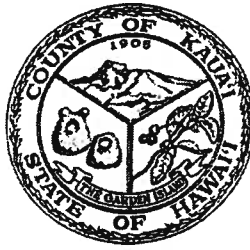


COUNTY COUNCIL

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Council Services Division
4396 Rice Street, Suite 209
Līhu'e, Kaua'i, Hawai'i 96766

January 30, 2013

**TESTIMONY OF JAY FURFARO
COUNCIL CHAIR, KAUAI COUNTY COUNCIL**

ON

H.B. NO. 227, RELATING TO AFFORDABLE HOUSING CREDITS

Committee on Water & Land

Friday, February 01, 2013

8:00 a.m.

Conference Room 325

Dear Chair Evans and Committee Members:

Thank you for this opportunity to submit testimony in support of H.B. No. 227, Relating to Affordable Housing Credits. My testimony is submitted in my capacity as the Chairman of the Kaua'i County Council.

On November 14, 2012, the Council of the County of Kaua'i voted unanimously to include in its 2013 Kaua'i County Legislative Package, a proposal requesting that Act 98, Session Laws of Hawai'i (SLH) 2012, be amended as proposed in H.B. No. 227.

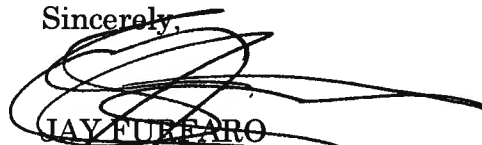
Act 141, Session Laws of Hawai'i (SLH) 2009, required Counties to issue Affordable Housing Credits to the Department of Hawaiian Home Lands (DHHL) for all existing and future Hawaiian Home Lands Projects upon request. Act 98, Session Laws of Hawai'i (SLH) 2012, then amended Act 141, SLH 2009, to allow DHHL to sell credits to Developers in satisfaction of the Developer's affordable housing zoning obligations; without any regard to income, location, or other requirements provided under the respective County's Affordable Housing Credit Provisions.

Amendments to Section 46-15.1 (b), Hawai'i Revised Statutes, are necessary to protect each County's ability to provide affordable housing for those who need it most, and to enable the County to do its job in a fair and equitable manner.

For the reasons stated above, I respectfully request your approval of H.B. No. 227.

Again, thank you for this opportunity to submit testimony.

Sincerely,



JAY FURFARO
Chair, Kaua'i County Council

AB:aa

COUNTY COUNCIL

Jay Furfaro, Chair
Nadine K. Nakamura, Vice Chair
Tim Bynum
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January 30, 2013

**TESTIMONY OF JOANN A. YUKIMURA
COUNCILMEMBER, KAUAI COUNTY COUNCIL**

ON

H.B. NO. 227, RELATING TO AFFORDABLE HOUSING CREDITS

Committee on Water & Land

Friday, February 1, 2013

8:00 a.m.

Conference Room 325

Dear Chair Evans and Committee Members:

Thank you for this opportunity to submit testimony in support of H.B. No. 227, Relating to Affordable Housing Credits. My testimony is submitted in my capacity as an individual member of the Kaua'i County Council and the Chairperson of the Housing & Transportation Committee.

The Council of the County of Kaua'i voted unanimously to request that Act 98, Session Laws of Hawai'i (SLH) 2012, be amended as proposed in H.B. No. 227.

Act 98, SLH 2012, allows DHHL to unilaterally take away from the County affordable housing zoning obligations, owed by Developers to the County, and apply them to DHHL lands with no regard to location, income or the fact that DHHL serves only one subset of Native Hawaiians.

Act 98, SLH 2012, tears away the motivation for collaboration between the Department of Hawaiian Home Lands (DHHL) and the County of Kaua'i. It prevents a relationship of mutual respect and problem-solving which is so important in working together toward a common goal; in this case, the provision of affordable housing for our families.

H.B. No. 227 seeks to correct this problem by requiring mutual consent in the spirit of "give and take." The County of Kaua'i has already shown a desire to work this way by including in its Housing Ordinance, an allowance of up to twenty-five percent (25%) of all its Affordable Housing Credits to be applied to DHHL lands.

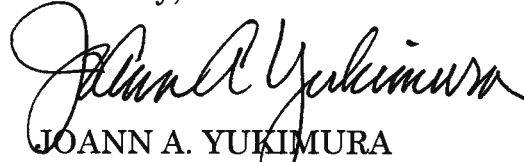
Committee on Water & Land
January 30, 2013
RE: H.B. No. 227

H.B. No. 227 would also encourage joint and collaborative problem solving in the arena of affordable housing.

For the reasons stated above, I respectfully request and urge your approval of H.B. No. 227.

Again, thank you for this opportunity to submit testimony.

Sincerely,

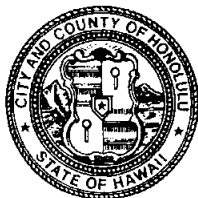
A handwritten signature in black ink, appearing to read "Joann A. Yukimura". The signature is written in a cursive style with a large initial "J".

JOANN A. YUKIMURA
Councilmember, Kaua'i County Council

AB:aa

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.gov • CITY WEB SITE: www.honolulu.gov

KIRK CALDWELL
MAYOR



JIRO A. SUMADA
ACTING DIRECTOR

February 1, 2013

The Honorable Faye E. Hanohano, Chair
and Members of the Committee on Ocean,
Marine Resources, & Hawaiian Affairs
State House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Hanohano and Committee Members:

Subject: House Bill 227
Relating to Affordable Housing Credits

The Department of Planning and Permitting **supports** House Bill 227 which allows the Department of Hawaiian Homes Lands (DHHL) to participate in the counties' affordable housing program as do all other housing developers. It also deletes references to use of vacant lots as the basis for issuing county housing credits.

We agree with Section 1 of House Bill 227 that Act 141, SLH 2009 infringes on home rule. Under this Act, counties have been mandated to issue affordable housing credits to DHHL homes without regard to whether the units were offered at affordable prices or assigned to households within the affordable housing range. These mandatory credits must be issued by the counties without consideration of county policies regarding the location and timing of housing developments. While it may create a revenue source for DHHL in that it can sell its affordable housing credits to other developers, Act 141 created a dramatic shift in the delivery of affordable housing, which we believe will reduce the supply of affordable housing in the long term.

We are not opposed to the mission of DHHL, and recognize the challenge of addressing the long list of beneficiaries waiting for a DHHL home. The City is doing its part; DHHL projects are exempt from county land use policies and zoning. Its homeowners already enjoy a significantly discounted property tax and reduced building permit fees. We also believe we have a constructive, cordial working relationship with DHHL, and have always welcomed their participation in our affordable housing program. We worked successfully in executing an agreement for the award of affordable housing credits for the Kaupuni Village project.

The Honorable Faye E. Hanohano, Chair
and Members of the Committee on Ocean,
Marine Resources, & Hawaiian Affairs
State House of Representatives
Hawaii State Capitol
House Bill 227
February 1, 2013
Page 2

However, we cannot support State intervention of the counties' affordable housing programs which have no State assistance. Our preference is that **Act 141 should be repealed in its entirety**. If House Bill 227 cannot repeal **Act 141**, its current form is moving in the right direction.

Thank you for this opportunity to testify.

Very truly yours,



Jiro A. Sumada, Acting Director
Department of Planning and Permitting

JAS:jmf
hb227AffordHousing-k

February 1, 2013
Testimony in Opposition of HB227

Chair Hanohano, Vice-Chair Cullen and Members of the House Committee on
Ocean, Marine Resources and Hawaiian Affairs

My name is Bob Hall, I am in opposition of HB227 and I urge this
Committee to defer this bill.

The genesis of this legislation directly diminishes the powers and
authorities of the Department of Hawaiian Home Lands. Previously, there was
strong opposition leading up to the current Act 141, and it is clear that the
opposition does not recognize or respect DHHL as an eligible contributor to
receive affordable housing credits. It was not until passage of Act 141 by this
Legislative Body did DHHL receive any credit for developing affordable housing,
even though, throughout its history, DHHL developed over 8,000 single family
homes, the majority for first-time, low income level Hawaiian families.

Although HB227's focus is primarily on vacant land and it can be
construed that the opposition's concern is to limit real estate speculation, DHHL's
mission and programmatic goals will only allow for ultimate homestead
development for native Hawaiian beneficiaries.

Again, I urge this Committee to defer this bill.
Mahalo for your service to the public.

