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Statement of
ABBEY SETH MAYER
Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON JUDICIARY
Tuesday, January 26, 2010
2:30 PM
State Capitol, Conference Room 325
in consideration of
HB 939
RELATING TO COASTAL ZONE MANAGEMENT.

Chair Karamatsu, Vice Chair Ito, and Members of the House Committee on Judiciary.

HB 939 proposes to increase the dollar threshold applied to help determine whether a proposed development should be processed for a major or minor Special Management Area (SMA) permit from \$125,000 to \$250,000.

We support the measure insofar as it increases the cost threshold given that costs have steadily risen and that adjustments to the cost criterion for the SMA permit have not kept pace. The last adjustment occurred in 1991. Another adjustment is long overdue.

From a substantive perspective, our preference is the repeal of the cost criterion. Irrespective of cost, the state and county SMA permit administrators are required to assess the probable environmental and ecological effects of developments, taking into account cumulative effects, within the framework of the objectives and policies and the

SMA guidelines provided in Chapter 205A, HRS. Processing as a major SMA permit should be determined by the existence of potential or probable impacts.

To effectuate the repeal, we offer the following amendments.

“Special management area minor permit” means an action by the authority authoring development [~~the valuation of which is not in excess of \$125,000 or which~~] that has no substantial adverse environmental or ecological effect, taking into account potential cumulative effects.

“Special management area use permit” means an action by the authority authoring development [~~the valuation of which is not in excess of \$125,000 or which~~] that may have a substantial adverse environmental or ecological effect, taking into account potential cumulative effects.

Thank you for the opportunity to offer these comments.



OFFICE OF HAWAIIAN AFFAIRS
Legislative Testimony

HB 939, RELATING TO COASTAL ZONE MANAGEMENT

House Committee on Judiciary

January 26, 2010

2:30 p.m.

Room: 325

The Office of Hawaiian Affairs (OHA) **OPPOSES** HB 939, which seeks to increase the threshold amount between special management area minor permits and special management area permits from \$125,000 to \$250,000.

Through the Coastal Zone Management Act of 1972 (CZMA), Congress found, that "[t]he habitat areas of the coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations." (15 U.S.C. 5 1451(d)) Congress declared a national policy to "preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations." (15 U.S.C. § 1452(1))

The State of Hawai'i's Coastal Zone Management Program (CZMP) was approved for CZMA purposes in 1978, following the adoption of Hawaii Revised Statutes, Chapter 205A. In Chapter 205A, the Legislature made it clear that in implementing the objectives of the federal coastal zone management program, state and county agencies shall give full consideration to ecological, cultural, historic, esthetic, recreational, scenic, and open space values, and coastal hazards, as well as to needs for economic development.

OHA stresses that our coastal areas are in a losing battle. They are being lost to a variety of opponents, including literally disappearing from erosion and potential sea level rise, and the resources in them declining due to downward spiraling water quality. This sensitive area needs more protection, not less, as this bill seeks. Special Management Areas (SMAs) are a regulatory creation for areas where significant attention needs to be paid to the potential impact that a development may have on coastal qualities. Some counties

in this state have even extended the SMA boundary landward beyond the state minimum requirements because of this area's extreme importance and sensitivity. Raising the project cost threshold will lower the protection of this invaluable area and be contrary to federal, county and current state intent.

Therefore, OHA urges the Committee to HOLD HB 939. Thank you for the opportunity to testify.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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DAVID K. TANOUE
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ROBERT M. SUMITOMO
DEPUTY DIRECTOR

January 26, 2010

The Honorable Jon Riki Karamatsu, Chair
and Members of the Committee on Judiciary
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Karamatsu and Members:

**Subject: HOUSE BILL 939
Relating to Coastal Zone Management**

The Department of Planning and Permitting (DPP) **supports** House Bill 939, which will increase the threshold amount between Special Management Area (SMA) minor and major use permits from \$125,000 to \$250,000.

The current \$125,000 threshold enumerated in HRS Section 205A-22 was established by the Legislature many years ago and has never been adjusted to compensate for increases in construction costs over the years. As a result, many small projects with no environmental or ecological effects must obtain an SMA major permit, which unnecessarily adds to costs and delays.

HRS Section 205A-22, and its corresponding ROH Section 25-1.3, provide for the imposition of an SMA major use permit in the event there may be substantial adverse environmental or ecological effects associated with a development, regardless of its cost. This is sufficient to ensure adequate protection.

We strongly recommend that House Bill 939 be approved. Thank you for this opportunity to comment.

Very truly yours,

A handwritten signature in black ink, appearing to read "David K. Tanoue", is written over a horizontal line.

David K. Tanoue, Director
Department of Planning and Permitting

DKT:jmf
hb939-jp.doc

William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

County of Hawai'i

PLANNING DEPARTMENT

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January 25, 2010

The Honorable Jon Riki Karamatsu, Chair
and Members of the Committee on Judiciary
House of Representatives
Hawai'i State Capitol
415 South Beretania Street
Honolulu, Hawai'i 96813

Dear Chair Karamatsu and Committee Members:

**Re: Testimony in Support of House Bill 939, Relating to Coastal Zone Management
B. J. Leithead Todd, Planning Director, County of Hawaii
Hearing scheduled for Tuesday, January 26, 2010; 2:30 p.m.; Conference Room 325**

HB 939 would allow developments with a valuation of less than \$250,000 and no substantial adverse environmental or ecological impacts to qualify for a "Special management area minor permit," thus increasing the valuation figure from \$125,000 to \$250,000. Developments with a valuation greater than \$250,000 and which may have a substantial adverse environmental or ecological impacts would be required to get a "Special management area use permit."

A "Special management area minor permit" is currently defined as "an action by the authority authorizing development the valuation of which is not in excess of \$125,000 and which has no substantial adverse environmental or ecological effect, taking into account potential cumulative effects." A "Special management area use permit" which is frequently referred to as a "SMA Major permit" is currently defined as "an action by the authority authorizing development the valuation of which exceeds \$125,000 or which may have a substantial adverse environmental or ecological effect, taking into account potential cumulative effects." Even if an action or proposed development is determined by the planning department to not pose a substantial adverse environmental or ecological effect, the mere cost of a structure or action if it exceeds the \$125,000 threshold will kick in the requirements of a use permit.

Honorable Jon Riki Karamatsu, Chair
and Members of the Committee on Judiciary
House of Representatives
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The threshold was last adjusted in 1991. Since then, construction costs have increased significantly for the same type of projects that would have cost less than \$125,000 in 1991. A project that cost about \$120,000 would have been eligible for a minor permit in 1991. The exact same project would now require a major permit as its cost would now exceed the \$125,000 threshold although it would not have any additional impact.

It is important to note that even if a project is valued at less than the newly proposed threshold of \$250,000, if the department determines that the project may have a substantial adverse effect, a special management area use permit rather than a minor permit would be required to safeguard our resources.

I ask that the Committee on Judiciary pass HB 939 and allow the bill to crossover to the Senate.

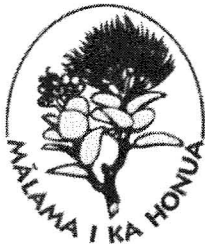
Respectfully submitted,



BOBBY JEAN LEITHEAD TODD
Planning Director

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cc: Mayor William P. Keno
Mr. Kevin Dayton, Executive Assistant



Sierra Club Hawai'i Chapter

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HOUSE COMMITTEE ON JUDICIARY

January 26, 2010, 2:30 P.M.

(Testimony is 1 page long)

TESTIMONY IN OPPOSITION TO HB 2130

Aloha Chair Karamatsu and Committee Members -

The Hawai'i Chapter of the Sierra Club is opposed to HB 939, which increases the threshold amount between special management area minor permits and special management area permits.

We fundamentally believe our fragile coastal zone deserves greater, not lesser protection. As such, we question the necessity of making it easier to allow grading, grubbing, or development without greater oversight. The Sierra Club, Hawai'i Chapter believes that the "minor permit" distinction should remain \$125,000.

Please hold HB 939 or amend as indicated above. Thank you for the opportunity to testify.