

JOSH GREEN, M.D.
GOVERNOR



DENISE ISERI-MATSUBARA
EXECUTIVE DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION

IN REPLY PLEASE REFER TO:

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Statement of
DENISE ISERI-MATSUBARA
Hawaii Housing Finance and Development Corporation
Before the

HOUSE COMMITTEE ON JUDICIARY

February 23, 2023 at 2:00 p.m.
State Capitol, Room 325

In consideration of
H.B. 676 HD1
RELATING TO DISTRICT BOUNDARY AMENDMENTS.

HHFDC **strongly supports** H.B. 676 HD1, which authorizes the appropriate county land use decision-making authority to determine district boundary amendments involving land areas over fifteen acres, except lands that are designated as important agricultural land or lands where the soil is classified by the land study bureau's detailed land classification as overall (master) productivity class A or B if the county has adopted an ordinance that meets certain requirements.

Last fall, HHFDC and the Hawaii Public Housing Authority convened the working group established under Act 305, also known as Yes In My Backyard (YIMBY), to explore ways to reduce zoning, regulatory, and statutory barriers to affordable housing development.

Currently, applicants for land use changes of 15 acres or less apply directly to the counties instead of the Land Use Commission. There was a strong desire by several members of the YIMBY working group to give the counties greater authority to process state land use district boundary amendments to reduce the time and costs of affordable housing development.

Thank you for the opportunity to provide testimony.

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

MORRIS M. ATTA
Deputy to the Chairperson

State of Hawai'i
DEPARTMENT OF AGRICULTURE
KA 'OIHANA MAHI'AI
1428 South King Street
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TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

THURSDAY, FEBRUARY 23, 2023
ROOM 325
2:00 P.M.

HOUSE BILL NO. 676, HOUSE DRAFT 1
RELATING TO DISTRICT BOUNDARY AMENDMENTS

Chairperson Tarnas and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 676, HD1 that authorizes the appropriate county land use decision-making authority to determine district boundary amendments involving land areas 15 acres and greater if the county has adopted an ordinance that meets six requirements. The Department of Agriculture (Department) offers the comment that HD1 excludes from application for a district boundary amendment under the process proposed in this measure, agricultural lands that are designated as Important Agricultural Lands or land with Land Study Bureau Overall Productivity Ratings of "A" or "B". These aforementioned agricultural lands and their unfettered availability for agricultural production are important for the State and each of the counties in their efforts to achieve local food self-sufficiency.

Thank you for the opportunity to present our testimony.





LAND USE COMMISSION

Komikina Ho'ohana 'Āina

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
Ka 'Oihana Ho'omōhala Pā'oihana, 'Imi Wai wai a Ho'omāka'ika'i

JOSH GREEN, MD
GOVERNOR

DANIEL ORODENKER
EXECUTIVE OFFICER

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February 23, 2023

Statement of
Daniel E. Orodener
Executive Officer
State Land Use Commission

Before the
House Committee on Judiciary
and
Hawaiian Affairs

Thursday February 23, 2023
2:00 PM
State Capitol, Room 325

In consideration of
HB 676 HD1
RELATING TO DISTRICT BOUNDARY AMENDMENTS

Chair Tarnas; Vice Chair Takayama; and members of the House Committee on Judiciary and Hawaiian Affairs:

The Land Use Commission (LUC) provides the following comments on HB 676 HD1.

The LUC is not opposed, at this time, to this measure. However, we believe that Constitutional Due Process will require that any county procedure or rules adhere to and incorporate Hawai'i Revised Statutes ("HRS") Chapters 91 and 92 procedures and process to be consistent with past Hawai'i Supreme Court decisions with respect to district boundary reclassifications. In addition, consideration of the Public Trust doctrine will also apply to the counties in their decision-making process. We would therefore suggest that section (d) (6) of the proposed measure be changed to reflect the intent of this measure to adhere to due process requirements and a new section (7) be added.

(6) The procedure set forth in paragraph (1) incorporate due process requirements by requiring district boundary amendments be subject to contested case hearings that are in conformance with Chapters 91 And 92 HRS.

(7) The procedures set forth in paragraph (1) shall incorporate requirements that the Public Trust Doctrine, as set forth in various Supreme Court Decisions shall be adhered to in the granting or denial of any district boundary amendment.

The Commission also feels that the definition of affordable housing should be restricted to at or below 100% of median area incomes, consistent with Governor Green's initiatives on increasing local housing.

Thank you for the opportunity to testify on this matter.



HB676 HD1
RELATING TO DISTRICT BOUNDARY AMENDMENTS
House Committee on Judiciary & Hawaiian Affairs

February 23, 2023

2:00 PM

Room 325

The Office of Hawaiian Affairs (OHA) **STRONGLY OPPOSES HB 676 HD1**, which would allow Counties to amend State Land Use district boundaries and require ownership of the lands by the applicable County for 99 years. OHA's opposition to this measure stems from the fact that the State Land Use Commission (LUC) was created as a necessary 'check-and-balance' to ensuring that Hawai'i's lands were preserved and protected, while encouraging best uses, that the LUC is subject to Hawaii Revised Statutes (HRS) Chapter 91 Rulemaking Authority requirements and HRS Chapter 92 Sunshine Law requirements, and that the measure would allow for the County level reclassification of Conservation district lands.

Granting County level authority to oversee the delineation of Conservation lands and Agricultural land for the purposes of removing those lands from conservation and agricultural use in favor of housing without explicitly requiring the same or greater protections than what is specified under HRS Chapters 91 and 92 would permanently harm Native Hawaiian traditional practices, harm Hawai'i's food sustainability and security, and infringe upon all Hawai'i residents' rights to inform good governance, to contested cases which could cause harm to their persons and/or property, and their right to a clean and healthful environment.

I. Permanent Harm to Native Hawaiian Traditional and Cultural Practitioners

The LUC is obligated, by law, to review all petitions for the reclassification of land and to consider the impact of that reclassification, as a matter of State concern, on the “preservation or maintenance of important natural systems or habitats;” the “maintenance of valued cultural, historical, or natural resources;” and the “maintenance of other natural resources relevant to Hawai'i's economy, including agricultural resources.”¹ **This measure proposes to hand over the authority to reclassify all lands over 15 acres, with the exception of important agricultural lands (IALs), potentially resulting in their permanent alienation, to a county division that is not mandated to make these same considerations for the benefit of the State.**

II. Permanent Harm to Hawai'i's Food Sustainability.

Currently, “more than 80% of Hawai'i's food is imported”². The Hawai'i 2050 Sustainability Plan – Ten Year Measurement Update noted that “[t]he 2008 Hawaii 2050 Sustainability Plan

¹ HRS §205-17.

² City and County of Honolulu Office of Climate Change, Sustainability and Resiliency, *Food Systems*, <https://www.resilientoahu.org/food-systems> last accessed February 9, 2023.



HB676 HD1
RELATING TO DISTRICT BOUNDARY AMENDMENTS
House Committee on Judiciary & Hawaiian Affairs

measured that about 15% of the food consumed in Hawaii was grown locally, and 35% of the fruits and vegetables consumed were locally grown.³ The Office of Planning has previously stated that food production in Hawai'i is hampered in part by “pressure on the use of important agricultural land for higher value purposes.”⁴

While housing is a critical need in the State of Hawai'i, so too is reliable access to food. Nearly every district boundary amendment (DBA) reviewed by the LUC in recent history has been to convert Agricultural or Conservation District lands to Urban or Rural District lands. A total of 24 DBAs have been filed with the LUC from 2010 as of the beginning of February 2023. A review of each DBA application filed with the LUC from 2010 to present indicates that, of the 24 DBAs filed with the LUC in this 13-year period, a total of 17 DBAs have been granted with one DBA being denied on initial submission but granted upon reconsideration; 3 DBAs have been withdrawn by the petitioner, 1 other was terminated by the petitioner, and 3 DBAs appear to be currently in progress.⁵ Of these 24 DBA applications, the vast majority have been to redistrict Agricultural or Conservation lands to Urban, with several applications including a request for amendment to Rural, while only one request was to reclassify lands to Agricultural from Conservation.

