TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2015

ON THE FOLLOWING MEASURE:
S.B. NO. 906, S.D. 1, RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Friday, February 27, 2015 **TIME:** 9:05 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Russell A. Suzuki, Attorney General, or
Deputy Attorney General Lori N. Tanigawa

Chair Keith-Agaran and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill proposes to (1) require developers to abide by all representations and commitments made in the permit approval process; (2) require the Hawaii Community Development Authority (HCDA) to schedule a public information meeting for the presentation of developer's proposed project; (3) require HCDA to adopt administrative rules that require developers to convene community meetings on proposed projects prior to submitting their application to HCDA and to provide notice to condominiums within the respective community development district; (4) amend the deadline to intervene in the permit approval process to twenty business days after the public information meeting; (5) require HCDA to commence the contested case hearing process no earlier than twenty business days after rendering a decision on intervention; and (6) require HCDA to make certain findings regarding the proposed project and its impacts in order to approve the proposed project.

In section 1, on page 1, lines 4-8, the bill amends chapter 206E, Hawaii Revised Statutes (HRS), by adding a new section that provides:

> **§ 206E- Developers to abide by representations and commitments.**
> A developer who proposes to develop lands under the authority's control and whose proposal is approved by the authority shall abide by all representations and commitments made in the permit application process.

We believe the term "representation" is subject to multiple interpretations and as such, is ambiguous, which may lead to the inability to implement the bill as the Legislature intends. We

therefore recommend that this term be defined. We note, however, that even with a defined term, the enforcement of this provision may be problematic because a developer's representations and commitments may change over the course of the permit application process, especially in response to public comment. More importantly, HCDA may approve a permit application subject to terms and conditions that may contravene certain representations or commitments made by the developer during the course of the proceedings. We therefore believe that this provision would conflict with HCDA's discretion to attach terms and conditions to its permit approvals.

In addition, it is unclear what "permit application process" is being referenced. We presume that the intent is to reference the process set forth in section 206E-5.6, HRS, which governs HCDA's acceptance of a developer's proposal to develop lands under HCDA's control. We note, however, that on page 6, section 3 of the bill also amends section 206E-5.6 to include reference to a "public information meeting," which the bill attempts to distinguish from a contested case proceeding. We therefore recommend that if this wording remains, it be amended to specify whether the "permit application process" includes the public information meeting provided for in section 1 of the bill or if it only includes the contested case proceeding set forth in section 206E-5.6.

In section 1, on page 1, lines 9-17, through page 2, lines 1-2, the bill amends chapter 206E by adding a new section that provides:

> **§ 206E- Public information meeting.** Upon issuance of the certificate of completeness of a project development, the authority shall schedule a public information meeting for the presentation of the developer's proposed project and request for modifications or variances and reasons therefore. The developer shall present its proposed project plans, including but not limited to visual presentations of the proposed project and justification for any variances or modifications from the community development plan and rules, and answer questions and receive and address comments and recommendations from the public.

We note that while HCDA issues a certificate of completeness pursuant to its current Mauka Area Rules, chapter 15-217, Hawaii Administrative Rules (HAR), and Kalaeloa Community Development District Rules, chapter 15-215, HAR, it is only with respect to a permit application, not the "project development." We therefore recommend that the bill be amended as follows:

> Upon issuance of the certificate of completeness of a [~~project development~~] permit application, the authority shall schedule a public information meeting for the presentation of the developer's proposed project and request for modifications or variances and reasons therefore.

Moreover, it is unclear whether the public information meeting is to occur at a duly noticed regular Board meeting or whether it is merely a presentation to the public by the developer, coordinated by HCDA staff. We therefore recommend that the bill be amended to address this concern.

In section 2, on pages 2-5, the bill amends subsection (a) of section 206E-5.5, HRS, which requires HCDA to adopt community and public notice procedures pursuant to chapter 91, HRS. In particular, on page 3, lines 3-13, the bill amends section 206E-5.5(a)(1), by adding a new subparagraph that provides:

> (B) The authority shall not issue a certificate of completeness unless the application provides evidence that the developer has met with the affected community development district residents and stakeholders to identify opportunities, benefits, community concerns, and potential adverse impacts of the proposed project, and actions taken to address or mitigate identified adverse impacts on the public health, safety, and welfare of the neighborhood and broader community.

We have concerns regarding this provision. First, the provision assumes that the affected area residents and stakeholders did, in fact, meet with the developer. We understand that section 2, on page 2, lines 13-21, through page 3, lines 1-2, of the bill requires HCDA to adopt administrative rules that require developers to convene two meetings at which affected area residents and stakeholders may attend and provide comment, but given that attendance is not mandatory, there may be instances where the developer convenes a meeting with no attendees. We therefore recommend that the bill be amended to only require a developer to submit evidence of having convened two meetings at which affected area residents and stakeholders were invited to provide comments or identify concerns regarding the proposed project and the developer's response to those comments or concerns, if any.

Second, we believe the terms "affected community development district residents and stakeholders" and "broader community" are subject to multiple interpretations and, as such, are ambiguous, which may lead to the inability to implement the bill as the Legislature intends. We therefore recommend that these terms be defined.

In accordance with the above comments, we recommend that section 206E-5.5(a)(1)(B) be amended as follows:

> (B) The authority shall not issue a certificate of completeness unless the application provides evidence: (i) that the developer has [~~met with the~~] convened two meetings at which affected community development district residents and stakeholders were afforded the opportunity to identify opportunities, benefits, community concerns, and potential adverse impacts of the proposed project[~~,~~]; and (ii) of any actions taken to address or mitigate any identified adverse impacts on the public health, safety, and welfare of the neighborhood and broader community.

In section 2, on page 3, lines 14-17, the bill amends section 206E-5.5(a)(2) to require HCDA to adopt community and public notice procedures pursuant to chapter 91 regarding:

> (2) The posting of the authority's proposed plans for development of community development districts, public hearing notices, minutes, and decisions of its proceedings on the authority's website.

We believe the phrase "decisions of its proceedings" lacks clarity. We therefore recommend that the bill be amended to delete the phrase "of its proceedings" as follows:

> (2) The posting of the authority's proposed plans for development of community development districts, public hearing notices, minutes, and decisions [~~of its proceedings~~] on the authority's website.

In section 2, on page 4, lines 18-21, through page 5, lines 1-4, the bill amends section 206E-5.5(a)(3) to require HCDA to adopt community and public notice procedures pursuant to chapter 91 regarding:

> (3) The posting of every application for a development permit for any project within a community development district on the authority's website when the application is received; pre-application meetings and other relevant information on the proposed project; the application when deemed complete; and the schedule of the public meeting, intervention deadlines, and subsequent public hearings on the project.

We believe the above provision lacks clarity and as such, we recommend that the bill be amended as follows:

> (3) The posting on the authority's website of: (i) every application for a development permit for any project within a community development district [~~on the authority's website~~] when the application is received and deemed complete; (ii) information regarding pre-application meetings and any other relevant information on the proposed project; [~~the application when deemed~~

~~complete;~~] and (iii) the schedule of the public information meeting, intervention deadline[~~s~~], and subsequent public hearings on the [~~project~~] permit application.

In section 2, on page 4, lines 5-21, the bill amends section 206E-5.5(a)(4) to require HCDA to adopt community and public notice procedures pursuant to chapter 91 regarding:

> (4) Notification by the applicant of any development permit for a project valued at $250,000 or more, when the application is deemed complete, by first class United States mail, postage prepaid to owners and lessees of record of real property located within a three hundred foot radius of the perimeter of the proposed project identified from the most current list available from the real property assessment division of the department of budget and fiscal services of the county in which the proposed project is located and to all boards of directors of associations of apartment owners, as defined in section 514A-3, and boards, as defined in section 514B-3, of condominiums within the relevant community development district, which, upon receipt, shall be posted in a prominent location on site by the respective building manager.

To the extent this provision requires HCDA to adopt rules that require the developer to notify all boards of directors of associations of apartment owners and boards of condominiums located within the relevant community development district, we are concerned that this requirement is unduly burdensome and may be impossible to satisfy. The identification of every condominium in a community development district may not be readily ascertainable and may require the expenditure of considerable time and resources to ascertain such information. This may be especially burdensome for applicants who seek a development permit for improvements which are small in their scope and nature. We therefore recommend that the bill be amended as follows:

> (4) Notification by the applicant of any development permit for a project valued at $250,000 or more, when the application is deemed complete, by first class United States mail, postage prepaid to owners and lessees of record of real property located within a three hundred foot radius of the perimeter of the proposed project identified from the most current list available from the real property assessment division of the department of budget and fiscal services of the county in which the proposed project is located and to all boards of directors of associations of apartment owners, as defined in section 514A-3, and boards, as defined in section 514B-3, of condominiums who have requested to be placed on the authority's notification list for proposed development projects within the relevant community development district, which, upon receipt, shall be posted in a prominent location on site by the respective building manager;

In section 2, on page 5, line 9, the bill references a "public meeting." We presume this is a reference to the "public information meeting" provided for in section 1 of the bill. If we are correct in our presumption, we recommend that the bill be amended to reflect consistent terminology.

In section 3, on page 5, lines 18-21, through page 6, lines 1-15, the bill amends section 206E-5.5(b) as follows:

> (b) The authority shall issue a public notice in accordance with section 1-28.5 and post the notice on its website within five business days after issuance of a certificate of completeness of the developer's application. Public notice issued pursuant to this subsection on the acceptance of a developer's proposal to develop lands under the authority's control shall state the schedule for the proposal review, including but not limited to the public information meeting, public hearings, intervention motions and decisions, and any other information pertinent to the application. Any written motion to intervene as a formal party to the proceeding shall be received within twenty business days after the public information meeting. The authority shall schedule the commencement of the contested case hearing no earlier than twenty business days after rendering a decision on the intervention motion.

The above provision clearly contemplates that the public information meeting is part of HCDA's proposal review process, yet attempts to distinguish the public information meeting from the contested case hearing. If the public information meeting is part of HCDA's proposal review process, we believe it is necessarily part of the contested case proceeding on the proposed project. This is because a contested case hearing is defined as, "an agency hearing that 1) is required by law and 2) determines the rights, duties, or privileges of specific parties." E & J Lounge Operating Co., Inc. v. Liquor Comm. of City & County of Honolulu, 118 Haw. 320, 330, 189 P.3d 432, 442 (2008); see also Haw. Rev. Stat. § 91-1 (1961). An agency hearing is required by law if "there is a statutory, rule-based, or constitutional mandate for a hearing." E & J Lounge, 118 Haw. at 330, 189 P.3d at 442. If an agency hearing meets this two-prong test, then it is a contested case hearing for purposes of section 91-14. Id.

Inasmuch as the bill clearly requires that HCDA conduct a public information meeting as part of its proposal review process, the first prong of the test is satisfied. The second prong is also satisfied because a developer seeks to have the legal rights, duties, and/or privileges relative

to the development of land in which it holds an interest declared over the objections of other neighboring landowners and residents of the area. See E & J Lounge, 118 Haw. at 332, 189 P.3d at 443 (holding that an applicant for a liquor license sought to have the legal rights, duties, or privileges relative to the sale of liquor at its establishment declared over the objections of other landowners and residents of the area where applicant's establishment is located). Indeed, section 206E-5.6(g) expressly provides that, "[p]roceedings regarding the acceptance of a developer's proposal to develop lands under the authority's control shall be considered a contested case hearing." Accordingly, we recommend that the bill be amended as follows:

> (b) The authority shall issue a public notice in accordance with section 1-28.5 and post the notice on its website within five business days after issuance of a certificate of completeness of the developer's application. Public notice issued pursuant to this subsection on the acceptance of a developer's proposal to develop lands under the authority's control shall state the schedule for the proposal review, including but not limited to the public information meeting, public hearings, intervention motions and decisions, and any other information pertinent to the application. Any written motion to intervene as a formal party to the proceeding shall be received within twenty business days after the public information meeting. The authority shall schedule the commencement of the [~~contested case hearing~~] public hearings no earlier than twenty business days after rendering a decision on the intervention motion.

In section 3, beginning on page 6, line 16, and ending on page 9, line 20, the bill requires HCDA to make certain findings regarding the proposed project and its impacts in order to approve the proposed project. For instance, one of the required findings is that the proposed project enhances "maintenance and improvement of the quality of educational programs and services provided by schools." See page 9, lines 11-13. Another finding is that the proposed project enhances the "health and wellness and other supportive services for residents of all ages, including aging in place and care for families." See page 9, lines 16-18. We are concerned that the breadth and scope of the required findings may be quite difficult, if not impossible, for any given project to achieve. If a state enacts regulations that which are so onerous as to deprive a land owner from economically beneficial use of his or her property, then such action may constitute a regulatory taking of private property. Whether a regulatory taking requires just compensation depends on the consideration of several factors, the primary factor being the extent to which the regulation interferes with distinct investment-backed expectations. See, e.g., Penn

Cent. Transp. Co. v. New York, 438 U.S. 104 (1978). Absent details regarding the properties affected by this bill, we are unable to determine whether a regulatory taking would require compensation. It should be noted, however, that if compensation is required, then the Legislature should be prepared to appropriate funds for such compensation.

We are available to confer with, or assist, the Committee regarding amendments to this measure.

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

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STATEMENT OF

ANTHONY J. H. CHING, EXECUTIVE DIRECTOR
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

BEFORE THE

SENATE COMMITTEE ON JUDICIARY AND LABOR

ON

FRIDAY, FEBRUARY 27, 2015

9:05 A.M.

State Capitol, Conference Room 16

in consideration of

S. B. 906 S.D. 1 – RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

Purpose: Requires HCDA to schedule a public information meeting for the presentation of the developer's project proposal; requires pre-application meetings and evidence that the developer has met with affected residents and stakeholders to identify concerns and issues; and specifies the deadline to intervene is 20 business days after the public informational meeting.

Position: I provide the following comments and concerns with respect to the proposed amendments to HCDA rules governing the proceedings before the Authority. I note that the Authority has adopted §15-219 Hawaii Administrative Rules (HAR) to efficiently govern its practice and procedure and executes the requirements of its enabling statute (§206E HRS) and other appropriate laws (§§§§6E, 91, 92 and 343 HRS). Accordingly, my comments reflect on the impact of the proposal upon the efficiency and practice already codified by the HCDA. However, I defer to the office of the Attorney General (AG) with respect to any question of law or interpretation/application of case law.

Section 1 Requirement for Public Information Meeting. This section of the proposal requires that a public information meeting is scheduled after an application has been deemed complete. Unfortunately, the specifications for this meeting duplicates what currently constitutes the initial public hearing (where the facts of the application are presented by all parties) and second hearing on modifications (where the facts of any modifications or variances are presented by all parties), all prior to any third decision making hearing. It is my belief that the addition of this redundant meeting will clearly trigger automatic approval for Kalaeloa review (when process >120 days) and threaten the ability of the Authority to administer the rule of law and due process to the parties given the Kakaako rule (when process >180 days).

Section 2 Requirement that the Authority Adopt Community and Public Notice Procedures. This section of the proposal requires that the Authority adopt rules pursuant to Chapter 91 HRS to *govern actions of the developer and private parties prior to submittal of an application to the jurisdiction of the Authority*. It is not practical to believe that the Authority will be able to promulgate rules to:

- administer the actions of a private party/developer before the area neighborhood board to ensure that resident and stakeholder concerns have/will be addressed or mitigated;
- assure that all boards of directors of associations of apartment owners/private parties not subject to the jurisdiction of the Authority post notice in a prominent location on their premises; and
- require the developer to disseminate a prospective schedule of meetings, intervention and decision for public hearings that have not yet been determined, yet alone submitted to the jurisdiction of the Authority.

Section 3 Requirement that Written Motion to Intervene within 20 business days after the Proposed Public Information Meeting and Commencement of the Hearing no earlier than 20 business days after the

Intervention Motion is Held. Twenty business days is the equivalent of one month of time. The proposal effectively adds a minimum of two months to a hearing process that is already laboring to meet a 180-day deadline for Kakaako and will definitely invoke automatic approval for any project being reviewed within the Kalaeloa 120-day deadline. With the addition of two months (60 days) to the review time frame, it is not practical to believe that the Kakaako 180-day automatic approval rule would not be invoked.

Section 3 Requirement for Authority to Adopt Findings and Facts in Areas Outside of the Authority's Jurisdiction. While the zoning process customarily affords discretionary powers to the regulatory body, the proposal provides no discretion and instead establishes that the Authority secure a nearly impossible standard of proof. However, more importantly, the proposal requires that the Authority exercise jurisdiction and/or expertise in areas clearly outside of its mandate and covered by other statute and agency. These areas that the proposal requires the Authority to adjudicate issues where other agencies claim jurisdiction include:

- Avoids a substantially adverse effect on *surrounding* land uses and *infrastructure* (C&C of Honolulu Department of Environmental Services, Board of Water Supply);
- Preservation or renewal of valued cultural or historic structures (§6E HRS/§13-284 HAR, administered by the State Historic Preservation Division);
- *Health and wellness* and other supportive services for residents of all ages, including *aging in place* and *care of families* (Health/Wellness/Public Health-Department of Health, Aging in Place-Executive Office of Aging/Department of Health/Department of Human Services, Care of Families-Department of Human Services, Judiciary, others);

- Opportunities for *locally grown and made products and services* (Department of Business, Economic Development and Tourism/Department of Agriculture/Department of Taxation)

Existing HCDA Contested Case Process Promotes Informal Public Participation. The Authority currently administers its development permit process in accordance with the requirements specified by the Legislature in §§206E-5.6, 91 HRS and Act 61 SLH 2014. I note that contested case proceedings held in accordance with §91 HRS do not allow the public to provide testimony, but instead limit participation only to parties with standing. However, to solicit as much public input as possible, the HCDA has always allowed the public to *submit both written and verbal testimony at each public hearing without the witnesses being sworn to tell the truth and subject to cross-examination.*

Existing HCDA Supplemental Public Comment Sessions and Community Briefings. The Authority currently requires that any prospective development permit applicant make a presentation before the area Neighborhood Board to solicit comments/concerns/suggestions before finalizing their proposal and submittal to the Authority for processing. The HCDA also holds at least two supplemental public comment sessions and community briefings prior to each decision-making hearing on a development permit application.

These supplemental hearings are always held after the project's initial public hearing so that the public is adequately informed and is provided opportunity to comment on the specifics of the project before the Authority. Furthermore, these supplemental hearings are held on a Saturday morning and Tuesday evening to allow a wide range of residents to attend and participate in the review of the project. A court reporter records all the public testimony received at our supplemental public comment sessions and a record is provided to all board members prior to the decision-making hearing.

Posting of Applications Upon Receipt. The HCDA currently posts all development permit applications online upon deeming that project complete. This

ensures the project application contains all of the necessary information to be valid. By changing that process and requiring the HCDA to post all development permit applications as soon as the agency receives them would lead to incomplete applications being posted for public viewing. This would lead to public confusion, as elements of that application may change as the developer works to receive a certificate of completion from the HCDA.

Already a Rigorous Process. The rigor of the pre-application Neighborhood Board consultation; notice given by the Authority and that of the applicant; application and hearing process; the scope of the opportunity for input and participation currently afforded the public; and the Kakaako 180 day time frame and the Kalaeloa 120 day time frame within which the applicant must navigate and the Authority must administer far exceeds the requirements administered any place elsewhere in the State/City & County of Honolulu.

What Problem Does the Proposal Address? Hearings conducted in accordance with the recently enacted Act 61, SLH 2014 have not produced evidence that public participation is being short changed or ham strung. In fact, the vast majority of public testimony has expressed support for the various proposals.

Thank you for the opportunity to provide comments and concerns with respect to the practical challenges of amending the existing quasi-judicial permit application and review process as suggested by this proposal.

KAMEHAMEHA SCHOOLS

February 26, 2015

WRITTEN TESTIMONY TO THE
SENATE COMMITTEE ON JUDICIARY AND LABOR
By
Walter F. Thoemmes
Kamehameha Schools

Hearing Date: February 27, 2015
9:05 a.m. Conference Room 16

To: Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair
Members of the Senate Committee on Judiciary and Labor

RE: Opposition to Senate Bill No. 906 S.D. 1 Relating to the Hawaii Community Development Authority (the "Bill")

Kamehameha Schools (KS) opposes the Bill.

KS has spent years and valuable resources developing the Kaiāulu ʻO Kakaʻako Master Plan (the "Master Plan") for its legacy lands. The Master Plan is more than a set of zoning rules. Instead, it is a plan of holistic and comprehensive development framed by careful study, extensive community input and a commitment to stewardship of our lands in Kakaʻako. Accordingly, the Master Plan is rooted in three core values: (i) a deep understanding and commitment to the surrounding community, its economic and social vitality, and its vested stakeholders; (ii) the creation of a sustainable and vibrant cultural life through sustainable land and building practices; and (iii) as first articulated by the State Legislature in 1976 and re-affirmed by enthusiastic community support in 2004, the cultivation of a mixed-use "urban village" and "urban-island culture" within Honolulu's metropolitan core.

These values (and the current Master Plan) were developed in concert with extensive stakeholder meetings and workshops with representatives from the Kakaʻako Improvement Association, the Kakaʻako Neighborhood Board, Enterprise Honolulu and the Hawaii Community Development Authority ("HCDA") solicitation and input over the last ten years. The parties understood that developing an urban village involves substantially more than creating new building structures and constructing residential housing. It requires a commitment to the community and providing the types of urban-island lifestyle choices demanded by those who make Kakaʻako their home. In this way, the Master Plan serves as the community's collective blueprints for the economic and social fabric of Kakaʻako.

Prior to KS' Master Plan application submission to HCDA in November 2008, KS met with HCDA staff, planning professionals, and its greater community to develop the Master Plan. Since then, the public had the opportunity to comment on KS' Master Plan. HCDA took formal action to ensure public input on the plan including (1) mailing almost 12,000 flyers to persons on its "Connections" list, (2) posting the

Master Plan on its website, (3) inviting comments from the public through an on-line site and a telephone comment line, (4) holding a community meeting for additional public input, (5) working with KS to address public comments, (6) conducting a contested case hearing (noticed and open to the public), and (7) holding a public hearing for final decision making.

By September 2009, when the Master Plan was adopted, the public had the opportunity to review and comment on the Master Plan for more than nine months and HCDA provided numerous comments to KS on changes to the Master Plan to address public input.

In light of the significant efforts to incorporate the public input into the Master Plan, and because many provisions of the Bill undermine the certainty necessary to continue KS' multi-year efforts to deliver housing alternatives in the urban core in reliance on the Master Plan, KS provides the following specific comments to the Bill.

1. Developers to abide by representations and commitments. KS recognizes the need to ensure that a developer will follow all of the clear conditions of the approval of a project. However, the addition of a requirement that a developer abide "by all representations and commitments made in the permit application process" introduces a vague standard by which a diligent developer may be nonetheless wrongly accused of not keeping "commitments" that a third-party may deem to be "made in the permit application process." Under the existing framework, conditions of approval for a new project are set forth in the Decision and Order issued by the Authority, which conditions are also memorialized in a written declaration recorded against, and running with, the land. It is in the best interests of both the developer and the general public that all parties clearly understand the conditions of a project's approval and the existing Decision and Order framework already provides such certainty and fairness.

2. Public Information Meeting. KS appreciates that the intent of the suggested statutory amendments is to strengthen the Authority's review process. However, changes to carefully crafted rules should not be made in piecemeal without regard to its effects on the whole community, in particular where existing rules and procedures already include extensive opportunities for public participation. Throughout the creation of KS' Master Plan, and the passage of Act 61 in the last legislative session, stakeholders, planners and various entities studied, discussed, and balanced the critical considerations required to create a healthy and sustainable community in the urban core. As a result, the existing rules were designed to create detailed and comprehensive procedures necessary to strike a delicate balance between groups with diverse views. These spot changes to carefully reviewed rules create vague standards that would only serve to fuel challenges and litigation, and cripple KS' ability to support its mission and deliver on its goal of delivering housing alternatives in the urban core. To the extent procedural concerns need to be addressed, it is appropriate to have the agency with experience and expertise in administering the process address them.

3. Project Approval Requirements. These revisions create an unprecedented and unreasonable standard for project approval. As a general matter, not all housing projects are alike. Each project must be narrowly tailored to a variety of necessarily subjective factors, including present need in the community, market viability, and the unique features of the land upon which the project will be

located. If not, the project cannot and will not be built. In recognition of the Authority's role in delicately balancing a variety of views and interests (particularly where, as here, the viability of the entire neighborhood depends on how each project interlocks with each other), the existing statute permits the Authority to *consider* all of the subjective factors unique to a given project, but does not mandate that *all* factors be addressed in *every* project. Further, the revisions will significantly chill development in Kaka'ako, as developers will be concerned that, even if the Authority finds that all factors are present, a third-party may disagree and attempt to invalidate the approval. Even in the best economic times, land use planning in Hawaii is a long-term process requiring a significant investment of time, money, and effort. Developers must carefully time and invest significant monies in construction plans, designs, and project financing and need to be able to rely on reasonable State, local and other governmental processes to create and complete viable projects. This Bill considerably undermines this key building block, and significantly increases the risk to the developer; the potential cost of housing for the consumer; and the time required to satisfy the current demand for housing.

Although public hearings and legal appeals of governmental approvals are sometimes a part of the development process, unnecessary delays and costs caused by a lack of clarity in the law should be avoided. Act 61 and the established rules already provide a fair roadmap to follow.

Thank you for the opportunity to testify on this Bill.

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SB 906 SD1
RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY

PAUL T. OSHIRO
MANAGER – GOVERNMENT RELATIONS
ALEXANDER & BALDWIN, INC.

FEBRUARY 27, 2015

Chair Keith-Agaran and Members of the Senate Committee on Judiciary & Labor:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) on SB 906 SD1, "A BILL FOR AN ACT RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY."

In 1976, the Legislature found that Kaka'ako was significantly under-utilized relative to its central location in urban Honolulu and recognized its potential for growth and development and its inherent importance to Honolulu as well as to the State of Hawaii. The Hawaii Community Development Authority (HCDA) was therefore established to promote and coordinate planned public facility development and private sector investment and construction in Kaka'ako. By having a regulatory body completely focused on the planning and zoning for Kaka'ako, it was felt that this would result in the effective development of this key economic driver.

This bill modifies HCDA contested case intervention provisions; establishes additional community and public notification procedures; and requires certain HCDA findings prior to the approval of any project. The above cited items amend provisions that were recently enacted into law by a bill passed during the 2014 Legislative Session that implemented numerous changes to the HCDA Law.

One of the compelling factors that resulted in the passage and enactment of last Session's broad and comprehensive revisions to the HCDA Law was a collaborative effort that brought together various entities, stakeholders, and individuals to thoroughly review, discuss, and analyze substantive amendments to the HCDA Law. Numerous meetings were held to bring these diverse views together to seek common ground and to develop and implement meaningful changes to strengthen and enhance public input and HCDA oversight on development projects in Kaka'ako. As a result of much thoughtful discussion, consensus building agreements were developed to strike a delicate balance that was instrumental in the passage and enactment of comprehensive amendments to the HCDA Law.

We respectfully request that last Session's newly enacted amendments to the HCDA Law, which evolved from the good faith efforts of many diverse stakeholders and interests, be allowed the time to work before consideration of additional modifications and amendments.

Thank you for the opportunity to testify.

The Howard Hughes Corporation
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February 27, 2015

The Honorable Gilbert Keith-Agaran, Chair
The Honorable Maile Shimabukuro, Vice Chair
Senate Committee on Judiciary and Labor

RE: **SB 906 SD1–Relating to the Hawaii Community Development Authority–In Opposition**
Hawaii State Capitol Room 016, 9:05 AM

Aloha Chair Keith-Agaran, Vice Chair Shimabukuro and members of the Committee:

The Howard Hughes Corporation, and its wholly-owned subsidiary Victoria Ward Limited ("VWL"), have serious concerns regarding SB 906 SD1, which requires HCDA to schedule a public information meeting to present the developer's project proposal and requests for modifications or variances and amends the deadline to intervene in a proceeding to accept a developer's proposal to twenty days after the public informational meeting on a developer's proposal, among other things.

This bill creates an impossible standard for development. Representations in a developer's application are impacted by the course of the application process as a result of community input, the HCDA staff report or the decision of the authority. The developer can only do what the HCDA allows it to do.

The public information meeting required in this bill duplicates the contested case hearing process as well as the two public comment sessions already regularly conducted by HCDA in the application process. Act 61 already requires that "proceedings regarding the acceptance of a developer's proposal . . . shall be considered a contested case hearing".

The notice to all Board of Directors of Associations of Apartment Owners in the relevant district also duplicates Act 61. Act 61 now requires notice by U.S. mail to owners and lessees of record within a 300' radius of the project.

For these reasons, we respectfully request that the Committee defer this measure.

David Striph
Senior Vice President - Hawaii

LAND USE RESEARCH
FOUNDATION OF HAWAII
1100 Alakea Street, Suite 408
Honolulu, Hawaii 96813
(808) 521-4717
www.lurf.org

February 26, 2015

Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair
Senate Committee on Judiciary and Labor

Strong Opposition to SB 906, SD1, Relating to the Hawaii Community Development Authority (HCDA) (Requires HCDA to schedule a public information meeting to present the developer's project proposal and requests for modifications or variances. Amends the deadline to intervene in a proceeding to accept a developer's proposal to twenty days after the public informational meeting on a developer's proposal. Requires developers to convene community meetings on proposed projects prior to submitting their application. Requires HCDA to make certain findings regarding the proposed project and its impacts in order to approve the proposed development. Requires developers to abide by all representations and commitments made in the permit application process.)

JDL Hearing: Friday, February 27, 2015, 9:05 a.m., in Conference Room 016

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.

LURF appreciates the opportunity to express its **strong opposition to SB 906, SD1** and to offer comments.

SB 906. This bill proposes to revisit issues that were already considered in the various bills introduced in the 2014 legislative session, and some issues that were ultimately addressed by Act 61 (2014), an omnibus bill relating to HCDA. SB 906, requires HCDA to schedule a public information meeting to present the developer's project proposal and requests for modifications or variances; amends the deadline to intervene in a proceeding to accept a developer's proposal to twenty days after the public informational meeting on a developer's proposal; requires developers to convene community meetings on proposed projects prior to submitting their application; requires HCDA to make certain findings regarding the proposed project and its impacts in order to approve the proposed development; requires developers to abide by all representations and commitments made in the permit application process. (SD1)

LURF's Position. LURF **strongly opposes SB 906**, based on, amongst other things, the following:

- The legislature should allow Act 61 (2014) the opportunity to be implemented, instead of trying to pass this bill, which raises many issues that were already considered in the various bills submitted last year relating to HCDA, and eventually addressed by Act 61 (2014). Last year, after many collaborative efforts by legislative leadership, government agencies, stakeholders and Administration, the 2014 legislature passed and Governor Abercrombie signed Act 61 (2014), which was a comprehensive, omnibus bill that amended the HCDA's requirements for notice, hearing, approval, and vesting of rights for development permits; changed the HCDA board membership and appointment process; permits sale of reserved housing units; permits cash-in-lieu payments for reserved housing requirements; established legislative oversight of HCDA bond authority; prohibited HCDA acquisition of public land by set aside; and creates height limits for HCDA project approvals in Kakaako.
- Hawaii's new Governor, David Ige, should be given the opportunity to address policy and administrative issues relating to HCDA and Kakaako;
- The Senate has confirmed new HCDA Board members, there are new State department director HCDA Board members, there will be new HCDA Board leadership, and they should be given the opportunity to address various issues relating to HCDA and Kakaako;
- HCDA's notification, contested case and hearing processes and requirements were amended by HCDA after the passage of Act 61 (2014), and can be found in Hawaii Administrated Rules Section 15-219 (HCDA's Administrative Rules);
- HCDA's Administrative Rules and its notification, contested case and hearing processes and requirements already comply with, and even exceeds the statutory requirements of Hawaii Revised Statutes (HRS) Chapter 91 (Public Proceedings and Records); Chapter 92 (Public Agency Meetings and Records): Chapter 343 (Environmental Impact Statements) and Chapter 6E (Historic Preservation);
- LURF believes that HCDA's current process already offers more opportunities for public comment and input than any other State board approval processes, as it includes at least three public hearings where information is presented and the public is allowed to provide comments: (1) The first ***Initial Public Hearing*** where the facts of the application are presented by all parties and the public comments and input are allowed; (2) the second ***Modifications Hearing***, where the facts of any modifications or variances are presented by all parties and the public comment and input are again allowed; and (3) The third ***Decision-Making Hearing***, where the HCDA makes its decision on the applications and/or modifications and the public comment and input are again allowed;
- In addition to the above three public hearings, the HCDA requires development applications to make a **presentation at the area *Neighborhood Board Meeting*** to solicit comments, concerns and suggestions before finalizing their proposal and submittal to the Authority for processing. The Neighborhood Board provides public notice and operate under the public meeting requirements as required under HRS Chapter 91 (Public Proceedings and Records) and HRS Chapter 92 (Public Agency Meetings and Records);
- In addition to the required Neighborhood Board meeting and three HCDA public meetings, the HCDA also holds **at least two *Supplemental Public Comment Sessions and Community Briefings*** prior to the Decision-Making Hearing on a development permit

application. These supplemental hearings are held after the project's Initial Public Hearing so that the public is adequately informed and is provided opportunity to comment on the specifics of the project before the HCDA. It is important to note that these **Supplemental Hearings** are held on a Saturday morning and Tuesday evening to allow the public to attend and participate in the review of the proposed project.

- The proposed requirement of an additional public informational meeting is unnecessary, because it is duplicative with the current Initial Public Hearing HCDA, where the facts of the application can be discussed by all parties and the public is allowed to provide comments and input;
- The proposed notice requirements are duplicative and impractical;
- Changing the intervention process until after the first public hearing could deny intervenors their due process rights to participate as intervenors at the first public hearing;
- The proposed findings of fact requirements are arbitrary, inconsistent, unrealistic and establish unreasonable; and would create virtually impossible standards for project approvals and uncertainty and negative impacts on project financing and development.
- Challenges to the proposed findings of facts could easily and repeatedly be raised for any issue, thereby resulting in the denial of otherwise worthy projects, just by a claim of an "adverse impact," as well as unending future litigation.

Conclusion. While this legislation may be well intended, at this time, under the circumstances, it may be unnecessary and premature due to Act 61 (2014), the new law relating to HCDA, a new Governor who will implement new policies relating to HCDA, and new HCDA board members. The current HCDA rules and process comply with, and even exceed the requirements of State law governing boards and commissions; and many of the proposed revisions are already addressed in the current law (Act 61 [2014]), and HCDA's Rules. Some of the other changes proposed by this bill would be contrary to the goals of rational and reasonable land use planning and land use principles, and amongst other things, counterproductive to public due process; result in arbitrary, inconsistent and unreasonable standards for project approvals, and create uncertainty and negative impacts on project financing and development.

Based on the above, it is respectfully requested that **this Committee hold SB 906, SD1**.

Thank you for the opportunity to present comments in opposition to this measure.

Testimony

Sharon Y. Moriwaki

Before the

Senate Committee on Judiciary and Labor
Friday, February 27 at 9:05 a.m.
Conference Room 229

In Strong Support of SB 906
Relating to the Hawaii Community Development Authority (HCDA)

Chair Keith-Agaran, Vice Chair Shimabukuro, and Members:

I am Sharon Moriwaki, Kakaʻako resident and president of Kaka'ako United, a voluntary community organization of citizens seeking to ensure that Kaka'ako --and other areas under HCDAʻs stewardship – be built according to exiting law, plans and rules.

We are in strong support of SB906 SD1, which provides HCDA with procedures "to effectively engage the community … to ensure that community concerns are … considered by the authority" (existing Section 206E-5.5), in proposed developments within HCDA's community development districts in Kakaʻako, Heeia, and Kalaeloa.

The bill would bring developers and community(ies) to work together BEFORE a project is set in concrete and adversarial contested proceedings begin by: (1) adding developer pre-application meetings with those who will be impacted by the project; (2) requiring HCDA to post on its website all materials submitted by the developer and other agencies, including meeting and hearing dates; (3) requiring HCDA to convene a public information meeting where the developer presents the completed application; (4) accepting intervention motions within 20 business days after that public meeting; and (5) scheduling the contested case hearing no earlier than 20 business days after HCDA's decision on an intervention motion, if any, so that all parties have sufficient time to prepare their case. It also provides criteria for assessing proposed project developments. We believe that this informal, collaborative "front end" dialogue between developer and the communities will reduce the need for community intervention in a contested case.

SB 906 SD1 will help to build the kind of communities envisioned by Chapter 206E, by providing community engagement procedures and criteria for assessing the impact of proposed projects.

We thank your committee for hearing and supporting SB 906 SD1 – an important community engagement bill.

From: mailinglist@capitol.hawaii.gov
To: JDLTestimony
Cc:
Subject: Submitted testimony for SB906 on Feb 27, 2015 09:05AM
Date: Wednesday, February 25, 2015 8:15:49 PM

SB906
Submitted on: 2/25/2015
Testimony for JDL on Feb 27, 2015 09:05AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Karen Umemoto	Individual	Support	No

Comments: My name is Karen Umemoto. I am a professor of Urban and Regional Planning at the University of Hawaii at Manoa and I specialize in community development and participatory planning. I strongly support SB 906 SD1 for a number of reasons based on my study of community development and economic development in general. We live in an island society where the resolution of controversy and conflict is critical to a convivial and sustainable society and economy. Too often, development plans proceed without adequate public deliberation and negotiation. In these cases, much time and energy is wasted and social relations become polarized. Neither is good for the state and such conflicts often lead to suboptimal development plans that all parties are left dissatisfied with. Agencies such as HCDA have an important public obligation that is not currently being met. This is to engage the public in a more deliberative process to find ways that current development plans can meet both the needs of landowners and developers as well as the public interest in all its diverse perspectives. A more deliberative process not only leads to more innovative development, but one that leads to greater civic engagement and that enlivens places of development in healthy and positive ways. For these reasons, such a bill is desperately needed. Thank you.

From: mailinglist@capitol.hawaii.gov
To: JDLTestimony
Cc:
Subject: Submitted testimony for SB906 on Feb 27, 2015 09:05AM
Date: Wednesday, February 25, 2015 9:00:36 PM

SB906
Submitted on: 2/25/2015
Testimony for JDL on Feb 27, 2015 09:05AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Support	No

Comments: Please accept this a testimony strongly in favor of SB906. In 2014 the legislature made meaningful progress in returning Kakaako to the people and reining in the lawless HCDA. This bill will further protect our citizens in the effort to make Kakaako a true vibrant livable community for all. Currently the poster child of greed and excess, where the vast majority of locals cannot afford to live, SB906 will turn it into a livable residential community for all. Unfortunately the legislature must impose standards because the HCDA is blind to the needs of the people. Of major importance is the first requirement which assures that once granted rights, the developer cannot pull a bait and switch and must instead live by the original representations. I also look forward to decisions made by the newly constituted HCDA board which takes office shortly. Lynne Matusow

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From: mailinglist@capitol.hawaii.gov
To: JDLTestimony
Cc:
Subject: Submitted testimony for SB906 on Feb 27, 2015 09:05AM
Date: Wednesday, February 25, 2015 9:43:49 PM

SB906
Submitted on: 2/25/2015
Testimony for JDL on Feb 27, 2015 09:05AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Bernard Nunies	Individual	Support	No

Comments: As a resident of Kaka'ako and first hand witness to the rubber stamp approval process of the HCDA, I am in STRONG SUPPORT of SB906 SD1. This bill provides a fair and open procedure for developers and the community to work together BEFORE A project is set in concrete. Right now there is limited, if any, community engagement by the developer. This bills requires developers to meet with those who will be impacted by the project and address community concerns, again, BEFORE the first hearing. This bill provides sufficient time for the community to file a motion to intervene, if necessary, within 20 business days after the public hearing. Right now the system is flawed in that the community has to intervene before the developer presents their application at the public hearing. It is my opinion that this bill will yield a more OPEN and ACCOUNTABLE process for community engagement in project developments, something that is truly lacking. I hope you will side with the community and a more open and fair process when you consider this bill. Mahalo.

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From: mailinglist@capitol.hawaii.gov
To: JDLTestimony
Cc:
Subject: Submitted testimony for SB906 on Feb 27, 2015 09:05AM
Date: Wednesday, February 25, 2015 10:04:28 PM

SB906
Submitted on: 2/25/2015
Testimony for JDL on Feb 27, 2015 09:05AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Stevens	Individual	Support	No

Comments: I am in strong support of SB906 SD1. This bill will go a long way to building the kind of community and neighborhood envisioned by the Kakaako Master Plan. It will bring a more informal, constructive, collaborative and less costly community-building process that has been missing to date.

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From: mailinglist@capitol.hawaii.gov
To: JDLTestimony
Cc:
Subject: Submitted testimony for SB906 on Feb 27, 2015 09:05AM
Date: Wednesday, February 25, 2015 10:26:27 PM

SB906
Submitted on: 2/25/2015
Testimony for JDL on Feb 27, 2015 09:05AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
John & Rita Shockley	FREE ACCESS COALITION	Support	No

Comments: Aloha! This Bill finally sets guidelines for HCDA to become more responsible to Hawaii's residents. Developers need checks on their influence with government agencies that oversee their activities. Please pass this bill.

Testimony for the Senate Committee on Judiciary and Labor
February 27, 2015, Friday, 9:05am, Conference Room 016

In Strong Support of SB 906 SD1, Relating to the Hawaii Community Development Authority (HCDA)

This bill requires developers to meet with those who will be impacted by the project and address community concerns BEFORE the first hearing. Right now the system is flawed in that the community has to intervene before the developer presents their application at the public hearing.

This bill will also encourage design decisions that are consistent with the original development rules, policies and vision of Kaka`ako. By doing this, there may be less of a need for "contested cases".

Louise Black

Honolulu, HI 96813

From: mailinglist@capitol.hawaii.gov
To: JDLTestimony
Cc:
Subject: Submitted testimony for SB906 on Feb 27, 2015 09:05AM
Date: Thursday, February 26, 2015 2:18:22 AM

SB906
Submitted on: 2/26/2015
Testimony for JDL on Feb 27, 2015 09:05AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
douglas valenta	Individual	Support	No

Comments: I am in support of SB 906. Residents of Kaka'ako have not been offered full disclosure of any of development projects. Developers seemingly have been able to encourage the HCDA to approve projects with very little public input. A current issue is how the Howard Hughes Co is offering management opportunities of Kewalos Marina. I understand that they have had 'puplic meetings' but they are limited in numbers of attendees and one must register with the Howard Hghes Co in order to attend. Also, the information regarding these meetings is not well found: announcement of meetings are not well publicized

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From: mailinglist@capitol.hawaii.gov
To: JDLTestimony
Cc:
Subject: *Submitted testimony for SB906 on Feb 27, 2015 09:05AM*
Date: Thursday, February 26, 2015 6:49:03 AM

SB906
Submitted on: 2/26/2015
Testimony for JDL on Feb 27, 2015 09:05AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Laila Spina	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: JDLTestimony
Cc:
Subject: Submitted testimony for SB906 on Feb 27, 2015 09:05AM
Date: Thursday, February 26, 2015 8:04:02 AM

SB906
Submitted on: 2/26/2015
Testimony for JDL on Feb 27, 2015 09:05AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Jerry Whitehead	Individual	Support	No

Comments: To: Chair Gilbert Keith-Agaran, Vice Chair Maile Shimabukuro, and Members Senate Committee on Judiciary and Labor From: JERRY WHITEHEAD Subject: Testimony in Strong Support of SB 906 SD1 Dear Chair Keith-Agaran, Vice Chair Shimabukuro, and Members: • I am in strong support of SB906 SD1. • This bill details procedures on how the HCDA should effectively engage the community and ensure that community concerns are considered by the authority. • This bill provides a fair and open procedure for developers and the community to work together before the project is set in concrete. Right now there is limited, if any, community engagement by the developer. • This bills requires developers to meet with those who will be impacted by the project and address community concerns before the first hearing. • This bill provides sufficient time for the community to file a motion to intervene, if necessary, within 20 business days after the public hearing. Right now the system is flawed in that the community has to intervene before the developer presents their application at the public hearing. • This bill will go a long way to building the kind of community and neighborhood envisioned by the Kaka‘ako Master Plan and bring a more informal, constructive, collaborative, and less costly community-building process that has been missing to date. • This bill will yield a more open and accountable process for community engagement in project developments; will result in quality development in the community development districts; and can also serve as a model for enlightened development for the state. i thank your committee in advance for hearing and supporting SB 906 SD1 – an important community engagement bill.

From: mailinglist@capitol.hawaii.gov
To: JDLTestimony
Cc:
Subject: Submitted testimony for SB906 on Feb 27, 2015 09:05AM
Date: Thursday, February 26, 2015 8:29:19 AM

SB906
Submitted on: 2/26/2015
Testimony for JDL on Feb 27, 2015 09:05AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
George Outlaw	Individual	Comments Only	No

Comments: Aloha, I strongly support SB 906. The Bill will offer some redress to the current policy of excluding the community and citizens from meaningful participation in their community being development. It promotes as fairer and more open process through procedures that will engage the community and encourage cooperation before a final approval is given. It provides a requirement that interested parties meet before the first hearing to attempt to resolve potential future conflicts. Mahalo, George Outlaw Kaka'ako resident

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From: mailinglist@capitol.hawaii.gov
To: JDLTestimony
Cc:
Subject: Submitted testimony for SB906 on Feb 27, 2015 09:05AM
Date: Thursday, February 26, 2015 9:06:51 AM

SB906
Submitted on: 2/26/2015
Testimony for JDL on Feb 27, 2015 09:05AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Virginia Aycock	Individual	Support	No

Comments: To: Chair Gilbert Keith-Agaran, Vice Chair Maile Shimabukuro, and Members Senate Committee on Judiciary and Labor From: Virginia Aycock Owner of condo at One Waterfront Towers,
Subject: Testimony in strong support of SB 906 SD1, Relating to Hawai‘i Community Development Authority (HCDA), to be heard by the Senate Committee on Judiciary and Labor Friday, February 27, 2015, at 9:05 a.m., Conference Room 016 Dear Chair Keith-Agaran, Vice Chair Shimabukuro, and Members: I am Virginia Aycock, Kaka‘ako condo owner at One Waterfront and member of Kaka’ako United, a voluntary community organization of citizens concerned about Kaka’ako’s future development; and ensuring that it –and other areas under HCDA‘s stewardship – be built according to the existing law, plans and rules. I am are in strong support of SB906 SD1, for the following reasons, and submit the same testimony as was submitted by Sharon Moriwaki, as follows: SB 906 SD1 amends chapter 206E, HRS, by providing HCDA with clearer procedures “to effectively engage the community … to ensure that community concerns are … considered by the authority” (Section 206E-5.5), in proposed developments within the HCDA community development districts – Kaka‘ako, Heeia, and Kalaeloa. More specifically, the bill provides a fair and open procedure for developers and community to work together BEFORE the project is set in concrete and the adversarial contested case process begins by: (1) adding pre-application meetings for developers to meet with those who will be impacted by the project; (2) requiring HCDA to post all materials submitted by the developer and other agencies, including meeting dates, on its website, (3) requiring HCDA to convene a public information meeting for the developer to present its completed application, including its proposal to address concerns that may have arisen in the pre-application meetings; (4) providing sufficient time for the community to file a motion to intervene, if necessary, within 20 business days after that public meeting (rather than current HCDA procedure that requires the community to file a motion to intervene BEFORE the public hearing on a developer‘s completed application); and (5) proceeding with the contested case hearing no earlier than 20 business days after its decision on an intervention motion, if any, to provide sufficient time for the parties-- developers and intervenors-- to prepare their case. However, we strongly believe that the collaborative “front end” dialogue between developer and those in the community who are or will be adversely impacted will lead to less need

for intervention in a contested case. In summary, SB 906 SD1 will go a long way to building the kind of community and neighborhoods envisioned by Chapter 206E, and bring a more informal, constructive, collaborative, and less costly (for developer and community) community-building process that has been missing to date. If passed, the bill will provide fair, clear, and accountable guidelines for: (1) community engagement that brings community, developer, and other stakeholders together as part of the development application that is more collaborative and less adversarial; and 2) reasonable timelines for community residents and others to obtain information to “meaningfully participate in the authority’s decision-making process.” Thank your committee in advance for hearing and supporting SB 906 SD1 – an important community engagement bill. It will yield a more open and accountable process for community engagement in project developments; will result in quality development in the community development districts; and can also serve as a model for enlightened development for the state.

From: mailinglist@capitol.hawaii.gov
To: JDLTestimony
Cc:
Subject: Submitted testimony for SB906 on Feb 27, 2015 09:05AM
Date: Thursday, February 26, 2015 9:07:16 AM

SB906
Submitted on: 2/26/2015
Testimony for JDL on Feb 27, 2015 09:05AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Matson	Individual	Support	No

Comments: I strongly support this measure.

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From: mailinglist@capitol.hawaii.gov
To: JDLTestimony
Cc:
Subject: Submitted testimony for SB906 on Feb 27, 2015 09:05AM
Date: Thursday, February 26, 2015 9:10:32 AM

SB906
Submitted on: 2/26/2015
Testimony for JDL on Feb 27, 2015 09:05AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Ralph E. Burr	Individual	Support	No

Comments: To: Chair Gilbert Keith-Agaran, Vice Chair Maile Shimabukuro, and Members Senate Committee on Judiciary and Labor From: Ralph Burr Owner of condo at One Waterfront Towers, 415 South Street Subject: Testimony in strong support of SB 906 SD1, Relating to Hawai‘i Community Development Authority (HCDA), to be heard by the Senate Committee on Judiciary and Labor Friday, February 27, 2015, at 9:05 a.m., Conference Room 016 Dear Chair Keith-Agaran, Vice Chair Shimabukuro, and Members: I am Ralph Burr, Kaka‘ako condo owner at One Waterfront and member of Kaka’ako United, a voluntary community organization of citizens concerned about Kaka’ako’s future development; and ensuring that it –and other areas under HCDA‘s stewardship – be built according to the existing law, plans and rules. I am are in strong support of SB906 SD1, for the following reasons, and submit the same testimony as was submitted by Sharon Moriwaki, as follows: SB 906 SD1 amends chapter 206E, HRS, by providing HCDA with clearer procedures “to effectively engage the community … to ensure that community concerns are … considered by the authority” (Section 206E-5.5), in proposed developments within the HCDA community development districts – Kaka‘ako, Heeia, and Kalaeloa. More specifically, the bill provides a fair and open procedure for developers and community to work together BEFORE the project is set in concrete and the adversarial contested case process begins by: (1) adding pre-application meetings for developers to meet with those who will be impacted by the project; (2) requiring HCDA to post all materials submitted by the developer and other agencies, including meeting dates, on its website, (3) requiring HCDA to convene a public information meeting for the developer to present its completed application, including its proposal to address concerns that may have arisen in the pre-application meetings; (4) providing sufficient time for the community to file a motion to intervene, if necessary, within 20 business days after that public meeting (rather than current HCDA procedure that requires the community to file a motion to intervene BEFORE the public hearing on a developer‘s completed application); and (5) proceeding with the contested case hearing no earlier than 20 business days after its decision on an intervention motion, if any, to provide sufficient time for the parties-- developers and intervenors-- to prepare their case. However, we strongly believe that the collaborative “front end” dialogue between developer and those in the community who are or will be adversely impacted will lead to less need

for intervention in a contested case. In summary, SB 906 SD1 will go a long way to building the kind of community and neighborhoods envisioned by Chapter 206E, and bring a more informal, constructive, collaborative, and less costly (for developer and community) community-building process that has been missing to date. If passed, the bill will provide fair, clear, and accountable guidelines for: (1) community engagement that brings community, developer, and other stakeholders together as part of the development application that is more collaborative and less adversarial; and 2) reasonable timelines for community residents and others to obtain information to “meaningfully participate in the authority’s decision-making process.” Thank your committee in advance for hearing and supporting SB 906 SD1 – an important community engagement bill. It will yield a more open and accountable process for community engagement in project developments; will result in quality development in the community development districts; and can also serve as a model for enlightened development for the state.

From: mailinglist@capitol.hawaii.gov
To: JDLTestimony
Cc:
Subject: Submitted testimony for SB906 on Feb 27, 2015 09:05AM
Date: Thursday, February 26, 2015 11:15:14 AM

SB906
Submitted on: 2/26/2015
Testimony for JDL on Feb 27, 2015 09:05AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments: I'm in strong support of bill SB906 SD1. It requires developers to meet with those who will be impacted by the project and addresses community concerns before the first hearing. Right now is little, if any, community engagement by the developer.

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From: mailinglist@capitol.hawaii.gov
To: JDLTestimony
Cc:
Subject: Submitted testimony for SB906 on Feb 27, 2015 09:05AM
Date: Thursday, February 26, 2015 3:19:57 PM

SB906
Submitted on: 2/26/2015
Testimony for JDL on Feb 27, 2015 09:05AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
connie smyth	kakaako friends and neighbors	Support	No

Comments: I am in strong support of SB906 SD1. This bill details procedures on how the HCDA should effectively engage the community and ensure that community concerns are considered by the authority. This bill provides a fair and open procedure for developers and the community to work together before the project is set in concrete. Right now there is limited, if any, community engagement by the developer. This bills requires developers to meet with those who will be impacted by the project and address community concerns before the first hearing. This bill provides sufficient time for the community to file a motion to intervene, if necessary, within 20 business days after the public hearing. Right now the system is flawed in that the community has to intervene before the developer presents their application at the public hearing. This bill will go a long way to building the kind of community and neighborhood envisioned by the Kaka‘ako Master Plan and bring a more informal, constructive, collaborative, and less costly community-building process that has been missing to date. This bill will yield a more open and accountable process for community engagement in project developments; will result in quality development in the community development districts; and can also serve as a model for enlightened development for the state.

From: mailinglist@capitol.hawaii.gov
To: JDLTestimony
Cc:
Subject: *Submitted testimony for SB906 on Feb 27, 2015 09:05AM*
Date: Thursday, February 26, 2015 5:18:08 PM

SB906
Submitted on: 2/26/2015
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Submitted By	Organization	Testifier Position	Present at Hearing
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Comments:

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