

TESTIMONY
SB 737 SD 2



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 WATER, LAND, AGRICULTURE, & HAWAIIAN AFFAIRS
Monday, March 2, 2009, 3:15 p.m.
Room 229, State Capitol

S.B. 737 Proposed SD2, RELATING TO HOUSING

Chair Hee, Vice Chair Tokuda, and members of the Committee, thank you for the opportunity to testify on the proposed Senate Draft 2 of Senate Bill 737. The Administration acknowledges the merit of specific provisions in the bill that coincide with recommendations from the Affordable Housing Regulatory Barriers Task Force, however, does not support the proposed SD2 as currently written.

The Administration supports the provision in Part I of the bill to allow mixed use housing and infrastructure that is part of an affordable housing development to qualify for expedited processing and exemptions currently offered to affordable housing projects under the 201H, Hawaii Revised Statute, process.

The Administration, however, strongly opposes the provision in Part I that doubles the amount of time for a county legislative body to act on a 201H application for a mixed use housing or infrastructure project. By increasing the time period from 45 to 90 days, the purpose of having an expedited track to process affordable housing projects is negated. We recommend amending section 4 of the bill on page 5 to state that the county legislative body must act within 45 days.

In regard to Part II, the Administration supports the provision allowing the counties to establish affordable housing receiving zones. The zones will qualify for incentives and exemptions that are tailored to encourage and expedite affordable housing development. Counties are encouraged to identify potential sites for affordable housing receiving zones in their general and development plans.

Lastly, the Administration opposes Part III, which requires identification of public lands within one-half mile of Honolulu's transit corridor and within a one-mile radius of any designated transit station suitable for affordable housing. It also requires the Governor to set aside the identified public lands for housing development. These provisions are objectionable because there are multiple factors that should be considered before determining the proper location of an affordable housing project. In addition, a wide variety of metrics and community input should also be used to determine housing placement. Moreover, transit projects undertaken by another jurisdiction should not dictate how the State uses public lands. We recommend amending the bill by deleting the provisions of Part III.

Thank you for the opportunity to testify and for your favorable consideration of our proposed amendments.

Linda Lingle
GOVERNOR



KAREN SEDDON
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION

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Statement of
Karen Seddon
Hawaii Housing Finance and Development Corporation
Before the

**SENATE COMMITTEE ON WATER, LAND, AGRICULTURE,
AND HAWAIIAN AFFAIRS**

March 2, 2009, 3:15 p.m.
Room 229, State Capitol

In consideration of
**S.B. 737 proposed S.D. 2
RELATING TO HOUSING.**

S.B. 737, proposed S.D. 2, adds the texts of Senate Bills 735 and 740 to S.B. 737, S.D. 1. The HHFDC has the following comments on the proposed S.D. 2.

Part I

The HHFDC **supports the intent** of Part I. This Part extends expedited processing and exemptions from planning, zoning, subdivision, and building codes to mixed use housing and infrastructure.

We oppose, however, doubling the amount of time for the county legislative body to act on a 201H application for a mixed use housing or infrastructure project. Before a project reaches the legislative body, the appropriate federal, state, and county agencies have reviewed it, the environmental assessment is completed, and community input has been received. The incentive to provide affordable housing is the expedited processing.

Part II

The HHFDC **supports the intent** of Part II. The affordable housing receiving zones could enhance opportunities for a fair share of housing that is affordable to Hawaii's workforce and other low- and moderate-income households in areas that are most suitable for development.

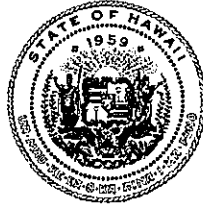
Part III

The Hawaii Housing Finance and Development Corporation (HHFDC) **opposes** Part III.

The HHFDC has previously worked with the Department of Land and Natural Resources to identify lands suitable for affordable housing development. Furthermore, many factors need to weigh into the proper location of affordable housing, and transit projects by another jurisdiction should not dictate what the State determines to be the appropriate use of public lands. The State has ample capability to determine the placement of affordable housing developments using a wide variety of metrics and community input to make these decisions. Therefore, we respectfully request that Part III be deleted.

Thank you for the opportunity to provide written comments on this bill.

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of
LAURA H. THIELEN
Chairperson**

**Before the Senate Committee on
WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS**

**Monday, March 2, 2009
3:15 PM
State Capitol, Conference Room 229**

**In consideration of
SENATE BILL 737, PROPOSED SENATE DRAFT 2
RELATING TO HOUSING**

Senate Bill 737, Proposed Senate Draft 2 authorizes mixed-use housing projects and infrastructure projects that are associated with a housing or mixed-use housing project to be eligible for the expedited review process currently offered to qualifying housing projects; requires the counties to identify and designate affordable housing receiving zones to facilitate the development of affordable housing; requires identification of public lands within one-half mile of Honolulu's transit corridor and within a one-mile radius of any designated transit station suitable for affordable housing; and requires governor to set aside the identified public lands for housing development. While the Department of Land and Natural Resources (Department) recognizes the importance of providing affordable housing, the Department nonetheless does not support this measure, in particular, SECTION 3 and SECTION 10.

