

LATE TESTIMONY

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII  
No. 1 CAPITOL DISTRICT BUILDING  
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HONOLULU, HAWAII 96813  
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EMAIL: oip@hawaii.gov

To: Senate Committee on Public Safety, Intergovernmental  
and Military Affairs

From: Cheryl Kakazu Park, Director

Date: February 17, 2015, 1:05 p.m.  
State Capitol, Conference Room 229

Re: Testimony on S.B. No. 420  
Relating to Neighborhood Boards

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Thank you for the opportunity to submit testimony on this bill. The Office of Information Practices ("OIP") believes that the question of whether neighborhood boards should be subject to the Sunshine Law, part I of chapter 92, is ultimately a policy question for the Legislature to determine, and therefore takes no position on this bill. However, OIP notes that S.B. 419, which creates a broad exception allowing any number of neighborhood board members to attend discuss neighborhood board business at a meeting or presentation open to the public, would be a more narrowly targeted way to address the concerns of neighborhood board members regarding their ability to freely participate in community meetings and similar events.

Thank you for the opportunity to testify.



WOMEN'S CAUCUS

DEMOCRATIC PARTY OF HAWAII

LATE TESTIMONY

February 17, 2015

To: Senator Will Espero, Chair  
Senator Rosalyn Baker, Vice Chair and  
Members of the Committee on Public Safety, Intergovernmental and Military Affairs

From: Jeanne Y. Ohta, Co-Chair

RE: SB 420 Relating to Neighborhood Boards  
Hearing: Friday, February 17, 2015, 1:05 p.m., Room 229

Position: OPPOSED

The Hawai'i State Democratic Women's Caucus writes in OPPOSITION to SB 420 Relating to Neighborhood Boards which would exempt neighborhood boards from the requirements of the open meeting and "sunshine laws."

Neighborhood boards should continue to be required to make their decisions in a deliberative manner and in public meetings, especially since so many decisions are made regarding land use, zoning, and other issues requiring permits which may drastically change the character of our communities. Receiving input from residents of the community is an essential part of the role of neighborhood boards. They cannot be seen as entities that make decisions in private prior to hearing from community members.

We respectfully request that this bill be HELD. Thank you for the opportunity to provide testimony.



49 South Hotel Street, Room 314 | Honolulu, HI 96813  
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SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS  
Hearing Scheduled 1:05 pm Tuesday, February 17, 2015, Conference Room 229  
SB 420 RELATING TO NEIGHBORHOOD BOARDS  
TESTIMONY  
Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Espero, Vice-Chair Baker, and Committee Members:

**The League of Women Voters of Hawaii opposes SB 420** which would exempt county neighborhood boards from all Sunshine Law requirements. For example, SB 420 would exempt county neighborhood boards from having to conduct board business at public meetings and from having to provide the public with meeting notices, agenda, and minutes. This obviously will not benefit the public. We also point out that Sections 92-81 through 83, Hawaii Revised Statutes, will become irrelevant if neighborhood boards are exempted from Sunshine Law requirements for public meetings, meeting notices, agenda, and minutes,

Thank you for the opportunity to present testimony.



LATE TESTIMONY

Senate Public Safety, Intergovernmental and Military Affairs Committee  
Chair Will Espero, Vice Chair Rosalyn H. Baker

Tuesday 02/17/15 at 1:05PM in Room 229  
SB420 Relating to Neighborhood Boards

TESTIMONY IN STRONG OPPOSITION  
Carmille Lim, Executive Director, Common Cause Hawaii

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Dear Chair Espero, Vice Chair Baker, and members of the Committee:

**Common Cause Hawaii strongly opposes SB420**, which would amend the Hawaii Revised Statutes' definition of "board" to omit "neighborhood boards." Essentially, SB420 would exempt neighborhood boards from sunshine requirements, such as conducting official board business at public meetings, and releasing public hearing notice, agenda, and minutes.

As convening bodies whose members are elected and make decisions affecting the communities they represent, neighborhood boards should be maintained within the definition of "board" and absolutely should remain subject to Sunshine Laws, which are meant to promote transparency and openness in our state.

**Thank you for the opportunity to testify on SB420.**

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**From:** louis erteschik <louiserteschik@hotmail.com>  
**Sent:** Monday, February 16, 2015 5:15 PM  
**To:** PSMTestimony

LATE TESTIMONY

RE: SB 420  
Relating To Neighborhood Boards  
Hearing Feb 17,2015 1:05PM Room 229

The Waikiki Neighborhood Board support this bill. We believe that the provisions of the Neighborhood Plan are more suitable and effective in terms of governing Neighborhood Board procedure. We concur with the testimony of the Neighborhood Commission.

