

HB1866 HD2

LATE

RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

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)



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2014**

ON THE FOLLOWING MEASURE:

H.B. NO. 1866, H.D. 2, RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

BEFORE THE:

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, GOVERNMENT OPERATIONS, AND HOUSING

DATE: Wednesday, March 19, 2014 **TIME:** 3:15 p.m.

LOCATION: State Capitol, Room 16

TESTIFIER(S): David M. Louie, Attorney General, or
Diane K. Taira, Supervising Deputy Attorney General
Lori N. Tanigawa, Deputy Attorney General

Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill proposes to do five things: (1) amend the notice, hearing, and approval requirements of development permit applications; (2) change the composition of the Hawaii Community Development Authority ("the Authority" or "HCDA") Board; (3) enhance legislative oversight of the Authority; (4) amend reserved housing requirements; and (5) eliminate HCDA's operating budget for fiscal year 2014-2015.

In section 1, page 1, lines 4-18, and page 2, lines 1-4, the bill adds a new section to chapter 91, Hawaii Revised Statutes (HRS), as follows:

§91- __ Hawaii community development authority permit application proceedings; intervention; judicial review. (a) Proceedings under this section shall be conducted in the manner of a contested case hearing under chapter 91, except as provided in this section.

(b) Any person requesting to intervene pursuant to this section in a proceeding on an application for a development permit from the Hawaii community development authority shall file a written motion to intervene within fourteen days after the publication date of the public notice issued pursuant to section 206E-5.6(b).

(c) All proceedings under this section shall be held before a hearings officer.

(d) Any person aggrieved by any decision of the Hawaii community development authority or by a preliminary ruling of the nature that deferral of review pending entry of a subsequent final decision would deprive the person of

adequate relief, shall be entitled to judicial review thereof as set forth in section 91-14.

The title of this new section and reference to section 206E-5.6(b) on page 1, line 14, suggest that it applies to "development permit application proceedings" pursuant to section 206E-5.6. If the intent is to require such proceedings to be conducted as a contested case hearing, we note that section 206E-5.6, already provides for a contested case hearing. Section 206E-5.6 requires the Authority to conduct separate public hearings whenever the Authority renders a decision regarding the "acceptance of a developer's proposal to develop lands under the authority's control." Because the section 206E-5.6 public hearings on development permit applications are required by law and determine the rights, duties, or privileges of specific parties, they constitute a contested case proceeding. E&J Lounge Operating Co., Inc. v. Liquor Comm'n of Honolulu, 118 Hawaii 320, 330, 189 P.3d 432, 442 (2008). Although there is no requirement that the hearing be referred to as "contested case hearing," see id. at 332, 189 P.3d at 444, we recommend that, instead of adding a new section, the bill amend section 206E-5.6 to clarify that it provides for a contested case hearing that would give rise to judicial review pursuant to section 91-14, as set forth below on page 3. We also recommend that the bill be amended to only allow persons aggrieved by a "final decision" of the Authority to seek judicial review. Allowing persons to appeal a preliminary ruling prior to a final decision would result in costly delays and would divert the Authority's time and resources to fighting an appeal in Circuit Court before it even issues a final decision.

In section 2, page 2, lines 15-22, and page 3, lines 1-17, the bill adds a new section to part I of chapter 206E, HRS, as follows:

§206E-B Public hearing on variances, exemptions, or modifications; separate hearing required. (a) When considering any developer's proposal to develop lands under the authority's control that includes any request for a variance, exemption, or modification of a community development plan or of the authority's community development rules, the authority shall consider the request for variance, exemption, or modification at a public hearing separate from and subsequent to the hearing at which the developer's proposal was presented; provided that the authority may consider all requests applicable to a single proposal at the same public hearing.

(b) The authority shall issue a public notice for the public hearing in accordance with section 1-28.5 and post the notice on its website; provided that

the public hearing shall not occur earlier than five business days after the notice is posted.

(c) The authority shall notify the president of the senate and speaker of the house:

- (1) Of any public hearing upon posting of the hearing notice; and
- (2) With a report detailing the public's reaction at the public hearing, within one week after the hearing.

(d) The authority's decision on requests subject to this section shall be rendered at the public hearing held pursuant to section 206E-5.6 rendering a decision regarding the developer's proposal.

In section 7, page 16, lines 11-12, the bill amends 206E-5.6(a) to make it subject to requirements of section 206E-B. Because subsections (b) and (c) of section 206E-B are duplicative of the requirements of subsections (b) and (c) of section 206E-5.6, we recommend that, instead of adding a new section, the bill amend section 206E-5.6 to include the requirement of a separate public hearing on variances, exemptions, or modifications.

In accordance with the above comments, we recommend that section 206E-5.6 be amended as follows:

§206E-5.6 Public hearing for decision-making; separate hearings required; contested case hearing; judicial review. (a) When rendering a decision regarding:

- (1) An amendment to any of the authority's community development rules established pursuant to chapter 91 and section 206E-7; or
- (2) The acceptance of a developer's proposal to develop lands under the authority's control,

The authority shall render its decision at a public hearing separate from the hearing that the proposal under paragraph (1) or (2) was presented.

(b) The authority shall issue a public notice in accordance with section 1-28.5 and post the notice on its website; providing that the decision-making hearing shall not occur earlier than five business days after the notice is posted. Prior to rendering a decision, the authority shall provide the general public with the opportunity to testify at its decision-making hearing. Public notice issued pursuant to this subsection for decision-making hearings under subsection (a)(2) shall state that any written motion to intervene shall be received within fourteen days after the publication date of the public notice.

(c) The authority shall notify the president of the senate and speaker of the house:

- (1) Of any public hearing upon posting of the hearing notice; and
- (2) With a report detailing the public's reaction at the public hearing, within one week after the hearing.

(d) When considering any developer's proposal to develop lands under the authority's control that includes any request for a variance, exemption, or

modification of a community development plan or of the authority's community development rules, the authority shall consider the request for variance, exemption, or modification at a public hearing separate from and subsequent to the hearing at which the developer's proposal was presented; provided that the authority may consider all requests applicable to a single proposal at the same public hearing. The authority's decision on requests subject to this subsection shall be rendered at the decision-making hearing on the developer's proposal.

(e) Proceedings pursuant to subsection (a)(2) shall be considered a contested case hearing.

(f) Any person aggrieved by a final decision of the authority regarding the acceptance of a developer's proposal to develop lands under the authority's control may seek judicial review thereof within thirty days, pursuant to section 91-14.

In section 4, starting on page 4, line 19 and ending on page 9, line 20, the bill amends subsection (b) of section 206E-3 as follows:

(b) The authority shall consist of nine voting members to be appointed by the governor, by and with the advice and consent of the senate; provided one member shall be appointed by the governor from each of two separate lists of three nominees submitted by the president of the senate and one member shall be appointed from each of two separate lists of three nominees submitted by the speaker of the house of representatives. The director of planning in the county that contains a community development district, or the director's designee, shall be an ex officio, nonvoting member. In the event of a vacancy, the governor shall appoint a member to fill the vacancy within thirty days of the vacancy or within thirty days of the submission of the lists of nominees to the governor, as applicable.

If the governor fails to make any appointment within the thirty-day period specified in this subsection or within ten days of the senate's rejection of any previous appointment, the appointment shall be made by the applicable appointing authority from the list with the advice and consent of the senate. The same appointment and consent procedure shall be followed until a valid appointment has been made.

The terms of voting members shall be for four years, commencing on July 1 and expiring on June 30; provided that the governor may reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year. The governor may remove or suspend for cause any member after due notice and public hearing.

