

LATE TESTIMONY



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2017**

ON THE FOLLOWING MEASURE:
S.B. NO. 577, RELATING TO AFFORDABLE HOUSING.

BEFORE THE:
SENATE COMMITTEE ON HOUSING
SENATE COMMITTEE ON AGRICULTURAL AND ENVIRONMENT

DATE: Thursday, February 2, 2017 **TIME:** 2:45 p.m.

LOCATION: State Capitol, Room 225

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Sandra A. Ching, Deputy Attorney General

Chairs Espero and Gabbard and Members of the Committees:

The Department of the Attorney General appreciates the intent of the measure and offers comments.

This bill would amend section 343-5.5, Hawaii Revised Statutes (HRS), to exempt from environmental assessment and environmental impact statement requirements affordable housing projects developed in the urban core by the Hawaii Housing Finance and Development Corporation pursuant to chapter 201H, HRS.

The definition of "urban core" on page 3, lines 16 through 18, of the bill, as "the areas of Oahu encompassing Kakaako, downtown Honolulu and the financial district, Kalihi and Ala Moana" is vague. Different people could reasonably believe these descriptions include areas not intended by the Legislature. This could be resolved by reference to specific property lines and with reference to tax map key numbers. For example, under section 206E-32, HRS, the Kakaako community development district is described as:

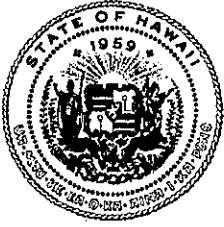
. . . that area bounded by King Street; Piikoi Street from its intersection with King Street to Ala Moana Boulevard; Ala Moana Boulevard, inclusive, from Piikoi Street to its intersection with the Ewa boundary of Ala Moana Park also identified as the Ewa boundary of tax map key 2-3-37:01; the Ewa boundary of tax map key 2-3-37:01 from its intersection

with Ala Moana Boulevard to the shoreline; the shoreline from its intersection with the property line representing the Ewa boundary of property identified by tax map key 2-3-37:01 to the property line between Pier 2 and Pier 4; the property line between Pier 2 and Pier 4 from its intersection with the shoreline to Ala Moana Boulevard; Ala Moana Boulevard from its intersection with the property line between lands identified by Pier 2 and Pier 4 to Punchbowl Street; and Punchbowl Street to its intersection with King Street; provided that the following parcels at Pier 1 and Pier 2 shall be deleted from the Kakaako community development district boundaries and conveyed to the department of land and natural resources to be set aside for the department of transportation and the foreign-trade zone division of the department of business, economic development, and tourism, to ensure continued maritime and foreign commerce use: all of lot 3 and parcels 2, 3-A, A, and B of the Forrest Avenue subdivision, as shown on the map filed with the bureau of conveyances of the State of Hawaii as file plan 2335; and lots A-1 and A-2, as shown on map 2, filed in the office of the assistant registrar of the land court of the State of Hawaii with land court application 1328; and provided further that all existing easements affecting and appurtenant to the parcels to be deleted from the Kakaako community development district boundaries shall not be affected by this change.

The district shall also include that parcel of land identified by tax map key 2-1-14:16, situated mauka of Pier 6 and Pier 7 and makai of Nimitz Highway, being the site for the existing Hawaiian Electric power plant and related facilities.

The Department of the Attorney General respectfully recommends that, if the Committees decide to move this measure forward, the bill be amended to further define the boundaries of the “urban core”.

LATE TESTIMONY



OFFICE OF ENVIRONMENTAL QUALITY CONTROL

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SCOTT GLENN
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Testimony of
SCOTT GLENN, Director

before the
SENATE COMMITTEE ON HOUSING
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Thursday, February 2, 2017
2:45 PM
State Capitol, Conference Room 225

in consideration of
SENATE BILL 577
RELATING TO AFFORDABLE HOUSING

Chair Espero, Vice Chair Harimoto, and Members of the Senate Committee on Housing, and
Chair Gabbard, Vice Chair Riviere, and Members of the Senate Committee on Agriculture and
Environment,

The Office of Environmental Quality Control (OEQC) administers Hawai'i Revised Statutes (HRS) Chapter 343, Environmental Impact Statements (EIS). The purpose of the EIS law is to "establish a system of environmental review which ensures that environmental concerns are given appropriate consideration in decision making along with economic and technical considerations" (HRS §343-1). Additionally, the OEQC serves "the Governor in an advisory capacity on all matters relating to environmental quality control," as directed in HRS §341-3.

SB 577 proposes to exempt the development of any affordable housing projects within the urban core of Honolulu and pursuant to HRS Chapter 201H from the requirements of HRS Chapter 343; the bill further defines the "urban core" as the areas of O'ahu encompassing Kaka'ako, downtown Honolulu and the financial district, Kalihi, and Ala Moana.

OEQC has concerns that a blanket exception to the applicability of the environmental review process may create long-term issues that affect the wellbeing of those future residents of affordable housing projects and the communities in which they are placed.

Section 1.

- Section 1 of the bill states that in the urban core, impacts to the environment may be inconsequential due to existing development and population.
- HRS §343-2 defines an "environmental impact statement" as an informational document that discloses potential effects "on economic welfare, social welfare, and cultural practices of the community and State, effects of the economic activities arising from the proposed action," and means to minimize any adverse effects. This is in

recognition that changes in the urban fabric of a community can cause impacts which can be minimized through timely disclosure and consideration.

- There is the possibility that impacts from a proposed affordable housing project may, in fact, be consequential or even significant, to existing development and population, and that minimizing these effects could be achieved through environmental review.
- As presently structured, HRS Chapter 343 provides for agencies, such as Hawai'i Housing Finance and Development Corporation, to make a finding of no significant impact based upon the facts of the situation, and not require the preparation of a lengthy environmental impact statement.
- Further, section 1 of the bill states that privately financed projects may not trigger environmental review, but publicly financed projects do trigger the environmental review process because they "propose the use of state or county lands or funds," per HRS §343-5(a)(1).
- OEQC acknowledges that this creates tradeoffs for landowners and developers who wish to develop affordable housing projects. They either chose to seek government funding and land to subsidize their development costs but undergo environmental review (amongst other requirements) or they go entirely privately financed, in which case they may pay higher financing costs, but may not have to go through environmental review.
- However, it is unclear what the effect of the environmental review process is on development decisions because project proponents do not disclose EIS costs, finance carrying costs, or their profits from undertaking these projects. Generally, though, an EIS is a fraction of an overall project budget and is a compilation of information into one document that usually must be generated anyway in developing a project.

Section 2.

- OEQC is concerned that the boundaries of the areas identified in the definition of "urban core" are unclear. Are these transit-oriented development boundaries, City and County of Honolulu Neighborhood Board boundaries, or another geographic delineator?
- For Kalihi in particular, the mauka area into Kalihi Valley and along Kalihi Stream are near conservation and/or non-developed riparian or mountainous areas, and as mentioned in Section 1 of the bill, care must be taken to ensure any impact from development will not cause significant harm to natural resources and the environment.

The need for affordable housing is a shared concern among all of Hawai'i's residents. Providing a means for our families and young adults to stay in Hawai'i is a priority. Young adults move away to the mainland because they cannot afford places to live that fit within the budget of a new career. Hawai'i has extraordinary rates of homelessness and multigenerational families living together because often even rent is out of reach of many families, much less a down payment and a mortgage.

As stated by the Legislature when it enacted the environmental review process,

"the quality of the environment is as important to the welfare of the people of Hawaii as is the economy of the State. The legislature further finds that the determination of an

optimum balance between economic development and environmental quality deserves the most thoughtful consideration, and that the maintenance of the optimum quality of the environment deserves the most intensive care” (HRS §341-1).

Further, the Legislature found that

“the quality of humanity's environment is critical to humanity's wellbeing, that humanity's activities have broad and profound effects upon the interrelations of all components of the environment, and that an environmental review process will integrate the review of environmental concerns with existing planning processes of the State and counties and alert decision makers to significant environmental effects which may result from the implementation of certain actions. The legislature further finds that the process of reviewing environmental effects is desirable because environmental consciousness is enhanced, cooperation and coordination are encouraged, and public participation during the review process benefits all parties involved and society as a whole” (HRS §343-1).

The environmental review process established in HRS Chapter 343 is the recognized means of assessing and mitigating the impacts of development, including affordable housing, upon Hawai'i's environment, including its urban environment, especially in the wise distribution of limited government resources.

OEQC is available and ready to assist in identifying solutions that can address the challenges of developing affordable housing and affording the public important information disclosure.

Thank you for the opportunity to testify on this measure.



February 2, 2017

Senator Will Espero, Chair
Senator Breene Harimoto, Vice Chair
Senate Committee on Housing

Senator Mike Gabbard, Chair
Senator Gil Riviere, Vice Chair
Senate Committee on Agriculture and Environment

Comments and Support of SB 577, Relating to Affordable Housing

Thursday, February 2, 2017, 2:45 p.m., in Conference Room 225

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. LURF's mission 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.

Collectively, LURF's members have extensive experience in the preparation of Environmental Assessments and Environmental Impact Statements (EA/EIS). In a precious Senate committee, under Chair Gabbard, LURF previously served on the Senate's Working Group on Chapter 343 Environmental Impact Statements, and recommended specific environmental legislation which was eventually adopted by the State legislature in subsequent years.

LURF **strongly supports SB 577** which proposes that the development of any affordable housing project within an urban core and pursuant to Chapter 201H, Hawaii Revised Statutes (HRS) shall be exempt from Chapter 343, HRS, relating to Environmental Impact Statements.

LURF's Position. LURF **supports SB 577**, based on, among other things, the following:

- **Fairness based on the facts and reasonableness.** An identical, privately financed housing projects including affordable housing on private lands within the urban core, are not required to complete an EA/EIS.

- if successive exempt actions in the same place, over time, could have a cumulative significant impact that will not be addressed or mitigated by government agencies; agency;
- Historic properties;
- And other environmentally sensitive areas.

Given the above, LURF respectfully urges the Senate Committees to **favorably consider, amend and pass** this measure.

Thank you for the opportunity to present testimony regarding this measure, and LURF remains willing to work with the stakeholders, interested parties, and legislators on issue relating to this bill.

BIA-HAWAII

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THE VOICE OF THE CONSTRUCTION INDUSTRY

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LATE TESTIMONY

Testimony to the Senate Committees on Housing, and Agriculture and Environment

Thursday, February 2, 2017

2:45 p.m.

Conference Room 225

RE: SENATE BILL NO. 577, RELATING TO AFFORDABLE HOUSING

Chairs Espero and Gabbard, and Vice Chairs Harimoto and Riviere, and members of the committees:

My name is Gladys Quinto-Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-HAWAII is in support of S.B. 577 which would exempt the development of affordable housing projects developed in the urban core by the Hawaii housing finance and development corporation from environmental assessment and environmental impact statement requirements.

The Bill finds that one of the triggers for environmental assessments and environmental impact statements is the use of state or county funds for the project, while privately financed projects do not similarly trigger environmental assessments or environmental impact statements. To streamline the process within the urban core to build affordable housing projects, affordable housing projects developed by the Hawaii housing finance and development corporation within the urban core that receive money from the state should be exempted from further environmental review.

We would suggest removing the term and definition "urban core" and replace it as follows:

(b) The development of any affordable housing project ~~within an urban core~~ on existing urban lands, and pursuant to chapter 201H shall be exempt from this chapter.

~~"Urban core" means the areas of Oahu encompassing Kakaako, downtown Honolulu and the financial district, Kalihi, and Ala Moana."~~

Limiting the exemption to only one segment of the transit corridor restricts the ability to develop more 201H projects along the entire transit corridor. Also, the amended language would allow for similar exemptions for 201H projects on the neighbor islands.

BIA Hawaii is in support S.B. 577 with our proposed amendments.

We appreciate the opportunity to provide our input on this important legislation.

LATE TESTIMONY

- February 1, 2017

Senate Committee on Housing
Senator Will Espero, Chair
Senator Breene Harimoto, Vice Chair

Senate Committee on Agriculture and Environment
Senator Mike Gabbard, Chair
Senator Gil Riviere, Vice Chair

RE: S.B. No. 577, Relating to Affordable Housing

Honorable Chair's Will Espero and Mike Gabbard:

Stanford Carr Development appreciates this opportunity to express our strong support for SB 577, which aims to exempt affordable housing projects developed in the urban core from the environmental assessment and environmental impact statement requirements.

As the law currently stands, developers of workforce rental housing are unfairly burdened by the need to undergo the EA/EIS process when compared to those projects financed privately.

Although informative, the EA/EIS processes require substantial amounts of time and money. The commission and completion of an EA is required prior to applying for Chapter 201H exemption or seeking financing via one of the numerous tools offered and administered by the Hawaii Housing Finance and Development Corporation. However, the completion of an EA does not guarantee a project will obtain either of the above.

To illustrate the resources expended on completing an EA, provided below are examples from two of our workforce rental housing projects located in Kakaako.

Completed in 2014, Halekauwila Place is a 204-unit workforce rental project consisting of studios, one, two, and three-bedroom apartments reserved to families earning at or below 60 percent of the area median income (AMI). The EA process took over a year to complete and cost the project over \$250,000. This does not account for the internal administrative resources we expended. HHFDC issued a Finding of No Significant Impact (FONSI).

Slated for development later this year, Hale Kewalo will consist of 128-units comprised of one, two, and three-bedroom units reserved for families earning between 30 and 60 percent AMI. The commission and completion of the Hale Kewalo's EA added 9 months to the project's development schedule and cost approximately \$175,000. Again, HHFDC issued a FONSI for the project.


On both of the above projects, we were fortunate to acquire the project site at no cost. However, developers of projects who must purchase the land upon which they intend to build are subject to even greater costs. Hypothetically speaking, if a developer were required to purchase a parcel of land for \$10,000,000 at 5% compounded daily, they would be subject to daily interest carry costs to the tune of approximately \$1,250.

Passage of SB 577 would not preclude developers of workforce rental housing from undergoing the historic preservation review per Chapter 6E-42 of the Hawaii Revised Statutes (HRS) as overseen by the State Historic Preservation Division of the Department of Land and Natural Resources.

Furthermore, passage of SB 577 would not exempt developers from the rules and regulations of the City and County of Honolulu's Department of Planning and Permitting requiring a majority of developers to commission a traffic impact analysis report.

In closing, the current requirement for workforce rental projects being constructed within the urban core to provide an EA is redundant and superfluous. Passage of SB 577 would expedite the development of workforce rental housing and alleviate developers from expending substantial sums of money to comply with Chapter 343, HRS.

Respectfully submitted,

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a series of loops and a long horizontal stroke.

Christopher Oakes, Project Manager
Stanford Carr Development



SIERRA CLUB OF HAWAI'I
MĀLAMA I KA HONUA. Cherish the Earth.

JOINT SENATE COMMITTEE ON HOUSING, AGRICULTURE AND ENVIRONMENT

Thursday, February 2, 2017 2:45 PM Conference Room 225

In OPPOSITION SB 577 Relating to Affordable Housing

Aloha Chairman Espero and Chairman Gabbard, and members of the Joint Senate Housing and Agriculture and Environment Committee,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i strongly opposes SB 577, which seeks to eliminate the environmental review process requirements for developers constructing affordable housing anywhere in the urban core between Ala Moana and Kalihi.

The fundamental purpose of HRS Chapter 343, governing environmental review, is to “ensure that environmental concerns are given appropriate consideration in decision making along with economic and technical considerations”.¹ Developments within the urban core have the potential to significantly affect traffic, walkability of communities, air and water quality, public access to resources, historical sites, and sites of cultural relevance to Native Hawaiian people. The environmental review system ensures a fair disclosure process by which agencies can assess a proposal using state lands or funds based on its compliance with the goals and expectations of state laws and regulations. Most importantly, it ensures a mechanism for establishing proper mitigation measures for projects that have a significant detrimental affect on the quality of the human environment.

The secondary purpose of the Chapter 343 environmental review process emphasizes welcoming public participation:

“The legislature further finds that the process of reviewing environmental effects is desirable because environmental consciousness is enhanced, cooperation and coordination are encouraged, and public participation during the review process benefits all parties involved and society as a whole.”²

Chapter 343 codifies the importance of citizen participation by requiring that public hearings be conducted in each county prior to the adoption of any final rule.³ Public participation is a key

¹ HRS § 343-1

² HRS § 343-1

³ HRS § 343-6(b)

LATE TESTIMONY



Chamber of Commerce HAWAII

The Voice of Business

LATE TESTIMONY

**Testimony to the Senate Committee on Housing and
the Senate Committee on Agriculture & Environment
Thursday, February 2, 2017 at 2:45 P.M.
Conference Room 225, State Capitol**

RE: SENATE BILL 577 RELATING TO AFFORDABLE HOUSING

Chairs Espero and Gabbard, Vice Chairs Harimoto and Riviere, and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") **strongly supports** SB 577, which exempts the development of affordable housing projects developed in the urban core by the Hawaii housing finance and development corporation from environmental assessment and environmental impact statement requirements.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The bill finds that one of the triggers for environmental assessments and environmental impact statements is the use of state or county funds for the project, while privately financed projects do not similarly trigger environmental assessments or environmental impact statements. To streamline the process within the urban core to build affordable housing projects, affordable housing projects developed by the Hawaii housing finance and development corporation within the urban core that receive money from the state should be exempted from further environmental review.

We would suggest removing the term and definition "urban core" and replace it as follows:

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Chamber *of* Commerce HAWAII
The Voice of Business

The Chamber is in support S.B. 577 with our proposed amendments. Thank you for the opportunity to testify.