

DEPARTMENT OF PLANNING AND PERMITTING

KA 'OIHANA HO'OLĀLĀ A ME NĀ PALAPALA 'AE

CITY AND COUNTY OF HONOLULU

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January 28, 2025

The Honorable Mark J. Hashem, Chair  
and Members of the Committee on Water & Land  
Hawaii'i House of Representatives  
Hawaii'i State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Hashem and Committee Members:

**Subject: House Bill No. 29  
Relating to the Counties**

The Department of Planning and Permitting (DPP) **supports, with suggested amendments**, House Bill No. 29, which would authorize the counties to sell private property after all notices, orders, and appeal proceedings are exhausted, and to use those revenues to pay unpaid civil fines related to that property.

This Bill would empower the DPP to better enforce against repeat and egregious offenders, which generally rack up the largest accruals of fines. Specifically, this Bill would authorize the City to bring closure to pending civil fines imposed on landowners who are in violation of the City's land use ordinances and building codes, through a non-judicial or administrative process. The counties currently have and exercise the authority to use the non-judicial foreclosure process for collection of real property tax liens, which this Bill would extend to collection of liens on properties for civil fines.

Currently, the DPP issues a Notice of Violation (NOV) to notify the violator of the violation and to provide a reasonable amount of time to cure the violation, either by removing the violation or obtaining the proper approvals. If the landowner fails to comply with the NOV, a Notice of Order is issued to impose daily civil fines until the violation is corrected. Once the fines accrue to a certain amount based on the type of violation, a lien is placed on the property. If the violator continues to be noncompliant and/or does not pay the fines, the City moves forward with the judicial foreclosure process. However, the current judicial foreclosure process is a much lengthier and costlier process subject to a legal process mostly beyond of the City's control. The City has lacked the legal manpower and funding to pursue judicial foreclosures, and believes that the non-judicial foreclosure

process is a viable, more efficient and effective method for the City to collect liens on properties for civil fines.

We do have suggested amendments to clarify language in the proposed Bill:

Section 12: "The counties shall provide the property owner with the opportunity to contest the summary action and to recover the owner's property; provided that a county may proceed with a power of sale of the property after all ~~notices, orders, and appeal proceedings are rights to appeal an order imposing fines have expired or been exhausted;~~

As written, the above section raises the question as to what happens if a citation is appealed.

We believe the following subsection needs to be deleted to enable this Bill to function:

~~(vii) Other extenuating circumstances.~~

~~———— The civil fine that is imposed by administrative order after this review is completed and the violation is corrected shall be subject to judicial review, notwithstanding any provisions for administrative review in county charters;~~

Similar to our first amendment, we suggest the following:

(F) If no county agency exists to conduct appeal proceedings for a particular civil fine action taken by the county, then one shall be established by ordinance before the county shall impose the civil fine[;]. After all ~~opportunities to appeal an order imposing fines have expired or been exhausted, notices, orders, and appeal proceedings are exhausted,~~ a county may satisfy all unpaid civil fines through the power of sale on the real property subject to a recorded lien. A power of sale shall become fully effective within a county upon the enactment or adoption by the

We respectfully request that you approve this Bill, with the recommended changes, to allow the counties to implement non-judicial foreclosures to efficiently and effectively collect civil fines.

Thank you for this opportunity to testify.

Very truly yours,



Dawn Takeuchi Apuna  
Director Designate

Jan. 28, 2025, 9 a.m.  
Hawaii State Capitol  
Conference Room 411 and Videoconference

**To: House Committee on Water & Land**  
**Rep. Mark J. Hashem, Chair**  
**Rep. Rachele F. Lamosao, Vice-Chair**

**From: Grassroot Institute of Hawaii**  
**Ted Kefalas, Director of Strategic Campaigns**

## TESTIMONY IN OPPOSITION TO HB29 — RELATING TO THE COUNTIES

Aloha Chair, Vice-Chair, and other members of the Committee,

The Grassroot Institute of Hawaii is concerned about the civil rights implications of [HB29](#), which would allow Hawaii's counties to sell private property — after the adoption of an ordinance and exhaustion of all notices, orders and appeals — and use the revenues to satisfy any unpaid civil fines related to the property.

First, we urge the Committee to consider the possibility that the foreclosures and sales envisioned in this bill are not only ripe for corruption, but that it might also unfairly target vulnerable populations. It is possible that the effect of these foreclosures would fall most heavily on older individuals living on fixed incomes who do not have the resources to pay their fines, hire an attorney or otherwise navigate complicated legal and financial matters. According to the AARP, "tax authorities' seizure of all of their home equity is nothing short of catastrophic" for older individuals.<sup>1</sup>

We sympathize with the desire of the counties to address nuisances and recoup fines, but the bill does not adequately protect the equity interests of homeowners. Unless those interests are protected, any county actions to recoup fines via foreclosure sales would be vulnerable to legal challenge.

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<sup>1</sup> [Brief of Amici Curiae AARP and AARP Foundation Supporting Petition for Writ of Certiorari](#), Tyler v. Hennepin County, Minnesota, Sept. 22, 2022, p. 4.

In [\*Tyler v. Hennepin County, Minnesota\*](#), the Supreme Court held that the county's retention of the excess value of the plaintiff's home above her tax debt violated the U.S. Constitution's takings clause. Thus, it is important that the bill be amended to protect the homeowner's equity interest.

We suggest that the committee add the following bolded language:

After all notices, orders, and appeal proceedings are exhausted, a county may satisfy all unpaid civil fines through the power of sale on the real property subject to a recorded lien. A power of sale shall become fully effective within a county upon the enactment or adoption by the county of appropriate and particular laws, ordinances, or rules establishing the power of sale; **provided that the county sell the property at no less than the market value of similarly situated properties and that all revenues received from the sale that exceed the amount of the unpaid civil fines be refunded to the property owner.**

This would not address all of our concerns about HB29, but it would at least prevent the unconstitutional taking of private property.

Thank you for the opportunity to testify.

Ted Kefalas  
Director of Strategic Campaigns  
Grassroot Institute of Hawaii

**HB-29**

Submitted on: 1/27/2025 8:34:14 AM

Testimony for WAL on 1/28/2025 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Leilani Alcover	Individual	Support	Written Testimony Only

Comments:

I support HB29

Property located across the street 94-1144 Lumiauau Street; Waipahu, has been violations and fines for many years.

The property is infested with garbage, trash, cats, rodents, chickens birds and mongoose. Overgrowth of trees and soon they will be in contact with electrical wires that may be dangerous and could cause fires because also there are dead brown Hale Koa Trees too. They also overhang into the city and county sidewalk and the hedges is over 8 feet tall. A health hazard and fire hazard that must be addressed to owner and to the public. I'm sure there are other areas on Oahu that have this problem.

I hope Bill HB 29 passes this legislation session.

Edward Picard – In support

This is Edward Picard a resident of Lumiauau Street. I'm writing you in support of HB29 Bill to rid our neighborhood of property neglect, piling trash and unregistered broken vehicles. Please have something done about this problem. It is a nuisance and is unsightly for our community.

Sincerely,

Edward Picard,  
Resident of Lumiauau Street.

Angelique Ryan – In support

I am in support of Bill HB29 for the property of 94-1144 Lumiauau Street. Due to health and sanitary reasons as well as the safety and hazardous conditions of this property in the community of Crestview, Waipahu.

The owner has unkept his home with continued trash and garbage piling up, with rodents and feral cats roaming in the neighborhood community, overgrowth of trees and plants covering electrical power lines and the safety health reason for this individual and his neighbors on Lumiauau Street.

We hope to resurrect some kind of plan with measure HB 29.

**HB-29**

Submitted on: 1/28/2025 8:18:43 AM

Testimony for WAL on 1/28/2025 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Kristian Cristobal	Individual	Support	Written Testimony Only

Comments:

As a home owner i feel this bill will help encourage other residents to upkeep their property.

I have a current neighbor who had let his property go derelict. I am concern as his home have been overgrown with brush and trash. I have approached him in the past regarding the state of his home and the hoarding of what seems to been trashin the front yard. We have contacted the fire dept regarding the fire hazard it poses to the adjacent property, but they are unable to do anything about it, only issue a warning. I am also concerned regarding health hazard, as we are trying to deal with pest control coming from said property. I hope this bill will incentives homeowners without HOA to maintain their homes and keep the neighborhood safe for the foreseeable future.