



UNIVERSITY OF HAWAII SYSTEM
Legislative Testimony

LATE
Testimony

Testimony Presented Before the
House Committee on Agriculture
February 4, 2009 at 9:00 am

by

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HB 213 – RELATING TO DEVELOPMENT

The University of Hawai'i is a driving force behind the State's economy (see "The Contribution of the University of Hawai'i to Hawai'i's Economy," available at <http://www.hawaii.edu/offices/app/econimpact/report2007.pdf>, identifying the University as a "1.66 Billion Dollar Player in Hawai'i's Economy). Our research activities generate millions in revenue for the State and create thousands of jobs. In these difficult economic times, the University's capacity to conduct research is a critical element of the State's economic revitalization. The approval of permits, licenses and approvals from State agencies in a timely fashion is critical to the University's ability to perform its research and educational activities.

Despite its significant contributions to the State's economy, the University is currently excluded from the maximum time period of permit approvals, disapprovals, extensions, or automatic approvals (see, for example, HAR §4-71-4.1, which excludes the University from maximum time periods).

The University's exclusion from these maximum time periods has resulted in the loss of revenue for the University; it threatens the University's ability to effectively conduct research and generate income; it threatens jobs.

By ensuring that State agencies review permit applications within a reasonable period of time will help the University maintain a healthy revenue stream and by extension help the revitalization of the State economy. We urge the committees to pass H.S. No. 213 with the provided amendments. Thank you for this opportunity to testify.



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HOUSE COMMITTEE ON AGRICULTURE
HOUSE COMMITTEE ON TOURISM, CULTURE, & INTERNATIONAL AFFAIRS
February 4, 2009, 9:00 A.M.

(Testimony is 2 page long)

TESTIMONY IN OPPOSITION TO HB213

Chair Tsuji, Chair Manahan, and members of the Committees:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, submits the following testimony in opposition to HB 889, mandating agencies to expedite permit applications of developments or improvements within agricultural parks and non-agricultural park lands.

As an initial matter, the Sierra Club observes Haw. Rev. Stat. § 166E-10 already authorizes the Board to "exempt [non-agricultural park land] from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and construction of buildings thereon." To take this step, the Board must find the "development is consistent with the public purpose and intent of this chapter and meets minimum health and safety requirements." *Id.* Thus, it appears there is no basis to create an automatic approval process for the development of non-agricultural park land *unless* the proposed development does not meet "minimum" health and safety requirements? Plainly, logical people will agree these types of projects should not proceed, *much less be exempt from reasonable public comment and review?*

Moreover, the Sierra Club objects to the "automatic approval" of any permit, particularly with such a narrow time window. In a state that values its communities, environment, and citizens rights, automatic approval is simply poor policy. Permits should be granted on their merits, not by mistake. *No community should suffer because government failed to perform.*

Automatic approvals are completely antithetical to smart, sustainable planning.
Consider:

1. What happens when additional information is required by the department or agency and the deadline passes?
2. What happens when there are complex environmental assessments and impact statements that need to be completed pursuant to chapter 343, HRS, and the deadline passes?
3. What happens when a contested case hearing is requested pursuant to chapter 91, HRS, and for any other period for administrative appeals and review and the deadline passes?
4. What happens when health, welfare, or safety concerns (such as compliance with building codes) are not properly addressed in due course? Are we ready to let people die?
5. Is it ever appropriate to automatically approve a permit that will irreparably damage the environment or native Hawaiian rights? Doesn't that violate protections provided by the state constitution?

What happens with a tie vote? A tie vote on a board or committee usually signals that the measure or proposal didn't garner enough supporting votes. Under the current law, a tie vote means inaction and therefore automatic approval if the deadline passes.

What happens when there is a lack of a majority? Under current law, if a commission has a quorum to take a valid vote but there is not the required majority vote to approve or deny, the permit is approved by default if a deadline passes. For example, if a 6-member board votes 3-2 AGAINST a project, but a majority (4) is required to ratify any action, the project may be automatically approved.

The above situations turn logic on its head. An applicant could be approved by:

1. an affirmative majority vote (the appropriate route);
2. a tie vote with time lapsing; or
3. a less than majority vote with time lapsing.

Logically, if an applicant can't get a majority of commission or board members to support the application, the application should not be approved.

Again, we understand and appreciate the intent of HB 213. We submit, however, that automatic approvals will hurt sustainable agriculture far more than they will help.

Thank you for the opportunity to testify.