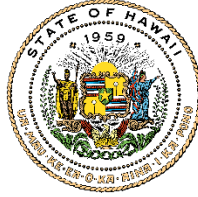


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

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
WATER & LAND

Thursday, February 2, 2023
9:30 AM

State Capitol, Conference Room 430 & Videoconference

In consideration of
HOUSE BILL 1385
RELATING TO PUBLIC LANDS

House Bill 1385 proposes to authorize the designation of areas or regions of public lands classified as commercial and industrial; hotel, apartment, and motel; or resort, and the establishment and implementation of guidelines for the redevelopment of the areas or regions that will: (1) modernize the policies for the management of public lands in the designated area; (2) establish a plan for the designated area, including district-wide improvements, that is coordinated with state and county land use and planning policies; and (3) implement asset and property management concepts that can optimize income from the properties and evolve in response to changing principles of property administration. The bill additionally proposes to designate the public lands on the Waiakea Peninsula on the island of Hawai'i as the Waiakea peninsula redevelopment district and appropriate funds. **The Department of Land and Natural Resources (Department) opposes this measure.**

The Department has engaged in significant renewal efforts over the past several years of the two signature Banyan Drive hotels and a signature restaurant, and has been actively working on a new disposition for another hotel property, as well as planning for the demolition for the former Uncle Billy's Hilo Bay Hotel (Uncle Billy's). The Department does not believe establishing a redevelopment district will accelerate this ongoing process.

One of the main concerns the Department has with this bill is that it directs 50% the revenues from the Department's leases on Banyan Drive to the Waiakea Peninsula Redevelopment District

Revolving Fund (apparently after deduction of the 20% required by law¹ to fund the annual \$21.5 million annual payment to the Office of Hawaiian Affairs), leaving the Department with only 30% of the revenues from the leases in the proposed district. As a result, the Department must continue to perform all the management responsibilities of the leases yet receive only about one-third of the revenues from them. This does not match income to expenditures.

Rather, all the Department's lease management responsibilities should be tied to the revenue recipient under any scenario, including all costs of lease management, including, without limitation, appraisal, mediation and arbitration costs, administrative time and costs related to billing, monitoring lease compliance, including posting of insurance, performance bonds, rent collections and inspections, as well as vacant property homeless occupant management, compliance management, capital demolition and construction costs.

Under Chapter 171, Hawai'i Revised Statutes (HRS), the Board of Land and Natural Resources (Board) is authorized to issue leases up to a maximum term of 65 years. As the preamble to this bill indicates, at the end of their lease terms, lessees have little incentive to invest in improvements to their leasehold properties because the leases cannot be extended further. Rather, new leases of the lands must be issued by a competitive process. As a result, the properties frequently fall into disrepair.

The measure authorizes the planning committee to renew or renegotiate any lease in connection with any project contained in the redevelopment plan for the Waiakea Peninsula Redevelopment District on terms and conditions the committee deems advisable. The bill provides that the redevelopment plan is subject to the review and approval of the Board. The planning committee appears not to have authority to issue new leases itself. In the Waiakea Peninsula area, there are currently four leases: (1) General Lease No. S-3961 to Hilo-Hawaiian Associates, Inc.; (2) General Lease No. S-4786 to Hilo Trading Company Ltd.; (3) General Lease No. S-5018 to Bayview Banyan Corp.; and (4) General Lease No. S-5844 to WHR LLC. There are two additional properties on month-to-month revocable permits and one former lease site that is now unencumbered. The planning committee would apparently not have authority to approve new dispositions for the unencumbered property or the lands under revocable permit.

The unencumbered property and the properties under RP were previously under long-term leases entered into in the 1940s that have expired in recent years. Some of these leases were used for hotels, and significant hotel improvements were constructed on the premises during the lease term. In some cases, the leasehold improvements have exceeded their useful life and require costly demolition in the range of \$8 - \$13.5 million for a single property. However, the lease forms used for these leases did not require the lessee to remove the improvements at the expiration of the lease term. As a result, the demolition cost falls on the State unless new lessees are willing to rehabilitate and operate the properties under new long-term leases.

During the 2022 legislative session, the Department received an appropriation from the Department's Special Land and Development Fund (SLDF) in the amount of \$13.5 million for the demolition of Uncle Billy's. The SLDF does not have sufficient funds to complete the demolition and cover the other expenses of the Department paid for out of the SLDF. However,

¹ Act 178, Session Laws of Hawai'i 2006 and Executive Order No. 06-06.

the Department has committed \$1.5 million of SLDF funds for the planning and permitting of the demolition and will seek to change the method of funding for the remainder of the demolition costs from SLDF to general funds this Session.

On September 1, 2022, the Department issued a Request for Qualifications/Request for Proposals (RFQ/RFP) for the renovation of the former Country Club Condominium Hotel property (Country Club) under a new long-term lease, and staff is preparing a recommendation to the Board to select the proposal ranked highest by an evaluation committee appointed by the Chairperson.

House Bill 1385 seeks to promote the redevelopment of public lands in industrial, hotel, apartment, motel, and resort use. The redevelopment districts would have their own nine-member planning committees to act as the policy-making body for the district. In addition to preparing redevelopment plans for the district, the planning committee would have authority to renew or renegotiate any lease in connection with any project contained in the redevelopment plan for the district. The planning committee would also be empowered to reduce or waive the lease rental on any lease of public land for any project in the district that requires substantial improvements, provided that the reduction or waiver shall not exceed one year. The measure would further authorize the planning committee to enter into development agreements with a developer for any project contained in a development plan, and specifies the contents of the development plan.

The bill proposes to designate the Waiakea Peninsula Redevelopment District in Hilo as a redevelopment district under the measure to facilitate its redevelopment. The Waiakea Peninsula area constitutes the Department's primary hotel/resort landholdings on Hawai'i Island. The Department has been working with the private sector lessees and permittees to move Banyan Drive buildings on State land into redevelopment in phases. Key state parcels in which the Department is engaged in redevelopment of Banyan Drive include:

- 1) Hilo Hawaiian Hotel: ground lease from the Department; renovated.
- 2) Hilo Bay Café (former Nihon Restaurant site): ground lease from the Department; renovated.
- 3) Grand Naniloa Hotel: ground lease from the Department; \$20 million in renovations completed in 2018.
- 4) Golf Course: part of Grand Naniloa ground lease from the Department; requires participation of lessee for redevelopment.
- 5) Uncle Billy's: closed in 2017 by the Board; formerly under Revocable Permit (RP) to Tower Development, Inc. (TDI), who is an affiliate of the lessee of the Grand Naniloa (RP ended in August 2020); In March 2018, the Department published a request for interest (RFI) regarding the potential demolition of existing structures and reconstruction of a hotel on the former Hilo Bay Hotel site. One response (from TDI) was received with a proposal to substantially demolish and reconstruct a branded hotel. TDI additionally proposed to contribute \$1.5 million toward demolition costs (projected by the Department's consultants to exceed \$13.5 million total in 2023 dollars). At its meeting of December 13, 2019, the Board authorized the publication of an RFQ/RFP for the demolition, renovation, or partial demolition and partial renovation of the hotel under a new long-term lease. Although TDI submitted a proposal in response to the RFQ/RFP, it

was ultimately not recommended for selection to the Board for reasons detailed in the Board action of June 9, 2022, Item D-7. The Department has committed \$1.5 million of SLDF funds appropriated in the 2022 Session for the planning and permitting of the demolition of the structures on this property.

- 6) Country Club: under RP. At its meeting of December 13, 2019, the Board authorized the publication of an RFQ/RFP for renovation of the hotel under a new long-term lease. TDI was tentatively selected by an evaluation committee, but the selection was ultimately not recommended to the Board for the reasons detailed in the Board action of June 9, 2022, Item D-8. At its meeting of July 22, 2022, under Item D-5, the Board approved a second RFQ/RFP that was published on September 1, 2022, with statements of qualification due on October 7, 2022, and proposals due on November 18, 2022. Two proposals were timely received under this RFQ/RFP and staff is preparing a recommendation to the Board to approve the proposal ranked highest by the evaluation committee.
- 7) Reed's Bay Resort Hotel: under RP; has some remaining useful life.

Since 2014, the Department has spent more than \$525,000 from the SLDF on consultant services and studies dedicated to the public lands at Banyan Drive.

- A planning consultant prepared a market study on tourism to determine if the area could support a new hotel, as well as studies on sea level rise, the viability of master leasing multiple parcels in the area, and the remaining useful life of existing structures on expiring lease premises.
- An architectural consultant conducted a much more detailed architectural and engineering study on whether existing improvements on the expired lease premises should be demolished or rehabilitated.
- A planning consultant completed a study on the cost of securing the necessary permitting for demolishing the improvements on the expired leases and completing the demolition.
- Additionally, the Department procured an engineering consultant to assist in reviewing the renovation plans for the Grand Naniloa Hotel.
- Apart from the fees for consultant services, a significant amount of staff time has been invested in planning for the area including attendance at the Banyan Drive Hawai'i Redevelopment Agency (BDHRA) meetings, and in preparing the RFQs/RFPs for Uncle Billy's and Country Club and reviewing the submitted proposals.

PART III of the measure proposes amendments to various provisions of Chapter 171, HRS, that appear to be designed to repeal the current prohibition against options to extend leases and to delete the maximum lease term of 65 years under present law. These amendments would seem to give the Board authority to issue leases for any duration and with any number of renewal options. The Department does not believe that the proposed amendments are necessary or even in the best interests of the State. Three of the properties on Banyan Drive that could benefit most from redevelopment are under RPs, not leases. Accordingly, lease options to extend and lease

renewals will not help move RP properties to long-term leases needed for redevelopment. Rather, the Department needs to follow a competitive process as it is doing for the Country Club property.

The Department requests that this measure be held. The Department is confident that the RFQ/RFP process for new lease of Country Club and the demolition of Uncle Billy's will go a long way in rehabilitating the Banyan Drive area.

In addition, the Department identifies the following issues with respect to this measure:

The bill creates an additional layer of bureaucracy in government

The bill provides that the Legislature may designate an area of public lands as a redevelopment district. Upon such designation, a nine-member planning committee is to be established as a policy-making board for the district. The planning committee, who serves without compensation, then appoints an administrator for the district who is to be compensated. The planning committee may hire additional staff as well.

With respect to Banyan Drive in Hilo, the bill would create a new layer of redevelopment process in addition to the task force and the BDHRA: the Waiakea Peninsula Redevelopment District and a planning committee to serve as a policy-making board for the district. In addition to the administrator, the planning committee would likely require a secretary and perhaps more staff for proper administration, as well as office equipment, supplies, and travel expenses for the nine committee members. There will be added expense for the committee to comply with Chapter 92, HRS, sunshine law requirements. Further, the committee's actions may be subject to contested case hearings and appeals. A conservative budget for such a planning committee, including payroll, fringe benefits, hearing officer fees, and other costs and expenses, would be \$500,000 annually. The Department notes bill includes general fund appropriation to the Waiakea Peninsula Redevelopment District revolving fund in the amount of \$500,000 for Fiscal Year 2023-2024, but only authorizes the expenditure of \$300,000 for the same period. As a result, the functions of the planning committee for the Waiakea Peninsula Redevelopment District appear to be underfunded.

The bill proposes an unnecessary, bureaucratic addition to the Department's operations. As explained above, the Department has been working with the BDHRA regarding plans for the Banyan Drive area. In fact, two BDHRA staff presently serve on the evaluation committee reviewing proposals submitted under the Department's RFQ/RFP for Country Club. Additionally, as mentioned above, the Department has procured consultants for Banyan Drive to analyze market trends, and explore options for redevelopment and rehabilitation of specific parcels or areas.

There are practical problems with the bill

As noted above, the measure allows the Legislature to designate redevelopment districts on public lands. As defined in Section 171-2, HRS, public lands exclude lands used as roads and streets. While the State owns some contiguous parcels in the Banyan Drive area of Hilo, it does not own or manage the roads, which often include utility lines and other infrastructure. Accordingly, to the extent the bill seeks to improve infrastructure in a given area, a redevelopment district designated by the Legislature would likely not include important

infrastructure components. Rather, the district would be confined to the particular parcels under the Department's management.

The Department relies on the revenues from leases of public lands to fulfill its fiduciary duties

The bill proposes to deposit 50% of the revenues, income and receipts of the Department from the public lands in the Waiakea Peninsula Redevelopment District into the District's revolving fund. These lands are ceded and the Office of Hawaiian Affairs is currently receiving 20% of the revenues toward the \$21.5 million it receives annually (beginning in 2023). This bill does not relieve the Department of the lease management duties. Therefore, if this measure were to pass and become law, the Department would be left in the very unfortunate situation of having to manage all of those leases (bill, collect, inspect, procure and pay for professionals for rental and reopening valuations) but receive nominal revenue in return.

The Department and the Board are responsible for managing approximately 1.3 million acres of public lands comprising sensitive natural, cultural and recreational resources. The Department's responsibilities include managing and maintaining the State's coastal lands and waters, water resources, conservation and forestry lands, historical sites, small boat harbors, parks, and recreational facilities; performing public safety duties (e.g., flood and rockfall prevention); issuing and managing leases of public lands (agriculture, pasture, commercial, industrial, and resort leases); maintaining unencumbered public lands; and enforcing the Department's rules/regulations.

To properly perform these fiduciary duties, the Board determined that the Department should utilize a portion of the lands it manages to generate revenues to support the Department's operations and management of public lands/programs. Annual lease revenues currently support the SLDF, with revenues coming primarily from leases for commercial, industrial, resort, geothermal and other renewable energy projects.

The SLDF is a critical and increasingly important funding source for various divisions within the Department to deal with emergency response to natural catastrophes such as fire, rockfall, flood or earthquake and hazard investigation and mitigation. The SLDF also is critical for staff support of various programs and funding conservation projects on all state lands. It has also become an important source of State match for federally funded endangered species and invasive species initiatives that otherwise would not go forward. The Department opposes transferring funds from the SLDF to planning committees formed under this measure for redevelopment purposes.

The authority to construct, improve, renovate and revitalize areas within the counties is already authorized under Section 46-80.5 and Chapter 53, HRS.

The bill seeks to redevelop the infrastructure and facilities within designated redevelopment districts. However, the bill is unnecessary because there are already existing laws and ordinances that provide the process and financing to make such improvements, as evidenced by the County of Hawai'i's creation of BDHRA under Chapter 53, HRS. The measure but goes too far in delegating authority to such an agency to negotiate and enter into a development agreement with a developer for commercial, industrial, hotel, apartment, motel or resort uses on public lands within a redevelopment area. Moreover, the measure does not explain how a Chapter 53 agency would coordinate with the Waiakea Peninsula Redevelopment District

planning committee in formulating a development plan for the area. This could lead to conflicting development goals being established by the planning committee and Chapter 53 for the same lands. In dealings between the Department and BDHRA to date, it has been understood that BDHRA's role would be to develop a plan for the area and possibly assist in streamlining the County zoning and entitlement process for any redevelopment.

Section 46-80.5, HRS, authorizes the various counties to enact ordinances to create special improvement districts for the purpose of providing and financing such improvements, services, and facilities within the special improvement district as the applicable county council determines necessary or desirable to restore or promote business activity in the special improvement district. This is one of the same purposes sought by this bill.

Under the authority of Section 46-80.5, HRS, the County of Hawai'i, as an example, enacted Chapter 12 of the Hawai'i County Code, which authorizes the County to create improvement districts to construct new, or improve existing infrastructure and facilities, including roadways and utility infrastructure and improvements. It should also be noted that the responsibilities for maintaining such improvements within the proposed redevelopment districts are already vested with the County. Most, if not all, of the public roadways and utility infrastructure within any potentially designated district boundaries have been dedicated to the County.

Mahalo for the opportunity to comment on this measure.

JOSH GREEN, M.D.
GOVERNOR



LUIS P. SALAVERIA
DIRECTOR

SABRINA NASIR
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
Ka 'Oihana Mālama Mo'ohelu a Kālā
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

WRITTEN ONLY
TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON WATER & LAND
ON
HOUSE BILL NO. 1385

February 2, 2023
9:30 a.m.
Room 430 and Videoconference

RELATING TO PUBLIC LANDS

The Department of Budget and Finance (B&F) offers comments on this bill.

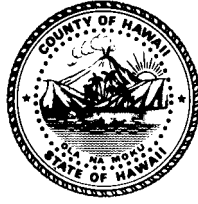
House Bill (H.B.) No. 1385: establishes the Waiakea Peninsula Redevelopment District (WPRD) for the redevelopment of public lands classified as commercial, industrial, resort, and hotel parcels on the island of Hawai'i; provides for redevelopment of the district; creates a nine-member planning committee for the district to provide policy direction and prepare a redevelopment plan; amends lease provisions; creates the WPRD Revolving Fund that would generate revenues through 50% of the income, revenues and receipts from the public lands in the redevelopment district, legislative appropriations, grants, gifts, and other funds; and appropriates \$500,000 in general funds for FY 24 for deposit into the revolving fund and \$300,000 in revolving funds for FY 24 and FY 25 for redevelopment of the Waiakea Peninsula District.

As a matter of general policy, B&F does not support the creation of any revolving fund which does not meet the requirements of Section 37-52.4, HRS. Revolving funds should: 1) serve a need as demonstrated by the purpose, scope of work and an

explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. In regards to H.B. No. 1385, it is difficult to determine whether the proposed source of revenues will be self-sustaining for the revolving fund that is created.

Thank you for your consideration of our comments.

Susan L.K. Lee Loy
Council Member
District 3



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HAWAI'I COUNTY COUNCIL

25 Aupuni Street, Hilo, Hawai'i 96720

February 2, 2023

The Honorable Representative Linda Ichiyama, Chair
The Honorable Representative Mahina Poepoe, Vice Chair

Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

Re: Support for HB 1385, relating to Public Lands

Aloha Chair Ichiyama and Vice Chair Poepoe,

Mahalo for the opportunity to support HB 1385, to authorize the designation of public lands on the Waiākea peninsula on the island of Hawai'i as the Waiākea peninsula redevelopment district.

As our premier tourism district in East Hawai'i, there is no reason for the area to be in the continued state of disrepair we see as we pass by. Our beloved Banyan Drive needs a focused, specialized master planning agency with the ability to resolve the existing and complex web of issues plaguing the area.

The existing system of management and planning along Banyan Drive has been unsuccessful. Therefore, I fully support this new approach outlined in this bill, so the area can get the attention it needs and deserves.

I am definitely looking forward to collaborating with you to direct these projects and funds in a meaningful way for all of our island citizens to realize an opportunity to live in a revitalized Hawai'i.

Again, please support this bill to assist our County in the redevelopment of public lands on the Waiākea peninsula.

Sincerely,

Susan "Sue" L.K. Lee Loy
Council Member, County of Hawai'i



HOUSE COMMITTEE ON WATER AND LAND
Thursday, February 2, 9:30 am, State Capitol Room 430 & Videoconference
HB 1385

Relating to Public Lands

TESTIMONY

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Ichiyama, Vic Chair Poepoe, and Committee Members:

The League of Women Voters of Hawaii opposes HB 1385.

It is simply, obviously wrong to encourage existing lessees of public lands to “play politics” to gain special unfair treatment. The Legislature should reject all proposals to establish different boards, criteria, or procedures for redevelopment or lease of public lands in different parts of the State

The League supports public planning for redevelopment of public lands and uniform, fair procedures for the BLNR to negotiate development agreements or award long-term commercial leases on public lands. We take the same position concerning redevelopment and lease renewals on public lands throughout the State. We oppose statutory creation of unaccountable “committees” of political appointees, who may have a conflict of interest, with authority to negotiate non-bid development agreements or leases for specific areas of State property. And we oppose legislative authorization of such a “committee” for the proposed Waiakea peninsula redevelopment district.

Thank you for the opportunity to submit testimony.



February 2, 2023

Committee: House Committee on Water and Land
Bill Number: HB 1385, Relating to Water and Land
Hearing Date and Time: February 2, 2023 at 9:30am
Re: Testimony of HPM Building Supply in Support

Dear Chair Ichiyama, Vice Chair Poepoe, and Committee Members:

I would like to submit this letter and testimony written in support of HB 1385, Relating to the Water and Land. HB 1385 designates the public lands on the Waiakea peninsula on the island of Hawaii as the Waiakea peninsula redevelopment district and appropriates funds.

HPM Building Supply is a 101-year-old company that has been helping Hawaii build better since its founding in 1921. In my role as President and CEO of HPM Building Supply, I lead our company's 17 locations and facilities with over 500 employees on all major Hawaiian Islands. HPM has been operating on Hawaii Island for 101 years and views the island as our "home base".

This bill would help with driving the revitalization of East Hawaii as many properties in the Waiakea peninsula are in poor shape, disrepair or obsolete. This area was developed many years ago and proper redevelopment will benefit businesses and the community of East Hawaii.

Thank you for the opportunity to provide testimony in support on HB 1385. I strongly encourage your support and passage of this measure.

Sincerely,

Jason Fujimoto
President & CEO



HB-1385

Submitted on: 1/31/2023 5:08:27 PM

Testimony for WAL on 2/2/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
James McCully	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Ichiyama and WAL Committee

Please SUPPORT HB1385.

The East Hawaii Community has long suffered from the lost opportunities that have occurred due to poor land management practices. Authorities that allow for "Home Rule", or at least active community involvement, are inherently more responsive than a remote bureaucracy that is distracted and/or disinterested in the immediacy of the problems we face.

Our Waieka Peninsula, or Banyan Drive, is the vast majority of Resort zoned and appropriate property in East Hawaii, and it is public lands. The Kanoelehua Industrial area is the "muscle" of our business community, and is composed predominately of public land leases that have stymied investment and precluded redevelopment.

Please consider the advantages of HB1385 in engaging the community by transferring these economic leases of Urban lands to a governance model that is both active and proactive. We have suffered long enough and so much opportunity has been lost for over 3 generations of both business(es) and tourism.

Mahalo for your SUPPORT of HB1385

James McCully