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February 25, 2009

The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce & Consumer Protection
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 1156 Relating to Discrimination in Real Property Transactions

HEARING DATE: Thursday, February 26, 2009 at 8:30 a.m.

Aloha Chair Baker and members of the Committee:

I am Myoung Oh, here to testify on behalf of the Hawai‘i Association of REALTORS® (HAR) and its 9,600 members. HAR **opposes** S.B. 1156 which prohibits landlord tenant agreements from having no pet clauses.

Many landlords allow tenants to keep pets in their rentals. They do so for many reasons, the love of animals; ability of a broader pool of tenants; or reduced tenant turnover. However, allowing pets on a property can pose risks, from additional property damage to pet-induced injuries. There are several concerns with the measure as written.

The practice of defining a “dangerous dog breed” is and of itself controversial and subjective. Although, certain dog breeds that many people believe have a propensity toward violence, such as, pit bulls and Rottweiler have been defined as such. It is important to note that some insurance companies will not issue liability policies if certain “dangerous breeds” are kept on a property. Prohibiting no pet clauses may also have a negative impact on landlords to properly keep or obtain insurance and if so with significantly higher premiums, which will be passed onto the tenant.

Under the law, a landlord has a duty to exercise reasonable care in the management of their property or will be held negligible; this may apply to tenant pets as well. The bill does not ensure that a landlord is exempt from civil liability when they have no say in its ability to deny a renter from having any type of pets?

We further add that in a high rise condominium, maintenance of common elements is a concern for residents and visitors. The financial burden placed on all residents in the complex, although accidents happen, can be costly to clean the premises. Such maintenance of common elements will be passed down to all tenants in the complex.

Finally, it is unclear if this measure implies that a homeowner, within a planned or condominium association, is bound by the association rules for no pets but a renter would be exempt. If that is the interpretation, this would seem inequitable and provide an undue burden and mandate for all property owners and associations.

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HAR believes that so long as the tenant has a letter or prescription from an appropriate professional, such as a medical doctor or physician, and meets the definition of a person with a disability, under the Americans with Disabilities Act, he or she is entitled to a reasonable accommodation that would allow an emotional support animal in the rental unit. This accommodation is already covered and protected under HRS 515-3(8).

However, if the Committee is inclined to pass this measure, we respectfully request the following amendment:

1. An effective date of November 1, 2009 should be specified so that HAR may review and revise its Rental Agreement and other forms accordingly.

HAR looks forward to working with our state lawmakers in building better communities by supporting quality growth, seeking sustainable economies and housing opportunities, embracing the cultural and environmental qualities we cherish, and protecting the rights of property owners.

Mahalo for the opportunity to testify.