

SB711

Requires the Hawaii community development authority to establish zoning rules within the Kakaako community development district only by the use of transfer of development rights. Specifies procedures and requirements for the transfer of development rights to the Kakaako community development district. Authorizes a town to use transfer of development rights.



HAWAII COMMUNITY
DEVELOPMENT AUTHORITY



KAKAOKO
KALAELOA

Neil Abercrombie
Governor

Brian Lee
Chairperson

Anthony J. H. Ching
Executive Director

461 Cooke Street
Honolulu, Hawaii
96813

Telephone
(808) 594-0300

Facsimile
(808) 594-0299

E-Mail
contact@hcdaweb.org

Web site
www.hcdaweb.org

STATEMENT OF

ANTHONY J. H. CHING, EXECUTIVE DIRECTOR
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

BEFORE THE

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, GOVERNMENT
OPERATIONS AND HOUSING

AND

COMMITTEE ON WATER AND LAND

Monday, February 11, 2013

2:50 P.M.

State Capitol, Conference Room 16

in consideration of

**S. B. 711 – RELATING TO THE HAWAII COMMUNITY
DEVELOPMENT DISTRICT.**

Purpose: Requires the Hawaii Community Development Authority (HCDA) to establish zoning rules within the Kakaako community development district only by the use of transfer of development rights (TDR). Specifies procedures and requirements for the transfer of development rights to the Kakaako community development district. Empowers a town board to provide for transfer of development rights to the Kakaako district.

Position: As the HCDA has just established form-based rules (November 2011) that necessarily support the formation of a Transit Oriented Development (TOD) community and has already installed a TDR mechanism for the Kakaako Community Development District (KCDD), I am respectfully obliged to oppose the passage of this proposal for these and other reasons. This testimony represents my own viewpoint as the Authority has not yet had an opportunity to review and take action on this measure.

Supersedes Existing Zoning Rules. The measure effectively supersedes the form base code established in 2011 (page 2 line 15-19). The use of TDR rights as a basis for zoning will create huge voids as it is not comprehensive in nature.

Testimony reflects the view and position of the Executive Director and not that of the Authority.

Designation of Sending District. The measure describes a “sending” district (Page 3, lines 4-7) generally, but does not specify whether the land can currently be classified as State Land Use (SLU) Agricultural or Conservation. There is also no specification as to what entity will be responsible for determining the value of the “sending” lands and what criteria and process will govern the designation process.

Provision of Low and Moderate Housing Units in the KCDD. Page 3, lines 17-22/Page 4, lines 1-2 of the measure establishes that the TDR program should balance the loss of low and moderate housing units lost in the sending district with that which is gained in the KCDD. Absent a correlation between a desire to build such housing units in the sending area with a corresponding desire to build these same number of units in the KCDD, it will be impossible to determine if the actions are self balancing. The proposal also does not clearly establish if the provision of low and moderate income housing units is the sole objective of the TDR program.

Environmental Impact Statement (EIS). The HCDA has already conducted an EIS for the KCDD and is in a process of conducting a new EIS to cover the TOD overlay that we are compiling. However, it is the proposed sending district where an EIS needs to be compiled to understand where proposed conservation/preservation efforts should take place and their impact documented. As this EIS would necessarily cover all eligible “sending” districts and lie outside of the boundaries of the HCDA, it is unclear who might conduct and accept such an EIS.

Conservation Easement Enforceable by the Kakaako District. As the HCDA has no authority outside of the community development districts designated by the State Legislature, the provision specified on Page 4, lines 14-22/Page 5, lines 1-4 is problematic.

Development Rights Reflecting the Normal Market in Land. Page 5, lines 5-8 reference the “normal market in land”. As the value of SLU Agricultural

or SLU Conservation land will vary significantly from the SLU Urban land in the KCDD, more clarity is needed in order to appropriately value the lands and development rights being sent to the KCDD.

Adjustment of Real Property Tax Valuation. As it is the City & County of Honolulu or affected county government that has sole authority to adjust property tax valuation, this provision and responsibility must be placed within the county's statute.

Development Rights Bank. Page 5, lines 16-20/Page 6 lines 1-3 provides that the Authority may establish a development rights bank and accept gifts, donations, bequests or other development rights. As the KCDD occupies but only a fraction of the 600 square miles of the City & County of Honolulu and the HCDA currently has sufficient means with which to transfer development rights with the district, a development rights bank would be better hosted by the City & County of Honolulu.

Town Board. Page 6 lines 4-17 describe the creation of a "town board". However, the measure does not specify the composition, powers or relationship to the existing governance structure of the HCDA or the City & County of Honolulu.

Summary. TDR programs are generally established in areas under one jurisdiction. As the HCDA has already established a TDR program for the KCDD, it is my belief that a TDR program is best established solely within those areas where zoning and the proposed TDR program is administered by the City & County of Honolulu.

Thank you for the opportunity to provide comments on this proposal.



SB711

RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY

Senate Committee on Economic Development, Government Operations
and Housing

Senate Committee on Water and Land

February 11, 2013

2:50 p.m.

Room 16

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SB 711, which proposes to require the Hawai'i Community Development Authority to "establish rules relating to the zoning of land within the Kaka'ako district only by the use of transfer of development rights...."

This bill raises many questions regarding the regulation of development in Kaka'ako, not the least of which are, What would be the relationship of "transfer of development rights" to existing Kaka'ako zoning? What would be the costs and benefits of the proposed approach?

Mahalo for the opportunity to testify on this important measure.

Dane Wicker

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 08, 2013 11:24 AM
To: EGHTestimony
Cc: prentissc001@hawaii.rr.com
Subject: Submitted testimony for SB711 on Feb 11, 2013 14:50PM

SB711

Submitted on: 2/8/2013

Testimony for EGH/WTL on Feb 11, 2013 14:50PM in Conference Room 016

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------------|---------------------------|---------------------------|
| Chuck Prentisspre | Hawaii's Thousand Friends | Oppose | No |

Comments: This bill will allow open space requirements in Kakaako to be located elsewhere. This is in direct opposition to the need to have open space areas available in densely populated urban areas, and contribute to development of "concrete canyons" in Kakaako. This would be an extremely unfortunate application of transfer of development rights.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov