

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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LATE TESTIMONY

MUFI HANNEMANN
MAYOR



DAVID K. TANOUE
DIRECTOR
ROBERT M. SUMITOMO
DEPUTY DIRECTOR

February 22, 2010

The Honorable Ken Ito, Chair
and Members of the Committee on Water,
Land & Ocean Resources
State House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Ito and Members:

**Subject: House Bill No. 2434, HD1
Relating to Permit, License, and
Approval Application Processing**

The Department of Planning and Permitting has **comments** on House Bill No. 2434, HD1 which addresses Third Party Review, automatic approvals and permit review for historic site impacts.

Our primary concern is that this bill represents unnecessary intrusion into county responsibilities, and while we may not disagree with the purposes, specific bill provisions are problematic. Specifically,

- Authorization to use Third Party Reviews. We support the use of Third Party Reviews. In fact, we have been using it for over five years. We do not believe state authorization is required. However, we have concerns over provisions proposed under Section 2 of the bill:
 1. We question why qualified companies and individuals must have a contract with the county. Under our program, they are only certified to conduct reviews on behalf of the city;
 2. We question why Third Party Reviewing entities must be architects or engineers. This is too constraining, as our own reviewing staff are not all architects or engineers.

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- Review for impact on historic and archeological resources. We have no objections to setting a deadline for review by the state department of land and natural resources (DLNR). However, the proposed 45-day deadline is not consistent with deadlines already imposed on various types of permits under our jurisdiction, which have deadlines as short as two days. Perhaps DLNR should be directed to develop a schedule of deadlines, depending on relative degree of impacts to resources, and type of permit review affected.
- Automatic Approval. We have no objections to automatic approvals, and already have processing deadlines on most of our permitting actions. However, the imposition of an across-the-board deadline of 30 days if no deadline has been established, appears arbitrary, without consideration for the complexity of the project and review criteria involved, whether a public hearing is required, etc. Moreover, Section 4 of the proposed bill defines the 30-day deadline from the submittal day of a "completed application". We would prefer rewording which makes it clear that the clock does not begin until the agency deems the application is complete.

In short, we question the need for this bill, and in making provisions for these initiatives, House Bill No. 2434, HD1 creates difficulties for county programs that already achieve the bill's purposes. Accordingly, we respectfully request that House Bill No. 2526 be amended or filed.

Thank you for the opportunity to testify.

Very truly yours,



David K. Tanoue, Director
Department of Planning and Permitting

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Testimony of C. Mike Kido
External Affairs
The Pacific Resource Partnership

House Committee on Water, Land and Ocean Resources
Representative Ken Ito, Chair
Representative Sharon Har, Vice Chair

HB 2434 – Relating to Permit, License, and Approval Application Processing

Monday, February 22, 2010
10:00 A.M.
Conference Room

Chair Ken Ito, Vice Chair Sharon Har and Members of the Committee:

My name is C. Mike Kido, External Affairs for the Pacific Resource Partnership (PRP), a labor-management consortium representing over 240 signatory contractors and the Hawaii Carpenters Union.

PRP **supports** HB 2434 – Relating to Permit, License, and Approval Application Processing which establishes a maximum time period that an application for permit, license, or approval shall be deemed granted if not acted upon by the designated agency; authorizes each county to contract with a third-party reviewer to streamline the processing of applications; clarifies that previously approved projects that do not impact historic properties are not subject to subsequent reviews by the SHPD.

As stated in SCR 132 Construction Industry Task Force report:

Recommendation

- Authorize the counties to provide third-party reviews for permit processing. Establish liability thresholds for third-party review services:
 - Authorize licensed architects and engineers that are qualified by a county to certify compliance for Building, Electrical, Mechanical/Plumbing, Land User Ordinance, and Structural Codes for building permit and other approvals.
 - Third-party reviewers shall be retained by an owner and all fees and costs for third-party review services shall be the responsibility of the owner.

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- o Third-party reviewers shall conduct plan review services for the purpose of certifying that the proposed plans and specifications are in compliance with federal, state, and county laws, codes, ordinances, rules, and other requirements.
- o Certifications by third-party reviewers shall be limited to only those areas approved by the county and in which the third-party reviewer is duly qualified.
- o Third-party reviewers shall not have the authority to grant modifications, variances, waivers, exemptions, or other discretionary approvals.
- o Private individuals or entities providing third-party review services shall be immune from liability, except for intentional misconduct, gross negligence, or malfeasance.

PRP understands and appreciates the difficulty faced by the Legislature in determining ways to achieve a quick economic recovery and thus support HB 2434 to help streamline and enhance the efficiency of the permit and license review and the approval process; this will expedite the start of construction for workforce housing projects throughout the State and will result in the generation of construction and other related jobs that are much needed in our economy.

Thank you for the opportunity to share our opinion and we kindly ask for your support of HB 2434 – Relating to Permit, License, and Approval Application Processing.

LATE TESTIMONY



LAND USE RESEARCH
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Via: WLOTestimony@Capitol.hawaii.gov

February 22, 2010

HB 2434, HD1 Permit License, and Approval Application Processing (Maximum time for permit approval)

Honorable Representative Ken Ito, Chair, Sharon E. Har, Vice Chair and
Members of the House Committee on Water, Land & Ocean Resources:

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 **strongly supports HB 2434, HD1**, which addresses situations where counties do not have a maximum time period to process applications for permits, licenses, approvals, etc. In such cases, this bill establishes a maximum time period that an application for permit, license, or approval shall be deemed granted if not acted upon by the designated agency; specifies that if an agency does not have a maximum time period for approval, that the application shall be deemed approved thirty (30) calendar days after a completed application is submitted; authorizes each county to contract with a third-party reviewer to streamline the processing of applications; provides immunity for third-party reviewers except for acts of intentional misconduct, gross negligence, or malfeasance; clarifies that previously approved projects that do not impact historic properties are not subject to subsequent reviews by the State Historic preservation Division (SHPD); provides that the maximum time period for SHPD review is forty-five (45) days. The HD1 version defects the effective date to January 1, 2112.

The process of reviewing permits, licenses, and approvals for workforce housing and other projects submitted to the State and each county is long and often results in significant delays prior to the start of each project. The proponents of this bill envision that the enactment of certain statutory provisions will help to streamline and enhance the efficiency of the permit and license review and approval process. For example, statutory provisions that establish a maximum time period for agencies to grant or deny related permits, licenses, and approvals, will expedite the start of construction for

workforce housing projects throughout the State and will result in the generation of construction and other related jobs that are badly needed in the economy.

Senate Concurrent Resolution No. 132, S.D. 1 (2009), established a Construction Industry Task Force to determine the economic contributions of the construction industry in Hawaii. As directed in the concurrent resolution, the Task Force has developed a series of proposals for state actions to preserve and create new jobs in the local construction industry. The intent of this bill is to implement one of the Task Force's proposals.

Accordingly, the purpose of this bill is to streamline portions of the review process for permits, licenses, and approvals to minimize time delays and to expedite the start of construction for workforce housing and other projects that will result in the generation of construction and other related jobs.

We appreciate the opportunity to present our **strong support of HB 2434, HD1**, and we ask for your favorable consideration of this bill.

Thank you for the opportunity to express our **strong support for HB 2434, HD1**.