

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII 96813-3065 / TELEPHONE 547-7000

DONOVAN M. DELA CRUZ
COUNCILMEMBER, DISTRICT 2
CHAIR, COMMITTEE ON PUBLIC HEALTH,
SAFETY AND WELFARE
TELEPHONE: (808)768-5002
FAX: (808) 768-5035

March 13, 2008

Honorable Ken Ito, Chair
and Members
Committee on Water, Land, Ocean Resources, and Hawaiian Affairs
Hawaii State Capitol
415 S. Beretania Street
Honolulu, HI 96813

Dear Representative Ito and Members:

RE: SB 2065, SD 2 - RELATING TO LANDOWNER LIABILITY FOR
NATURAL CONDITIONS.

As Councilmember from District II – Mililani Mauka to Heeia Kea, Oahu, I am writing in opposition to SB 2065, SD 2, which removes the liability of landowners regarding natural conditions on their land that cause damage outside the land.

I believe that landowners do have a duty to exercise reasonable care regarding conditions on their land that might cause injury to those outside the premises. The current trend in Hawaii, California, and other areas throughout the country is for landowners to exercise reasonable care to mitigate both natural and artificial hazards that pose a potential risk of danger to others on or off of the property.

If the bill is passed, there will be no incentive for landowners to take advance precautions in preventing known dangerous conditions from developing on their lands. I believe public safety should always be the priority. Therefore, I humbly ask you to defer this bill.

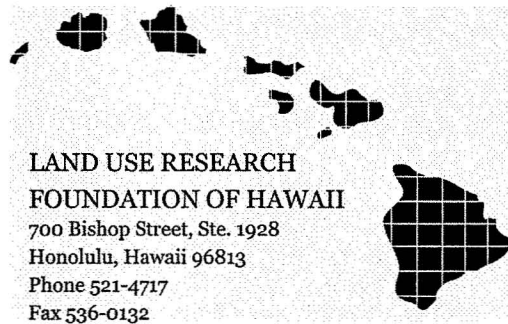
Thank you for this opportunity to submit testimony.

Sincerely,

A handwritten signature in black ink, appearing to read "Donovan M. Dela Cruz", is written over a large, stylized number "7".

Donovan M. Dela Cruz
Councilmember
District II

DMD: lky



VIA E-MAIL

March 14, 2008

The Honorable Representative Ken Ito, Chair and Members
House Committee on Water, Land, Ocean Resources &
Hawaiian Affairs
Hawaii State Capitol, Room 312
Honolulu, HI 96813

Subject: SB No. 2065, SD2 Relating to Landowner Liability for Natural Conditions

Dear Chair Ito and Members:

My name is David Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable and rational land use planning, legislation and regulation.

We appreciate the opportunity to provide our testimony **in support of S.B. No. 2065, SD2, and offer comments.**

S.B. No. 2065, SD2 proposes to amend Chapter 663 HRS by adding a new part which provides that public and private landowners of unimproved land shall not be liable for any damage, injury, or harm to persons or properties outside the boundaries of their land, caused by any naturally occurring land failure originating on the unimproved land. Unimproved land is defined as "any land upon which there is no improvement, construction of any structure, building, facility, or alteration of the land by grading, dredging, or mining that would change the basic natural condition that exists on the land."

This bill would also allow the landowners the limited reasonable use of their natural lands, without losing this protection. The bill defines "natural condition of land," as including the following: minor improvements such as the installation of maintenance or utility poles, fences and signage; or minor alterations undertaken for the preservation or prudent management of the unimproved land, such as the installation or maintenance of trails or pathways, or maintenance activities, such as forest plantings and weed, brush, rock, boulder or tree removal.

LURF supports S.B. 2065, SD2, which is intended to provide a level of protection to landowners from “acts of god” events. It would provide some legal certainty with respect to the legal duties and obligations of landowners arising from the inherent risks of land failures caused by natural conditions on unimproved lands, where the landowner has not created or increased the risk of harm by artificial improvements or alterations to the land.

Thank you for the opportunity to express our views on this matter.