



## DISABILITY AND COMMUNICATION ACCESS BOARD

919 Ala Moana Boulevard, Room 101 • Honolulu, Hawaii 96814  
Ph. (808) 586-8121 (V/TDD) • Fax (808) 586-8129

February 4, 2011

### TESTIMONY TO THE HOUSE COMMITTEE ON HEALTH

#### House Bill 756 - Relating to Building Design for Persons with Disabilities

The Disability and Communication Access Board (DCAB) strongly supports House Bill 756 with amendments. This bill will permit our office to assess a review fee for the service of conducting a plan review to ensure that buildings, facilities, and sites meet the requirements of §103-50, Hawaii Revised Statutes. Attached to our testimony is a fact sheet explaining the pertinent data for the program and the proposed bill.

DCAB is the State agency responsible for the overall coordination and administration of §103-50, Hawaii Revised Statutes. This review process ensures that government buildings, facilities, and sites meet the design requirements of the Americans with Disabilities Act and the federal Fair Housing Act for access to persons with disabilities. The DCAB review is the State's best risk management strategy to avoid design and construction errors that will result in costly legal costs and reconstruction to remedy noncompliance.

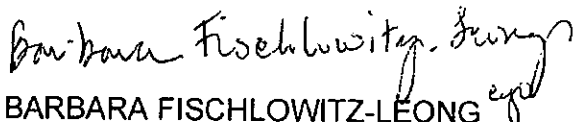
The program currently is one hundred percent general funded and operates with 5.5 staff. This bill will shift the cost of the program from the general fund to the costs of design and construction. As with any other cost related to construction, this is the most appropriate method to pay for building design, construction, and compliance costs.

We prefer the contents of a similar bill, House Bill 1072 that has been introduced by the Administration. The substance of the bill is identical although the format is different and several provisions are clearer. We ask that you delete the contents of House Bill 756 and replace it with the contents of House Bill 1072.

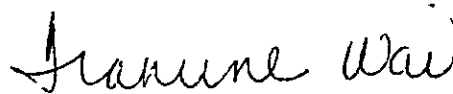
Should this bill pass, DCAB commits to reducing the cost of the program in its general fund appropriation in the subsequent fiscal year beginning July 1, 2012. We ask that you not make any adjustments this year, as program expenses will not be moved to, nor charged against, the Special Fund until July 1, 2012.

Thank you for the opportunity to testify.

Respectfully submitted,



BARBARA FISCHLOWITZ-LEONG  
Chairperson  
Legislative Committee



FRANCINE WAI  
Executive Director



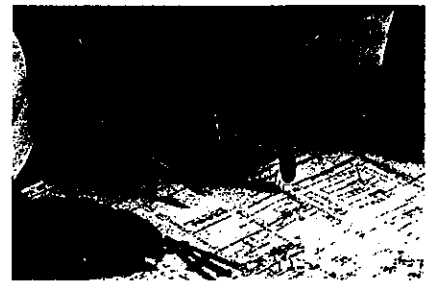
## DISABILITY AND COMMUNICATION ACCESS BOARD

919 Ala Moana Boulevard, Room 101 • Honolulu, Hawaii 96814  
Ph. (808) 586-8121 (V/TDD) • Fax (808) 586-8129

### 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.



## **morikawa2 - Grant**

---

**From:** Tony Lenzer [Tlenzer@hawaii.rr.com]  
**Sent:** Wednesday, February 02, 2011 2:46 PM  
**To:** HLTtestimony  
**Subject:** HB 756

Chairman Yamane and Members of the Health Committee:

My name is Anthony Lenzer. I am a retired University of Hawaii Professor and former Director of the Center on Aging at the University of Hawaii at Manoa. I am currently a Board member for several senior advocacy organizations, as well as a member of the Disability Communication and Access Board. However, I am testifying today as an individual, in strong support of HB 756.

