

**JOSH GREEN, M.D.**  
GOVERNOR | KE KIA'ĀINA

**SYLVIA LUKE**  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA**

P.O. BOX 621  
HONOLULU, HAWAII 96809

**DAWN N.S. CHANG**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

**LAURA H.E. KAAKUA**  
FIRST DEPUTY

**M. KALEO MANUEL**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES  
ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**Testimony of  
DAWN N. S. CHANG  
Chairperson**

**Before the House Committee on  
JUDICIARY & HAWAIIAN AFFAIRS**

**Tuesday, February 14, 2023  
2:00 PM**

**State Capitol, Conference Room 325 Via Videoconference**

**In consideration of  
HOUSE BILL 202, HOUSE DRAFT 1  
RELATING TO HISTORIC PRESERVATION REVIEWS**

House Bill 202, House Draft 1 proposes to amend Sections 6E-8, 6E-10, & 6E-42, Hawaii Revised Statutes (HRS), to require the Department of Land and Natural Resources (Department) to contract with third-party reviewers for affordable housing projects, if the Department is unable to complete its reviews in sixty days, provided that the consultant meets the Department's professional qualifications and experience, will be make their recommendation to the Department in thirty days, and that the contract is approved by the appropriate Island Burial Council. **The Department offers the following comments and proposed amendments.**

The Department recognizes the need to support affordable housing units in Hawai'i and acknowledges that even though review of such projects is one of our highest priorities, reviews of such submissions are not always completed as promptly as project proponents might like or within the time provided by the administrative rules. The Department acknowledges and appreciates the support of the Legislature by creating 14 new positions in the Department's State Historic Preservation Division (SHPD) during the last session. The Department believes once filled, these positions will provide SHPD with the capacity to reduce the time it takes to complete Chapter 6E, HRS, of most projects, including affordable housing projects.

The Department believes that there may be a legal question as to whether the Island Burial Councils have the legal capacity to approve government contracts for third-party review. In addition, the Island Burial Councils meet only once a month, and at times, have not had quorum to meet, thus this delay would be contrary to the intention of the proposed legislation. Further, the requirement that the consultant meet the Department's professional qualification and experience does require technical expertise in archaeology,

architectural history, and historic preservation and the relevant state and federal regulations governing review of such projects.

The Department does believe that consultation with the Island Burial Council is appropriate and recommends that this measure be amended House Bill 202, House Draft 1 SECTION 2 at page 5, lines 4-7 as follows:

~~The department shall obtain the approval of appropriate island burial council prior to retaining the services of the third party consultant.~~

The Department recommends the identical amending language in House Bill 202, House Draft 1 SECTION 3 at page 8, lines 15-18.

The Department recommends the identical amending language in House Bill 202, House Draft 1 SECTION 4 at page 12, lines 5-7.

The Department does not have funds to contract with third-party consultants and this mandate is not included in the Department's budget. While we believe this authorization would facilitate timely review of affordable housing projects, funds would need to be appropriated or a mechanism where the project proponent would pay for the third-party consultant selected and approved by the Department. Furthermore, it is difficult to determine in advance the cost estimate for a third-party consultant contract, thus, Department cannot advise the Committee on a meaningful estimate of the costs of such third-party contracts.

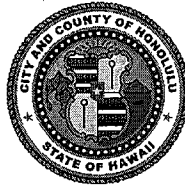
With the incorporation of the Department's proposed amendments, the Department would support this measure.

Mahalo for the opportunity to testify on this measure.

DEPARTMENT OF DESIGN AND CONSTRUCTION  
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 11<sup>TH</sup> FLOOR  
HONOLULU, HAWAII 96813  
Phone: (808) 768-8480 • Fax: (808) 768-4567  
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RICK BLANGIARDI  
MAYOR



HAKU MILLES, P.E.  
DIRECTOR DESIGNATE

BRYAN GALLAGHER, P.E.  
DEPUTY DIRECTOR

February 13, 2023

The Honorable David A. Tarnas, Chair  
The Honorable Gregg Takayama, Vice-Chair  
and Members of the Committee on Judiciary and Hawaiian Affairs  
The House  
State Capitol, Conference Room 325  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Tarnas, Vice-Chair Takayama, and Members:

SUBJECT: House Bill No. 202 HD1  
Relating to Historic Preservation Reviews

The Department of Design and Construction (DDC) respectfully **supports** House Bill No. 202 HD1. The bill proposes to:

promote more timely reviews of projects by authorizing the department of land and natural resources, through the state historic preservation division and subject to approval from the appropriate island burial council, to contract its review of proposed state projects, projects on privately owned historic property, and projects affecting historic properties to third-party consultants if the department will not be able to complete its review within sixty days.

DDC has experienced significant project delays due to the review process and issuance of permits by the Department of Land and Natural Resources, through the State Historic Preservation Division (Department).


The allowance for a third-party consultant, with the educational and experience standards as well as the qualifications required to assist the Department, to provide recommendations to the Department within thirty days of the filing of the request with the Department, would be more expedient and cost-effective, particularly for routine and/or time-sensitive projects.

The Honorable David A. Tarnas, Chair  
The Honorable Gregg Takayama, Vice-Chair  
and Members of the Committee on Judiciary and Hawaiian Affairs  
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Based on the above considerations, DDC respectfully **supports** House Bill No. 202 HD1.

Thank you for the opportunity to express our **support** for this bill.

Sincerely,

  
~~For~~ Haku Milles, P.E., LEEP AP  
Director Designate



**Kevin Schmid**

Oceanic Companies, Inc.  
Chairman

**Canaan Shon**

Hawaii Geophysical  
Services, LLC  
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Integrated Security  
Technologies, Inc.  
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**Ralph Sakauye**

Bora, Inc.

**Paulina Baker**

Redhammer LLC

**Jarrett Walters**

Hawaiian Building  
Maintenance



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Ayko Group, LLC

February 14, 2023

To: Committee on Judiciary and Hawaiian Affairs  
Rep. David A. Tarnas, Chair  
Rep. Gregg Takayama, Vice Chair

From: Malcolm Barcarse, Jr. ABC Hawaii Board Legislative Committee Chair

Associated Builders and Contractors Hawaii Chapter Testimony in **SUPPORT** of HB202  
HD1

Chair Tarnas, Vice Chair Takayama and members of the Committee:

Thank you for the opportunity to testify, my name is Malcolm Barcarse, Jr. I am the Chair of the Legislative Committee of Associated Builders and Contractors, Hawaii Chapter which represents over 150 member companies in the Construction Industry in Hawaii. We also have a State Approved Trade Apprenticeship Program in the trades of Carpentry, Electrical, Painting, Plumbing and Roofing. Our national organization has over 21,000 members across 69 chapters.

There are many factors behind the delay in obtaining building permits and ABC Hawaii is in favor of measures that will help streamline the process. We feel that the State Historic Preservation Division can benefit from the help of third-party support in assisting with the backlog of Historic Preservation Reviews which is only going to get bigger as more buildings fall within their jurisdiction. Therefore, we ask that this committee advance this bill.

Thank you for the opportunity to testify.



COMMERCIAL REAL ESTATE  
DEVELOPMENT ASSOCIATION  
HAWAII CHAPTER

February 13, 2023

Representative David Tarnas, Chair  
Representative Gregg Takayama, Vice Chair  
Committee on Judiciary and Hawaiian Affairs

RE: **HB 202 HD1 - Relating to Historic Preservation Reviews**  
**Hearing date: February 14, 2023 at 2:00PM**

Aloha Chair Ichiyama, Vice Chair Takayama and members of the committee,

Mahalo for the opportunity to submit testimony on behalf of NAIOP Hawaii in **SUPPORT** on HB 202 HD1. NAIOP Hawaii is the local chapter of the nation's leading organization for office, industrial, retail, residential and mixed-use real estate. NAIOP Hawaii has over 200 members in the State including local developers, owners, investors, asset managers, lenders and other professionals.

HB 202 HD1 is intended to promote more timely reviews of projects by authorizing the Department of Land and Natural Resources (DLNR) State Historic Preservation Division (SHPD) to contract its review of the proposed state projects, projects on privately owned historic property, and projects affecting historic properties to third-party consultants if the department will not be able to complete its review within sixty days.

Primarily, HB 202 HD1 seeks to address the significant delays that permit applicants face in obtaining county permits that require review under section 6E-42, Hawaii Revised Statutes. Currently, the backlog of historic reviews is encumbering permits throughout the state. Consequently, much needed housing, economic development, and critical infrastructure projects often face significant delays in permit approvals and project implementation. NAIOP understands the great importance that these reviews hold in preservation of Hawaii's historic and cultural sites, however, a balance needs to be found to increase efficiency while maintaining the quality of reviews.

NAIOP Hawaii appreciates the work of the previous committee, however, we would recommend amending the language back to make the contracting of these third-party reviews mandatory. Allowing for the contracting of review to be discretionary would not be consistent with the intent of the measure to expedite reviews. The SHPD should be required to contract with third parties if the department is unable to process reviews in a timely manner within 60 days.

Accordingly, we strongly support the utilization of qualified third-party consultants to review projects in order to meet the intended statutorily required 90-day review timeline. Currently, SHPD is facing challenges in completing the overwhelming number of reviews

due to capacity issues in the department. Allowing third party consultants to conduct reviews will significantly reduce the current caseload while expediting future reviews that allow for the development of much needed housing and critical infrastructure.

Moreover, permitting third-party reviews offers the benefit of having market demand drive the number of reviewers entering the space. The more demand, the more qualified reviewers will take on the liability and responsibility of these historic preservation project reviews. This will allow market forces to help solve this issue

Additionally, the language of HB 202 requires third party consultants to meet qualifications for preservation professionals pursuant to rules adopted by SHPD. This ensures that reviews will be conducted by qualified consultants to meet the high standards of review. NAIOP Hawaii supports this provision of the measure which seeks to balance the interests of all stakeholders by expediting quality reviews.

To further the intent of the measure to expedite reviews, we recommend an amendment to remove the burial council approval language in each respective section. Currently, the measure requires the proper burial council approve of the select qualified third-party consultant. This process is duplicative and unnecessary due to SHPD's ability to set the qualifications that a third-party consultant must meet in order to conduct the reviews. Essentially, the public interests will be protected as the most qualified individuals will be selected to uphold the high standards of review conducted by SHPD. This amendment preserves the protection of cultural sites while furthering the intent of the measure to expedite reviews.

Furthermore, NAIOP Hawaii recommends that SHPD be required to assign the reviews to a third party consultant no later than 60 days after submission of the an application to SHPD if the department determines it will be unable to complete its review within 60 days. Specifically, language in the newly amended Sections 6E-8(d), 6E-10(e), and 6E-42(c) to state the following:

"The department shall retain a third-party consultant to conduct the review described under subsection (a) no later than sixty days after application submittal if, after an initial evaluation, the department determines that:"

This amendment is consistent with the intent of the bill to expedite reviews and alleviate the overwhelming volume of work SHPD currently faces.

NAIOP greatly supports the intent of the measure to identify a solution to the significant backlog of much needed projects awaiting SHPD review. Ultimately, HB 202 addresses a critical issue in the development of more affordable housing and critical infrastructure for Hawaii residents. NAIOP appreciates the Legislature's commitment to collaborating on this issue and look forward to working together.

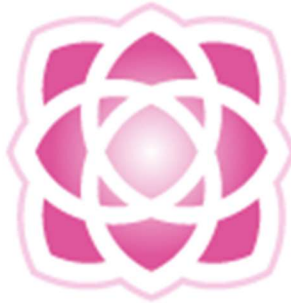
Representative David Tarnas, Chair  
Representative Gregg Takayama, Vice Chair  
Committee on Judiciary and Hawaiian Affairs  
February 13, 2023  
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Mahalo for your consideration,

A handwritten signature in black ink, appearing to read "Camp", written in a cursive style.

Jennifer Camp, President  
NAIOP Hawaii





# MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

HEARING BEFORE THE HOUSE COMMITTEE ON  
JUDICIARY AND HAWAIIAN AFFAIRS  
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 325  
TUESDAY, FEBRUARY 14, 2023 AT 2:00 P.M.

To The Honorable David A. Tarnas, Chair  
The Honorable Gregg Takayama, Vice Chair  
Members of the committee on Judiciary and Hawaiian Affairs

### COMMENTING ON HB202 RELATING TO HISTORIC PRESERVATION REVIEWS

The Maui Chamber of Commerce **supports HB202** which authorizes the department of land and natural resources, through the state historic preservation division (SHPD) and subject to approval from the appropriate island burial council, to contract its review of proposed state projects, projects on privately owned historic property, and projects affecting historic properties to third-party consultants if the department will not be able to complete its review within sixty days.

The Chamber knows that there are many factors behind the delay in obtaining building permits and is in favor of measures that will help streamline the process. We feel that the SHPD can benefit from the help of third-party support in assisting with the backlog of Historic Preservation Reviews which is only going to get bigger as more buildings fall within their jurisdiction.

Mahalo for the opportunity to offer testimony in **SUPPORT of HB202**.

Sincerely,

Pamela Tumpap  
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

**HB-202-HD-1**

Submitted on: 2/13/2023 2:52:17 PM

Testimony for JHA on 2/14/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dara Yatsushiro	Individual	Comments	Written Testimony Only

Comments:

I support the *Historic Hawaii Foundation's* position as stated on January 31, 2023 with their recommendation to **DEFER** due to their comments & concerns over HB202.