Notwithstanding section 92-15, a majority of all members shall constitute a quorum to do business, and the concurrence of a majority of all members shall be necessary to make any action of the authority valid; except as provided in this subsection. All members shall continue in office until their respective successors have been appointed and qualified. Except as herein provided, no member appointed under this subsection shall be an officer or employee of the State or its political subdivisions.

Given that the Director of Finance and the Director of Transportation are in the unique positions of being able to offer the Authority insight as to the State's finances and transportation department, we recommend that they, or their respective designated representatives, be allowed to serve as ex officio, voting members of the Authority.

In addition, because the bill changes the composition of the Board, but does not change how quorum is determined, practical difficulties may arise. For example, if quorum is determined using only the 9 voting members, then only 5 members are required to achieve quorum and take action. If quorum is to be determined based on all 10 members (9 voting + 1 nonvoting County planning director), then 6 members are required to achieve quorum. If, however, one of the 6 members is the nonvoting member, then no action can be taken because while there may be quorum to convene the meeting, there is an insufficient number to take action. This may lead to meetings where the HCDA can meet, but cannot take action. We therefore suggest that only the voting members be counted towards the number required for quorum.

In accordance with the above comments, we recommend that subsection (b) of section 206E-3 be amended as follows:

(b) The authority shall consist of nine voting members to be appointed by the governor, by and with the advice and consent of the senate; provided one member shall be appointed by the governor from each of two separate lists of three nominees submitted by the president of the senate and one member shall be appointed from each of two separate lists of three nominees submitted by the speaker of the house of representatives; provided further that the director of finance and the director of transportation, or their respective designated representatives, shall serve as ex officio, voting members. The director of planning in the county that contains a community development district, or the director's designee, shall be an ex officio, nonvoting member. In the event of a vacancy, the governor shall appoint a member to fill the vacancy within thirty days of the vacancy or within thirty days of the submission of the lists of nominees to the governor, as applicable.

If the governor fails to make any appointment within the thirty-day period specified in this subsection or within ten days of the senate's rejection of any previous appointment, the appointment shall be made by the applicable appointing authority from the list with the advice and consent of the senate. The same appointment and consent procedure shall be followed until a valid appointment has been made.

The terms of voting members shall be for four years, commencing on July 1 and expiring on June 30; provided that the governor may reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year. The governor may remove or suspend for cause any member after due notice and public hearing.

Notwithstanding section 92-15, a majority of all voting members shall constitute a quorum to do business, and the concurrence of a majority of all voting members shall be necessary to make any action of the authority valid; except as provided in this subsection. All members shall continue in office until their respective successors have been appointed and qualified. Except as herein provided, no member appointed under this subsection shall be an officer or employee of the State or its political subdivisions.

In section 6, page 15, lines 13-19, the bill amends subsection (a) of section 206E-5.5 as follows:

Notification by the applicant of any application for a development permit by mail to all property owners, lessees, sublessees, and residents located within a three hundred foot radius of the perimeter of a proposed project upon submission of the application; provided that the applicant shall pay for all costs associated with the notification[.]

This requirement is unduly burdensome and may be impossible to satisfy. The identification of a property's owner, lessee, sublessee, and resident may not be readily ascertainable. Such information is not always in the public record and may require the expenditure of considerable time and resources to ascertain such information. This may be especially burdensome for applicants who seek a development permit for the Authority for improvements which are small in their scope and nature. We therefore recommend that the bill be amended as follows:

Notification by the applicant of any application for a development permit for a project valued at \$250,000 or more by mail to all [~~property~~] owners[;] and lessees[~~, sublessees, and residents~~] of record of real property located within a three hundred foot radius of the perimeter of a proposed project compiled from the most current list available from the real property assessment division of the department of budget and fiscal services of the county in which the proposed project is located [~~upon submission of~~] when the application is deemed complete; provided that the applicant shall pay for all costs associated with the notification[.]

Section 15, page 32, lines 16-19, and page 33, lines 1-4, of the bill eliminates HCDA's operating budget for fiscal year 2014-2015. Eliminating HCDA's operating budget will result in

the defunding of 19 of the agency's 23 positions. This will effectively disable the agency and prevent it from carrying out its statutory duties, thereby potentially exposing it and the State to liability.

In section 16, page 33, lines 5-8, the bill immediately removes all existing Board members as of the effective date of the bill. The result may be a substantial period of time where the Authority may be without a sufficient number of voting members to achieve quorum and act on pending Board business. This may be especially problematic where the Board must act on certain items within a given time period. It is therefore important that the bill provide for a transition Board until such time that their successors can be appointed. Thus, we recommend that section 16 of the bill be amended in its entirety to provide as follows:

The five ex officio members, or their respective designated representatives, serving on the authority on the effective date of this Act shall continue to serve as voting members for the authority, provided (1) the director of business, economic development, and tourism, or his designated representative, shall continue to serve as an ex officio, voting member until the governor appoints a member from a list of six nominees submitted by the senate president; (2) the comptroller, or his designated representative, shall continue to serve as an ex officio, voting member until the governor appoints a second member from a list of six nominees submitted by the senate president; and (3) the chairperson of the Hawaiian homes commission or his designated representative, shall continue to serve as an ex officio, voting member until the governor appoints a member from a list of six nominees submitted by the speaker of the house of representatives.

Allowing the five current ex officio members to continue serving on the Board will ensure that the Board will have the requisite number of voting members to achieve quorum upon the effective date of this bill until such time that their successors can be appointed and qualified.

We respectfully ask the Committee to consider our comments and recommended amendments.



A'ohē hana nui ka alu'ia
"No Task Is Too Big When Done Together By All"

HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO

735 Bishop Street, Suite 412 * Honolulu, Hawaii 96813
(808) 524-2249 - FAX (808) 524-689

EXECUTIVE BOARD

March 19, 2014

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Honolulu, HI 96813

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RE: OPPOSITION to HB1866, HD2 RELATING TO HCDA
Hearing: Wednesday, March 19, 2014, 3:15 p.m. Conference Room 016

RYDEN VALMOJA

Sergeant At Arms
District Council 50
Painters & Allied Trades Local 1791
Carpet, Linoleum, & Soft Tile
Local 1926
Drywall, Tapers & Finishers
Local 1944
Glaziers, Architectural Metal &
Glassworkers Local 1989

Honorable Chair, Vice Chair and Committee Members;

The Hawaii Building & Construction Trades Council, AFL-CIO is a chartered member of the Building and Construction Trades Department, AFL-CIO which was first organized in 1908 and comprised of 14 out of 15 international construction trade unions with 386 state, local and provincial councils in the United States and Canada and an estimated 15,000 members locally. Our primary mission being to provide employment opportunities and living wages for many of Hawaii's working men and women in the construction industry.

DOUGLAS FULP

Trustee
International Assoc. of Heat & Frost
Insulators & Allied Workers Local 132

The Council respectfully OPPOSES HB1866, HD2, which as amended 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 a height limit for Kakaako

JOSEPH O'DONNELL

Trustee
Iron Workers Local 625

GARY AYCOCK

Boilermakers, Ironship Builders
Local 204

The Hawaii Community Development Authority was created in 1976 by the State Legislature to plan future developments of underutilized urban areas in Hawaii. In an effort to balance the increasing challenges of urban sprawl, preserving open space, promoting local agriculture, planning for future growth, and reinvigorating and maximizing high density urban core areas, HCDA has risen to that challenge and the charge given them over three decades ago.

RONAN KOZUMA

Hawaii Teamsters & Allied
Workers Local 996

VAUGHN CHONG

Roofers, Waterproofers & Allied
Workers United Union of Roofers
Local 221

We understand and appreciate that not all will agree with change, especially when it might directly and adversely impact individuals, but sometimes change is necessary in order to evolve and adapt for continued growth and sustainability.