Bob Hall
Principal
AuKai Pacific, LLC
aukaipacific@aol.com

lowen1-Kyli

From: omhtestimony
Sent: Thursday, January 31, 2013 3:53 PM
To: waltestimony
Subject: FW: Submitted testimony for HB227 on Feb 1, 2013 08:00AM
Attachments: HB227 AH credits to DHHL - Hsing Testimony signed.pdf

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]
Sent: Thursday, January 31, 2013 3:49 PM
To: omhtestimony
Cc: ttamura@kauai.gov
Subject: Submitted testimony for HB227 on Feb 1, 2013 08:00AM

HB227

Submitted on: 1/31/2013
Testimony for OMH on Feb 1, 2013 08:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Teresa	County of Kauai	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Bernard P. Carvalho, Jr.
Mayor



Kamuela Cobb-Adams
Housing Director

Gary K. Heu
Managing Director

KAUA'I COUNTY HOUSING AGENCY

County of Kaua'i, State of Hawai'i
Pi'ikoi Building 4444 Rice Street Suite 330 Lihu'e Hawai'i 96766
TEL (808) 241-4444 FAX (808) 241-5118

January 30, 2013

Honorable Representative Cindy Evans, Chair, and Committee Members
Committee on Water & Land
Honorable Representative Faye P. Hanohano, Chair, and Committee Members
Committee on Ocean, Marine Resources & Hawaiian Affairs
The House of Representatives, The Twenty-Seventh Legislature, Regular Session of 2013

SUBJECT: TESTIMONY IN **STRONG SUPPORT** OF HB227
RELATING TO AFFORDABLE HOUSING CREDITS
HEARING: WAL-OMH 02/01/13 8:00am *Conference Room 325*

The Kaua'i County Housing Agency **strongly supports** HB227 as proposed, as an acceptable resolution to the significant issues the County of Kaua'i has had with the passage of Act 141 (2009) as amended by Act 98 (2012). These two acts, as currently written, allow the Department of Hawaiian Homelands (DHHL) to commandeer an unlimited amount of affordable housing credits from the counties for all its existing and future projects. Act 141 and 98 trump affordable housing conditions of all existing zoning ordinances, and future projects subject to county workforce housing ordinances, including income, location, housing type, time of construction or other requirements. In effect, the laws allow a State agency to deprive the County of decision-making in the implementation of a housing plan for its overall island's needs, based on fairness and equality, for the benefit of a select few.

In 2007, the County of Kaua'i incorporated a provision in Ordinance No. 860, the Workforce Housing Policy for the County of Kaua'i, allowing up to 25% of a developer's housing requirement to be met through credits issued to DHHL. This allows at least 75% of a developer's housing requirement to be available to the remaining population in need of affordable housing on Kaua'i, in amounts where and how needed.

HB227 proposes changes in language that rectify:

- (1) the home-rule issue by allowing the Department of Hawaiian Homelands and the counties to mutually agree upon credits to be given;
- (2) the unlimited issue by restricting it to future DHHL housing that is actually built, which will increase the value of a credit to DHHL; and
- (3) the issues of trumping of all ordinance requirements and satisfaction of all a developer's requirements by removing that language.

Thank you for the opportunity to testify in strong support of HB227 as currently worded.

Aloha,

A handwritten signature in black ink, appearing to read "K C A".

Kamuela Cobb-Adams
Housing Director

cc: Mayor, County Council



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DAVID M. LDUIE
ATTORNEY GENERAL

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
425 QUEEN STREET
HONOLULU, HAWAII 96813
(808) 586-1500

RUSSELL A. SUZUKI
FIRST DEPUTY ATTORNEY GENERAL

**Privileged and Confidential
Attorney-Client Communication**

January 31, 2013

The Honorable Faye P. Hanohano
Chair, House Committee on Ocean, Marine Resources, & Hawaiian Affairs
State Capitol, Room 418
415 South Beretania Street
Honolulu HI 96813

Re: House Bill 227, Relating to Affordable Housing Credits
Hearing Set for Friday, February 1, 2013
Conference Room 325

Dear Chair Hanohano:

We write to suggest the deletion of the following language from HB 227, Relating to Affordable Housing Credits, in the event the Committee advances the bill:

The legislature finds that the relationship between the department of Hawaiian home lands and the respective counties established by Act 98 violates the principles of home rule and does not encourage the kind of working relationship between the counties and the department of Hawaiian home lands necessary to effectively address the affordable housing problem in each county. The legislature also finds that Act 98 could create a racially discriminatory effect by disproportionately allocating more affordable housing resources to one racial group over another.

