

LATE



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

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

Before the
SENATE COMMITTEE ON WATER, LAND, AGRICULTURE, & HAWAIIAN AFFAIRS
and
**SENATE COMMITTEE ON TRANSPORTATION, INTERNATIONAL AND
INTERGOVERNMENTAL AFFAIRS**

Friday, March 12, 2010, 1:15 PM
State Capitol, Room 224

H.B. 2434 HD2, Relating to Permit, License, & Approval Application Processing

Chairs Hee and English, Vice Chairs Tokuda and Gabbard, and members of the Committees:

The Administration **supports** H.B. 2434 HD2, which would authorize counties to contract with third-party reviewers to streamline permit, license, and other application processing. The Administration believes that there is a clear need to expedite important, publicly beneficial projects. This has become particularly important given the present economic condition in the State and nation, as projects can be easily delayed and government resources are stretched.

This legislative session the Administration introduced a bill (SB 2713) to establish standard timeframes for application reviews in order to expedite affordable housing and renewable energy projects. In 2009, the Administration also introduced a bill (SB 909) that would have established a third-party review process for affordable housing projects. These Administrative measures share similar purpose and intent with the provisions in H.B. 2434 HD2.

Thank you for the opportunity to provide testimony on this measure.



LATE

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P.O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF KAULANA H. R. PARK, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE SENATE COMMITTEES ON TRANSPORTATION, INTERNATIONAL
AND INTERGOVERNMENTAL AFFAIRS &
WATER, LAND, AGRICULTURE AND
HAWAIIAN AFFAIRS

**ON HB 2434 HD 2 RELATING TO PERMIT, LICENSE,
AND APPROVAL APPLICATION PROCESSING**

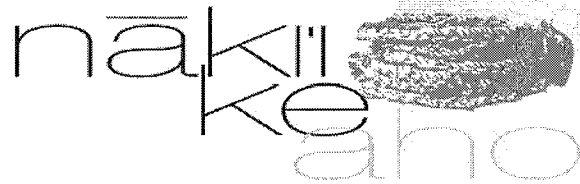
March 12, 2010

The Department of Hawaiian Home Lands support HB 2434 which helps streamline construction permitting processes, which subsequently helps and supports our housing projects.

I respectfully urge your committees to pass legislation like this that assist in the construction of our projects that help native Hawaiian families fulfill their homeownership goals. HB 2434 will support projects on Hawaiian home lands as well as other affordable housing projects throughout the state.

Thank you for the opportunity to testify on this measure.

"bound to our kuleana
to ensure the integrity
of our wahi kūpuna."



VIA WEB: www.capitol.hawaii.gov/emailtestimony

To: Senator Clayton Hee, Chair
Senator Jill N. Tokuda, Vice Chair
Committee on Water, Land, Agriculture and Hawaiian Affairs

Senator J. Kalani English, Chair
Senator Mike Gabbard, Vice Chair
Committee on Transportation, International and Intergovernmental Affairs

From: Nāki'i ke Aho
Dr. Kēhau Abad, Board member

Committee Friday, March 12, 2010
1:15 p.m.
Conference Room 224

RE: **HB 2434, HD2**
Relating to Permit, License, and Approval Application Processing

Mahalo nui loa for the opportunity to convey our **opposition** to HB 2434, in its current form. As a non-profit Hawaiian entity focused on supporting the cultural and educational use and preservation of wahi kūpuna (ancestral sites), we acknowledge the validity of the bill's intent to address the delays involved in the State Historic Preservation Division's project reviews. However, we do not believe that the solutions proposed in the bill are appropriate.

HB 2434 proposes that counties be allowed to establish a third-party review process. Several crucial problems are evident in the current language offered:

1. Third-party reviewers would be "be retained by an owner of the property being reviewed," thus creating a **blatant conflict of interest** whereby the party wishing to have a project reviewed would pay for both the report under review (e.g., an archaeological inventory survey conducted by a contract archaeology firm) and the third-party entity conducting the review. **An amended version of the bill should allow counties to establish a county entity to receive the funds from developers to conduct the reviews**, with the county entity administering the funds to conduct the review and selecting the firms to engage in the reviews. In such an instance, additional language should clarify that firms conducting reviews be disallowed from serving on both ends of the equation as entities conducting work being reviewed and entities conducting reviews. Without such a stipulation, a set of firms who both engage in producing reports under review and who simultaneously are engaged

