

SB 150

DEPARTMENT OF DESIGN AND CONSTRUCTION
CITY AND COUNTY OF HONOLULU

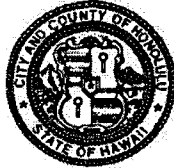
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February 23, 2011

The Honorable David Y. Ige, Chair
and Members
Ways and Means Committee
State Capitol
Honolulu, Hawaii 96813

Dear Chair Ige and Members:

Subject: Senate Bill No. 150 SD1, Relating to Building Design for Persons with Disabilities

The Department of Design and Construction (DDC) respectfully recommends revisions to SB150 SD1 to improve the fairness of the proposed Disability Communication Access Board (DCAB) fee structure. The proposed fee structure, presented in Section 4 of the bill, is based on estimated (total) construction costs. However, the DCAB only reviews project components related to the Americans with Disabilities Act (ADA). As a result, the proposed fee structure unfairly penalizes high-cost projects with only minor components related to ADA compliance. The majority of DDC projects have only small components related to compliance with ADA requirements. For example, the recent Sand Island Wastewater Treatment Plant Primary Expansion Phase 1, Odor Control Systems and Gravity Thickener Modifications project was awarded at \$67.9 million; however, the total cost of the ADA-related components of the project was approximately \$1.0 million. Based on the total project cost, the DCAB fee would be \$17,000, which does not reflect the fact that only approximately 1.5 percent of the total project cost was associated with ADA requirements. As illustrated by this example, the proposed fee structure would unfairly overcharge large projects with small ADA-related components compared to smaller projects with major ADA-related components.

To make the proposed fee structure more fair, DDC respectfully recommends that SB150 SD1 be amended so that the fees for DCAB review will be based on a project's ADA-related construction costs rather than total construction costs. Accordingly, the first sentence of Section 4 should be revised to read: "For the purposes of section 2 of this Act and until the disability and communication access board adopts rules pursuant to chapter 91, Hawaii Revised Statutes, to supersede the fees specified in this section, the plan review fees for the board's services for public buildings, facilities, and sites shall be based on a project's estimated ADA-related construction costs as follows:..."

The Honorable David Y. Ige, Chair
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February 23, 2011
Page 2

Alternatively, a simpler approach that would eliminate the need to estimate ADA-related construction costs would be to apply the \$3,000 maximum plan review fee that is proposed for rights-of-way projects and projects managed by private non-profit entities to all construction projects funded under the Sanitation category in the City and County of Honolulu's budget ordinance. Sanitation category projects include improvements at wastewater treatment plants, wastewater pump stations, solid waste landfills, and similar facilities. These projects typically have very large construction costs with very small ADA-related components. This revision could be accomplished by revising the last sentence of Section 4 to read, "~~In addition,~~ There shall be a \$3,000 maximum plan review fee charged at the discretion of the disability and communication access board for public rights-of-way projects, and projects managed by private non-profit entities, and projects listed in the Sanitation category of the City and County of Honolulu's budget ordinance." This stipulation could be extended to similar budget ordinance categories for other counties.

Also, please note that the phrase, "In addition," at the beginning of the last sentence of Section 4 is confusing and misleading and should be eliminated, because it can be interpreted as indicating that the "\$3,000 maximum plan review fee" is charged in addition to the tabulated fees based on project cost. This is inconsistent with the fact sheet attached to the DCAB testimony of February 10, 2011 to the Senate Committee on Human Services (enclosed herewith).

Thank you for the opportunity to testify.

Very truly yours,



Collins Lam, P.E.
Director

CDL:WB:hm

Enclosure



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Facility Access Overview of Plan Reviews, Proposed Fee, and Other Services

