



RESOLUTION

APPROVING FOR INCLUSION IN THE 2013 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A PROPOSAL THAT CREATES A CAUSE OF ACTION AGAINST A PERSON WHO MAINTAINS A PROPERTY NUISANCE ON RESIDENTIAL PROPERTY.

WHEREAS, the State of Hawaii continues to be one of the most expensive states in the nation to purchase a home and as such, a home will be the largest financial asset for most of Hawaii's citizenry; and

WHEREAS, maintaining the aesthetics of residential real property protects both the natural beauty of our local neighborhoods and local home owners' financial investments; and

WHEREAS, real estate investors have purchased large blocks of residential property only to then engage in the blighting of these same properties and have no intention of residing in the affected communities; and

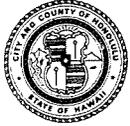
WHEREAS, this practice is commonly called "block busting" and seeks to lower the neighborhood's overall property values, thereby enabling unscrupulous real estate investors to purchase additional surrounding properties in the same neighborhoods at lowered prices; and

WHEREAS, as a result of "block busting," homeowners in the affected neighborhoods will see the value of their largest financial asset decline through no dereliction on the homeowners' part; and

WHEREAS, homeowners in blighted neighborhoods also face health and safety hazards, such as, increases in trespassers, graffiti and vermin populations; and

WHEREAS, the most effective tool to combat "block busting" is the creation and imposition of liability damages to financially deter real estate investors from engaging in property blighting; now, therefore,

BE IT RESOLVED that the Council of the City and County of Honolulu approves for inclusion in the 2013 legislative package a proposal, attached as Exhibit A, that creates a cause of action against a person who maintains a property nuisance on residential property that results in damage or injury to the person or property of another person; and



RESOLUTION

BE IT FINALLY RESOLVED that a copy of this Resolution be transmitted to the President of the Hawaii State Association of Counties and the Mayors of the counties of Kauai, Hawaii, Honolulu and Maui.

INTRODUCED BY:

[Handwritten signature]

DATE OF INTRODUCTION:

JUL 18 2012

Honolulu, Hawaii

Councilmembers

JUL 18 11 31 AM
CITY AND COUNTY OF HONOLULU
RECEIVED

Exhibit A

____.B. NO.____

A BILL FOR AN ACT

RELATING TO LANDOWNER LIABILITY.

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

1 SECTION 1. Chapter 663, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§663- Liability for maintenance of property nuisance.

5 (a) A person may be held personally liable in damages for
6 injury or trespass, whether direct or indirect, including the
7 diminution of property valuation, to another person or the
8 property of the other person proximately caused by the
9 maintenance of a residentially zoned property nuisance.

10 (b) If a person engages in conduct that constitutes the
11 maintenance of a property nuisance involving three or more
12 residentially zoned separate properties within a one mile radius
13 from a claim arising pursuant to this section and judgment is
14 entered for the person who is asserting the claim under this
15 section, the person shall be awarded a sum equal to threefold
16 damages sustained by that person.

____.B. NO. _____

1 (c) For purposes of this section, "maintenance of a
2 property nuisance" means owning, leasing, occupying, or having
3 charge, possession, or control of any property and maintaining
4 that property in a manner in which any one or more of the
5 following conditions or activities is allowed to exist or
6 continue:

7 (1) Keeping, storing, depositing, or accumulating on
8 improved or unimproved real property any personal
9 property that constitutes visual blight.

10 Personal property includes:

11 (A) Abandoned, wrecked, or dismantled motor
12 vehicles or boats or vessels;

13 (B) Automotive parts and equipment, appliances,
14 and furniture;

15 (C) Containers, packing materials, scrap metal,
16 wood, building materials, concrete masonry
17 units, litter, garbage, junk, rubbish, and
18 debris; and

19 (D) Any material that constitutes an offense of
20 displaying indecent matter under section
21 712-1211;

.B. NO.

- 1 (2) Keeping, storing, depositing, or accumulating
- 2 dirt, sand, gravel, concrete, or other similar
- 3 materials that constitute visual blight;
- 4 (3) Operating a junk yard or automobile dismantling
- 5 yard, except as a permitted use;
- 6 (4) Permitting standing or stagnant water to
- 7 accumulate, allowing vermin and insects to live,
- 8 breed, and multiply;
- 9 (5) Creating, permitting, or maintaining any
- 10 dangerous or unsightly condition that constitutes
- 11 visual blight;
- 12 (6) Attracting and providing a place of temporary
- 13 abode for vagrants, interlopers, or trespassers;
- 14 and
- 15 (7) Creating, permitting, or maintaining any
- 16 condition recognized in law or in equity as
- 17 constituting a public nuisance.
- 18 (d) Nothing in this section shall be deemed to create
- 19 liability:
- 20 (1) If the defendant's property or properties are not
- 21 zoned exclusively for residential use;

____.B. NO. _____

- 1 (2) If the defendant's property use is a permitted
- 2 non-conforming use;
- 3 (3) For any public use or public works;
- 4 (4) For any publicly funded project;
- 5 (5) For agricultural use;
- 6 (6) For vacant property that has never been built on
- 7 that is in a predominantly natural state; and
- 8 (7) For construction and demolition activity pursuant
- 9 to a permit, law, ordinance, regulation, or an
- 10 emergency and for the presence of equipment and
- 11 material for a reasonable time after that
- 12 construction and demolition activity has ceased.

13 (e) For purposes of this section, "visual blight" means
14 any unreasonable or unlawful condition, or use of premises or of
15 a building exterior or interior that by reason of its appearance
16 as viewed at ground level from the public right-of-way or from
17 the neighboring premises, is detrimental to:

- 18 (1) The surrounding areas and the valuation of the
- 19 property of another; or
- 20 (2) The health, safety, and welfare of individuals
- 21 residing within that community."

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____.B. NO. _____

1 SECTION 2. New statutory material is underscored.

2 SECTION 3. This Act shall take effect upon approval.

3

4 INTRODUCED BY: _____

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 12-180

Introduced: 07/18/12 By: STANLEY CHANG

Committee: EXECUTIVE MATTERS
AND LEGAL AFFAIRS

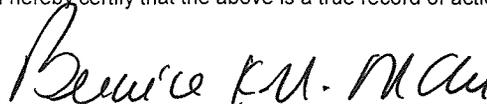
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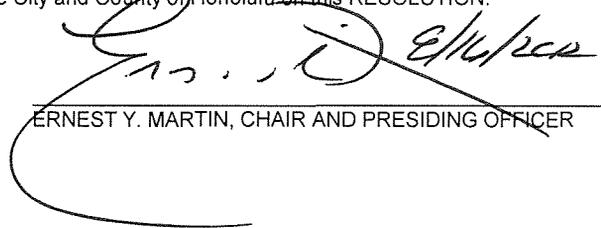
Links: [RES12-180](#)
[CR-247](#)

Voting Legend: Y= Aye, Y* = Aye w/Reservations, N = No, A = Absent, ABN = Abstain

EXECUTIVE MATTERS AND LEGAL AFFAIRS	07/24/12	CR-247 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION.							
COUNCIL	08/15/12	CR-247 AND RESOLUTION 12-180 WERE ADOPTED.							
ANDERSON	A	BERG	N	CACHOLA	Y	CHANG	Y	GABBARD	Y
GARCIA	Y	HARIMOTO	Y	KOBAYASHI	Y	MARTIN	Y		

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.


BERNICE K. N. MAU, CITY CLERK


ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER