

HB-106

Submitted on: 1/30/2023 3:28:58 PM

Testimony for JHA on 1/31/2023 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|-----------------------|---------------------------|-------------------|
| Calvin Say | Honolulu City Council | Support | Remotely Via Zoom |

Comments:

Rep. David A. Tarnas, Chair

Rep. Gregg Takayama, Vice Chair

and Members of the House Committee on the Judiciary and Hawaiian Affairs:

I am a current member of the Honolulu City Council representing District 5 and serving as the Chair of the Zoning Committee. I stand in support of HB 106, which aims to authorize the State and the County in which the affected real property is situated to place a lien on the property for unpaid civil fines resulting from a violation of a land use law in connection with the property. It also authorizes the State and applicable County to sell the property after all notices, orders, and appeal proceedings, if any, are exhausted and use those revenues to pay unpaid civil fines related to that property.

Within the district I represent, we have multiple properties with Notices of Violations and/or Notices of Orders which have resulted in substantial fines to the property owners. These properties have brought health and safety hazards to the neighboring residents and community, however the accruing fines have not been a strong enough incentive to move the property owners to corrective action.

Our City Corporation Counsel is currently able to initiate a Judicial Foreclosure process, which has been successful in similar instances, however this is a long process that takes valuable resources away from other pressing legal matters. It also leaves the community with detrimental public nuisances such as fires, trash, and vermin. HB 106 would allow the City to keep our neighborhoods safe by stopping illegal activities, health hazards, and other public nuisances on properties in a more efficient and expeditious manner.

Thank you for this opportunity to testify in support of HB 106. Thank you for your time and consideration.

Calvin K.Y. Say

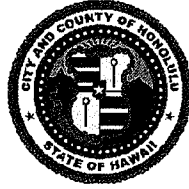
District 5,

Honolulu City Council

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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RICK BLANGIARDI
MAYOR



DAWN TAKEUCHI APUNA
DIRECTOR DESIGNATE

JIRO SUMADA
DEPUTY DIRECTOR

January 31, 2023

The Honorable David A. Tarnas, Chair
and Members of the Committee on Judiciary &
Hawaiian Affairs
Hawaii State House
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Tarnas and Committee Members:

**Subject: House Bill No. 106
Relating to the Counties**

The Department of Planning and Permitting (DPP) **supports** House Bill No. 106, which would allow the counties to collect liens on properties for civil fines through a non-judicial foreclosure process.

This Bill would empower the DPP to better enforce against repeat and egregious offenders, which generally rack up the largest accruals of fines. Specifically, this Bill would authorize the City to bring closure to pending civil fines imposed on landowners who are in violation of the City's land use ordinances and building codes, through a non-judicial or administrative process. The counties currently have and exercise the authority to use the non-judicial foreclosure process for collection of real property tax liens, which this Bill would extend to collection of liens on properties for civil fines.

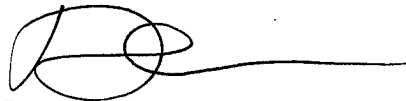
Currently, the DPP issues a Notice of Violation (NOV) to notify the violator of the violation and to provide a reasonable amount of time to cure the violation, either by removing the violation or obtaining the proper approvals. If the landowner fails to comply with the NOV, a Notice of Order is issued to impose daily civil fines until the violation is corrected. Once the fines accrue to a certain amount based on the type of violation, a lien is placed on the property. If the violator continues to be noncompliant and/or does not pay the fines, the City moves forward with the judicial foreclosure process. However, the current judicial foreclosure process is a much lengthier and costlier process subject to a legal process mostly beyond of the City's control. The City has lacked the legal manpower and funding to pursue judicial foreclosures, and believes that the non-judicial foreclosure process as currently employed by the real property tax collections, is a viable, more efficient and effective method for the City to collect liens on properties for civil fines.

The Honorable David A. Tarnas, Chair
and Members of the Committee on Judiciary &
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We respectfully request that you approve this Bill to allow the counties to implement non-judicial foreclosures to efficiently and effectively collect civil fines.

Thank you for this opportunity to testify.

Very truly yours,

A handwritten signature in black ink, consisting of a large, stylized initial 'D' followed by a horizontal line that extends to the right.

Dawn Takeuchi Apuna
Director Designate

HB-106

Submitted on: 1/27/2023 4:02:22 PM

Testimony for JHA on 1/31/2023 2:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Gerard Silva | Individual | Oppose | Written Testimony Only |

Comments:

We the people do not trust the Government. They keep stealing land and Money from the people of Hawaii. End this Bill!!!

REJECT HB 106 and SB 216

JHA
1/31/23 2:00 PM
325 VIA VIDEOCONFERENCE

https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=HB&billnumber=106&year=2023

https://www.capitol.hawaii.gov/session/measure_indiv.aspx?billtype=SB&billnumber=216&year=2023

Aloha Senators and Representatives of the Hawaii State Legislature:

BILL 106 and SB 216 may sound harmless in an ideal world where perfect fairness and equity is always in place.

But in real life, these bills are very over-reaching bills that decimates Private Property Rights. There is no Due Process for ordinary citizens. This **Power of Sale** exposes Hawaii's property owners to the possible whim of government officials and the powerful political machine.

Although there is supposedly a "process" in place, our decades of participating at Honolulu Hale and the records have shown repeatedly that this same "process" has not been fair and equitable to ordinary citizens.

This requested POWER of SALE based on recorded liens (through city's fines) is precarious. Records and history show the troubled Honolulu Department of Planning and Permitting (DPP) does not have a consistent and good record.

This is no way to live in a Democracy where Big Brother and its long arm of government continue to become more powerful and subvert Due Process due its citizens.

<https://www.hawaiinewsnow.com/2021/03/31/city-planning-department-employees-charged-months-long-federal-corruption-investigation/>

<https://www.justice.gov/usao-hi/pr/six-charged-bribery-schemes-official-acts-department-planning-and-permitting-city-and-0>

We must recognize that most ordinary citizens are not born with a silver spoon in their mouth. They work their tails off to achieve home ownership.

The County's role ought to be helping property owners correct their violations and be in compliance and not be too eager to seize private properties.

This requested **POWER of SALE** is NOT about mortgage companies foreclosing based on it's borrowers' non-payment. These Bills are about the government seizing properties, based on DPP fines.

There is an alleged reason that this Power of Sale is needed to regulate "monster homes" or "illegal vacation rentals".

There are tools already for the county to regulate these. In the first place, DPP granted permits to these monster homes. In the second place, the county also increased its own land use density regulations that open the doors to such construction. For example, it used to be that owners cannot build more than 50% of their land area and so on.

In a matter of public policy maker and in the bigger picture, providing all counties with this **Power of Sale** for the above alleged reasons is akin to **tearing down a Cathedral to fry an egg.**

It's a fact that ordinary citizens cannot afford expensive legal representation to make sure their side of the story is heard and fairly considered in the decision-making. Affluent and well-connected citizens have the means to circumvent DPP.

Ordinary citizens will become the casualties of this powerful and overreaching tool.

This **Power of Sale (aka Non-judicial Foreclosure)** is overreaching and tyrannical. This Power of Sale authority makes every property owner a sitting duck at the whim of the city. Basing a POWER of SALE (aka NON-Judicial Foreclosure) through DPP fines and recorded liens is the worst possible exposure for corruption and possible political retaliation.

The first attempt to request this was in 2022. Non-Judicial Foreclosure is AKA Power of Sale.

2022. https://www.capitol.hawaii.gov/sessions/session2022/bills/HB1434_HD1_.PDF

https://www.capitol.hawaii.gov/session/archives/measure_indiv_Archives.aspx?billtype=HB&billnumber=1434&year=2022

PLEASE READ THE PAST TESTIMONIES to have a very brief understanding of what's going on. No matter how thin the cheese is sliced, there are always two sides to it.

Please stand for our local residents and protect private property rights. There are other options to address **isolated** problems like “monster homes” and “illegal vacation rentals” instead of casting a wide net over the entire Hawaii private property rights.

As if the long-arm of **Eminent Domain** is insufficient for the government, the Honolulu County is again asking for a quick **Power of Sale aka Non-Judicial Forclosures**.

<https://www.youtube.com/watch?v=SmM4ZBoppNQ>

This governmental power of POWER OF SALE is too much to bear in a democratic society. There are other options, if truly needed.

Private Property Rights must be revered as one of Democracy's foundational pillars. We ought to be helping our residents with home ownership, not seize their property.

Mahalo,
Choon James
808 293 8888

ChoonJamesHawaii@gmail.com

TO: Members of the Committee on Judiciary & Hawaiian Affairs

FROM: Natalie Iwasa
808-395-3233

HEARING: 2 p.m. Tuesday, January 31, 2023

SUBJECT: HB 106, County Authorization to Sell Private Properties Subject to Lien - **OPPOSED**

Aloha Chair Tarnas and Committee Members,

Thank you for allowing me the opportunity to provide testimony on HB 106, which would authorize counties to sell private properties under certain circumstances.

The Honolulu Department of Planning and Permitting (**DPP**) **must get its act together before any additional powers are given to them.** For years they allowed offenders to pay only 5% of fines that were levied, even when hundreds of thousands of dollars were assessed due to lack of following the law for years.

In 2022 it was reported a fourth DPP employee pled guilty in a bribery scandal.¹

A couple of weeks ago there was a report of a DPP inspector approving his own projects.²

How far does the unethical and illegal activity go?

If DPP is allowed to have the power of sale, how do we know it would be a fair process?

Please vote “no” on HB 106.

¹ “Another DPP Employee Pleads Guilty Taking Bribes,” *Civil Beat*, February 15, 2022; <https://www.civilbeat.org/beat/another-dpp-employee-pleads-guilty-to-taking-bribes/>

² “Honolulu Permitting Inspector OK’d His Own Company’s Projects,” *Civil Beat*, January 18, 2023; <https://www.civilbeat.org/2023/01/honolulu-permitting-inspector-okd-his-own-companys-projects/>