

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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February 8, 2011

The Honorable Suzanne Chun Oakland, Chair
and Members of the Committee on Human Services
The Honorable Will Espero, Chair
and Members of the Committee on Public Safety,
Government Operations and Military Affairs
State Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chairs Oakland, Espero, and Members:

**Subject: Senate Bill No. 213
Relating to Zoning**

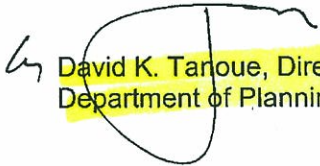
The Department of Planning and Permitting (DPP) supports the intent of Senate Bill No. 213 to address the impacts of the increasing number of group living facilities in residential areas. However, we are concerned that the bill directing the counties to consider the imposition of nondiscriminatory performance zoning standards for group living facilities, which could include temporal restrictions on commercial deliveries and ambient noise and pollutant emission standards at lot boundaries, provides little in the way of additional zoning authority. It also presents problems in implementation when associated with the types of group living facilities specified in Section 46-4, Hawaii Revised Statutes (HRS).

Section 46-4(d), HRS, precludes the county from prohibiting group living in facilities with eight or fewer residents, if these facilities are licensed by the State Department of Health and meet all applicable county requirements (including building height, setback, maximum lot coverage, parking and floor area requirements). Thus, for zoning purposes, the City and County of Honolulu regulates the living arrangement in such facilities as a family of care recipients occupying a single-family dwelling, which has associated height, setback, parking, and maximum lot coverage requirements. Because no performance standards are established for single-family dwellings occupied by a traditional family (i.e., related by blood, marriage, or adoption) or for a family of five unrelated individuals, the DPP is concerned about establishing different standards to regulate a "family" in a group living facility established by Section 46-4(d), HRS, for noise, pollution emissions and time restrictions on commercial deliveries when such impacts are not regulated for other dwelling uses. Also, unless an inspector is on-site nearly 24/7, performance standards such as limited delivery times are unenforceable.

The Honorable Suzanne Chun Oakland, Chair
and Members of the Committee on Human Services
The Honorable Will Espero, Chair
and Members of the Committee on Public Safety,
Government Operations and Military Affairs
State Senate
Re: Senate Bill No. 213
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Thank you for the opportunity to testify.

Sincerely yours,


David K. Taroue, Director
Department of Planning and Permitting

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