Plan Reviews

- Hawaii Revised Statutes, Section 103-50 and Hawaii Administrative Rules, Title 11, Chapter 216 and 217 requires all plans and specifications of State and county projects to be submitted to the Disability and Communication Access Board (DCAB) for a plan review to the Americans with Disabilities Act Accessibility Guidelines (ADAAG) and Fair Housing Accessibility Guidelines.
- DCAB conducted 883 plan reviews in fiscal year 2009-2010.
 - State agencies who submit plans include, but are not limited to, DAGS, DOE, DOT, DNL, and UH.
 - Examples of plans and specifications reviewed include, but are not limited to, Maui Regional Public Safety Complex, Waimea High School Architectural Barrier Removal, Honolulu International Airport Temporary Commuter Terminal Facility, and University of Hawaii at Manoa Campus Center Renovation and Expansion.
- Effective January 1, 2011, DCAB will review plans and specifications of State and County projects for compliance with the 2004 ADAAG, which is consistent the Department of Justice's ADA regulations revised in 2010. The prior standard was the 1991 ADAAG.
- DCAB's plan review is required advice and recommendations, not an approval. DCAB does not enforce the ADA or Fair Housing Act. However, state law is equivalent to federal law. DCAB's plan review is seen as both good faith effort as well as substantial equivalency should a complaint be filed. In addition, DCAB's plan review minimizes costly redesign and reconstruction to remove architectural barriers.



Proposed Plan Review Fee

- Legislation proposes the following plan review fee schedule effective January 1, 2012. The fee will sunset when HAR 11-216 and 217 is amended through the public hearing process to address rules and procedures for a permanent review fee.

Estimated Construction Cost	Proposed Plan Review Fee
No application	\$50
Less than \$100,000	\$200
\$100,000 to \$500,000	\$500
\$500,001 to \$1,000,000	\$1,000
\$1,000,001 to \$2,500,000	\$2,000
\$2,500,001 to \$5,000,000	\$3,000
\$5,000,001 to \$10,000,000	\$4,000
More than \$10,000,000	\$5,000 + \$1,000 for each \$10,000,000 over \$10,000,000

*\$3,000 maximum plan review fee for public rights-of-way projects and projects managed by private non-profit entities.

- The proposed plan review fee will only apply to State or county projects covered under HRS §103-50. Private projects that are not covered under HRS §103-50 are not required to be submitted to DCAB for a plan review; therefore, will not be subject to the proposed plan review fee.
- Projects with "no application" to the accessibility guidelines, such as reroofing, will be charged a \$50 plan review fee regardless of the project's estimated construction cost.
- The plan review fee must be provided with the first submittal of plans and specifications. No additional plan review fee will be charged when plans and specifications are revised and resubmitted for plan review, unless the project has significant design or scoping changes.
- 5.5 positions, filled by design professionals, conduct DCAB's plan reviews and provide other facility access services. The cost to fund the 5.5 positions with the special fund is \$484,271 per year (fiscal year 2011 dollars). Based on plans and specifications submitted to DCAB in calendar year 2010, the proposed plan review fee schedule is estimated to generate \$550,000 per year.
- Starting January 1, 2012, the plan review fee will be deposited into DCAB's special fund. DCAB's facility access program will remain general funded until June 30, 2012. The six-month overlap will help maintain a positive balance within the special fund. DCAB will adjust its budget for the fiscal year beginning July 1, 2012 by reducing its general fund by 5.5 positions and approximately \$323,000 per year and creating 6.0 positions in the special fund.
- California has a state agency that reviews plans and specifications for facility access compliance, similar to DCAB. DCAB's proposed plan review fee is considerably less than California's access compliance plan review fee, as shown in the comparison chart below.

Estimated Construction Cost	Proposed DCAB Plan Review Fee	California Access Compliance Plan Review Fee	Honolulu Building Permit Fee (does not include any accessibility review)
No application	\$50	Not applicable	Not applicable
\$90,000	\$200	\$400	\$1,430
\$500,000	\$500	\$2,000	\$5,160
\$1,000,000	\$1,000	\$3,000	\$7,415
\$2,000,000	\$2,000	\$5,000	\$11,915
\$5,000,000	\$3,000	\$5,600	\$23,915
\$10,000,000	\$4,000	\$6,600	\$43,915
\$20,000,000	\$5,000	\$8,600	\$83,915

Other Facility Access Services

- In addition to plan reviews, DCAB provides the following facility access services:
 - Issue design specifications, site specific alternate designs, and interpretive opinions.
 - Review State and county master plans, such as the Statewide Pedestrian Master Plan.
 - Provide consultation and technical assistance via fax/phone/email to design professionals.
 - Conduct and coordinate training, such as the annual Disability Access Conference.
 - Prepare and distribute an Access E-Bulletin.
 - Sponsor the annual Accessible Design Awards.
 - Provide facility access policy guidance to the State and counties.
 - Review federal, state, and local building codes/guidelines.

