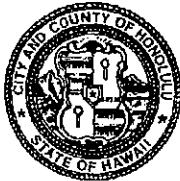


DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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DIRECTOR

JIRO A. SUMADA
DEPUTY DIRECTOR

March 4, 2011

The Honorable Jerry L. Chang, Chair
and Members of the Committee on Water
Land & Ocean Resources
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Chang and Members:

**Subject: House Resolution 21 and House Concurrent Resolution 18
Requesting the City & County of Honolulu to Assess Maximum
Fines, Settlements, and Liens for Multiple and Egregious
Violations**

The Department of Planning and Permitting ("DPP") is strongly opposed to House Resolution 21 and House Concurrent Resolution 18, which:

1. Request that the City & County of Honolulu assess maximum fines and record civil fine liens against a property owner who is cited for at least three violations on properties within a one mile radius within a five-year period, and
2. Request that Corporation Counsel consider the egregiousness of a violation and maximum amount of fines when preparing settlement offers.

Under the existing law, the Director of the Department of Planning and Permitting ("Director") is authorized and empowered to issue Notices of Order, impose civil fines, and settle on outstanding civil fines at his discretion. Thus, any attempt by the Legislature to request, suggest, or otherwise influence the Director's discretion in this regard is both unconstitutional and contrary to the Home Rule Doctrine. Furthermore, the Separation of Powers that is inherent to the structure of our

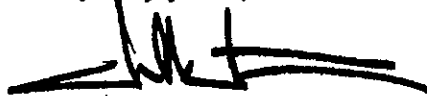
The Honorable Jerry L. Chang, Chair
and Members of the Committee on Water
Land & Ocean Resources
House of Representatives
Re: House Resolution 21 and
House Concurrent Resolution 18
March 4, 2011
Page 2

government strongly suggests that the Legislature should not attempt to influence or exert control over the means by which the Executive Branch Agencies fulfill their legislatively-promulgated duties.

House Resolution 21 and House Concurrent Resolution 18 are obvious instances of special legislation intended to single out specific individuals known within the City and County of Honolulu by requiring the Department of Planning and Permitting to deviate from its well-established practices and procedures. As honoring these Resolutions can only result in negative impacts to DPP and the City in addition to potential liability for singling out a specific individual, we emphasize our opposition to these Resolutions.

In summary, DPP strongly opposes House Resolution 21 and House Concurrent Resolution 18 as they are both unconstitutional and contrary to the Home Rule Doctrine. Thank you for the opportunity to provide testimony.

Very truly yours,



David K. Tanoue, Director
Department of Planning and Permitting

DKT:jmf

hr21hcr18-Enforce-mf-COR.doc

04 March 2011

H.C.R.18 and HR21 Hearing: 10:15 Friday March 04 2011 **Testimony in Support**
REQUESTING THE CITY AND COUNTY OF HONOLULU TO ASSESS MAXIMUM FINES, SETTLEMENTS, AND LIENS FOR
MULTIPLE AND EGREGIOUS VIOLATIONS OF COUNTY PROPERTY AND PUBLIC HEALTH AND SAFETY ORDINANCES.

Good morning....Chair Rep. Chang, Vice Chair Rep Har, and members of the Committee on
Water Land & Ocean Resources. I would like to submit testimony in support of H.C.R.18 / HR21 .

The resolutions address situations where landowner(s) engage in chronic neglect of their
properties in violation of local, city, and county laws. When such neglect widens in scope and becomes a
detriment to the surrounding area at large, the C&C of Honolulu's policy must be to progressively
increase measures in an effort to encourage sustained compliance as well as correction of the conditions
at those properties. Such progressive measures are already at the C&C of Honolulu's disposal but its
agencies are not applying them effectively.

A general policy of leniency may well be appropriate in the majority of cases. However, when
Honolulu agencies become aware of multiple violations by individuals and standard measures fail to
work, increasingly stiffer fines must be assessed up to and including liens. A policy of continuous fines at
the minimum amount does not send the correct message when the situation is chronic.

So too, the Corporation Counsel should consider matters on a case by case basis. Its usual
settlement policy based on a percentage of total fines is probably appropriate when most violations are
corrected. However, in the instance of one landowner who had accumulated numerous violations and
fines showing blatant disrespect for the laws of the State of Hawaii and the City & County of Honolulu, it
is outrageous for there to have been a settlement for \$.10 on the dollar. When the owner is known to
have limitless resources, the full maximum fines owed should have been required. Further, this land-
owner should be put on notice that his past history will cause future violations to result directly in liens.

A lenient policy must be abandoned when the situation warrants - the C&C of Honolulu must implement
assessment penalties to the maximum current law allows in certain deserving circumstances.

Thank you for your time and consideration on this matter.

Aloha,
Nina Reppun Carney
president@kahalacommunity.org

WLO Hearing 3-4-11 at 10:15am in conf rm#325

To Chair Jerry Chang , Vice Chair Sharon Har, and members of WLO committee:

Testimony in favor of HR21/HCR18-Requesting the City and County of Honolulu to assess maximum fines, settlements and liens for multiple and egregious violations of county property and public health and safety ordinances.

The Kahala neighborhood is under siege. For the past 5 or 6 years one incredibly wealthy individual has purchased over 2 dozen properties and had badly neglected them. Now he is talking about creating a museum in this single family neighborhood.

Residents and the City Department of Planning and Permitting have been vigilant in citing this individual over 50 times. When it comes time to pay up, the City Corporation Counsel has let this owner-and several others-off the hook by paying only 15 cents on the dollar. So the last time, he only had to pay \$15,000. Recently, after community admonitions that the City government could use the money, Corporation Counsel settled for 25 cents on the dollar- or \$25,000.

HR 21 and HCR18 asks the City to assess maximum fines, settlements and liens for multiple and egregious violations of county property and public health and safety ordinances.

Kahala Avenue is a well-travelled boulevard used by residents and tourists alike. Long time residents are sad to see the area desecrated and demolished. Please vote for HR21/HCR18 to allow the City to assess maximum fines.

Thank you for your consideration of my testimony

Stan Fichtman
Member, Neighborhood Board 3
Waialae-Kahala

har3 - Megan

From: Susie [hi2mom@aol.com]
Sent: Friday, March 04, 2011 7:24 AM
To: WLOtestimony
Subject: In favor

HCR 18 / HR 21
Status / Status

REQUESTING THE CITY AND COUNTY OF HONOLULU TO
ASSESS MAXIMUM FINES, SETTLEMENTS, AND LIENS FOR
MULTIPLE AND EGREGIOUS VIOLATIONS OF COUNTY
PROPERTY AND PUBLIC HEALTH AND SAFETY
ORDINANCES.

Aloha

I am a resident of the Kahala neighborhood and would like to ask you to continue to support measures to encourage all of our neighbors, island wide, to take care of the environment for the betterment of the community. We see more trash, more rodents and unkempt homes that are not healthy for those of us who actually live in the community.

Mahalo
Susan Roth
resident