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STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N. S. CHANG
Chairperson

Before the House Committee on
JUDICIARY AND HAWAIIAN AFFAIRS

Thursday, February 28, 2024
02:00PM
State Capitol Room 325 & Via Videoconference

In consideration of
HOUSE BILL 2261 HOUSE DRAFT 1
RELATING TO HISTORIC PRESERVATION

House Bill 2261 House Draft 1 proposes to amend the definition of historic property in Section 6E-2, Hawaii Revised Statutes (HRS), to require that the property be listed in the Hawaii or National Register of Historic Places or built before August 21, 1959. **The Department of Land and Natural Resources (Department) offers comments and concerns.**

The Department believes that the current definition of historic property in Section 6E-2, HRS, which relies solely on age, should be amended. The Department believes, however, that the proposed amended definition in this measure is deeply problematic.

Only a tiny fraction of properties is listed in either the Hawaii or National Registers. The State has never conducted a statewide inventory, assessment, and program of listing significant properties, consequently the Hawaii Register includes only tiny portion of Hawaii's historic buildings, and an even much smaller portion of Hawai'i's significant archaeological and cultural sites. The State has relied on individual property owners or a handful of dedicated preservationists to initiate the listing process. The listing process itself is time consuming. The decision on whether to list a property in the Hawaii Register is made by the Hawai'i Historic Places Review Board, which meets four times a year. The proposed amended definition will limit the number of properties that will need to be considered in project planning, as well as reduce the number of properties eligible for proactive preservation benefit such as county real

estate tax relief or the Hawai'i's Historic Tax Credit for qualifying rehabilitation projects carried out on historic buildings, including private residences.

Setting the age criterion to a fixed date means that over time the gap between what is genuinely historic and what can be considered eligible for the register increases year-by-year. Furthermore, the federal rule of thumb is 50-years for the purposes of the National Historic Preservation Program and the National Register. Having a different date for Chapter 6E, HRS, will create unnecessary confusion due to the mismatch between the State and federal program. It also puts Hawaii out of step with the rest of the U.S. Furthermore, the confusion will be greatest for projects using federal funds or requiring federal approvals, where the Federal 50-year rule of thumb applies, and eligibility for the National Register not actual listing is required. The proposed amended definition will also limit the income producing buildings that might qualify for the federal Historic Tax Credit.

Finally, the Department reminds the Committee that the Legislature exempted privately-owned single-family dwellings and town homes that are not listed or in a designated historic district from section 6E-42, HRS, review. The amended definition proposed in this measure will not provide relief to the owners of such properties; the Legislature granted that relief in 2016.

Mahalo for the opportunity to provide testimony on this measure.

February 28, 2024

The Honorable David A. Tarnas, Chair

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

RE: House Bill 2261 HD1, Relating to Historic Preservation

HEARING: Wednesday, February 28, 2024, 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 Hawaii and its over 11,000 members. HAR **supports** House Bill 2261 HD1, which amends the definition of "historic property" used in historic preservation laws to remove the minimum age and require listing on the Hawaii or National Register of Historic Places or built before 8/21/1959. Broadens exclusions from historic review for certain types of proposed projects on existing privately-owned single-family detached dwelling units or townhouses. Effective 7/1/3000.

Currently, Hawaii Revised Statutes Chapter 6E, defines a historic property as, "any building, structure, object, district, area or site, including heiau and under water site, which is over fifty years old." With the current definition, the number of homes and buildings that qualify has continued to increase. This can be challenging for homeowners that must comply with the historic preservation review process for permits, even when their properties have no historical significance. For example, homes in Mililani were built in 1968, and homes there can be over 55 years old.

Furthermore, current law can also be challenging for the State Historic Preservation Division, as they will have to review properties simply because the property is over 50 years old, even without historical significance. As such, amending the definition of a historic property to those are either listed on the Hawaii or national register of historic places or predates statehood (August 21, 1959) may help address those challenges.

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



February 27, 2024

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

RE: **HB 2261 HD1 - Relating to Historic Preservation**
Hearing date: February 28, 2024 at 2:00PM

Aloha Chair Tarnas, Vice Chair Takayama, and members of the committees,

Mahalo for the opportunity to submit testimony on behalf of NAIOP Hawaii in **STRONG SUPPORT** of HB 2261 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 2261 HD1 amends the definition of "Historic Property" to include any building, structure, objects, district, areas, or sites including heiau that is on the Hawaii register of historic places or predates Statehood Day, August 21, 1959. The intent of the measure is to promote more timely reviews of projects conducted by the Department of Land and Natural Resources (DLNR), State Historic Preservation Division (SHPD) by narrowing the scope of projects which require review while preserving historic properties which meet the criteria to be on the historic register or predate Statehood Day.

