

NAIOP

COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION
HAWAII CHAPTER

February 1, 2021

The Honorable Senator Rosalyn Baker
The Honorable Senator Stanley Chang
Members of the Senate Committee on
Commerce and Consumer Protection

RE: SB 563- Relating to Commercial Tenant Protection
Hearing date: Tuesday, February 2, 2021

Aloha Chair Baker, and members of the committees,

Mahalo for the opportunity to submit testimony on behalf of NAIOP Hawaii in **OPPOSITION** of SB563. NAIOP Hawaii is the local chapter of the nation's leading organization for office, industrial, retail, residential and mixed-use real estate. NAIOP Hawaii has over 200 members in the State including local developers, owners, investors, asset managers, lenders and other professionals.

SB 563 amends Chapter 127A, Hawaii Revised Statutes to prohibit a commercial landlord from initiating or continuing any action to evict or collect unpaid rent from a commercial tenant that has been adversely impacted by the economic effects of COVID-19 or official measures intended to mitigate the spread of COVID-19. SB 563 allows for commercial tenants to engage with the commercial landlord to modify the rent or other economic requirements of the lease.

The entire infrastructure of the commercial real estate industry is predicated on the enforceability of the contractual relationships between tenants, landlords and lenders. If SB 563 is passed this will allow tenants to stop paying rent or walk from their leases without recourse and landlords would need to cut costs which means they may have to stop paying vendors and banks. Imposition of an eviction restriction will handcuff landlords and their lenders potentially leading to more defaults, foreclosures and bankruptcies.

Further, an eviction moratorium may incentivize the tenant to not pay rent to the landlord, even if they could pay some or all of it, while still leaving their landlords with the obligation to maintain the property without being compensated. Market forces, and not legislation, should determine negotiations between landlords and tenants

In addition, many commercial property owners are currently collaborating with tenants to provide rent relief during the pandemic. NAIOP finds that each tenant's business operations are unique, and therefore, many commercial property owners work

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with each tenant to craft specific rent relief provisions tailored to best assist the tenant's particular needs.

Accordingly, instead of imposing the restrictive regulations contained in SB563, we recommend this bill be deferred to allow property owners and tenants to be able to continue to collaboratively discuss, structure, and implement rent relief initiatives that best suits a tenant's circumstance and needs.

Mahalo for your consideration,

Michael Iosua, Partner
Imanaka Asato LLLC

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Testimony being submitted by Michael Iosua (miosua@imanaka-asato.com)

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