It is clear from the numbers that there is immense pressure to reclassify Agricultural lands for housing. It is also clear from the numbers that for the sake of Hawai'i's food sustainability and security, the reclassification of Agricultural lands must only be done under the most stringent of reviews, taking into consideration not only the direct community level impacts of that reclassification, but what the impacts are at the community and state levels from the permanent removal of each acre of agricultural lands from agricultural production.

III. *Infringement upon Hawai'i Residents' Rights to Inform Good Governance and Contest Cases which Could Cause Them Harm.*

The LUC's decision-making process is subject to Chapter 91 rulemaking authority, which also requires the opportunity for contested cases.⁶ The purpose of these contested case hearings is to provide the LUC with the complete picture – containing all relevant information – for the LUC to make an informed and appropriate decision on any petition to reclassify those lands. Contested cases

³ State of Hawaii Office of Planning, *Hawaii 2050 Sustainability Plan – Ten Year Measurement Update (2008-2017)*, March 7, 2018, page 39.

⁴ State of Hawaii, Office of Planning, *Increased Food Security and Food Self-Sufficiency Strategy*, October 2012, page 16, available at http://files.hawaii.gov/dbedt/op/spb/INCREASED_FOOD_SECURITY_AND_FOOD_SELF_SUFFICIENCY_STRATEGY.pdf, last accessed February 9, 2023.

⁵ State of Hawaii Land Use Commission, *Completed Dockets: Boundary Amendments*, available at <https://luc.hawaii.gov/completed-dockets/boundary-amendments/>, last accessed 1/31/2023.

⁶ HRS §205-19.



HB676 HD1
RELATING TO DISTRICT BOUNDARY AMENDMENTS
House Committee on Judiciary & Hawaiian Affairs

are an exercisable right of individuals who will likely be impacted by the decision of the LUC. This specific process is not available at the county level and would deprive impacted residents from being able to contest the reclassification of lands based on the LUC's mandated criteria for review. The measure as written does not further explicitly require that residents will retain an opportunity for contested cases nor guarantee the resident's right to contest cases.

Accordingly, the measure does not explicitly require that County DBA processes comply with Chapter 92 Sunshine Law requirements. By not mandating that DBA petitions must be reviewed and approved by a public decision making body in a public hearing, this measure limits Hawaii residents' opportunities to inform good governance and participate in the decision-making process that is currently guaranteed under existing law before the LUC.

IV. County authority to reclassify Conservation lands is a violation of Hawaii residents' Environmental Rights under the Hawaii State Constitution.

Article XI, Section 9 of the Hawaii State Constitution states that "[e]ach person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including control of pollution and conservation, protection and enhancement of natural resources."⁷ The measure allows Counties to reclassify all lands over 15 acres within the Conservation District without guaranteeing the rights of the public to inform good governance. Conservation district lands exist to protect Hawai'i's natural beauty and to promote and enhance a clean and healthful environment. The Department of Land and Natural Resources (DLNR) is mandated to protect and maintain Conservation lands by closely regulating the permitted uses of Conservation district lands. By allowing the Counties to reclassify Conservation district lands, this would allow Counties to circumvent DLNR's mandate and put at risk all lands within the Conservation district.

The end result of the measure as written is that the LUC would only have the authority to oversee DBAs for IALs and for land areas in the Conservation District less than 15 acres in size. This would effectively put the existence of Conservation districts state-wide in the hands of the Counties to develop for affordable housing only as defined by the Counties themselves.

OHA appreciates the opportunity to provide testimony on this measure and urges the Committee to DEFER HB676 HD1. Mahalo nui loa.

⁷ Art. XI, Sec. 9, Haw. Stat. Con.

February 23, 2023

The Honorable David A. Tarnas, Chair

House Committee on Judiciary & Hawaiian Affairs
State Capitol, Conference Room 325 & Videoconference

RE: House Bill 676, HD1, Relating to District Boundary Amendments

HEARING: Thursday, February 23, 2023, at 2:00 p.m.

Aloha Chair Tarnas, Vice Chair Takayama, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i and its over 11,000 members. HAR **strongly supports** House Bill 676, HD1, which authorizes the appropriate county land use decision-making authority to determine district boundary amendments involving land areas over fifteen acres if the county has adopted an ordinance that meets certain requirements.

The Land Use Commission (LUC) is responsible for the classification of land parcels into urban, rural, agricultural and conservation districts. Additionally, the LUC acts on land use district boundary amendment petitions involving the reclassification of lands greater than 15 acres in agricultural, rural, and urban district areas, provided it is not in the conservation district or delineated as important agricultural lands. Currently, lands that are less than the 15 acres can be reclassified by the counties. Moreover, the county process involves opportunities for public input, which includes a presentation to the appropriate neighborhood board and public input at hearings before the appropriate county Planning Commission and County Council.

Hawai'i has been struggling with the issue of affordable housing for decades. Challenges range from land and infrastructure costs, financing, regulatory challenges, and permitting. According to the Department of Business Economic Development and Tourism's 2019 report on Housing Demand in Hawai'i, the state needs up to 45,497, housing units to meet demand in Hawai'i by 2030.¹ Ultimately, we have a housing supply problem, and this measure is a creative approach to address those challenges, by allowing the counties to reclassify lands over 15 acres that it owns and retains, provided that the land is used for affordable housing.

For the foregoing reasons, Hawai'i REALTORS® strongly supports this measure. Mahalo for the opportunity to testify.

¹ Department of Business, Economic Development & Tourism. (2019). *Hawaii Housing Demand 2020-2030*. <https://files.hawaii.gov/dbedt/economic/reports/housing-demand-2019.pdf>



SIERRA CLUB OF HAWAI'I

HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

February 23, 2023

2:00 PM

Conference Room 325

Offering COMMENTS on HB676 HD1: Relating to District Boundary Amendments

Aloha Chair Tarnas, Vice Chair Takayama, and Members of the Committee,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i offers the following **COMMENTS AND CONCERNS** regarding HB676 HD1, which may remove important protections for natural and cultural resources, Native Hawaiian traditional and customary practices, food security, employment opportunities, and other public interests in major land use district boundary amendments – without any commensurate benefit to our islands' affordable housing goals.

The Land Use Commission ("LUC") has long administered a critical, comprehensive process to identify and mitigate impacts to natural and cultural resources, Native Hawaiian traditional and customary rights, food security, employment opportunities, and other public interests that may be affected by the reclassification of conservation, rural, agricultural, and urban lands. The institutional knowledge garnered by the LUC over the decades also allows it to oversee such reclassification actions, and resolve and mitigate conflicts and concerns, in a highly efficient manner.

Moreover, unlike county land use decisionmaking, the quasi-judicial nature of the LUC district boundary amendment process also ensures that testimony and other evidence from experts, cultural practitioners, and other stakeholders are adequately and explicitly considered in district boundary amendment approvals, serving as a key mechanism for objectivity, transparency, and accountability.

Accordingly, the Sierra Club of Hawai'i has significant concerns regarding the proposed elimination of the LUC's role in evaluating and administering land use district boundary amendment petitions for county-owned lands. While the Sierra Club does appreciate the "guardrails" provided for under this measure, as detailed further below, the overall approach of removing the LUC's important functions will not help, and could potentially exacerbate, our housing challenges, while inviting conflict and unintended consequences for our environment and social fabric.

The Sierra Club does offer an alternative approach of promoting housing production through the expansion of the LUC's enforcement authorities, to ensure that promised housing units are actually developed as required under district boundary amendment approvals.

The LUC is Not a Barrier to Affordable Housing

The Sierra Club does appreciate the intent to promote the production of affordable housing, and this measure's inclusion of conditions to provide for county land ownership and to

acknowledge the need for due process¹ in the potentially vast land use changes that would be exempted from LUC review. **However, the Sierra Club notes that the LUC is not the apparent barrier to affordable housing production it is often purported to be.** The LUC is already required to approve or deny completed district boundary amendment applications within a year of receipt; for section 201H-38 “affordable housing” projects such as those described in HB676, this deadline is shortened to 45 days.² **According to LUC staff, throughout the 2010s, all major 201H affordable housing projects were approved by the LUC within the 45 day timeline.**³

County Administration of Large-Scale Land Use Changes May Inhibit Affordable Housing

Notably, by having county planning departments solely shoulder the responsibility of balancing the various cultural, environmental, food security, housing, job production, and other interests and rights of the public in large-scale and complex development proposals, this measure may only inhibit their capacity to process other permits and applications (such as for accessory dwelling units, new or retrofitted infrastructure, increased density for existing housing structures, variances, smaller land use changes, etc.) that may be critical to addressing our multi-faceted housing crisis.

Expansion of the LUC’s Enforcement Authorities Would Much More Effectively Promote Housing Production

The Sierra Club does believe that amendments to the LUC’s authorities could facilitate housing production, and encourages the Committee to explore the potential expansion of the LUC’s enforcement authority. Since 1980, more than 25% of all the housing authorized by the LUC has not yet been built, much of which was proposed to be affordable and workforce housing. On O’ahu alone, 23,000 units approved by the LUC have not been constructed, despite the assurances of district boundary amendment petitioners; this includes Ho’opili (DR Horton), Koa Ridge (Castle & Cooke), Gentry Waiawa (now owned by Kamehameha Schools), and Royal Kunia Phase II. **Providing the LUC with reasonably enhanced enforcement authority will help to encourage developer follow-through on commitments made during the district boundary amendment process, including with regards to the production of affordable housing units. Possible statutory language to accomplish this could read as follows:**

¹ It is unclear whether this measure seeks to ensure that county ordinances employ a quasi-judicial contested case hearing process in evaluating land use district boundary amendment petitions. The Sierra Club emphasizes the important role played by this quasi-judicial process in resolving conflicts and mitigating concerns. Long employed by the LUC, the quasi-judicial process specifically permits intervening parties to present expert and kama’āina evidence and testimony and cross-examine witnesses; the quasi-judicial process ensures that evidence on record is explicitly considered and used as the basis for transparent decisionmaking, in sharp contrast to the potentially arbitrary quasi-legislative process typically employed by the counties in their land use decisionmaking.

² See <https://luc.hawaii.gov/about/district-boundary-amendment-procedures/>.

³ A record of all LUC decisions organized by island is available online at: <http://luc.hawaii.gov/completed-dockets/decision-and-orders-for-boundary-amendments/>.

"§205- Penalty. (a) Any petitioner for an amendment to a district boundary that:

(1) Violates; or

(2) Neglects, fails to conform to, or comply with this chapter or any lawful order of the land use commission may be subject to a civil penalty not to exceed \$50,000 per day that the violation, neglect, or failure occurs, or reversion pursuant to section 205-4(g), but not both. The civil penalty shall be assessed by the land use commission after a hearing in accordance with chapter 91.

(b) Upon written application filed within fifteen days after service of an order imposing a civil penalty pursuant to this section, the land use commission may remit or mitigate the penalty upon terms that it deems proper.

(c) If any civil penalty imposed pursuant to this section is not paid within a time period as the land use commission may direct, the attorney general shall institute a civil action for recovery of the civil penalty in circuit court."

Accordingly, the Sierra Club of Hawai'i strongly cautions the Committee against pursuing a strategy that is unlikely to meet our affordable housing needs, and that may only result in significant and long-lasting consequences for our islands and communities. Mahalo nui for the opportunity to testify.

Kūpuna for the Mo'opuna
committed to the well-being of Hawai'i for the next generations to come
kupuna4moopuna@gmail.com



Committee on Judiciary & Hawaiian Affairs

Rep. David A. Tarnas, Chair

Rep. Gregg Takayama, Vice Chair

DATE: Thursday, February 23, 2023

TIME: 2:00 PM

PLACE: Room 325

HB 676, HD1 – RELATING TO DISTRICT BOUNDARY AMENDMENTS. - **OPPOSE**

Aloha Chair Tarnas, Vice Chair Takayama, and Members of the Committee -

Kūpuna for the Mo'opuna, a network of Hawaiian Homes Commission Act kūpuna farmers from Pana'ewa, Hawai'i, submit this testimony in **OPPOSITION to HB 676, HD1.**

HB 676, HD1 proposes to authorize counties to determine district boundary amendments, diminishing the authority of the State Land Use Commission (LUC). We oppose giving counties *more* land-decision authority, *more* land-decision “flexibility” and “innovation,” especially in light of **Hawai'i County's overdue General Plan** and **outdated South Hilo Community Development Plan of 1975 with no plans to update and enable in the County Code.** Zero confidence that HB 676 will benefit the people.

