

WILLIAM

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Testifiers will be taken in the order signed in.

BILL NO: SB 906

[illegible]

Testimony of  
Sharon Y. Moriwaki

Before the

Senate Committee on Human Services and Housing  
Saturday, January 31, 1:15 p.m.  
Conference Room 229

**In Strong Support of SB 906  
Relating to the Hawaii Community Development Authority**

Chair Chun Oakland, Vice Chair Green, and Members

My name is Sharon Moriwaki. I am a resident of Kaka'ako and president of Kaka'ako United, a voluntary community organization of citizens concerned about Kaka'ako's future.

SB 906 amends chapter 206E, HRS, relating to the Hawaii Community Development Authority (HCDA), 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), including more time for community residents to study and work with developers in project development.

During the past 20 months, concerned residents have been testifying before HCDA unable to influence modifications and variances that will adversely impact Kaka'ako. We eventually hired an attorney to contest HCDA's decision only to find that HCDA's rules did not provide for an appeal of its decision. The legislature last year responded by passing Act 61 (2014). However, the law now requires those adversely affected to file a formal motion to intervene before they have time to study the project application and hear from the applicant. Community residents are now required to submit their motion to intervene 20 days after the notice for the public hearing is published. In our experience -- the case of the Keawe Street project in Kaka'ako -- HCDA published the application notice on March 19, 2014. The deadline for filing a motion to intervene was April 4 (within seven days of the publication notice), and residents had to submit a list of witnesses and exhibits, along with a memorandum in support of the intervention motion, by April 17 (13 days later). HCDA's decision on whether we could intervene was 13 days later -- on April 30 -- the same day as the applicant's presentation hearing.

These requirements place community members at an extreme disadvantage as developers have their staff and attorneys and are ready to present their case while residents lack the expertise, legal and professional resources to prepare a proper case within such a short period. However, if they do not file the motion and HCDA does not qualify them as intervenors, they lose their right to appeal HCDA's decision.

SB 906, if passed, will address these problems by providing: 1) guidelines for community engagement that brings community, developer, and other stakeholders together as part of the development application in a more collaborative and less adversarial way; 2) time for community residents to obtain information to “meaningfully participate in the authority’s decision-making process” by moving the deadline to file a motion to intervene from 20 days after the application notice is published to 30 days after the first public hearing (presentation).

SB906 will not only provide for more open and accountable decision-making, it will also encourage design decisions by developers that follow the original Kaka’ako vision, plans, and rules and avoid undermining Kaka’ako’s vision. In situations where a contested case is still necessary (likely to be rare if the pre-application process is followed), the hearings will be conducted with all parties properly informed and prepared – after the applicant has presented its proposal at the first public hearing.

In sum, SB 906 will yield a more enlightened, open, and accountable process for community engagement that should result in quality development of Kaka’ako as envisioned in Chapter 206E. For these reasons, I urge your support of SB 906.

Thank you for the opportunity to testify.

**SB 906**  
**RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY**

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

**JANUARY 31, 2015**

Chair Chun Oakland and Members of the Senate Committee on Human Services &  
Housing:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) on SB  
906, "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; requires that  
proposed development projects address concerns expressed by community residents  
and stakeholders; and stipulates that development projects shall have no negative  
impacts on pedestrian and transit oriented development, community amenities, the

preservation of important natural systems or habitats, the maintenance of valued cultural, historical, or natural resources, and other items. All of 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 coordinated by Legislative Leadership from both the House and the Senate 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 the 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.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, January 30, 2015 5:28 PM  
**To:** HSH Testimony  
**Cc:** clamor808@yahoo.com  
**Subject:** Submitted testimony for SB906 on Jan 31, 2015 13:15PM

**SB906**

Submitted on: 1/30/2015

Testimony for HSH on Jan 31, 2015 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Clara K Morikawa	Individual	Support	No

Comments: I support SB906 because it is important that intervention be amended from 20 days to 30 days after the first public hearing to allow the public adequate time to participate in the decision making process

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The Howard Hughes Corporation  
1240 Ala Moana Boulevard  
Suite 200  
Honolulu, Hawaii 96814

January 31, 2015

The Honorable Suzanne Chun Oakland, Chair  
The Honorable Josh Green, Vice Chair  
Senate Committee on Human Services and Housing

RE: SB 906 – Relating to the Hawaii Community Development Authority  
Hawaii State Capitol Room 229, 1:15 PM

Aloha Chair Chun Oakland, Vice Chair Green and members of the Committee:

The Howard Hughes Corporation, and its wholly-owned subsidiary Victoria Ward Limited (“VWL”), have serious concerns regarding SB 906, which amends the deadline to intervene in a proceeding, requires HCDA to make certain findings on the proposed project and its impacts, including concerns expressed by community residents and stakeholders, in order to improve the proposed development, among other things.

Amending the deadline to intervene the proceeding to accept a developer’s proposal to 30 days after the first public hearing versus 20 days after the notice is posted is inefficient. The full application is publicly available when the notice is posted and the current law gives all interested parties ample opportunity to review and intervene. It would complicate the current hearing process allowing a party to intervene after a public hearing. Furthermore, the first public hearing is the start of the contested case process and no state agency, has by rule or statute, allowed intervention after the contested case has been initiated and hearings conducted.

Whereas the current law requires the authority to consider the extent to which the development achieves goals, policies and objectives of the applicable district plan and complies with other relevant district rules, this bill requires the authority to make specific findings. It would be especially difficult for even small property owners to meet these requirements.

The bill also mandates that there are “no negative impacts on” TOD, community amenities, pedestrians, natural systems, cultural values, state funds, etc. It is difficult, if not impossible, to have no negative impacts on these items. For example, there are always temporary negative impacts from construction. No development can meet this standard.

SB 906 will hinder development. Therefore, we respectfully ask that the Committee defer this measure.

Thank you for the opportunity to provide comments.

David Striph  
Senior Vice President - Hawaii

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, January 30, 2015 7:31 PM  
**To:** HSH Testimony  
**Cc:** vsc@hawaiiantel.net  
**Subject:** \*Submitted testimony for SB906 on Jan 31, 2015 13:15PM\*

**SB906**

Submitted on: 1/30/2015

Testimony for HSH on Jan 31, 2015 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Victoria Cannon	Individual	Support	No

**Comments:**

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**Sent:** Friday, January 30, 2015 8:33 PM  
**To:** HSH Testimony  
**Cc:** htf@lava.net  
**Subject:** Submitted testimony for SB906 on Jan 31, 2015 13:15PM  
**Attachments:** SB 906 HCDA contested case.pdf

**SB906**

Submitted on: 1/30/2015

Testimony for HSH on Jan 31, 2015 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Hawaii's Thousand Friends	Hawaii's Thousand Friends	Support	No

**Comments:**

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THE SENATE  
TWENTY-EIGHTH LEGISLATURE, 2015  
STATE OF HAWAII

S.B. NO. 906

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# A BILL FOR AN ACT

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RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

SECTION 1. Chapter 206E, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

**"§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."**

SECTION 2. Section 206E-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

**"Contested case" means a proceeding in which the legal rights, duties, or privileges of specific parties are by law to be determined after an opportunity for agency hearing."**

SECTION 3. Section 206E-5.6, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

"(b) The authority shall issue a public notice in accordance with section 1-28.5 and post the notice on its website; provided that the decision-making hearing shall not occur earlier than five business days after the notice is posted. Public notice issued pursuant to this subsection for public hearings on the acceptance of

There are no negative impacts on:

- (A) Pedestrian oriented development, including complete streets design;
- (B) Transit oriented development, including rail, bus, and other modes of rapid transit; ~~[and]~~
- (C) Community amenities such as gathering places, community centers, culture and arts facilities, and the full array of public facilities normally provided by the public sector;

~~[(3) The impact of the proposed project on the following areas of state concern:~~

- ~~[(A)]~~ (D) Preservation of important natural systems or habitats;
- ~~[(B)]~~ (E) Maintenance of valued cultural, historical, or natural resources;
- ~~[(C)]~~ (F) Maintenance of other resources relevant to the State's economy;
- ~~[(D)]~~ (G) Commitment of state funds and resources;
- ~~[(E)]~~ (H) Employment opportunities and economic development; and
- ~~[(F)]~~ (I) Maintenance and improvement of the quality of educational programs and services provided by schools~~[-]~~

~~(4) The representations and commitments made by the developer in the permit application process]."~~

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2015.

INTRODUCED BY: \_\_\_\_\_

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, January 30, 2015 8:50 PM  
**To:** HSH Testimony  
**Cc:** shockleyjr@gmail.com  
**Subject:** Submitted testimony for SB906 on Jan 31, 2015 13:15PM

**SB906**

Submitted on: 1/30/2015

Testimony for HSH on Jan 31, 2015 13:15PM in Conference Room 229

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

Comments: SB 906 demonstrates responsible legislation and we favor it.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, January 30, 2015 9:54 PM  
**To:** HSH Testimony  
**Cc:** panther\_dave@yahoo.com  
**Subject:** Submitted testimony for SB906 on Jan 31, 2015 13:15PM

**SB906**

Submitted on: 1/30/2015

Testimony for HSH on Jan 31, 2015 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Dave Kisor	Individual	Comments Only	No

Comments: We need home rule and contested case to defend ourselves against predatory corporations and developers. It's as simple as that!

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Testimony for the Senate Committee on Human Services and Housing  
January 31, 2015, Monday, 1:15pm, Conference Room 229

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

My name is Daniel Stevens. I have lived in Kaka`ako for the past 15 years. I support SB 906 which amends the HCDA definition of "contested case" and clarifies the procedures to include more time for community residents to study and understand the project.

Act 61, passed in 2014, requires adversely affected residents to file a formal motion to intervene before they have had time to study the project application and hear from the applicant. Residents must submit their motion to intervene 20 days after the notice for the public hearing (presentation) is published. This puts community residents at an extreme disadvantage and in an adversarial position as preparations must be made before the applicant's first presentation. There is no time for clarification of information and collaboration between the developer, community and other stakeholders.

SB 906 will also encourage design decisions that are consistent with the original development rules, policies and vision of Kaka`ako.

Mahalo for considering this testimony,

Daniel Stevens

LAT

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, January 30, 2015 10:05 PM  
**To:** HSH Testimony  
**Cc:** barb@kanekiki.com  
**Subject:** Submitted testimony for SB906 on Jan 31, 2015 13:15PM

**SB906**

Submitted on: 1/30/2015

Testimony for HSH on Jan 31, 2015 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Barb Cuttance	Individual	Comments Only	No

Comments: Madam Chair and committee members I am in strong support of SB906- Relating to the Hawaii Community Development Authority Barbara Cuttance

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LW

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, January 31, 2015 6:50 AM  
**To:** HSH Testimony  
**Cc:** arbeit@hawaiiantel.net  
**Subject:** Submitted testimony for SB906 on Jan 31, 2015 13:15PM

**SB906**

Submitted on: 1/31/2015

Testimony for HSH on Jan 31, 2015 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Wendy Arbeit	Individual	Support	No

Comments: Developers have historically ignored wishes of our community and played the bait and switch game. It's time to stop this.

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LATE



January 31, 2015

Senator Suzanne Chun Oakland, Chair  
Senator Josh Green, Vice Chair  
Senate Committee on Human Services and Housing

**Strong Opposition to SB 906 Relating to the Hawaii community development**

**Authority** - Adds a definition for "contested case; amends the deadline to intervene in a proceeding; requires HCDA approvals to make certain findings on the proposed project and its impacts, including concerns expressed by community residents and a finding of "no negative impacts;" also requires developers to abide by all representations and commitments made in the permit application process.

