

## **Lynette Marushige**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, March 20, 2009 9:55 AM  
**To:** WLOtestimony  
**Cc:** darakawa@lurf.org  
**Subject:** Testimony for SB1672 on 3/20/2009 10:00:00 AM  
**Attachments:** SB 1672 SD1 Historic Structures - Photo Req LURF (WLO-EEP) 090320.doc

Testimony for WLO 3/20/2009 10:00:00 AM SB1672

Conference room: 325  
Testifier position: support  
Testifier will be present: Yes  
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Submitted on: 3/20/2009

Comments:

Aloha,

Please accept this late testimony.

Shannon Alivado will attend the hearing to present the testimony and will bring 20 copies.

Mahaloi, Dave



**Submitted Via Capitol Website**

**March 20, 2009**

**House Committees on Water, Land and Ocean Resources  
Hearing Date: Friday, March 20, 2009, 10:00 AM in CR 225**

**Testimony in Support of SB 1672 SD1 - Relating to Historic Structures**

Honorable Chair Ken Ito, Vice Chair Sharon Har and  
House Committee on Water, Land and Ocean Resources:

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 is **strong support** of **SB 1672 SD1, as the most prudent and responsible proposal to address the unintended consequences of Act 228 (2008)**. SB 1672 SD1 because the photo requirement is only applicable to any building over fifty years old "that is nominated for listing or is listed on the Hawaii or National Register of Historic Places as those registers are defined in chapter 13-198, Hawaii Administrative Rules. Additionally, it allows the required photographs to be submitted in any clearly visible format, including electronic.

**Background**. The original purpose of the Act 228 (2008) was to require owners of historic buildings to submit archival-quality photographs to DLNR prior to the issuance of a building-related permit. The original intent of Act 228 was to obtain photographs of building eligible for listing on the Hawaii or National Register of Historic Places. When it became law, there was much confusion because Act 228 was interpreted to apply to ALL buildings fifty years or older.

A number of **unintended consequences** resulted from Act 228, including, but not limited to, the following:

- While certain buildings may be considered as eligible for listing on the Hawaii or National Register of Historic Places at 50 years of age, every building over fifty years of age is not eligible for listing on the State or National Register.

- The requirements of Act 228 was applied to ALL where structures over fifty years old (including standard subdivision tract homes) and reviews were extended to any type of excavation was taking place. This was not the usual practice relating to building permits pre-Act 228, where the only properties that were affected were those that were considered historic property (i.e. on the Federal or State register of Historic Places).
- Act 228 has resulted in financial burdens and permit delays for owners of buildings over fifty years of age, which could never qualify to be listed on the Hawaii or Federal Register of Historic Places; and
- In some cases, the buildings may be deteriorated to such a degree that it may not warrant the expense of the archival-quality documentation necessary under this bill to receive a permit seeking to improve the condition of the structure.

**SB 1672 SD1.** This bill amends Act 228 as follows:

(1) Amends section 6E-8(a), Hawaii Revised Statutes, to delete the requirement that archival quality black and white photographs be submitted with a permit application, and **provides that the photographs can be submitted in any clearly visible format, including electronic format;**

(2) Amends section 6E-10(b), Hawaii Revised Statutes, to specify that the photograph requirements apply to any buildings over fifty years old that are **nominated for listing or listed on the Hawaii or National Register of Historic Places;**

(3) Requires the Department of Land and Natural Resources to certify receipt of the photographs submitted by an owner of a privately-owned structure within twenty days of the Department's receipt of the photographs;

(4) Amends section 46-3.5, Hawaii Revised Statutes, to specify that the photograph requirements apply to demolition permits for any buildings that are **nominated for listing or listed on the Hawaii or National Register of Historic Places;**

(5) Revises the definition of "photographs" to mean dated pictures, taken within one month of applying for any building permit;

(6) Revises the definition of "photographs of the historic building" to mean, at least, pictures of the building exterior, including window treatments, doors, roof line, and interesting architectural details, such as gables, finials, rockwall foundations, or porches;

(7) Requires the Legislative Reference Bureau, the Office of Environmental Quality Control, and the University of Hawaii Environmental Center to assist the task force in inventorying structures previously recognized for their historic value through publicly-reviewed environmental assessments or environmental impact statements.