We support the State, through the Land Use Commission, continuing its constitutional duty to protect and preserve Hawai'i's natural resources and lands through responsible, uniform, transparent, objective land use management statewide. The LUC is equipped as a quasi-judicial entity to make decisions based on experts, cultural practitioners, and other stakeholders serving as key mechanisms for accountability and transparency. Important protections for our limited and valuable lands, especially as it relates to the State's Public Trust doctrine, must be safeguarded statewide through the State Land Use Commission.

Please do not pass HB 676, HD1.

Mahalo,
Kūpuna for the Mo'opuna
Pana'ewa, Hawai'i

Ua mau ke ea o ka 'āina i ka pono!



House Committee on Judiciary and Hawaiian Affairs

Hawai'i Alliance for Progressive Action (HAPA) Opposes: HB676

Thursday, February 23rd, 2023 at 2pm, Conference Room 325

Dear Chair Tarnas, Vice Chair Takayama, and Members of the committee,

HAPA OPPOSES HB676. There are a range of public interests that may be impacted, potentially for generations, by large scale land use changes. These interests - environmental, cultural, agricultural, socioeconomic, and others – must be carefully and transparently balanced, to address concerns, minimize unnecessary impacts, and minimize conflict and controversy. The Land Use Commission has decades of experience in doing just this, and should not have its ability to oversee land use district reclassifications limited or eliminated.

Even with the conditions proposed under this measure, this bill still poses the risk of unintended consequences and unnecessary impacts to a wide range of public interests by forcing county planning departments to take on the new burden of solely administering large-scale land use district reclassification petitions. This could even have the inadvertent effect of delaying affordable housing production, by reducing planning departments' capacity to administer other permits and applications needed for housing development and redevelopment.

Rather than reduce the LUC's authority, the committees may wish to consider providing it with enforcement tools that can better hold developers accountable when they fail to produce promised affordable and workforce housing units after their petitions for district boundary reclassifications are approved.

Accordingly, I respectfully urge the committees to HOLD HB676. Mahalo nui for your consideration.

Respectfully,

A handwritten signature in dark ink, appearing to read 'Anne Frederick', written in a cursive style.

Anne Frederick
Executive Director



Feb. 23, 2023

2 p.m.

Conference Room 325

Via Videoconference

To: House Committee on Judiciary & Hawaiian Affairs

Rep. David A. Tarnas, Chair

Rep. Gregg Takayama, Vice Chair

From: Grassroot Institute of Hawaii

Ted Kefalas, Director of Strategic Campaigns

HB676 HD1 — RELATING TO DISTRICT BOUNDARY AMENDMENTS

Comments Only

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on [HB676 HD1](#), which authorizes counties to determine district boundary amendments for certain county-owned land areas greater than 15 acres, provided the counties enact ordinances that meet criteria specified by the bill.

These criteria include that all the housing constructed on the lands be used for affordable housing as defined by county ordinance; that the counties retain ownership of the lands for at least 99 years; that the district boundary amendments be consistent with the county or community plans, if such plans exist; that the counties mitigate the impact the development might have on roads and schools; and that the ordinance incorporates due process into the procedure for determining DBAs pursuant to state law and the public trust doctrine.

This measure correctly diagnoses one of the causes of Hawaii's housing crisis: excessive red tape. The state Land Use Commission's authority over district boundary amendments greater than 15 acres often puts a roadblock in the way of new housing projects.

A Grassroot Institute of Hawaii report, "[Reform the Hawaii LUC to encourage more housing](#)," discussed how state policymakers could encourage the growth of housing by reexamining the role and purpose of the LUC. Expanding the counties' powers to reclassify land through the district boundary amendment process was just one of the report's suggestions.¹

HB676 is a welcome proposal, but too narrow in its focus. County-owned housing projects might benefit from this measure, but should it become law, private homebuilders would remain stuck in the same arduous DBA process.

