

OFFICE OF INFORMATION PRACTICES

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To: House Committee on Judiciary

From: Paul T. Tsukiyama, Director

Date: March 11, 2008, 2:00 p.m.
State Capitol, Room 325

Re: Testimony on S.B. 2201, S.D. 1
Relating to Legal Requirements for Neighborhood Board Meetings

Thank you for the opportunity to submit testimony on S.B. 2201, S.D. 1.

The Office of Information Practices ("OIP") (1) proposes technical amendments to clarify the bill and prevent conflicts with other parts of the Sunshine Law, and (2) comment on the policy change this bill represents.

One technical issue throughout the bill is the use of the term "neighborhood board." Given that counties other than Honolulu may eventually reach a population of 500,000 or create small community boards, this Committee may want to use a more generally applicable term.

Currently, a board must have quorum in order to hold a "meeting" and accept testimony on agenda items. Among other things, this bill allows a neighborhood board to accept testimony on agenda items even where the neighborhood board does not have quorum and is unable to hold a "meeting" by the Sunshine Law's definition. The current version of this bill adds a proviso (page 2, lines 13-16) that when a neighborhood board hears testimony without quorum it must allow the testimony again at its next meeting. This provision is confusing, because the

000151

Sunshine Law already requires boards to accept testimony on every agenda item at every meeting. In other words, under current law a testifier has the right to give the same testimony every time a particular issue appears on the agenda, so the proviso allowing testimony to be repeated at the next meeting where an issue is on the agenda is unnecessary. In addition, although not a technical problem, OIP wants to ensure the committee is aware that the provision allowing board members to receive public testimony without having a quorum of members present would not allow those members to ask questions of testifiers or otherwise discuss the testimony presented, because the provision specifically excludes discussion from what a neighborhood board can do without a quorum.

Finally, OIP wishes to comment on how this bill would change current law. Presently, a board may hear public input on items not on the agenda, but cannot discuss those items at that same meeting (unless the items are of minor significance and may be added by vote.) The board members may be frustrated by their inability to engage substantively with members of the public about the issues they have raised, and this bill would allow them to discuss the issues at the time they are raised. On the other hand, other members of the public who might be interested in the same issue would not have prior notice that the issue would be discussed and thus would miss out on the opportunity to be part of that discussion unless they happened to be at the meeting. Although notice would be required before a decision was made, the board members' minds might be made up on the issue after the initial discussion. Under the current law, a member of the public can be confident that an issue of major significance will not be discussed at a board's meeting unless it is on the filed agenda.

With regard to the section which allows board members to attend informational briefings and presentations, board members currently may attend such briefings and presentations but are limited in their ability to discuss board

business – discrete proposals that are before the board or likely to come before the board – at those events. Neighborhood board members (as well as other board members) are sometimes frustrated by this limitation when they wish to attend, for instance, a community meeting or developer presentation regarding a project up for approval that the neighborhood board will be voting on. This bill would allow board members to participate in discussions at such events, and thus alleviate such frustrations. However, members of the public who are interested in the issue might be frustrated when they came to the neighborhood board meeting where a project was listed on the agenda, only to learn that the board members had already discussed the issue at length at a developer presentation and had, in essence, made their minds up. It should be noted that the community meetings or presentations would not have to be open to the general public; this bill would require only that the events not be organized specifically for the neighborhood board members. Thus, the neighborhood board members' increased flexibility may come at the expense of the public's access to their discussions of neighborhood board business.

Thank you for the opportunity to testify.



NEIGHBORHOOD COMMISSION

NEIGHBORHOOD COMMISSION • 530 SOUTH KING STREET ROOM 400 • HONOLULU, HAWAII, 96813
PHONE (808) 527-5749 • FAX (808) 527-5760 • INTERNET <http://www.honolulu.gov>

March 11, 2008

The Honorable Tommy Waters
Chair, House Judiciary Committee
Hawaii State Capitol, Room 302
415 South Beretania Street
Honolulu, HI 96813

Re: S.B. No. 2201, S.D. 1 Relating to Legal Requirements for Neighborhood Board Meetings

Dear Chair Waters and Committee Members:

I am the Chair of the Neighborhood Commission (Commission) and thank you for hearing this bill. The Neighborhood Commission strongly supports this bill and respectfully requests that the House Judiciary Committee pass this bill unamended.¹

The Neighborhood board system was created in 1972 by the Honolulu City Charter Commission as a means for individual citizens to be heard effectively and to provide a better sense of connectedness between citizens and our government. Neighborhood Boards provide advice to government agencies and elected officials. The changes proposed in this bill would better allow the Boards to carry out their mission.

Neighborhood Boards are subject to the sunshine law, a "one-size fits all" law. Certain provisions in the law have prevented Boards from carrying out their mission. For example under the current law, Boards cannot even receive reports from public safety officials and elected officials or discuss issues if a quorum is not present; Boards must either wait for a quorum or dismiss all attendees without hearing any reports or discussing any issues because there can be no "meeting" if a quorum is not present.

This bill authorizes public input at noticed neighborhood board meetings and discussion but not decision-making on those issues; allows two or more neighborhood board members, but less than a quorum, to attend meetings relating to board business; and clarifies neighborhood board actions on unanticipated events. All of these provisions would allow citizens to be heard by the Boards and allow Boards to provide better advice to agencies and elected officials.

We recommend that the Committee pass S.B. No. 2201, S.D. 1, unamended. Both S.B. No. 2201, S.D.1 and H.B. No. 2730, H.D. 1 are effective upon approval. There are only minor differences between S.B. No. 2201, S.D. 1 and H.B. No. 2730, H.D. 1; the differences between these bills are summarized as follows:

	S.B. No. 2201, S.D. 1	H.B. No. 2730, H.D. 1
Definition of neighborhood boards	"...[T]he provisions of this part shall apply to neighborhood boards overseen by a neighborhood commission in a county with a population of 500,000 or more." Page 1, lines 7-9	"...[T]he provisions of this part shall apply to neighborhood boards overseen by a neighborhood commission of the city and county of Honolulu, and such other neighborhood boards as may be created in other counties and overseen by a county-based commission." Page 1, lines 7-11.
Allowing additional testimony at	"A neighborhood board may receive information or testimony on a matter of	"A neighborhood board may receive information or testimony on a matter of

¹ The companion to this bill is H.B. No. 2730, H.D. 1 which was passed by this Committee and crossed over to the Senate. The bill was assigned to the Senate Committee on Intergovernmental and Military Affairs and Senate Committee on Judiciary and Labor. A hearing on this bill has not been scheduled.



000157

The Honorable Tommy Waters
March 11, 2008
Page 2

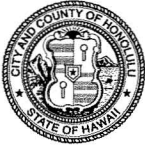
subsequent meeting	official board business without a quorum; provided that the board shall not make a decision on the issue; provided further that any information or testimony received will be permitted again at a subsequent meeting when the decision is made." Page, lines 11-16.	official board business without a quorum; provided that the board shall not make a decision on the issue." Page 2, lines 13-15.
Formatting differences	Page 3, lines 4-14	Page 3, lines 3-12.

Thank you for the opportunity to testify on this bill.

Aloha,

Grant Tanimoto

000158



DOWNTOWN NEIGHBORHOOD BOARD NO. 13

c/o NEIGHBORHOOD COMMISSION • 530 SOUTH KING STREET ROOM 400 • HONOLULU, HAWAII, 96813
PHONE (808) 527-5749 • FAX (808) 527-5760 • INTERNET: <http://www.honolulu.gov>

**Testimony of
Thomas Smyth, Chair**

**Before the
House Committee on Judiciary**

Tuesday, March 11, 2008

2:00 p.m. Room 325

On

SB 2201 SD 1 Relating to Legal Requirements for Neighborhood Boards

Chair Waters, Vice Chair Oshiro and Committee Members:

The Downtown Neighborhood Board strongly supports SB 2201 HD1, as amended, that provides very limited flexibility to Honolulu's Neighborhood Boards in regard to their ability to:

- 1. Allow their community to express concerns on non-agenda items;**
- 2. Allow presentations or testimony without a quorum present;**
- 3. Permit less than a quorum to obtain information at other meetings; and**
- 4. Take action on non-agenda items that relate to public health and safety.**

Among all state and county boards and commissions the Neighborhood Boards are unique in that such a diverse range of issues come before them. As a board chair, I do not know just what items will be on the next meeting agenda. Issues arise in the Legislature, the City Council or the State or City Administration on an almost daily basis.

In addition, members of the community, while they may seem to have perennial concerns, often come to our board with matters that are totally new to us. Thus it is appropriate that they be allowed to express their concerns at each board meeting. A board cannot be responsive if it must say: "thanks for being here; I know you are worried about that traffic situation or that crime issue, so come back next month and we will consider it..." If we can only respond in that manner, we are not doing the job we were elected to do.

Our board considers the appearance of HPD or HFD at our meetings to be the essence of civic participation and provides almost the only opportunity for the average citizen to speak directly to them. Additionally, elected officials or their representatives are at every meeting to make announcements and most importantly, to hear community concerns. No other public meeting has all those elements present at one place and at one time.

000150



We do suggest two amendments to the bill:

- 1. Page 3, lines 16 and 17 read: "...An unexpected event that occurs after *public notice* of a neighborhood meeting *has been issued*...may be the subject of discussion..." (Emphasis added). Please note that the board chair must prepare the draft agenda and send it to the Neighborhood Commission Office, nine or 10 days before the scheduled meeting, so that it can be put into final form and mailed to residents. Thus we recommend that this section be amended to read: "...An unexpected event that occurs after ~~public notice~~ the agenda of a neighborhood meeting has been ~~issued~~ prepared ...may be the subject of discussion..."**
- 2. Page 4, lines 1 and 2 relate to emergency meetings under the provisions of §92-8, HRS. Please be advised that Neighborhood Boards usually are not able to have "emergency meetings" as that section defines them, due to staff, budget and meeting place limitations. Since this new part in HRS deals only with Neighborhood Boards, we recommend that this provision be deleted so that there is no uncertainty about that situation.**

With or without these amendments, passage of this bill will finally give the 34 active Neighborhood Boards the flexibility to respond to their constituents in a timely and appropriate manner.

Thank you for the opportunity to provide this testimony.

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MILILANI/ WAIPIO/ MELEMANU NEIGHBORHOOD BOARD NO. 25

c/o NEIGHBORHOOD COMMISSION • 530 SOUTH KING STREET ROOM 400 • HONOLULU, HAWAII, 96813
PHONE (808) 527-5749 • FAX (808) 527-5760 • INTERNET: <http://www.honolulu.gov>

**Testimony of
DICK POIRIER, CHAIR
MILILANI/WAIPIO/MELEMANU
NEIGHBORHOOD BOARD NO. 25
before the
HOUSE JUDICIARY COMMITTEE
on
SB 2201, SD 1 – RELATING TO LEGAL REQUIREMENTS FOR
NEIGHBORHOOD BOARD MEETINGS
held at
2:00 p.m.
on
March 11, 2008**

Chair Waters and Members of the Committee,

On behalf of Neighborhood Board No. 25, I want to express our support for SB 2201, SD 1, which is being heard by you today.

We have spent far too much time and energy in recent years on debating process and procedures, most of which do little to enhance the public's right to know or facilitate our Board's mission to advise and recommend on public sector matters of neighborhood concern.

SB 2201, SD 1, will help in addressing the ongoing issues that have affected neighborhood boards either because of what we believe to be onerous or unnecessary provisions contained in the so-called "Sunshine Law," or by conflicting or untoward interpretations of these provisions by the Corporation Counsel and/or the State Office of Information Practices.

Thank you for the opportunity to testify.

000161





**The Chamber of
Commerce of Hawaii**

Since 1850

**TESTIMONY TO THE HOUSE COMMITTEE ON JUDICIARY
TUESDAY, MARCH 11, 2008 AT 2:00 P.M.
ROOM 325, STATE CAPITOL**

**RE: S.B. 2201 SD1 Relating to Legal Requirements for Neighborhood Board
Meetings**

Chair Waters, Vice Chair Oshiro, and Members of the Committee:

My name is Christine Camp, Chair of The Chamber of Commerce of Hawaii, Land Use and Transportation Committee.

The Chamber is the largest business organization in Hawaii, representing 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.

S.B. No. 2201, SD 1 purposes to amend Chapter 92 HRS to prescribe the procedure to be followed at certain neighborhood board meetings, such as the information that may be included in the written public notice, the information that the board may receive on a matter, and the deliberation and decision-making process.

The focus of the neighborhood board should be on creating a forum that allows for resident discussion on activities that impact their neighborhood. The focus should not be on the actions/recommendations of the neighborhood boards but on empowering the citizens to get involved to influence public policy makers (i.e. call your elected representative).

We understand that the Sunshine law creates problems for members of the neighborhood boards to attend other community meetings to participate in or gather information on activities occurring in their community. Given the fact that Neighborhood Boards are "advisory" we would support efforts to allow board members to participate in other community meetings.

We are concerned on the other two sections of the bill that would:

1. Allow for discussion on items that have not been properly noticed; and,

We are concerned that this provision tends to stray from the intent of neighborhood boards. If the issue is of significant importance that the board would like to have information presented, then it should be properly noticed so all parties are aware and have the opportunity to participate in the discussion at the same time. Using the problem of proper notice to limit discussion on a item seems a bit unfair.

Page 2

The Chamber of Commerce of Hawaii Testimony

2. Allow the Board to take action on an item, not properly noticed, that is determined to be "... urgently necessary for public health, welfare, and safety."

We are puzzled as to understand what actions the Board, as an advisory body, would take to address these situations. We believe the authority to address a public health, welfare or safety issue does not rest with the Neighborhood Boards.

Thank you for this opportunity to express our views.

000163

Honorable Representative Tommy Waters,
Committee on Judiciary, Chair

Honorable Representative Blake K. Oshiro,
Committee on Judiciary, Vice Chair

RE: SB 2201, SD1 (SSCR2665) – relating to Legal Requirements
for Neighborhood Board Meetings – **STRONGLY IN FAVOR**

Good Afternoon Chair Waters, Vice Chair Oshiro and Members of the Judiciary Committee:

I am Daisy Murai, a resident of Kapahulu and a member of the Kapahulu Community. I am not a Neighborhood Board member, but attend several Neighborhood Board meetings in my own area of Kapahulu and surrounding areas, such as Waikiki, McCully-Moiliili, sometimes Ala Moana/Kakaako, Kaimuki and Manoa too. The agenda for Neighborhood Boards must be done early to meet the Mailing Deadline due to Sunshine Law requirements and there are times, when important issues that will impact the Community greatly are too late to place on the agenda – or even send informational materials for distribution in an urgent and timely manner.

Representatives, I am sure, when you attend Neighborhood Board meetings in your own districts, there are times when you too have experienced urgent and pressing matters affecting the neighborhood, but the matter is too late to place on that month's agenda for discussion. The best that can be done is report it as a Citizen or Resident concern or during reports from the Elected Official segment on the agenda, but time is of the essence and both sides of the issue cannot be brought up for a detailed discussion. There are also times, such as Liquor Commission or Land Board public hearings matters, which need to be reported at the Neighborhood Board and any opposition, concerns or problems by the Community must also be heard. It is sometimes to the advantage to the applicant to announce the date of public hearing in the month such as December, when most Boards take a recess. The Honolulu Liquor Commission Office or the State Land Board will have heard no protests, concerns or problems from the Community, as no Neighborhood Board Public Meeting was held. This is a false and mis-leading Statement to the Liquor Commission or any other Government Agency that will make a decision on the application.

This is the reason why I urge passing of SB 2201 SD1, (SSCR2665). I would rather have had the opportunity to find out and express my concerns on important information and impact of Massive Development projects in my own area at the Neighborhood Board meetings or at other public hearings than to find out after the project is completed and be greatly impacted by the project. I am grateful that Safeway Supercenter Complex was discussed at my Kapahulu Neighborhood Board and at several Community meetings prior to being built, rather than face the problems of speeding cars going down on Residential Olu Street and traffic congestion - as Kapahulu Avenue is the Main Arterial to UH Manoa, HI Freeway and Waikiki, rather than after the project was completed and be stuck in traffic.

Thank you for the opportunity to speak.

Daisy Murai
[REDACTED]
Honolulu, HI 96815
March 10, 2008

requesting 5 copies for distribution
Fax: 586-9456
Date: March 11, 2008 (Tuesday)
Time: 2:00 pm
Place: Conference Room 325

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JUDtestimony

From: Kathleen Pahinui [REDACTED]
Sent: Sunday, March 09, 2008 5:52 PM
To: JUDtestimony
Subject: Testimony in Support of SB 2201, SD1 RELATING TO LEGAL REQUIREMENTS FOR NEIGHBORHOOD BOARD MEETINGS.

HOUSE OF REPRESENTATIVES
THE TWENTY-FOURTH LEGISLATURE
REGULAR SESSION OF 2008

COMMITTEE ON JUDICIARY
Rep. Tommy Waters, Chair
Rep. Blake K. Oshiro, Vice Chair
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Rep. Josh Green, M.D.
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Rep. Barbara C. Marumoto
Rep. Hermina M. Morita
Rep. Kymberly Marcos Pine
Rep. Alex M. Sonson
Rep. Cynthia Thielen

NOTICE OF HEARING
DATE: Tuesday, March 11, 2008
TIME: 2:00pm
PLACE: Conference Room 325

State Capitol
415 South Beretania Street

SB 2201, SD1
(SSCR2665)

Status

RELATING TO LEGAL REQUIREMENTS FOR NEIGHBORHOOD BOARD MEETINGS.

Prescribes the procedure to be followed at certain neighborhood board meetings, such as the information that may be included in the written public notice, the information that the board may receive on a matter, and the deliberation and decision-making process. (SB2201 SD1)

Aloha Chair Waters and Committee Members -

As a former Neighborhood Board member and Chair of the City and County's Task Force on Neighborhood Boards, one of the issues that continually comes up for boards is that they are prevented by the current Sunshine Laws from attending any community meetings if more than 2

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3/10/2008

board members want to attend. This can seriously impact a board member's ability to be well informed on issues that affect their communities.

To give an example – there are 4 members representing the Sunset Beach area on the North Shore Neighborhood Board. If an issue regarding this area comes before the Sunset Beach Community Association, then only two of the Board members would be allowed to attend the SBCA meeting.

This leaves the other two members unable to hear first hand, information and comments that could affect their understanding of the situation. The Neighborhood Boards make every effort to make sure issues are properly vetted but not everyone comes to Board meetings – not being able to hear community input at a separate meeting could affect the issue at hand.

I can tell you from personal experience, that we never discussed final decisions or made decisions outside of appropriate channels. All we wanted to do was to make sure we were well informed and had listened to our constituency.

This bill will allow board members to be more effective representatives of their communities. Please support this measure.

Mahalo for your time and consideration,

Kathleen M. Pahinui
Waialua Resident

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