**LURF's Position.** LURF is in support of SB 1672 SD1's current language and its adoption of some of LURF's suggested changes. LURF **supports this bill's limitation of the photograph requirements being only applicable to buildings which are on the State or Federal Historic Registers, and those buildings which have been nominated to those registers.** Additionally, LURF is in support of the task force that would be responsible for (1) inventorying structures previously recognized for their historic value; (2) identifying structures that would otherwise be culturally or historically significant, but not individually distinctive or separately registered on the Hawaii or national register; and (3) recommend a self sufficient funding mechanism to help the state historic preservation division to help preserve the structures.

We also understand that **HB 520 HD1, which calls for a total repeal of Act 228,** is also moving and is being considered by the Senate Committee on Economic Development and Technology, and we can understand how that bill can address the unintended consequences of Act 228 by repealing the law. **However, SB 1672 is the more reasonable and prudent alternative.** The following is a comparison of the two bills:

**A total repeal under HB 520, will mean the following:**

- There will be NO PHOTOGRAPHIC RECORDS OF HISTORIC BUILDINGS WHICH HAVE BEEN NOMINATED TO, OR ON THE HISTORIC REGISTERS;
- NO DATA AVAILABLE regarding photos of historic buildings which have been nominated to, and are listed on the historic registers;
- There will be NO TASK FORCE set up to identify historic building criteria and historic buildings
- NO IDENTIFICATION OF HISTORIC BUILDING CRITERIA
- NO INVENTORY OF HISTORIC BUILDINGS which have previously been recognized in Environmental Assessments or in Environmental Impact statements;
- NO RECOMMENDATION FOR A SELF-SUFFICIENT FUNDING MECHANISM TO PRESERVE HISTORIC BUILDINGS;
- NO REPORT TO THE LEGISLATURE REGARDING PRESERVATION OF HISTORIC BUILDINGS
- if there is no concerted effort of the various stakeholders to come to mutual agreement in the interim, next year, there will be a bloody BATTLE on this issue, starting from “GROUND ZERO”
- Next year, the following will probably occur:
  - A PLETHORA OF DIFFERENT BILLS, with different requirements, or
  - A NEW LAW WITH MORE CRITERIA AND REQUIREMENTS for building owners, which will be MORE ONEROUS and result in MORE UNINTENDED CONSEQUENCES, as compared to the current requirements of SB 1672, or
  - A RESOLUTION that DLNR should for a Task Force or do a study....

**SB 1672 is a more reasonable and prudent alternative, because:**

- SB 1672 provides specific guidance to the building owners and government – that the photo requirement applies to buildings nominated to, or already on the Historic Registers;
- Next year, after a year of operation, SB 1672 will at least provides a “base line” and will provide data gathered over the year, which can be evaluated. If stakeholder groups want to further amend the law next year, at least there will be data available, and we won’t be starting from “ground zero.”
- SB 1672 provides for a Task Force which can create a list of identified historic structures, and recommend a self-sufficient funding mechanism that will enable SHPD to help preserve a broader range of culturally or historically significant structures.

Based on the above, we respectfully request your **favorable consideration of SB 1672, SD1.**

# LATE TESTIMONY

Dear Chairman Rep. Ken Ito,

I am in support SB 1672 S.D. 1 relating to historic structures that seek to amend Act 288. However, I testify in support of the amendments that are proposed by Historic Hawaii Foundation.

I believe that Act 288 is good- it needs clarification and less stringent requirements, but this is doable. The premise of the Act is a valuable one. It asks us to document our history – a fundamental undertaking of any civilized society. Documenting the history of our society is important.

