

# HB 1866 HD2

Provides for administrative appeal, judicial review, and intervention in HCDA development permit application proceedings. Amends requirements for notice, hearing, approval, and vesting of rights for developmental permits. Amends HCDA membership and appointment. Requires provision of affordable housing within same district and permits sale of units. Requires legislative oversight of fiscal actions. Prohibits acquisition of public land by set aside. Creates height limit for Kakaako. Effective July 1, 2020. (HB1866 HD2)



HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY



KAKA'KO  
KALAELOA

Neil Abercrombie  
Governor

Brian Lee  
Chairperson

Anthony J. H. Ching  
Executive Director

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STATEMENT OF

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

BEFORE THE

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, GOVERNMENT  
OPERATIONS AND HOUSING

ON

Wednesday, March 19, 2014

3:15 P.M.

State Capitol, Conference Room 16

in consideration of

**H. B. 1866, H. D. 2 – RELATING TO THE HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY.**

**Purpose:** Amends the manner in which Authority members are appointed; eliminates the satisfaction of reserved housing requirements outside of HCDA Community Development District; reenacts cash in lieu payments to satisfy reserved housing requirements; places prohibitions on the resale of reserved housing; increases legislative oversight on the expenditure of revolving funds and revenue bonds.

**Position:** I provide the following comments with respect to the general provisions of the proposal.

**No Findings to Support Amendments.** There are no findings indicating the problem that the legislation seeks to identify or provide justification for the specific amendments being proposed. I also offer the following comments.

Section 4 changes the composition of the Authority. There is currently established a nine member Authority for each of the community development districts (i.e., Kakaako, Kalaeloa and Heeia). The measure would appear to abolish these three Authorities in favor of one nine member board. Issues raised by the proposal include but are not limited to:

- The measure restructures the HCDA to allow the governor to appoint all members with the advice and consent of the senate, with two members being appointed from a list provided by the Senate President, and two others appointed from another list provided by the Speaker of the House.
- The measure eliminates the selection of members who are obliged to specifically represent the communities of Kakaako, Kalaeloa and Heeia. How will the interests of these communities and community development districts be represented? Will the Senate President and Speaker be required to include residents of these communities in their list of nominees?
- The previous composition of the Authority provided that a native Hawaiian cultural specialist would serve as a voice for the host culture. The proposal does not make this position available to the Authority and opens the possibility that none of the appointees will have a background in cultural matters.

Section 5 amends the general powers of the Authority to prohibit the development of reserved housing outside of the community development district. The section also provides that cash in-lieu of building reserved housing is allowed.

- Specifying that reserved housing can only be provided within the community development district is a policy call. The allowance for housing to be developed outside of the community development district was in the original statute.
- While current rules allow for reserved housing to be developed outside of the district, the credited number of units is reduced by about one third as a discouraging factor. The Authority only approved this practice once, and

when it did, the developer was required to provide 162 units and receive only 100 credits.

- The Legislature recently eliminated the cash in-lieu option. It is strange that this option would be reestablished, as it is typically more desirable to have the units built, rather than accept cash in-lieu.

Section 10 amendments make expenditures of revolving funds by the Authority subject to appropriation and allotment of the legislature.

- This would subject all expenditures to the actions of the Legislature. As expenditures of the Authority are not predictable or completely budgeted, this would not allow the Authority to conduct any business. Without the authority to expend the monies that the agency generates for itself, the agency would be rendered powerless.
- The agency is subject to financial audits each year. There has been no evidence that the agency is misappropriating any of its funds to justify this type of onerous oversight.

Section 11 proposes the prohibition of the sale of reserve housing unless it is sold to an eligible buyer and remains affordable in perpetuity. Affordable is defined as available for purchase by those making less than 120% of the area median income.

- Given the transfer of the fee simple title to a qualified income buyer, I am uncertain how any future transfer can be limited to another qualified income buyer. Other questions include:
  - Can the new owner transfer title to their heirs?
  - Can the property be transferred to a trust?
  - Would all successive buyers have to be income qualified by the new owner?
  - Can the owner increase the price of the unit to prospective buyers and to what extent?

Section 13 amendments would require that a 2/3 majority vote of each chamber be given before any revenue bond could be issued.

- The Legislature currently sets a ceiling for revenue bonds that might be issued by the Authority. The amendment would add the requirement that any issuance of revenue bonds must be approved by both the Governor and the Legislature.
- While this type of oversight can be imposed by the Legislature, there has been no action by the Authority in this matter that would indicate that oversight over and beyond the approval of a ceiling by the Legislature is required.

Section 15 proposes the zeroing out of the HCDA's budget, which goes toward funding staff positions and facility operations.

- The HCDA currently does not receive any operating or development funds from the Legislature, yet is able to work with area developers to produce a blend of housing, parks and other facilities and real public benefits.
- ***Elimination of CIP Project Staffing.*** As this \$1.086 million appropriation is the only financial support given by the Legislature and pays for the salaries and fringe benefits for 19 of the 23 HCDA positions, this action would be tantamount to closing the agency down. Without funding staff positions, the HCDA would be unable to enforce zoning rules and regulations or process any permit applications. The HCDA would also be unable to provide any public hearings or community briefings, which would bar the public from giving testimony on all new developments.
- ***Elimination of the Agency Operating Ceiling and Authorization.*** The proposal would eliminate the agency's authorization to expend special funds to cover operational costs. As the HCDA receives no funding for operations from the Legislature, this would cripple the agency.

Section 16 calls for the immediate removal of all existing Authority members, with new members to be appointed as outlined in §206E-3. Removal of the Authority members in this manner would create an immediate void in leadership until at least 5 replacement members could be appointed in the interim for consideration and confirmation by the Senate in the 2015 session.

- Removal of all members at one time runs against the practice of establishing staggered terms for members of appointed bodies to ensure continuity and voids in leadership.

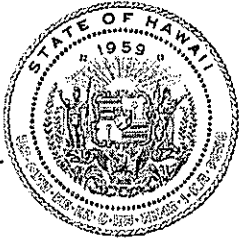
**Summary.** The set of amendments contained in HB 1866 HD 2 appear to be a collection of random actions without justification and are contradictory.

1. **No Findings to Support Amendments.** There are no findings indicating the problem that the legislation seeks to fix or provide justification for any of the specific amendments.
2. **Deletion of the Option to Develop Reserve Housing Units Outside of the Community Development District.** While it is the prerogative of the Legislature to prohibit the development of reserved housing units outside of the community development district, it is perplexing that the amendment would allow a developer to pay a cash-in-lieu fee instead of providing the units.
3. **Introduction of Legislative Oversight.** It would appear that the author randomly sought to insert legislative oversight anywhere the statute allowed the Governor to exercise his authority. The motivation, purpose and logic for these amendments is unclear.
4. **Budget Oversight.** These amendments would again appear to alternately require that all expenditures and revenue bonds be cleared through the Legislature while at the same time zeroing out existing authorization and ceiling for administrative and operational expenditures. These two

provisions are contradictory in purpose as if you have no authorization to spend, you will not need to have any oversight.

5. **Changing the Composition of the Authority.** The changes to the structure of the Authority eliminate valuable perspective (e.g., the cultural specialists, the DHHL, state agency input where state monies are expended and representation from the community development district) and provide no justification. However, as the Legislature only recently changed the structure of the Board, it is perplexing to know why only two years later, there is a need to again change the makeup of the Authority.

Thank you for the opportunity to provide these comments.



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

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MARY ALICE EVANS  
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Statement of  
**RICHARD C. LIM**  
Director

Department of Business, Economic Development, and Tourism  
before the

**SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, GOVERNMENT  
OPERATIONS AND HOUSING**

Wednesday, March 19, 2014  
3:15 p.m.

State Capitol, Conference Room 16  
in consideration of  
**HB 1866, HD2**

**RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.**

Chair Dela Cruz, Vice Chair Slom and Members of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT) offers comments on HB1866, HD2, which amends the manner in which the members of the Authority are appointed, and establishes new legislative oversight over the Hawaii Community Development Authority (HCDA). HCDA is administratively attached to DBEDT.

We oppose the portion of the proposal that eliminates the seat currently reserved for the Director of DBEDT. The DBEDT Director currently serves as an ex-officio member of the Kakaako, Kalaeloa and Heeia Authority. Participation of DBEDT is helpful in ensuring that the interests, priorities, and coordination of the state planning agencies, including housing are represented in the governance of the HCDA.

We would respectfully ask that the composition of the HCDA board of directors continue to include the DBEDT Director as an ex-officio member.

We defer to HCDA with respect to other provisions of this proposal.

Thank you for the opportunity to offer comments on this legislative proposal.





## KAMEHAMEHA SCHOOLS

March 18, 2014

WRITTEN TESTIMONY TO THE  
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT,  
GOVERNMENT OPERATIONS AND HOUSING

By

Walter Thoemmes III, Chief of Staff  
Kamehameha Schools

Hearing Date: March 19, 2014  
3:15 p.m. Conference Room 16

To: Senator Donovan M. Dela Cruz, Chair  
Senator Sam Slom, Vice Chair  
Members of the Senate Committee on Economic Development, Government Operations and Housing

RE: **Comments for House Bill No. 1866 H.D. 2 Relating to the Hawaii Community Development Authority (the "Bill")**

Chair Dela Cruz, Vice Chair Slom, and members of the Senate Committee,

Kamehameha Schools respectfully submits the following comments regarding the Bill.

Even in the best economic times, land use planning in Hawaii is a long-term process requiring a significant investment of time, money, and effort. The most diligent of landowners must carefully time—and pay for—State, local and other governmental approvals (and conditions imposed), construction plans, designs, and project financing.

Although public hearings and legal appeals of governmental approvals are sometimes a part of this long-term process, unnecessary delays and costs caused by a lack of clarity in the law should be avoided. Therefore, the laws governing such procedures, including this Bill, should provide procedural certainty and predictability to HCDA's development procedures. The public interest is best served when both public and private parties have a clear, consistent, and fair roadmap to follow.

Additionally, there should be transition language to coordinate the terms of the members of HCDA should the Bill pass.

Thank you for the opportunity to provide our comments on this Bill.



Testimony of Cindy McMillan  
The Pacific Resource Partnership

COMMITTEE ON ECONOMIC DEVELOPMENT, GOVERNMENT OPERATIONS AND  
HOUSING

Senator Donovan M. Dela Cruz, Chair  
Senator Sam Slom, Vice Chair

HB 1866, HD2 – Relating to the Hawaii Community Development Authority  
Wednesday, March 19, 2014  
3:15 PM  
Conference Room 308

Dear Chair Dela Cruz, Vice Chair Slom, and members of the committee:

The Pacific Resource Partnership (PRP) is a labor-management consortium representing over 240 signatory contractors and the Hawaii Regional Council of Carpenters.

HB 1866, HD2 provides for administrative appeal, judicial review, and intervention in HCDA development permit application proceedings; amends requirements for notice, hearing, approval, and vesting of rights for developmental permits; amends HCDA membership and appointment; requires provision of affordable housing within same district and permits sale of units; requires legislative oversight of fiscal actions; prohibits acquisition of public land by set aside; and creates a height limit for Kakaako.

PRP provides the following comments/suggested revisions/opposition to specific provisions regarding HB 1866, HD2:

**Section 1:** There is an opportunity to improve on and clarify the public involvement/appeal process. We ask that HCDA develop appropriate rules to create a process that is clear and allows the perspectives of all parties to be appropriately considered in a way that does not unduly delay the application process.

**Section 6 (3):** Posting project information on the HCDA website, as is the current practice, gives community members who are unable to attend meetings a good way to be involved in the process.

March 19, 2014

Comments/Suggested Revisions/Opposition to Specific Provisions Regarding HB 1866, HD2 Relating to the Hawaii Community Development Authority

Page 2

**Section 6 (4):** We suggest that the applicants use the Real Property Tax list so there is no question about who will be receiving the mailing with project and hearing information.

**Section 8:** We agree that it is important to note the vested rights of developers whose master plans have already been approved.

**Section 15:** PRP is opposed to Section 9, which eliminates HCDA's operating and capital investment budgets. Without a budget, HCDA cannot fulfil its mission. Kakaako redevelopment is about creating a live-work-play community. Residents will be able to walk or bike to work, the grocery store, doctor's office, dining and entertainment. They will have shorter commute times and will be able to save money on transportation costs. We support this vision and urge the Committee to fund the Authority going forward.

**Section 16:** Regarding the termination of existing Board members, we ask that the Committee include provisions for a transition from existing Board members to those who will be appointed under the process described in this bill to prevent any delay in the work of the Authority.

Thank you for allowing us to share our views with you on this matter.



## *Hawaii's Thousand Friends*

25 Malouin Ave., Suite 102, PMB 262 • Kailua, HI 96734 • Phone/Fax: (808) 262-0682 E-mail: htff@lava.net

March 19, 2014

### COMMITTEE ON ECONOMIC DEVELOPMENT, GOVERNMENT OPERATIONS AND HOUSING

Senator Donovan Dela Cruz, Chair

Senator Sam Slom, Vice Chair

HB 1866 HD2

RELATING TO HAWAII DEVELOPMENT AUTHORITY

Committee Chair and Members;

Hawaii's Thousand Friends, a statewide nonprofit organization dedicated to reasonable, responsible and appropriate planning and land use, **supports HB 1866 HD2** that provides opportunities for greater public involvement, legislative oversight and places limits on HCDA.

The addition of the contested case hearing process under chapter 91 is much needed and brings HCDA in line with other State agencies that deal with land use.

HTF supports the addition of §206E-A but it is distressing that such directives have to be placed into law. As seen over the years HCDA does not conduct the public's business like any other State agency with a governing Board. Instead HCDA operates under its own impulses such as the authority i.e. board abrogating its oversight responsibilities to the executive director including establishing rules that any request for intervention can only be brought against the executive director.

The public hearing and legislative oversight process spelled out in §206E-B is much needed since HCDA has a tendency to call meetings on an as needed basis. The only meeting pattern that has evolved is when a topic including a proposed development is presented and discussed at one meeting then voted on at the next meeting.

HTF supports the inclusion in §206E-4 that affordable housing required by HCDA must be within the same community development district as the proposed development project. If Kaka'ako is to be the livable and walkable community as being presented then it only makes sense that the people who work in Kaka'ako should have the ability and opportunity to live in Kaka'ako.

In order to understand if HCDA is fulfilling the mission envisioned by the 1976 legislature to address unmet community development needs such as a lack of suitable housing for persons of low income; insufficient commercial and industrial facilities for rent and residential areas which do have facilities necessary for basic livability, such as parks and open space a twelve month moratorium on all approvals by HCDA on all plans or proposals for development projects within the Kaka'ako community development district should be enacted effective July 1, 2014.

During the twelve-month moratorium a task force, independent of HCDA, of experts in land use planning, architecture, climate change and infrastructure should be appointed by the Legislature to explore and report back with recommendations to the 2015 legislature on what steps should be taken to ensure that development within community development districts, Kaka'ako specifically, meets the highest needs and aspirations of Hawaii's people.

HTF urges you to pass HB 1866 HD2 with the inclusion of a twelve-month moratorium and tasks force. To do any less is just putting a band-aid on a State agency that is out-of-control.

# *Malama Makaha*

March 18, 2014

TO: Senate Economic Development Committee Members

SUBJECT: Testimony in Support of HB 1866 HD2

Dear Committee Members,

**Malama Makaha supports HB 1866** and all efforts to curb or abolish the HCDA. The HCDA does not properly represent the communities for which it serves. Its operations and decisions are not transparent nor reflect testimony it has received over the past year; it continues to ignore the will of the people.

HCDA as currently composed of nine members, all appointed by the governor, and none representing the affected communities they are supposed steward. Malama Makaha agrees that the current board does represent the community interest and should be replaced. HB1866 addresses this problem. We would suggest is also require some members who can truly represent residents and businesses from the seven neighborhood zones plus the makai areas.

Malama Makaha agrees with the other provisions to rein in HCDA's current unbridled authority and discretion to circumvent the intent and directives of the law.

Mahalo Nui Loa,



AL Frenzel  
Malama Makaha  
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(808) 343-4916





*Ko'olau Foundation*

P. O. Box 4749  
Kane'ohe, HI 96744

March 18, 2014

Sen. Donovan Dela Cruz and Members  
Committee on Economic Development, Government  
Operations and Housing  
Hawai'i State Capitol  
Honolulu, Hawai'i 96813

Re: In Opposition to H. B. 1866, H.D. 2, Relating to the HCDA

Aloha, Senator Dela Cruz and Committee Members:

The Ko'olau Foundation wishes to express our concerns and objections to House Bill 1866, House Draft 2, Relating to the Hawai'i Community Development Authority.

When Honolulu was designated as the Primary Urban Center and 'Ewa was to be the Secondary Urban Center for our island, it was understood that new growth would occur in this central Honolulu area.

The Hawai'i Community Development Authority has been doing its job, working with public and private developers on growth in the Primary Urban Center. In our view, the HCDA seems to be doing what it is supposed to be doing.

This bill appears to be reacting to public sentiment that may not be reasonable, given that many of the supporters are people whose buildings created density in parts of Honolulu that were once low-rise and quiet.

We encourage this Committee to consider unintended consequences, should you approve this legislation and pass it into law. It is not a good bill and should be filed. Mahalo for allowing us to offer our mana'o.

Me kealoha pumehana,

MAHEALANI CYPHER  
Secretary

# Kaka'ako Ūnited

Testimony of  
Sharon Y. Moriwaki

Before the

Senate Committee on Economic Development, Government Operations & Housing  
Wednesday, March 19, 2014, 3:15 p.m., Conference Room 16

## In Support of HB 1866, HD2, Relating to the Hawaii Community Development Authority

To: Chair Donovan Dela Cruz, Vice Chair Sam Slom, and Members

My name is Sharon Moriwaki. I am a resident of Kaka'ako and president of Kaka'ako Ūnited, an organization of citizens concerned about Kaka'ako's future. We have seen the problems created by a state agency that has been given broad discretion without proper legislative oversight. HB1866, HD2, provides the oversight required to ensure that the Hawaii Community Development Authority ("authority") follows the law and legislative intent. Among the provisions that address the community's concerns are the following:

- ✓ Inserts language to clarify explicitly that all persons aggrieved by the authority's decisions have a right to appeal (Section 1);
- ✓ Calls for public hearings and notification when the authority attempts to vary, exempt, or modify its plans or rules (Section 2);
- ✓ Changes the authority's current composition to make it more representative by expanding the sources of nominees and prohibits government officers and employees from voting (Section 4);
- ✓ Explicitly prohibits any building or structure above 418 feet in height (Section 12);
- ✓ Requires prior legislative approval for use of public lands, expenditures from its revolving fund, supplemental powers, and issuance of special facility revenue bonds (Section 13); and
- ✓ Addresses its budget and staffing (Section 15).

While we support HB 1866 HD2, it omits provisions approved by both your committee and Senate Ways & Means in SB 2696, SB 2697, and SB 2698, three bills subsequently recommitted. We therefore respectfully request that the bill be amended as follows:

- ✓ Amend Section 1 to clarify and simplify the appeal right by replacing it with the following:

§206E----- Contested case hearing; judicial review. (a) Any person adversely affected by the authority's decision may petition the authority for a contested case hearing within thirty days of the effective date of the authority's action or decision. (b) Contested case hearings shall comply with chapter 91, and shall be conducted by an independent hearings officer. (c) Any contested case may be appealed upon the record to the intermediate court of appeals or the supreme court.

KŪ: Kaka'ako Ūnited  
415 South Street Main Office • Honolulu, Hawaii 96813  
[www.kakaakounited.org](http://www.kakaakounited.org) • [info@kakaakounited.org](mailto:info@kakaakounited.org)



Ensuring the quality of life for an integrated Kaka'ako community from mauka to makai.



- ✓ Amend Section 2 to provide standards in law on variances, exemptions, and modifications in addition to public notice and public hearings, by replacing Section 206E-B in Section 2 with the following:

§206E-B. Variances, exemptions and modifications (a) The authority shall hear and determine a petition for a variance from the discretionary provisions of the chapter and the mauka and makai area plans and may grant a variance, exemption, or modification based on unnecessary hardship if the record shows that: (1) the applicant would be deprived of any reasonable use of the land; (2) the request is due to unique circumstances and not the general conditions of the neighborhood; and (3) the use will not alter the essential character of the locality nor is contrary to the intent or purpose of the chapter or the mauka or makai area plans. (b) When considering any development project on lands under the authority's control that requires a variance, exemption or modification of a community development plan or of the authority's community development rules, the authority shall consider the request at a public hearing separate from and subsequent to the hearing on the developer's proposal; provided that the authority may consider all requests applicable to a single proposal at the same public hearing. (c) The authority shall issue a public notice in accordance with 1-28.5 and post the notice on the authority's website at least 10 days prior to the public hearing and notify the president of the senate and speaker of the house of the public hearing. (d) The authority's decision shall be rendered at a public hearing held pursuant to section 206E-5.6 and shall submit a report detailing the public's comments and the authority's response to each comment within a week after the final decision.

- ✓ Amend Section 8 to add clear standards on certification of the infrastructure capacity and on amending community development and master plans by adding the following provisions:

206E-- . Community development rules. The appropriate city or county departments shall certify that there is adequate infrastructure capacity, including but not limited to sewers, roads, and water, for the proposed development project. The appropriate city or county council shall certify that there is adequate funding available for the infrastructure required by the project.

§206E-- . Amendments to the community development and master plans. The authority [~~may~~] shall adopt and amend the community development plan and master plans [~~as may be necessary. Amendments shall be made in accordance with chapter 91.~~] only as authorized by a two-thirds majority vote of both houses of the legislature.

- ✓ Add a new section to ensure that the authority is given the time to comply with the standards to ensure proper development of the district by adding the following:

One-year moratorium on all development approvals. Notwithstanding any law to the contrary, there shall be a 12-month moratorium, effective as of July 1, 2014, on approvals by the HCDA on all plans or proposals for development projects in the Kaka'ako community development district pursuant to part II of chapter 206E, HRS.

Urban community redevelopment task force. A task force shall be appointed by the Legislature to explore and report back to the Legislature on January 10, 2015, with recommendations as to steps that should be taken to ensure that urban community development projects serve the highest needs and aspirations of Hawaii's people.

We ask your support of HB 1866 HD2 with the recommended amendments.

Thank you for the opportunity to testify.



**Testimony to the Senate Committee on Economic Development, Government Operations and  
Housing**

**Wednesday, March 19, 2014 at 3:15 P.M.  
State Capitol - Conference Room 016**

**RE: HOUSE BILL NO. 1866, HD 2, RELATING TO HAWAII COMMUNITY DEVELOPMENT  
AUTHORITY**

Chair Dela Cruz and Vice Chair Slom and members of the committee:

The Chamber **opposes** H.B. No. 1866 HD 2, which proposes to:

1. Amend the composition and appointment procedure of the Authority by removing all existing members and appointing new members under the amended procedure;
2. Amend the reserved housing requirements, including:
  - (A) Setting restrictions on the disposition of reserved and workforce housing by the Authority; and
  - (B) Requiring a developer to satisfy reserved housing requirements through either construction within the same development district or an equivalent cash payment;
3. Require that the set aside of public lands, expenditure of revolving funds, and issuance of special facility revenue bonds, be subject to legislative approval by two-thirds majority vote in each house;
4. Require that rules adopted by the Authority comply with all existing laws, rules, and ordinances; and
5. Eliminate the operating budget and capital investment amounts for the Authority for fiscal year 2014-2015 from the Executive Budget.
6. Add procedures allowing for administrative appeal, intervention, and judicial review in proceedings regarding applications for development permits;
7. Adding the Planning Director of a county that contains a development district as an ex officio non-voting member of the Authority;
8. Provide additional oversight of the Authority through:
  - (A) Prohibiting the Authority from delegating its power to approve variances, exemptions, or modifications of community development plans or rules and expanding public hearing and public notice requirements for the Authority's use of such power;
  - (B) Setting out additional public notice procedures for development permit applications including posting on the Authority's website and notice by mail to property owners and residents in a specified radius by and at the expense of the developer;
  - (C) Setting height limits for buildings and structures in the Kakaako Community Development District; and
  - (D) Eliminating the set aside of public lands within community districts for Authority use;
9. Clarify that the reserved housing and affordable housing requirements to permit the sale of units to eligible buyers and to preserve it as affordable;
10. Eliminate the two-thirds majority requirement in favor of a simple majority requirement for the legislative approval of the Authority's expenditures and bond issues; and



# Chamber of Commerce HAWAII

*The Voice of Business*

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

We understand that the recent activities in Kakaako have brought attention to the manner in which HCDA oversees redevelopment activities in Kakaako. The bill proposes to allow for more legislative oversight and legal challenges for projects currently under the jurisdiction of HCDA. It would appear that HCDA is a victim of its own success.

When HCDA was originally established in 1976, its purpose was to redevelop substantially undeveloped, blighted, or economically depressed areas that are or are potentially in need of renewal, renovation, or improvement to alleviate such conditions as dilapidation, deterioration, age, and other such factors or conditions which make such areas an economic or social liability.

The legislature, at that time, found that there exists within the State vast, unmet community development needs. These include, but are not limited to, a lack of suitable affordable housing; insufficient commercial and industrial facilities for rent; residential areas which do not have facilities necessary for basic live-ability, such as parks and open space; and areas which are planned for extensive land allocation to one, rather than mixed uses.

The legislature further determined at that time, that the lack of planning and coordination in such areas has given rise to these community development needs and that existing laws and public and private mechanisms have either proven incapable or inadequate to facilitate timely redevelopment and renewal.

Based on these pressing needs, the legislature created a new and comprehensive authority for community development to join the strengths of private enterprise, public development and regulation into a new form capable of long-range planning and implementation of improved community development. The purpose of Chapter 206E HRS was to establish such a mechanism in the Hawaii community development authority, a public entity which shall determine community development programs and cooperate with private enterprise and the various components of federal, state, and county governments in bringing plans to fruition. For such areas designated as community development districts, the legislature believes that the planning and implementation program of the Hawaii community development authority will result in communities which serve the highest needs and aspirations of Hawaii's people.

After almost 40 years of community and developer input, and hundreds of millions of dollars of public investment in infrastructure based on the planned redevelopment of the area, the current market conditions are such that private developers finally have an opportunity to move forward with a variety of projects in Kakaako. The plans to redevelop Kakaako and the public investment in infrastructure are being realized. The activity in Kakaako is also the result of the level of "predictability and certainty" that HCDA has created in the process. HB 1866, HD 2, removes the level of predictability and certainty and ultimately creates more risk for developers in Kakaako. The proposed bill will move HCDA closer to the current draconian land use entitlement process employed by the State and Counties, which has partly resulted in the limited supply of



# Chamber of Commerce HAWAII

*The Voice of Business*

housing at all price points and pushing the average median price of a home on Oahu well past \$650,000.00.

It is concerning that just when the process created by policy makers almost 40 years ago is beginning to show results, the policy makers today want to severely reduce its effectiveness, especially when developers now finally have a window of opportunity to proceed with their development plans. Such windows of opportunities are finite and any delays to the development process will increase risk for developers and the possibility of the loss of opportunities, as the economic cycle moves inexorably forward. If policy makers had concerns about redevelopment in this area, the concerns should have been addressed when the planning was being done and infrastructure capacity was being installed to accommodate the projected densities in the area.

We are also concerned if the planned density and the return on investment in infrastructure are not fully realized in Kakaako by discouraging development and curtailing full build out. Also, that it will cast yet deeper shadows over the "business climate" the State is creating if investors and developers have no predictability or certainty when only certain factions within a community, who do not necessarily represent the community as a whole, organize in attempts to usurp the authority of a state agency that has been doing its job overseeing redevelopment efforts.

Thank you for the opportunity to express our views on this matter.



## KO'OLAUPOKO HAWAIIAN CIVIC CLUB

March 18, 2014

TO: Senator Donovan M. Dela Cruz, Chair  
And Members  
Committee on Economic Development, Government Operations and Housing

FROM: Alice P. Hewett, President  
Ko'olaupoko Hawaiian Civic Club

SUBJECT: H.B. 1866, H.D. 2 – Relating to the Hawaii Community Development Authority

### IN OPPOSITION

Aloha, Chair Dela Cruz and Members of this Committee:

The Ko'olaupoko Hawaiian Civic Club strongly opposes House Bill 1866, House Draft 2, and urges you to file this measure.

As one of the state's largest Hawaiian Civic Clubs, we draw our membership from the nine ahupua'a around Kane'ohu Bay and throughout the Windward coast. Our members are deeply concerned about the changes in state law which are offered through this legislation.

We have worked long and hard to hold on to the valuable agricultural and conservation lands on Windward O'ahu over many decades. We were pleased a few years ago, when the HCDA granted us a 38-year lease to restore the He'eia wetlands into active farm cultivation. This restoration project is a strong and vibrant part of our community, and will continue to grow in the years ahead. In addition to its potential to support sustainability, the project is expected to improve the environment of both the wetlands and Kane'ohu bay as well.

We are concerned that if this bill is passed, it will eliminate the community members of the HCDA, including the members representing HCDA lands in He'eia. It will eliminate or severely diminish the budget for HCDA, which has given great support to our efforts to restore 400 acres of He'eia wetlands. We applaud the agency for its guidance and cooperative relationship with a number of community organizations that are interested in reviving the viability of this area.

We urge your committee to reject this bill. Mahalo for the opportunity offer our mana'o.

*The Ko'olaupoko Hawaiian Civic Club was established in 1937 and is a not-for-profit community organization dedicated to preserving and perpetuating the history, heritage and culture of Native Hawaiians. Its membership is open to people of Hawaiian ancestry and those who are "Hawaiian at heart".*

P. O. Box 664 \* Kaneohe, HI 96744 \* Ph. (808) 235-8111 \* [www.koolaupokohcc.org](http://www.koolaupokohcc.org)



## KAKO'O 'ŌIWI

March 17, 2014

To: Senator Donovan M. Dela Cruz, Chair  
Senator Sam Slom, Vice Chair, and  
Members of the Senate Committee on Economic Development, Government Operations  
and Housing

Date: Wednesday, March 19, 2014  
Time: 3:15 p.m.  
Place: Conference Room 16, State Capitol

From: Janice-Renee Yoshioka, Chief Financial Officer  
Kāko'o 'Ōiwi, a non-profit organization

**RE: COMMENTS TO H.B. 1866, H.D.2 - RELATING TO THE HAWAII  
COMMUNITY DEVELOPMENT AUTHORITY**

Kāko'o 'Ōiwi is a native Hawaiian 501(c)(3) non-profit organization that currently leases an approximately 405-acre parcel situated in He'eia, Ko'olaupoko, O'ahu from the Hawaii Community Development Authority (HCDA) for the purposes of restoring ecological and agricultural productivity and providing 'āina-based cultural and educational opportunities and related activities as defined by the He'eia community. The aforementioned property is situated within the He'eia Community Development District (HCDD) established in under HRS §206E-202. Since acquiring our lease in 2010, we have established and maintained a positive, equitable and productive working relationship with the HCDA that has enabled us to progress toward fulfillment of the community-driven vision for cultural, ecological and agricultural resiliency in the He'eia wetlands (meadowlands).

### **OVERVIEW OF PROPOSED LEGISLATION**

H.B. 1866, H.D.2, provides for administrative appeal, judicial review, and intervention in HCDA development permit application proceedings and amends requirements for notice, hearing, approval, and vesting of rights for developmental permits. The bill also requires greater legislative oversight, proposes changes to the composition of the HCDA Board and eliminates the HCDA operating budget for the 2014-2015 fiscal year.

**COMMENTS ON H.B. 1866, H.D. 2**

Kāko'o 'Ōiwi **strongly opposes** the amendments proposed in Section 4, which change the composition of the Authority by eliminating a cultural expert, small business interests and community representatives from the Kalaeloa and He'eia Community Development Districts. The inclusion of a native Hawaiian cultural advisor on the Authority is essential for ensuring that the interests and concerns of the native Hawaiian community are adequately represented in development decisions. Likewise, community representation on the Authority is critical for ensuring that the perspectives of community members both directly and indirectly affected by development decisions are integrated into decision making.

Kāko'o 'Ōiwi **strongly opposes** Section 15, which eliminates the operating budget of the HCDA for the 2014-2015 fiscal year. Eliminating the HCDA operating budget will result in the defunding of 19 of the agency's 23 positions, effectively disabling the Authority and its ability to fulfill its functions with adverse effects on pending and future planned activities in all three Community Development Districts.

Kāko'o 'Ōiwi **strongly opposes** Section 16, which proposes the removal of all existing members of the HCDA in office as of the effective date of this bill. In addition to disruptions in pending Authority business, these changes ignore the extensive input, time and consideration invested in the selection and nomination of qualified community representatives from the He'eia and Kalaeloa Community Development Districts.

While we understand that recent activities in Kaka'ako have brought attention to the manner in which the HCDA oversees redevelopment activities, H.B. 1866, H.D.2 proposes changes that will adversely impact Authority actions in other Community Development Districts, including He'eia. For this reason, we respectfully ask the Senate Committee on Economic Development, Government Operations and Housing to consider our comments on H.B. 1866, H.D.2.

Mahalo for the opportunity to submit this testimony.

Me Ka Ha'aha'a,

Kāko'o 'Ōiwi



Janice-Renee Yoshioka

The Senate  
The Twenty Seventh Legislature  
Committee on Economic Development,  
Government Operations and Housing  
March 19, 2014, 3:15 p.m.

Statement of the Hawaii Regional Council of Carpenters on  
HB 1866 HD2, Relating to the HCDA

The Kakaako area under the jurisdiction of the Hawaii Community Development Authority (HCDA) has been a component of planning for our State's future for many years. Urban core redevelopment was recognized as an essential part of a mature capitol City and a finite island. The State invested hundreds of millions of dollars to upgrade substandard infrastructure in order to foster redevelopment of a State resource for people that would work and/or live in compact area made desirable by cultural, service, culinary, recreational and other amenities.

The urban redevelopment purposes of the HCDA are of vital importance to our State, and it should be supported. While HB 1866 HD1 moves in that direction, certain provisions may not allow the agency to function in an efficient and effective manner, and should be addressed before passage:

- Is Legislative approval required for use of revolving funds, and to what degree? While it is understood that the HCDA must operate within maximums, changes required in line-item spending between Legislative sessions are needed in any agency, and halting work to wait for the Legislature would be unworkable.
- Is Legislative approval required to for special facility revenue bonds? Infrastructure improvements in particular may depend on (timely) funds from this source, and a bottleneck at that stage can cause a chain reaction of delays. Likewise if the Legislature, rather than the Governor, must designate sites for uses of State land for State purposes such as schools.
- An intervention and judicial review process exists without inventing one subject to trial. It is probable that this existing process would likely be utilized more in coming years, and prove workable. It has not been proven unworkable. Actions of the Director can be appealed to the HCDA, and timely judicial review is available via declaratory action of the courts.
- HCDA board appointments call for further consideration. Elimination of ex-officio State agency directors, and the county planning director seems to eliminate practical and essential planning resources. While issues of the day have been Kakaako centric, is it intended that representation of other geographic areas under the HCDA jurisdiction be



eliminated? What of a phased transition between the current board and future appointments under a different system?

- While limiting the powers of the director may have been urged by some, was it intended to remove administrative decisions (similar to those made by county planning directors) to the HCDA board? The stereotype of government delays may be legislated here.

The legislature should carefully avoid taking a management role in an agency that must interact with private owners and private markets. Furthermore, handicapping planning and design flexibility can foreclose potential “trade-offs” producing view planes, added public amenities, lower cost to government, or other currently unknowable possibilities. Existing residential developments in the district are beneficiaries of reasoned design flexibility.

We understand that discussions may have progressed towards an SD1, and our questions and concerns may have been addressed. Thank you for considering our concerns raised by HB 1866, HD2.

**HB 1866 HD2  
RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY**

**PAUL T. OSHIRO  
MANAGER – GOVERNMENT RELATIONS  
ALEXANDER & BALDWIN, INC.**

**MARCH 19, 2014**

Chair Dela Cruz and Members of the Senate Committee on Economic Development,  
Government Operations & Housing:

I am **Paul Oshiro**, testifying on behalf of Alexander & Baldwin, Inc. (A&B) on HB 1866 HD2, "A BILL FOR AN ACT RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY."

In 1976, the Legislature found that Kaka'ako was significantly under-utilized relative to its central location in urban Honolulu and recognized its potential for growth and development and its inherent importance to Honolulu as well as to the State of Hawaii. The Hawaii Community Development Authority (HCDA) was therefore established to promote and coordinate planned public facility development and private sector investment and construction in Kaka'ako. By having a regulatory body completely focused on the planning and zoning for Kaka'ako, it was envisioned that this would result in the effective development of this key economic driver.

We support the general intent of the changes made in Section 1, to clarify the intervention and appeal process for development permit proceedings before the HCDA. We believe this is of benefit to the community and developers alike.

With regards to the provisions contained in Section 2 relating to public hearings on variances, exemptions, or modifications, we concur that a regulating governmental land use entity should have the inherent flexibility to effectively address project and property specific issues, while still complying with established rules, plans, goals and policies for the surrounding area. We believe that provisions to provide an enhanced process to closely scrutinize project specific modifications when deemed warranted and necessary will provide reasonable flexibility in authorizing projects that are in the best interests of Kaka'ako and the State of Hawaii.

Section 5 includes a provision that repeals the present statutory authorization that allows the satisfaction of HCDA reserved housing requirements on land located outside the geographic boundaries of the authority's jurisdiction. We respectfully oppose the repeal of this provision. We believe the present statutory provision that authorizes the construction of HCDA required reserved housing units outside of Kaka'ako represents a reasonable option that may be of great assistance in preserving a development project's financial feasibility while meeting the overall purpose and intent of HCDA's reserved housing requirements and goals. The HCDA reserved housing program is generally targeted to meet the needs of a specific gap group—the working Hawaii resident who doesn't make quite enough to afford market housing, but makes too much to qualify for lower income housing. This is a needs group that cannot avail themselves of housing built with the assistance of government financing (tax credits, bond financing, etc.), but is an important gap to fill and one that the private sector can address without the help of government monies. We respectfully request that this provision be retained in statute to help fulfill the needs of the reserved housing program.

One of the provisions in Section 6 requires that the applicant for a development permit notify all property owners, lessees, sub-lessees, and residents located within a 300 foot radius of the proposed project. While we support the general intent of this provision, we respectfully request your consideration of additional amendments to further clarify in statute the source and content of the notification list. We respectfully suggest that the notification list consist of owners and lessees of record on file with the City & County of Honolulu real property tax division.

Thank you for the opportunity to testify.

Dear Senate Economic Development Committee Members,

**I support HB 1866 HD2** and all efforts to curb or abolish the HCDA. The HCDA does not properly represent the communities for which it serves. Its operations and decisions are not transparent nor reflect testimony it has received over the past year; it continues to ignore the will of the people.

HCDA as currently composed of nine members, all appointed by the governor, and none representing the affected communities they are supposed steward. I agree that the current board does represent the community interest and should be replaced. HB1866 addresses this problem. I would suggest is also require some members who can truly represent residents and businesses from the seven neighborhood zones plus the makai areas.

I agree with the other provisions to rein in HCDA's current unbridled authority and discretion to circumvent the intent and directives of the law.

Mahalo,

AL Frenzel

Testimony of Anna Filler before the

Senate Committee on Economic Development, Government Operations & Housing

Wednesday, March 19, 2014, 3:15 p.m., Conference Room 16

**In Support of HB 1866, HD2, Relating to the Hawaii Community Development Authority**

To: Chair Donovan Dela Cruz, Vice Chair Sam Slom, and Members

My name is Anna Filler. I am a 24 year resident of Kaka'ako and concerned about Kaka'ako's future. As a member of the Kaka'ako community, we have seen the problems created by a state agency that has been given broad discretion without proper legislative oversight. HB1866, HD2, provides the oversight required to ensure that the Hawaii Community Development Authority ("authority") follows the law and legislative intent. Among the provisions that address the community's concerns are the following:

- ✓ Inserts language to clarify explicitly that all persons aggrieved by the authority's decisions have a right to appeal (Section 1);
- ✓ Calls for public hearings and notification when the authority attempts to vary, exempt, or modify its plans or rules (Section 2);
- ✓ Changes the authority's current composition to make it more representative by expanding the sources of nominees and prohibits government officers and employees from voting (Section 4);
- ✓ Explicitly prohibits any building or structure above 418 feet in height (Section 12);
- ✓ Requires prior legislative approval for use of public lands, expenditures from its revolving fund, supplemental powers, and issuance of special facility revenue bonds (Section 13); and
- ✓ Addresses its budget and staffing (Section 15).

While we support HB 1866 HD2, it omits provisions approved by both your committee and Senate Ways & Means in SB 2696, SB 2697, and SB 2698, three bills subsequently recommitted. We therefore respectfully request that the bill be amended as follows:

- ✓ Amend Section 1 to clarify and simplify the appeal right by replacing it with the following:

**§206E.—. Contested case hearing; judicial review.** (a) Any person adversely affected by the authority's decision may petition the authority for a contested case hearing within thirty days of the effective date of the authority's action or decision. (b) Contested case hearings shall comply with chapter 91, and shall be conducted by an independent hearings officer. (c) Any contested case may be appealed upon the record to the intermediate court of appeals or the supreme court.



**HB 1866 HD2 provides much-needed structure and oversight to HCDA. It:**

**Defines** a contested case hearing process which entitles a person aggrieved by an HCDA decision to relief through judicial review.

**Clarifies** that the entire Authority, i.e., the 9 voting board members, is responsible for making the decisions, not just the executive director as is presently the case.

**Requires** the Authority to hold a separate public hearing when considering a request for a variance, exemption, modification of a community development plan, or change in the rules.

**Requires** the Authority to notify the Senate president and speaker of the House of when hearings will be held.

**Requires** that any affordable housing required by the Authority in conjunction with a proposed development project be built inside the geographic boundaries of the same community development district.

Meaning that, if affordable housing is a requirement of a project in Kakaako, the developer cannot build the affordable housing in Kalaeloa or Heeia, the other two community development districts.

**Requires** that an applicant for a development permit notify, by mail, all property owners, lessees, sub lessees, and residents within a 300-ft radius of the perimeter of a proposed project.

**Eliminates** the ability of the governor to "set aside public lands located within community development districts to the Authority for its use."

**Restricts** building heights to 418-feet.

**Please request that the following provisions be added to the bill:**

A **one-year moratorium** on all development approvals within the Kakaako Community Development District.

The **creation of an urban community redevelopment task force**, appointed by the Legislature, to determine and report back to the Legislature with recommendations as to steps that should be taken to ensure that urban community redevelopment projects *meet the highest needs and aspirations of Hawaii's people*, which is part of HCDA's mandate.

**The task force should be independent of HCDA and consist of planners, architects, and resource capacity specialists, along with residents living in a community development district.**



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**Subject:** \*Submitted testimony for HB1866 on Mar 19, 2014 15:15PM\*  
**Date:** Tuesday, March 18, 2014 12:55:57 PM

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**HB1866**

Submitted on: 3/18/2014

Testimony for EGH on Mar 19, 2014 15:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Nancy Davlanges	Individual	Support	No

Comments:

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**Subject:** Submitted testimony for HB1866 on Mar 19, 2014 15:15PM  
**Date:** Tuesday, March 18, 2014 11:33:38 AM

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**HB1866**

Submitted on: 3/18/2014

Testimony for EGH on Mar 19, 2014 15:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Paula B Tadaki	Individual	Support	No

Comments: HCDA has made some questionable decisions this past year. This bill will help ensure the public interest is taken into consideration when decisions are made. Since the independence of the Board of Directors are being questioned, I well we need a new Board.

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**Date:** Tuesday, March 18, 2014 10:50:04 AM

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**HB1866**

Submitted on: 3/18/2014

Testimony for EGH on Mar 19, 2014 15:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Pamela Wood	Individual	Support	No

Comments: I support HB 1866, HD2 and urge the EGH committee to pass this legislation. This bill will establish contested case hearing procedures; establish a separate public hearing process by HCDA to consider developer requests for variances, exemptions and/or modifications; restructure the HCDA Board of Directors to ensure its independence in decision-making; and set a 418 foot height limit. I support all legislative efforts to ensure implementation of 1) Affordability Standards; 2) Development Standards; and, 3) Hearing Process Standards that will guide HCDA to meet its legislative intent and purpose.

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**Subject:** Submitted testimony for HB1866 on Mar 19, 2014 15:15PM  
**Date:** Monday, March 17, 2014 10:52:10 AM

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**HB1866**

Submitted on: 3/17/2014

Testimony for EGH on Mar 19, 2014 15:15PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Webster Nolan	Individual	Support	No

Comments: Testimony supporting HB1866 HD2 for Senate EGH hearing March 19,2014 My name is Webster Nolan. I'm an owner/occupant of a Kakaako condominium and have lived and worked in the district for many years. I urge this committee to approve HB1866HD2 because it attempts to: (1) Strengthen oversight of the Authority by requiring detailed reports to the Legislature in a timely manner about public concerns expressed during public hearings with respect to proposals for new development projects. This would give legislators a closer and more immediate look at public sentiment than currently available to them. (2) Clarify the rights and procedures for residents in an HCDA district to appeal rulings and decisions of the Authority. This establishes statutory support for appellants, sets a timeline for appeals and reduces ambiguities in HCDA rules that have caused interpretive difficulties in the appeal process. (3) Create a less complicated procedure for appointing Authority board members. The current system has permitted extended vacancies on the board and allowed ambiguities about qualifications required of candidates. (4) Limit, by statute, the heights of new buildings in the district to 418 feet. In recent years, HCDA rules and decisions have permitted a wide range of exemptions, variances and modifications in construction heights that have undermined the strength of the permit process. The provisions in this bill represent a modest effort by the legislature to create a better balance between the need for more housing on Oahu and the concerns of the existing community about the impact of development. In my opinion, much stronger steps are needed to bring the Authority into conformity with the visionary intent of the 1976 Legislature to create affordable, attractive and vibrant neighborhoods in Kakaako. But this bill is a start, and I urge its passage.

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**From:** [Web Nolan](#)  
**To:** [EGHTestimony](#)  
**Subject:** Testimony supporting HB1866HD2 for hearing March 19, 2014  
**Date:** Monday, March 17, 2014 11:02:09 AM

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This is a back-up copy of testimony I submitted today (March 17) through the Legislature's website.

My name is Webster Nolan. I'm an owner/occupant of a Kakaako condominium and have lived and worked in the district for many years. I urge this committee to approve HB1866HD2 because it attempts to:

(1) Strengthen oversight of the Authority by requiring detailed reports to the Legislature in a timely manner about public concerns expressed during public hearings with respect to proposals for new development projects. This would give legislators a closer and more immediate look at public sentiment than currently available to them.

(2) Clarify the rights and procedures for residents in an HCDA district to appeal rulings and decisions of the Authority. This establishes statutory support for appellants, sets a timeline for appeals and reduces ambiguities in HCDA rules that have caused interpretive difficulties in the appeal process.

(3) Create a less complicated procedure for appointing Authority board members. The current system has permitted extended vacancies on the board and allowed ambiguities about qualifications required of candidates.

(4) Limit, by statute, the heights of new buildings in the district to 418 feet. In recent years, HCDA rules and decisions have permitted a wide range of exemptions, variances and modifications in construction heights that have undermined the strength of the permit process.

The provisions in this bill represent a modest effort by the legislature to create a better balance between the need for more housing on Oahu and the concerns of the existing community about the impact of development. In my opinion, much stronger steps are needed to bring the Authority into conformity with the visionary intent of the 1976 Legislature to create affordable, attractive and vibrant neighborhoods in Kakaako. But this bill is a start, and I urge its passage.

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**Subject:** Submitted testimony for HB1866 on Mar 19, 2014 15:15PM  
**Date:** Monday, March 17, 2014 9:40:18 AM

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**HB1866**

Submitted on: 3/17/2014

Testimony for EGH on Mar 19, 2014 15:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Victoria Cannon	Individual	Support	No

Comments: We strongly support this bill. Victoria and Trudy Cannon

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**Subject:** Submitted testimony for HB1866 on Mar 19, 2014 15:15PM  
**Date:** Monday, March 17, 2014 8:16:18 AM

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**HB1866**

Submitted on: 3/17/2014

Testimony for EGH on Mar 19, 2014 15:15PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Grace Ishihara	Individual	Support	No

Comments: I strongly support HB No. 1866 HD2. HCDA, contractors, developers and businesses involved in building Kaka'ako must understand that these are not "restrictive" guidelines, but "reasonable" operating procedures to ensure that they all work with the public. As with the saying "Where there's smoke, there's fire," the community wouldn't have had any issues with HCDA if there was no smoke. Hopefully, this bill will prevent the fires from burning down the Island of Oahu. I sincerely appreciate the efforts of our lawmakers at our Capitol and I pray that these efforts will not be wasted.

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**HB1866**

Submitted on: 3/15/2014

Testimony for EGH on Mar 19, 2014 15:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
douglas valenta	Individual	Support	No

**Comments:**

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**HB1866**

Submitted on: 3/15/2014

Testimony for EGH on Mar 19, 2014 15:15PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Support	No

Comments: I strongly support his bill. It would give power to those who have a direct nexus to the kaka'ako area. It would remove cabinet members from automatic membership. However, I would like to see the bill amended to provide that no member of the governor's cabinet be a member of the HCDA board. I would also request that the placeholder effective date of 2020 be amended to July 1, 2014. This bill goes a long way to correct injustices and injudicious decisions made by the HCDA board, which seems intent on giving away the entire store to developers with no regard for those who live and work in the area. Had they acted differently, the HCDA would not be under attack this session. Meanwhile, as this and other bills go forward at the legislature, the HCDA is still holding public hearings and making decisions which may not be able to be undone. lynne matusow 60 n. beretania, #1804 honolulu, hi 96817 531-4260

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**Testimony in Strong Support of HB 1866**  
Senate Committee on Economic Development, Government Operations & Housing  
Wednesday, March 19, 2014, 3:15 p.m., Conference Room 16

**In Support of HB 1866, HD2, Relating to the Hawaii Community Development Authority**

To: Chair Donovan Dela Cruz, Vice Chair Sam Slom, and Members

My name is Wayne Takamine and I participated as the Chair of the Kaka'ako Makai Community Planning Advisory Council (CPAC) in the creation and HCDA approval of the Kaka'ako Makai Master Plan.

