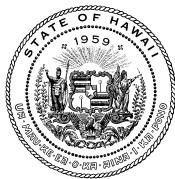


SB100



**EXECUTIVE CHAMBERS**  
HONOLULU

LINDA LINGLE  
GOVERNOR

Testimony of  
**Linda L. Smith**  
Senior Policy Advisor to Governor Lingle  
Chairperson, Affordable Housing Regulatory Barriers Task Force

Before the  
**SENATE COMMITTEE ON EDUCATION AND HOUSING**  
Wednesday, February 4, 2009, 1:15 p.m.  
Room 225, State Capitol

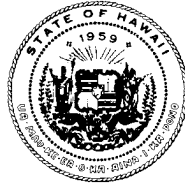
In consideration of  
**S.B. 100 RELATING TO HOUSING**

Chair Sakamoto, Vice Chair Kidani, and members of the Committee, thank you for the opportunity to provide testify in **opposition** to Senate Bill 100, Relating to Housing. This bill doubles the number of days that a county legislative body is allowed to act on an affordable housing project by extending the timeframe from 45 to 90 days.

Currently, county legislative bodies are allowed 45 days to act on an affordable housing project or permit application. This timeframe is condensed in recognition of the statewide need to develop more affordable housing units. The current 45 day timeframe serves as an expedited track that gives priority to affordable housing project and permit applications. Senate Bill 100 is counter productive to the purpose of the expedited review process and will delay affordable housing development.

The Administration recognizes that the intent of S.B. 100 may be to give the counties adequate time to complete a quality application or permit review; however, this will cause a delay in construction increasing the cost of building affordable homes.

The Administration strongly recommends that the Committee hold Senate Bill 100 in order to prevent delays in affordable housing development. Thank you for the opportunity to provide testimony in opposition to this bill.



**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  
**Karen Seddon**  
Hawaii Housing Finance and Development Corporation  
Before the

**SENATE COMMITTEE ON EDUCATION AND HOUSING**

February 4, 2009 1:15 p.m.  
Room 225, State Capitol

In consideration of  
**S.B. 100**  
**RELATING TO HOUSING.**

The Hawaii Housing Finance and Development Corporation (HHFDC) strongly opposes S.B. 100. Lengthening the county approval period for affordable housing projects from 45 to 90 days increases the cost of housing and is a disincentive to private developers who are considering building affordable housing at a time in which such housing is in short supply. We suggest that the bill be amended so that the county and land use approval processes revert to the process that was in place prior to 2006.

Act 217, Session Laws of Hawaii 2006, made a number of statutory amendments to implement the recommendations made by the Joint Legislative Housing and Homeless Task Force. Section 201G-118 (now, 201H-38), HRS was amended by authorizing the county legislative body and land use commission to approve housing projects with modifications. Prior to that (i.e., since the passage of Act 105 in 1970), the housing project is either approved or disapproved.

Applications for affordable housing projects to be processed under Chapter 201H are reviewed by all appropriate state and county agencies including, but not limited to, planning, public works, transportation, water, fire, parks, historic preservation, health, environmental, and education. The HHFDC also requires that the developer conduct at least one public meeting to solicit community input on the proposed project. Additionally, most 201H projects require an environmental assessment and are subject to further review. The housing developer usually modifies the proposed project to address the concerns raised by the state or county agencies or the general public.

After the affordable housing project has been reviewed by the state and county agencies and upon completion of the environmental assessment, a formal application is then transmitted to the county council. This is when the 45-day clock starts.

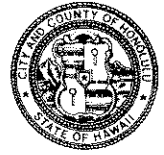
We suggest that the bill be amended to delete the “approve with modification” provisions at both the county legislative body and land use commission levels. By reverting to the pre-2006 language, an affordable housing project would be approved or disapproved within 45 days and the burden placed upon the county council or land use commission to modify a project within that timeframe would be eliminated.

Thank you for the opportunity to testify.



# Hawaii State Association of Counties

Counties of Kaua'i, Maui, Hawai'i and City and County of Honolulu



February 3, 2009

Committee on Education and Housing  
The Senate  
State of Hawaii

Testimony of  
**Nestor Garcia, President, Hawaii State Association of Counties**  
Senate Bill 100  
Regular Session 2009

Chair Sakamoto and members of the Senate Education and Housing Committee:

Thank for you this opportunity to offer comments in support of SB 100.

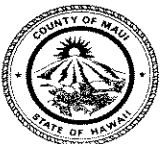
Section 201H-38, Hawaii Revised Statutes, enables counties to evaluate and approve, approve with modifications, or disapprove affordable housing projects within a 45-day window.

As we have found throughout the four counties, this amount of time is inadequate for a responsible review. Much of the time that should be spent evaluating a project is consumed by the notice requirements under Chapter 92, HRS, with regard to the scheduling of committee and council meetings.

We firmly believe that extending the 45-day period to 90 days will result in projects that are better suited to each county's respective needs and provide ample opportunity for the nearby communities to weigh in. Compared with other, non-affordable housing projects under county review, the 90-day window would still represent an expedited process.

Thank you for this opportunity to provide testimony.

Nestor Garcia, President  
Hawaii State Association of Counties  
Member, Honolulu City Council  
District 9 – Makakilo, Mililani, Waipahu



DEPARTMENT OF COMMUNITY SERVICES  
CITY AND COUNTY OF HONOLULU

715 SOUTH KING STREET, SUITE 311 • HONOLULU, HAWAII 96813 • AREA CODE 808 • PHONE: 768-7762 • FAX: 768-7792



MUFI HANNEMANN  
MAYOR

DEBORAH KIM MORIKAWA  
DIRECTOR

ERNEST Y. MARTIN  
DEPUTY DIRECTOR

February 2, 2009

The Honorable Norman Sakamoto, Chair  
and Members of the Committee on  
Education and Housing  
The Senate  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Sakamoto and Members:

Subject: Senate Bill 100  
Relating to Housing

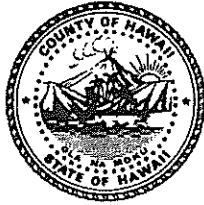
The Department of Community Services opposes Senate Bill 100's proposed amendment of Section 201H-38, Hawaii Revised Statutes, to extend the time period in which a county council must approve or disapprove an affordable housing project requesting exemptions from various development standards. The City and County of Honolulu has processed numerous projects seeking exemptions and the 45-day timeframe has provided adequate review time. After numerous task forces have studied the permitting processes delaying affordable housing development, this bill sends the wrong message and runs contrary to legislative efforts to facilitate and expedite the development of affordable housing. Please **hold** Senate Bill 100.

Sincerely,

  
Deborah Kim Morikawa, Director  
Department of Community Services

DKM:gk  
sb100

William P. Kenoi  
*Mayor*



Stephen J. Arnett  
*Housing  
Administrator*

**County of Hawaii  
OFFICE OF HOUSING AND  
COMMUNITY DEVELOPMENT**

50 Wailuku Drive • Hilo, Hawai'i 96720-2484  
V/TT (808) 961-8379 • FAX (808) 961-8685

February 3, 2009

The Honorable Norman Sakamoto, Chair  
The Honorable Michelle Kidani, Vice Chair  
and Committee Members  
Committee on Education and Housing

Twenty-Fifth Legislature  
Regular Session of 2009


**SUBJECT: Senate Bill 100**  
**Hearing Date: 02-04-09**  
**Time: 1:15 PM**  
**Conference Room: 225**

The Office of Housing and Community Development (OHCD) **opposes** Senate Bill 100.

The OHCD has concerns about lengthening the government review period (in excess of 45 days) for housing projects that are eligible for regulatory exemptions under Hawai'i Revised Statutes (HRS) 201H-38. A longer review period would defeat the purpose of the original law – expediting affordable housing projects through the regulatory process.

Increased time for review, more often than not, results in increased costs to the developer, and causes a ripple effect to the intended occupants.

Thank you for your careful consideration of the negative impacts of this bill.

  
Stephen J. Arnett  
Housing Administrator



EQUAL HOUSING OPPORTUNITY  
\*HAWAII COUNTY IS AN EQUAL OPPORTUNITY  
PROVIDER AND EMPLOYER\*

**Bernard P. Carvalho, Jr.**  
Mayor

**Gary K. Heu**  
Administrative Assistant



**KAUAI COUNTY HOUSING AGENCY**  
Pi'ikoi Building 4444 Rice Street Suite 330  
Lihue Hawaii 96766

**Eugene K. Jimenez**  
Housing Director

**Kenneth N. Rainforth**  
Executive Assistant

February 3, 2009

Senator Norman Sakamoto, Chair  
Senator Michelle Kidani, Vice Chair  
And Committee Members  
Committee on Education and Housing  
The Senate  
The Twenty-Fifth Legislature  
Regular Session of 2009

**SUBJECT: Testimony Supporting Senate Bill 100, Relating to Housing**  
**Committee: EDH**  
**Hearing: February 4, 2009 1:15 PM Conference Room 225**

The Kaua'i County Housing Agency (KCHA) supports SB100 with the following comments:

1. Previously, KCHA has expressed support to maintain the 45-day limit of time for action by the county legislative body on applications for affordable housing projects proposed pursuant to HRS 201H.
2. We believe that the magnitude of future 201H projects proposed on Kaua'i may be larger than past applications processed before the County Council.
3. We believe that a maximum of 90 days would be reasonable and adequate for Council to conduct due diligence and to take action on 201H applications, without adversely affecting affordable housing projects.

Thank you for the opportunity to provide testimony.

Sincerely,

A handwritten signature in black ink that reads "Eugene K. Jimenez".

**EUGENE K. JIMENEZ**  
Housing Director

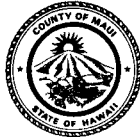




Council Chair  
Danny A. Mateo

Vice-Chair  
Michael J. Molina

Council Members  
Gladys C. Baisa  
Jo Anne Johnson  
Sol P. Kaho'ohalahala  
Bill Kauakea Medeiros  
Wayne K. Nishiki  
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](http://www.mauicounty.gov/council)

February 3, 2009

TO: Honorable Norman Sakamoto, Chair  
Senate Committee on Education and Housing

FROM: Joseph Pontanilla, Treasurer   
Hawaii State Association of Counties

SUBJECT: **HEARING OF FEBRUARY 4, 2009; TESTIMONY IN SUPPORT OF SB 100,  
RELATING TO HOUSING**

Thank you for the opportunity to testify in support of this important measure. The purpose of this measure is to allow a county legislative body 90 days to approve, approve with modifications, or disapprove an affordable housing project under Section 201H, Hawaii Revised Statutes, instead of the current 45 days.

I am aware that the President of the Hawaii State Association of Counties (HSAC) has submitted testimony, on behalf of HSAC, in support of this measure, which is in the HSAC Legislative Package. As the Treasurer of HSAC, I concur with the testimony submitted by the HSAC President, and urge you to support this measure.

ocs:proj:legis:09legis:09testimony: sb100\_paf09-025a\_ghr



February 3, 2009

Senator Norman Sakamoto, Chair  
Senate Committee on Education and Housing  
State Capitol, Room 230  
Honolulu, Hawaii 96813

Subject: S.B. No. 100; Hearing February 4, 2009; Testimony in Opposition

Dear Senator Sakamoto and Members of the Senate Committee on Education and Housing:

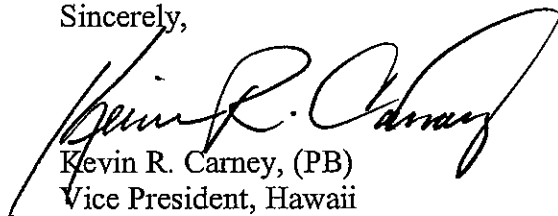
EAH Housing opposes S.B. No. 100 and any other initiative that would lengthen the approval process for affordable housing developments. EAH Housing is a non-profit public benefit corporation dedicated to developing, managing, promoting and preserving affordable rental housing. EAH in its 41 year history has never sold a property, and is dedicated to permanently affordable and high quality housing.

The State of Hawaii needs to be thinking of ways to hasten the development of affordable rental housing and of ways to reduce costs and create incentives to developers. S.B. No. 100 does exactly the opposite.

We understand that HHFDC is proposing an amendment that would delete the "approve with modification" provisions at both review levels that would provide for an affordable housing development to be approved or disapproved within 45 days. We support HHFDC's proposal.

Thank you for this opportunity to submit our thoughts.

Sincerely,



Kevin R. Carney, (PB)  
Vice President, Hawaii



LEAGUE OF  
WOMEN VOTERS  
OF HAWAII

49 SOUTH HOTEL STREET, ROOM 314 HONOLULU, HAWAII 96813 PHONE (808) 531-7448

February 3, 2009

Honorable Norman Sakamoto  
Chair, Committee on Education and Housing  
Room 230  
State Capitol

Re: Senate Bill 100

Dear Senator Sakamoto and Members of the Committee:

Re: Senate Bill 100

Since money is so scarce this year, relief from regulatory regimes that add to the cost of housing is high on our agenda this session. This bill is contrary to that policy. It would actually extend the time allowed for review by county officials for proposed affordable housing projects. We assume this is being proposed because the counties are short of staff and do not want to hire additional people. But anything that makes the production of housing even more difficult than it already is, will be counter-productive to the state and counties' other adopted policies of supporting affordable shelter.

We urge you to table this bill and concentrate on removing regulatory barriers rather than adding to them.

Thank you for this opportunity to testify.

Jacqueline Parnell, President  
League of Women Voters of Hawaii



**Housing Hawaii**  
Advocating Creating Maintaining Affordable Housing

**Board of Directors**

**President**

Kevin Carney, EAH  
Housing

**Vice-President**

Rene Berthiaume,  
TransPacific Housing  
Development  
Corporation

**Secretary** – Denise

Boswell, Rural  
Community  
Assistance  
Corporation

**Treasurer** - Chuck

Wathen, Wathen and  
Associates, Ltd.

**Director** - Kyle

Chock, The Pacific  
Resource Partnership

**Director** - Ralph

Mesick, Bank of  
Hawaii

**Director** - Laree

Purdy, Abigail  
Affordable Housing  
and Facilitated Home  
Ownership

**Director** – Gregg

Robertson, Robertson  
& Company, LLC

**Director** – Brian

Takahashi, Architects  
Hawaii

**Director** – Kirk

Caldwell, City and  
County of Honolulu

**Director** – Kamaile

Sombelon, Lokahi  
Pacific

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**Executive Director**

Nani Medeiros

February 4, 2009

The Honorable Norman Sakamoto, Chair  
House Committee on Education and Housing  
Hawaii State Capitol, Room 230  
Honolulu, HI 96813

Dear Chair Sakamoto and Members:

**RE: SB 100, RELATING TO HOUSING**

I am Nani Medeiros, Executive Director of Housing Hawaii, testifying in opposition to Senate Bill 100, Relating to Housing. This bill extends the amount of time a county council has to approve, approve with modification, or disapprove an affordable housing project application.

Hawaii is one the most highly regulated states in the nation. According to a recent Wharton study we are the most regulated state in terms of land use regulations. According to a worldwide Demographia study, we are the fourth most regulated in the world. In order to decrease the cost of housing in Hawaii, and shorten the length of time it takes to develop and construct a home in Hawaii, we must reduce regulatory processes, not increase them.