Act 288 is valuable for our history and our culture. We need to cherish our heritage – and this Act 288 helps us in this endeavor. Let's act reasonably when confronting issues; the repeal of Act 288 is a rash response this proposal to amend is the more reasonable approach. Act 288 needs fixing, not repeal.

Sincerely,

Lorraine Minatoishi Palumbo, Ph.D., AIA

## Bio

Lorraine Minatoishi Palumbo was born and raised in Hawaii growing up in Kaimuki, is a practicing Architect with a distinction of being one of the only females in the nation with a degree in Japanese architecture from Waseda University in Japan. She is president and owner of Minatoishi Architects, Inc., a firm that specializes in architectural preservation. She has had several exhibitions at the East West Center and the neighbor islands about her dissertation topic of Japanese temples in Hawaii and is working on a book on Japanese temples.

# Letters and Commentary



We have permitted corporate greed to go on for so long that it has become an entitlement, and has spread into the very fabric of our society. Because "we want it all," a sense of community has been sacrificed.

Maybe we should look at the bonuses from a different perspective. They aren't being paid out because the executives ran the company into the ground, but because they were smart enough to obtain billions in bailout money from their slow-witted uncle.

When the head of AIG says failure to pay off the smart guys would result in losing them, and would abrogate their contractual agreements, I wouldn't be surprised if that is what he is talking about. A little perspective: The \$165 million in bonuses, which no doubt is chicken feed to AIG, would produce \$8,250,000 a year at 5 percent, and would allow Adult Friends for Youth to virtually wipe out youth gangs in eight cities within six years.

Sort of makes you wonder where our values are, doesn't it?  
 SIDNEY M. ROSEN, MSW, PH.D.  
 | President emeritus, Adult Friends for Youth

## President needs to stop lies from the old guard

Regarding the AIG situation and the bonuses: I propose a retroactive 100 percent Obama tax on all AIG bonuses before the tax dollars used to fund this scam become a different kind of AIG — America's Income Gone.

The Republicans who promoted the failed policies of George W. Bush that brought us two failed wars and the stunning current financial crisis are now attempting to blame Obama for this mess and are condemning Obama's plans to correct the situation.

The president needs to stop the lies coming from the old Bush

## HISTORIC PRESERVATION

# Documenting pieces of our past in photos vital

Last year our government had the foresight to pass Act 288 requiring historic structures that are applying for substantial modification permits or demolition permits to submit photographic documentation to our State Historic Preservation Division.

Hawai'i holds some of the most historically significant edifices in our nation — yes we are only 50 years old as a state but we have buildings more than 150 years old that speak of our rich heritage. In a competitive economy, those designations that retain their uniqueness and charm will win over the traveler against other destinations.

Unfortunately, many of these structures are demolished daily without anyone aware of their disappearance. No photos, no documentation of any kind. Neighborhoods like Kaimuki are constantly changing; many of those quaint little

cottages built in 1920 are gone. Mānoa, with its great old houses on rock pedestals, is losing some of its original fabric.

Now there is Bill 520 in the House to repeal Act 288; the Senate is proposing Bill 1672 that significantly lessens the strength of Act 288. That should not happen. Act 288 is good, it just needs clarification and less stringent requirements.

Documenting the history of our society is important. Repealing Act 288 is a rash response. It does not foster confidence in the legislative process. It needs fixing, not repeal.

Demolition is hard to swallow for this die-hard preservationist but even more difficult to accept is its loss without even a picture to remind us of what was once important to us as a people.

LORRAINE MINATOISHI  
 PALUMBO, PH.D., AIA

guard that continue using public airwaves to distort the facts in attempts to scuttle any chance at success that President Obama has. Millions of Americans think they are getting the truth when listening or viewing only one broadcast source. The return of the "Fairness Doctrine" elimi-

nated during the Reagan years to promote Republican propaganda will actually provide citizens the opportunity to hear both opposing and supporting sides of major issues and allow them to make informed decisions to improve America.

STEPHEN BURNS | Milliani

## Letters policy

The Advertiser welcomes letters in good taste on any subject. Priority is given to letters exclusive to The Advertiser.

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