

CALVIN K.Y. SAY
SPEAKER

HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813



November 30, 2009

DEC 07 2009

Jenny Tidwell
Policy Manager
Appraisal Subcommittee
1401 H Street, NW
Suite 760
Washington, DC 20005

Re: State of Hawaii compliance with the national USPAP standards

Dear Ms. Tidwell,

Some members of the community have concerns as to whether or not the real estate appraisers in the state of Hawaii are properly following the Appraisal Foundation USPAP standards, and would like to have the Appraisal Subcommittee complete a review on this matter.

The State of Hawaii passed a law in 1998 (Act 180) requiring all real estate appraisals being conducted (whether federally related or not) to follow the Appraisal Foundation USPAP standards. This act was codified as HRS 466K.

This past year a bill was introduced at the state legislature which would add to the enforcement of the 1998 law, but the Department of Commerce and Consumer Affairs (DCCA) that oversees the appraisal industry in Hawaii submitted testimony against this bill.

As this is a matter of great importance, especially during this time of much economic turmoil both locally and nationally, I would appreciate the Appraisal Subcommittee's assistance.

Thank you.

Sincerely,

CALVIN K.Y. SAY, Speaker
House of Representatives
State of Hawaii

Enclosures:

1. Copy of the SB 771 (Hawaii state legislature of 2009)
2. Copy of DCCA testimony against SB 771



LINDA LINGLE
GOVERNOR
JAMES R. AIOA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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LAWRENCE M. REIFURTH
DIRECTOR
RONALD BOYER
DEPUTY DIRECTOR

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

**TO THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION**

**TWENTY-FIFTH LEGISLATURE
Regular Session of 2009**

**Thursday, February 26, 2009
8:30 a.m.**

TESTIMONY ON SENATE BILL NO. 771, RELATING TO APPRAISALS.

**TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:**

My name is Alan Taniguchi, Executive Officer for the Real Estate Appraiser Program, Professional and Vocational Licensing Division ("PVLD") of the Department of Commerce and Consumer Affairs ("Department"). Thank you for the opportunity to present testimony on Senate Bill No. 771, Relating to Appraisals. The Department opposes this bill.

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

Testimony on Senate Bill No. 771
Thursday, February 26, 2009
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When a real estate appraiser is appointed as an arbitrator, the appraiser is acting as the arbitrator. Usually, both sides hire their own appraisers as expert witnesses. These expert witnesses are required by state statute to follow USPAP if they perform an appraisal. The arbitrator listens to all the testimony and reviews the evidence presented. The arbitrator does not perform an appraisal. For these reasons, we feel that this bill is unnecessary.

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

A BILL FOR AN ACT

RELATING TO APPRAISALS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to require a real
2 estate appraiser to rely on the Uniform Standards of
3 Professional Appraisal Practice when acting as an appraiser in
4 an arbitration to guide the appraiser's decision in determining
5 an arbitration award.

6 SECTION 2. Section 466K-4, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) No person may practice as a real estate appraiser in
9 this State unless that person has been licensed or certified to
10 practice in accordance with this chapter and rules adopted by
11 the director of commerce and consumer affairs pursuant to
12 chapter 91. All real estate appraisers who are licensed or
13 certified to practice in this State shall comply with the
14 current uniform standards of professional appraisal practice
15 approved by the director when performing appraisals in
16 connection with a federally or non-federally related real estate
17 transaction. A real estate appraiser shall comply with the
18 uniform standards of professional appraisal practice when acting

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1 as an appraiser or as an arbitrator in an arbitration proceeding
2 to determine the fair market value or fair market rental of real
3 estate."

4 SECTION 3. Section 658A-19, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "[~~§~~658A-19~~§~~] **Award.** (a) An arbitrator shall make a
7 record of an award. The record shall be signed or otherwise
8 authenticated by any arbitrator who concurs with the award. The
9 arbitrator or the arbitration organization shall give notice of
10 the award, including a copy of the award, to each party to the
11 arbitration proceeding.

12 (b) In an arbitration proceeding to determine the fair
13 market value or fair market rental of real property where the
14 arbitrator is a real estate appraiser licensed under chapter
15 466K, the record of an award shall include but not be limited to
16 findings of fact, the appraiser's rationale for the award, and
17 information regarding the evidence which provided the basis for
18 the award.

19 [~~(b)~~] (c) An award shall be made within the time
20 specified by the agreement to arbitrate or, if not specified
21 therein, within the time ordered by the court. The court may
22 extend or the parties to the arbitration proceeding may agree in

1 a record to extend the time. The court or the parties may do so
2 within or after the time specified or ordered. A party waives
3 any objection that an award was not timely made unless the party
4 gives notice of the objection to the arbitrator before receiving
5 notice of the award."

6 SECTION 4. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect on July 1, 2020.

S.B. NO. 771
S.D. 1

Report Title:

Real Estate Appraisal Arbitration; Uniform Standards of
Professional Appraisal Practice

Description:

Requires a real estate appraiser to rely on the Uniform
Standards of Professional Appraisal Practice when acting as an
appraiser in an arbitration to guide the arbitrator's decision
regarding an award. (SD1)

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A BILL FOR AN ACT

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2 estate appraiser to comply with the Uniform Standards of
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9 this State unless that person has been licensed or certified to
10 practice in accordance with this chapter and rules adopted by
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12 chapter 91.

13 All real estate appraisers who are licensed or certified to
14 practice in this State shall comply with the current uniform
15 standards of professional appraisal practice approved by the
16 director when performing appraisals in connection with a
17 federally or non-federally related real estate transaction.



1 A real estate appraiser shall comply with the Uniform
2 Standards of Professional Appraisal Practice when acting as an
3 appraiser in an arbitration to determine the fair market value
4 of real estate."

5 SECTION 3. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.

7

INTRODUCED BY: Suzanne Chun Oakland

David Y. Lee
Ron Bann
Carol Fukumasa
Norman Sakomfi



Report Title:

Real Estate Appraisal Arbitration; Uniform Standards of Professional Appraisal Practice

Description:

Requires a real estate appraiser to comply with the Uniform Standards of Professional Appraisal Practice when acting as an appraiser in an arbitration to determine the fair market value of real estate.

