

## ON THE FOLLOWING MEASURE:

S.B. NO. 2092, S.D. 1, RELATING TO OFFENSES AGAINST PUBLIC ADMINISTRATION.

## **BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY

**DATE:** Wednesday, March 21, 2018 **TIME:** 2:15 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** Russell A. Suzuki, Acting Attorney General, or

Lance Goto, Deputy Attorney General.

Chair Nishimoto and Members of the Committee:

The Department of the Attorney General ("the Department") appreciates the intent of the bill and submits comments.

The purpose of this bill is to add knowingly making a false statement to a county inspector a crime within the offense of unsworn falsification to authorities. The bill sets out the offense as follows:

A person commits the offense of unsworn falsification to authorities if, with an intent to mislead a public servant in the performance of the public servant's duty, the person: . . . (b) Knowingly makes a false statement, in oral, written, printed, or electronic form, to a county inspector in the course of the inspector's investigation to ascertain compliance with any ordinance, rule, or regulation.

The Department notes the unusually narrow focus of the proposed offense. The offense appears intended to only address an issue related to enforcement by county inspectors. But such a limitation could imply that it would be acceptable to make false statements to a state inspector or investigator. This narrow issue might be more appropriately addressed by a specific county through its own ordinances.

If the Committee would like to address the issue of false statements to inspectors, the Department respectfully suggests that it consider broadening the scope of the offense to include false statements made to state and county inspectors or investigators. The offense could prohibit false statements made to a public servant

Testimony of the Department of the Attorney General Twenty-Ninth Legislature, 2018 Page 2 of 2

engaged in criminal, civil, or administrative enforcement activity. "Public servant" is broadly defined in section 710-1000, HRS, to mean any officer or employee of any branch of government. The proposed paragraph (b) on page 1 of the bill, starting at line 12, could read:

Knowingly makes a false statement, in oral, written, printed, or electronic form, to a public servant engaged in criminal, civil, or administrative enforcement activity pursuant to the public servant's investigative or inspection authority.

The Department appreciates the opportunity to provide comments.

### DEPARTMENT OF PLANNING AND PERMITTING

# CITY AND COUNTY OF HONOLULU

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KATHY K. SOKUGAWA ACTING DIRECTOR

TIMOTHY F. T. HIU DEPUTY DIRECTOR

EUGENE H. TAKAHASHI DEPUTY DIRECTOR

March 21, 2018

The Honorable Scott Y. Nishimoto, Chair and Members of the Committee on Judiciary Hawaii House of Representatives Hawaii State Capitol 415 South Beretania Street Honolulu, Hawaii 96813

Dear Chair Nishimoto and Committee Members:

Subject: Senate Bill No. 2092, SD 1

Relating to Offenses Against Public Administration

The Department of Planning and Permitting (DPP) **supports** Senate Bill No. 2092, SD 1, which adds knowingly making a false statement to a county inspector a crime within the offense of unsworn falsification to authorities.

We appreciate any new tools that will bolster our enforcement programs. Our inspectors do experience situations where people are not forthright with information. Proving false or misleading information has been given is difficult, but perhaps the threat of criminal prosecution may be enough of an incentive to persuade clients, tenants, landowners and others to be more truthful.

Thank you for the opportunity to testify.

Very truly yours,

Kathy K. Sokugawa Acting Director

Submitted on: 3/19/2018 6:52:25 PM

Testimony for JUD on 3/21/2018 2:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Larry Bartley	Save O'ahu's Neighborhoods	Support	No

# Comments:

Please support SB2092.

On Oahu, illegal short-term rental operators and their guests routinely lie to county inspectors to avoid being cited for land use violations. Without enforcement, there is no law and without penalty for lying, there can be little enforcement. Please help our county land use departments by passing SB2092.

Thanks,

Larry Bartley, Executive Director, Save O'ahu's Neighborhoods

Eric W. Gill, Financial Secretary-Treasurer

Gemma G. Weinstein, President

Godfrey Maeshiro, Senior Vice-President

Monday, March 19, 2018

House Committee on Judiciary Hawaii State Legislature State Capitol 415 South Beretania Street

Aloha Chair Nishimoto and Committee members,

UNITE HERE Local 5 – a local labor organization representing 11,000 hotel, health care and food service workers throughout Hawaii would like to offer comments in **support** of SB 2092, SD1.

SB 2092 would add "knowingly making a false statement to a county inspector a crime."

As you know, we've been working on the issue of short-term vacation rentals in our neighborhoods for 3 years now, and yes it has been frustrating.

We stand with the City & County of Honolulu and other County planning directors in supporting any additional tools that would assist with enforcement efforts. We believe SB 2092, SD1 would also help deal with the "monster" home issue. Tools such as those proposed in SB 2092 ensure that the character of our neighborhoods remain intact.

Thank you.



# 'ĀINA HAINA COMMUNITY ASSOCIATION

c/o 'Āina Haina Library, 5246 Kalanianaole Highway, Honolulu, HI 96821 ainahainaassoc@gmail.com; www. ainahaina.org

Jeanne Ohta, President • Melia Lane-Kanahele, Vice-President • Art Mori, Treasurer • Kathy Takemoto, Secretary • Directors At Large: Jeff Carlson, Wayson Chow, Patricia Moore, Marie Riley

March 21, 2018

To: Representative Scott Nishimoto, Chair

Representative Joy San Buenaventura, Vice Chair and

Members of the Committee on Judiciary

From: Jeanne Y. Ohta, President

RE: SB 2092 SD1 Relating to Offenses Against Public Administration

Hearing: Wednesday, March 21, 2018, 2:15 p.m., Room 325

POSITION: SUPPORT

The Board of Directors of the 'Āina Haina Community Association write in support of SB 2092 SD2 Relating to Offenses Against Public Administration, which proposes making a false statement to a county inspector a crime within the offense of unsworn falsification to authorities.

This measure is necessary because of the difficulty inspectors from the City and County of Honolulu are having enforcing zoning laws. Operators of illegal businesses know that they can make false statements to make their businesses seem to comply with the law and not face any penalties.

Although more needs to be done to enforce current zoning laws, this measure is a start to providing the Counties with tools that would lead to closing illegal businesses in or neighborhoods.

We ask that the committee pass this bill and thank the committee for the opportunity to provide testimony in support.

<u>SB-2092-SD-1</u> Submitted on: 3/19/2018 2:42:37 PM

Testimony for JUD on 3/21/2018 2:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Oppose	No

Comments:

Submitted on: 3/19/2018 4:54:18 PM

Testimony for JUD on 3/21/2018 2:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing	
Christine Otto Zaa	Individual	Support	No	

## Comments:

Aloha Chair Nishimoto, Vice Chair San Buenaventura, and Members,

I strongly support SB2092, which makes it a misdemeanor for lying to a county inspector. Monster apartment homes and illegal vacation rentals are taking over and commercializing our residential neighborhoods. These investors are driving up home prices and property taxes. As a result, the average local family can no longer afford to buy a single family home as they cannot compete with these for-profit buyers. Stricter enforcement tools are necessary to shut down these businesses and restore our neighborhoods back to the communities we cherish. Thank you for your consideration.

Christine Otto Zaa | higoodneighbor@gmail.com

Submitted on: 3/19/2018 6:49:44 PM

Testimony for JUD on 3/21/2018 2:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing	
Randolph Hack	Individual	Support	No	l

## Comments:

I am in support of SB2092.

Too many builders have gotten away with falsehoods to county inspectors. Thus, we have 800-100 Monster Homes in the Palolo-Kaimuki-Kapahulu area. This has caused great stress due to lack of parking space and inadequate sewer capacity. I chaired a meeting in which a concerned neighboring owner stated she could not park her car due to many tenant cars from a neighboring oversize house. She had complained at a City Council meeting and her car was vandalized.

I also support the efforts of GoodNeighborHI to remedy this situation.

<u>SB-2092-SD-1</u> Submitted on: 3/19/2018 9:23:04 PM

Testimony for JUD on 3/21/2018 2:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Gary Hirokane	Individual	Support	No

Comments:

Thalya DeMott 350 Ward Ave #106-555 Honolulu HI 96814 Ph. 808-988-1611

March 20, 2018

Re: Support of SB2092

Dear House Judiciary Committee Members,

I am in strong support of SB2092 which makes it a misdemeanor to lie to a County Inspector, which would include Department of Planning & Permitting (DPP) inspectors.

This bill is very important for better enforcement of illegal rentals and unpermitted interior alterations to housing structures.

Mahalo,

Thalya DeMott

Submitted on: 3/20/2018 5:38:51 AM

Testimony for JUD on 3/21/2018 2:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing	
David Kobayashi	Individual	Support	No	

## Comments:

Testimony on SB 2092 SD 1 Relating to Offenses Against Public Administration To: The Honorable Scott Y. Nishimoto, Chair

The Honorable Joy A. San Buenaventura, Vice Chair

House Committee on Judiciary

Wednesday, March 21, 2018 2:15 pm

I support SB 2092 SD 1 Relating to Offenses Against Public Administration. This bill adds knowingly making a false statement to a county inspector a crime within the offense of unsworn falsification to authorities.

This measure will provide an incentive for individuals to be truthful in their representations to county officials.

At present, there is a problem with people not following existing laws pertaining to the occupancy of dwelling units. This measure will deter those who might otherwise evade zoning, building and occupancy laws by making false statements.

This bill will help county officials to enforce our occupancy, building and zoning laws. I respectfully ask you to pass this bill.

David Kobayashi

Honolulu, HI 96816

<u>SB-2092-SD-1</u> Submitted on: 3/20/2018 6:06:42 AM

Testimony for JUD on 3/21/2018 2:15:00 PM

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

# Comments:

This would logically seem like a good first step in 'getting control' of illegal oversized homes. This step needs to happen. Please pass this bill.

Mahalo, Linda Legrande

Submitted on: 3/20/2018 8:49:24 AM

Testimony for JUD on 3/21/2018 2:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing	
Jeannine Johnson	Individual	Support	No	ı

## Comments:

I strongly support SB2092 SD1 making it a misdemeanor to lie to county housing inspectors. This bill will give our inspectors an additional tool to help them crack down on illegal vacation rentals and monster homes which have disintegrated the urban fabric of our well-established neighborhoods. Monster homes, illegal vacation rentals and the resortification of our neighborhoods have ruined the quality of life for our residents. Please pass SB2092 SD1 and help our communities fight these illegal homes and their dishonest owners.

Submitted on: 3/20/2018 9:18:51 AM

Testimony for JUD on 3/21/2018 2:15:00 PM

S	Submitted By	Organization	Testifier Position	Present at Hearing
5	Sarah Chinen	Individual	Support	No

# Comments:

I ask that you pass this bill that makes lying to county inspectors a crime.

It is a sad state of the times that this is necessary, but it is because of the callous nature of a recent wave of builders and investors who are only profit driven and have no sense of courtesy to their neighbors and our local communities.

Thank you very much,

Sarah Chinen

Submitted on: 3/20/2018 10:05:09 AM

Testimony for JUD on 3/21/2018 2:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Gary Yee, AIA	Individual	Support	No

# Comments:

I support the amendment to SB2092.

This would include submittal of incomplete drawings to DPP not showing extra kitchens and bathrooms, and additional plumbing to support extra dwelling units in excess of allowable by ordinance, and installing such fixtures after inspection by DPP. This should include inspection after occupancy to verify installed against submitted documents.

v/r

Gary Yee, AIA

Aloha House Judiciary Committee members,

**I fully support SB2092**, which makes lying to a county inspector a misdemeanor. These monster home builders/owners will look for every loophole to dodge our laws. This bill will provide the necessary tools for effective enforcement and deterring criminal intent and behavior.

I've been working in law enforcement for 17 years. In my experience, weak laws have allowed criminals to continue their criminal behavior. Implementing this bill is the most common sense approach to addressing these criminal acts. We need to call it what it is. These illegal business operators are only given a notice of violation and very rarely assessed a nominal monetary fine. Clearly this has not deterred their business operations because we all know the profits far outweigh the cost of paying fines, especially when they settle with the city or county pennies on the dollar.

Any opposition to this bill will ONLY come from people with criminal intention.

On a personal level, I live in Kaimuki, where these monsters have proliferated. These monstrosities are all around me. Something needs to be done. These investors are pricing us locals out of our state. My property tax is quickly rising because of these investors. My friends and family are losing every bid to these investors. No one can compete with their cash and their game! These apartment homes have no business in our residential neighborhoods. And they are spreading to most of our residential neighborhoods. Something needs to be done quickly to help our local families. Please support SB2092.

Mahalo, John Otto Aloha,

This is a no brainer. Give the DPP some teeth in dealing with the scourge of MONSTER HOMES destroying neighborhoods and in which some are allowing illegal activities aka housing foreign nationals awaiting the birth of "anchor babies".

Give locals a hand. VOTE YES. Please pass this bill.