KIKA G. BUKOSKI

Executive Director

HCDA is not just a single community's issue. It's an island wide issue and a piece of a larger "General" Plan that includes Ewa (Kalaeloā) and Windward (Ko'olaupoko) O'ahu. It's an island wide initiative to direct smart growth concepts to certain areas of the island for certain area specific reasons in order to maximize the efficiencies

and deficiencies of the area and improve on what's currently there.

Infrastructure, roadways, modes of travel, maximizing and reinvigorating existing footprint, economic opportunity, quality of life...although just a few, these are all part of the overall plan to improve O'ahu.

The provisions of HB1866, HD2 appear to create restrictive guidelines that may impede the progress of the HCDA and prevent the agency from achieving its general mission to balance the increasing challenges of urban sprawl, preserving open space, promoting local agriculture, planning for future growth, and reinvigorating and maximizing high density urban core areas.

It takes great vision, coupled with perseverance, resolve, commitment and fortitude to 'realize' that vision and "stay the course"

A known philosopher-poet, Ralph Waldo Emerson was once quoted,

"Whatever course you decide upon, there is always someone to tell you that you are wrong...

There are always difficulties arising that tempt you to believe that your critics are right...

To map out a course of action and follow it to an end requires courage."

This is not 'just' about jobs, this is not just about one community, or one or two individuals, this about recognizing the possibilities (HCDA) before us, identifying and evaluating all of the variable externalities, concerns and considerations; applying the best methods of sustainable planning available today and plotting a 'course' for O'ahu's future...the kind of future we would want to pass on to our next generation.

We urge you to reconsider this measure and allow the Hawaii Community Development Corporation to realize the vision of a "Better O'ahu".

Thank you for the opportunity to provide comments in opposition to HB1866, HD2.

A'ohe hana nui ka alu'ia
"No Task Is Too Big When Done Together By All"

Hawai'i Construction Alliance

P.O. Box 179441
Honolulu, HI 96817
(808) 348-8885

February 25, 2014

The Honorable Donovan Dela Cruz, Chair
The Honorable Sam Slom, Vice Chair
and members
Senate Committee on Economic Development,
Government Operations, and Housing
Hawai'i State Senate
Honolulu, Hawai'i 96813

RE: Strong Concerns on HB1866 HD2

Dear Chair Dela Cruz, Vice Chair Slom, and members:

The Hawai'i Construction Alliance would like to submit the following comments on HB1866 HD2, which 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.

The Hawai'i Construction Alliance is comprised of the Hawai'i Regional Council of Carpenters; the Hawai'i Masons Union, Local 1 and Local 630; the Laborers' International Union of North America, Local 368; and the Operating Engineers, Local Union No. 3. Together, the four member unions of the Hawai'i Construction Alliance represent 15,000 working men and women in the four basic crafts of Hawai'i's construction industry.

The four unions of the Hawai'i Construction Alliance have been strong advocates for the development of a vibrant, mixed-use community in Kaka'ako. Over the next several years, Kaka'ako will grow to include housing that local residents can afford, support good-paying jobs, and host amenities for the general public to enjoy. Hundreds of our members are currently at work on projects within the Kaka'ako area, and we are proud to be a part of the positive and long-awaited transformation of Kaka'ako.

As such, we remain strongly opposed to provisions in the bill which would make it extremely difficult to turn Kaka'ako into a place where the next generation of local residents can live, work, play, and raise families.

Specifically, we are concerned with provisions of the bill which would constrain HCDA's ability to conduct its business of reviewing permit applications, developing plans for infrastructure and public facilities, and making necessary expenditures. For example, we note with concern that Section 9 strips the Governor of the power to use, acquire, and set aside lands for public benefit, and Section 10 proposes to restrict HCDA from using its own revolving funds, which can be used to help with housing and other important programs.

Another such example is the proposed elimination of the HCDA budget in HB1866 HD2. The repeal of the HCDA budget would do little to improve the agency's processes, and would effectively prevent the Authority from reviewing, considering, and approving plans for housing for Hawai'i families, new commercial spaces for local entrepreneurs, and infrastructure improvements for the area.

Finally, we are also opposed to the provision of HB1866 HD2 which eliminates HCDA's ability to consider allowing satisfaction of affordable housing requirements outside of a proposed development's community development district. Allowing flexibility in the provision of affordable housing may allow for more affordable housing units to be produced, given the cheaper land costs of areas outside of the district.

Mahalo for the opportunity to provide these comments on HB1866 HD2.

Yours truly,

A handwritten signature in black ink that reads "Tyler Dos Santos-Tam". The signature is written in a cursive, flowing style.

Tyler Dos Santos-Tam
Executive Director
Hawai'i Construction Alliance
execdir@hawaiiconstructionalliance.org

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

THE VOICE OF THE CONSTRUCTION INDUSTRY

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

Wednesday, March 19, 2014

3:15 p.m.

State Capitol - Conference Room 016

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simplicityHR by ALTRES

RE: H.B. 1866, H.D. 2, RELATING TO HAWAII COMMUNITY DEVELOPMENT AUTHORITY

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

My name is Gladys Marrone, Government Relations Director for the Building Industry Association of Hawaii (BIA-Hawaii), the Voice of the Construction Industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA-HAWAII **opposes** H.B. No. 1866 HD 2, which proposes to:

1. Amend the composition and appointment procedure of the Authority, including 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;

Mailing address: P.O. Box 970967, Waipahu, HI 96797 Street address: 94-487 Akoki St., Waipahu, HI 96797-0967;

Telephone: (808) 847-4666 Fax: (808) 440-1198 E-mail: info@biahawaii.org; www.biahawaii.org

- (A) Setting height limits for buildings and structures in the Kakaako Community Development District; and
 - (B) Eliminating the set aside of public lands within community districts for Authority use;
9. Permit the nonconformity of the Authority's rules with existing state and county requirements and providing for the vesting of a developer's rights and the continuing applicability of the rules in effect at the time of initial approval of a master plan permit and development agreement;
 10. Clarify that the reserved housing and affordable housing requirements to permit the sale of units to eligible buyers and to preserve it as affordable;
 11. 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

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 public investment in infrastructure based on the planned redevelopment of the area, the market conditions are such that private developers are moving 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 housing at all price points and pushing the average median price of a home on Oahu well past \$650,000.00.

It is ironic 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. If policy makers had concerns

Honorable Donovan Dela Cruz, Chair
Senate Committee on Economic Development, Government Operations, and Housing
March 19, 2014
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Testimony of BIA-Hawaii

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.

It would be unfortunate if the planned density and the return on investment in infrastructure are not fully realized in Kakaako by allowing full build out. It would also raise legitimate questions on the type of "business climate" the State is creating if investors and developers have no predictability or certainty when a state agency is overseeing redevelopment efforts.

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

The Howard Hughes Corporation
1240 Ala Moana Boulevard
Suite 200
Honolulu, Hawaii 96814

March 19, 2014

Honorable Donovan Dela Cruz, Chair
Honorable Sam Slom, Vice Chair
Senate Committee on Economic Development, Government Operations & Housing

**RE: HB 1866 HD2 – Relating to the Hawaii Community Development Authority
Hawaii State Capitol, Rm. 016; 3:15 PM**

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

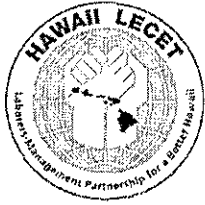
The Howard Hughes Corporation, and its wholly-owned subsidiary Victoria Ward Limited (“VWL”), have concerns regarding HB 1866 HD2 because it requires additional and unnecessary procedural processes that will add to the already costly process of development.

VWL is concerned about the effect of this bill on development in general. The HCDA master planning process was designed to encourage timely development, reduce the economic cost of development, allow for the orderly planning and implementation of public and private development projects, and provide a reasonable degree of certainty in the development permit approval process. We understand the community’s concerns and support community engagement. We believe there are existing procedural processes that ensure community participation and input.

We appreciate the language in the bill recognizing vested development rights under approved master plans and development agreements. VWL invested significant time and resources in developing a master plan for the 60 contiguous acres in Kakaako under its ownership, and in implementing various development projects under that master plan. We ask the Committee to retain this language, as this bill moves forward.

Thank you for the opportunity to testify on this measure.

David Striph
Senior Vice President - Hawaii



HAWAII LABORERS-EMPLOYERS COOPERATION AND EDUCATION TRUST
1617 Palama Street · Honolulu, HI 96817 · Phone: 808-845-3238 · Fax: 808-845-8300 · URL: hilecet.org

**TESTIMONY OF HAWAII LECET
CLYDE T. HAYASHI - DIRECTOR**

HAWAII STATE SENATE
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2014

COMMITTEE ON ECONOMIC DEVELOPMENT, GOVERNMENT OPERATIONS AND HOUSING
Senator Donovan Dela Cruz Chair
Senator Sam Slom, Vice Chair

NOTICE OF HEARING

DATE: Wednesday, March 19, 2014
TIME: 3:15 p.m.
PLACE: Conference Room 016
State Capitol
415 South Beretania Street

**TESTIMONY ON HOUSE BILL NO. 1866, REL ATING TO THE HAWAII COMMUNITY DEVELOPMENT
AUTHORITY.**

TO THE HONORABLE DONOVAN DELA CRUZ, CHAIR, SAM SLOM, VICE CHAIR, AND MEMBERS OF
THE COMMITTEE:

My name is Clyde T. Hayashi, and I am the Director of Hawaii LECET. Hawaii LECET is a labor-management partnership between the Hawaii Laborers Union, Local 368, its 5000+ members and 250+ unionized contractors.

Thank you for the opportunity to testify in opposition to House Bill No. 1866, which amends the manner in which members are appointed to the Hawaii Community Development Authority (HCDA), and establishes new legislative oversight of the HCDA.

We believe that this bill as currently written has provisions that are problematic. The following are just a few examples of areas that are of concern:

- H.B. 1866 authorizes nine members, but will eliminate the requirement for representation by a cultural specialist.
- This measure also eliminates the position for members who specifically represent the communities of Kakaako, Kaleloa and Heeia.
- Despite having significant interest in the Kalaeloa District, the Department of Hawaiian Home Lands (DHHL) will lose its opportunity to participate on matters of great importance.
- Although there is a need to coordinate state program delivery and financing, there will no longer be representation from the following state agencies: DAGS, DB&F, DOT and DBEDT.

For these reasons we oppose House Bill No. 1866. Mahalo for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
To: [EGHTestimony](#)
Cc: michelematsuo@yahoo.com
Subject: Submitted testimony for HB1866 on Mar 19, 2014 15:15PM
Date: Wednesday, March 19, 2014 8:11:45 AM

HB1866

Submitted on: 3/19/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
michele matsuo	Individual	Support	No

Comments: Thank you for this opportunity to testify in strong support of this bill, and the amendments proposed by the community groups active in shaping our Kakaako. We strongly request the amendments hand-carried by Kakaako United on behalf of all of these groups. Thank you very much!

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

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

Testimony in Strong Oppositon for HB 1866 HD2

THE SENATE
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2014

COMMITTEE ON ECONOMIC DEVELOPMENT, GOVERNMENT OPERATIONS AND HOUSING Senator
Donovan M. Dela Cruz, Chair

Senator Sam Slom, Vice Chair Committee Members: Rosalyn H. Baker, Laura H. Thielen, Glenn Wakai, Suzanne
Chun Oakland & J. Kalani English

DATE: Wednesday, March 19, 2014
TIME: 3:15p.m.
PLACE: Conference Room 16
State Capitol
415 South Beretania Street

Aloha Chair Donovan Dela Cruz, Vice Chair Sam Slom, Senator Rosalyn H. Baker, Senator Laura H. Thielen,
Senator Glenn Wakai, Senator Suzanne Chun Oakland & Senator J. Kalani English:

Please accept this testimony in Strong Opposition to SB 1866 HD2 – Relating to the Hawaii Community
Development Authority and 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)

Aloha Senators: Destructive amendments in Section 4 of this Bill eats away at the very heart of the effectiveness of
HCDA and brings about the very demise of what the Kalaeloa representation of HCDA was initially created for ...to
“promote and hold at the forefront visions and plans for the exciting fulfillment of visionary plans for the Kalaeloa
District” and surrounding communities. Shared strategic objectives, planning, partnerships, advocacy and
stewardship along with the input of countless volunteers, residents, community organizations, stakeholders and
surrounding community leaders set the stage for the anticipated economic development in the region and was
thought to be invaluable. Public prosperity and cohesiveness that makes the mission statement of this HCDA
District a *Wahi Ho’okela (Center of Excellence)* a reality hinged on the representation we had on the Authority. The
committee appointees guaranteed a conduit to the shared plans and goals. In addition ongoing committees were
established to facilitate this approach to partnerships helping steer this area into the future. Such working groups as
the Kalaeloa Advisory Team (KAT), Kalaeloa Public Safety (KPS), Kalaeloa Community Network (KCN) and
the Kalaeloa Archaeological and Cultural Hui (KACH) are four current work groups helping HCDA have access
to the expertise, experience, and commitment of over 60 stakeholders and volunteers.

My name is Evelyn Souza, a former gubernatorial appointee to two-terms as a Director on the HCDA Kalaeloa Sub
Committee and the present Chair of the Makakilo, Kapolei, Honokai Hale Neighborhood Board (though I speak
today as a vested 42-year resident of this community) concerning this SB1866 HD2. It causes me to wonder where
thinking minds prevailed on this measure’s conception. With all due respect, simply Section 4 of this Bill is totally
inconceivable and does not make much sense. The land mass of Kalaeloa is over a 1000 acres and multiple
landowners (Federal, State, City and private ownerships) vie for their share of the development and part in the
foreseen prosperity that will come from a continued partnership with the host community. The area lacks
infrastructure and has been a “hard sell” to the local public utilities because of the non-compliance codes that are
prevalent in the entire land mass called Kalaeloa. Who will know every nook and cranny of the area unless you’ve
walked it and ventured into the secrets of old Hawaii and delved into the sacredness of the area we call Kalaeloa.

To the vested community members that have worked hard and long for the assurances that Kalaeloa would someday
be made into the envisioned enhancement of the Second City of Kapolei, I am find myself wondering how this will

happen without proper first hand community participants who also have a vested interest seated on the Authority. Kakaako people know Kakaako's potential and shortcomings. As does Kalaeloa people; we feel the heartbeat of the aina here.

While planning changes are always supposed to be a part of realized wholesome growth and public prosperity, the neighbors, this community and the people (that have had generations of vested interest) should voice their opposition to the present proposed Bill as it is amended in Section 4 that will bring to a demise of our mindset that "our opinions count and are heard". To think that the intent of this Bill is to allow Kakaako Authority members to vote the future of our community, our neighbors and our keiki without knowing our priorities, our needs and our cultural practices in this area; is unfathomable and an affront on our collective being. As is in the Kaakako area, the by-product of the Hawaii Community Development Authority who has been to turn their collective heads (and ears) from the legitimate concerns of the present day residents and community stakeholders in this area and support this Bill. The passage of this Bill 1866 HD2 will have confirmed it. This misguided attempt to avoid and/or totally disregard the current methods of honoring community input and effectually prohibit collaborative planning and development in Kalaeloa is an assault on the community and the people of this city.

I ask you, who knows better about the vision and hopes for your growing community and the betterment of that community for your children and generations to come? It's the residents who live, work, and play in the area, of course. Kalaleoa needs the warm bodies on the HCDA TO SPEAK ON OUR COLLECTIVE BEHALF. I strongly OPPOSE SB 1866 HD2. Please vote No.

Respectfully,

Evelyn Souza

92-848 Palailai Street Kapolei, HI 96707

808-255-8297

March 18, 2014

The Honorable Donovan M. Dela Cruz
Senate District 22
Hawaii State Capitol, Room 202
phone: 808-586-6090
fax: 808-586-6091
sendelacruz@capitol.hawaii.gov

Re: HB 1866 - Committee on Economic Development, Government Operations and Housing

Aloha Chairperson Dela Cruz and all committee members,

I am submitting personal testimony for your consideration. I oppose House Bill (HB ") 1866 HD 2. This bill totally disregards all of the progress the Hawaii Community Development Authority ("HCDA") has made in the Kalaeloa Community Development District ("KCDD"). As a community member in 2004 over 100 of us from the communities of Ewa, Kapolei and Waianae participated in the workshops to formulate the Kalaeloa strategic plan which set the vision and mission for the redevelopment of the district. In 2005 over 200 of us participated in the formulation of the Kalaeloa Master Plan ("KMP"). In 2006 the KMP was adopted which calls for HCDA to plan, develop, achieve a center of excellence while preserving the cultural and archaeological resources in the KCDD.

HB 1866 HD 2 fails to ensure community engagement. In fact it has the exact opposite result by directly cutting out the KCDD and He`eia Community Development District authority representation. Kaka`ako, Kalaeloa and He`eia have existing strong community members who has committed their time and talents. The intension of HB 1866 may have been one of honor, but the realization of this bill would be a travesty.

I humbly ask for your opposition to HB 1866 HD 2. Please do not hesitate to contact me if you have any questions at 372-3562 or by email tesha96706@yahoo.com.

Malama Pono,

Tesha H. Malama
91-818 Lawalu Pl.
Ewa Beach, HI 96706

Senate Committee on Economic Development, Government Operations and Housing

From: Mr. Michael Freitas

Re: Testimony In Opposition to HB1866HD2

Dear Chair Dela Cruz and Vice Chair Slom:

My name is Michael Freitas and I am submitting my written testimony in OPPOSITION to HB1866 HD2 RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY. Specifically, I am opposed to Section 4 of the bill which proposes to repeal the board for the Kalaeloa Community Development District.

I previously served as a commissioner on the Barbers Point Redevelopment Commission which was responsible for drafting a strategic development plan for Kalaeloa after the Navy closed down Barbers Point. As a resident of West Oahu, it is important for the legislature to understand that there are issues in Kalaeloa which are unique to Kalaeloa given that the land was once a naval air station and has been conveyed to various entities. There issues range from many landowners to infrastructure which unique to the Kalaeloa Community Development District and therefore can best be addressed by residents of the district.

It makes no sense that the legislature is proposing to repeal the boards for the Kalaeloa and Heeia Community Development Districts particularly as the boards were created in 2012, **ONLY TWO YEARS AGO**. To the best of my knowledge, there have not been any complaints about these two boards. While I understand that the legislature is reviewing the powers of HCDA and what the Authority may do in Kakaako, it is unwarranted for this bill to include the repeal of the boards for the Kalaeloa and Heeia Community Development Districts by abrogating local governance. Accordingly, I am asking that you defer this measure. Alternatively, I would respectfully request that the language in Section 4 which is being proposed to be struck out, be reinserted in order to ensure that the boards for the Kalaeloa and Heeia Community Development Districts can continue on with their missions for these two community development districts.

Thank you for the opportunity to submit written testimony.

Sincerely,

Mike Freitas

HB1866 - OPPOSE - as it relates to HCDA membership (on pages 5,6, and 7 of the bill) and the removal of the Kalaeloa and Heeia Community Developments districts from representation on the HCDA board.

I serve as the community representative for Kalaeloa - Hawaii Community Development Authority. However, my testimony is as an individual from the Kalaeloa district and my na'au compels me to have you hear the voices of Kalaeloa.

Do not discount or disregard us by unintentional oversight. We are here and we care about our district as evidenced by the network of people from community, business, safety and preservation who are engaged in the careful redevelopment of Kalaeloa. How will our voices be heard?

It is imperative that the Kalaeloa and Heeia Community Development districts retain its voices and viewpoints on the HCDA board through representation from community stakeholders in these respective districts. Removing these voices is a severe disservice and will bring negative impact to the respective districts. A'ole pono.

Mahalo for the opportunity to submit testimony.
Shirley Swinney

Testimony Supporting HB1866, HD2
Galen Fox, Kaka'ako United

Chair Dela Cruz, Senators:

My name is Galen Fox. I'm a resident of Kaka'ako and a Kaka'ako United (KU) member. I support HB1866, only asking it be strengthened by adding the amendments proposed in the testimony of KU President Sharon Moriwaki, backed by Hawaii's Thousand Friends, and based upon bills previously approved by your committee and the Ways and Means committee.

Let me address one part of the HCDA problem in Kaka'ako--the lack of affordable housing affected by HB1866, HD2's sections 3, 5, and 11. Kaka'ako isn't affordable for those most in need. According to HCDA figures, 93.3% of the units underway in Kaka'ako--4,947 out of 5,303--are unaffordable to the 50% of households making under area median income (AMI). Only 356 units are "affordable." The HCDA executive director himself indicates HCDA is building few affordable units; he defines "affordable" as housing priced for households earning under 95% of AMI, and less than 7% of HCDA units are priced that low.

Failure to build affordable housing is a big problem for HCDA. The law (206-E, Section 1, second paragraph) established HCDA to fix "vast, unmet community development needs," including (and listed first) "a lack of suitable affordable housing." The same law (206E-4 (18)) defines "affordable housing" as "reserved housing," and HCDA rules make "reserved housing" and "workforce housing" serve the same population--households making 100% to 140% AMI. HCDA's range is illegal, because "reserved" (and "workforce") housing **must by law be affordable**. HCDA considers "affordable" housing to be units priced **below** 95% AMI, but its rules make all "reserved" ("workforce") housing **unaffordable--above 100% AMI**. No can. Mahalo.

From: mailinglist@capitol.hawaii.gov
To: [EGHTestimony](#)
Cc: shockleyjr@gmail.com
Subject: Submitted testimony for HB1866 on Mar 19, 2014 15:15PM
Date: Tuesday, March 18, 2014 5:17:18 PM

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
John & Rita Shockley	FREE ACCESS COALITION	Support	No

Comments: Aloha! The Hawaii Community Development Authority has proven itself to not represent the will of the people. HB1866 seeks to regulate the irresponsible behaviors of the HCDA. These reforms need to be placed on the authority if HCDA expects to be a viable representative of all the voices of the people of Hawaii rather than just select special interests. Mahalo for your time. John & Rita Shockley FREE ACCESS COALITION 672-6535

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

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



LAND USE RESEARCH
FOUNDATION OF HAWAII

1100 Alakea Street, Suite 408
Honolulu, Hawaii 96813
(808) 521-4717
www.lurf.org

March 19, 2014

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

Comments, Concerns and Opposition to Portions of HB 1866, HD2, Relating to the Hawaii Community Development Authority (“HCDA”) (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.)

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

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF’s missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii’s significant natural and cultural resources and public health and safety.

LURF members include the major land owners and developers across the State of Hawaii, who engage in a wide array of diverse enterprises and activities ranging from projects under the jurisdiction of HCDA, conservation and preservation lands, Important Agricultural Lands and agriculture, providing energy, including renewable energy, residential, commercial and resort development. LURF and its members understand that the public may have differing views and may react in different ways, however, there is a belief and hope that the public and our governing bodies – the administration and its agencies, the legislative branch and the courts will act rationally, fairly and in the public interest relating to issues involving HCDA and development in Kakaako.

LURF appreciates the opportunity to offer **comments, concerns and opposition to portions of HB 1866, HD2.**

HB 1866, HD2. While this measure appears to be an omnibus” bill relating to the HCDA, there is no stated purpose, are no factual findings and no justifications to explain any current problems that this measure is intends to remedy. Nevertheless, the following is a summary of its provisions:

- **Rescinds current rights to appeal HCDA and file a declaratory action; makes all HCDA hearings “Contested Case” hearings; and creates a new judicial review and intervention process.**
- **Strips authority of the HCDA Executive Director.** Rescinds the Executive Director’s authority to make decisions on modifications, variances and exemptions; and requires HCDA Board to make all decisions on all modifications, variances and exemptions.
- **Requires “Separate” public hearings on modifications, variances and exemptions; and notice.** Requires a confusing and unclear “separate” public hearing, subsequent to the public hearing at which the developer’s proposal is presented to HCDA, on any and all (even the most minor) modifications, variances, and exemptions of HCDA’s plan or rules; without any clear definition or explanation of a “separate public hearing.”
- **Allows the sale of reserved housing units to residents in the low-or moderate-income ranges who meet eligibility requirements.**
- **Removes important HCDA Board member categories, including deletion of all community representatives, a native Hawaiian cultural expert, business representatives, and the directors of key State agencies; Rescinds the County’s right to recommend three HCDA Board members; Restricts the Governor’s authority to appoint HCDA members; and provides new powers for State elected officials to appoint four to eight HCDA Board members (language is unclear).** This measure removes the current requirements to appoint residents of Kakaako, Kalaeloa and Heeia to represent their communities, a cultural expert, small business representatives; revokes the appointment of the directors of key State agencies which can assist in implementation of HCDA projects and initiatives (Department of Hawaiian Home Lands, Finance, Department of Business and Economic Development and Tourism, Department of Transportation and the State Comptroller); deletes the right of the local governing body of the county to make three recommendations for three “County Members” to the HCDA Board; restricts the Governor’s ability to appoint HCDA Board members; and empowers the President of the Senate and the Speaker of the House to appoint either four or eight HCDA Board members (language in the bill is unclear); and requires the county planning director to be an ex officio HCDA Board member, but prohibits the county planning director from voting.
- **Amends the HCDA powers relating to affordable housing/reserved housing.** This measure rescinds HCDA’s current powers to approve reserved housing outside of the district to satisfy affordable housing requirements, requires all reserved housing to be constructed within the district, and includes HCDA the flexibility to accept cash payments in lieu of providing reserved housing (the in-lieu provision was in the original HCDA law, and is consistent with other counties requirements).
- **Imposes unreasonable, unnecessary and unrealistic notice requirements.** New provisions requires HCDA to post on its website every application for a development permit for any project upon submission of the application. The bill would require website posting of applications that are defective, incomplete, and mistakenly sent to the wrong agency, which will not be considered by HCDA, not be set for a HCDA

public hearing. Another new provision impossibly requires mail notification by the application of any permit application to “all property owners, lessees, sublessees and residents located within a three hundred foot radius of the perimeter of a proposed project upon the submission of the application...”

- **Requires HCDA’s public notice of decision-making hearings to include information regarding filing a motion to intervene.**
- **Confirms existing development rights under permits and agreements issued and approved by HCDA.**
- **Revokes the authority of the Governor to set aside public lands located within community development districts to HCDA.**
- **Usurps HCDA’s authority to expend its own revolving funds, and unreasonably requires Legislative approval of all HCDA expenditures.** HCDA undergoes an annual audit, and current law allows HCDA to expend its revolving funds, subject to availability of funds and legality of use. This bill would have the effect of shutting down HCDA operations, because it requires Legislative approval of every expenditure of HCDA’s revolving funds, pursuant to legislative appropriation and allotment.
- **Imposes reserved housing mandates that are not consistent with Federal, State and county affordable housing policies.** Lacking any consensus of, or recommendation by major affordable housing agencies, experts and stakeholders, this bill restricts the future sales of reserved housing to buyers making less than 120% of area median income and requires that all reserved housing remains affordable in perpetuity. The proposed reserved housing mandates are inconsistent with Federal, state and county affordable housing policies.
- **Limits the buildings or structures to four hundred eighteen feet in height.**
- **Adds a new Legislative approval requirement for the issuance and refunding of special facility revenue bonds.** As noted above, HCDA undergoes an annual audit, there is no evidence of any problems with special facility revenue bonds, and under current law, the Governor approves the issuance and refunding of special facility revenue bonds.
- **Confirms the current requirement that the issuance of special facility revenue bonds shall be in principal amounts not to exceed the total amount of bonds authorized by the legislature.**
- **Shuts down HCDA operations by deleting its budget; would mean non-compliance with all of the requirements in the other sections of this measure, and thus would result in violations of every section of this bill.**
- **Immediately removes all existing HCDA Board members.**

Background of HCDA. Based on a review of publicly available documents, LURF understands that the HCDA is a State agency that was established to supplement traditional community renewal methods by promoting and coordinating public and private sector community development.

The 1976 State Legislature created the HCDA as a way to plan for the future development of underutilized urban areas of Hawaii. Lawmakers determined these “Community Development Districts” were underused and deteriorating, but had the potential to address the housing and employment needs of Hawaii’s people and to provide great economic opportunities to the State once they were redeveloped.

Upon the creation of HCDA, the Legislature designated the Kaka’ako area of Honolulu as the first Community Development District. Lawmakers recognized Kaka’ako was severely underdeveloped and underutilized, relative to its central location near urban Honolulu. They foresaw the area’s potential and opened the door to tremendous opportunities in providing more housing, parks and open areas, as well as new commercial and industrial space near the downtown core.

The Kakaako Community Development District (KCDD) is composed of approximately 600 acres of land and includes the area bounded by Piikoi, King and Punchbowl Streets and Ala Moana Boulevard, as well as the stretch of waterfront from Kewalo Basin to Forrest Avenue and the Hawaiian Electric Company power plant site in downtown Honolulu.

HCDA’s staff, includes professional trained in planning, engineering, architecture, asset management, real estate development, finance, public information and administrative services. The HCDA and its staff serve as an infrastructure developer, landowner, city planner, regulator, and property manager to implement Kakaako’s master plan.

Over the years, HCDA has had tremendous success with redeveloping Kakaako’s infrastructure, housing, parks and open space and implementing other projects for the benefit of the community. No other government agency had had this kind of success.

In 2002, the State Legislature voted to transfer the development responsibility from the Barbers Point Naval Air Station Redevelopment Commission to HCDA, and as a result, HCDA also assumed the role of the redevelopment authority for the 3,700-acre Kalaeloa Community Development District (Kalaeloa). Kalaeloa encompasses all of the land within the former Barbers Point Naval Air Station, including land retained by the Navy and land conveyed to other Federal agencies. The 2002 State Legislature voted also approved the addition of new HCDA board members to represent the Kalaeloa District.

In March 2009, HCDA assumed the operation and management of the Kewalo Basin Harbor.

In 2011, the State Legislature passed Act 2010, Session Laws Hawaii 2011, which made Heeia the third designated Community development District under HCDA.

Over the years, HCDA has a proven record of accomplishment and is involved with a number of on-going projects, including, but not limited to the following:

- *Construction of essential infrastructure* such as roadways and utilities.
- Parks and open space development, including the *Kakaako Waterfront Park, Gateway Park and Kewalo Basin Park*, totaling 44 acres.
- Construction and promotion of the *Kakaako Waterfront Park Amphitheater- Concert Venue*.

- *Kakaako Waterfront Park concert performance donations to Kakaako-based non-profit organizations and charities* such as the Children's Discovery Center, KUPU, Next Step Shelter and the Voyager School.
- *Kakaako Beautification efforts*, including HCDA staff and volunteers.
- *Kakaako Homeless Outreach Program*, staffed by HCDA staff and volunteers from the Waikiki Health Center, Life 360 and KUPU.
- Establishing a *Kakaako Jobs Training Program* with the Department of Human Services to provide a venue to employ and train homeless persons to complete a specific scope of services within the KCDD.
- A *Security Deposit Matching Fund* to help persons in the Job Training program provide a security deposit for a new apartment.
- *Transit Oriented Development Overlay* for KCDD.
- *Market and affordable housing projects* (see attached list and 2012 HCDA Annual Report).
- *Kewalo Basin community stakeholders' advisory group*.
- *Active Kewalo Basin operations and management* by HCDA and its harbor agent has increased slip occupancy from 30% (prior to HCDA) to nearly 100% and generated a positive cash flow.
- Lease negotiations with a restaurateur regarding *the former Charter Boat Building* fronting Ala Moana Boulevard.
- Consideration of proposals for the use of *the former McWayne Supply Store site* at Kewalo Basin.
- *Kalaeloa Advisory Team* to engage stakeholders from Kaena to Ewa, with regular meetings since 2007.
- *Kalaeloa Landowners and Stakeholders Summit*, since 2010.
- *Base Realignment and Closure Land Conveyances*.
- Completion of the *Kalaeloa Federal Bureau of Investigations Complex* in 2012.
- Approval of the plans and funding for the new *Kalaeloa 12 -kv underground Enterprise Energy Corridor Project*, working with the State Department of Transportation and Hawaiian Electric Company.
- The HCDA's *Kalaeloa East Energy Corridor Project*, and working with Navy Facilities staff on securing the necessary roadway and utility easements for the new corridor.
- *Kalaeloa Solar 1 and 2 Photovoltaic Projects*.
- Hunt Companies' *Kalaeloa Renewable Energy Park Project*.
- *Kalaeloa Sustainable Net-Zero Community Pilot Projects*, with the National Renewable Energy Laboratory.
- Ongoing development of the *Kalaeloa Heritage Park Plan* with the Kalaeloa Heritage and Legacy Foundation.
- *Heeia Meadowlands Restoration Project*, a public-private partnership between the HCDA and non-profit *Kakoo Oiwi*, to restore HCDA's 400+ acre Heeia Meadowlands.

LURF's Position. LURF opposes HB 1866, HD2 based on, among other things, the following:

- **Section 1 - There is no reason or facts to justify rescinding current rights to appeal HCDA and file a declaratory action, or to make all HCDA hearings "Contested Case" hearings.** LURF understands that there are no problems with the current appeal process, and no problems with the right to seek a declaratory action in Circuit Court relating to HCDA's actions. In cases which qualify as contested cases, HCDA is already required to comply with contested case hearings process under Chapter 91, HRS; and LURF does not oppose the new provision creating a fourteen-day period to

file a motion to intervene. Under the circumstances, the rest of Section 1 is unnecessary, confusing, and will result in more questionable lawsuits. Thus, LURF would respectfully recommend the deletion of portions of Section 1 that are unnecessary and confusing.

- **Section 2 - The HCDA should be allowed to assign powers and duties to its Executive Director.** The bill does not include any factual findings and there is no justification or explanation of any current problems relating to this issue. Most government agencies allow authority for its director to make minor decisions relating to modifications, variances and exemptions. Thus, LURF would respectfully recommend the deletion of Section 2, or a revision to allow the HCDA to assign such minor matters to its Executive Director.
- **Section 2 - “Separate” public hearings on modifications, variances and exemptions; and notice.** The bill does not include any factual findings, and there is no justifications or explanation of any current problems with HCDA’s public hearings; and the current language of the bill is unclear and confusing. Thus, LURF would respectfully recommend the deletion of this portion of Section 2, or revisions that would clarify the definition and process for a “separate” public hearing.
- **Section 4 – The current composition and selection process for the HCDA Board should be retained.** The bill does not include any factual findings, and there is no justifications or explanation of any current problems with the composition and selection process for the HCDA Board; and the history of successful HCDA projects and initiatives is proof that the current categories for HCDA Board members are reasonable and necessary. Under the circumstances, Section 4 is unnecessary, confusing, and there is no evidence that it will lead to more efficient or better decision-making. Based on the above, LURF would respectfully recommend the deletion of Section 4.
- **Section 5 – HCDA’s housing policies should be amended as provided in this measure to provide the flexibility to provide more affordable/reserved housing opportunities.** HCDA’s reserved housing requirements are meant to provide housing designated for residents in the low or moderate-income ranges who meet eligibility requirements and affordable housing for “gap group” residents who may not qualify for low-income housing, but will be challenged to qualify for market housing. This measure would allow the HCDA the flexibility to provide reserved and affordable housing outside of the district; and to accept cash payments in lieu of constructing reserved housing, which would allow the funding to be used to support other HCDA reserved housing projects. The HCDA successfully created 162 reserved housing units outside of the district, in its Rycroft Terrace project. Also, the in-lieu provision was in the original HCDA law, is consistent with other state and county affordable housing policies, and has been used as an important tool in providing more affordable/reserved housing units. LURF would respectfully recommend approval of this provision.
- **Section 6 – Illogical, Unreasonable and unrealistic notice requirements should be revised.** The bill does not include any factual findings, and there is no justification or any explanation of any problems with HCDA providing community or public notice. As explained above, this bill would require website posting of applications that are defective, incomplete, and mistakenly sent to the wrong agency, which will not be considered by HCDA, not be set for a HCDA public hearing. LURF respectfully recommends revisions to require the website posting of “*all applications deemed complete by HCDA.*” In addition, given the secured condominiums in Kakaako, and numerous changing tenants, lessees and sublessees, it would be impossible for any

applicant to comply with the current requirements. Under the circumstances, LURF respectfully recommends revisions to require the mailed notice to “*owners of record, based on the county’s real property tax records.*”

- **Section 9 - The authority of the Governor to set aside public lands located within community development districts should be retained.** The bill does not include any factual findings, and there is no justification or any explanation of the abuse of the Governor’s authority to set aside lands in Kakaako or any other HCDA district. Therefore, LURF respectfully recommends the deletion of Section 9.
- **Section 10 – HCDA should retain the authority to expend its own revolving funds, and not be subject to Legislative approval of all HCDA expenditures.** The bill does not include any factual findings, and there is no justification or any explanation of any problems relating to HCDA’s revolving funds. HCDA undergoes an annual audit, and current law allows HCDA to expend its revolving funds, subject to availability of funds and legality of use. The Legislature will not be available to approve every HCDA expenditure when it is not in session, so this bill would have the effect of shutting down HCDA operations. This section is unnecessary and unreasonable, thus LURF respectfully recommends the deletion of Section 10.
- **Section 11 - Reserved housing mandates that are not consistent with Federal, State and county affordable housing policies should be deleted; the Legislature should work with affordable housing agencies and experts during the interim.** The bill does not include any factual findings, and there is no justification or any explanation of any problems relating to HCDA’s reserved housing policies. As explained above, Section 11 lacks any consensus of, or recommendation by major affordable housing agencies, experts and stakeholders, this bill restricts the future sales of reserved housing to buyers making less than 120% of area median income and requires that all reserved housing remains affordable in perpetuity. The proposed reserved housing mandates are inconsistent with Federal, state and county affordable housing policies.
- **Section 13 - A new Legislative approval requirement for the issuance and refunding of special facility revenue bonds is unnecessary.** The bill does not include any factual findings, and there is no justification or any explanation of any problems relating to the issuance and refunding of HCDA’s special facility revenue bonds. As noted above, HCDA undergoes an annual audit, there is no evidence of any problems with special facility revenue bonds, and under current law, and the Governor is required to approve the issuance and refunding of special facility revenue bonds. This section is unnecessary and unreasonable, thus LURF respectfully recommends the deletion of Section 10.
- **Section 15 – The Legislature should not shut down HCDA operations by deleting virtually all of its budget.** The bill does not include any factual findings, and there is no justification or any explanation of any problems that would necessitate cutting virtually all of HCDA’s budget. HCDA’s operations would be severely crippled by the proposed elimination of 19 of the 23 HCDA positions and the elimination of HCDA’s ability to expend special funds to cover operational costs. This section is illogical, as it would result in non-compliance with all of the requirements in the other sections of this measure, and thus would result in violations of every section of this bill. Under the circumstances, LURF recommends deletion of Section 15.

- **Section 16 - All existing HCDA Board members should be retained.** The bill does not include any factual findings, and there is no justification or any explanation of any problems that would necessitate the immediate removal of all existing HCDA Board Members. This section is also illogical, as it would result in non-compliance with all of the requirements in the other sections of this measure, and thus would result in violations of every section of this bill. Under the circumstances, LURF recommends deletion of Section 16.

For the reasons stated above, LURF **must strongly oppose HB 1866, HD2**, and respectfully requests that this bill be **held** in Committee.

Thank you for the opportunity to present LURF's comments, concerns and testimony regarding this matter.

Testimony in Opposition HB 1866 HD2

Relating to Hawaii Community Development Authority

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, GOVERNMENT OPERATIONS
AND HOUSING

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

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

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

My name is Homelani Schaedel, I am a resident of and serve as President of Malu'ohai Residents' Association; a homestead community in Kapolei with 226 homes and an estimated population of almost 1, 000 residents.

I also serve on the Board of Directors for Kapolei Community Development Corporation, our mission is to "Foster family and cultural preservation founded on the tenets of Community, Culture, Education and Partnerships". Currently, we serve three (3) homesteads in Kapolei; Malu'ohai, Kaupe'a and Kanehili with over 900 homes and an estimated population of over 4,000 native Hawaiians. A fourth homestead in East Kapolei is scheduled to be built in the next 5 years with an estimated 1,200 homes and estimated population of 4,800 native Hawaiians.

I am opposed to HB1866 HD2, specifically Section 4 of the bill which proposes to repeal the boards for the He'eia and Kalaeloa Community Development District.

These boards are critical for their respective districts; they know the landscape, environment, potential growth opportunities, and most importantly; the people whom they serve and will be most affected by changes in their community.

Why the legislature would choose at this time to reverse their decision after only two(2) years is beyond me. Call it coincidence, but what is happening in Kaka'ako is their kuleana, let them resolve their own issues.

As it was with our ancestors, each ahupua'a is unique and required the knowledge and expertise of its' people to sustain all who lived within it.

Please don't let others who don't know our districts make decisions that will forever impact our lives. I urge you to vote a'ole when the roll call is taken.

Mahalo for the opportunity to present my testimony

Homelani Schaedel



Hunt Development Group, LLC
737 Bishop Street, Suite 2750
Honolulu, Hawaii 96813
Office: 808-585-7900

March 19, 2014

Honorable Donovan Dela Cruz, Chair
Honorable Sam Slom, Vice Chair
Senate Committee on Economic Development, Government Operations & Housing

RE: HB 1866 HD2 – Relating to the Hawaii Community Development Authority – IN OPPOSITION
Hawaii State Capitol, Rm. 016; 3:15 PM

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

Hunt Development Group opposes HB 1866 HD2 as the bill seeks to establish additional requirements, procedures and hurdles for approving projects by the Hawaii Community Development Authority (HCDA) and seeks to eliminate representation from the Kalaeloa Community Development District.

Hunt is committed to the revitalization of nearly 540 acres of land in Kalaeloa for residential, commercial, retail and light industrial developments. For more than three years we worked diligently with HCDA and the community on HCDA's Kalaeloa Community Development District Rules, which will govern the implementation of HCDA's Kalaeloa Master Plan ("KMP"). The KMP complements the City & County of Honolulu and the State of Hawaii's policy of directing Oahu's future growth to the Ewa region. After countless hours of community and stakeholder input, the Rules were finally adopted in October 2012.

Hunt has invested in the creation of its Kalaeloa Strategic Implementation Plan ("SIP") which builds upon HCDA's KMP. Our SIP anticipates over the next 20 years the development of 4,000 homes, infrastructure and more than 3.3 million square feet of retail, commercial and light industrial space that will help position Kalaeloa as a new vibrant community and job center in West Oahu. The implementation of Hunt's Kalaeloa SIP is expected to contribute to the local and state economy, creating more than 7,000 direct and indirect jobs and more than 1,000 construction jobs.

HB 1866 HD2 amends the composition and appointment procedures of the HCDA by removing all existing members and appointing new members under the amended procedure. Given the importance of Kalaeloa's strategic role as part of Oahu's growth center, it is imperative to have appropriate representation from the Kalaeloa community on HCDA's board.

We are also concerned that the bill's intent to add requirements and procedures to those already contained in HCDA's Rules will unnecessarily impede timely development and increase development risk and costs.

Thank you for the opportunity to provide comments.

Sincerely,

Alan Ong
Chief Operating Officer, Hunt Development Group

From: mailinglist@capitol.hawaii.gov
To: [EGHTestimony](#)
Cc: malamapono744@aol.com
Subject: Submitted testimony for HB1866 on Mar 19, 2014 15:15PM
Date: Wednesday, March 19, 2014 11:55:22 AM

HB1866

Submitted on: 3/19/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Leialoha Kaluhiwa	Koolaupoko Hawaiian Civic Club	Oppose	Yes

Comments: Submitted on behalf of Leialoha Kaluhiwa

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

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From: [Mahealani Cypher](#)
To: [Mailing List: EGHTestimony](#)
Subject: Re: Submitted testimony for HB1866 on Mar 19, 2014 15:15PM
Date: Wednesday, March 19, 2014 12:33:17 PM

Aloha,

Leialoha's testimony is on behalf of the Claude Jones `Ohana.

Mahalo,
Mahealani

-----Original Message-----

From: mailinglist <mailinglist@capitol.hawaii.gov>
To: EGHtestimony <EGHtestimony@capitol.hawaii.gov>
Cc: malamapono744 <malamapono744@aol.com>
Sent: Wed, Mar 19, 2014 11:55 am
Subject: Submitted testimony for HB1866 on Mar 19, 2014 15:15PM

HB1866

Submitted on: 3/19/2014
Testimony for EGH on Mar 19, 2014 15:15PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Leialoha Kaluhiwa	Koolaupoko Hawaiian Civic Club	Oppose	Yes

Comments: Submitted on behalf of Leialoha Kaluhiwa

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From: mailinglist@capitol.hawaii.gov
To: [EGHTestimony](#)
Cc: mjgolo@email.phoenix.edu
Subject: Submitted testimony for HB1866 on Mar 19, 2014 15:15PM
Date: Wednesday, March 19, 2014 3:07:51 PM

HB1866

Submitted on: 3/19/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch	Individual	Oppose	No

Comments: As an individual and President, Palehua Townhouses, I cannot support this bill with removal of Westside (Leeward) membership.

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

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