



**Via: WLOtestimony@Capitol.hawaii.gov**

**February 1, 2010**

**Support of HB 2904 Relating to County General Plans**  
**(County plans should not replace county regulatory powers)**

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

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 **strongly supports HB 2904**, which would amend HBS 226-58, by prohibiting the use of county general and development plans from serving as, or replacing the county regulatory powers. This bill will clarify that county regulatory powers and process (zoning ordinances and land use and subdivision rules and regulations) will take precedence, when various county plans do not identically match each other; and when the various government and county plans do not identically match the zoning ordinances and land use and subdivision rules and regulations

**BACKGROUND.** Under the land use regulatory process explained in HRS Section 226-58, the county general and development plans contain "objectives" to be achieved and "policies" to be pursued" and contain "priorities and actions" to carry out such policies and objectives. While the county plans set forth these objectives, policies, priorities and actions, they are **not** specific implementation instruments, but function as **guides** to implementing the county zoning ordinances, and county land use and subdivision regulations.

**The county regulatory powers and process (zoning ordinances and land use and subdivision regulations), are the specific land use instruments to implement the objectives, policies and implementation priorities and actions set forth in the county general plans, development plans and various other plans.**

We understand that this legislation was meant to confirm that the county regulatory powers and process (zoning ordinances, land use and subdivision rules and regulations) would take precedence over the general guidelines set forth in the various county plans, especially in situations where the various county plans are not exactly identical to each other, as well as when the various government land use designations do not identically match each other, or do not identically match with county zoning ordinances and land use and subdivision rules and regulations. While this is currently a problem on Maui, it could also be a state-wide problem if other jurisdictions take the same interpretation.

Examples of such problems were recently described by the Maui County Departments of Planning and Public Works. Our summary of their presentation is as follows:

In a situation where a **School** is proposed on land in Maui county which is:

- State Land Use Classification – **Urban** (School is allowed use)
- Community Plan – **Public-Quasi-Public** (School is allowed use)
- Zoning – **R-1 Residential** (School is allowed use)
- Although **School use is allowed within all three designations**, the current interpretation on Maui requires that all land use designations “identically match,” and would **NOT allow a subdivision for and building of a School**, because all three land use designations are not “identical” and do not “exactly match.”
- Thus, to build a school on Maui, the State Department of Education would be required to file applications and receive approval to change two of the land use designations until they are “identical” and “exactly match.” This could take years and thousands of taxpayer dollars to obtain such approvals.

Another example: if **single family residential home** is proposed on land which is:

- State Land Use Classification – **Urban** (Single family residential is allowed)
- Community Plan – **Single Family Residential** (Single family residential is allowed)
- Zoning – **A-2 Apartment District** (Single family residential is allowed)
- Although **single family residential is allowed within all three designations**, the current interpretation on Maui would **NOT allow a subdivision for and building of a single family residential home**, because all three land use designations are not “identical” and do not “exactly match.”
- Thus, in order to build a single family home on Maui, current landowners would be required to file applications and receive approval to change two of the land use designations until they “identically match.” It could take years and thousands of dollars to obtain such approvals.

**CONCLUSION.** LURF is in **strong support of HB 2904**, because it provides the legislative direction and guidance necessary to resolve situations where the county plans do not identically match each other, or when county officials would require that all of the state and county land use designations identically match each other. HB 2904 will confirm the intent that the various county plans serve as guidelines, and that they should not serve as, or replace the county regulatory powers. HB 2904 is also consistent with the intention and recommendations of the Legislature’s SCR 132 (2009) Construction Industry Task Force.

We appreciate the opportunity to express our support for **HB 2904**.

-----Original Message-----

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]

Sent: Saturday, January 30, 2010 3:33 PM

To: WLOtestimony

Cc: dgoode@ksdhawaii.com

Subject: Testimony for HB2904 on 2/1/2010 9:30:00 AM

Testimony for WLO 2/1/2010 9:30:00 AM HB2904

Conference room: 325

Testifier position: support

Testifier will be present: No

Submitted by: David Goode

Organization: Maui Contractors Association

Address: 8 Kiopa'a St, Suite 201 Pukalani, HI

Phone: 808-572-3011x206

E-mail: dgoode@ksdhawaii.com

Submitted on: 1/30/2010

Comments:

The Maui Contractors Association strongly supports HB2904. The County General Plans need to remain "general", give the County guidelines to carry out future actions, and provide the flexibility to respond to future State plans.  
Mahalo, D. Goode, President

-----Original Message-----

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]

Sent: Friday, January 29, 2010 6:32 PM

To: WLOtestimony

Cc: tshigemoto@abprop.com

Subject: Testimony for HB2904 on 2/1/2010 9:30:00 AM

Testimony for WLO 2/1/2010 9:30:00 AM HB2904

Conference room: 325

Testifier position: support

Testifier will be present: No

Submitted by: Tom H. Shigemoto

Organization: A&B Properties, Inc.

Address: 4353 Waialo Road Eleele, HI 96705

Phone: 808 335 2836

E-mail: tshigemoto@abprop.com

Submitted on: 1/29/2010

Comments:

I submit this testimony in favor of HB 2904. As a former Planning Director for the County of Kauai, and having been involved with the adoption of all of the planning documents for the County, it is my opinion that the General Plan is not the proper tool to regulate densities and specific land uses. The General Plan, as it's name implies is simply that - a general development policy which dictates future land use growth areas and parameters for such growth. There are tools that normally provide the implementation measures for these long term stated goals, among them the county zoning ordinance, the county subdivision ordinance, a Capital Improvements Plan, Water and Sewer Facilities plans, and community development plans. To enable General Plans to dictate specific densities and development standards is contrary to most if not all planning principles, as I understand them to be and would create a dichotomy of overlapping standards in certain jurisdictions.

For these reasons I ask for your support in adopting this piece of legislation. Thank you.

January 29, 2010

Honorable Representative Ken Ito, Chair  
Honorable Sharon E. Har, Vice Chair  
and Members  
Water, Land and Ocean Resources Committee  
House of Representatives  
State Capitol, Room 438  
State of Hawaii  
Honolulu, Hawaii

Re: House Bill No. 2904, A Bill For An Act Relating to County General Plans.

Thank you for the opportunity to provide testimony on House Bill No 2904. As a professional planner, I believe it is important to maintain the hierarchy of the land use planning process where a County General Plan provides broader directional statements rather than mandates specific land use regulation.

A General Plan should be a statement of community goals as opposed to a document that in part attempts to become a regulatory instrument that provides zoning and subdivision restrictions, detailed capital budgeting and other regulatory requirements which may not address the community's needs over the duration of the Plan.

As the Legislature has provided for, County General Plans are to be guidelines for decision making by the Counties, including the formulation of their land use regulations. However, if establishment of mandatory land use regulations occurs in the General Plan, it creates a climate whereby adherence to the regulations set forth in a General Plan may be detrimental to the community in few years and would be in place for the duration of the plan.

The planning process established by the Legislature recognizes that Planning is a process which is not encapsulated within one document and it would be naïve to assume that adopting a single document will answers all questions or solve all problems. Therefore, the Legislature established the planning hierarchy from the creation of the General Plan and Development Plans on the guiding policy level and the creation of land use regulations on the implementation level. I believe this bill clarifies that process and keeps the planning hierarchy sequentially clear.

Honorable Representative Ken Ito, Chair  
Honorable Sharon E. Har, Vice Chair  
and Members  
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In closing, the County General and Development Plans should represent a periodic bringing together of the activities of planning resulting in statements and expressions of community intentions and aspirations. When recognized as statement of vision, the Plans can and should have tremendous influence, but that it can only be realized within the context of the total planning process. In other words, the General Plan and Development Plans are a specific part of the comprehensive planning process and should not attempt to overlap into the processes of developing zoning ordinances or specific land uses or subdivision regulations.

Thank you for the opportunity to testify in support of H.B. No. 2904.

Sincerely,

A handwritten signature in cursive script, appearing to read "Clyde Murashige".

Clyde Murashige, AICP

Keli Wada  
64 Hoku Puhipaka Street  
Kahului, HI 96732

January 29, 2010

Honorable Representative Ken Ito, Chair  
Honorable Sharon R. Har, Vice Chair  
And Members  
Water, Land and Ocean Resources Committee  
House of Representatives  
State Capitol, Room 438  
State of Hawaii  
Honolulu, Hawaii

Re: House Bill No. 2904

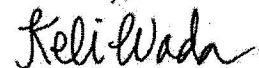
Dear Chair Ito,

I am in strong support of the proposed House Bill number 2904 relating to County General Plans.

As a Maui resident, I am concerned that the existing general plan draft will have far reaching negative impacts when implemented. I support the passage of House Bill number 2904 and encourage its adoption to prevent unintended consequences of the general plan.

Thank you for your hard work and for the opportunity to support this bill.

Sincerely,



Keli Wada