Currently, the backlog of historic reviews is encumbering permits throughout the state. Reviews by SHPD are significantly slowing down the permitting process adding costs and delays to a substantial number of projects. Consequently, much needed housing, economic development, and critical infrastructure projects often face significant delays in permit approvals and project implementation. These delays result in decreased economic and construction activity and delivery of housing units.

Ultimately, the issue at hand is that far too many projects are being sent to SHPD for review that do not qualify as historic under any reasonable interpretation associated with historic importance. Nearly half of Oahu's housing stock is 50 years old including projects built in the 60s and 70s which should not be deemed historic based on age alone.

NAIOP understands the great importance that these reviews hold in preservation of Hawaii's historic sites, however, a balance needs to be found to: 1) reduce overwhelming volume of reviews placed on an understaffed department; and 2) allow SHPD staff to focus on properties of true historic significance. Primarily, requiring buildings and structures to be on the historic

Representative David Tarnas, Chair
Representative Gregg Takayama, Vice Chair
February 27, 2024
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register to be deemed “historic property” adequately balances the need for the preservation of truly historic properties while allowing non historic properties to move forward with vital housing and infrastructure. The process for getting onto the Hawaii historic register will allow properties to be vetted through a process which requires multiple criteria to be deemed historic without the property automatically triggering the need for separate SHPD review and overburdening the department. This revised definition still will allow of historic properties to be protected, and third parties to register a given property for protection, provided they meet the criteria to be deemed historic on the register.

Moreover, setting a date for properties to be deemed historic will establish a clear date for SHPD to determine whether review is triggered. This amendment would be unambiguous, clear and prevent future portions of Hawaii’s housing stock from triggering the need for review just because the structure has become 50 years old. This would address DLNR's concerns noted in their testimony while preserving the intent of the bill. NAIOP Hawaii looks forward to working together with stakeholders to find the right language to balance the concerns being addressed in this bill.

NAIOP greatly supports this measure to identify a solution to the significant backlog of much needed projects awaiting SHPD review. Ultimately, HB 2261 HD1 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.

Mahalo for your consideration,

A handwritten signature in black ink, appearing to read 'Reyn Tanaka', with a long horizontal flourish extending to the right.

Reyn Tanaka, President
NAIOP Hawaii



Celebrating 50 Years of Preserving Hawai'i's Places

680 Iwilei Road Suite 690, Honolulu HI 96817 • (808) 523-2900 • preservation@historichawaii.org • www.historichawaii.org

TO: Representative David A. Tarnas, Chair
Representative Gregg Takayama, Vice Chair
Committee on Judiciary & Hawaiian Affairs (JHA)

FROM: Kiersten Faulkner, Executive Director
Historic Hawai'i Foundation

Committee: Thursday, February 28, 2024
2:00 p.m.
Via Video Conference and Conference Room 325

RE: HB 2261 HD 1, Relating to Historic Preservation

On behalf of Historic Hawai'i Foundation (HHF), I am writing in **opposition to HB 2261 HD 1**.

The bill would amend Hawai'i Revised Statutes §6E-2 to revise the definition of "historic property" to include only those properties that were constructed prior to Hawaii's admission as the 50th State in August 1959 and any properties currently listed in the Hawai'i register of historic places.

Currently, HRS §6E-2 defines historic properties as any building, structure, object, district, area, or site, including heiau and underwater site, which is over 50 years old. HHF is concerned that the bill would deny the significance of Hawai'i's own history and will disadvantage numerous properties that are important to the history and culture of Hawai'i.

HHF notes that the preamble for the bill that sets out the purpose and need focuses on historic preservation only as a process of project review and comment. It does not take into account the many other purposes that a community may wish to identify and honor its heritage. These include providing education, enjoyment, economic development, heritage tourism, community pride and inspiration in a spirit of stewardship and trusteeship for present and future generations.

If the concern is that the review and compliance system is not working appropriately, then solutions should focus on that issue. They should not deny the historic significance or access to preservation programs for unrelated benefits. Rather than attempt to redefine what makes a property historic, revised Administrative Rules to address shortcomings in the review process, along with adequate funding and staffing to implement the procedures, would be more effective and efficient, without simultaneously disavowing the history and heritage sites of Hawai'i's communities and peoples.

Historic Hawai'i Foundation is a statewide nonprofit organization established in 1974 to encourage the preservation of historic buildings, sites, structures, objects and districts on all the islands of Hawai'i. As the statewide leader for historic preservation, HHF works to preserve Hawai'i's unique architectural and cultural heritage and believes that historic preservation is an important element in the present and future quality of life, environmental sustainability and economic viability of the state.

Under the current system, properties must be at least 50 years old even to be considered for listing on the Hawai'i Register of Historic Places and for the Hawai'i Historic Places Review Board to determine if the nominations demonstrate eligibility. **Under this bill, the State would not be able to accept and approve new nominations to list properties to the State Register if such property was built or acquired its historic significance after 1959.**

It would also be a departure from the criteria for listing on the National Register of Historic Places, which uses the 50-year age as a rule of thumb, but includes additional criteria of historic significance and integrity to evaluate all properties, of any age, in determining eligibility.

The changed criteria would create a discrepancy between State and Federal programs, which would introduce conflicts for any State project that uses federal funds or requires federal land, permit, license or approval. This includes the federal tax credit for rehabilitation of historic properties, which provides affordable housing and other economic development benefits. It also includes many affordable housing projects that require approval or financing through the U.S. Department of Housing and Urban Development.

The proposed change would have a disproportionate outcome and adverse effect on properties associated with women, people of color and less affluent groups. In recent decades, there have been deliberate and methodical attempts to diversify the National and the Hawai'i Registers of Historic Places to include underrepresented groups and untold stories in order to include the full history of both the state and the nation.

As many of those individuals and communities did not have the opportunities available to them in earlier eras, it is only now that their stories and sites are becoming known. The proposed hard cutoff of 1959 places an unnecessary barrier and penalizes historically marginalized communities from recognition of their historic significance and contributions to Hawai'i and the nation.

HHF offers a few examples to illustrate this concern:

- The era from the late 1960s through the 1970s is often called the **Hawaiian Cultural Renaissance** due to the movement that brought renewed focus on Hawaiian language, music, hula, ocean wayfaring and widespread discussions of native Hawaiian identity and culture.

This period included such notable historic events as the construction of the **Hökūle'a** and her first voyage to Tahiti in 1976. It also includes the actions of the **Protect Kaho'olawe 'Ohana** which filed suit to stop the Navy's use of Kaho'olawe for bombardment and training, and pioneered the use of the then-new environmental protection laws for cultural resource protection.

- The **childhood home of U.S. President Barack Obama**—Punahou Circle Apartments—was constructed in 1965. The future president lived there from 1971 to 1979. The homes of every president since George Washington have been acknowledged for their historic significance and steps taken to ensure their preservation. Under the proposed bill, Hawai'i would disavow the significance of this

location and its association with an important person in history merely because it occurred after statehood.

- Many of Hawaii's most **notable architects, artists and designers** did outstanding work between 80 and 30 years ago. Many of the buildings, structures and artworks from this period have only recently become recognized and valued. A few of those who are only now coming into wider public awareness are listed below.

Many of their works still need to be added to the Hawai'i Inventory of Historic Properties and evaluated for eligibility for the state register for design, engineering and construction significance. Under the proposed definition of historic property, many of them would remain obscure or ignored by the official historic preservation program of the State.

- **Ray Akagi** was a draftsman in the 1930s with C.W. Dickey, Hart Wood and Guy Rothwell. He became a licensed architect in 1947 and operated his office until 1971. He designed the Buck Toy Society Hall on Vineyard Avenue, Niu Valley Elementary School, and a number of churches for the Roman Catholic Church, including Holy Family on Hickam Air Force Base, St. Peter and Paul in Honolulu, and St. Anthony's in Kailua;
- **Juliette May Fraser** was a talented painter, muralist and printmaker who received a WPA commission in 1934 to prepare murals for the Hawai'i State Library. Her other works can be seen at the Board of Water Supply and Ben Parker School in Kāne'ohe.
- **Hego Fuchino** opened his engineering office in Honolulu in 1919. Shortly after the bombing of Pearl Harbor, Fuchino was arrested and sent to an internment camp in Wisconsin where he was held for five years. With his release he returned to Hawai'i and reopened his office. Major works prior to the war include the Makiki Christian Church and the Izumo Taishakyo Mission. In 1947 he entered into partnership with Robert Katsuyoshi, which lasted until Fuchino's death. The Soto Zen Mission on Nu'uaniu Avenue and the Waipahu Hongwanji are among his noteworthy post-war designs.
- **Ernest Hideo Hara** opened his architectural firm in 1945. He designed a number of apartments and hotels, including the Queen Kapi'olani (1968), Waikiki Grand (1962), Hilo Hawaiian (1976), and the Waikiki Shopping Plaza (1975). He was a founding member of Central Pacific Bank and served on its board from 1954-1980. In 1969 he was the first person of Asian descent appointed to Punahou School's Board of Trustees.
- **Erica Karawina** was a renowned stained-glass artist whose works adorn many churches, businesses and public buildings. She came to Honolulu in 1949 and created dozens of stained-glass murals. Her works include the windows in the Kalanimoku Building, St. Anthony's in Kailua, Mānoa Valley Church, Wesley Methodist Church, and St. John's Episcopal Church in Kula, Maui.
- **Stephen Oyakawa** was born in Hawai'i and worked for Frank Lloyd Wright from 1944 until 1959. His works include the 'Aiea Library, Liliha Library, Lihū'e Library, the Hale Aloha complex of four round dormitories at the University of Hawai'i.

