



LURF TESTIMONY

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Via Capitol Website

February 4, 2009

House Committee on Housing
Hearing Date: Monday, February 04, 2009, 9:00 a.m. in CR 325
Testimony in Support of HB 357: Relating to Affordable Housing
(Third Party Review)
Testimony in Support of HB 360: Relating to Housing
(Expedited permitting for projects including affordable housing)

Honorable Chair Rida Cabanilla, Vice Chair Pono Chong
and Members of the House Committee on Housing:

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to provide our testimony **in support** of the following bills:

- **HB 357.** Generally allows state and county agencies to hire third party reviewers to facilitate the processing and issuance of building permits for affordable housing projects.
- **HB 360.** Expedites project reviews for mixed-use housing and related infrastructure projects to stimulate affordable housing development.

Background. The lack of affordable housing remains a significant problem affecting Hawaii. Finding ways to provide sufficient affordable housing and market housing for Hawaii's residents has been a major objective for our elected officials, and state and county agencies, and members of the housing industry and business community. For the past two years, LURF has participated in a statewide task force comprised of representatives from all four counties, business, labor, developers, architects, nonprofit providers of services, the State, and the legislature, whose purpose was to identify, address and propose regulatory reform and solutions to remove the barriers to the production of affordable housing. **HB 357** and **HB 360** are part of the legislative recommendations of that task force.

Basis for support

- **HB357** clarifies the authority of the counties and state agencies to hire outside third parties to handle permits and review approvals; the bill also limits the liability of those who conduct such third party reviews. There are processes in place at the state and counties to provide expedited reviews of affordable housing projects, however, there is usually a shortage of staff to do such reviews. Since 2005, the City and County of Honolulu has utilized third party professionals to assist in electrical and mechanical reviews of permits. This experience has proven that third party review can significantly shorten the review process time from months to weeks. These expedited reviews allow the timely development of housing projects, have a favorable effect on project entitlement and financing costs, and result in the production of more affordable residential units.
- **HB 360** allows for an expedited 201H review process for qualifying mixed-use housing projects and infrastructure projects which will provide at least twenty percent of the housing units for individuals and families that meet the affordable income threshold under section 201H-202(e)(2). The state's 201H expedited permitting process for affordable housing has proven to be successful in assisting with the production of affordable housing units, however, the process is currently limited only for affordable housing projects. Bill 360 will expand the expedited review to projects with a combination of different types of structures, including commercial, public facilities, industrial, low, moderate, workforce, affordable and market housing units and infrastructure to support such mixed-use projects. This legislation recognizes that developments which provide affordable housing often include other uses, and that the expedited approval of the entire mixed-use projects and supporting infrastructure will result in the timely production of more affordable housing units.

Thank you for the opportunity to express our views on this matter.



Sierra Club Hawai'i Chapter

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LATE TESTIMONY

HOUSE COMMITTEE ON HOUSING

February 4, 2009, 9:00 A.M.

(Testimony is 3 page long)

TESTIMONY IN OPPOSITION TO HB 360

Chair Cabanilla and members of the Committees:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, vigorously opposes HB 360, which attempts to expedite project review for affordable housing. While the Sierra Club strongly supports increasing the availability of affordable housing, we are concerned that the misapplied concept of "automatic approval" undermines this bill's goals.

First, it should be noted that the simplest way to increase affordable housing in Hawai'i is to follow the lead of the County of Maui, which recently required fifty percent of all proposed housing projects to meet affordability requirements. See, e.g., SB 758. This solution, assuming it was enforced, would directly solve the needs of Hawai'i's homelessness without engaging in poor community planning.

Second, the Sierra Club is concerned about the "automatic approval" of any permit. 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?



Robert D. Harris, Director

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? Do we believe the underprivileged should be forced to live in unsafe facilities?
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.

Third, we note the definition of "Mixed-use housing" is so broad, that it could include a commercial facility the size of Ala Moana Shopping Center, so long as "twenty per cent of the housing units . . . meet the affordable income threshold under section 201H-202(e)(2)." In other words, *any* project that includes at least one affordable house, regardless of size or impacts on the environment, would fit this definition. Plainly this is not the intent?

To this end, it should also be noted that most counties now require proposed housing developments to include an affordable housing component as a condition of approval. HB 360 would, therefore, have the effect of making *all* housing development projects in these counties eligible for automatic approval. Such a bold step should not be imposed on the counties or agencies without some further analysis?

Again, we understand and appreciate the intent of HB 360. If the legislature prefers not to require an affordable housing component in all construction projects, perhaps other incentives besides "automatic approval" could be considered. For example, the State could create an ombudsman program that assists in expediting projects that offer affordable housing and serve a particular community. Or the State could consider an annual report from all agencies on the status of the review process (with a focus on affordable housing) and make informed decisions on how to make government more efficient.

Thank you for the opportunity to testify.