The main purpose of this Bill is to create a fee schedule and to allow DCAB to collect fees to defray the costs of reviewing plans of public buildings, facilities and sites to assure that such buildings will be in compliance with applicable laws regarding access for persons with disabilities. DCAB now reviews 900-1,000 such plans annually, and does not charge for this valuable service. This DCAB staff review is especially useful, in that it frequently uncovers design flaws which are not compatible with ADA specifications. This can result in added costs for the constructing agency, either in redrafting plans or retrofitting facilities.

I might add that, given the State's current budget problems, it is highly desirable that State agencies to enabled to reduce some of their expenses by charging fees for services.

I hope you will support this desirable legislation, and thank you for the opportunity to testify on this matter.

Anthony Lenzer, Ph.D.

**morikawa2 - Grant**

---

**From:** C.Fleming/ M. Lu [kahuna00@hawaiiantel.net]  
**Sent:** Wednesday, February 02, 2011 2:33 PM  
**To:** HLTtestimony  
**Subject:** House Bill No. 756 Relating to Building Design for Persons with Disabilities

**I am testifying in support of this bill. It's purpose is to give the Disability and Communications Access Board the authority to charge a fee to defray expenses of reviewing construction plans to ensure compliance with the ADA Accessibility Guidelines and Fair Housing Accessibility Guidelines. I am a disabled retiree who uses a wheelchair and modified van and I require accessible buildings to function independently. Without accessible facilities, I can not move about in the community to carry out such activities as: shopping, doctor's visits, civic responsibilities, volunteer and social activities.**

**I, and thousands like me, require accessible public facilities as well as housing to maintain ourselves as productive individuals and citizens.**

**This bill assures that construction, both new and remodel, will continue to meet Federal and State access laws and will do so without increasing taxes.**

**In fact, this model is followed in other states, such as California, where the State Architects charges public agencies to perform plan review to ensure access.**

**I believe that this law is absolutely necessary and ask for it's expeditious enactment.**

**Thank you,  
Charles W. Fleming  
75-310 W. Kakalina Pl.  
Kailua-Kona, HI 96740-1901  
(808) 326-4708**



## **NEXT DESIGN**

---

Testimony of  
Michael S. Okamoto  
Principal, Next Design LLC, and  
Board of Directors, Disability and Communication Access Board

Before the  
House of Representatives Committee on Health  
Friday, February 4, 2011 at 9:00 A.M.

In Consideration of  
House Bill 756  
Relating to Building Design for Persons with Disabilities

Aloha Chair Yamane and Members of the Committee:

Thank you for the opportunity to testify on House Bill 756, which proposes to establish an accessible building design special account for the Disability and Communication Access Board, and also enables the Disability and Communication Access Board to charge a fee for the review of projects as required by Section 103-50 of the Hawaii Revised Statutes.

As a member of the design community for the past fifteen years, I have seen the benefit of the Disability and Communication Access Board - Facility Access Unit reviews and opinions since its inception. Projects by architects and engineers are designed to comply with the 2010 ADA Standards for Accessible Design; however, these are minimum guidelines and are subject to some interpretation of its guidelines and tolerances. The Facility Access Unit plays a key role to ensure maximum compliance with the 2010 ADA Standards for Accessible Design for all public projects in the State of Hawaii. The Facility Access Unit also maintains a strong and consistent dialog with the United States Access Board and United States Department of Justice in order to forward opinions a seek clarifications on the 2010 ADA Standards for Accessible Design, and it predecessor the Americans with Disabilities Act Accessibility Guidelines.

As the Disability and Communication Access Board - Facility Access Unit is currently funded through general budget of the Disability and Communication Access Board; it is subject to the challenges of the department's annual budget. House Bill 756 proposes that funding for the Disability and Communication Access Board - Facility Access Unit come from separate fees which are assessed based upon the estimated construction cost of a project. This will afford the department greater flexibility so that they may adapt to the increasing or decreasing construction climate.

I apologize for not being able to testify in person, but I ask that you pass House Bill 756.