There are many elements that go into determining the proper location of affordable housing projects, and a transit project alone should not be the deciding factor. The Department is aware that the Hawaii Housing Finance and Development Corporation (HHFDC) has a defined process in place in the development of affordable housing. If there are unencumbered state lands that currently do not have any future development plans, the Department is willing to work HHFDC or any other state agencies, regarding any proposed uses on those lands. For this reason, the Department requests that the language in SECTION 3 of this measure be stricken.

The Department does not support setting aside such land for housing development, without the approval by the Board of Land and Natural Resources (Board). The promotion of affordable housing is only one of five public trust purposes that need to be considered when disposing of public lands. The Board is empowered with the authority and entrusted with the fiduciary

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COMMISSION ON WATER RESOURCE MANAGEMENT

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DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

responsibility to balance the needs of the five public trust purposes to ensure that public lands will be used appropriately. The Department regularly solicits comments from other appropriate agencies for requests for land dispositions presented to the Board to ensure that a fair and informed decision is reached. The current process works smoothly in ensuring the need for public use of state lands, including housing will be met, provided funding is available.

As such, the Department recommends Part III, SECTION 10, second paragraph be revised to say "Within a reasonable period of time, the Hawaii housing finance and development corporation shall seek the concurrence and approval from the department of land and natural resources and the board of land and natural resources, and the governor as provided for in section 171-11, Hawaii Revised Statutes, for a set aside of those available public lands that may be suitable for housing."



SB 737, SD 1 Relating to Housing
Senate Committee on Water, Land, Agriculture, and Hawaiian
Affairs

March 2, 2009

3:15 pm

Room 229

The Office of Hawaiian Affairs supports the purpose and intent of SB 737, SD 1.

The growing affordable housing problem is one of the most critical issues faced by our communities, especially our Native Hawaiian communities. This issue seems to have many of our families struggling to find adequate housing and to make ends meet.

OHA recognizes housing is the highest cost item for our families and more needs to be done to address the affordable housing issue or our families will continue to move down the economic and social ladder.

Urban cores with mixed-use housing need the affordable units because the jobs are there and until neighborhoods are built, instead of subdivisions, families need to be where the jobs are.

Policies addressing the need to develop and create partners to do affordable rentals and affordable for sale units timely in the urban cores need to be adopted. The resources obtained need to be able to devote full time attention to this process to expedite project reviews.

OHA also advocates a commitment to reestablishing the relationship between the art of building and the making of community, through citizen-based participatory planning and design. Therefore, the resources obtained to devote full time attention to the process of developing partners to do affordable rentals and for sale units timely need to include the related communities.

Mahalo nui loa for the opportunity to provide this testimony.



KAMEHAMEHA SCHOOLS

Testimony to the Senate Committee on Water, Land, Agriculture and Hawaiian Affairs,
Hearing Date: Monday, March 2, 2009
3:15 p.m. – Conference Room 229

Paul Quintiliani
Director, Commercial Assets Division
Kamehameha Schools

Thank you for the opportunity to comment on SB No. 737 SD1.

Kamehameha Schools supports this measure.

Kamehameha Schools broadly supports the increasing availability of affordable housing throughout Hawai'i. We believe that the housing crisis in Hawai'i is real and requires immediate action. We also believe it is critically important to implement policies that will result in the construction of new affordable units (or retention of existing supply) and not have the unintended and ironic consequence of inhibiting construction altogether.

Our overarching comment is that provisions in statute, rules and policies concerning affordable housing must be viewed collectively for their contribution to an overall effective policy that promotes actual development of affordable housing. We believe that a range of strategies will help provide realistic options for many Hawaii residents. We want to engage in constructive dialog with you and key stakeholders and thank you for allowing us to highlight several key issues. We support this measure which would authorize mixed-use housing projects and infrastructure projects that are associated with a housing or mixed-use housing project to be eligible for the expedited review process currently offered to qualifying housing projects.

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SENATE COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

March 2, 2009, 3:15 P.M.

(Testimony is 3 page long)

TESTIMONY IN STRONG OPPOSITION TO SB 737 SD2

Aloha Chair Hee and Members of the Committee:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, strongly opposes sections 2, 3, and 4 of SB 737 SD2, which attempts to expedite project review for mixed-use housing projects. While the Sierra Club supports increasing the availability of affordable housing, we are strongly concerned about a proposal that waives *all* environmental or land use considerations so long as a miniscule portion of the proposal includes an affordable housing component. This does not comport with smart land use planning.

