



From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: bknunies@gmail.com
Subject: Submitted testimony for SB2696 on Feb 26, 2014 09:00AM
Date: Tuesday, February 25, 2014 12:38:48 PM

SB2696

Submitted on: 2/25/2014

Testimony for WAM on Feb 26, 2014 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Bernard Nunies	Individual	Support	No

Comments: I strongly support SB2696, SD1 as an important step to providing needed direction and guidance to the agency responsible for stewarding Kaka'ako to be built right and according to the plan and rules that were developed by the community. SB2696, SD1 addresses these problems by requiring HCDA to follow building standards and restricting its current practice of granting developers variances and modifications which adversely affect the neighborhood and fail to meet "hardship test" standards when granting zoning variances and building modifications. I strongly urge the committee to pass this bill.

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Testimony of Cindy McMillan
The Pacific Resource Partnership

Senate Committee on Ways and Means
Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice Chair

SB 2696, SD1 – Relating to the Kakaako Community Development District
Wednesday, February 26, 2014
9:00 AM
Conference Room 211

Dear Chair Ige, Vice Chair Kidani 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.

PRP offers the following comments on SB 2696, SD1 which amends Hawaii Community Development Authority statute to establish building restrictions and prohibitions.

- While urban infill development has quantifiable benefits for our entire community, there are some tradeoffs. Buildings will be higher than they are in rural areas, and they will be closer together, a pattern consistent with existing uses in the Kakaako area. These factors are balanced by the preservation of our natural resources, less time spent commuting, and money saved on fuel, parking and household energy costs. And this community will be lively and engaging, filled with vibrant experiences that draw people of all ages. While not everyone will want to live in this type of urban community, many will, especially when they begin to realize the benefits in a tangible way.
- Height and density are factors that contribute directly to cost per unit.
- We caution against shifting the burden of paying for needed infrastructure projects from the state and county governments (funded by all taxpayers) to only developers and those taxpayers who are buying a new home in Kakaako.

Mahalo for your consideration of our comments on this bill.



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

COMMITTEE ON WAYS AND MEANS

Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice Chair

NOTICE OF DECISION MAKING

DATE: Wednesday, February 26, 2014
TIME: 9:00 a.m.
PLACE: Conference Room 211
State Capitol
415 South Beretania Street

TESTIMONY ON SENATE BILL NO. 2696, SD1 - RELATING TO THE HAWAII COMMUNITY DEVELOPMENT DISTRICT.

TO THE HONORABLE DAVID IGE, CHAIR; MICHELLE KIDANI, VICE CHAIR, AND MEMBERS OF THE WAYS AND MEANS 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, and its unionized contractors.

Mahalo for the opportunity to testify in opposition to Senate Bill No. 2696, SD1, which amends the HCDA statute to establish building restrictions and prohibitions.

This measure will create standards that are arbitrary and capricious, and will produce significant hardship for small business and large landowners alike.

For this reason, Hawaii LECET is in opposition to Senate Bill No. 2696, SD1.



LAND USE RESEARCH
FOUNDATION OF HAWAII

1100 Alakea Street, Suite 408
Honolulu, Hawaii 96813
(808) 521-4717
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February 25, 2014

Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice Chair
Senate Committee on Ways and Means

Testimony in Opposition to SB 2696, SD1, Relating to the Kakaako Development District (Amends Hawaii Community Development Authority statute to establish building restrictions and prohibitions for the Kakaako community development district. Takes effect 7/1/2050. (SD1))

Wednesday, February 26, 2014, 9:00 a.m., in Conference Room 211

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 appreciates the opportunity to provide testimony **in opposition to SB 2696, SD1**, and to offer comments.

SB 2696, SD1. The underlying purpose of this measure is not stated in the bill, however, it proposes to add the following four new building restrictions and prohibitions to Chapter 206E, Part II, relating to the Kakaako Development District:

206E- Three hundred foot minimum proximity between tower buildings. This bill proposes to establish a duplicative, unnecessary, arbitrary and capricious minimum of three hundred feet between buildings that are one hundred feet or higher in height. HCDA's Mauka Area Rules, Chapter 15-217, Hawaii Administrative Rules, Department of Business and Economic Development, adopted September 14, 2011 ("HCDA Rules") already provide for a separation of eighty feet; and also provide that a proposed tower shall be located a minimum of three hundred feet from an existing tower, when any portion of the proposed tower falls within the existing tower's mauka-makai zone. There is no justification for the proposed *spacing* restriction in SB 2696, SD1, and LURF understands that current buildings in Kakaako, including Imperial Plaza, Royal Capitol Plaza and One Waterfront Towers would be in violation of the proposed restriction.

§206E- Project eligibility review of infrastructure. This duplicative and unnecessary provision would require a *project eligibility review* of the development project by the HCDA Executive Director prior to receipt of any application for a development permit; impose a requirement that developments shall not be approved unless adequate infrastructure facilities are or will be made available to service the proposed development prior to occupancy; require that the Executive Director obtain approval from applicable governmental agencies regarding the adequacy of infrastructure requirements; and require that any applicant seeking a development permit shall contact any relevant county and state agencies to determine infrastructure needs of the development project and solicit the agencies' findings and recommendations.

This provision is unnecessary, because the HCDA Rules already provide for a “*Completeness Review*” process, which requires the Executive Director to review each application for completeness and issue a written determination on the *Completeness Review*, which specifies those parts of the application that are incomplete, indicates the manner in which they can be made complete, and includes a list and thorough description of the specific information needed to complete the application.

The HCDA Rules also includes a “*Written Agency Comments*” provision which authorizes the Executive Director to require written comments from any other local, State or federal agencies or entities, prior to deeming an application complete.

Furthermore, the HCDA Rules also include “*Adequate Infrastructure*” requirements, which intend to limit development within portions of the mauka area with known infrastructure deficiencies until such time as the availability of infrastructure is sufficient to accommodate the development.

§206E- Four hundred foot height restriction. There is no justification provided to support this proposed restriction would prohibit any portion of any building or other structure, except for the portion of the building or structure that consists of a machine room, rooftop utility, or architectural feature, shall exceed four hundred feet in height. This proposed restriction is inconsistent with the city’s maximum height restriction of four hundred fifty feet, and also includes an allowance for any machine room, rooftop utility or architectural features.

§206E- Mauka-makai axis requirement. This duplicative and unnecessary proposed restriction would require that any building that is at least one hundred feet in height shall be oriented on a mauka-makai axis. The current HCDA Rules already include view preservation guidelines which provide that mauka and makai views to the mountains and the waterfront be preserved through orientation of towers with the long side of the tower parallel to the mauka-makai axis by twenty degrees. The HCDA rules also provide for limited flexibility of the mauka-makai orientation, if the applicant demonstrates to HCDA that based on several factors (including building massing, floor plate size, configuration, orientation, energy efficiencies and other pertinent factors) that the proposed project will not have a greater impact than the twenty degree mauka-makai orientation.

§206E-31.5 Prohibition of maximum floor area ratio (“FAR”) variances, exemptions, or modifications. This measure also includes an arbitrary, capricious and unfair provision which would prohibit HCDA from granting any variance, exemption, or modification to any provision of any rule or development plan relating to FAR in the Kakaako Development District. This provision would be unfair, as the

current HCDA's current FAR requirements are already more restrictive than the City and County's allowable FAR, which is 3.5 to 7.0 in the City's comparable Business Mixed Use district ("BMX"). Also, as is common in most regulatory schemes, FAR flexibility (variances, exemptions or modifications) should be allowed to provide incentives to encourage providing more open space in the project area, light industrial uses, additional reserved and workforce housing and other desirable project features.

For the reasons stated above, LURF **must oppose SB 2696, SD1**, and respectfully requests that this bill be held in Committee.

Thank you for the opportunity to present testimony regarding this matter.



February 25, 2014

The Honorable David Ige and
Members of the Ways and Means Committee

Subject: Supporting the Hawai'i Community Development Authority

Dear Senator Ige:

The Hawai'i Chapter of the American Planning Association, representing approximately 270 public and private sector planners statewide, wishes to extend support for the Hawai'i Community Development Authority (HCDA). We feel that higher-density development in the Kaka'ako area is consistent with the City and County of Honolulu's General Plan and Primary Urban Center Development Plan.

Developing Honolulu's urban core, including Kaka'ako, to its full potential will preserve O'ahu's agricultural land and open space, and help to "keep the country, country." Furthermore, the housing opportunities planned for Kaka'ako are sorely needed to address O'ahu housing needs. In addition to having an estimated shortfall of about 20,000 housing units, an estimated 2,000 housing units are needed every year on O'ahu to keep pace with population growth.

Finally, the planned developments in Kaka'ako will be proximate to the planned rail transit project, within the service limits of city services and infrastructure systems, and use previously developed lands. These are all factors which make Kaka'ako an appropriate location for O'ahu to grow "upwards."

We acknowledge concerns about HCDA's oversight of Kaka'ako redevelopment. However, from the perspective of what is good for this island, urban and regional planners believe that developing Kaka'ako to its full potential is in O'ahu's best interest.

Sincerely,

Gail W. Atwater, AICP, MBA, President
American Planning Association, Hawai'i Chapter
Atwater.apa@gmail.com

The Senate
The Twenty Seventh Legislature
Committee on Ways and Means
February 26, 2014, 9:00 a.m.