- in conducting reviews could establish among themselves a quid-pro-quo relationship of regularly accepting one another's reports without the engaging in the requisite scrutiny and objectivity.
2. There is no requirement that entities involved in historic preservation reviews possess appropriate professional qualifications in the areas of architectural history, archaeology, or Hawaiian culture that would be necessary to conduct such historic preservation reviews. Qualifications for these historic preservation professionals are established in HAR 13-13-281. **An amended version of the bill should require that reviewers meet the qualifications in HAR 13-13-281.**
 3. There is no clarification that a firm conducting third-party reviews employ a review team comprised of individuals, each of whom meet the appropriate professional qualifications in the array of fields necessary. **An amended version of HB2434 should mandate that third-party review teams be comprised of a set of individuals who meet the professional qualifications in various disciplines necessary for the types of reviews that a project would entail.**

A second critical flaw of HB 2434 is that it would allow many different types of undertakings, permitting, and licensing steps for a large project receiving blanket approval via the SHPD's failure to conduct a review after 60 for a single aspect of the project. Instead, **the bill should be amended to clarify that the "project" being affected by the SHPD's failure to conduct a review within 60 days is only that activity under review and not the entire undertaking within the larger project area and that following the 60 days, the developer could seek a third-party review.** Foregoing a review altogether, as HB 2434 proposes, would shirk the State's responsibilities and goals established in HRS Chapter 6E.

An additional approach that might be considered to address the concerns motivating this bill would be to have SHPD receive the necessary resources it needs to restore at least some its staff positions that have been lost over the years. The division is terribly understaffed at this time and cannot adequately deal with the volume and complexity of the responsibilities it bears. Rather than diverting some of those responsibilities to a third-party or having those responsibilities ignored after 60 days, the legislature may want to consider the alternative approach of better supporting the SHPD's needs for adequate staffing.

Mahalo nui loa for allowing Nāki'i ke Aho to voice our concerns regarding HB 2434.

Respectfully submitted,



Kehau Abad, PhD
Board member
Nāki'i ke Aho



Late

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

Senate Committee on Water, Land, Agriculture and Hawaiian Affairs
Senator Clayton Hee, Chair
Senator Jill Tokuda, Vice Chair

Senate Committee on Transportation, International and Intergovernmental Affairs
Senator J. Kalani English, Chair
Senator Mike Gabbard, Vice Chair

HB 2434, HD2 – Relating to Permit, License, and Approval Application Processing
Friday, March 12, 2010
1:15 PM
Conference Room 224

Chair Hee, Chair English and members of the committees:

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** the intent and purpose of HB 2434, HD2 – Relating to Permit, License, and Approval Application Processing which expedites the review and granting of permits, licenses, and other approvals for construction projects.

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.

- 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.
- 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.
- Third-party reviewers shall not have the authority to grant modifications, variances, waivers, exemptions, or other discretionary approvals.
- 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, HD2 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, HD2 – Relating to Permit, License, and Approval Application Processing.

Late

From: Linda LeGrande [mohalaway@hawaii.rr.com]
Sent: Friday, March 12, 2010 6:54 AM
To: TIA Testimony
Subject: HB2434, HD2 ... TESTIMONY IN OPPOSITION

TO:

Senator Clayton, Hee, Chair

Senator Jill N. Tokuda, Vice Chair,

Committee on Water, Land, Agriculture and Hawaiian Affairs

Senator J. Kalani English, Chair

Senator Mike Gabbard, Vice Chair

Committee on Transportation, International & Intergovernmental Affairs

HB 2434, HD2 (HSCR486-10)

Testimony Status

RELATING TO PERMIT, LICENSE, AND APPROVAL APPLICATION PROCESSING.

Authorizes counties to contract with a third-party reviewer to streamline construction permit, license, and other application processing; Provides that applications will be deemed approved if Historic Preservation Division fails to review and comment within 60 days, and after 30 days if agencies fail to establish maximum time periods for permit and other application processing. Effective January 1, 2112. (HB2434 HD2)

I AM WRITING IN OPPOSITION TO HB2434, HD2 UNLESS AMENDED. The staff of the historic preservation division has been so limited the past several years that they could not possibly process and review projects in a timely manner to protect our cultural resources.

Thank you for this opportunity to testify.

Linda Legrande, 2243 Mohala Way, Honolulu, HI 96822

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 12, 2010 10:37 AM
To: TIATestimony
Cc: waynetakamine@hawaii.rr.com
Subject: Testimony for HB2434 on 3/12/2010 1:15:00 PM

Testimony for TIA/WTL 3/12/2010 1:15:00 PM HB2434

Conference room: 224
Testifier position: oppose
Testifier will be present: No
Submitted by: Wayne
Organization: Individual
Address: 2524 East Manoa Rd
Phone: 294 4099
E-mail: waynetakamine@hawaii.rr.com
Submitted on: 3/12/2010

Comments: