



HB 2419 HD1
RELATING TO LAND USE
House Committee on Finance

February 29, 2012

1:30 p.m.

Room 308

The Office of Hawaiian Affairs **OPPOSES** HB2419 HD1, which would deprive the community of meaningful opportunities for input on individual developmental projects, make it difficult for state and county agencies to fulfill their affirmative duty to protect constitutionally recognized Native Hawaiian traditional and customary rights, and put Native Hawaiian and other constitutionally protected rights at risk.

Although each county has its own specific procedures, generally reclassifications of land 15 acres or less in the agricultural, rural and urban districts are approved by county planning commissions and their county councils. County planning commissions hold public hearings on petitions for reclassification that allow for input from citizens who can express their views and provide information about a specific area's history, resources, prior land and water use, and connection to the Native Hawaiian community. County councils then act upon the planning commissions' recommendations, which provides another opportunity for community input and county oversight.

As was the case with the original bill, the problem with HB2419 HD1 is that controversial projects would be able to hide amongst a number of proposed county plan amendments, rather than be given individual review. Although the HD1 applies to the reclassification of agricultural, rural, or urban land parcels 15 acres or less, numerous smaller-scale projects can still result in the reclassification of very large areas. HB2419 HD1 would only require the county to file a petition with the LUC for a declaratory order that could approve a number of proposed amendments. It is unclear how the LUC and the counties will be able to fulfill their affirmative duties to preserve and protect Native Hawaiian traditional and customary rights, increasing the risk that Native Hawaiian traditional and customary practices will not be given adequate consideration.

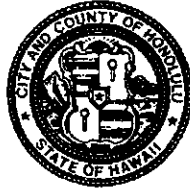
Participation in decision-making processes can be and has been a significant factor in protecting and asserting Native Hawaiian rights and guiding Hawai'i to a more sustainable future. HB2419 HD1 would weaken the protections put in place to ensure appropriate and sustainable growth and preserve the rights of Native Hawaiians.

Therefore, OHA urges the committee to HOLD HB2419 HD1. Mahalo for the opportunity to testify on this important measure.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honolulu.dpp.org • CITY WEB SITE: www.honolulu.gov

PETER B. CARLISLE
MAYOR



DAVID K. TANOUE
DIRECTOR

JIRO A. SUMADA
DEPUTY DIRECTOR

February 29, 2012

The Honorable Marcus R. Oshiro, Chair
and Members of the Committee on Finance
State House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Oshiro and Members:

**Subject: House Bill No. 2419, HD1
Related to Land Use**

The Department of Planning and Permitting **supports the intent** of House Bill 2419, HD 1, to streamline land use boundary amendments, and to "support county rule". The bill would amend Chapter 205, HRS, by allowing counties to seek a declaratory order from the Land Use Commission to reclassify lands 15 acres or less based on changes to the county general plan, as defined under Section 226-2, HRS.

However, we **request the following changes** to Section 2 of the bill:

"Notwithstanding any other law to the contrary, when making amendments pursuant to chapter 205 [to] based on a county general plan or county development plan . . . Upon the granting of the declaratory order by the commission, the reclassification [contained in] based on the amended county general plan or county development plan shall take immediate effect."

State land use boundary classifications per se are not part of county general plans or development plans. In addition, county general plans and development plans are not developed under Chapter 205, HRS.

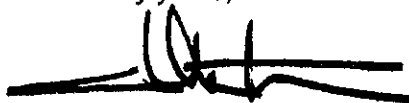
Further, we note that Section 3 of the bill may need to amend Section 205-3.1(b), HRS, rather than 205-4(a), HRS.

Finally, we are disappointed that the HD1 version of the bill addresses only lands 15 acres or less and not more than 15 acres. However, we support the bill with the above modifications.

The Honorable Marcus R. Oshiro, Chair
and Members of the Committee on Finance
State House of Representatives
RE: House Bill No. 2419, HD1
February 29, 2012
Page 2

Thank you for the opportunity to testify.

Sincerely yours,

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

David K. Tanoue, Director
Department of Planning and Permitting

DKT:jmf

hb2419hd1-LandUse-rh.doc



Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
808.538.6616 hawaii.chapter@sierraclub.org

HOUSE COMMITTEE ON FINANCE

February 29, 2012, 1:30 P.M.
(Testimony is 1 page long)

TESTIMONY IN OPPOSITION TO HB 2419 (HD1)

Aloha Chair Oshiro and Members of the Committee:

The Sierra Club, Hawaii Chapter, with 10,000 dues paying members and supporters statewide, **opposes** HB 2419 (HD1). This bill would allow counties to reclassify lands based on general plans via a declaratory ruling by the LUC.

This measure would likely eliminate the right to have a contested case hearing before a planning commission familiar with the particular issues on that island. Land use is so critical to Hawaii's future, we cannot support or recommend a process that decreases public participation. That does not led to smart growth, the goal of many in the state.

If this bill were to move forward, we suggest amending it to clarify that any proceeding would follow Chapter 91 and that such a proceeding would occur on the island where the boundary amendment would occur.

Mahalo for the opportunity to testify.