

LATE TESTIMONY



Via Capitol Website

February 23, 2009

**House Committee on Water Land & Ocean Resources
Hearing Date: February 23, 2009, at 9:30 AM in CR 325**

**Comments regarding HB520: Relating to Buildings
(Photos of Historic Structures)**

Honorable Chair Ken Ito, Vice-Chair Sharon E. Har,
and Water, Land & Ocean Resources Committee Members:

My name is Dave 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, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF has the following comments regarding HB 520, which repeals the amendments made by Act 228, Session Laws of Hawaii 2008, which require the taking of photographs of actual or potential historic buildings and any building over 50 years old, before demolition, construction, or alteration of the building.

LURF's Position. We understand and sympathize with the purpose of HB 520, however, our first objective would be to work with the legislature to revise the provisions of Act 228 to solve the unintended negative consequences of Act 228. If, however, the legislature cannot agree on such revisions to Act 228, then LURF supports Act 520, and the repeal of Act 228.

Background. The 2008 amendments made in Act 228, require the taking of archival quality photographs of actual or potential historic buildings and any building older than 50 years old, before demolition, construction, or other alteration of the buildings. The requirements of Act 228 have placed an onerous and expensive burden on persons who desire to demolish, renovate, or alter buildings over 50 years old. In many instances, the buildings, although old, have no historic significance. The original intent of Act 228 was to obtain photographs of building eligible for listing on the Hawaii or National Register of Historic Places. When it became law, there was much confusion because Act 228 was

interpreted to apply to ALL buildings fifty years or older. A number of unintended consequences resulted from Act 228, including, but not limited to, the following:

- While certain buildings may be considered as eligible for listing on the Hawaii or National Register of Historic Places at 50 years of age, not every building over fifty years of age is eligible for listing on the State or National Register.
- The requirements of Act 228 was applied to ALL structures over fifty years old (including standard subdivision tract homes) and reviews were extended to any type of excavation taking place, especially areas including jaucus sands. Prior to Act 228, this was not the usual practice relating to building permits, where the only properties that were affected were those that were considered historic property (i.e. on the Federal or State Register of Historic Places).
- Act 228 has resulted in financial burdens and permit delays for owners of buildings over fifty years of age, which could never qualify to be listed on the Hawaii or Federal Register of Historic Places; and
- In some cases, the buildings may not have historic significance and/or may be deteriorated to such a degree that it may not warrant the expense of the archival-quality documentation necessary under this bill to receive a permit seeking to improve the condition of the structure.

LURF's proposed revisions in Act 228. LURF would respectfully request that the following changes be made to Act 228:

- The photograph requirement should be limited to buildings which are scheduled for demolition or major alteration, and which are already listed on the State or Federal Historic Registers, and those buildings which have been nominated to those registers;
- Allow the required photographs to be submitted to the Department of Land and Natural Resources (DLNR) in any format, including electronic;
- Allow for a shorter review time by DLNR, by requiring DLNR to provide their response to the request within thirty days for review of the photos of commercial structures and fifteen days for review of photos of residential single family dwellings, instead of the ninety days called for in Act 228 (2008);
- Allows DLNR to convene a task force that could spearhead a listing of historic buildings or structures, and those being nominated to State and Federal Registers of Historic Places, which would be subject to the photo requirement.

If, however, the legislature cannot agree on the above revisions to Act 228, then LURF supports Bill 520, and the repeal of Act 228.

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



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January 21, 2009

LATE TESTIMONY

The Honorable Ken Ito, Chair
House Committee on Water, Land, & Ocean Resources
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: H.B. 520 Relating to Buildings

HEARING DATE: Monday, February 23, 2009 at 9:30 a.m.

Dear Chair Ito, Vice Chair Har, and Members of the Committee:

I am Myoung Oh, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR") and its 9,600 members in Hawai'i. HAR supports H.B. 520, which repeals Act 228, Session Laws of Hawaii 2008 ("Act 228"). Act 228 requires the taking of photographs of actual or potential historic buildings before demolition, construction, or alteration of the buildings.

HAR's believes that the burdensome permit requirements placed on homeowners, businesses, and industries under Act 228 need to be addressed as soon as possible. Accordingly, HAR supports the repeal of the Act to provide immediate relief to those who have been adversely impacted. HAR also supports continued discussions, to advance effective and workable legislation.

HAR looks forward to working with our state lawmakers in building better communities by supporting quality growth, seeking sustainable economies and housing opportunities, embracing the cultural and environmental qualities we cherish, and protecting the rights of property owners.

Mahalo for the opportunity to testify.