First, it should be noted that the simplest way to increase affordable housing in Hawai'i is to follow the lead of the County of Maui, which recently required fifty percent of all proposed housing projects to meet affordability requirements. *See, e.g.,* SB 758. This solution, assuming it was enforced, would directly solve the needs of Hawai'i's homelessness without engaging in poor community planning.

Second, the definition of "Mixed-use housing" is so broad, it could include a commercial or industrial facility the size of Ala Moana Shopping Center, so long as "twenty per cent of the housing units . . . meet the affordable income threshold under section 201H-202(e)(2)." In other words, *any* project including at least one affordable house, regardless of size or impacts on the environment, would fit this definition. Plainly this is not the intent?

It must be emphasized that projects under Haw. Rev. Stat. Chapter 201H are "*exempt from all statutes, ordinances, charter provisions, and rules of any government*"

agency. . . ." This means no environmental impact statement. This means no cultural review. This means no protection of conservation or agricultural land. All of these considerations would be removed simply because one or more of the housing units was considered affordable?

It should also be noted that most counties now require proposed housing developments to include an affordable housing component as a condition of approval. SB 737 would, therefore, have the effect of making *all* housing development projects in these counties eligible for automatic approval. Such a bold step should not be imposed on the counties or agencies without some further analysis?

Third, the "automatic approval" of any permit is simply poor policy. Permits should be granted on their merits, not by mistake or governmental inefficiency. *No community should suffer because government failed to perform.*

Automatic approvals are completely antithetical to smart, sustainable planning. Consider:

1. What happens when additional information is required by the department or agency and the deadline passes?
2. What happens when there are complex environmental assessments and impact statements that need to be completed pursuant to chapter 343, HRS, and the deadline passes?
3. What happens when a contested case hearing is requested pursuant to chapter 91, HRS, and for any other period for administrative appeals and review and the deadline passes?
4. What happens when health, welfare, or safety concerns (such as compliance with building codes) are not properly addressed in due course? Do we believe the underprivileged should be forced to live in unsafe facilities?
5. Is it ever appropriate to automatically approve a permit that will irreparably damage the environment or native Hawaiian rights? Doesn't that violate protections provided by the state constitution?

What happens with a tie vote? A tie vote on a board or committee usually signals that the measure or proposal didn't garner enough supporting votes. Under the current law, a tie vote means inaction and therefore automatic approval if the deadline passes.

What happens when there is a lack of a majority? Under current law, if a commission has a quorum to take a valid vote but there is not the required majority vote to approve or deny, the permit is approved by default if a deadline passes. For example,

if a 6-member board votes 3-2 AGAINST a project, but a majority (4) is required to ratify any action, the project may be automatically approved.

The above situations turn logic on its head. An applicant could be approved by:

1. an affirmative majority vote (the appropriate route);
2. a tie vote with time lapsing; or
3. a less than majority vote with time lapsing.

Logically, if an applicant can't get a majority of commission or board members to support the application, the application should not be approved.

Again, we understand and appreciate the intent of SB 737. If the legislature prefers not to require an affordable housing component in all construction projects, perhaps other incentives besides "automatic approval" could be considered. For example, the State could create an ombudsman program that assists in expediting projects that offer affordable housing and serve a particular community. Or the State could consider an annual report from all agencies on the status of the review process (with a focus on affordable housing) so as to make informed decisions on how to make government more efficient.

Thank you for the opportunity to testify.



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March 1, 2009

The Honorable Clayton Hee, Chair
Senate Committee on Water, Land, Agriculture
and Hawaiian Affairs
State Capitol, Room 229
Honolulu, Hawaii 96813

RE: S.B. 737, S.D. 1, PROPOSED S.D. 2, Relating to Housing

HEARING DATE: Monday, March 2, 2009 at 3:15 p.m.

Aloha Chair Hee, Vice Chair Tokuda 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. HAR **supports** S.B. 737, S.D.1, Proposed S.D. 2, which proposes to: 1) authorize mixed-use housing projects and infrastructure projects to be eligible for the expedited review process currently offered to qualifying housing projects; 2) require the counties to identify and designate affordable housing receiving zones to facilitate the development of affordable housing; 3) require identification of public lands within one-half mile of Honolulu's transit corridor and within a one-mile radius of any designated transit station suitable for affordable housing; and 4) require the governor to set aside the identified public lands for housing development and the Hawai'i housing finance and development corporation to report to the legislature.

HAR has historically supported efforts to increase the availability of affordable housing. We also believe it is critically important to implement policies that will result in the construction of new affordable units within the transit corridor and transit stations.

HAR believes that S.B. 737, S.D.1, Proposed S.D.2, takes a positive step towards encouraging and supporting the development of more mixed-use housing for Hawai'i's people.

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.

TESTIMONY
SB 737 SD2
(END)