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**To:** [WAM Testimony](#)  
**Cc:** [bkunies@gmail.com](mailto:bkunies@gmail.com)  
**Subject:** Submitted testimony for SB2698 on Feb 26, 2014 09:00AM  
**Date:** Tuesday, February 25, 2014 12:45:07 PM

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**SB2698**

Submitted on: 2/25/2014

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

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

Comments: Like SB2697, I strongly support SB2698. Under both bills there is a right of appeal of the authority's decision, but it is by contested case petition under SB2697,SD1, and by reconsideration petition under SB 2698, SD1. I would like to suggest that both procedures be available for the aggrieved party and thus both these bills could be consolidated. I support SB 2698, SD1, either in its current form or with the above suggested revision.

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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The Pacific Resource  
**PARTNERSHIP**



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 2698, SD1 – Relating to the Hawaii Community Development Authority  
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 2698, SD1 which amends HCDA public notice requirements and requirements for project approval. This measure creates a reconsideration process with available judicial review for HCDA decisions or actions.

Community: A geographic location. A sense of shared values with ones neighbors. A place where good job opportunities offer a way to move up. A place friends hangout. A place where families grow.

This bill addresses the way in which the Kakaako community will grow. PRP recognizes that Hawaii residents have been very clear about the need to find a balance between permitted growth and the preservation of the natural environment, culture, local identity and quality of life.

We are advocates for building integrated communities that allow residents of the community to live, work and play in their neighborhood. We are advocates for housing that people can afford close to good-paying jobs, local parks, restaurants and other services. We are advocates for housing that is near public transit (bus or rail) in communities designed for walking, biking and transit to reduce automobile use and traffic. This development pattern will consume less land overall, lead to fewer vehicle miles traveled, and produce environmental benefits to the community as a whole. This is the kind of community Kakaako can be.

There are tradeoffs. Buildings will be higher than they are in rural areas, and they will be closer together. More people will live in less space. 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.

In the process of creating the new Kakaako, there are very real, practical considerations and tensions that must be resolved. We offer these comments regarding specific provisions of the bill:

- There is an opportunity to improve on and clarify the public involvement process. We urge the committee to consider requiring any person wishing to intervene to file a petition before the hearings are conducted. This will ensure that the perspectives of all parties are appropriately considered prior to decision making.
- By requiring a 2/3 majority in both House and Senate to approve area plans and rules, the Authority is effectively prohibited from carrying out its mission when the Legislature is not in session. This is not in the public's best interest.
- Posting project information on the HCDA website, as is the current practice, gives community members who are unable to attend meetings a good way to be involved in the process.
- Height and density are factors that contribute directly to cost per unit.
- We caution against adding requirements for duplicative studies that will not add substantive information to the decision-making process.
- Unnecessarily prolonging the process and delaying projects adds to the cost and will make housing even more expensive.

Thank you for the opportunity to provide 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](http://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. 2698, SD1 - RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.**

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. 2698, SD1, which establishes a contested case proceeding process; Requires that no amendment to the Kakaako community development plan and rules shall take effect without prior approval of the legislature by concurrent resolution of 2/3 majority of each chamber; and establishes new community engagement and public notice requirements.

The HCDA was created as a corporate instrumentality of the State of Hawaii. It was intended to combine the best of business and government such that a new community could be established by blending government and private development money. Given the proposed energy and dollars being invested by area developers, it would appear that this exercise in the semi-autonomous HCDA is working. Introduction of legislative oversight to what is already a public development process is a step backwards.

Mahalo for the opportunity to testify in opposition to Senate Bill No. 2698, SD1.



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](mailto: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 2698, 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 2698, SD1:

SB 2698, SD1 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 4. **Community engagement and public notice requirements;**

- (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, local public stakeholders, 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[.]; 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 affecting the interested public may [~~find useful~~] request so that it may meaningfully participate in the authority's decision-making processes.

**Justification:** *There are many local public stakeholders who have been actively involved and concerned about the future of Kaka'ako, especially Kaka'ako Makai which they use and enjoy. These local public stakeholders should be included. In addition, public notices and information are not always known about in time so requests for same can be made. All present and past information should be posted on a comprehensive web site, which the HCDA is lacking.*

SECTION 6. **Kakaako community development district; development guidance policies.**

- (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 by



an independent planning review committee comprised of qualified independent local planners, architects and design experts;

**Justification:** *The HCDA feigns professional review with a committee comprised of two (2) HCDA staff members and (1) HCDA board member. Competent independent review of proposed projects and their placements should be undertaken by an independent professional review committee comprised of qualified local planners, architects, designers and landscape architects who are knowledgeable and sensitive to the history and future needs of Kaka'ako Mauka and Kaka'ako Makai, both separate and distinct, yet symbiotic.*

(8) Residential development [may] shall require a mixture of densities[;] not to exceed a maximum of 3.5 floor area ratio, building types, building heights not to exceed four hundred feet, mauka-makai axis orientation for any building that is at least one hundred feet in height, and configurations...

**Justification:** *This building requirement is equally important to mitigate Kaka'ako's walling off the mountains from the sea, an orientation that is a traditional Hawaiian cultural value.*

(10)\* Before approving development projects, the authority shall require comprehensive studies from state and county agencies and departments 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."

\* NOTE: This stipulation would more appropriately belong with SB 2696, SD1, Section 1, **Project eligibility review of infrastructure.**

**Justification:** *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.*

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

Respectfully,  
Michelle S. Matson



**From:** [Pam Wood](#)  
**To:** [WAM Testimony](#)  
**Subject:** SB2986 SD1; SB2697 SD1; and SB2698 SD1 Testimony in Support  
**Date:** Tuesday, February 25, 2014 1:40:07 PM

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## **Testimony of**

**Pamela Wood**

**Before the Senate Ways and Means Committee**

**Wednesday, February 26, 2014 at 9:00 am, Room 211**

**SB2986 SD1; SB2697 SD1; and SB2698 SD1  
Relating to the Hawaii Community Development Authority**

Chair Senator David Ige and members of the Committee on Ways and Means:

My name is Pamela Wood and I am in support of SB2986 SD1; SB2697 SD1; and SB2698 SD1. I live in Kakaako. Thank you for giving me the opportunity to testify and share my experience of working with the Hawaii Community Development Authority (HCDA). I have lived in Hawaii for 54 years and moved to Kakaako four years ago. I believed HCDA's vision of a vibrant mix-use community, with housing options for Hawaii residents and the opportunity for commercial and industrial businesses to thrive in the Central Kakaako Neighborhood. I believed in the concept of planned neighborhoods where residents could "live, work and play"; where children would have schools; and, open space and parks would be protected. Unfortunately residents have discovered we are at the mercy of HCDA as it interprets its own rules and allows modifications to these rules with no oversight. When I asked HCDA who represents the community, staff replied, "the courts".

I have learned the following during the past year:

1. HCDA meets with developers and sewer permit applications are issued months before the public has any knowledge of the development. The public is given just 30 days to study the plans, rules, laws and to organize a response for the first public hearing.
2. During the first public hearing, the public learns the contents of letters issued by government agencies, the design review committee's recommendations, and HCDA's staff report. It would be helpful if the public had access to this information in advance. Instead the public hears this information for the first time, has to request copies, and then has 60 days to analyze the information and prepare testimony for the second public hearing.
3. The second public hearing is also the decision making hearing. HCDA presents its

recommendation to the board and all required reports, studies, and information are made available to the board. THE PUBLIC HAS NOT SEEN THIS INFORMATION. I asked HCDA staff why this information was not included in the public files and was told it could not be made available to the public prior to being given to the board (which is the date of the decision making hearing). How can the board make a decision when the public has not been given the opportunity to respond to all available information?

4. Development applications are approved before infrastructure is assured. If developers are not required to pay for the improvements, taxpayers will pay the costs.
5. The Executive Director can unilaterally determine infrastructure is adequate to increase the Central Kakaako Neighborhood FAR from 1.5 to 3.5.
6. The authority has a nine member board. During 2013 the board functioned with seven members, instead of nine. Four of these were department heads in the Governor's cabinet. These four of the seven established a majority.
7. Open space needs to be defined. It appears it means open space within individual developments, not within Kakaako as a whole.
8. HCDA has told us there is no land available within Kakaako Mauka for additional parks; and, we have adequate park space in Kakaako Makai and Ala Moana Beach Park. Now HCDA is considering leasing Kakaako Waterfront Park land for commercial use.
9. There is no room for additional Kakaako elementary school children. Until this fact became public, HCDA did not consider schools a part of the infrastructure.
10. Workforce Housing, Subchapter 4 of Chapter 218 is only two pages long. Yet it allows double density, and HCDA can allow modification to any rules a developer requests. This makes the Mauka Area Rules and Plans meaningless. My concern is this will establish a precedence. HCDA is proposing a Transient Oriented Development (TOD) overlay to the Mauka Area Rules and Plans. This could completely override the Mauka Area Rules and Plans unless the Legislature takes action now.

This past year has been a frustrating and time consuming experience for Kakaako residents. Now that the Legislature is in session, I look forward to your support in clearly defining the future of Kakaako.

Pamela Wood  
725 Kapiolani Blvd., #3002



**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.*

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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 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)

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

# Hawai'i Construction Alliance



P.O. Box 179441  
Honolulu, HI 96817  
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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 SB2698 SD1**

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

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 transformation of Kaka'ako into a place where people can live, work, play, and raise families.

SB2698 SD1 seeks to amend HCDA public notice requirements and requirements for project approval and create a reconsideration process with available judicial review for HCDA decisions or actions.

In order for Kaka'ako to proceed with responsible growth, stakeholders must feel confident in the public hearing process, a goal which we philosophically support. We note that the bill calls for the posting of HCDA's plans for development onto its website and for the mailing of public hearing notices to interested parties including area legislators. Many of these provisions mirror existing agency practice.

We are extremely concerned with several of the other onerous provisions contained within SB2698 SD1, as they may make it very difficult, if not impossible, 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.

For example, the provisions calling for contested case hearings for any person “adversely affected” (a term for which no definition is provided) and for the legislature to approve amendments to area plans by two-thirds vote introduce arbitrary legislative and judicial roadblocks to the process of creating a vibrant community in Kaka‘ako. Furthermore, the provisions limiting maximum floor area ratio may slow the delivery of affordable workforce housing, as height and floor area are a factor that contribute to cost per housing unit.

We are also concerned about the provision which permanently restricts building height to 400’, as many of the already-permitted buildings include 18’ of necessary mechanical apparatuses on their rooftops. A sudden change in height regulations may lead to uncertainty on whether these current projects are allowed to proceed. Furthermore, in the future, taller buildings may be found necessary or desirable by urban planners and other stakeholders, considering that we do live on an island with limited space.

Finally, we are concerned with the provision of the bill which calls for comprehensive studies of and plans for infrastructure capacity and other requirements. Duplicative studies that do not add substantial information to the decision-making process may delay needed projects. Furthermore, the requirement that developers pay for infrastructure improvements from which multiple parties will benefit seems unfair and may drive up costs.

Thank you for the opportunity to provide these comments in opposition to SB2698 SD1.

Mahalo,

A handwritten signature in black ink that reads "Tyler Dos Santos-Tam". The signature is fluid and cursive, with the first name "Tyler" being the most prominent.

Tyler Dos Santos-Tam  
Executive Director  
Hawai‘i Construction Alliance  
[execdir@hawaiiconstructionalliance.org](mailto:execdir@hawaiiconstructionalliance.org)