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LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

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Statement of
Daniel E. Orodenker
Executive Officer
Land Use Commission
Before the
House Committee On Finance
Friday February 22, 2013
11:00 A.M.
State Capitol, Conference Room 308

In consideration of

HB 193 RELATING TO LAND USE

Chair Luke, Vice Chair Nishimoto, members of the Committee on Finance

The Land Use Commission opposes HB 193.

This measure seeks to create an automatic two year extension of time to comply with requirements of the Land Use Commission Decisions and Orders where a County officer or agency concludes that Petitioner has substantially commenced development after being granted a district boundary amendment or the County officer or agency concludes there is good cause shown.

This proposed amendment is not necessary in application and is also a dangerous erosion of the Land Use Commissions power and authority which could lead to confusion and unnecessary delay in managing development and land use planning.

It should be noted at the outset that the deciding agency is generally the best determiner of the propriety of a modification to its decisions and the circumstances under which it should be granted.

Second, the remedy currently proposed is already available to any petitioner of a district boundary amendment. Petitioners regularly come before the commission and request extensions of time and other modifications of Decisions and Orders. These are liberally granted.

The conditions contained in an order granting a district boundary amendment are the result of a careful factual analysis by the Commission and are designed to protect the interest of the State and County as well as the public. Time limits are often placed on

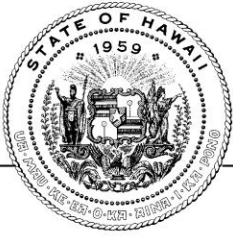
conditions to prevent required public improvements from being put off so long that issues they were designed to address are severely or dangerously impacted.

The Land Use Commission, having all of the evidence from the initial application before it, combined with the evidence associated with the application for modification, is in the best position to analyze the legitimacy of the request and the proper remedy or time frame for the extension. The County's should not have the ability to unilaterally grant an extension without a complete record of the proceedings and without knowledge of, or concern for, the impact on state agencies such as DOT, DOH, DOE, and DLNR. There is a real concern that such unilateral decisions will result in cost to the state, problems with infrastructure, damage to the environment or threats to public health and safety.

Further there is a potential that there will be a redundancy or duplication of decision-making on compliance with Decisions and Orders. The Commission has the ability to make a determination, on its own motion or by motion of an interested party that a Petitioner is in violation of an order. If a County official or agency grants a request for an extension, it does not preclude a public organization or a state agency from bringing the matter before the commission and having a contrary order issued. This could result in significant expense to developers, uncertainty in the development process and expense to the public and state agencies.

As it currently stands there is an established and well understood comprehensive process for amendments to Decisions and Orders that works well and is regularly utilized by petitioners. Proposed HB 193 will only serve to confuse the process and could result in harm to the public and the state agencies involved in the Land Use District Boundary Amendment proceedings.

Thank you for the opportunity to testify on this matter.



OFFICE OF PLANNING STATE OF HAWAII

NEIL ABERCROMBIE
GOVERNOR

JESSE K. SOUKI
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OFFICE OF PLANNING

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Statement of
JESSE K. SOUKI
Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON FINANCE
Friday, February 22, 2013
11:00 AM
State Capitol, Conference Room 308

in consideration of
HB 193
RELATING TO LAND USE.

Chair Luke, Vice Chairs Nishimoto and Johanson, and Members of the House Committee on Finance.

The Office of Planning (OP) offers the following comments on HB 193, which requires the Land Use Commission (LUC) to extend the period of time for compliance with conditions of approval for at least two years if there has been substantial commencement of development or if other good cause exists.

OP believes this measure is not necessary. Petitioners have the ability to appear before the LUC and request extensions if they are experiencing difficulties in meeting any time requirements imposed in conditions of approval. In our experience, petitioners have not hesitated to request extensions of time for good cause, and the LUC has been generous in granting even multiple extensions to comply with imposed time requirements.

Thank you for the opportunity to provide testimony on this measure.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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February 22, 2013

The Honorable Sylvia Luke, Chair
and Members of the Committee on Finance
State House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Luke and Committee Members:


**Subject: House Bill 193
Relating to Land Use**

The Department of Planning and Permitting (DPP) **supports House Bill No. 193 with amendments.** We support the intent of the bill which provides guidance to the State Land Use Commission (SLUC) in reviewing requests for time extensions from petitioners of approved State Land Use Boundary Amendment.

However, we recommend amending House Bill No. 193 by deleting assignment to the counties to make the determination on whether a petitioner has substantially commenced development. The required annual reports submitted to the SLUC by the petitioner should provide sufficient information to make this determination on granting a time extension. The SLUC is the appropriate authority to decide whether the petitioner has made adequate progress on complying with its own conditions and requirements. Lastly, deleting the county determination step can streamline the process. The county, as a party to the proceedings, can still comment on any request for a time extension, should it choose to do so.

In summary, please forward House Bill No. 193 with our requested amendment. Thank you for the opportunity to testify.

Very truly yours,


George I. Atta, FAICP, LEED AP, CEI
Director Designate
Department of Planning and Permitting

GIA:jmf

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Testimony of Cindy McMillan
The Pacific Resource Partnership

House Committee on Finance
Representative Sylvia Luke, Chair
Representative Scott Y. Nishimoto, Vice Chair
Representative Aaron Ling Johanson, Vice Chair

HB 193– RELATING TO LAND USE
Friday, February 22, 2013
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State Capitol – Conference Room 308

Chair Luke, Vice Chairs Nishimoto and Johanson and Members of the Committee:

The Pacific Resource Partnership (PRP) is a labor-management consortium representing over 240 signatory contractors and the Hawaii Regional Council of Carpenters.

PRP **supports** HB 193, which requires the Land Use Commission (LUC), upon request, to extend the time period for which a boundary amendment is effective for at least 2 years if the appropriate county officer or agency determines that the petitioner has substantially commenced development or if other good cause exists.

This legislation addresses an issue that arises if the LUC imposes a specific timeline for a project in its approval of a district boundary amendment. Following LUC approval, the counties assess the specific uses, development and timing through detailed county ordinances, zoning and subdivision rules. This process includes intense scrutiny of the application and includes reviews by numerous departments and agencies. As a result, the approvals process is often lengthy and specific deadlines imposed by the LUC difficult, if not impossible to meet. HB 193 recognizes this reality and provides a reasonable solution to the challenge faced by developers.

For these reasons, we respectfully ask for your support on HB 193. Thank you for the opportunity to share our views on this important initiative with you.