PETER L. FRITZ  
414 KUWILI STREET, #104  
HONOLULU, HAWAII 96814  
TELEPHONE: (808) 532-7118  
E-MAIL: PLFLEGIS@FRITZHQ.COM

HOUSE OF REPRESENTATIVES  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2011

COMMITTEE ON HEALTH

Hearing February 4, 2011  
Testimony on H.B. 756  
(Relating to Building Design for Persons with Disabilities)

Chair Yamane, Vice Chair Morikawa and members of the Committee:

My name is Peter Fritz. I am an attorney, individual with a disability and the current Chairperson of the Disability and Communication access Board ("DCAB"). I am testifying in my personal capacity **in support** of H.B. 756.

DCAB is required by §103-50 HRS, to review all plans and specifications for the construction of state and county buildings, facilities, and sites to ensure access for persons with disabilities. The purpose of this bill is to give the DCAB the authority to charge a review/filing fee so that the expense is charged to the project being reviewed, to provide a revenue stream and the authority to establish a fee schedule. This bill will make the plan review process self supporting and should eliminate the need for general funds for plan review.

Charging the cost for plan review of public projects to the responsible agency is a project cost. It is no different than any other design expense. The cost of the review should be paid by the responsible agency. The plan review cost can be easily included in the initial budgeting and appropriation process.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "Peter L. Fritz". The signature is stylized and cursive.

Peter L. Fritz

Kimmey Unabia Architects, Ltd.  
37 Kuapapa Place  
Kihei HI 96753  
Tel: (808) 874-9015  
Fax: (808) 875-1078  
Email: kua-maui@hawaii.rr.com

---

February 2, 2011

Email: HLTtestimony@Capitol.hawaii.gov

Subject: **HB 756 / Relating to Building Design for Persons with Disabilities:**

Dear Sirs,

I am a licensed architect and have been a resident of Maui for the past 26 years. I am a Past President of both the American Institute of Architects (AIA) Maui Chapter and the AIA Hawaii State Council. For the past eight years I served as a member of the State Disability and Communication Access Board (DCAB) Board of Directors.

I am writing in support of HB 756. This legislation will allow DCAB to charge a fee to defray the expenses for reviewing construction plans for State construction projects. This will ensure compliance with the American with Disabilities Act Accessibility Guidelines (ADA). It is my understanding that the fees to be charged for DCAB are less than the building permit and plan check fees which are already being paid for County review of construction projects. The DCAB review funds are slated to be deposited in the State's General Fund.

None of the County Building Departments currently review for ADA for any projects. The potential for damages accruing to the State for expensive change orders or even more expensive lawsuits filed after unreviewed projects are completed incorrectly puts the State in real jeopardy. The DCAB related legislation is well thought out and will in the end cost the State virtually nothing. In turn it will provide peace of mind for the design and construction industries as well as the State of Hawaii.

Sincerely,

Marie Kimmey AIA ME



**morikawa2 - Grant**

---

**From:** Lana Moe [MoeL@Yamasato.com]  
**Sent:** Thursday, February 03, 2011 11:41 AM  
**To:** HLTtestimony  
**Cc:** Lance Kaneshiro  
**Subject:** House Bill No. 756 Relating to Building Design for persons with Disabilities

Dear Sir/Madam:

As a practicing architect in the State of Hawaii we find that DCAB is a very valuable entity that will safeguard the State as well as the community in many ways. DCAB is also a valuable resource for information regarding the ADAAG. Since the ADAAG is a living document we are able to obtain interpretations and clarifications from DCAB.

We do not oppose the implementation of fees as we find it similar to other agencies that impose fees as well.

Please consider accepting House Bill No. 756.

Sincerely,

Lance Kaneshiro  
Associate

\*\*\*\*\*



YFH Architects, Inc.  
1100 Ward Avenue, Suite 760  
Honolulu, Hawaii 96814  
Phone: (808) 531-8825  
Fax: (808) 521-9902

YFH ARCHITECTS, INC. makes no representation or warranty as to the suitability of this e-mail or the files contained in this e-mail. The party accessing this e-mail or the files that this e-mail contains is under no obligation to use these electronic files and assumes complete responsibility for their use once these files are opened. Use of these files shall signify an acknowledgement from the party to agree to indemnify, defend and hold YFH ARCHITECTS, INC. harmless from and against any and all claims arising out of the use of these files.