

Honolulu, Hawaii

FEB 28 2008

RE: S.B. No. 3196

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Madam:

Your Committee on Commerce, Consumer Protection, and
Affordable Housing, to which was referred S.B. No. 3196 entitled:

"A BILL FOR AN ACT RELATING TO LEASE TO FEE CONVERSION,"

begs leave to report as follows:

The purpose of this measure is to ensure that the association of apartment owners or cooperative housing corporation has a right of first refusal to purchase the leased fee interest in land under the condominium or cooperative project if the owner of the fee interest intends to sell it.

Specifically, this measure preserves the intent of chapter 514C, Hawaii Revised Statutes, by granting the association of apartment owners or the cooperative housing corporation the right of first refusal when a lessor has displayed an objective intent to sell, or has accepted a written offer to purchase prior to or within two years after the termination of the lease.

Testimony in support of this measure was submitted by the Hawaii Council of Associations of Apartment Owners; Monarch Properties, Inc.; The Kailuan, Inc.; and one private individual.

In January 2008, the leasehold owners of The Kailuan cooperative project were ordered to move out of their units by February 15, 2008, pursuant to a Circuit Court judge's ruling in favor of Kaneohe Ranch Co., owner of the expired groundlease under The Kailuan. Kaneohe Ranch argued that the law gave The Kailuan a right of first refusal only if Kaneohe Ranch was going to sell the property when The Kailuan's lease was still in effect, but since

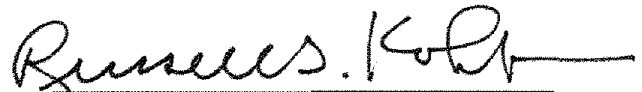


there was never any offer to sell the property, The Kailuan never had a right of first refusal.

Your Committee finds that chapter 514C, Hawaii Revised Statutes, currently reads that the right of first refusal law is in place when the leased fee interest in land under a condominium or cooperative project "is to be sold." Your Committee recognizes that amending the law so that the association of apartment owners or the cooperative housing corporation is entitled to the right of first refusal on the purchase of a property when the owner has displayed an objective intent to sell, or accepted a written offer to purchase the property, not only before expiration, but also within two years afterward, will not help The Kailuan owners, whose dispute was handled under existing law, but will prospectively affect some 1,500 or more leasehold property owners whose leases expire over the next decade.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Affordable Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3196 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Affordable
Housing,



RUSSELL S. KOKUBUN, Chair



The Senate
 Twenty-Fourth Legislature
 State of Hawaii

Record of Votes
Committee on Commerce, Consumer Protection and Affordable Housing
CPH

Bill / Resolution No.:* SB 3196	Committee Referral: CPH	Date: 2/11/08		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input checked="" type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> ^{Am} Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KOKUBUN, Russell S. (C)	✓			
IGE, David Y. (VC)	✓			
ESPERO, Will	✓			
IHARA, Jr., Les				✓
SAKAMOTO, Norman				✓
TANIGUCHI, BRIAN T.				✓
TRIMBLE, Gordon	✓			
TOTAL	4			3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; font-family: cursive; font-size: 1.2em;">David Y. Ige</div>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes