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TESTIMONY OF PETER H. M. LEE
HAWAII LECET

THE SENATE
THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2016

COMMITTEE ON HOUSING
Senator Breene Harimoto, Chair
Senator Brickwood Galuteria, Vice Chair

COMMITTEE ON EDUCATION
Senator Michelle N. Kidani, Chair
Senator Breene Harimoto, Vice Chair

NOTICE OF HEARING

DATE:	Tuesday, February 16, 2016
TIME:	2:45 PM
PLACE:	Conference Room 225 State Capitol 415 South Beretania Street

RE: SB2749 - RELATING TO SCHOOL IMPACT FEES.

TO SENATOR BREENE HARIMOTO, CHAIR; SENATOR BRICKWOOD GALUTERIA, VICE CHAIR; AND MEMBERS OF THE COMMITTEE ON HOUSING;

TO SENATOR MICHELLE KIDANI, CHAIR; SENATOR BREENE HARIMOTO, VICE CHAIR; AND MEMBERS OF THE COMMITTEE ON EDUCATION;

My name is Peter H. M. Lee, and I am submitting this testimony on behalf of Hawaii LECET. Hawaii LECET is a labor-management partnership between the Hawaii Laborers Union, Local 368, and its unionized contractors.

Mahalo for the opportunity to testify in **STRONG SUPPORT of SB2749**, Relating to School Impact Fees. SB2749 would provide an exemption from school impact fees for housing developments constructed by nonprofit housing organizations in which the units are rented or sold to persons or families earning up to eighty percent of the area median income.

While we understand the need for school impact fees to help meet our important educational needs, we think that exempting non-profits from school impact fees will help to add to the inventory of affordable housing and would assist in making home ownership a reality for many individuals and families. For these reasons, **Hawaii LECET strongly supports SB2749.**

Mahalo for this opportunity to testify.

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February 16, 2016

Senator Breene Harimoto, Chair
Senator Brickwood Galuteria, Vice Chair
Senate Committee on Housing

Testimony in Opposition to SB 2749 Relating to School Impact Fees. (Provides an exemption from school impact fees for housing developments constructed by nonprofit housing organizations in which the units are rented or sold to persons or families earning up to eighty per cent of the area median income.)

HOU/EDU Hearing: Tuesday, February 16, 2016, 2:45 p.m., Conf. Rm. 225

The Land Use Research Foundation of Hawaii (LURF) is 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.

In 2005, pursuant to Act 246 (SLH 2005), the Legislature established the School Impact Fee Working Group (Working Group), and as part of that Working Group, LURF worked with the State Department of Education (DOE), the Legislature and other housing stakeholders to develop an equitable process and *"fair share"* formula for DOE impact fees to be paid by all new homes that are built, whether by private, public, non-profit, or individual landowners. In 2006, the Working Group submitted a study, including recommendations and draft legislation, which was eventually passed by the Legislature in 2007, and became the Sections 302A-1601 to 1611, Hawaii Revised Statutes (School Impact Fee Law). The guiding principle of the School Impact Fee Law, is ***"everyone pays their fair share."***

LURF and its members have built the majority of the affordable housing units in the State and strongly support affordable housing built by nonprofit housing developers, including sale or lease for persons with eight per cent (80%) Area Median Income (AMI) and below, as determined by the United States Department of Housing and Urban Development (HUD).

The record shows that since 2007, affordable housing developers and nonprofit affordable housing developers can acquire financing to pay the school impact fees. In fact, in 2015, LURF President, Stanford Carr completed Halekauwila Place in Kakaako, which includes 204 affordable rental units, **all tenants are sixty per cent (60%) AMI and below – and the school impact fee was paid for all 204 units!**

In fact, LURF also understands that Maui County funded Habitat for Humanity-Maui $2,322,757 of HOME funds, and school impact fees were paid for their Kahawai Apartments project, a 16 unit homeownership condominium project completed on or about March 24, 2015.

SB 2749. This bill would amend the existing School Impact Fee Law by providing an exemption from school impact fees for housing developments constructed by nonprofit housing organizations in which the units are rented or sold to persons or families earning up to eighty per cent of the area median income.

The reason given by proponents for this measure is that the exemption from school impact fees is needed so that the buyer or lessee of affordable housing built by a nonprofit developer can have extra money (single family housing school impact fee of $5,504) to add an *"extra bathroom, carport, storage area, or fenced in back yard."*

LURF's Position. LURF understands that this measure may be well intended, however, it must **oppose SB 2749**, and respectfully recommends that this measure be **held** by your Committees.

LURF fully supports the efforts of nonprofit affordable housing developers, and has confirmed that the county housing departments and the Hawaii Housing Finance and Development Corporation (HHFDC) can provide financing assistance for construction loans. Since 2007 (including during the economic downturn) all other nonprofits have been able to pay their fair share school impact fees with such government assistance, or reviewing the feasibility of their affordable housing projects and the financial capability of the prospective homeowners – depending on the financial circumstances and construction costs, some families cannot buy a home and should rent instead.

While LURF believes that adding an *"extra bathroom, carport, storage area, or fenced in back yard."* is not justification for a nonprofit housing developer to be exempted from the school impact fee, LURF is willing to assist the proponents of this measure with contacts with the county housing departments and HHFDC to seek information and assistance regarding available financing to pay for school impact fees.

Important Background Facts and Reasons to Hold SB 2749:

- **Based on the facts, SB 2749 is not necessary, because since 2007, all non-profit developers have been able to pay their *"fair share"* school impact fees, including all affordable housing built under the State's 201H affordable housing program and all affordable housing built by the Department of Hawaiian Homelands.** LURF understands that the counties and state agencies, including HHFDC provide financing assistance to nonprofits who develop for sale and rental affordable housing. LURF understands that **<u>Maui County funded Habitat for Humanity-Maui with over $2.3 million of HOME funds for their Kahawai Apartments project, which paid its school impact fees and was completed in 2015</u>.** Also, if the costs for adding an *"extra bathroom, carport, storage area, or fenced in back yard"* are too high, instead of changing the State's School Impact Fee Law, one alternative for the nonprofit housing developer to consider is revising the project from for-sale housing to rental housing.

- **This measure is <u>not necessary</u>, based on the facts: if housing developers who build affordable rentals for <u>sixty per cent (60%) AMI and below</u>, can still pay their "fair share" school impact fees, the nonprofit housing developers who build for eighty per cent (80%) AMI and below should also be able to pay the school impact fees.** As noted above, Stanford Carr was able to deliver 204 rental units (studios, one bedroom, two bedrooms and three bedrooms) at his Halekauwila Place project, and <u>also pay the "fair share" school impact fee</u>. The Halekauwila Place units are being rented to tenants with incomes that are <u>sixty per cent percent (60%) AMI, or less</u> (which means the maximum income of a single tenant must be $41,000 a year, or less, for two persons $49,040, three persons $52,920 and four persons $58,740.

- **Under the circumstances, this bill is <u>not necessary</u>, because <u>financing is available</u> to nonprofit housing developers to help pay the *"fair share"* school impact fees – it takes a lot of hustle, hard work and seeing information and advice from county, state and federal housing agencies.** As noted above, since 2007, all nonprofit affordable housing developers, other affordable housing developers and even single family homeowners have been able to finance and pay their "fair share" of the school impact fees. Some of the funding for Stanford Carr's Halekauwila Place project came from HUD, through a construction loan provided by the State's HHFDC, and gap financing by Hawaii Community Development Authority. Again, a good example of this is **<u>the fact that Maui County funded Habitat for Humanity-Maui with over $2.3 million of HOME funds for their Kahawai Apartments project, which paid its school impact fees and was completed in 2015</u>.**

- **This measure is <u>contrary</u> to the recommendations and draft legislation in the *Hawaii School Impact Fee Study (December 2006)*, prepared by the School Impact Fee Working Group, which had <u>considered and rejected any non-profit exemptions</u>.** Pursuant to Act 246 (SLH 2005), the Legislature established a School Impact Fee Working Group, which was tasked with analyzing issues, including among other things, *"fair share"* practices and *"best practices"* utilized by other jurisdictions nationwide; and was asked to submit proposed legislation or procedures for implementing its recommendations. The main principle that guided the School Impact Fee Working Group was that *"everyone should pay their fair share"* for new schools or school renovation. This *"fair share"* principle was embodied in the draft legislation proposed by the Working Group, and in the spirit and intent of the School Impact Fee Law.

  The Working Group considered various exemptions, and decided <u>not to provide an exemption for nonprofit housing developers</u>, because all home builders should pay *their* *"fair share,"* and because other nonprofit developers are able to pay their *"fair share"* of school impact fees by securing government grants, loans and financing. In its 2006 report to the legislature entitled *Hawaii School Impact Fee Study (December 2006)*, the Working Group provided recommendations and proposed a draft of the impact fee law, which did not include any exemption for non-profit housing developers.

- **SB 2749 violates the spirit and letter of the School Impact Fee law, which is *"all homebuilders should pay their fair share."*** The stated purpose of the State School Impact Fee Law was to implement the recommendations of the Working Group, which was established pursuant to Act 246 (SLH 2005), to implement a new method for financing, in part, new or expanding existing department of education educational facilities in partnership with developers of new residential developments.

  The State's School Impact Fee law reflects a general methodology and *"fair share"* approach for identifying need areas and calculating appropriate school impact fees for new residential developments. It also recognizes the need for more detailed planning for implementation of *"fair share"* school impact fees by the DOE, and the recognition of how the methodology will be applied in new residential projects involving rezoned properties or parcels, current zoned parcels with or without buildings, and redevelopment projects.

- **Exemptions for non-profits are a "slippery slope" and will cause unintended negative consequences.** Providing an exemption for nonprofit housing developers so that their clients can add an *"extra bathroom, carport, storage area, or fenced in back yard"* is a slippery slope, that can lead to requests for other exemptions or other developers taking advantage of such an exemption. Other affordable housing developers will ask for the same exemptions (to add an *"extra bathroom, carport, storage area, or fenced in back yard"*), or may even create their own nonprofit corporations so they will not be required to pay the school impact fees. These possible unintended consequences will wreak havoc with the DOE's planning of new schools and renovations and the DOE budget.

- **What is may be needed is to provide the nonprofit housing developers with information, training and assistance relating to obtaining financing for their projects or re-evaluating whether their projects should be for sale or rentals.** As stated above, while LURF believes that adding an *"extra bathroom, carport, storage area, or fenced in back yard."* is not justification for a nonprofit housing developer to be exempted from the school impact fee; and questions the intent of nonprofits requesting an exemption for schools for children, when they received over 2.3 million from Maui County. Nevertheless, LURF is willing to assist the proponents of this measure with contacts with the county housing departments and HHFDC to seek information and assistance regarding available financing to pay for school impact fees.

For the reasons stated above, LURF **must oppose SB 2749** and respectfully requests that this bill be **held** in your Committee.

Thank you for the opportunity to present testimony regarding this matter.