

# Act 166

## The Big Picture - Carrot vs. Stick Incentive

By Michael Pang

State government just passed Act 166; exemption from Hawaii long-term capital gains tax for fee owners who sell their leased-fee interests to condo, co-op or PUD associations for the next five years (January 1, 2008 to December 31, 2012). A similar bill has been introduced in Congress, but given the lack of national impact or importance there is no guarantee that it will be considered this year or acted upon, even with a supportive Hawaii Congressional delegation.

Tax-exempt real estate sales (tax-exempt anything for that matter) is a rare event for a state more accustomed to taxing everything in sight for operating revenue (outside humanitarian pursuits). Why then does the Legislature and Governor support tax-exempt fee sales?

The underlying fact is residential leasehold continues to be a social issue with potentially devastating consequences for lessees when their leases end and they have to surrender their properties back to the fee owner. The era of lease reversion (surrender) is upon us with dozens of multi-family project leases expiring in the next few years, the first ones occurring this year.

This is an antiquated system that our state government realizes is best resolved in a win-win manner with a fair-priced sale of the fee. Since 1967, starting with the Land Reform Act (mandatory conversion of single-family leaseholds), our state government has been passing legislation to mitigate the adverse effects of our misapplied residential leasehold system. Essentially, Act 166 is a carrot

incentive alternative to the forceful stick of mandatory conversion.

Will it work? How many fee owners will be incentivized to sell by Act 166 is difficult to predict, although we can anticipate some fee owners reacting to it. However, if Act 166 fails to "get us out of residential leasehold" our state government has not been afraid of using the stick approach (forcing a sale) to avoid leasehold consequences coming down on Hawaii's citizens.

By public record, there are about 19,000 residential leasehold apartments left in Hawaii. Leasehold reform to avoid the ill-effects of this misconceived system is an issue that won't go away until we are rid of residential leasehold. Let's hope that

*continued on page 4*

## MONARCH PROPERTIES, Inc.

Monarch Properties, Inc. has represented more condo and co-op associations in successful fee conversions and lease rent renegotiations than anyone else in Hawaii.

Let us help you. Give us a call today or visit our website.

- FEE CONVERSIONS
- LEASE RENT RENEGOTIATIONS
- RESIDUAL FEE SALES/PURCHASES

(808) 735-0000 • [www.mpi-hi.com](http://www.mpi-hi.com)

TRUST PROFESSIONALISM EXPERIENCE RESULTS



## Act 166

*Continued from page 3*

the carrot helps government avoid the stick.

**About the author:** *Michael Pang is*

*the Founder, President, and Principal Broker of Monarch Properties, Inc. (MPI) and has been involved in representing clients in buying, selling and managing (renting) their residential properties since 1986. In 1991 MPI began developing expertise in the*

*field of condominium and co-op projects in fee conversion and lease rent negotiations. He has been active in these markets for over 20 years and can be reached at 735-0000, fax: 735-4400, email: [realty@mpi-hi.com](mailto:realty@mpi-hi.com) and website: [www.mpi-hi.com](http://www.mpi-hi.com).*