**HSH Hearing: Saturday, January 31, 2015, 1:15 p.m., in CR 229**

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**, 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, proposes to add a definition for "contested case;" amend the deadline to intervene in a proceeding to accept a developer's proposal to thirty days after the first public hearing on a developer's proposal; require HCDA approvals to make certain findings on the proposed project and its impacts, including concerns expressed by community residents and stakeholders; requires an HCDA finding of "no negative impact." The bill also proposes to require developers to abide by all representations and commitments made in the HCDA permit application process, even though the projects will be subject to further governmental approvals and requirements.

**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 administrative and policy issues relating to HCDA and Kakaako;
- HCDA will have new Board members and board leadership in a few months, and they should be given the opportunity to address various issues reacting to HCDA and Kakaako;
- HCDA's contested case process already complies with HRS, and in face, exceeds ;
- 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 arbitrary guideline of "no negative impact" is subjective, unreasonable, and could be raised for any subject, thereby resulting in the denial of otherwise worthy projects, just by a claim of a "negative impact."

**Conclusion.** While this legislation may be well intended, at this time, under the circumstances, it may be unnecessary and premature due to Act 61, the new law relating to HCDA, a new Governor who will implement new policies relating to HCDA, and new HCDA board members. While many of the proposed revisions are already addressed in the current law and rules relating to HCDA, 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, 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 **SB 906 be held** by this Committee.

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

LATE

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, January 31, 2015 12:13 PM  
**To:** HSH Testimony  
**Cc:** farmfreshhawaii@gmail.com  
**Subject:** \*Submitted testimony for SB906 on Jan 31, 2015 13:15PM\*

**SB906**

Submitted on: 1/31/2015

Testimony for HSH on Jan 31, 2015 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Juanita Kawamoto Brown	Individual	Support	No

**Comments:**

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LATE

Testimony for the Senate Committee on Human Services and Housing  
January 31, 2015, Monday, 1:15pm, Conference Room 229

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

My name is Louise Black. I am a 15 year Kaka`ako resident. I support SB 906 which amends the HCDA definition of "contested case" and clarifies the procedures to include more time for community residents to study and understand the project.

Act 61, passed in 2014, requires adversely affected residents to file a formal motion to intervene before they have had time to study the project application and hear from the applicant (developer). Residents must submit their motion to intervene before the applicant's first presentation. This puts community residents at an extreme disadvantage and in an adversarial position as time consuming preparations must be made before all of the details are presented. There is no time for clarification of information and collaboration between the developer, community and other stakeholders. Act 61 wrongly assumes that community residents are against every development in every way.

SB 906 also will 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".

Mahalo for considering this testimony,

Louise Black  
876 Curtis St, #3504  
Honolulu, HI 96813

LATE

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, January 31, 2015 4:00 PM  
**To:** HSH Testimony  
**Cc:** clkkimura@gmail.com  
**Subject:** \*Submitted testimony for SB906 on Jan 31, 2015 13:15PM\*

**SB906**

Submitted on: 1/31/2015

Testimony for HSH on Jan 31, 2015 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Cara Kimura	Individual	Support	No

**Comments:**

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LATE

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**Sent:** Saturday, January 31, 2015 4:26 PM  
**To:** HSH Testimony  
**Cc:** ahuntemer@aol.com  
**Subject:** Submitted testimony for SB906 on Jan 31, 2015 13:15PM

**SB906**

Submitted on: 1/31/2015

Testimony for HSH on Jan 31, 2015 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Angela Huntemer	Individual	Support	No

Comments: Aloha Chairs, Vice Chair and Committee Members. I am in strong support of SB906. Mahalo. Angela Huntemer.

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