

**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

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Statement of
MARY LOU KOBAYASHI
Planning Program Administrator, Office of Planning
Department of Business, Economic Development, and Tourism
before the
**HOUSE COMMITTEE ON WATER, LAND, OCEAN RESOURCES
AND HAWAIIAN AFFAIRS**
AND
HOUSE COMMITTEE ON AGRICULTURE
Monday, February 11, 2008
9:00 AM
State Capitol, Conference Room 312

in consideration of
HB 3374
RELATING TO THE LAND USE COMMISSION.

Chairs Ito and Tsuji, Vice Chairs Karamatsu and Brower, and Members of the House Committees on Water, Land, Ocean Resources, and Hawaiian Affairs and Agriculture.

The Office of Planning (OP) supports the intent of HB 3374, and could support a revised bill that reflects the provisions of HB 1272 and HB 1271 submitted by the Administration in the 2007 Legislature.

HB 3374 amends Chapter 205, Hawaii Revised Statutes (HRS), to establish a quasi-legislative proceeding for county petitions seeking Land Use Commission (LUC) approval to change the State land use district boundaries to conform to county plans. The proceeding would be subject to Chapter 92, and would not be conducted as a contested case hearing. The LUC would have 365 days to act on the petition. Areas of statewide

concern for property reclassified under this procedure would be addressed during the county zoning process, including requirements for the protection of historic sites and burials under Chapter 6E. Applicable studies would be required for the county zoning process.

OP supports regional district boundary amendments based on adopted county plans, which allows boundary amendments to be reviewed and evaluated on a more comprehensive, regional basis, rather than parcel-by-parcel.

This proposal does not explicitly require the identification of issues of State concern in the reclassification process. Further, the existing provision on page 4 is not adequate to ensure that State concerns are addressed and mitigated in the development or use of the reclassified lands. The proposal needs to be amended to ensure the quasi-legislative process will address these concerns.

The provisions of HB 1272 and HB 1271 submitted to the 2007 Legislature would address the aforementioned concerns.

Thank you for the opportunity to testify.

Council Chair
G. Riki Hokama

Vice-Chair
Danny A. Mateo

Council Members
Michelle Anderson
Gladys C. Baisa
Jo Anne Johnson
Bill Kauakea Medeiros
Michael J. Molina
Joseph Pontanilla
Michael P. Victorino



Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

February 8, 2008

TO: Honorable Ken Ito, Chair
House Committee on Water, Land, Ocean Resources & Hawaiian Affairs
Honorable Clift Tsuji, Chair
House Committee on Agriculture

FROM: G. Riki Hokama
Council Chair

A handwritten signature in black ink, appearing to read "G. Riki Hokama".

SUBJECT: **HEARING OF FEBRUARY 11, 2008; TESTIMONY IN SUPPORT OF HB 3374,
RELATING TO THE LAND USE COMMISSION**

Thank you for the opportunity to testify in support this important measure. The purpose of this measure is to expedite the Land Use Commission's consideration of county petitions to reclassify lands to bring the lands into conformance with county land use maps contained in the county general plan or community plans.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I support this measure for the following reasons:

1. Providing the opportunity for expedited consideration of county reclassification petitions is appropriate because it will help ensure that inconsistencies between county and State land use classifications will be of limited duration. Furthermore, establishing an expedited timetable for the review of county petitions will ensure that county land use classifications are given full legal weight as quickly as possible.
2. The best land use decisions are those made at the local level of government, and this measure will help to ensure that the State's classifications are consistent with the counties' decisions as expressed in their long-range plans.
3. With Maui County currently working on an update of its General Plan, this measure is timely.

For the foregoing reasons, I support this measure.

Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

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February 8, 2008

Honorable Ken Ito, Chair
And Members of the Committee on Water, Land, Ocean
Resources and Hawaiian Affairs
COMMITTEE ON WATER, LAND, OCEAN RESOURCES
AND HAWAIIAN AFFAIRS
State Capitol
415 South Beretania Street
Honolulu, HI 96813

Honorable Clift Tsuji, Chair
And Members of the Committee on Agriculture
COMMITTEE ON AGRICULTURE
State Capitol
415 South Beretania Street
Honolulu, HI 96813

Dear Chairs Ito and Tsuji and Members of the Committee on Water, Land, Ocean
Resources and Hawaiian Affairs and Members of the Committee on Agriculture:

SUBJECT: HB 3374 – RELATING TO THE LAND USE COMMISSION

The Hawai'i County Planning Department strongly supports HB 3374, which would give a simpler, non-contested case hearing process at the Land Use Commission when a county wants to reclassify land to conform to its officially adopted general plans or community development plans.

Planning is supposed to direct growth and development to preferred areas, and away from sensitive, protected areas. The county general plans and community development plans are the long-range plans that identify these areas. We should have a preferred process for

Honorable Ken Ito, Chair
And Members of the Committee on Water, Land, Ocean
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COMMITTEE ON WATER, LAND, OCEAN RESOURCES
AND HAWAIIAN AFFAIRS

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And Members of the Committee on Agriculture
COMMITTEE ON AGRICULTURE

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February 8, 2008

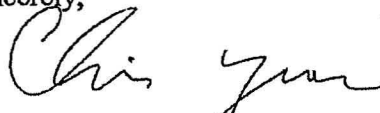
planning departments to direct growth to the areas that the public, through its elected representatives, has decided it should go. In all cases, these plans were adopted as a result of wide public participation, and represent the community's long-range view of how and where development should happen.

Hawai'i County introduced two bills last session, HB1168 and SB 1584, with the same intent as HB 3374.

HB 3374 does not eliminate the role of the Land Use Commission. There will still be the opportunity for public input at the LUC, and after reclassification, there would still have to be county rezoning for any development to take place, where the public can testify about any specific proposal.

HB 3374 is an essential step toward a more planning-driven land use system, and away from the parcel-by-parcel, developer-driven, ad hoc approach that has characterized land use decision-making in the past.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

CJY:pak
WPWIN60/Chris 08 - Testimony - HB 3374 - Relating to Land Use Commission

cc: Mayor Harry Kim
Mr. Andy Levin
Corporation Counsel
Mr. Ralph Boyea



HB 2510, RELATING TO THE LAND USE COMMISSION
House Committees on Water, Land, Ocean Resources & Hawaiian
Affairs,
and Agriculture

February 11, 2008
Room: 312

9:00 a.m.

The Office of Hawaiian Affairs (OHA) OPPOSES HB 3374, which would establish expedited procedures before the Land Use Commission (LUC) for counties to reclassify lands to conform to county land uses in county plans.

Hawaii Revised Statutes (HRS), Chapter 205 has provided the State with a good, balanced process by which reclassification procedures are presented before a quasi-judicial panel for reclassification of land use boundaries. The existing statutes already guide the LUC to take into account each county's general plan during the procedural hearings for each boundary amendment petition. However, the LUC balances those considerations with others that are constitutionally and judicially mandated, and which this legislation seeks to bypass.

Hawai'i's land use boundary amendment process provides our State with a balanced decision-making arena for developers, public and private agencies, and the general public as a whole to provide comments toward balancing development/economic needs with environmental/health needs. This balanced approach, with ample public participation, provides government agencies with enough information to make informed decisions on development proposals.

The single hearing provided by this bill for all of a county's recommendations is irresponsible, unreasonable and burdensome for both the LUC and the public to provide adequate and in-depth analysis and information on what could be innumerable properties in multiple locations within a county.

Furthermore, the Hawaii Revised Statutes (HRS), Chapter 10, mandate OHA to ensure the betterment of the condition of

Native Hawaiians, in part by examining other agencies' actions. Public review of important land use decisions such as these allows OHA to fulfill its mandate by providing it with adequate opportunity to ensure the protection of traditional and cultural access rights and uses, Native Hawaiian archaeological and burial sites, and natural and cultural resources. OHA is not even mentioned in this bill as an agency mandated to be provided notice.

The bill also violates a Hawai'i Supreme Court order. The LUC must, per the Hawai'i Supreme Court decision of Ka Pa'āakai O Ka 'Āina v. Land Use Comm'n, 94 Haw. 31, 45 (2000), "preserve and protect customary and traditional practices of Native Hawaiians" via a specified analysis process, which it would not be able to appropriately accomplish under the direction of this proposed legislation.

OHA, the sole public agency responsible to assess the policies and practices of other agencies impacting on Native Hawaiians, opposes this bill's fast-tracked reclassification process because it has the potential to have a negative effect upon the protection of environmental and cultural resources and landscapes. The ability to properly assess the environmental, cultural and aesthetic impacts of all proposed developments that trigger HRS, Chapter 343 would be jeopardized.

Thus, such county reclassification requests should continue to be brought individually before the Land Use Commission (LUC), which was created for this purpose and with the requisite public review process. The LUC's requirements for review of boundary amendments are far more involved and in-depth, and for good reason.

OHA urges the Committees to OPPOSE HB 3374. Thank you for the opportunity to testify.

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

February 11, 2008

The Honorable Representatives Ken Ito and Clift Tsuji, Chairs and Members
Committee on Water, Land, Ocean Resources and Hawaiian Affairs
Committee on Agriculture
State House of Representatives, Room 312
Honolulu, Hawaii 96813

Dear Chairs Ito and Tsuji, and Members:

Subject: House Bill No. HB 3374 Relating to Land Use Commission

I am Karen Nakamura, Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii strongly supports HB No. 3374 with a proposed amendment.

H.B. No. 3374 proposes to establish expedited procedures before the Land Use Commission for counties to reclassify lands to conform to county land uses in county plans.

Hawaii was the first state to enact comprehensive land use planning in the early 1960's. At the time, Hawaii's landscape was made up of the urban areas (towns and cities); the agricultural areas (sugar and pineapple plantations); and the conservation areas (forest reserves and restricted watersheds).

In the administration of these land use districts, there were also some questionable land use decisions made by the Counties that begged for more state oversight. For example, the large "paper subdivision" on "lava land" on the island of Hawaii were done without appropriate consideration of the need for infrastructure. These concerns of the county's ability to review and approve subdivisions probably led to the existing entitlement system which provided for state oversight on land use decisions.

Since that time, the Counties have become experienced and better able to deal with urban land use planning. However, the process has not changed. As a result, we have a dual, overlapping system of entitlements in Hawaii.

Allowing the Counties to petition the LUC directly through a legislative and not a quasi-judicial process for lands that the Counties have already identified for growth will dramatically reduce the land use entitlement process without compromising the public's interest. The Counties still would determine the urban and rural zoning issues as the next step in the entitlement process. Zoning and subdivision should follow investment in infrastructure to these identified areas of growth.

Having the LUC reclassify consistent with existing County Development or Sustainable Community Plans will improve the process. However, we recommend that the legislature

consider a one-time reclassification of the lands, identified by the Counties for development, to urban. The counties will have the ability through zoning and subdivision to allow development of these areas over time. But it removes the overlapping jurisdiction of the State from the process.

Thank you for this opportunity to express our views.

Karen I. Nakamura



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February 9, 2008

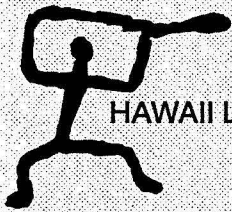
The Honorable Ken Ito, Chair
House Committee on Water, Land, Ocean Resources & Hawaii Affairs
The Honorable Clift Tsuji, Chair
House Committee on Agriculture
State Capitol, Room 312
Honolulu, Hawaii 96813

RE: H.B. 3374 Relating to the Land Use Commission
Hearing Date: February 11, 2008 @ 9:00 a.m., Room 312

On behalf of our 10,000 members in Hawaii, the Hawaii Association of REALTORS® (HAR) **supports** H.B. 3374 to establish expedited procedures before the Land Use Commission for counties to reclassify lands to conform to county land uses in county plans.

HAR served on the Interim Task Force on Smart Growth created pursuant to HR 259, Regular Session of 2007 and was very pleased with the high level of cooperation and discussion that occurred at all of the meetings. HAR strongly supports the ten smart growth principles which include creating a range of housing opportunities and choices, mixed land uses, and a variety of transportation choices. The streamlining of the LUC procedure for counties to reclassify lands to conform to county plans addresses the urgent need to provide for consistency in land classification and action in a timely manner. Furthermore, the implementation and adoption of smart growth principles is impeded by the daunting but necessary task of reclassifying lands to their current and appropriate use. For these reasons, HAR supports an expedited process for reclassification of lands in conformity with county plans.

Mahalo for the opportunity to testify.



HAWAII LEEWARD PLANNING CONFERENCE

P.O. BOX 2159 • KAMUELA, HAWAII 96743-2159

11 February 2008

In Consideration of
HB3374
Related to the Land Use Commission

The Honorable Representatives Ken Ito and Clift Tsuji, Chairs and Members
House Committee on Water, Land, Ocean Resources and Hawaiian Affairs
and House Committee on Agriculture
Hawaii State Capitol - Conference Room 312
Honolulu, Hawaii 96813

Aloha Chairs Ito and Tsuji, and Members:

I am Jacqui Hoover, President of the Hawaii Leeward Planning Conference (HLPC), a member-based organization incorporated in 1974 whose seventy-five plus members are committed to sound planning, wise use of our resources, and effective government process.

HLPC supports the intent HB3374 and efforts to streamline the land use process by expediting procedures for reclassification of lands by the counties to conform to their respective land use plans.

However, as we are concerned with potential inadvertent consequences and negative impacts including and not limited to, the possibility of down zoning land without approval from the land owner, as well as, a property owner's right to due process, we humbly request that appropriate measures be integrated into HB3374 to ensure that such concerns are addressed.

Thank you for your leadership in finding and executing a responsible solution, and for this opportunity to express our views on this matter.

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**The Chamber of
Commerce of Hawaii**

Since 1850

TESTIMONY TO THE HOUSE COMMITTEES ON WATER, LAND, OCEAN RESOURCES
& HAWAIIAN AFFAIRS AND AGRICULTURE
MONDAY, FEBRUARY 11, 2008 AT 9:00 A.M.
ROOM 312, STATE CAPITOL

RE: H.B. 3374 Relating to Land Use Commission

Chairs Ito and Tsuji, Vice Chairs Karamatsu and Brower, Members of the Committees:

My name is Christine Camp, Chair of The Chamber of Commerce of Hawaii, Land Use and Transportation Committee. The Chamber of Commerce of Hawaii strongly supports HB 3374 with a proposed amendment.

The Chamber is the largest business organization in Hawaii, representing over 1100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. The organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

H.B. No. 3374 proposes to establish expedited procedures before the Land Use Commission for counties to reclassify lands to conform to county land uses in county plans.

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The Chamber of Commerce of Hawaii Testimony on HB 3374
February 11, 2008

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Thank you for this opportunity to express our views.