- **Kenneth Sato** was born on the North Shore of O‘ahu, graduated from McKinley High School, and received a degree in civil engineering from the University of Hawai‘i in 1930. He owned the Kewalo Steel Company and designed a number of churches, apartments, and low-rise commercial buildings. He also worked on a number of public schools and bridges for the Territory of Hawai‘i.

These are only a few of the events, people and design achievements that are important to the history of Hawai‘i that have occurred less than 60 years ago but that nevertheless need to be included in Hawai‘i’s historic preservation program.

HHF believes that the revised definition of “historic property” as proposed in **HB 2261 HD 1** would introduce a great deal of confusion, conflict and delay. It would negate and marginalize the many contributions, lessons and achievements of prior generations and deny those sites the recognition that they deserve, as well as access to programs to help preserve and share them.

Therefore, HHF opposes the bill and respectfully asks that it be held in committee.



**HAWAII STATE HOUSE OF REPRESENTATIVES
COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
Conference Room 329 & Videoconference
State Capitol
2:00 PM**

February 28, 2024

Subject: HB 2261 - RELATING TO HISTORIC PRESERVATION

Chair Tarnas, Vice-Chair Takayama, & members of the Committee:

My name is Max Lindsey, 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.

HB 2261 proposes to amend the definition of "historic property" used in historic preservation laws to remove the minimum age and require listing on the Hawaii or national register of historic places or built before August 21, 1959, and broadens exclusions from historic review for certain types of proposed projects on existing privately-owned single-family detached dwelling units or townhouses.

Section 6E-42 HRS requires review by the State Historic Preservation Division (SHPD) prior to any agency or officer of the State or its political subdivisions approves any project involving a permit (i.e. building permit), license, certificate, land use change, subdivision, or other entitlement for use, which may affect historic property, aviation artifacts, or a burial site, the agency or office shall advise the SHPD and prior to any approval allow the SHPD an opportunity for review and comment on the effect of the proposed project on historic properties, aviation artifacts, or burial sites.

We strongly support the proposed revised definition of "historic property" as it will remove a time-consuming and costly Section 6E HRS SHPD review process on projects simply because the building or structure is fifty (50) years old. Waiting for SHPD's comments cause significant delays in construction, and also has resulted in projects losing financing or incurring higher interest rates.

We are in strong support of HB 2261 and appreciate the opportunity to provide our comments on this matter.

HB-2261-HD-1

Submitted on: 2/27/2024 10:28:42 AM

Testimony for JHA on 2/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Nanea Lo	Individual	Oppose	Written Testimony Only

Comments:

Hello,

My name is Nanea Lo and I sit on the O‘ahu Historic Preservation Commission as well as the O‘ahu Island Burial Council as the Kona Representative. I'm born and raised in the Hawaiian Kingdom. I currently reside in Mō‘ili‘ili, O‘ahu. I'm writing in Opposition to HB 2261 HD1.

HB 2261 defines historic property as those built before statehood (Aug 1959) or already listed on state register this is not factual therefore this shouldn't even be a bill. The Hawaiian Kingdom has been and continues to be illegally occupied since 1893.

e kū,

Nanea Lo, Mō‘ili‘ili, O‘ahu

HB-2261-HD-1

Submitted on: 2/27/2024 7:25:41 PM

Testimony for JHA on 2/28/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sash Fitzsimmons	Individual	Support	Written Testimony Only

Comments:

I support