

TESTIMONY
SB 1119 SD 1



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

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

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

S.B. 1119 SD1, RELATING TO AFFORDABLE HOUSING

Chair Hee, Vice Chair Tokuda, and members of the Committee, thank you for the opportunity to share the Administration's concerns with Senate Bill 1119 SD 1.

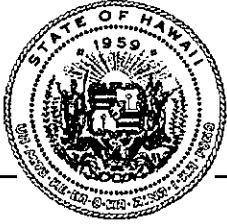
This bill does two things, first it provides incentives for affordable housing production by authorizing the Office of Planning to transfer and regulate the transfer of development rights and credits. Secondly, the bill requires the Office of Planning to establish a working group to develop recommendations and a plan for affordable housing development through the transfer of development rights and credits to transit-oriented development districts that may be created around Honolulu transit stations.

The Administration believes that the transfer of development rights and credits is a tool that can facilitate affordable housing development; however, the Office of Planning is not the appropriate entity to establish this type of program or oversee the working group. This responsibility is more aptly suited to the counties in collaboration with the Hawaii Housing Finance and Development Corporation, which are the government entities that oversee affordable housing development. It is premature to authorize a state agency to regulate the transfer of development rights and credits before the working group is allowed to convene and submit a report on its findings. Moreover, the bill as currently written is unclear in that it does not define "development rights" and "credits" and does not state how rights and credits will be calculated.

Lastly, the Administration believes that there are numerous factors, including but not limited to transit, that should be considered when determining the appropriate location of affordable housing developments. A wide variety of metrics and community input should be used to determine proper affordable housing placement. We recommend that the scope of the working group be broaden so that it does not narrowly

focus on the transfer of development rights and credits solely in transit-oriented development districts.

We recommend that the Committee defer this bill until these important changes and clarifications can be made. Thank you for the opportunity to provide testimony.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

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Statement of
ABBEY SETH MAYER
Director, Office of Planning
Department of Business, Economic Development, and Tourism
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
SB 1119, SD 1
RELATING TO AFFORDABLE HOUSING.

Chair Hee, Vice Chair Tokuda, and Members of the Senate Committee on Water, Land, Agriculture, and Hawaiian Affairs.

The Office of Planning (OP) acknowledges the merit of SB 1119, which would (1) enable the establishment of a transfer of development rights (TDR) program for the purpose of promoting the provision of affordable housing, and (2) establish a working group to develop a plan and recommendation to promote the development of affordable housing through TDR. However, we have the following concerns regarding SD 1.

Foremost, it is not clear that OP is the appropriate entity for administering a TDR program; thus, it is premature to amend Chapter 225M, Hawaii Revised Statutes (HRS), to add this responsibility to OP's mandated functions and responsibilities. Ideally these statutory changes would take place subsequent to the working group's findings as reported to the Legislature in 2010.

Second, given the current fiscal difficulties and staff shortages, it would be not be fiscally possible or prudent for OP to staff and support the working group or the establishment of a TDR system at this time, without the addition of resources. OP foresees the need of consultation services and studies to support the efforts of the working group.

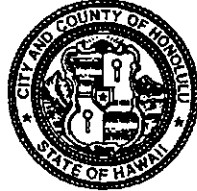
While the current fiscal climate may delay efforts to establish a TDR system for affordable housing and other goals, such as the protection of rural, agricultural, and conservation lands, OP strongly supports the establishment of such a system. We believe that TDR is a very important tool in the creation of affordable housing opportunities and directing desired growth to areas planned for growth.

OP would be happy to assist with and facilitate a collaborative effort to establish a TDR system should resources become available. Thank you for the opportunity to offer these comments.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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March 2, 2009

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

Dear Chair Hee and Members:

**Subject: SENATE BILL SB 1119, SD1
Relating to Affordable Housing**

The Department of Planning and Permitting (DPP) has **concerns** regarding Section 2 of Senate Bill 1119, SD1 which amends Chapter 225M, HRS to allow the transfer of development rights and affordable housing credits. We assume "credits" is a reference to affordable housing credits.

The bill's stated purpose is to provide incentives for the development of affordable housing by authorizing the transfer of development rights (TDR) and transfer of affordable housing credits by the State Office of Planning (OP). The bill also directs the OP to convene a working group to develop a plan and make recommendations.

The Department does not oppose OP convening a working group to develop a plan and recommendations. However, the Department is **opposed** to OP unilaterally transferring development rights and affordable housing credits to other projects without county approval. This is counter to homerule, reduces accountability on land use regulations and approvals, increases red tape, and could seriously compromise the City's ability to distribute affordable housing. By allowing OP to transfer development rights, this essentially means that a state office is able to supersede zoning established by the county council, and without regard to county long range policies and plans.

In addition, some communities may end up with little or no affordable housing units, while others have more than their "fair share". The City is working diligently to ensure that a variety of affordable housing unit types are provided within the community. These affordable housing units would be integrated within the neighborhoods and assure the creation of "complete communities."

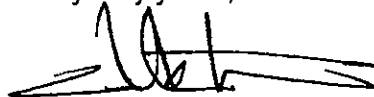
The Honorable Clayton Hee, Chair
and Members of the Committee on Water, Land,
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State Senate
Re: Senate Bill No. 1119, SD1
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Please be informed that the city has some experience with TDR. Based on this experience, we find that many landowners and developers expect to sell rights, but there is generally a lack of market interest to buy the rights. We believe the more appropriate incentives by the state are financial in nature, such as tax credits, loans, and loan guaranties. We also believe that streamlining the state land use boundary amendment process will also reduce the cost of affordable housing.

Accordingly, we respectfully request that Senate Bill No. 1119, SD1 be held, or revised by deleting Section 2.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Tanoue', with a horizontal line extending to the right.

David K. Tanoue, Director
Department of Planning and Permitting

DKT: jmf
sb1119sd1-kst.doc

TESTIMONY
SB 1119 SD 1
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