

clee1 - Lina

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 27, 2012 12:25 PM
To: HAWtestimony
Cc: jfriedel@honolulu.gov
Subject: Testimony for HCR205 on 3/28/2012 9:00:00 AM
Attachments: hcr205-hr160-CivilFinesKupunaTerrace-mf.pdf

Testimony for HAW 3/28/2012 9:00:00 AM HCR205

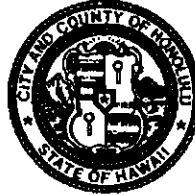
Conference room: 329
Testifier position: Oppose
Testifier will be present: Yes
Submitted by: John Friedel
Organization: Individual
E-mail: jfriedel@honolulu.gov
Submitted on: 3/27/2012

Comments:

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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March 28, 2012

The Honorable Faye P. Hanohano, Chair
and Members of the Committee on Hawaiian Affairs
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Hanohano and Members:

Subject: House Concurrent Resolution No. 205 and
House Resolution No. 160, Requesting the
City & County of Honolulu Waive all Fines
Related to the Construction of Kupuna Terrace

Thank you very much for the opportunity to testify. The Department of Planning and Permitting **opposes** to House Concurrent Resolution No. 205 and House Resolution No. 160 because they undermine the City's ability to enforce its laws and sends the wrong message.

In August 2010, the violators were told to cease and desist their activity by the City's Department of Parks and Recreation (DPR) and the State Department of Hawaiian Home Lands (DHHL). They ignored the order endangering the environment due to potential erosion and runoff into the ocean. This is a serious National Pollutant Discharge Elimination System (NPDES) infraction and the State and City could be liable for federal penalties. Despite the inspectors' warnings, the violators continued their construction effort with total disregard to the environment.

The City issued a Notice of Violation (NOV) in December 2010 for grading without a grading permit. Also, a second NOV was issued for violation of the Shoreline and Special Management Area (SMA) provisions. The construction work along the shoreline and in the SMA impacted the provisions of Chapter 343. These infractions are of a serious nature and in order to correct this violation, an Environmental Assessment would need to be completed and a SMA permit would need to be obtained.

Because the violations were not corrected, the NOV's were referred for the issuance of a Notice of Order to include assessed civil fines. As of March 27, 2012 the violations are not corrected and the amount of assessed civil fines is \$39,450.

The Honorable Faye P. Hanohano, Chair
and Members of the Committee on Hawaiian Affairs
House of Representatives
Re: House Concurrent Resolution No. 205 and
House Resolution No. 160 – Civil Fine Relief Kupuna
Terrace Construction
March 28, 2012
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The City's DPP and DPR, in cooperation with the DHHL, met with the violators to resolve these issues. The violators insisted that there was overwhelming support from the community for this construction effort. However, when the matter was presented to the Waimanalo Hawaiian Homes Association, there was little support for the project.

Finally, State Department of Transportation (DOT) officials expressed concerns that the parking arrangements were inadequate for access to the site and public safety adding to the potential for further liability to the City. In addition, when the DOT sent their surveyors out to verify the location of the highway right-of-way, it was discovered that part of the lookout platform had been built in the highway right-of-way.

In summary, we request that your Committee hold these resolutions. Again, thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read 'David K. Tanoue', written over a horizontal line.

David K. Tanoue, Director
Department of Planning and Permitting

DKT:jmf
hcr205-hr160-CivilFinesKupunaTerrace-mf.doc

cleef - Lina

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 23, 2012 2:08 PM
To: HAWtestimony
Cc: pomroys001@hawaii.rr.com
Subject: Testimony for HR160 on 3/28/2012 9:00:00 AM

Testimony for HAW 3/28/2012 9:00:00 AM HR160

Conference room: 329
Testifier position: Oppose
Testifier will be present: No
Submitted by: Sharon Pomroy
Organization: Individual
E-mail: pomroys001@hawaii.rr.com
Submitted on: 3/23/2012

Comments:

I oppose waiving of any penalties and or fines in the Kupuna Terrace in Waimanalo case. This was a big news story when it came out. TV, Press, Radio Talk Shows. The folks who did this project were warned that they could be facing legal problems if they did the Terrace. They even went on live TV during the evening news and spoke about this Terrace project was going to benefit the community so they were going to do it no matter what as this was for the Kupuna and community at large.

The actions of people who chose not to heed the law in this case should not be ignored.