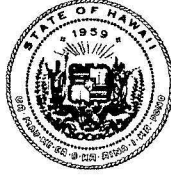


Linda Lingle  
GOVERNOR



ORLANDO "DAN" DAVIDSON  
EXECUTIVE DIRECTOR

**STATE OF HAWAII**

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM  
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION  
677 QUEEN STREET, SUITE 300  
Honolulu, Hawaii 96813  
FAX: (808) 587-0600

IN REPLY REFER TO

Statement of  
**Orlando "Dan" Davidson**  
Hawaii Housing Finance and Development Corporation  
Before the

**HOUSE COMMITTEE ON HUMAN SERVICES AND HOUSING**

February 5, 2008, 8:30 a.m.  
Room 329, State Capitol

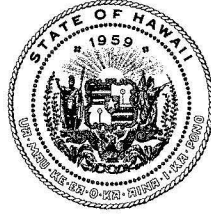
In consideration of  
**H.B. 3385**  
**RELATING TO HOUSING.**

The HHFDC supports the concept of streamlining the development process and removing barriers that impede affordable housing development. The need to do so was the impetus for the creation of the Affordable Housing Regulatory Barriers Task Force, of which Chair Shimabukuro is a key member. The Task Force continues to meet to work on solutions to these concerns.

The HHFDC is ready and willing to work with the Legislature to refine this bill and to increase the supply of affordable and workforce housing statewide.

Thank you for the opportunity to testify.

LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

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CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

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CONSERVATION AND COASTAL LANDS  
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ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**TESTIMONY OF THE CHAIRPERSON  
OF THE BOARD OF LAND AND NATURAL RESOURCES**

**ON**

**House Bill 3385-- RELATING TO HOUSING**

**BEFORE THE HOUSE COMMITTEE ON HUMAN SERVICES AND HOUSING**

**February 5, 2008**

House Bill 3385 provides an expedited process for county review and decision on planning, zoning, and construction exemptions sought by a developer of an affordable rental project. Provides, if the county fails or refuses to take action on the proposed project, the Hawaii Housing Finance and Development Corporation (HHFDC) may review and make a decision on the proposed project. The bill also makes the provisions applicable only to a county with at least 750,000 residents, appropriates unspecified funds, and sunsets on December 31, 2013. The Department of Land and Natural Resources (Department) comments are limited to the provisions of SECTION 7 of this measure proposes to allow for non-ceded lands to be set aside to HHFDC without approval by the Board of Land and Natural Resources (Board) as required by section 171-11, Hawaii Revised Statutes. The Department has concerns with this particular amendment.

The Board has oversight over all public lands. All dispositions of public lands are processed expeditiously as possible, with much deliberation and transparency through a public meeting process. Removing the Board's discretion and authority over the disposition of non-ceded lands seriously handicap's its ability to properly allocate and manage all of the public land resources in a manner that best serves the State's interests.

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 768-8000 • FAX: (808) 527-6743  
INTERNET: [www.honolulu.gov](http://www.honolulu.gov) • DEPT. WEB SITE: [www.honoluludpp.org](http://www.honoluludpp.org)

MUFI HANNEMANN  
MAYOR



HENRY ENG, FAICP  
DIRECTOR

DAVID K. TANOUÉ  
DEPUTY DIRECTOR

February 5, 2008

The Honorable Maile S. L. Shimabukuro, Chair  
and Members of the Committee on Human  
Services and Housing  
House of Representatives  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Shimabukuro and Members:

**Subject: House Bill 3385  
Relating to Housing**

The Department of Planning and Permitting is a strong supporter of affordable housing. However, we are **opposed to various provisions** in HB 3385 for the following reasons:

1. An "expedited processing" mandate alone does not increase the number of affordable housing projects and/or applications. There are many months of securing a financial package and other activities outside of the county land use permitting processes that remain unaddressed by this bill.
2. Although projects can only be within a county's urban growth boundary, there may be instances where development is proposed on lands zoned by the county as agricultural and preservation lands within our county's growth boundaries, and thus still ignores county growth management plans and objectives. It is important to recognize that some lands within the urban growth boundary are identified for agricultural and preservation use. Projects located in these designated areas would contradict county land use policy which we believe to be counter to the public interest.
3. Existing provisions in Chapter 201H, HRS, already allow county councils to grant planning and zoning exemptions to affordable housing projects, with appropriate review, and provide for an expedited process. It would be more appropriate to "tweak" this law. Perhaps a deadline can be placed on the submittal of comments from state agencies, which is a general concern, on all permits requiring state review.
4. While many of the qualifications for an "eligible project" are laudable, we question how they will be enforced. Qualification (1) requires rent limits, but it is unclear who monitors this requirement. What happens if the limit is exceeded? Qualification (12) requires that the project be developed and operated by a non-profit entity. What

The Honorable Maile S. L. Shimabukuro, Chair  
and Members of the Conference on Human  
Services and Housing

Re: House Bill 3385

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happens if many years later, a non-profit entity cannot be found?

Similarly, the bill allows the county to charge fees, but not unreasonable ones. How is "unreasonable" to be defined? We tend to set our fees based on our processing costs; to some, the resulting dollar figures may seem unreasonable but realistic and necessary to retain county fiscal integrity.

Also, the definition of an eligible project prescribed in HB 3385 requires the number of units in a project to be no more than allowed by applicable zoning laws. Please note that the City and County of Honolulu zoning code does not allow any dwellings in the preservation district.

5. The bill requires that no later than 90 days from the receipt of an application, the county department shall submit to the county council a recommendation of approval or disapproval of the proposed project. While a 90-day deadline is more workable than the 45-day time line proposed in the 2007 bill, we are still concerned about the deadline. If a developer has agreed to revision of the originally submitted plans, the county's clock does not stop while the applicant makes revisions. Hence, our department may be reluctant to accept an application if there are serious concerns regarding the plans.

Typically, as part of our review, we must consult with other county, state and federal agencies, as appropriate. For example, if a project is requesting access from a state highway, we need comments from the State Department of Transportation. Experience has shown that certain state agencies frequently exceed reasonable deadlines for their comments, hampering our ability to complete our analyses and submit timely recommendations to the city council.

6. We cannot accept unfunded state mandates. Therefore, we desire clarification that HB 3385 will authorize sufficient funding to reimburse the county for the cost of:
  - 1) contracted personnel to conduct expedited processing and review of applications;
  - 2) grading, building and other ministerial permits for approved projects; and
  - 3) the funding of a procedural-oversight ombudsman as required in Section 16 of the bill.

Other comments are as follows:

- The only county affected by the HB 3385 is the city and county of Honolulu. We do not see the rationale on why the other counties are exempt from this bill. The shortage of affordable rental units is not unique to Honolulu.
- This measure allows "the responsible county officer" the option of certifying "maps

The Honorable Maile S. L. Shimabukuro, Chair  
and Members of the Conference on Human  
Services and Housing

Re: House Bill 3385

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and plans as having complied with applicable laws and ordinances relating to consolidation or subdivision of land." Given that we cannot make a determination on compliance based only on preliminary maps, we will not be using this provision. Our experience under Act 15 (by-passing county subdivision processes) reminds us of the problems associated with such an action.

Therefore, we are concerned about the liability in giving the state corporation's executive director the unilateral ability to certify maps for purposes of land subdivision, especially if the director need not acknowledge nor follow the county review requirements and standards. Subsequent issues related to whether the city can accept associated infrastructure improvements will arise if the city did not review and approve final plans.

- It is not clear whether a proposed project can request exemptions from fees, or from state laws and rules pertaining to land development.
- If the county does not meet the 90-day deadline, the project can continue under state jurisdiction. In the worst case, this would add another 90 days to the overall process, for possibly a total of 270 days. By comparison, the 201H process gives the county council 45 days; and if no action is taken within this timeframe, the project is deemed approved.
- The percentage of dwelling units that must be available for rent to families whose incomes do not exceed 80 percent of county median income is still unspecified in the bill. We hope that the final figure represents a significant percentage.

Please amend or delete the provisions in House Bill 3385 that we find objectionable. If the state desires to assist the counties in doing their part in encouraging rental housing, please consider the following:

- Increase the availability of state tax credits for rental housing projects
- Create the infrastructure revolving load fund proposed under other bills. This will provide the infrastructure improvements that are needed to support infill housing projects
- Provide grants to qualified projects to cover the cost of permit processing
- The biggest supplier of affordable rental units comes from the existing housing stock, not new projects. Therefore, attention should be given to creating financial incentives to retain and rehabilitate this supply, and to discourage their demolition or conversion to for-sale units.

The Honorable Maile S. L. Shimabukuro, Chair  
and Members of the Conference on Human  
Services and Housing

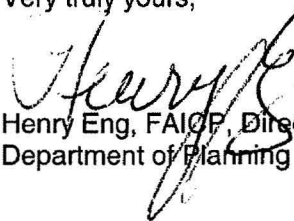
Re: House Bill 3385

February 5, 2008

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Thank you for the opportunity to comment on this bill.

Very truly yours,



Henry Eng, FAICP, Director  
Department of Planning and Permitting

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hb3385-e.doc



# Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803  
808.537.9019 hawaii.chapter@sierraclub.org

## HOUSE COMMITTEE ON HUMAN SERVICES & HOUSING

February 5<sup>th</sup>, 2008, 9:00 A.M.

(Testimony is 1 page long)

### TESTIMONY WITH CONCERNS REGARDING HB 3385

Chair Shimabukuro and members of the Committee:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, is concerned about the unintended consequences of HB 3385, exempting certain housing from necessary permitting processes. While we fully support efforts to increase the supply of affordable rental housing in Hawai'i, we object to measures that weaken the laws and processes that protect our limited land resources. Further, we feel this measure is somewhat misguided, as rarely do state land use laws and environmental disclosure laws hold up the development of affordable rental housing.

We do appreciate, however, that this measure does not exempt development from environmental statutes in HRS 195D, 205A, 174, 342B through 342H, 342L, and 342P. We believe that HRS 174C must be included in this list as well, and it would be best if each chapter were clearly iterated instead of using "through."

Overall, however, we are concerned that exempting any sort of development from environmental or planning laws may adversely affect Hawaii's environment, cultural resources, and quality of life. Exempting any development from the processes that protect our environment or safety is foolhardy at best and dangerous at worst. Don't folks who will inhabit the lower-income housing deserve the same standards of safety and planning as other individuals?

The Sierra Club believes that there are other, more effective ways of providing needed affordable housing opportunities, such as increasing the requirements on developers to provide affordable housing and increasing the conveyance tax allocation to the affordable rental housing trust fund.

Thank you for the opportunity to testify.