Affordable housing projects, along with other housing project applications to the county, go through a lengthy administrative review process before a project is placed before the county council for approval. Allowing the county council to have 45 days to approve, approve with modification, or disapprove a project application already presents uncertainty for a developer. Please do not make an already challenging process worse. If county councils are having difficulty scheduling an application for hearing then perhaps other processes can be evaluated and expedited to address that challenge.

We ask that you hold this bill. Thank you for the opportunity to testify.

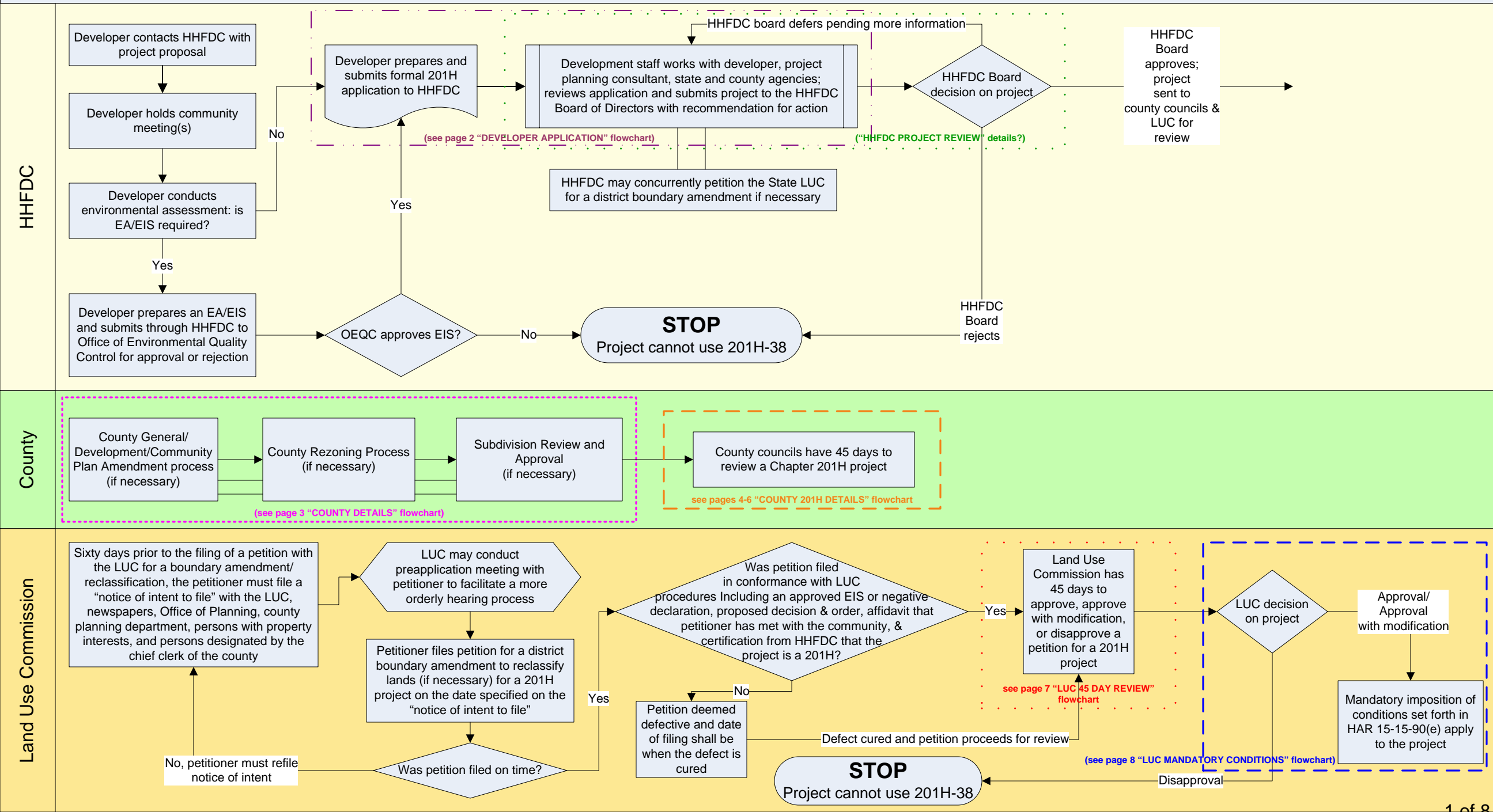
Nani Medeiros  
Executive Director

*Housing Hawaii, 841 Bishop Street, Suite 2208, Honolulu, HI 96813*

*Phone: 808-469-7774*

*Email: [housinghawaii@hawaii.rr.com](mailto:housinghawaii@hawaii.rr.com)*

*[www.housinghawaii.org](http://www.housinghawaii.org)*



# DEVELOPER APPLICATION – ELIGIBLE DEVELOPER, INFORMATION REQUIRED, PROJECT PROPOSAL REQUIREMENTS

Developer submits a 201H application and other information to the HHFDC so that the Corporation may determine if the applicant is an eligible developer

**Applicant must submit:** contact information, proof of business status including articles of incorporation, partnership copies, joint venture agreements, or proprietorship copies; a resume of housing development experience; communications contact person; evidence of legal authority to incur obligations and sign and deliver documents necessary to finance, develop, and construct housing projects; a certificate of good standing from DCCA; tax clearance from DoTAX; evidence of capability to develop, own, manage, and provide services in connection with housing; evidence of applicant's credit worthiness including: three years' fiscal year end financial statements and tax returns, three years' fiscal year end financial statements or tax returns of any businesses the applicant is affiliated with, interim balance sheets and income statements of the borrowing entity if fiscal data is more than nine months old, tax returns if the borrower or guarantor is an individual, documents to support corporate actions, and other documents determined by the Corporation; proof of applicant's ties to the community and support from local community groups, descriptions of all housing projects owned or operated by the applicant, description of any financial default, modification of terms of financing, or legal action taken or pending against the applicant or its principals, description of past or current business experiences other than housing that demonstrate applicant's management capabilities, evidence of the ability to secure financing and the ability to complete the housing project, statement of any involvement with HHFDC or HPHA and any assistance previously received, a project proposal, and any other information requested by the HHFDC.

**Developers submit to the HHFDC a project proposal that contains, at a minimum:**

Contact information, evidence that the developer is an "eligible developer," a master plan of the proposed project which shows: evidence of site control, contact information for all holders of interest in the land and descriptions of each holder's interest, descriptions of the land and surrounding areas as well as improvements on the land, number of proposed dwelling units within the project and total area of the project, comprehensive site plan showing general development of the site including buildings, parking, service areas, and proposed and existing streets and drainage facilities, methods of waste disposal, water sources, and utilities, description of land contours, identification and description of historical or significant landmarks or natural features within and adjacent to the proposed project, description of existing improvements within and adjacent to proposed project as well as off-site and on-site infrastructure and improvements requirements, proposed and existing uses of each phase of the proposed project, and existing uses of lots adjacent to the proposed project for parks and public places etc., and shoreline setbacks; preliminary plans and specifications for housing units and other improvements in the project, number of proposed housing units, number of stories, number of units by size, special features, natural conservation devices, energy efficient designs utilized, description of indigenous plants for landscaping, proposed sales prices and rental rates for the units, proposed financing information including: manner of financing for all phases of the project, sources of repayment of the financing, start up expenses and the sources of funds to meet these expenses, net equity contributed by the developer, and budgets and cashflow requirements, development timetable, market analysis, sales marketing program, other activities to successfully complete the project, description of how the proposed project addresses the housing needs of lower income families, description of the land as to present use, soil classification, agricultural importance, flood, and drainage conditions, an assessment of the effects of the development of the proposed project on the environment, agriculture, recreational, cultural, historic, scenic, flora, and fauna, or other resources of the area, the availability and adequacy of public services and facilities such as schools, sewers, parks, water, sanitation, drainage, roads, police and fire protection and whether the development of the proposed project unreasonably burdens such services, comments from the community and community groups, accommodations for any displaced persons that result from the development, applicable provisions of existing state and county plans, zoning and land use requirements, and differences from the plans, zoning, or land use classification and the reasons for such differences, identify specific exemption requests allowed under Chapter 201H, any other information the Corporation requests to determine project eligibility.

No -  
Require developer to make revisions  
or submit additional information

HHFDC development staff reviews  
application for minimum  
requirements, completion, and EIS  
completion

Is application  
complete?

Executive Director reviews  
application and presents  
project proposal to HHFDC  
Board of Directors for action

HHFDC

# COUNTY DETAILS



County

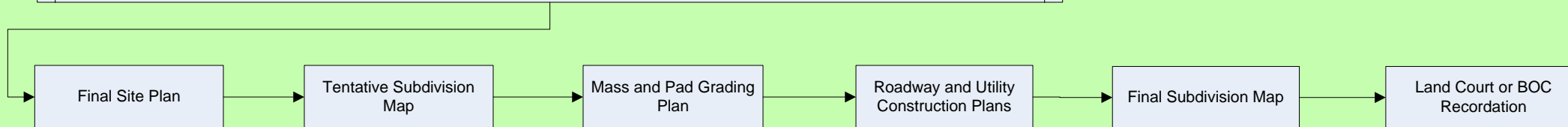
## County General/Development/Community Plan Amendment:



## County Rezoning Process:

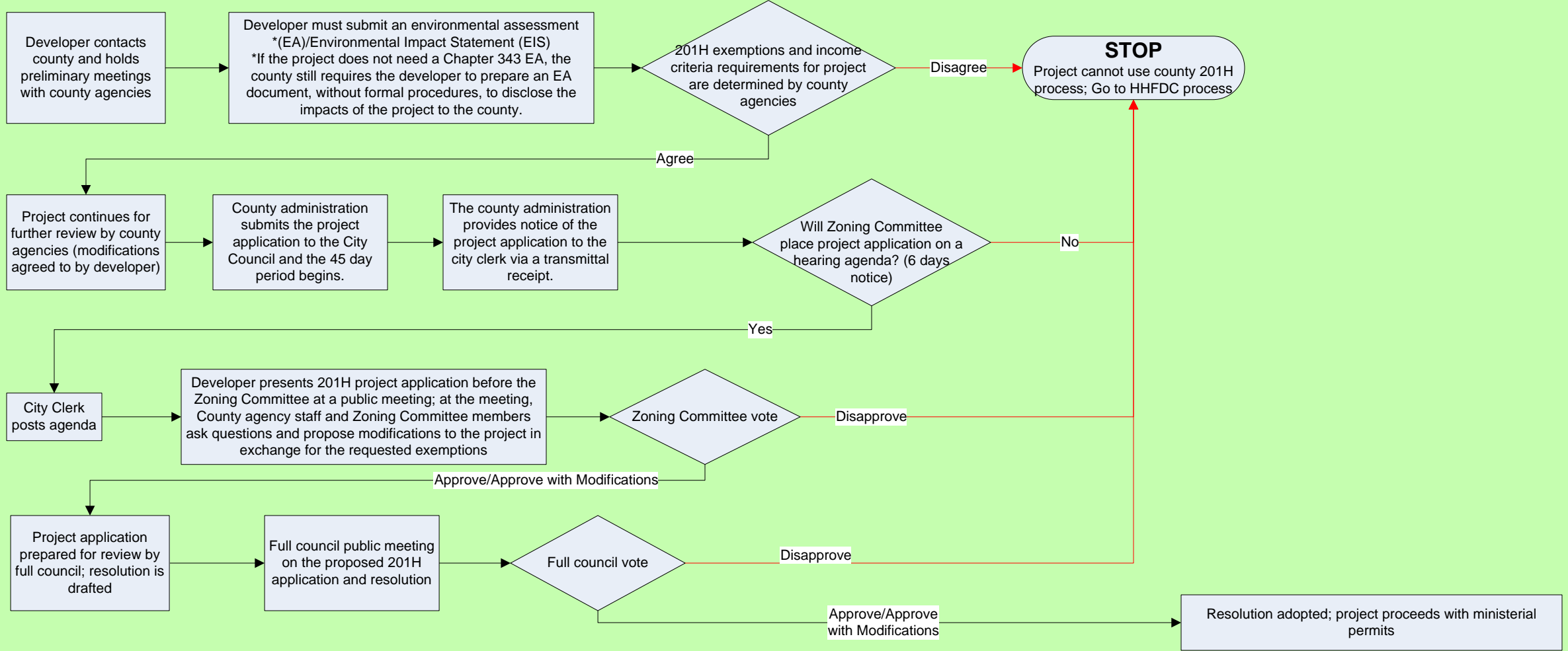


## County Subdivision Review and Approval:

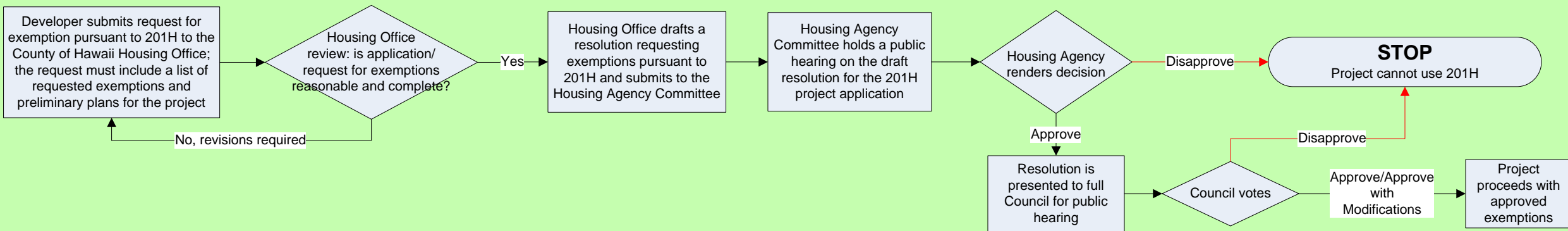


# COUNTY 201H DETAILS

City and County of Honolulu



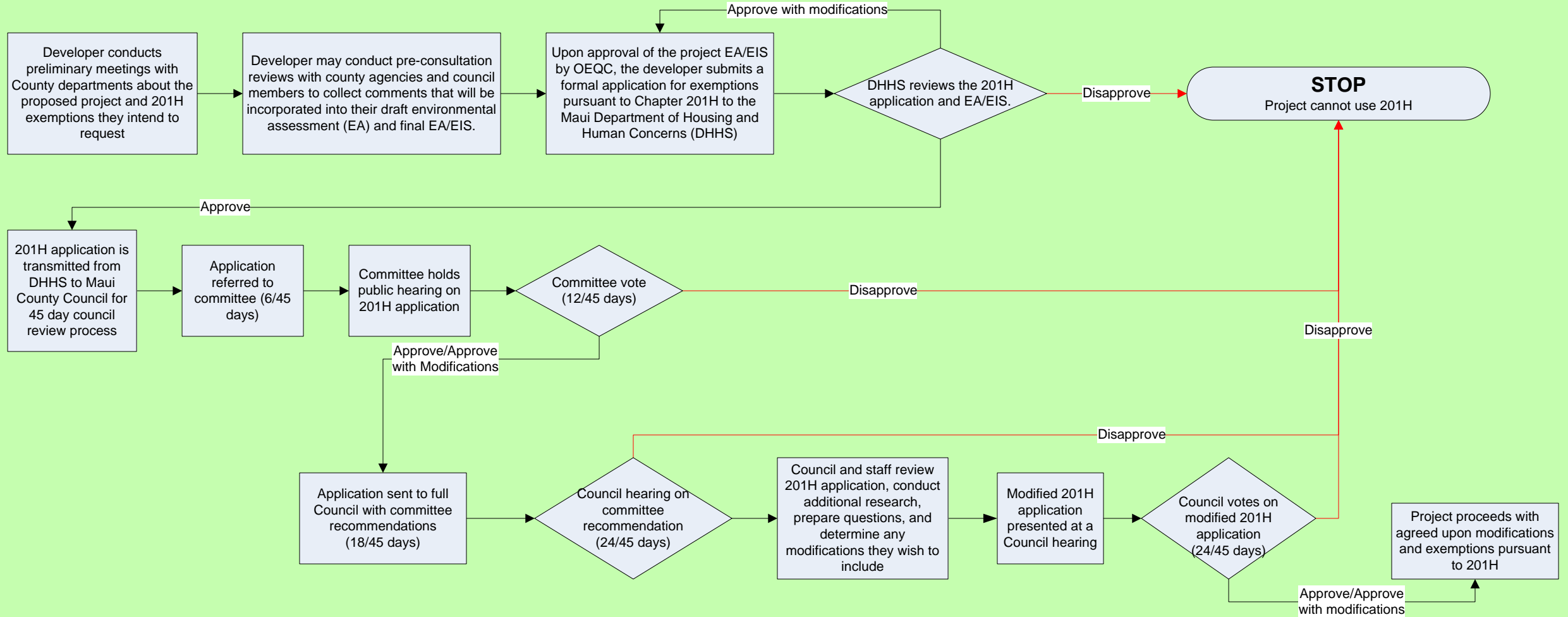
Hawaii County





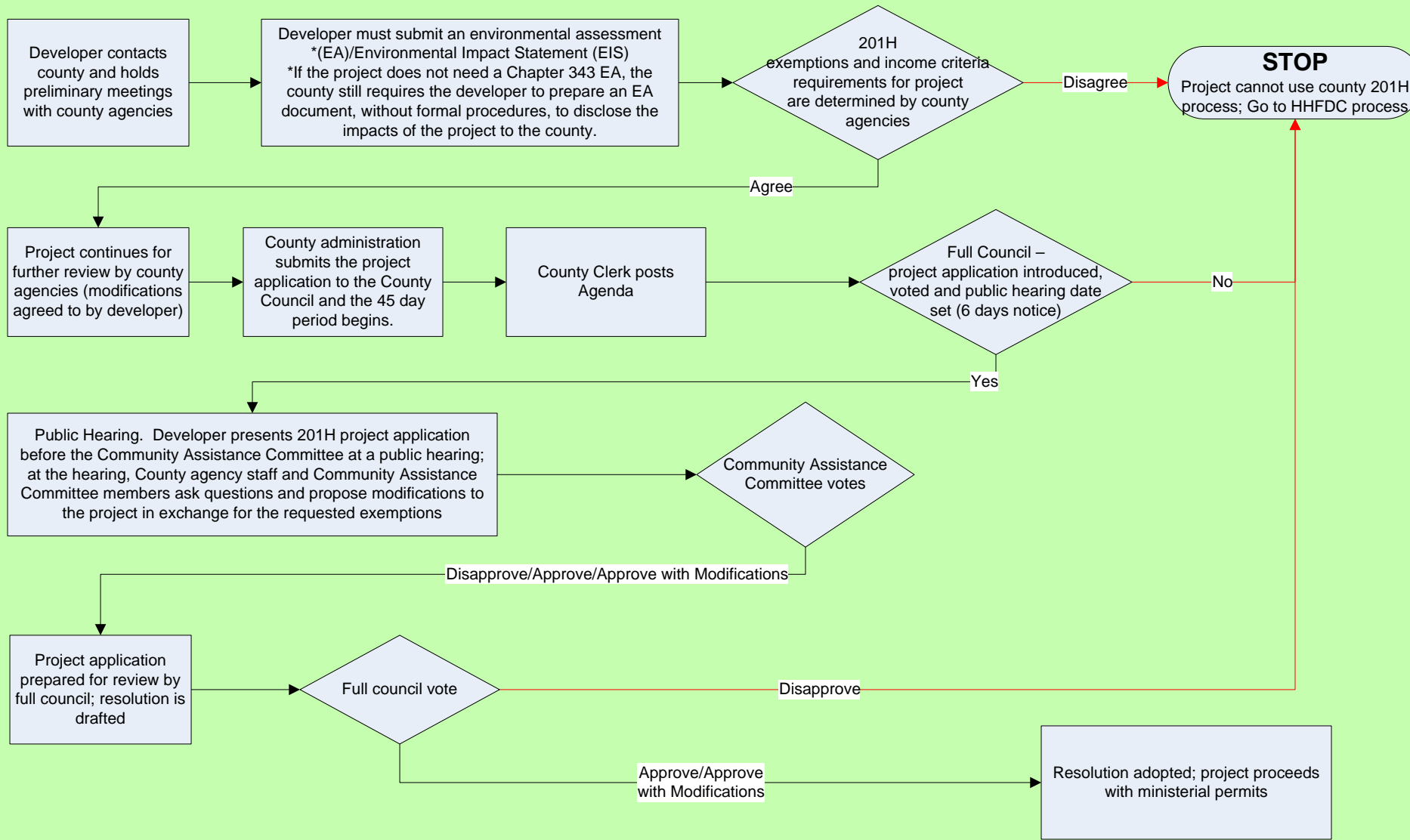
# COUNTY 201H DETAILS

Maui County



# COUNTY 201H DETAILS

Kauai County



Land Use Commission

# LUC MANDATORY CONDITIONS IMPOSED ON APPROVED 201H PROJECTS

If a 201H project is approved or approved with modification by the LUC on the 46<sup>th</sup> day, the following mandatory conditions apply to the project:

1. Petitioner must develop the reclassified area in substantial compliance with the representations made to the commission; failure to do so may result in a reversal of the decision or reclassification of the land
2. Petitioner is required to provide notice to the commission of any intent to sell, lease, assign, pace in trust or otherwise voluntarily alter the ownership interests in the reclassified area prior to development of the area
3. Petitioner must provide annual reports to the commission updating the status of the project
4. Petitioner must record with Bureau of Conveyances a statement of the required conditions imposed by the LUC and provide a copy of the recorded statement to the commission
5. Petitioner must provide affordable housing opportunities for low, low-moderate, and moderate income residents to the satisfaction of the county in which the reclassified land is located
6. If proposed use of land includes residential, the petitioner shall contribute to the development, funding, and construction of public school facilities as determined by the DOE
7. Petitioner shall participate in funding and construction of adequate wastewater transmission and disposal facilities, on a fair-share basis as determined by the county and HI-DOH
8. Petitioner shall prepare a traffic analysis report to identify traffic impacts and mitigation measures; report to be reviewed by HI-DOT and county transportation departments; petitioner may be required to fund or contribute to transportation improvements
9. Petitioner shall fund and construct on a fair-share basis adequate civil defense measures as determined by State Civil Defense
10. Petitioner shall have a professional archaeologist conduct an archeological inventory survey with significance evaluations and mitigation commitments acceptable to the State Historic Preservation Division (SHPD)
11. Petitioner shall submit and execute a detailed historic preservation mitigation plan to the SHPD to verify in writing that the plan has been successfully executed
12. Petitioner shall stop work if significant archaeological sites are found and may resume when mitigative measures have been implemented to the satisfaction of SHPD
13. Petitioner shall monitor air quality as specified by the HI-DOH
14. Petitioner shall mitigate noise pollution
15. If the approved boundary amendment involves conversion of prime agricultural land, the petitioner shall contribute to the protection of an equivalent amount of prime agricultural lands and related infrastructure via long-term agricultural conservation easements or other ag-related assets as determined by and to the satisfaction of the HI-DOA.
16. Petitioner shall notify all prospective buyers of property of the potential odor, noise, and dust pollution if there are agricultural district lands surrounding the reclassified area
17. Petitioner shall notify all prospective buyers of property of the Hawaii Right to Farm Act limitations on "nuisance" determinations
18. Petitioner shall fund the design and construction of drainage improvements to the satisfaction of State and county agencies
19. Petitioner shall address and provide for solid waste management in cooperation with HI-DOH and county agencies in accordance with a schedule/timeframe satisfactory to HI-DOH
20. To the extent required by the HI-DOH, petitioner shall ensure that nearshore, offshore, and deep ocean waters remain in pristine condition
21. Petitioner shall participate in the funding and construction of adequate water source, storage, and transmission facilities and improvements to accommodate the proposed uses, as coordinated by State and county agencies
22. Petitioner shall protect and preserve existing native Hawaiian gathering rights



## KAMEHAMEHA SCHOOLS

February 3, 2009

WRITTEN TESTIMONY TO THE  
SENATE COMMITTEE ON EDUCATION AND HOUSING  
BY

Michael G. Dang, Director  
Endowment/Planning & Development

To: Senator Norman Sakamoto, Chair  
Senator Michelle Kidani, Vice Chair  
Members of the Committee

Re: SB 100 – Relating to Housing.

Kamehameha Schools opposes SB100 which attempts to slow the ability to deliver affordable housing.

Lengthening the county approval period for affordable housing projects from 45 to 90 days increases the cost of housing and is a disincentive to private developers who are considering building affordable housing at a time in which such housing is in short supply. We suggest that the bill be amended so that the county and land use approval processes revert to the process that was in place prior to 2006.

Citing a local industry source please note the following. Hawaii is one the most highly regulated states in the nation. According to a recent Wharton study we are the most regulated state in terms of land use regulations. According to a worldwide Demographia study, we are the fourth most regulated in the world. In order to decrease the cost of housing in Hawaii, and shorten the length of time it takes to develop and construct a home in Hawaii, we must reduce regulatory processes, not increase them.

Thank you for the opportunity to testify on this legislation.