Statement of the Hawaii Regional Council of Carpenters on
SB 2696, 2697, and 2698, Relating to Kakaako and to the HCDA

The urban redevelopment purposes of the Hawaii Community Development Authority (HCDA) are of vital importance to our State, and it should continue on its mission. The Bills should be considered with this in mind.

The area under the jurisdiction of the HCDA has been a component of planning for our State's future for many years. Urban core redevelopment, among other types of land uses, 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, to foster redevelopment of a State resource for people from throughout Hawaii that would work and/or live in compact area made desirable by cultural, service, culinary, recreational and other amenities.

We note that there is HCDA jurisdiction beyond of Kakaako, but that the proposed legislation stems from Kakaako.

- A limit on Floor Area Ratios (FAR) is counter to the benefit of redeveloping an area with compact energy and infrastructure needs that reduce pressure on highways and on other areas of the island. Pricing to make housing affordable depends in part on the number of units that share common costs, and reducing FAR runs counter to affordable housing.
- The legislature should carefully avoid taking a management role in an agency that must interact with private owners and private markets.
- Inflexible planning and design restrictions, such as distance between buildings, footprint orientation, heights, etc. foreclose potential "trade-offs" that might provide 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.
- "Comprehensive studies" for infrastructure capacity, in addition to being of unclear definition, will be redundant. Things like sewer hookups still require approval, and obtaining them are the responsibility of the developer. Where landowners have had the scale and resources, HCDA's master plan reviews give a look ahead at potential infrastructure needs, as are small businesses.
- Legislating public engagement is difficult, with notice and procedures more concrete than the measuring agency's listening practices. Regarding the agency's explaining why

public suggestions are not incorporated, the authority may or may not control an owner's decisions. Others have pointed out the problem in defining "adversely affect", thereby creating a basis for delays by way of contested cases.

The legislature is in an understandably difficult position in attempting to examine the HCDA's future, as the State continues to undergo change. The original purposes of guiding mainly private real estate development to benefit our State are still sound, and the legislature should continue to advance those purposes.

Thank you for considering our comments on the Bills related to Kakaakao, Oahu, and the HDCA.

SENATE COMMITTEE on WAYS and MEANS

DECISION MAKING on SB 2696, SD1

Wednesday, February 26, 2014

Conference Room 211

9:00 a.m.



COMMENTS in SUPPORT

Aloha Chair Ige and Committee Members:

I offer the following comments in support of SB 2696, SD1:

SB 2696 is a portion of the list of reforms urgently needed for the HCDA to function in the public interest as a responsible and accountable public agency. The following recommendations are offered to strengthen this measure, as highlighted:

SECTION 1. **§206E- Project eligibility review of infrastructure.** (a) The executive director of the authority shall require, prior to receipt of any application for a development permit, a project eligibility review of the development project. No development application for a permit shall be considered until the project eligibility review has been completed. Developments shall not be approved unless adequate infrastructure facilities in accordance with national standards are or will be made available to service the proposed development prior to occupancy. The executive director shall obtain final, not "conditional," approval from applicable governmental agencies regarding the adequacy of infrastructure requirements.

Justification: *It has been reported that HCDA has been asking for and receiving project permits from city regulatory departments that are "conditional approvals" based on "insufficient information." Insufficient information on the sufficiency of infrastructure necessary to support the types of developments HCDA is engaged in is the very reason such permits should not be granted. Eligibility reviews should be supported by the assurance of availability and capability to handle the calculated cumulative load, i.e. final approval from the permitting agencies before the project advances and is approved by HCDA.*

(b) Before approving development projects, the authority shall require comprehensive studies from state and county agencies and departments of and plans for the infrastructure capacity of the sewers, roads, utilities including water and electricity, schools, parks, and other requirements to ensure that they meet the needs generated by the additional number of anticipated residents and, where improvements are needed, the authority shall accordingly impose the necessary impact fees upon the developer.

* NOTE: This requirement is from SB 2698, SD1.

Justification: This requirement more appropriately relates to **Project eligibility review of infrastructure**. *Water, sewer, utilities, and roads all lead out of Kaka‘ako and impact surrounding areas. A comprehensive carrying capacity study must be conducted for the cumulative development planned both within Kaka‘ako and throughout Honolulu to Ewa. Kaka‘ako population increases from today’s 12,000 to 30,000 and 45,000 will also draw from the island’s finite water supply. Undertaking this essential carrying capacity study for the future of our island must be a collective effort between the city and the state.*

(c) Any applicant seeking a development permit shall contact any relevant county and state agencies to determine infrastructure needs of the development project and solicit the agencies' findings and recommendations.

SECTION 3. This Act does not affect rights and duties that matured, **and** penalties that were incurred, **and proceedings that were begun** before its effective date.

Justification: *In reaction to Legislators’ expressed concerns and in anticipation of the Legislature’s scrutiny this session, the HCDA has fast-tracked 11 high-density development projects in less than a year, and such proceedings continue. The Legislature should not allow mere proceedings, including the HCDA’s contrived “exclusive negotiations,” to be irrevocable prior to the effective date of this measure and the necessary confirmation of project eligibility (see Section 1).*

Respectfully,

Michelle S. Matson



From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: ptadaki@hotmail.com
Subject: Submitted testimony for SB2696 on Feb 26, 2014 09:00AM
Date: Tuesday, February 25, 2014 1:38:28 PM

SB2696

Submitted on: 2/25/2014

Testimony for WAM on Feb 26, 2014 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Paula B Tadaki	Individual	Support	No

Comments: I support this Bill. I feel strongly that the Executive Director alone should not be able to grant variances to the FAR. I also am in favor of a 400 foot height limit for the Kaka'ako area.

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From: [Pi'ilani Hanohano](#)
To: [WAM Testimony](#)
Subject: FW: Testimony SB2696 SD1, SB2697, SD1 and SB2698, SD1
Date: Tuesday, February 25, 2014 2:26:05 PM
Attachments: [SB2697_SD1.pdf](#)
[SB2698_SD1.pdf](#)

Aloha,

The attached bills SB 2697, SD1 and SB 2698, SD1 KS proposed amendments were inadvertently overlooked and should have been included with the initial testimony and attachments sent earlier today. Mahalo for your understanding and attention to this matter.

Me ka ha`aha`a,

Pi'ilani Hanohano

Pi'ilani Hanohano
 Government Relations Coordinator
 Community Relations & Communications Group

TEL: 523-6368
 FAX: 523-6365

From: Pi'ilani Hanohano
Sent: Tuesday, February 25, 2014 12:38 PM
To: 'WAMtestimony@capitol.hawaii.gov'
Cc: Walter Thoemmes; Steve Teves ; Leanne Nikaido; Kekoa Paulsen
Subject: Testimony SB2696 SD1, SB2697, SD1 and SB2698, SD1

Aloha,

Please accept our testimony on the above mentioned measures.

Comments and Requested Amendment for Senate Bill No. 2696 Relating to the Kaka'ako Community Development District, and Senate Bill Nos. 2697 and 2698 Relating to the Hawaii Community Development Authority (collectively, the "Bills")

Submitted By	Organization	Testifier Position	Present at Hearing
Pi'ilani Hanohano	Kamehameha Schools	Comments Only	No

Comments: Testimony includes comments and suggested amendment. Also, please find attached bill SB 2696 SD1 with proposed amendments. Written testimony by Walter F. Thoemmes, Chief of Staff, Kamehameha Schools.

Pi'ilani Hanohano
Government Relations Coordinator
Community Relations & Communications Group

TEL: 523-6368
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A BILL FOR AN ACT

RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature established the Hawaii community development authority in 1976 as a public entity to plan new and innovative forms of urban redevelopment and renewal to meet certain community needs, especially the provision of low and moderate income housing located in residential and mixed-use areas with sufficient public facilities and services. To ensure that comprehensive and coordinated development plans were executed by and for the community, the authority was explicitly required to engage affected communities in area development plans and projects. However the legislature finds that in the over thirty-seven years since its creation, the authority has not fulfilled the policies and purposes set out for it by the legislature. Development projects that do not comply either with legislative goals or the applicable development plans established for community development districts have been permitted, sometimes on an accelerated basis. The approval

processes for proposed projects also lack both accountability and transparency to the detriment of the communities affected.

The legislature finds that, in accord with the intent of the legislature in establishing the Hawaii community development authority, community development plans should be implemented in recognition of existing uses and according to minimum requirements for good planning and design to preserve public health and safety, ensure access to sufficient public services, and avoid unintended effects on public resources and the human environment. Community development plans are intended to be adopted in consideration of community engagement and, once adopted, are intended to be strictly followed, particularly in regards to density, infrastructure, and affordable housing requirements.

The legislature finds that renewal and redevelopment of residential areas provide stability to existing neighborhoods and encourage compatible land uses that promote the unique character of Hawaii, including through renovation and restoration of existing historical neighborhoods and structures that might otherwise deteriorate. Innovative planning and creative development strategies ensure that urban redevelopment fulfills the intent of the legislature in creating the authority; meets community needs; and accommodates resident, commercial,

and visitor needs including for sanitation, schools, hospitals and emergency services, and parks and open space.

The legislature also finds that support for multiple modes of transportation and circulation patterns that are consistent with the needs of residents, businesses, and visitors will make redeveloped urban areas more accessible and attractive because of the efficient flow of pedestrian, bicycle, and vehicular traffic within the area. Building design, architectural elements, and landscape elements can be used to facilitate pedestrian and other non-vehicular traffic that complements Hawaii's tropical climate while acknowledging the urban setting.

Finally, the legislature finds that urban redevelopment should provide adequate, functional, and accessible view planes, historic and cultural resources, and parks and open spaces containing generous landscaping to offset high density.

The purpose of this Act is to specify mandatory, statewide redevelopment policies and processes for urban areas to ensure that redevelopment projects serve all of Hawaii's residents, particularly by providing sufficient affordable housing and needed community services while minimizing real estate speculation.

SECTION 2. Chapter 206E, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

"§206E- Contested case hearing; judicial review. Any person adversely affected by an action or decision of the authority may file a petition for a contested case hearing on the authority's action or decision. Any contested case hearing shall be held in accordance with chapter 91."

SECTION 3. Section 206E-5, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) The authority [~~may~~] shall adopt and amend the community development plan [~~as may be necessary. Amendments shall be made in accordance with chapter 91.~~] only as authorized by the legislature."

SECTION 4. Section 206E-5.5, Hawaii Revised Statutes, is amended to read as follows:

"[+]§206E-5.5[+] Community engagement and public notice requirements; informative and timely posting on the authority's website; required. (a) The authority shall adopt community engagement and public notice procedures pursuant to chapter 91 that shall include at a minimum:

- (1) A means to effectively engage the community in which the authority is planning a [~~development~~] project to ensure that community concerns are received [~~and~~], considered, and incorporated into the plans for the project by the authority[+] through working with residents and landowners in the community in which a

project is proposed to be located to ensure that the area plan and rules are followed and that proposed projects do not adversely affect the community or its residents or businesses;

- (2) The posting of the authority's proposed plans for development of community development districts, including plans for redevelopment projects, which shall include details of any proposed projects as well as public hearing notices[7] and minutes of its proceedings on the authority's website; provided that the authority shall mail copies of all documents required by this paragraph to property owners and residents of the affected community upon request; and
- (3) Any other information that the public may [~~find~~ useful] request so that it may meaningfully participate in the authority's decision-making processes.

(b) [~~The~~] Upon receipt of any new development proposal, the authority shall notify the president of the senate [~~and~~], speaker of the house[+], and all members of the legislature and the appropriate city or county council members who represent the district in which the proposed project is to be located and shall transmit to them:

- (1) A copy of the project proposal and application;

- (2) A copy of the proposed project's environmental assessment or environmental impact statement, which may be provided electronically in portable document format form;
- (3) The recommendations of the authority's executive director regarding the proposed project;
- ~~[(1) Of]~~ (4) Notice of any public hearing upon posting of the hearing notice; and
- ~~[(2) With a]~~ (5) At least two weeks prior to a decision-making hearing on the proposed project, a report detailing the public's [reaction at the public hearing, within one week after the hearing.] comments on the proposed project and the authority's response to any concerns raised about the proposed project at a public hearing on the proposed project or in written testimony submitted within one week after the public hearing.
- (c) For each project proposal, the authority shall:
 - (1) Hold at least one public hearing that is scheduled in the evening or on the weekend; and
 - (2) Give ten-day notice to the public for at least one of its public hearings."

SECTION 5. Section 206E-5.6, Hawaii Revised Statutes, is amended to read as follows:

"[+]§206E-5.6[+] Public hearing for decision-making; separate hearing required. (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; provided 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]~~ take additional public testimony at its decision-making hearing.

(c) The authority shall notify the president of the senate ~~[and]~~, speaker of the house, and all members of the legislature and the appropriate city or county council member who represents the district in which the proposed project is to be located:

- (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.~~] that conforms to the requirements of section 206E-5.5(b)(5).

(d) The authority shall give serious consideration to and shall respond orally to all concerns raised by the public at the decision-making hearing before the authority makes a decision. If suggested modifications raised prior to the decision-making hearing by community members impacted by a proposed project are not incorporated into the authority's decision to approve the project, the authority shall explain in detail, both in writing and orally, the reasons why those modifications have not been incorporated before issuing a decision to approve the project."

SECTION 6. Section 206E-7, Hawaii Revised Statutes, is amended to read as follows:

"§206E-7 Community development rules. The authority shall establish community development rules under chapter 91 on health, safety, building, planning, zoning, and land use which, upon final adoption of a community development plan, shall supersede all other inconsistent ordinances and rules relating to the use, zoning, planning, and development of land and construction thereon. Rules adopted under this section shall

follow existing law, rules, ordinances, and regulations as closely as is consistent with standards meeting minimum requirements of good design, pleasant amenities, health, safety, and coordinated development. The authority may, in the community development plan or by a community development rule, provide that lands within a community development district shall not be developed beyond existing uses or that improvements thereon shall not be demolished or substantially reconstructed, or provide other restrictions on the use of the lands. Development rights under a master plan permit and master plan development agreement issued and approved by the authority are vested under the community development district rules in effect at the time initially approved by the authority and shall govern development on lands subject to such permit and agreement. These rights are not modified by the provisions hereof."

SECTION ~~6~~7. Section 206E-33, Hawaii Revised Statutes, is amended to read as follows:

"§206E-33 Kakaako community development district; development guidance policies. The following shall be the development guidance policies generally governing the authority's action in the Kakaako community development district:

- (1) Development shall result in a community which permits an appropriate land mixture of residential,

commercial, industrial, and other uses. In view of the innovative nature of the mixed use approach, urban design policies should be established to provide guidelines for the public and private sectors in the proper development of this district; while the authority's development responsibilities apply only to the area within the district, the authority may engage in any studies or coordinative activities permitted in this chapter which affect areas lying outside the district, where the authority in its discretion decides that those activities are necessary to implement the intent of this chapter. The studies or coordinative activities shall be limited to facility systems, resident and industrial relocation, and other activities with the counties and appropriate state agencies. The authority may engage in construction activities outside of the district; provided that such construction relates to infrastructure development or residential or business relocation activities; provided further, notwithstanding section 206E-7, that such construction shall comply with the general plan, development plan, ordinances, and rules of the county in which the district is located;

- (2) Existing and future industrial uses shall be permitted and encouraged in appropriate locations within the district. No plan or implementation strategy shall prevent continued activity or redevelopment of industrial and commercial uses which meet reasonable performance standards;
- (3) Activities shall be located so as to provide primary reliance on public transportation and pedestrian facilities for internal circulation within the district or designated subareas;
- (4) Major view planes, view corridors, and other environmental elements such as natural light and prevailing winds, shall be preserved through necessary regulation and design review;
- (5) Redevelopment of the district shall be compatible with plans and special districts established for the Hawaii Capital District, and other areas surrounding the Kakaako district;
- (6) Historic sites and culturally significant facilities, settings, or locations shall be preserved;
- (7) Land use activities within the district, where compatible, shall to the greatest possible extent be mixed horizontally, that is, within blocks or other

land areas, and vertically, as integral units of multi-purpose structures;

(8) Residential development [~~may~~] shall require a mixture of densities[~~7~~] not to exceed a maximum of 3.5 floor area ratio, building types, building heights not to exceed four hundred feet, and configurations in accordance with appropriate urban design guidelines; integration both vertically and horizontally of residents of varying incomes, ages, and family groups; and an increased supply of housing for residents of low- or moderate-income may be required as a condition of redevelopment in residential use. Residential development shall provide necessary and adequate community facilities[~~7~~] and services, such as schools, open space, parks, community meeting places, child care centers, and other services, within and adjacent to residential development;

(9) Public facilities within the district shall be planned, located, and developed so as to support the redevelopment policies for the district established by this chapter and plans and rules adopted pursuant to it[~~7~~];

(10) Before approving development projects, the authority shall require comprehensive studies of and plans for

the capacity of the sewers, roads, water, utilities,
emergency services, schools, parks, and other
infrastructure requirements to ensure that the
infrastructure meets the needs generated by the
additional number of anticipated residents and, where
improvements are needed, the authority shall impose
the necessary impact fees upon the developer."

| SECTION ~~7~~8. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

| SECTION ~~8~~9. This Act shall take effect on July 1, 2050.

Report Title:

Hawaii Community Development Authority; Redevelopment

Description:

Amends procedures of the HCDA to require additional public notice and public input for development projects and rule changes. Establishes additional requirements for development projects before HCDA approval can be granted. Creates appeal process for HCDA actions and decisions. Takes effect 7/1/2050. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

A BILL FOR AN ACT

RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature established the Hawaii community development authority in 1976 as a public entity to determine community development programs and--in cooperation with private enterprise and federal, state, and county governments--to plan and implement programs that result in communities that serve the highest needs and aspirations of Hawaii's people. To ensure that a comprehensive and coordinated plan is executed with and for the community, the law that established the Hawaii community development authority explicitly requires community engagement in the community development plans and development projects.

However, the legislature finds that in the thirty-seven years since its creation, the authority has not met the standards for creating a mixed-use, mixed-income community. In fact, the authority has not followed the plan adopted by the community and has instead liberally interpreted the requirements

and amended the plan and rules without accountability or transparency to the detriment of the community, thereby failing to fulfill the mandate that the community development plan be implemented in an "orderly, affordable and feasible manner."

The legislature also finds that the authority is operating without accountability or transparency in failing to meet one of the authority's major objectives: to create housing for low- or moderate-income residents.

The purpose of this Act is to ensure that the authority follows the intent of chapter 206E, Hawaii Revised Statutes, along with the plans and rules adopted to achieve the law's objectives--to create a community development district that meets the minimum requirements of good design, pleasant amenities, and public health and safety, while staying within existing uses. More specifically, this Act:

- (1) Ensures that adopted plans and rules are followed, particularly in regard to density, height, infrastructure, and low- and moderate-income housing;
- (2) Provides for adequate community engagement in the authority's planning and decision-making on development projects; and
- (3) Establishes a process for contesting the authority's decisions.

SECTION 2. Chapter 206E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§206E- Reconsideration; judicial review. Any person adversely affected by an action or decision of the authority may file a petition for reconsideration within thirty days of the authority's action or decision. Proceedings for judicial review of the authority's final decision on the petition for reconsideration shall be in the same manner as provided for in section 91-14."

SECTION 3. Section 206E-5, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) The authority may amend the community development plan as may be necessary. Amendments shall be made in accordance with chapter 91[-]; provided that no amendment to the operative Kakaako community development district mauka and makai area plans, and their attendant rules, shall take effect without the prior approval of the legislature by a concurrent resolution submitted by the authority and adopted by each house by at least a two-thirds majority vote of the members to which that house is entitled.

The authority shall include in the concurrent resolution the proposed amendments and the justification therefor."

SECTION 4. Section 206E-5.5, Hawaii Revised Statutes, is amended to read as follows:

"~~[†]~~§206E-5.5~~[‡]~~ **Community engagement and public notice requirements; posting on the authority's website; required.**

(a) The authority shall adopt community engagement and public notice procedures pursuant to chapter 91 that shall ~~[include],~~ at a minimum:

- (1) ~~[A means to effectively]~~ Effectively engage the community in which the authority is planning a development project ~~[to ensure that community concerns are received and considered by the authority;]~~ by working with residents and landowners residing within the community in which the project is located to ensure that the rules are followed and that proposed buildings do not adversely affect the community or its residents and businesses;
- (2) ~~[The]~~ Include the posting of the authority's proposed plans for development of community development districts, including details of any new proposed developments; public hearing notices~~[7]~~; and minutes of its proceedings on the authority's website; provided that, if requested, a copy of notices shall be mailed to property owners and residents in the affected community; and

(3) [~~Any~~] Include any other information that the public
[may find useful] requests so that it may meaningfully
participate in the authority's decision-making
processes.

(b) The authority shall notify the president of the senate
[and]; speaker of the house[+]; and the state senators, state
representatives, and city councilmembers who represent the
district in which the development project is to be located:

- (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,~~] comments and the authority's response
to any concerns raised about the project, within one
week after the public hearing."

SECTION 5. Section 206E-5.6, Hawaii Revised Statutes, is
amended by amending subsection (c) to read as follows:

"(c) The authority shall notify the president of the
senate [~~and~~]; speaker of the house[+]; and the state senators,
state representatives, and city councilmembers who represent the
district in which the development project is to be located:

- (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,~~] comments and the authority's response

to any concerns raised about the project, within one week after the public hearing."

SECTION 6. Section 206E-7, Hawaii Revised Statutes, is amended to read as follows:

"§206E-7 **Community development rules.** The authority shall establish community development rules under chapter 91 on health, safety, building, planning, zoning, and land use which, upon final adoption of a community development plan, shall supersede all other inconsistent ordinances and rules relating to the use, zoning, planning, and development of land and construction thereon. Rules adopted under this section shall follow existing law, rules, ordinances, and regulations as closely as is consistent with standards meeting minimum requirements of good design, pleasant amenities, health, safety, and coordinated development. The authority may, in the community development plan or by a community development rule, provide that lands within a community development district shall not be developed beyond existing uses or that improvements thereon shall not be demolished or substantially reconstructed, or provide other restrictions on the use of the lands. Development rights under a master plan permit and master plan development agreement issued and approved by the authority are vested under the community development district rules in effect at the time initially approved by the authority and shall govern development

on lands subject to such permit and agreement. These rights are not modified by the provisions hereof."

SECTION ~~6~~7. Section 206E-33, Hawaii Revised Statutes, is amended to read as follows:

"§206E-33 Kakaako community development district; development guidance policies. The following shall be the development guidance policies generally governing the authority's action in the Kakaako community development district:

- (1) Development shall result in a community which permits an appropriate land mixture of residential, commercial, industrial, and other uses. In view of the innovative nature of the mixed use approach, urban design policies should be established to provide guidelines for the public and private sectors in the proper development of this district; while the authority's development responsibilities apply only to the area within the district, the authority may engage in any studies or coordinative activities permitted in this chapter which affect areas lying outside the district, where the authority in its discretion decides that those activities are necessary to implement the intent of this chapter. The studies or coordinative activities shall be limited to facility

systems, resident and industrial relocation, and other activities with the counties and appropriate state agencies. The authority may engage in construction activities outside of the district; provided that such construction relates to infrastructure development or residential or business relocation activities; provided further, notwithstanding section 206E-7, that such construction shall comply with the general plan, development plan, ordinances, and rules of the county in which the district is located;

- (2) Existing and future industrial uses shall be permitted and encouraged in appropriate locations within the district. No plan or implementation strategy shall prevent continued activity or redevelopment of industrial and commercial uses which meet reasonable performance standards;
- (3) Activities shall be located so as to provide primary reliance on public transportation and pedestrian facilities for internal circulation within the district or designated subareas;
- (4) Major view planes, view corridors, and other environmental elements such as natural light and prevailing winds, shall be preserved through necessary regulation and design review;

- (5) Redevelopment of the district shall be compatible with plans and special districts established for the Hawaii Capital District, and other areas surrounding the Kakaako district;
- (6) Historic sites and culturally significant facilities, settings, or locations shall be preserved;
- (7) Land use activities within the district, where compatible, shall to the greatest possible extent be mixed horizontally, that is, within blocks or other land areas, and vertically, as integral units of multi-purpose structures;
- (8) Residential development [~~may~~] shall require a mixture of densities[7] not to exceed a maximum of 3.5 with respect to the floor area ratio; building types[7] of no more than four hundred feet in height; and configurations in accordance with appropriate urban design guidelines; integration both vertically and horizontally of residents of varying incomes, ages, and family groups; and an increased supply of housing for residents of low- or moderate-income may be required as a condition of redevelopment in residential use. Residential development shall provide necessary community facilities, such as open space, parks, community meeting places, child care

centers, and other services, within and adjacent to residential development;

(9) Public facilities within the district shall be planned, located, and developed so as to support the redevelopment policies for the district established by this chapter and plans and rules adopted pursuant to it[-]; and

(10) Before approving development projects, the authority shall require comprehensive studies of and plans for the infrastructure capacity of the sewers, roads, utilities including water and electricity, schools, parks, and other requirements to ensure that they meet the needs generated by the additional number of anticipated residents and, where improvements are needed, the authority shall accordingly impose the necessary impact fees upon the developer."

SECTION ~~7~~8. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION ~~8~~9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION ~~9~~10. This Act shall take effect on July 1, 2050.

Report Title:

Hawaii Community Development Authority; Public Notice;
Reconsideration Process

Description:

Amends HCDA public notice requirements and requirements for project approval. Creates a reconsideration process with available judicial review for HCDA decisions or actions. Takes effect 7/1/2050. (SD1)

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Hawai'i Construction Alliance



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February 25, 2014

The Honorable David Y. Ige, Chair
The Honorable Michelle N. Kidani, Vice Chair
and members
Committee on Ways and Means
Hawai'i State Senate
415 South Beretania Street
Honolulu, Hawai'i 96813

RE: Opposition to SB2696 SD1

Dear Chair Ige, Vice Chair Kidani, and members of the committee:

The Hawai'i Construction Alliance would like to express its opposition to SB2696 SD1, which amends the Hawai'i Community Development Authority statute to establish building restrictions and prohibitions, which include minimum building separation, project eligibility review of infrastructure, height limitations, mauka-makai axes for tower buildings, and a prohibition on variances relating to maximum floor area ratio.

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.

We are extremely concerned that the provisions contained in this bill would make it extremely difficult to proceed with the goal of transforming Kaka'ako into a place where the next generation of local residents can live, work, play, and raise families.

In order to deliver housing for Hawai'i families, jobs for local workers, and public facilities in the area, urban planners and other stakeholders may require the flexibility to construct buildings closer together (perhaps in twin-tower configurations, such as is already found at One Waterfront Tower, or across the street from one another, as is the case with Royal Capitol Plaza and Pacific Park Plaza); higher than 400' excluding necessary mechanical apparatuses on rooftops; or along alternative axes in the case of parcels which are narrow or oddly-shaped. Flexibility may also be required in regard to maximum floor area ratio in order to construct affordable, workforce housing, as height and density are factors that contribute to cost per housing unit.

The legislature should strongly weigh the potential negative impacts of the provisions contained within SB2696 SD1 before permanently inscribing these inflexible restrictions into the HCDA statute.

Thank you for the opportunity to provide these comments in opposition to SB2696 SD1.

Mahalo,

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