Mahalo,

Caroline Kong Kaimuki I wholeheartedly support SB2092, on the agenda for the House Judiciary committee meeting this Wednesday, March 21, at 2:15pm. The DPP needs all the help they can get to beef up enforcement of the monster homes and illegal vacation rentals. I live in Manoa, where there are monster homes already built, in the process of being built, and most likely being planned built in the guise of a new home purchase. For some of these illegal plans, there are foreign investor owners, who now live on Oahu, continue to move more people in, and their tenants continually lie to the inspectors and/or refuse them entry to the premises. This has to be stopped and the inspectors need your help. Mahalo for your time and consideration. Stop these money for profit operations so that honest, decent home buyers can be allowed to purchase and live in a quiet, decent neighborhood without illegal apartments or monster homes next door.

# **Glenn Otaguro**

Submitted on: 3/20/2018 11:53:54 AM

Testimony for JUD on 3/21/2018 2:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kathleen Sato	Individual	Support	No

## Comments:

I have lived in the Wilhemina Rise area for all of my life and am very worried about the Monster Houses proliferating here and other neighborhoods throughout the island. I find it appalling that developers can lie about the occupancy of their so-called single-family houses and subsequently reap profits from multiple rentals, both long- and short-term. It seems like a no-brainer that lying to a County Inspector should be an enforceable crime. As it is now, the cheaters too often are getting away with cheating, thus encouraging MORE cheating. I strongly support this bill to bring honesty to housing in our neighborhoods.

Submitted on: 3/20/2018 1:00:21 PM

Testimony for JUD on 3/21/2018 2:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
sharon ouchi	Individual	Support	No

## Comments:

The long-range consequence for all of us if there are no penalties or insufficient penalties for lying to government representatives is people lose faith in government in general to support or defend them from wrong doers.

People who lie to government inspectors consider themselves above the law and are law breakers. Allowing them to get away with lying is just the sort of slippery slope that leads them to further law breaking. The only way to stop them is for there to be consequences that they fear or cannot afford.

## Margaret Thompson - Support

Please accept my testimony in support of SB2092 which is scheduled for a hearing on Wednesday, March 21, 2018 at 2:15 p.m. I have been living in Kaimuki for the past 33 years and appreciate this quiet, neighborly residential area. But with the recent rise in the construction of monster homes, I am concerned about the effect on the number of people coming and going, and the parking problems in the neighborhood. We definitely need enforcement of these monster homes and illegal vacation homes and to prevent the persons involved in lying to the inspectors.

Thank you for the opportunity to voice my concerns and in support of SB2092. I humbly ask that you pass this bill.

Sincerely yours,

Margaret Thompson

Honolulu, HI 96816

Submitted on: 3/20/2018 1:46:38 PM

Testimony for JUD on 3/21/2018 2:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Vernon Hinsvark	Individual	Support	No

# Comments:

If you vote against this bill you are saying that it is OK to lie to a county inspector who is trying to enforce our laws. ARE YOU KIDDING ME? Enforcement is difficult enough. I can just hear the conversation.

Inspector: That is against the law.

Person being questioned: No, I didn't do that.

Inspector: Okay. Have a good day.

If you vote against this bill you do not deserve to serve our community - because you don't.

It is a no brainer.

# Geraldine Ralston - Support

I support this bill. Yes on Punishment for lying to inspectors re monster homes. Aloha, Geraldine Ralston

## Pat Watson - Support

I implore you to pass this bill & I support it with all that I believe. The destruction of our island in regards to illegal uses of overbuilt houses is not what we need & it seems as if we need to be able to fine this people into telling the truth. They lie, they rent rooms, they have cars all over Kaimuiki, Kapahulu, Alewa, Kalihi, everywhere, no neighborhood is safe from these people who have built homes based on lies & are now creating havoc in our once quiet neighborhoods. I am a voter, I am working with my neighbors to stop this, please do your part & give us the tools we need to help.

Sincerely, Pat Watson

Honolulu, HI

<u>SB-2092-SD-1</u> Submitted on: 3/20/2018 2:32:59 PM

Testimony for JUD on 3/21/2018 2:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing	
Sharon Schneider	Individual	Support	No	

# Comments:

I strongly support this bill to add another enforcement tool for DPP with regards to these cumbersome buildings in our single family residential neighborhoods.



I strongly support this bill.

Greg MacDonald

Greg & Junko MacDonald

Honolulu, HI 96816



## Robbie Berkstresser - Support

I would like to voice my support for bill SB2092, on the agenda for the House Judiciary committee meeting this Wednesday, March 21, at 2:15pm.

I believe inspectors, particularly those in the DPP need help in enforcement and would benefit from this bill. Also, if it would aid in dealing with the so-called monster homes - and illegal vacation rentals that plague our neighborhoods, placing undue stress on infrastructure and residents, then it is sorely needed.