Louis Erteschik  
Vice Chairman

TESTIMONY ON SB 420/AND SB 419 FROM THE KAHALU'U NEIGHBORHOOD BOARD #29

At the February 10, 2015 regular meeting of the Kahalu'u Neighborhood Board, the following motion was adopted unanimously:

"Kahalu'u Neighborhood Board #29 supports the concept of neighborhood board meetings being subject to sunshine law in order to provide an open community forum. However, Kahalu'u Neighborhood Board #29 also supports relaxing the sunshine law requirements related to the number of neighborhood board members allowed to attend public meetings."

Steve Glanstein  
P. O. Box 29213  
Honolulu, HI 96820-1613

February 16, 2015

Honorable Sen. Will Espero, Chairman  
Public Safety, Intergovernmental and Military Affairs  
Hawaii State Capitol, Room 206  
415 South Beretania Street  
Honolulu, HI 96813

Honorable Sen. Rosalyn H. Baker, Vice-Chairman  
Public Safety, Intergovernmental and Military Affairs  
Hawaii State Capitol, Room 230  
415 South Beretania Street  
Honolulu, HI 96813

LATE TESTIMONY

**RE: Testimony in OPPOSITION TO SB420; Hearing Date: Tuesday, February 17, 2015 at 1:05 p.m. in Senate Conference Room 229; sent via Internet**

Aloha Chair Espero, Vice-Chair Baker, and Committee members,

Thank you for the opportunity to provide testimony on this bill.

I am the second of 3 generations of my family who have been involved with our community by serving on Neighborhood Boards during various times. I've previously served on the Neighborhood Board as a member, vice-chair, and its chair. I was also involved with the revision that created the 2008 Neighborhood Plan.

I'm presenting this testimony as an individual in OPPOSITION to the proposed changes to HRS Chapters 92 to exempt Neighborhood Boards from the state Sunshine Law.

I've enumerated several of these reasons below.

**A. This bill is contrary to state involvement in the Sunshine Law**

HRS §92-1 entitled, "Declaration of policy and intent" states in relevant part,

"In a democracy, the people are vested with the ultimate decision-making power. Governmental agencies exist to aid the people in the formation and conduct of public policy. Opening up the governmental processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest. Therefore, the legislature declares that it is the **policy of this State** that the formation and conduct of public policy-the discussions, deliberations, decisions, and action of governmental agencies-shall be conducted as openly as possible."

*[Emphasis added.]*

The 1975 legislature obviously wanted to make it clear that it was policy for all of Hawaii that the discussions, deliberations, decisions, and actions of governmental agencies be as open as possible.

The sections following HRS §92-1 contain numerous rules for board and commissions. They have been further clarified by Attorney General opinions and case law.

Dependence upon the Neighborhood Commission to promulgate rules and regulations will affect the entire body of Attorney General opinions and affect the status of relevant case law.

The statement of intent in HRS §92-1 has never been amended and it is valid today, 40 years later. I recommend that the legislature refrain from surrendering maintenance of the Sunshine Law to the Honolulu Neighborhood Commission.

### **B. Specific Neighborhood Board Exemptions ALREADY exist in Chapter 92**

HRS Chapter 92, Part VII already provides specialized exemptions for neighborhood boards throughout the state. HRS §92-82 provides for permitted interactions for neighborhood boards. Section (a) states:

“Two or more members of a neighborhood board, but fewer than the number of members necessary to constitute a quorum for the board, may attend informational meetings or presentations on matters relating to official board business, including meetings of another entity, seminars, and community meetings; provided that the presentation is not specifically and exclusively organized for or directed toward members of the board.”

I suggest that requested exemptions for neighborhood boards can be proposed within Part VII, analyzed and commented on by the community, and legislated as necessary.<sup>1</sup>

**The answer is to retain the Sunshine Law for Neighborhood Boards and make necessary amendments. DON'T ELIMINATE IT.**

### **C. Other Counties may establish Neighborhood Boards**

The bill proposes to exempt all neighborhood boards regardless of location.

**If another county creates a neighborhood board system there would be no transparency or accountability unless separately legislated. This would create different versions of the “Sunshine Law” depending upon the county, contrary to the statewide intent expressed in HRS §92-1.**

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<sup>1</sup> A current example is SB419 which proposes to change HRS §92-82 regarding meetings or presentations on matters relating to official board business that are open to the public and don't charge a fee or registration.



#### **D. The Neighborhood Commission should not enforce Sunshine Law**

The current Sunshine Law has criminal penalties for wilful violation (HRS §92-13). It also provides certain rights to the public to file suit for violation. Unless this authority exists with the Neighborhood Commission, the exemption for Neighborhood Boards would remove the criminal sanctions and public's authority to enforce Neighborhood Board recommendations made in violation of current law.

The Neighborhood Commission has previously violated the Sunshine Law.<sup>2</sup>

I suggest that this Committee communicate directly with the Office of Information Practices regarding the history of Sunshine Law violation complaints against the Neighborhood Commission.

I believe that leaving promulgation and enforcement of the Sunshine Law to the Neighborhood Commission could rise to the level of, "the fox guarding the henhouse."

#### **E. Conclusion**

The legislature should not be pushed into delegating the public's right to transparency and accountability with Neighborhood Boards. Although Neighborhood Boards are advisory, they have varied involvement with initiating, reviewing, commenting, and making recommendations concerning the general plan, development and sustainable communities plan.<sup>3</sup>

**The public is entitled to enforceable transparency. The Sunshine Law is a Hawaii policy issue, not a county issue and should rightfully be legislated on the state level.**

**I ask that you hold or defeat this bill.**

I look forward to any discussions of this proposal. I may be contacted via phone: 423-6766 or e-mail: [Steveghi@Gmail.com](mailto:Steveghi@Gmail.com). Thank you for the opportunity to present this testimony.

Sincerely,

**Steve Glanstein**

Digitally signed by Steve Glanstein  
DN: cn=Steve Glanstein, o, ou,  
email=Steveghi@Gmail.com, c=US  
Location: Honolulu, HI  
Date: 2015.02.16 23:40:11 -10'00'

Steve Glanstein  
SG:tbs

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<sup>2</sup> Refer to State of Hawaii Office of the Lieutenant Governor, Office of Information Practices Memorandum Opinion dated July 1, 2010, Case S INVES-P 10-2

<sup>3</sup> A more extensive statement may be found in §§2-13-101 and 102 of the Neighborhood Plan . The Neighborhood Plan may be found at: [http://www.honolulu.gov/rep/site/nco/nco\\_docs/2013\\_RNP\\_Print.pdf](http://www.honolulu.gov/rep/site/nco/nco_docs/2013_RNP_Print.pdf).

LATE TESTIMONY

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 17, 2015 10:38 AM  
**To:** PSMTestimony  
**Cc:** rpoirier3@msn.com  
**Subject:** Submitted testimony for SB420 on Feb 17, 2015 13:05PM

**SB420**

Submitted on: 2/17/2015  
Testimony for PSM on Feb 17, 2015 13:05PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Poirier	Individual	Comments Only	No

Comments: TESTIMONY OF DICK POIRIER TO THE SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS THE TWENTYEIGHTH LEGISLATURE REGULAR SESSION OF 2015 Tuesday, February 17, 2015 1:05 P.M., Room 229 Hawaii State Capitol Testimony on S.B. No. 420/S.B. No. 419, RELATING TO NEIGHBORHOOD BOARDS Dear Chair Espero, Vice Chair Baker, and Members of the Committee: What is the rationale or SB 420 other than that it doesn't address the issue raised and resolved by SB 419? Let's not throw out the baby with the bathwater. NO to SB 420 and YES to HB 419. Thanks for the opportunity to testify. Dick Poirier 623-2259

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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LATE TESTIMONY

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 16, 2015 2:37 PM  
**To:** PSMTestimony  
**Cc:** vsc@hawaiiantel.net  
**Subject:** \*Submitted testimony for SB420 on Feb 17, 2015 13:05PM\*

**SB420**

Submitted on: 2/16/2015  
Testimony for PSM on Feb 17, 2015 13:05PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Victoria Cannon	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 16, 2015 6:29 PM  
**To:** PSMTestimony  
**Cc:** clskwock@gmail.com  
**Subject:** Submitted testimony for SB420 on Feb 17, 2015 13:05PM

**SB420**

Submitted on: 2/16/2015

Testimony for PSM on Feb 17, 2015 13:05PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
CHU LAN SHUBERT-KWOCK	Individual	Support	No

Comments: Support removal of Board and encourage greater participation of neighborhood affairs.

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