

EXECUTIVE CHAMBERS

HONOLULU

July 6, 2010

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2020

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2020, entitled "A Bill for an Act Relating to Real Property."

The purpose of this bill is to extend the sunset date of Act 189, Session Laws of Hawaii 2009 (Act 189), from June 30, 2010, to June 30, 2013. Act 189 contained several provisions pertaining to renegotiations of commercial and industrial leases, and in particular specified that the term "fair and reasonable" annual rent of certain leases of commercial or industrial leasehold property be construed in a specific manner.

The constitutionality of Act 189 has been litigated in the United States District Court for Hawaii in a lawsuit brought by HRPT Properties Trust which owns significant amounts of land in the Mapunapuna area. The District Court recently provided its written inclination (a summary of the court's thinking) to find that Act 189 violates the Contracts Clause of the United States Constitution. Although a written order to that effect has not yet been issued, it appears probable that the Court will soon issue a ruling that Act 189 is unconstitutional.

Extending the life of Act 189 for three additional years serves no useful purpose, and may expose the State to an increasing amount of attorneys' fees. Allowing Act 189 to

STATEMENT OF OBJECTIONS

SENATE BILL NO. 2020

Page 2

sunset may reduce or eliminate the State's liability in this case.

For the foregoing reasons, I am returning Senate Bill No. 2020 without my approval.

Respectfully,



LINDA LINGLE
Governor of Hawaii