

NEIL ABERCROMBIE
Governor

BRIAN SCHATZ
Lieutenant Governor

RICHARD LIM
Director



LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

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Statement of
Daniel Orodenker
Executive Officer
State Land Use Commission
Department of Business, Economic Development & Tourism
before the
Senate Committee on Judiciary and Labor
February 20, 2012 at 10:00 a.m.
State Capitol, Conference Room 016

In consideration of

SB 1026 RELATING TO THE LAND USE COMMISSION

Chairs Hee, Vice Chair Shimabukuro members of the Committee on Judiciary and Labor

The State Land Use Commission strongly supports SB 1026, an Administration Bill.

This measure will provide much needed alternatives and flexibility to the Land Use Commission in situations where there has been a violation of an LUC order and the County has failed to enforce a condition or requirement contained in a district boundary amendment.

Under section 205-4, Hawaii Revised Statutes, the Land Use Commission may include conditions in its decisions granting a district boundary amendment designed to ensure that the State, Counties, and public are protected and that impacts of the decision on state and County infrastructure and the social and natural environment will be minimized. If a petitioner fails to adhere to those conditions, the Land Use Commission may hold a hearing on the matter requesting that the petitioner show why the land should not revert to its original classification. Reversion is the only remedy currently available to the Land Use Commission. This can be a very harsh penalty and may not conform to the current status of the development or even the wishes of the community at large.

Recent cases have shown that often it is many years since the original order is granted before a violation occurs or is brought to the attention of the Land Use Commission. In certain circumstances, reversion of the land back to its original classification may make no sense given what has occurred in the surrounding areas or it may be unfair to a petitioner who has already invested considerable capital in a project before the violation is brought to light.

The proposed amendment would reinforce the Land Use Commission's right to place conditions on a boundary amendment and give it the ability to fashion a remedy that better fits the needs of the situation. This would provide a much more effective tool to the Land Use Commission to ensure the State's, the Counties' and the public's interests are protected. The change will also provide the general public and developers more effective ways of dealing with violations.

Thank you for the opportunity to testify on this matter.



**OFFICE OF PLANNING
STATE OF HAWAII**

NEIL ABERCROMBIE
GOVERNOR

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Statement of
JESSE K. SOUKI
Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON JUDICIARY AND LABOR
Wednesday, February 20, 2013
10:00 AM
State Capitol, Conference Room 016

in consideration of
SB 1026
RELATING TO THE LAND USE COMMISSION.

Chair Hee, Vice Chair Shimabukuro, and Members of the Senate Committee on Judiciary and Labor.

The Office of Planning (OP) strongly supports Senate Bill 1026, which is an Administration bill. This bill gives the Land Use Commission more practical tools for enforcing its decisions and orders. Currently, the Commission's only remedy for a violation of its decision and orders is to revert the land back to its original classification. In many situations, reversion is a blunt enforcement tool that prevents the Commission and parties from tailoring a more practical solution.

This bill provides a more effective tool for ensuring that the interests of the State, the counties, and the public are protected.

Thank you for the opportunity to testify on this matter.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

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NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

Statement of
RICHARD C. LIM
Director

Department of Business, Economic Development & Tourism
before the
SENATE COMMITTEE ON JUDICIARY AND LABOR

Wednesday, February 20, 2013
10:00 a.m.
State Capitol, Conference Room 016

In consideration of
SB 1026
RELATING TO THE LAND USE COMMISSION.

Chair Hee, Vice Chair Shimabukuro, and Members of the Committee on
Judiciary and Labor.

The Department of Business, Economic Development & Tourism strongly
supports SB 1026, an Administration Bill, which will provide much needed alternatives
and flexibility to the Land Use Commission in situations where there has been a
violation of an LUC order and the County has failed to enforce a condition or
requirement contained in a district boundary amendment.

The proposed amendment would reinforce the Land Use Commission's right to
place conditions on a boundary amendment and give it the ability to fashion a remedy
that better fits the needs of the situation. This would provide a much more effective tool
to the Land Use Commission to ensure the State's, the Counties' and the public's
interests are protected. The change will also provide the general public and developers
more effective ways of dealing with violations.

We defer to the State Land Use Commission with respect to the specific
provisions as proposed within the bill.

Thank you for the opportunity to testify on this matter.