Since May of 2013 the HCDA has increased the number of commercial proposals in Kaka'ako Makai for exclusive negotiations that includes projects located on sensitive areas adjacent to or including public shoreline park lands. The HCDA has sporadically held monthly Kaka'ako Community Briefings however; these briefings do not cover many of the action items discussed at HCDA Monthly meetings or HCDA Special meetings. As a result, there have been many "surprise" action items on the agendas leaving concerned citizens, community members, stockholders and community groups with little information or time to prepare testimony. Many of these projects are quickly approved despite the concerns by the unprepared community. Adding to the problem is the large amount of dissatisfaction by the Kaka'ako community regarding HCDA's public hearings process, HCDA Board vacancies, lack representation and the inability of the HCDA to incorporate public concerns into the plans of the approved projects. Many feel the HCDA has no backbone and is just bending to developers and ignoring the public. To make matters worse, HCDA has been scheduling multiple hearings on single days and as a result some Kaka'ako Meetings have been over 2.5 hours late. Also a concern is the many executive sessions by the authority during meetings and hearings that leaves the public wondering, "what's going on?"

In 2012, the legislature approved SB2742 SD1 HD2 CD1 that states:

The purpose of this measure is to change the composition of the Hawaii Community Development Authority (HCDA), decrease the membership of HCDA to nine voting members for each established district, and allow HCDA to lease all or a portion of the real or personal property constituting a project in the Kakaako Community Development District, without recourse to public auction or public notice for sealed bids.

After the enactment Act 323 in 2012, the HCDA board was reduced from 13 members to 9 members. However, after the transition the HCDA board consisted of only 8 members and was reduced to 7 board members in May of 2013 when the Cultural Specialist's term was not extended. During this period the Kaka'ako Community and Legislators asked the HCDA to fill its vacancies but those calls were not heeded until recently. Also a concern is that the ex-officio members are not usually present at controversial hearings which brings a question of accountability in the decision making process and the question of what amount the decision is predetermined before the hearing.

After Act 323 enacted on August 21, 2013 the HCDA approved exclusive negotiations for a 25 year lease of over 9 acres of Kaka'ako Waterfront Park for a commercial LED light show. This proposal immediately created a public uproar after learning the HCDA is able to lease public park lands for commercial use. The HCDA Special Hearing was held on August 21, 2013 which was not its typical meeting time on the first Wednesday of the month. I also started over 2.5 hours late because it followed a public hearing for a controversial condominium project. I was one of a handful of the public stayed after 3:00pm to hear the information about the project and then try to give testimony on the project I only heard of minutes earlier.

CPAC was created in 2006 during the Kaka'ako Makai HCDA Condominium RFP controversy by a House Concurrent Resolution HCR-30:

BE IT FURTHER RESOLVED that the Hawaii Community Development Authority immediately convene a working group of interested stakeholders, particularly the groups and individuals that have surfaced in this controversy, to meaningfully participate in the development, acceptance, and implementation of any future plans for the development of Kakaako Makai;

On June 17, 2010 as the acting chair of CPAC, I attended the Kaka'ako Makai District Master Plan Community Workshop No. 2. The workshop was attended by HCDA Staff, MVE Pacific Ltd (lead consultant), Townscapes (consultant,) CPAC participants, Kaka'ako Makai stakeholders and community groups including the Friends of Kewalo Basin, Save Our Surf, Hawaii Bodysurfing Association, Kewalo Basin Commercial Boater. Participants were shocked to see residential proposals despite having HRS 206E-31.5 that prohibits residential planning and development in Kaka'ako Makai clearly stated in the briefing book. The HCDA had spent \$600,000 for consultants and community meetings leading up to the presentation at Workshop No. 2 which was rejected by large majority of participants at Workshop No. 2. To complete the Kaka'ako Master plan the HCDA had to request another \$125,000 and in May of 2011 the HCDA Board approved the Kaka'ako Makai Master Plan.

CPAC strongly believes it is time to reform the HCDA due to the heightened concerns voiced in the news media for the many controversial projects and associated problems. In 2013 there has been a significant increase in the amount of projects proposed in both Kaka'ako Mauka and Kaka'ako Makai and the HCDA has not been able to adequately satisfy the public's demand for more transparency and accountability in its public hearings, board membership, rules interpretation, project revisions and decision making process.

We strongly support HB 1866.

Respectfully,

Wayne Takamine  
Chairman  
Kaka'ako Makai Community Planning Advisory Council (CPAC)

Hawaii Community Development Authority

Special Meeting

August 21, 2013

11:05 a.m.

461 Cooke Street

Honolulu, Hawaii 96813

LIEUTENANT GOVERNOR'S  
OFFICE

13 AUG 14 P 2:44

AGENDA  
KAKAAKO

- I. CALL TO ORDER/ROLL CALL
- II. REPORT OF THE EXECUTIVE DIRECTOR
- III. KAKAAKO MATTERS\*
  1. Decision Making: Shall the Authority Authorize the Executive Director to Enter into a Thirty (30) Year Lease Agreement with an Option to Extend an Additional Ten (10) Years with KB Marina L.P. for the Kewalo Basin Harbor in Accordance with the Terms and Conditions Recommended by the Hawaii Community Development Authority Staff Report?
  2. Decision Making: Shall the Authority Authorize the Executive Director to Enter into an Exclusive Negotiations Agreement with Illuminage Group, Inc. for the Potential Lease and Development of a Portion of Kakaako Waterfront Park (TMK: 2-1-60: 08 par.) for a Family-Oriented Theme Park?
  3. Decision Making: Shall the Authority Authorize the Executive Director to Enter into an Exclusive Negotiations Agreement with Goodluck Corporation and/or Take and Give Needs Co., Ltd for the Potential Lease and Development of a Portion of East Land along the Diamondhead Side of Kewalo Basin (Portion of TMK 2-1-058:128) for a Mixed Use Development including Parking and Negotiate a Lease and Development Agreement?
- IV. ADJOURNMENT

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**HB1866**

Submitted on: 3/17/2014

Testimony for EGH on Mar 19, 2014 15:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marjorie &/or Duane Erway	Individual	Support	No

Comments: Desparately need to rein in the totally out-of-control HCDA. Please add the a one-year moratorium on ALL development approvals within the Kakaako Community Dev. Distric AND the creation of an urban community redevelopment task force which is INDEPENDENT of HCDA and consists of planners, etc. along with residents living in that district. Hope we can count on your support.

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**HB1866**

Submitted on: 3/17/2014

Testimony for EGH on Mar 19, 2014 15:15PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Ron Okamura	Individual	Support	Yes

Comments: The present HCDA Board of Directors favor developer over community concerns. The Restructuring of HCDA/BOD will provide for greater independence. There is a need to establish a separate public hearing process by HCDA to consider the developer's request for variances, exemptions or modifications. This will allow public interaction prior to HCDA's acceptance of the Development Permit Application. There is also a need to establish a contested case hearing process to assure timely decision making. Right now, there are three petitions at HCDA that have been held up for months. More consideration for Affordability and Development Standards should be considered. The Legislature should define "workforce housing" in our statutes. The setting of height limits is a good start, but do not neglect the needed infrastructure, open space, parks and schools. I strongly support HB 1866, HD2

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**HB1866**

Submitted on: 3/17/2014

Testimony for EGH on Mar 19, 2014 15:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Toni Withington	Individual	Support	No

Comments: I strongly support this bill to hold the HCDA accountable for its actions and to provide oversight. I respectfully request that the following provisions be added to the bill: A one-year moratorium on all development approvals within the Kakaako Community Development District. The creation of an urban community redevelopment task force, appointed by the Legislature, to determine and report back to the Legislature with recommendations as to steps that should be taken to ensure that urban community redevelopment projects meet the highest needs and aspirations of Hawaii's people, which is part of HCDA's mandate. The task force should be independent of HCDA and consist of planners, architects, and resource capacity specialists, along with residents living in a community development district. mahalo, Toni Withington, Hawi

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**HB1866**

Submitted on: 3/17/2014

Testimony for EGH on Mar 19, 2014 15:15PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Wynnie Hee	Individual	Support	No

Comments: Yes, the all-powerful HCDA needs to be reigned in. Yes, a lot of the problem of the out of control HCDA which has granted almost every developer request for VARIANCE in spite of overwhelming public testimony -- is WHO is on the board and their favoritism of economic development/moneyed interests over the people's interests and quality of life. They forget the "community" is more than developers.

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**HB1866**

Submitted on: 3/18/2014

Testimony for EGH on Mar 19, 2014 15:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bryan Suzui	Individual	Support	No

Comments:

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**HB1866**

Submitted on: 3/18/2014

Testimony for EGH on Mar 19, 2014 15:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Clara K Morikawa	Individual	Support	No

Comments: There must be intervention in HCDA's permit application procedures and there must be legislative oversight in HCDA's fiscal matters.

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**HB1866**

Submitted on: 3/17/2014

Testimony for EGH on Mar 19, 2014 15:15PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Suzanne Wakelin	Individual	Support	No

Comments: SUPPORT HB 1866 HD2 to provide structure and oversight to HCDA. Please add these provisions to the bill: 1. A one-year moratorium on all development approvals within the Kakaako Community Development District. 2. The creation of an urban community redevelopment task force, appointed by the Legislature, to determine and report back to the Legislature with recommendations as to steps that should be taken to ensure that urban community redevelopment projects meet the highest needs and aspirations of Hawaii's people, which is part of HCDA's mandate. 3. The task force should be independent of HCDA and consist of planners, architects, and resource capacity specialists, along with residents living in a community development district.

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Testimony of

Cara Kimura

Before the Senate Committee on Economic Development, Government Operations and  
Housing

Wednesday, March 19, 2014

House Bill 1866: Relating to the Hawaii Community Development Authority

My name is Cara Kimura and I am in strong support of HB1866. I have been a resident of Kakaako for the past 15 years

This legislation is desperately needed -- the HCDA board is in need of balance. The current make-up of the board almost insures that developers' interests will be served over those of the community -- residents like me who call Kakaako home and have endured through years of abandoned buildings and failing infrastructure to build a true neighborhood but now feel like our voices and concerns are not considered. We need true representation when it comes to decisions regarding development in our neighborhood. We need better enforcement of the development rules in place to ensure that the dream of Kakaako as an affordable place for Hawaii's residents to live, work and play is realized. Modifications, exceptions and variances to these rules should not be granted at the discretion of any single person -- any encroachment on the provisions of these rules results in a lower quality of life for all residents of Kakaako, present and future -- and could negatively impact the rest of Honolulu as a result. We also need a clear procedure to appealing decisions made by the HCDA board -- currently the HCDA claims that any decision by the board is final and not subject to appeal. To my knowledge, this privilege does not exist in any other agency in the state of Hawaii and it should not be the case with HCDA either, particularly when the community has no representation on the board.

Although this bill does not guarantee that Kakaako residents will have a stronger voice in HCDA, it is a step in the right direction. Please pass HB1866 HD2.

Thank you for the opportunity to provide testimony.

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**HB1866**

Submitted on: 3/18/2014

Testimony for EGH on Mar 19, 2014 15:15PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Lila Gardner	Individual	Comments Only	No

Comments: I support HB1866 HD2 --- and request that these provisions be added to this bill -- 1 year moratorium on all development approvals within Kakaako Community Development District. Add the creation of an urban community redevelopment task force, appt. by legislature to determine and report back to the legislature recommendations that insure urban development that meets the needs of Hawaii's people.

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**HB1866**

Submitted on: 3/18/2014

Testimony for EGH on Mar 19, 2014 15:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bernard Nunies	Individual	Support	No

Comments: As a 7 year resident of Kakaako, I STRONGLY SUPPORT HB1866, HD2, that provides the oversight required to ensure that the Hawaii Community Development Authority follows the law and legislative intent. I have experienced first hand how this state agency willfully disregards community concerns, fails to address valid issues, and continues to grant every developers' requests for variances and modifications. Additionally, I would like to see language added to this bill that would allow for a contested case hearing process, require the legislature to approve significant variance/modification/exemption requests, implement a one year moratorium on development approvals by the HCDA, and lastly, create an urban redevelopment task force charged with providing the legislature, by the start of the next session, with recommendations as to steps that should be taken to ensure that urban community redevelopment projects meet the highest needs and aspirations of Hawaii's people. Thank you for your consideration.

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**HB1866**

Submitted on: 3/18/2014

Testimony for EGH on Mar 19, 2014 15:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Julie Nishimura	Individual	Support	No

**Comments:**

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**HB1866**

Submitted on: 3/18/2014

Testimony for EGH on Mar 19, 2014 15:15PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Cynthia Frith	Individual	Support	No

Comments: HB 1866 HD2 provides much-needed structure and oversight to HCDA. It: Defines a contested case hearing process which entitles a person aggrieved by an HCDA decision to relief through judicial review. Clarifies that the entire Authority, i.e., the 9 voting board members, is responsible for making the decisions, not just the executive director as is presently the case. Requires the Authority to hold a separate public hearing when considering a request for a variance, exemption, modification of a community development plan, or change in the rules. Requires the Authority to notify the Senate president and speaker of the House of when hearings will be held. Requires that any affordable housing required by the Authority in conjunction with a proposed development project be built inside the geographic boundaries of the same community development district. Meaning that, if affordable housing is a requirement of a project in Kakaako, the developer cannot built the affordable housing in Kalaeloa or Heeia, the other two community development districts. Requires that an applicant for a development permit notify, by mail, all property owners, lessees, sub lessees, and residents within a 300-ft radius of the perimeter of a proposed project. Eliminates the ability of the governor to "set aside public lands located within community development districts to the Authority for its use." Restricts building heights to 418-feet. Please request that the following provisions be added to the bill: A one-year moratorium on all development approvals within the Kakaako Community Development District. The creation of an urban community redevelopment task force, appointed by the Legislature, to determine and report back to the Legislature with recommendations as to steps that should be taken to ensure that urban community redevelopment projects meet the highest needs and aspirations of Hawaii's people, which is part of HCDA's mandate. The task force should be independent of HCDA and consist of planners, architects, and resource capacity specialists, along with residents living in a community development district. ~~~~~ Mahalo for taking into consideration the tax paying public's opinions.

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## **HB1866**

Submitted on: 3/18/2014

Testimony for EGH on Mar 19, 2014 15:15PM in Conference Room 016

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rachelle Nobriga	Individual	Support	Yes

Comments: HCDA is a statewide agency (HRS 206E) While all the attention currently is on the over-development of Kakaako on Oahu, HCDA is a statewide agency. So, improving HCDA's structure now will help if-and-when community development districts are approved by the legislature for other areas and islands. HB 1866 HD2 provides much-needed structure and oversight to HCDA. It: Defines a contested case hearing process which entitles a person aggrieved by an HCDA decision to relief through judicial review. Clarifies that the entire Authority, i.e., the 9 voting board members, is responsible for making the decisions, not just the executive director as is presently the case. Requires the Authority to hold a separate public hearing when considering a request for a variance, exemption, modification of a community development plan, or change in the rules. Requires the Authority to notify the Senate president and speaker of the House of when hearings will be held. Requires that any affordable housing required by the Authority in conjunction with a proposed development project be built inside the geographic boundaries of the same community development district. Meaning that, if affordable housing is a requirement of a project in Kakaako, the developer cannot built the affordable housing in Kalaeloa or Heeia, the other two community development districts. Requires that an applicant for a development permit notify, by mail, all property owners, lessees, sub lessees, and residents within a 900-ft radius of the perimeter of a proposed project. Eliminates the ability of the governor to "set aside public lands located within community development districts to the Authority for its use." Restricts building heights to 40-feet. Please request that the following provisions be added to the bill: A one-year moratorium on all development approvals within the Kakaako Community Development District. The creation of an urban community redevelopment task force, appointed by the Legislature, to determine and report back to the Legislature with recommendations as to steps that should be taken to ensure that urban community redevelopment projects meet the highest needs and aspirations of Hawaii's people, which is part of HCDA's mandate. The task force should be independent of HCDA and consist of planners, architects, and resource capacity specialists, along with residents living in a community development district.

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