City, Hawaii 96782
lfukunaga@gracepacificcorp.com
Phone: 808-842-3235

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is James Valdez and I work for Grace Pacific Corporation which employs 500 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value**. My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

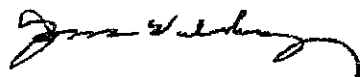
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The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo,



James Valdez
C/O P.O. Box 78
Honolulu, Hawaii 96810

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
 Representative Ryan I. Yamane, Vice Chair
 Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
 Representative Karl Rhoads, Vice Chair
 Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 -- Relating to Appraisals -- Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Linda Keawe and I work at GP Roadway Solutions which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value.** My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

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The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo



Linda Keawe
 84-409 Ikuone Place
lkeawe@gproadwaysolutions.com
 833-2502 x 288

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Jacinta Villanueva and I work at GP Roadway Solutions which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value**. My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

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The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo



Jacinta Villanueva
660 Mapunapuna St.
jvillanueva@gproadwaysolutions.com
808-833-2502 ext: 220

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Guy Guillermo and I work at GP Roadway Solutions which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value.** My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

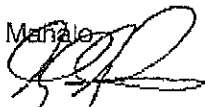
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The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Manalo


Guy Guillermo
Phone: (808) 833-2502

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan J. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Bridget Kawasaki and I work at GP Roadway Solutions which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value.** My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

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The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo,

Bridget Kawasaki

Bridget Kawasaki
Phone: (808) 833-2502

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Nicole Beaudoin and I work at GP Roadway Solutions which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value.** My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

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The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo,



Nicole Beaudoin
Phone: (808) 833-2502

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
 Representative Ryan I. Yamane, Vice Chair
 Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
 Representative Karl Rhoads, Vice Chair
 Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Gary Hiram and I work at GP Roadway Solutions which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value.** My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

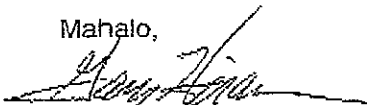
National Appraisal Subcommittee Executive Director James R. Park wrote that "an appraiser is defined by USPAP as one who is expected to perform valuation services." He continued to say, "USPAP states the use of other nomenclature for an appraisal, appraisal review, or appraisal consulting assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to USPAP."

Requiring USPAP will bring transparency to the appraisal/arbitration process. Knowing that the procedural rules are uniform and set in advance will allow all parties to better prepare data and ask the right questions in determining value. With literally hundreds of thousands of dollars riding on the valuation of rents, I believe the licensed appraisers should be held to the highest of professional standards when participating in an appraisal/arbitration. Requiring licensed real estate appraisers to comply with USPAP in an arbitration will improve the integrity of the process allowing appraisers to better serve the public and the state.

As such, the Hawaii Revised Statues should be amended to require appraisers to follow the nationally recognized ethical and professional standards covered under USPAP when providing appraisal related services through arbitration to determine value and/or rental rates of real estate.

The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo,



Gary Hiram
 Phone: (808) 833-2502

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: **Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP**
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Noel Perreira and I work at GP Roadway Solutions which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value**. My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.


National Appraisal Subcommittee Executive Director James R. Park wrote that "an appraiser is defined by USPAP as one who is expected to perform valuation services." He continued to say, "USPAP states the use of other nomenclature for an appraisal, appraisal review, or appraisal consulting assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to USPAP."

Requiring USPAP will bring transparency to the appraisal/arbitration process. Knowing that the procedural rules are uniform and set in advance will allow all parties to better prepare data and ask the right questions in determining value. With literally hundreds of thousands of dollars riding on the valuation of rents, I believe the licensed appraisers should be held to the highest of professional standards when participating in an appraisal/arbitration. Requiring licensed real estate appraisers to comply with USPAP in an arbitration will improve the integrity of the process allowing appraisers to better serve the public and the state.

As such, the Hawaii Revised Statutes should be amended to require appraisers to follow the nationally recognized ethical and professional standards covered under USPAP when providing appraisal related services through arbitration to determine value and/or rental rates of real estate.

The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Māhalo,



Noel Perreira
Phone: (808) 833-2502

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Kurt Yamamoto and I work at GP Roadway Solutions which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value**. My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.


National Appraisal Subcommittee Executive Director James R. Park wrote that "an appraiser is defined by USPAP as one who is expected to perform valuation services." He continued to say, "USPAP states the use of other nomenclature for an appraisal, appraisal review, or appraisal consulting assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to USPAP."

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As such, the Hawaii Revised Statutes should be amended to require appraisers to follow the nationally recognized ethical and professional standards covered under USPAP when providing appraisal related services through arbitration to determine value and/or rental rates of real estate.

The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo,



Kurt Yamamoto
Phone: (808) 833-2502

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Desmond Reyes and I work at GP Roadway Solutions which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value.** My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

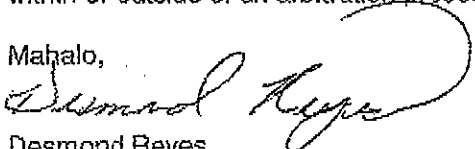
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Mahalo,


Desmond Reyes
Phone: (808) 833-2502

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

**RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325**

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Chito Batoon and I work at GP Roadway Solutions which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value.** My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

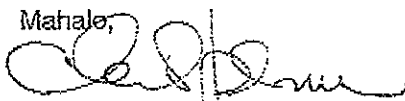
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The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo,



Chito Batoon
Phone: (808) 838-2502

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Nicole Yuh and I work at GP Roadway Solutions which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value**. My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

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Mahalo, -



Nicole Yuh
Phone: (808) 833-2502

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Candice Aniya and I work at GPRoadway Solutions which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value.** My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

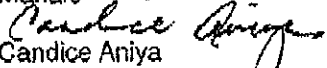
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The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo


Candice Aniya
660 Mapunapuna St., Honolulu, Hawaii 96819
808-833-2502
caniya@gproadwaysolution.com

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

**RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325**

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Bill Turner and I work at GP Roadway Solutions which employs 150 people on the island of ~~Oahu~~.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value.** My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

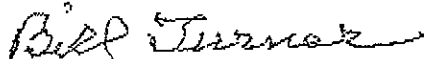
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Mahalo,



Bill Turner
Phone: (808) 833-2502

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Jody Yamamoto and I work at GP Roadway Solutions which employs approximately 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three licensed real estate appraisers perform a final and binding appraisal to set the rental value. My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

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The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo,



Jody S. Yamamoto
660 Mapunapuna St
Honolulu, HI 06819
iyamamoto@aproadwaysolutions.com
(808) 306-9310

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Janel Bumanglag and I work/own GP Roadway Solutions which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value**. My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

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The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo

Janel Bumanglag
P.O. Box 4319
Honolulu, Hawaii 96812
jbumanglag@gproadwaysolutions.com
808-674-2112

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

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Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Jenny Campos and I work with GP Roadway Solutions which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

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Mahalo

Jenny Campos
PO Box 4319, Honolulu, HI 96812
Email: JCampos@gproadwaysolutions.com

March 29, 2011

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Robert N. Herkes, Chair
Representative Ryan I. Yamane, Vice Chair
Members of the Committee

COMMITTEE ON JUDICIARY

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Members of the Committee

RE: Testimony in Support of SB 975, SD1, HD1 – Relating to Appraisals – Use of USPAP
Hearing: March 30, 2011, 2:00 am; Room 325

Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Edna Dunn and I work at GP Roadway Solutions Inc which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with our lessor, our long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value**. Our lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

National Appraisal Subcommittee Executive Director James R. Park wrote that "an appraiser is defined by USPAP as one who is expected to perform valuation services." He continued to say, "USPAP states the use of other nomenclature for an appraisal, appraisal review, or appraisal consulting assignment (e.g., analysis, counseling, evaluation, study, submission, or valuation) does not exempt an appraiser from adherence to USPAP."

Requiring USPAP will bring transparency to the appraisal/arbitration process. Knowing that the procedural rules are uniform and set in advance will allow all parties to better prepare data and ask the right questions in determining value. With literally hundreds of thousands of dollars riding on the valuation of rents, I believe the licensed appraisers should be held to the highest of professional standards when participating in an appraisal/arbitration. Requiring licensed real estate appraisers to comply with USPAP in an arbitration will improve the integrity of the process allowing appraisers to better serve the public and the state.

As such, the Hawaii Revised Statutes should be amended to require appraisers to follow the nationally recognized ethical and professional standards covered under USPAP when providing appraisal related services through arbitration to determine value and/or rental rates of real estate.

The passage of SB 975, SD1, HD1 will provide uniformity of valuations for real estate transactions whether within or outside of an arbitration proceeding. Please support SB 975, SD1, HD1 and pass this bill.

Mahalo

Edna Dunn
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256-4538

March 29, 2011

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Aloha Chairs Herkes & Gilbert-Agaran, Vice-Chairs Yamane & Rhoads and Members of the Committees:

My name is Joy Asato and I work for GP Roadway Solutions which employs 150 people on the island of Oahu.

I support passage of Senate Bill 975, SD1, HD1 which requires real estate appraisers to comply with the Uniform Standards of Professional Appraisal Practices (USPAP) when acting as an appraiser or an arbitrator in an arbitration proceeding to determine the fair market value, fair market rental or fair and reasonable rents of real estate.

If unable to negotiate rent terms with my lessor, my long-term ground lease contract requires a panel of three **licensed real estate appraisers perform a final and binding appraisal to set the rental value**. My lease contract specifically calls for licensed real estate appraisers, not lawyers, bankers or retired judges, to sit on the arbitration panel because appraisers have the professional skills, knowledge and experience to determine a fair market rent valuation.

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Mahalo,
Joy Asato
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jasato@gproadwaysolutions.com
(808)864-3554

TESTIMONY REGARDING SB975, HD1 SD1

I am a real estate appraiser with considerable experience in arbitrations, both as an arbitrator and as an expert testifying before an arbitration panel.

Whoever drafted this bill has a profound misunderstanding of what an arbitration is and what the roles of the arbitrators are.

An arbitration is a quasi-judicial process designed to limit the time and cost involved in resolving a dispute. As such, the arbitrators are acting as judges, not as appraisers. While some arbitration clauses require that the arbitrators be appraisers, this is not always the case and I have served on panels in which at least one of the arbitrators was an attorney and I have heard of brokers being on other panels. Therefore, this bill is discriminatory on its face because it only requires real estate appraisers to conform to its requirements.

In addition, because the arbitrators are acting as judges rather than as appraisers, the USPAP does not pertain. The bill fundamentally misconstrues what happens in an arbitration. Each party to the dispute has the opportunity to present expert testimony. The arbitrators usually are under no requirement to do their own valuation, though some arbitration clauses do require this. After all the testimony has been presented, the arbitrators usually have to go through a process of negotiation with each other to arrive at a mutually agreed upon resolution. I have been on only one panel which had unanimous agreement on value at the close of testimony. This negotiation process is not covered by USPAP.

The USPAP has two Standards that would seem to be the ones pertinent to the misinformed drafter of SB975. Standard 1 pertains to how the appraiser arrives at his value conclusion. Negotiation is not part of Standard 1. Standard 2 pertains to how the appraiser communicates his results to his client. However, by arbitration rules, once appointed to a panel, an arbitrator is not an appraiser. Therefore, he has no one to whom he owes an appraisal report.

From my personal experience I know that judges are not required to present the reasoning behind their decisions. They can simply make rulings. Therefore, this bill runs contrary to centuries of judicial practice and decades of arbitration practice.

Andrew Rothstein, MAI