This measure's potential could be better realized if it were amended to extend to privately held lands as well, not just those owned by the counties.

Additionally, HB676 is ambiguous about the point that the counties own and retain ownership of the lands for 99 years. This raises questions about whether the houses may be sold fee simple or through some other mechanism, such as a leasehold.

Moreover, the length of that term suggests that this situation— leasehold or fee simple — is intended to end at some point, creating further difficulties for the county and uncertainty around the property itself.

Ultimately, the ambiguity of the 99-year ownership provision, combined with the budgetary and administrative implications involved, creates an unnecessary limit on the power of the counties to use their lands to grow housing.

The fundamental requirement that the counties own the lands makes sense in the context of this bill, but we suggest that the 99-year ownership and maintenance requirements be removed, thereby allowing the counties to develop housing according to local needs.

The measure's limitation to affordable housing projects might also raise project costs for the counties. Known as "inclusionary zoning," this type of set-aside for affordable housing can make private projects financially unfeasible, leading to fewer housing units being constructed.

For example, a 2020 survey of 1,030 municipalities across the U.S. showed that only three had inclusionary zoning requirements higher than 75%: Santa Paula, Calif.; Oxnard, Calif.; and Aquinnah, Mass.² All three require 100% affordable housing, and all saw housing growth decline

¹ Jackson Mekanikeoe Grubbe, "[Reform the Hawaii LUC to encourage more housing](#)," Grassroot Institute of Hawaii, September 2020.

² "[Inclusionary Housing Database](#)," Grounded Solutions Network, 2020.

by more than 60% during the decade after the policy was adopted, compared to the previous decade.

Change in units built after 100% affordable housing requirement

Municipality	Policy adopted	Units built 2000-2009	Units built 2010-2019	% change
Santa Paula, Calif.	2012	350	118	-66.29%
Oxnard, Calif.	2012	6,948	2,642	-61.97%
Aquinnah, Mass	2016	82	27	-67.07%

Source: [“Selected Housing Characteristics,”](#) U.S. Census Bureau, Table DP04, 2019. [“Inclusionary Housing Database,”](#) Grounded Solutions Network, 2020.

It would be wise to consider amending this measure to eliminate or reduce the inclusionary zoning mandate. This would help prevent the counties from being bogged down in expensive projects that might ultimately slow the construction of new units.

Thank you for the opportunity to submit our comments.

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii



**HOUSE COMMITTEE ON FINANCE
State Capitol
415 South Beretania Street
11:00 AM**

February 23, 2023

RE: HB 676 HD1 - RELATING TO DISTRICT BOUNDARY AMENDMENTS

Chair Yamashita, Vice Chair Kitagawa, and members of the committee:

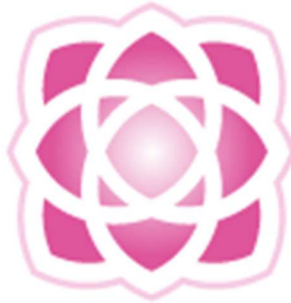
My name is Max Lindsey, 2023 Government Relations Committee Chair of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the 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 support of HB 676, Relating to District Boundary Amendments. This bill authorizes the appropriate county land use decision-making authority to determine district boundary amendments involving land areas over fifteen acres, except lands that are designated as important agricultural land or lands where the soil is classified by the land study bureau's detailed land classification as overall (master) productivity class A or B if the county has adopted an ordinance that meets certain requirements.

The bill addresses the overlapping land use entitlement process used in Hawaii. Allowing the counties to reclassify lands, especially in areas which the county has identified for urban growth, removes the time-consuming process of having the state Land Use Commission reclassify the lands. The counties are responsible for identifying areas for future urban expansion, and are best suited to make these types of urban land use decisions.

Hawaii is in a major housing crisis, which continues to worsen. As the Legislature is aware, the cost of housing in Hawaii is extremely high, with Oahu's median price of homes being currently over \$1 million. Approximately 153,967 U.S. households are priced out of buying a home for every \$1000 increase in price, according to the National Association of Home Builders (NAHB). We are in support of legislation that would allow for the building of much-needed housing at every price point in Hawaii.

Thank you for the opportunity to share our support of HB 676.



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

**HEARING BEFORE THE HOUSE COMMITTEE ON
JUDICIARY AND HAWAIIAN AFFAIRS
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 325
THURSDAY, FEBRUARY 23, 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

SUPPORT FOR HB676 HD1 RELATING TO DISTRICT BOUNDARY AMENDMENTS

The Maui Chamber of Commerce **supports HB676 HD1** which authorizes the appropriate county land use decision-making authority to determine district boundary amendments involving land areas over fifteen acres, except lands that are designated as important agricultural land or lands where the soil is classified by the land study bureau's detailed land classification as overall (master) productivity class A or B if the county has adopted an ordinance that meets certain requirements.

The State land use commission (LUC) is responsible for the classification of certain land parcels in the urban, rural, agricultural, and conservation districts. The LUC also acts on land use district boundary amendment petitions involving the reclassification of lands in the conservation district, land areas greater than fifteen acres, and lands delineated as important agricultural lands.

The Chamber feels that enabling the counties to reclassify certain lands intended for affordable housing development in which the county owns, will make larger scale projects (up to 100 acres) economically feasible for 100% affordable housing to be built. Counties are able to reclassify lands that are up to 15 acres in size. Increasing that limit to 100 acres should expedite the permitting process therefore lowering the costs for affordable housing.

For these reasons, we **support HB676 HD1**.

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-676-HD-1

Submitted on: 2/21/2023 1:29:48 PM

Testimony for JHA on 2/23/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
ellen sofio	Individual	Oppose	Written Testimony Only

Comments:

I strongly oppose this bill transferring jurisdiction for boundary changes for lands over 15 acres to the counties. Doing so will endanger major swathes of rural, productive agricultural and conservation lands as well as Hawaiian archeologic and sacred sites, by removing the judicious oversight of the Land Commission. In so doing HB 676 has the potential to create massive zoning change abuses, denying the community its opportunity to testify and have a voice in these processes, currying favor to developers, greedy land owners, unions and real estate brokers.

The loss of jurisdiction for the Land Commission will inevitably threaten our watershed with completely unacceptable for profit development, create unacceptable increases in forest and tree loss, increases in ambient temperature, erosion, rockfall and runoff hazards and result in haphazard development with no regard for safeguarding the environment.

In these times of critical and undeniably human caused climate change, with extreme weather events increasing in frequency and creating worsening flood risks, with our ground water supply at a critical tipping point, and with the health of our coral reefs and ocean waters in dire jeopardy already from silting, global warming, acidification, and bacterial and chemical contamination, the last thing we should be doing in Hawaii is disempowering our land commission and recklessly driving profit driven large scale development and the associated inevitable population growth and increasing pressure from mainland and foreign entities on Hawaii's finite and fragile resources.

The continuing oversight and experienced stewardship of the Land Commission is now of even more paramount importance than ever for the future of public and environmental health in our islands.

"Affordable" housing should be prioritized for struggling established LOCAL working people with incomes 80% and under AMI, not as a gift to children of the wealthy, or as a catalyst for wealthy individuals seeking second or vacation homes. 201H-38, the godfather of current dangerous progeny bills jeopardizing our islands future, should be repealed. It is not safe or ethical to use so called "affordable" housing gifts to the greedy and the wealthy as a ruse to justify destroying our island environment for the profits of a few.

Please vote decisively against this destructive and dangerous bill, HB 676 HD1

HB-676-HD-1

Submitted on: 2/22/2023 7:55:08 AM

Testimony for JHA on 2/23/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
David Robichaux	Individual	Oppose	Written Testimony Only

Comments:

This is a great idea for reducing duplicative permitting, but Condition #2 completely ruins it. Once again the legislature is excusing government from the requirements imposed on the rest of us, Please remove the requirement that makes this bill only applicable to publicly owned land. If you make the people waste a year in permitting what the County has already permitted, then the government should do the same.

HB-676-HD-1

Submitted on: 2/22/2023 1:31:06 PM

Testimony for JHA on 2/23/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Keani Rawlins-Fernandez	Individual	Oppose	Written Testimony Only

Comments:

I stand on my previous testimony in opposition. Mahalo!