Thank you, Robbie Berkstresser



Submitted on: 3/20/2018 11:49:04 PM

Testimony for JUD on 3/21/2018 2:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
William Caron	Individual	Support	Yes

Comments:

Aloha,

I am testifying as an individual, though I am a member of the Palolo Neighborhood Board. I have heard from my constituents and have felt myself the effects of illegal vacation rentals in Palolo Valley. Monster homes, leased out to multiple families and/or tourists are being constructed across the district, sucking up parking and damaging the fabric of our community. We need better enforcement of our laws to ensure that our residential communities remain residential, and do not become commerical. Please protect our communities and pass this bill.

Mahalo,

Will Caron



<u>SB-2092-SD-1</u> Submitted on: 3/21/2018 4:40:17 AM

Testimony for JUD on 3/21/2018 2:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Keep It Kailua	Keep it Kailua	Support	No

Comments:

Keep it Kailua Supports SB2092 SD1



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# Testimony to the House Committee on Jud Wednesday, March 21, 2018 2:15 pm State Capitol, Room 325



# RE: SB 2092 SD1 — Relating to Offenses Against Public Administration

Chair Nishimoto, Vice-Chair San Buenaventura, & members of the Committee:

My name is Gladys Quinto-Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-HAWAII **supports** S.B.2092, SD 1, which amends Chapter 710-1063 HRS By adding "Knowingly making a false statement to a county inspector a crime within the offense of unsworn falsification to authorities." Pursuant to this section, unsworn falsification to authorities is a misdemeanor.

We understand that this bill is in response to the "Monster Homes" problem that has recently been identified as a problem in the City and County of Honolulu. The proliferation of "Monster Homes" is a direct result of the lack of available housing at all price points on Oahu. "Monster Homes," which are differentiated from "Multi-Generational Homes," are essentially large structures being operated as illegal apartment buildings in residentially-zoned areas.

The City is presently in the process of developing amendments to the Land Use Ordinance (LUO) to address these unauthorized uses in residential zoned communities. Under the present LUO, no more than five (5) unrelated people are allowed to live in a single family residence. When inspectors visit these "Monster Homes," many of which have more than 10 bedrooms and equal number of bathrooms, the responses from the existing tenants are that they are all related.

We understand that the proposed bill is intended to provide inspectors with more authority to penalize tenants who are making false statements.

We are in support of S.B. 2092, SD 1, and appreciate the opportunity to express our views on the matter.



ANN H. KOBAYASHI
COUNCILMEMBER, DISTRICT 5
CHAIR, COMMITTEE ON PARKS,
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March 20, 2018

The Honorable Representative Scott Nishimoto, Chair House Committee on Judiciary Hawaii State Capitol Honolulu, HI 96813

> Re: SUPPORT - Senate Bill No. 2092, SD 1 Wednesday, March 21, 2018 2:15 p.m. Conference Room 325

Dear Chair Nishimoto and Committee members,

Thank you for the opportunity to submit testimony on Senate Bill No. 2092 SD 1, Relating to Offenses Against Public Administration. The purpose of this Bill is to establish knowingly making a false statement to a county inspector as a crime within the offense of unsworn falsification to authorities.

As Councilmember for many areas in Honolulu's urban core, I have witnessed the proliferation of large residential homes in neighborhoods such as Palolo, Manoa, and Kaimuki. I have also received calls from neighbors expressing their concerns in regards to the limited number of on-street parking, water and sewer capacity, storm drainage, and the overall size of the structure with multiple floors and rooms.

The Council recently adopted Bill 110 (2017), CD2, FD1, which places a moratorium on the issuance of permits for large residential structures. The Bill also includes provisions for stricter enforcement of the Land Use Ordinance on large residential structures; post-construction inspections on large detached dwellings; and the convening of a multi-agency enforcement team to strictly enforce the City ordinances.

In many cases, the dwellings are modified beyond the extent of the building permit or the purpose of the modifications, and oftentimes, post inspections confirm the concerns of the neighbors. Senate Bill 2092 SD 1 would provide the City's Department of Planning and Permitting the necessary resources to enforce the provisions of Bill 110.

Therefore, I support Senate Bill 2092 SD 1, and its intention to positively impact the wellbeing and quality of residential neighborhoods.

Sincerely,

Ann H. Kobayashi

Councilmember, District V



<u>SB-2092-SD-1</u> Submitted on: 3/21/2018 11:31:26 AM

Testimony for JUD on 3/21/2018 2:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sharon Rowe	Individual	Support	No

Comments: