



OFFICE OF PLANNING STATE OF HAWAII

DAVID Y. IGE
GOVERNOR

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Statement of
MARY ALICE EVANS
Director, Office of Planning
before the
HOUSE COMMITTEE ON FINANCE
Thursday, March 2, 2021
12:00 PM
Via Videoconference

in consideration of
HB 497, HD 1
RELATING TO COUNTY ZONING ORDINANCES.

Chair Luke, Vice Chair Cullen, and Members of the House Committee on Finance:

The Office of Planning (OP) offers **comments** on HB 497, HD 1 which amends the county zoning law of Hawaii Revised Statutes (HRS) § 46-4, to prohibit the counties from requiring, as part of a county zoning ordinance or county rule, a developer with more than one residential unit to obtain the approval of any State agency unless that approval is expressly required by law, and to void any county zoning ordinance or rule in conflict with this subsection to any such development. HD 1 changes the effective date of the bill.

We understand that this bill is intended to address the deep economic downturn caused by COVID-19, providing additional economic and housing opportunities for the State's residents by addressing inefficiencies in the permitting and regulatory process between the counties and various State agencies. However, we believe that this measure may not result in much streamlining or cost savings, as there are very few, if any, State agency development approvals that are not required by law. There may also be unintended consequences resulting from frustration with safeguards adopted and established to protect public health, safety, and Hawaii's unique cultural and natural resources.

Thank you for this opportunity to testify on this measure.


OFFICE OF HAWAIIAN AFFAIRS
‘Ōlelo Hō‘ike ‘Aha Kau Kānāwai
Legislative Testimony

HB497 HD1
RELATING TO COUNTY ZONING
Ke Kōmike Hale o ka ‘Oihana ‘Imi Kālā
House Committee on Finance

Malaki 2, 2021

12:00 p.m.

Lumi 308

The Office of Hawaiian Affairs (OHA) **OPPOSES** HB497 HD1, which would prohibit the counties from enacting any zoning ordinance or rule requiring residential developers to obtain the approval of any state agency on a project, unless such approval is expressly required under state law. **This measure would prohibit counties from establishing safeguards and procedures, such as consultation requirements with OHA and other state agencies, that can serve and has served to avoid or minimize unnecessary and irreparable impacts to Native Hawaiian cultural sites and resources.**

Requiring state agency review or approval is a valuable approach utilized by the counties to foster county-state partnerships and empower local governance, including and particularly with respect to protecting what may be uniquely valued natural and cultural resources. For example, the Maui County Planning Commission has included OHA review of archaeological preservation or monitoring plans among its re-zoning conditions, in cases where such review would be beneficial to the county. Such conditions, which are not expressly required under state law, would be prohibited under this measure. **This measure would directly overrule our counties’ ability to enact ordinances or rules that rely on state agency resources and expertise, to help ensure that private actions align with community and state plans, and to ensure that their natural and cultural resources are appropriately protected.**

In OHA’s experience, state agency participation in county zoning processes can improve their outcomes without decreasing efficiency. **As described above, OHA has regularly assisted counties in ensuring the accuracy and integrity of their project determinations by identifying undocumented cultural sites and correcting substantial technical and reporting errors regarding sites of importance to Native Hawaiians.** In nearly all of these cases, administrative permitting processes worked efficiently and effectively, with any project delays resulting largely from contractor error and poor planning. “Streamlining” county permitting processes to prohibit counties from requiring OHA review of archaeological preservation and monitoring plans may only prevent OHA from assisting them with its resources and expertise, and may endanger irreplaceable Native Hawaiian cultural and historical sites and burials without any benefit to project timelines or efficiency.

For the above reasons, OHA urges the Committee to **HOLD** HB497 HD1. Mahalo for the opportunity to testify on this measure.

Council Chair
Alice L. Lee

Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Gabe Johnson
Kelly Takaya King
Michael J. Molina
Tamara Paltin
Shane M. Sinenci
Yuki Lei K. Sugimura



Director of Council Services
Traci N. T. Fujita, Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

March 1, 2021

TO: Honorable Chair Sylvia Luke, Vice Chair Ty J.K. Cullen and Members of the House Committee on Finance.

FROM: Tamara Paltin
West Maui District Councilmember

DATE: March 1, 2021

SUBJECT: **IN OPPOSITION OF HB 497 HD1, RELATING TO COUNTY ZONING ORDINANCES.**

Thank you for the opportunity to testify in this important measure.

The purpose of this measure is to prohibit the counties from requiring, as part of a zoning ordinance or county rule, a developer with more than one residential unit to obtain the approval of any state agency unless that approval is expressly required by law.

I OPPOSE this measure for the following reasons:

1. It is aimed at making it impossible for any county zoning condition to require a state agency to review documents for accuracy of completion or to ask a state agency to require a mitigation that it did not already propose.
2. It would also preclude the County Council from insisting on rezoning conditions that required extra pedestrian overpasses on state roads or other mitigations that HDOT did not ask for.
3. This bill would eliminate the County Councils jurisdiction to ask that proper conditions be put into place as part of up zoning parcels.

For the foregoing reasons, I OPPOSE this measure.



SIERRA CLUB OF HAWAI'I

HOUSE COMMITTEE ON FINANCE

March 2, 2021

12:00PM

Room 308

In **OPPOSITION** of **HB497**: Relating to County Zoning Ordinances

Aloha Chair Luke, Vice Chair Cullen, and members of the Finance Committee,

On behalf of our 27,000 members and supporters, the Sierra Club of Hawai'i **opposes HB497**, which proposes to prohibit counties from requiring developers to follow state law.

This bill adds this exception to county zoning authority:

(g) No county zoning ordinance or county rule shall require the developer of a development with more than one residential unit to obtain the approval of any state agency unless that approval is expressly required under state law. Any county zoning ordinance or county rule in conflict with this subsection shall be void with respect to any such development.

This would mean that any existing county ordinance that requires compliance with state law as a prerequisite for county approval for any housing development of one or more units -- so all housing developments -- is void. This is outrageous.

Counties are uniquely positioned to know the real needs of their communities and the real impacts of proposed projects in their areas. Counties can use this knowledge to facilitate actual compliance with state laws designed to ensure good planning for our communities. Why undermine this collaborative approach to project development and oversight?

County councils are also obligated to comply with community plans. These plans are holistic in nature and focused on ensuring communities are smartly planned and developed well. Because counties have limited jurisdictions, compliance with community plans require cooperation with state agencies. Imposing conditions on development projects via the county zoning process is one way to put the state's expertise and authority to use for communities directly affected by a project.

We urge this committee to defer this bill. Thank you very much for this opportunity to provide testimony in **opposition to HB497**.

HB-497-HD-1

Submitted on: 2/28/2021 1:47:42 PM

Testimony for FIN on 3/2/2021 12:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Debra Greene	Maui Meadows Neighborhood Association (MMNA)	Oppose	No

Comments:

Aloha Chair, Vice Chair and Committee Members,

My name is Debra Greene, president of the Maui Meadows Neighborhood Association (MMNA) and I'm writing on behalf of the MMNA to ask you to oppose HB497, which would prohibit counties from enacting any zoning ordinance or rule requiring residential developers to obtain the approval of any state agency, unless such approval was required by law.

County representatives are in the best position to know the real needs of the communities they serve. Each island is unique and those differences can best be honored by county involvement in planning.

Further, county representatives are obligated to follow their community plans. When elected county representatives impose conditions of zoning that need the cooperation of state agencies, they do so as duly elected representative of the public. State agencies are supposed to work for the public good and should cooperate with the local county conditions of zoning.

Currently we are experiencing issues on Maui that negatively impact MMNA residents involving the Hawaii Department of Transportation (HDOT) making agreements with developers that bypass community involvement and violate community plans. This allows hundreds of units to be approved for development before the highway has capacity.

This bill would give HDOT a free hand to require very little in traffic improvements, and require it only in a timeframe that was convenient for developers, while making it illegal for County Councils to ask that proper conditions be put into place as part of zoning parcels. This would lead to very bad planning that would negatively impact communities.

Finally, the bill would make it impossible for any county zoning condition to require a state agency to review documents for accuracy of completion, or to ask a state agency

to require a mitigation that it did not already propose. This would create a planning nightmare with potentially detrimental effects.

For these reasons and more, please oppose HB497.

Mahalo for the opportunity to testify.

Sandra-Ann Y.H. Wong

Attorney at Law, a Law Corporation

1050 Bishop Street, #514

Honolulu, Hawaii 96813

**TESTIMONY ON HB497, HD1
HOUSE COMMITTEE ON FINANCE
TUESDAY, MARCH 2, 2021 at NOON**

Aloha Chair Luke, Vice Chair Cullen, and Members of the Committee:

Thank you for the opportunity to provide testimony in support of HB 497, HD1 on behalf of Dowling Company, Inc.

One of the greatest contributors to the cost of housing in Hawai'i is the draconian maze and duplication of permitting and regulatory processes between the State and County. Streamlining the process would accelerate the time needed to secure those permits. Thus, reduce carrying costs, including financing costs, and in the long run lower the cost of housing.

Providing more housing opportunities is good for the State because it adds to the housing inventory and creates much needed jobs.

Thank you for the opportunity to testify in support of this measure.



March 1, 2021

Finance Committee
Hawai'i State Legislature
Tuesday, March 2, 2021 at 12:00 p.m.
House Conference Room 308

RE: Testimony in support of HB497 HD1

Dear Chair Luke, Vice Chair Cullen, and members of the Committee,

My name is Jason Fujimoto, President and CEO of HPM Building Supply. Thank you for the opportunity to submit testimony in support of HB497 HD1 calling to prohibit the Counties from requiring, as part of a county zoning ordinance or county rule, a developer with more than one residential unit to obtain the approval of any state agency unless that approval is expressly required by law.

HPM is proud to be in its centennial year and we have a long tradition in Hawaii of serving our community and creating long term partnerships with our customers. Today we are 100% employee-owned and our guiding philosophy is to help our customers and community build better and live better by enhancing homes, improving lives, and transforming communities. In general, we are supportive of legislation that is balanced, good for everyone involved, and supports a thriving local community. Affordable and sufficient housing is an essential ingredient to this.

Passing this bill would streamline the approval process for much needed housing projects while still ensuring compliance with required laws. The bill would contribute to the efficiency of building projects, lower costs, and benefit the construction industry and our community by providing jobs and housing inventory. With the negative effect of COVID-19, this will support much needed stimulation in our fragile economy.

HB497 HD1 would make a positive and meaningful impact for the State, County, businesses, and all people of Hawaii. Mahalo for your time and attention.

Sincerely,

Jason Fujimoto
President & CEO



HB-497-HD-1

Submitted on: 3/1/2021 11:57:45 AM

Testimony for FIN on 3/2/2021 12:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Bridget Hammerquist	Friends of Maha'ulepu	Oppose	No

Comments:

Aloha Chair Luke, Vice Chair Cullen, and members of the Finance Committee,

Please accept this testimony in strong opposition to HB1015 HD2 on behalf of the more than 1000 members of Friends of Maha'ulepu. On Kauai, KIUC teams up with Grove Farm to divert nearly 40 million gallons daily from 2 State land streams (Wai'ale'ale and Waikoko) and at least 7 other streams in the East Wailua watershed that happen to flow over Grove Farm Property. Many of these streams are diverted multiple times, with diversions that are designed to take 100% of the stream base flow (all the water when it's not raining). The Department of Land and Natural Resources continues to shirk their duty to protect one of our most precious public trust resources, water. In 1989 the State required all land owners to register all diversions being use or on their property. Clearly then, the State recognized that the water flowing in a stream in a public trust resource, wheterh on State or private land. Land owners were asked to identify the location of streams and the number of diversions in use, the purpose for the water diverted and were asked to submit photographs and information on the diversions. Since then, the State Department of Land and Natural Resources and adopted a policy of administering diversions on State lands only. HRS 171-58 clearly applies to all surface and ground water in the State. The Hawaii State Constitution Article XI Section I and Section VII mandates that every State agency protect water, with obvious recognition of water, or most precious public trust resource. Since 1990 the State of Hawaii, DLNR, has regulated only 13 ground and surface water diversion permits. In all the years that have elapsed since 1990 DLNR has never inforced the provisions of 171-58. This proposed amendment of that statute not only fails to protect the resource but it makes it easier for big corporations to strong arm the State and continue taking large volumes of water with little or no accoutablity and a serous departure from the environmental scurtiny intended for water, the environmental impact statement (EIS). That standard should only be lowered to compliance with HRS 343 for small users whose water consumption is minimal compared to the sustainability of the source. Pleas require the authors of the bill to keep in place the safeguards that HRS 171-58 currently mandates for large commercial users, most of home, like Grove Farm and KIUC, remove the water, diverting it many miles and never returning it to its stream of origin.. At a minimum, any effort to amend HRS 171-58 should prevent large corporations like Grove Farm who diverts millions of gallons daily and has never applied to the State for a permit to continue diverting our State water without any permit from DLNR long after sugar cultivation has ended and there is no longer an agricultural need for the quantities being

diverted. Without permits, Grove Farm and other take ground and surface water without any regulation at all.

- **Allow small users and those practicing traditional and customary rights to skip the public auction process** and allow for direct negotiations, while large scale corporate diverters continue in public auction where they are more fit financially.
- **Administers licenses for no more than 10 years.** Given the uncertainty of climate change, the Board should revisit license agreements more frequently to adapt to the current circumstances.
- **Protects our public trust resources.** Streams should not be allowed to be diverted dry and protections should be put in place to prevent this, including setting a maximum amount of water allowed to be diverted through stream monitoring and studies, as well as diverters disclosing how much water they are diverting.

Our water will only become more valuable with the passage of time. Please take the steps necessary to make DLNR do their job and protect this precious resource.

Mahalo nui loa,

Bridget Hammerquist, President
Friends of Maha`ulepu, a 501(c)(3)
Kia`i Wai o Wai`ale`ale, Co-founder
[Donate](#)
friendsofmahaulepu.org
kiaiwaiialeale@gmail.com
(808)742-1037

LATE

HB-497-HD-1

Submitted on: 3/1/2021 12:00:02 PM

Testimony for FIN on 3/2/2021 12:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Moran	Kihei Community Assoc (KCA)	Oppose	No

Comments:

Aloha Chair ;

Mike Moran, President of the Kihei Community Association testifying is **strong opposition** for our Community Association on Maui. It is already too difficult in our County as it is. We all are aware that the "neighborislands" are not Oahu

Mahalo



**HOUSE COMMITTEE ON FINANCE
State Capitol, Via Videoconference
415 South Beretania Street
12:00 PM**

March 2, 2021

RE: HB 497 HD1, RELATING TO COUNTY ZONING ORDINANCES

Chair Luke, Vice Chair Cullen, and members of the committee:

My name is Beau Nobmann, 2021 President 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. Our members build the communities we all call home.

BIA-Hawaii is in strong support of HB 497, which would prohibit the counties from requiring developers obtain approval of a state agency unless it is expressly required by law.

This bill would help developers build housing quicker and cheaper, by removing some of the common obstacles that they face. Time and uncertainty are two of the biggest costs borne by developers. Streamlining the zoning process would help this problem.

The state of Hawaii is in a dire housing crisis which has been further exacerbated by the ongoing pandemic situation. The building industry is one of the very few economic drivers in the state throughout the COVID pandemic, and giving them more opportunity to provide our residents with affordable housing would have a positive impact on our community.

We appreciate the opportunity to express our views on HB 497.

HB-497-HD-1

Submitted on: 3/1/2021 8:03:29 AM

Testimony for FIN on 3/2/2021 12:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Fern Anuenue Holland	Individual	Oppose	No

Comments:

Aloha Representatives,

My 'ohana and I are in strong opposition to this bill. Please defer HB497. Mahalo,

Fern

HB-497-HD-1

Submitted on: 3/1/2021 8:01:57 PM

Testimony for FIN on 3/2/2021 12:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Chuck Flaherty	Individual	Oppose	No

Comments:

Aloha Madame Chair and members of the Finance Committee,

I am opposed to HB497 HD1.

This proposed legislation is not in the public interest and is certainly not in the interests of county residents.

While the counties are required to follow state law, the counties must have the ability to use all existing state laws, rules, and regulations in order to assure the public interest and public trust can be protected and preserved.

This proposed legislation in no way benefits the public interest or public trust and therefore the members of this committee should be examining what special interests are behind its introduction and advocacy.

HB497 HD1 should be at the very least deferred in order so these special interests can be identified to the public.

Mahalo,

Chuck Flaherty

Captain Cook, HI

HB-497-HD-1

Submitted on: 3/2/2021 7:37:29 AM

Testimony for FIN on 3/2/2021 12:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mark A. Koppel	Individual	Oppose	No

Comments:

TESTIMONY IN STRONG OPPOSITION TO HB497

Mark Koppel

Umauma, HI

This is a transparently obvious movement to subvert the will of the people by Big Mainland Business to develop our State with unwanted, irresponsible, cultural and environmental damaging projects.

IT IS OUTRAGEOUS AND MUST NOT PASS. We will remember anyone who votes for this.

Mahalo!!!!

I AGREE WITH ALL OF THE FOLLOWING TESTIMONY:

This bill adds this exception to county zoning authority:

(g) No county zoning ordinance or county rule shall require the developer of a development with more than one residential unit to obtain the approval of any state agency unless that approval is expressly required under state law. Any county zoning ordinance or county rule in conflict with this subsection shall be void with respect to any such development.

This would mean that any existing county ordinance that requires compliance with state law as a prerequisite for county approval for any housing development of one or more units -- so all housing developments -- is void. This is outrageous.

Counties are uniquely positioned to know the real needs of their communities and the real impacts of proposed projects in their areas. Counties can use this knowledge to facilitate actual compliance with state laws designed to ensure good planning for our

communities. Why undermine this collaborative approach to project development and oversight?

County councils are also obligated to comply with community plans. These plans are holistic in nature and focused on ensuring communities are smartly planned and developed well. Because counties have limited jurisdictions, compliance with community plans require cooperation with state agencies. Imposing conditions on development projects via the county zoning process is one way to put the state's expertise and authority to use for communities directly affected by a project.

We urge this committee to defer this bill. Thank you very much for this opportunity to provide testimony in **opposition to HB497.**

HB-497-HD-1

Submitted on: 3/2/2021 8:39:12 AM

Testimony for FIN on 3/2/2021 12:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Koohan Paik	Individual	Oppose	No

Comments:

This bill adds this exception to county zoning authority:

(g) No county zoning ordinance or county rule shall require the developer of a development with more than one residential unit to obtain the approval of any state agency unless that approval is expressly required under state law. Any county zoning ordinance or county rule in conflict with this subsection shall be void with respect to any such development.

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We urge this committee to defer this bill. Thank you very much for this opportunity to provide testimony in **opposition to HB497.**