We believe that this language is not only unnecessary and inaccurate, it might also invite or become the basis for Constitutional challenges to the Hawaiian Homes Commission Act, 1920 ("HHCA") and related programs.

HRS § 46-15.1 was established by Act 141, Sess. L. 2009. The section requires the counties to issue affordable housing credits to the Department of Hawaiian Home Lands ("DHHL") for each single-family residence, multi-family unit, other residential unit, or vacant

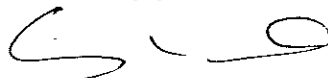
lot that DHHL develops. DHHL can then sell the credits to developers on the open market, and use the proceeds from the credit sale to develop additional housing for Native Hawaiians under the HHCA. Act 98, Sess. L. 2012, later clarified that the credits issued to DHHL could be applied in full satisfaction of all county affordable housing obligations, regardless of specific restrictions on a project's location, timing, or other requirements.

We do not believe that HRS § 46-15.1, as amended by Act 98, violates "home rule" principles or constitutes unconstitutional racial discrimination. Moreover, the bill's statement that Act 98 "could create a racially discriminatory effect" is purely speculative and may encourage or even bolster constitutional challenges to the HHCA itself.

If the Committee intends to move this bill forward, we would invite the opportunity to draft appropriate amendatory language. We are also available to discuss this matter further should you so request.

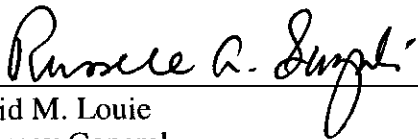
If you have any further questions, please do not hesitate to contact me at 586-3092.

Very truly yours,



Craig Y. Iha
Deputy Attorney General

Approved:



David M. Louie
Attorney General

c: Representative Ty J.K. Cullen ✓

lowen1-Kyli

From: omhtestimony
Sent: Thursday, January 31, 2013 4:29 PM
To: waltestimony
Subject: FW: Submitted testimony for HB227 on Feb 1, 2013 08:00AM
Attachments: gh_testimony_hb_227.pdf

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Sent: Thursday, January 31, 2013 4:27 PM
To: omhtestimony
Cc: abunda@kauai.gov
Subject: Submitted testimony for HB227 on Feb 1, 2013 08:00AM

HB227

Submitted on: 1/31/2013
Testimony for OMH on Feb 1, 2013 08:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Gary Hooser	Hawaii State Association of Counties	Support	No

Comments: Here is my testimony in support of H.B. 227.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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COUNTY COUNCIL

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Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

January 31, 2013

TESTIMONY OF GARY L. HOOSER
COUNCIL CHAIR, KAUAI COUNTY COUNCIL ON
H.B. NO. 227, RELATING TO AFFORDABLE HOUSING CREDITS
Committee on Water & Land
Committee on Ocean, Marine Resources, & Hawaiian Affairs
Friday, February 01, 2013
8:00 a.m.
Conference Room 325

Dear Chair Evans, Chair Hanohano, and Committee Members:

Thank you for this opportunity to submit testimony in support of H.B. No. 227, Relating to Affordable Housing Credits. My testimony is submitted in my capacity as an individual Councilmember of the Kaua'i County Council and the Chair of the Economic Development (Sustainability/Agriculture/Food/Energy) & Intergovernmental Relations Committee.

On November 14, 2012, the Council of the County of Kaua'i voted unanimously to include in the 2013 Kaua'i County Legislative Package, a proposal which amends Act 98, Session Laws of Hawai'i (SLH) 2012, as proposed in H.B. No. 227.

In 2009, the State Legislature approved Act 141, SLH 2009, which required the Counties to issue Affordable Housing Credits to the Department of Hawaiian Home Lands (DHHL) for all existing and future Hawaiian Home Lands Projects upon request. Act 141, SLH 2009, was then amended to Act 98, SLH 2012, allowing DHHL to sell credits to Developers in satisfaction of the Developer's affordable housing zoning obligations. This preempted any income, location, or other requirements provided under a County's Affordable Housing Credit Policy.

H.B. No. 227 allows the Counties and the State to maintain a working relationship, and protects each County's ability to provide affordable housing for those who need it the most.

For the reasons stated above, I respectfully request your approval of H.B. No. 227.

Again, thank you for this opportunity to submit testimony.

Sincerely,

GARY L. HOOSER
Councilmember, Kaua'i County Council