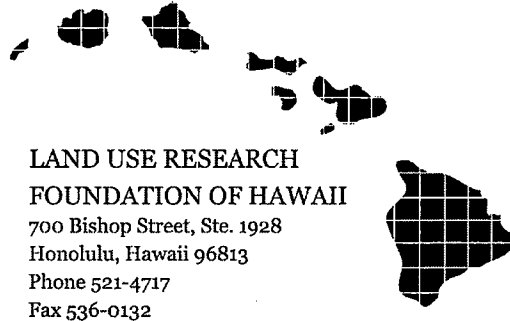


TESTIMONY
SB 2915
LATE



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Via: WTLtestimony@Capitol.hawaii.gov

February 8, 2010

**Support of SB 2915 KAKAAKO
(HCDA Development Agreements)**

The Honorable Senator Clayton Hee, Chair, Senator Jill N. Tokuda, Vice-Chair, and Members of the Senate Committee on Water, Land, Agriculture & Hawaiian Affairs,
The Honorable Senator J. Kalani English, Chair, Mike Gabbard, Vice Chair, and Members of the Senate Committee on Transportation, International & Intergovernmental Affairs,

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 and rational land use planning, legislation and regulations affecting common problems in Hawaii.

LURF supports the development of housing projects in Kaka`ako which include market and affordable housing units, commercial and light industrial uses. We also **strongly support SB 2915**, which will enable the Hawaii Community Development Authority (HCDA) to enter into development agreements for lands within the Kakaako Community Development District. We base our support on, among other things, the following:

- Development Agreements would provide a more stable framework for development in Kaka`ako under master plan permits and development agreements;
- Would assist in stimulating our local economy by encouraging new investments and developments on lands covered by master plans in Kaka`ako, which will lead to new construction, jobs, industry growth and housing opportunities;
- Helps to fulfill the State's vision of Kaka`ako as a well-designed, diverse urban community, by encouraging private investments in parks, plazas, public facilities and projects with broader public benefits, by allowing landowners and developers to develop under master plans that must be consistent with the State's plans for the area, HCDA's Mauka Area Rules §15-22-205(b);
- Supports the development of early reserved housing units in advance of the development of market units.
- This Bill is similar to an existing statute (Part VII of HRS ch. 46 entitled "Development Agreements" adopted in 1985) that provides counties with the authority to enter into

development agreements to vest property rights. The finding and purpose of the existing statute (HRS §46-121) mirrors the need for certainty in the development approval process.

- The development agreements will provide landowners, developers and investors with assurances against subsequent changes to legislative statutes, thus, furthering the intent of the HCDA's Rules on Master Plans, which provide for reasonable certainty, public benefits and orderly planning.

We would also respectfully request the following **clarification amendments to SB 2915**:

- The addition of the phrase "in the agreement" to §206E-G (b) (page 8 line 5) to confirm that the parties may, by mutual agreement, expressly agree in the development agreement to be bound by certain changes in the law.
- The revised provision would read as follows with the additional phrase:
 - (b) Any relevant state law, county ordinance, resolution, rule, or policy governing the development and use of the land subject to the development agreement shall remain in full force and effect throughout the term of the development agreement. Any subsequent state law, county ordinance, resolution, rule, or policy adopted after the execution of the development agreement shall not affect the agreement unless expressly stated otherwise in the agreement.

The development agreements to be allowed by this bill will result in predictability in the development approval process and will encourage maximum efficient use of resources at the least economic impact to the public. This predictability is especially important in view of the substantial investment required for any development project and the more conservative lending and investment practices resulting from the recent economic crisis.

Public benefits derived from implementing master plans in the Kakaako Community Development District include expanded open space and recreational opportunities for Hawaii's residents, newly-constructed market and reserved housing, major private sector investments to stimulate economic growth, and on-and off-site infrastructure and other improvements that support the broader community. Such master plans are intended to create well-designed communities that improve the urban environment in Honolulu. Such benefits may not be realized unless development rights for a specific period are clearly vested and investments are made to develop and complete the proposed projects.

Development agreements are a mechanism to strengthen the implementation of an approved master plan. Such agreements encourage private and public participation in the implementation of the master plan, reduce the economic cost of development, and allow for the orderly construction of recreational and publicly available facilities through the vesting of rights to develop the balance of the projects.

As an administrative act, development agreements also provide assurances to the applicant for a particular development project in the master plan area that upon approval of the master plan, the applicant may proceed with the project in accordance with all applicable statutes, ordinances, resolutions, rules, regulations, and policies then in existence and that the project will not be restricted or prohibited by the State or county's subsequent enactment or adoption of laws, ordinances, resolutions, rules, regulations, or policies.

Chapter 206E, Hawaii Revised Statutes, and associated plans, rules, and regulations, provide for vesting of certain development rights, upon approval by the HCDA, of matters including master plans and development agreements in connection with an approved master plan. To achieve the goals and public benefits from each approved master plan, owners, developers, and their lenders and investors need a predictable and stable framework that assures these parties they can develop and complete their proposed projects pursuant to the terms of an approved development agreement.

Based on the above, we respectfully request that your Committees **favorably consider and approve SB 2915 and the requested amendment**

Thank you for the opportunity to express our **strong support for SB 2915 and the requested amendment**.

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(END)