

SB440



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

Testimony of
Linda L. Smith
Senior Policy Advisor to the Governor
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

S.B. 440 RELATING TO COUNTIES

Chair Sakamoto, Vice Chair Kidani, and members of the Committee, thank you for the opportunity to provide testimony in **support** of S.B. 440 **with amendments**.

This bill establishes a timeframe for counties to accept or reject an application for dedication by a developer for an affordable housing project. If the county's legislative body fails to act on this measure the infrastructure will be automatically dedicated provided that applicable fees are paid, the infrastructure complies with county building codes, and the infrastructure has been certified to be in compliance by a county inspector or licensed, third-party inspector.

The timeframe established by Senate Bill 440 ensures that affordable housing projects are not inadvertently delayed by the infrastructure dedication process. Given the statewide need for affordable housing, it is pertinent that government processes are streamlined.

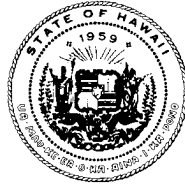
The Administration concurs with an amendment to S.B. 440 that is being proposed by the Hawaii Housing and Finance Development Corporation to page 2, lines 15-16 to specify that infrastructure that is dedicated need only conform to county building codes that are in effect at the time of construction. Currently, the language in the bill is too broad. The proposed amendment is to read as follows:

"The dedicated infrastructure conforms to county building codes *in effect at the time of construction*; and"

Please note that similar to other bills that are before you today, S.B. 440 is based on the recommendation and findings of the Affordable Housing Regulatory Barriers Task Force. This Task Force worked over a period of eighteen months to identify barriers to affordable housing development and to formulate appropriate remedies. Passage of this bill contributes to the overall efforts of the Task Force to increase the State's affordable housing inventory.

Thank you for the opportunity to testify in strong support of this bill.

Linda Lingle
GOVERNOR



KAREN SEDDON
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
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. 440
RELATING TO COUNTIES.

The HHFDC supports S.B. 440. This bill requires counties to accept or reject requests for dedication of infrastructure for affordable housing projects within 60 days of filing under specific circumstances. S.B. 440 would help to make it easier to develop affordable housing by limiting the amount of time the developer is responsible for maintaining the infrastructure and enables the developer to get back its surety bond in a reasonable amount of time.

Because building codes change over time, the HHFDC respectfully requests that the Committee amend page 2, lines 15 and 16 of S.B. 440 to read as follows:

" (2) The dedicated infrastructure conforms to county building codes in effect at the time of construction; and"

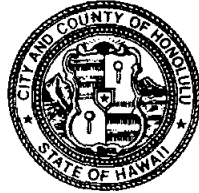
(amendment **highlighted**).

Thank you for the opportunity to testify.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
MAYOR



DAVID K. TANOUE
ACTING DIRECTOR
ROBERT M. SUMITOMO
DEPUTY DIRECTOR

February 4, 2009

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

Dear Chair Sakamoto and Members:

**Subject: Senate Bill No. 440
Relating to Counties**

The Department of Planning and Permitting respectfully **opposes** Senate Bill No. 440 because of the following concerns regarding Section 2 of the bill:

1. Infrastructure constructed for dedication purposes is not regulated by the building code but by separate county street standards and public works construction standards. The reference to the building code is inaccurate.
2. There is no county inspector that certifies infrastructure for dedication. Inspectors only certify that improvements are constructed in accordance with plans and applicable standards. Improvements to be dedicated located on private property need to be subdivided or have an easement designated in favor of the county. Only the grant of approval by the county of the completion of the improvements associated with a subdivision or easement application would enable the dedication process to be initiated through the county council.
3. Similarly, the City and County does not use third-party building inspectors to certify improvements. We feel that they may not be looking for the best interest of the City.

There should be more discussion regarding the consequences of dedications without proper review and approval by the county. As currently stated, the automatic dedication of infrastructure after "sixty days of the dedication request" seems arbitrary. There is no consideration in the bill for the length of time that it takes for the county council to act on the dedication request.

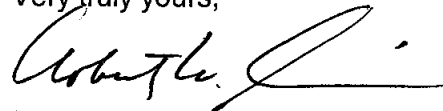
The Honorable Norman Sakamoto, Chair
and Members of the Committee on Education
and Housing
State Senate
February 4, 2009
Page 2

Dedications that are not properly reviewed and approved would create financial, legal, and other related impacts. It is vital that persons in the county with expertise have an opportunity to properly review and approve dedication requests to ensure the public's health and safety is accounted for. A rushed review, or worse yet, no review, could result in safety issues.

Accordingly, we respectfully request that Senate Bill No. 440 be amended or filed.

Thank you for the opportunity to testify.

Very truly yours,

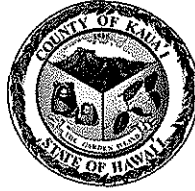


for David K. Tanoue, Acting Director
Department of Planning and Permitting

DKT:
sb440-mst.doc

Bernard P. Carvalho, Jr.
Mayor

Gary K. Heu
Administrative Assistant



Eugene K. Jimenez
Housing Director

Kenneth N. Rainforth
Executive Assistant

KAUAI COUNTY HOUSING AGENCY
Pi'ikoi Building 4444 Rice Street Suite 330
Lihu'e, Hawai'i 96766

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 Regarding Senate Bill 440, Relating to Counties
Committee: EDH
Hearing: February 4, 2009 1:15 PM Conference Room 225

The Kaua'i County Housing Agency (KCHA) has the following concerns regarding Senate Bill 440:

1. Generally, applicable codes and inspectors for infrastructure are not "building" codes or "building" inspectors, but engineering codes and inspectors. Language throughout the bill should be changed to reflect the proper codes and professional trades.
2. Currently, depending on the agency and the applicable process, request for dedication of infrastructure may precede or succeed the certification of improvements, and includes the legal process of acceptance. The entire process generally does take longer than sixty days.
3. As proposed, does the sixty day acceptance process include the time for certification of improvements, or is this process complete prior to the beginning of the sixty day period? If it includes the certification of the work done, we believe that sixty days is inadequate to accommodate the requirements for dedication.
4. We are uncertain if the proposed HRS Section would bypass the requirement for legal dedication by deed and acceptance by County Council. From a liability standpoint to both the developer and the County, it is important that a paper trail clearly establish who the owner of the infrastructure is.

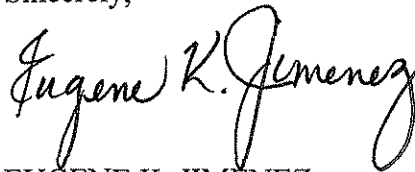


Senator Norman Sakamoto, Chair
Senator Michelle Kidani, Vice Chair
And EDH Committee Members
February 3, 2009
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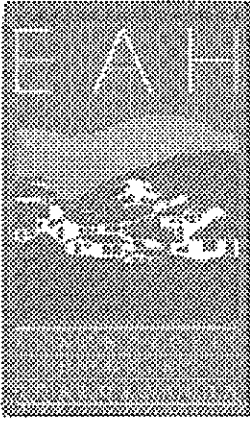
5. The intent of the existing process is to ensure that infrastructure to be dedicated meets applicable codes prior to transfer of liability to the County. Although we believe the process can be streamlined and improved, we do not believe the subject bill will accomplish the issue in its present form. Further clarification is necessary to ensure that substandard infrastructure is not automatically dedicated to the counties.

Thank you for the opportunity to provide testimony.

Sincerely,

A handwritten signature in black ink that reads "Eugene K. Jimenez". The signature is written in a cursive style with a large, looping initial "E".

EUGENE K. JIMENEZ
Housing Director



February 2, 2009

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

Subject: S.B. No. 440; Hearing February 4, 2009; Testimony in Support

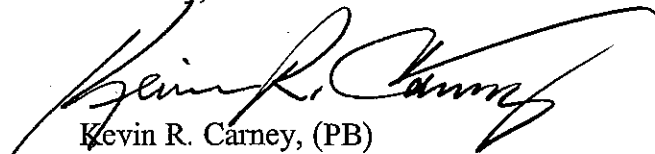
Dear Senator Sakamoto and Members of the Senate Committee on Education and Housing:

EAH Housing supports S.B. No. 440 and its intent to expedite the dedication of infrastructure 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 delay in accepting infrastructure dedication adds more costs to the operation of affordable rental housing projects. Developers can wind up paying for roadway, sidewalk, street lighting, drain and sewer repairs long beyond what would be considered a reasonable acceptance period. These costs can be crippling for affordable rental projects because rents cannot be increased accordingly.

We do have one suggestion and that is to add an indemnification provision for third-party licensed building inspectors to release them of liability and encourage more participation from the civilian sector. Thank you for this opportunity to submit our thoughts.

Sincerely,



Kevin R. Carney, (PB)
Vice President, 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

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 440, RELATING TO COUNTIES

I am Nani Medeiros, Executive Director of Housing Hawaii, testifying in support of Senate Bill 440, Relating to Counties. This bill provides a timeframe for counties to accept or reject dedication of infrastructure related to affordable housing.

This bill provides some assurance to the developer of a project that dedication of infrastructure will happen within a set amount of time. This issue has been a great challenge for some developers and the delay of dedication increases the cost of the project, which ultimately are paid by the consumers. We recommend including language that will clarify when the clock starts and stops in terms of the sixty days to prevent applications from frivolous delay.

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

www.housinghawaii.org



Water has no substitute.....Conserve it

February 3, 2009

VIA FACSIMILE

Honorable Senator Norman Sakamoto
and Members of the Education
and Housing Committee
Conference Room 225
State Capital
415 S. Beretania Street
Honolulu, Hawaii 96813

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

Subject: SB 440 - A Bill for an Act Relating to Counties

Thank you for this opportunity to provide comments to Senate Bill 440 which proposes to require counties to accept or reject a dedication of infrastructure request from an affordable rental housing project within a specified time and under certain conditions, or the request is deemed dedicated.

According to the bill, infrastructure includes water systems. Because clean and safe drinking water is a necessary part of everyone's life, we request that subsection (a)(2) be revised to state that "the dedicated infrastructure conforms to County building codes, Water System Standards, Department of Water's Rules and Subdivision Ordinance." We also request that the time for the County to either accept or reject the dedication of an infrastructure be changed from sixty (60) days to ninety (90) days. This will allow the counties to carefully review the system that is being dedicated and to continue the delivery of safe potable water.

Again, thank you for this opportunity to comment.

Sincerely,

Wynne Ushigome
Acting Manager and Chief Engineer

AE:emi



KAMEHAMEHA SCHOOLS

February 3, 2009

TESTIMONY TO THE SENATE COMMITTEE ON EDUCATION AND HOUSING

By Michael G. Dang, Director
Endowment/Planning & Development

Hearing Date: Wednesday, February 4, 2009
1:15 p.m., Conference Room 225

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

Re: SB 440 – Relating to Counties.
SB 444 – Relating to Housing.

Kamehameha Schools supports the purpose and intent of these bills. By setting a time-certain by which the dedication of a project must be accepted by the county, the Legislature is ensuring developers of affordable housing projects a greater measure of predictability in the development process and providing potential homeowners and/or renters more timely access to their residences. This can only help bring more affordable housing units into the market faster.

Thank you for the opportunity to testify on this legislation.