

STAND. COM. REP. NO. 3056

Honolulu, Hawaii

MAR 21 2014

RE: H.B. No. 1866
H.D. 2
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committee on Economic Development, Government Operations and Housing, to which was referred H.B. No. 1866, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY,"

begs leave to report as follows:

The purpose and intent of this measure is to enhance legislative and public oversight of the Hawaii Community Development Authority (Authority) by, among other things:

- (1) Providing for administrative appeal, judicial review, and intervention in the Authority's development permit application proceedings;
- (2) Amending requirements for notice, hearing, approval, and vesting of rights for developmental permits;
- (3) Amending the Authority's membership and appointment process;
- (4) Requiring the Authority's affordable housing requirements to be satisfied by reserved housing within the same district as the proposed development project and permits the Authority to accept cash in lieu of providing reserved housing;



- (5) Requiring legislative oversight of fiscal actions by the Authority;
- (6) Prohibiting the Governor from setting aside public land within community development districts to the Authority; and
- (7) Creating a height limit for buildings in Kakaako.

Your Committee received testimony in support of this measure from Hawaii's Thousand Friends, Malama Makaha, Kaka'ako United, and twenty-eight individuals. Your Committee received testimony in opposition to this measure from the Ko'olau Foundation; Chamber of Commerce Hawaii; Ko'olaupoko Hawaii Civic Club; Kāko'o 'Ōiwi; Alexander & Baldwin, Inc.; Land Use Research Foundation of Hawaii; Hunt Development Group, LLC; Hawaii Building and Construction Trades Council, AFL-CIO; Building Industry Association of Hawaii; Hawaii Laborers-Employers Corporation and Education Trust; and four individuals. Your Committee received comments on this measure from the Department of the Attorney General; Department of Business, Economic Development, and Tourism; Hawaii Community Development Authority; Kamehameha Schools; The Pacific Resource Partnership; Hawaii Regional Council of Carpenters; Hawaii Construction Alliance; and The Howard Hughes Corporation.

Your Committee finds that the Legislature established the Authority in 1976 as a public entity to plan new and innovative forms of urban redevelopment and renewal to meet certain community needs, especially the provision of low- and moderate-income housing located in residential and mixed-use areas with sufficient public facilities and services. To ensure that comprehensive and coordinated development plans were executed by and for the community, the Authority was explicitly required to engage affected communities in area development plans and projects.

Your Committee further finds that development projects that do not comply either with legislative goals or the applicable development plans established for community development districts have been permitted, sometimes on an accelerated basis. The approval processes for proposed projects also lack accountability and transparency, to the detriment of the communities affected.

Your Committee heard testimony expressing concerns about the composition of the Authority as proposed by this measure. Your Committee finds that issues related to the restoration of



Authority members and the possibility of removing Authority members merit further consideration and requests that your Committee on Ways and Means further examine those issues, especially restoring key positions, such as the small business representative and Kakaako community representative.

Your Committee has amended this measure by:

- (1) Deleting language that would have established proceedings on an application for a development permit from the Authority, including procedures for intervention and judicial review;
- (2) Clarifying that the Authority shall hear, rather than consider, the request for variance, exemption, or modification at a public hearing separate from and subsequent to the hearing which the developer's proposal was presented; provided that the Authority may hear all requests applicable to a single proposal at the same separate public hearing;
- (3) Deleting language that would have required the Authority to detail the public's reaction at a public hearing to consider variances, exemptions, or modifications;
- (4) Inserting language to require the Authority to adopt rules to:
 - (A) Provide for contested case hearings with respect to decisions to be made by the Authority on a development permit application;
 - (B) Allow persons to intervene prior to a decision on a development permit application;
 - (C) Allow persons to intervene no later than twenty days from the time the application is deemed complete; and
 - (D) Allow for public testimony at hearings;
- (5) Deleting language that would have amended the membership and appointment process of the Authority and reconstituted the Authority immediately upon the effective date of this measure;



- (6) Reinstating language to allow the Authority to satisfy affordable housing requirements through reserved housing outside of the Authority's jurisdiction;
- (7) Amending language to require the Authority to post completed development permit applications on the Authority's website;
- (8) Amending language to require applicants with proposed projects valued at over \$250,000 to mail notice to residents and businesses within a three hundred foot radius of the proposed project; provided that the notice include:
 - (A) Project specifications;
 - (B) Requests for variance, exemption, or modification of a community development plan or the Authority's community development rules; and
 - (C) Procedures for intervention and a contested case hearing;
- (9) Deleting language that would have required public notice for decision-making hearings to state that any written motion to intervene shall be received within fourteen days after the publication date of the public notice;
- (10) Inserting language to establish a maximum aggregate cap of \$3,641,818 per fiscal year on receipts and revenues that may be deposited into the Hawaii community development revolving fund, with any excess above the cap to be transferred to the general fund;
- (11) Amending language to allow expenditures from any revolving fund administered by the Authority to be made by the Authority without further appropriation or allotment of the Legislature; provided that the proceeds of any revolving fund administered by the Authority shall be subject to the maximum aggregate cap;
- (12) Deleting language that would have established further requirements by the Authority when selling reserved housing;



- (13) Deleting language that would have required prior approval by the Legislature by concurrent resolution adopted by each house by at least a majority vote of the members to which that house is entitled to allow the Authority to issue special facility revenue bonds;
- (14) Deleting language that would have amended the operating and investment capital budget of the Authority for fiscal year 2014-2015;
- (15) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (16) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Economic Development, Government Operations and Housing that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1866, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1866, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Economic
Development, Government
Operations and Housing,


DONOVAN M. DELA CRUZ, Chair



