

JOSH GREEN, M.D.  
GOVERNOR



DENISE ISERI-MATSUBARA  
EXECUTIVE DIRECTOR

**STATE OF HAWAII**  
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM  
**HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION**

IN REPLY PLEASE REFER TO:

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Statement of  
**DENISE ISERI-MATSUBARA**  
Hawaii Housing Finance and Development Corporation  
Before the

**HOUSE COMMITTEE ON WATER AND LAND**

March 22, 2023 at 9:30 a.m.  
State Capitol, Room 430

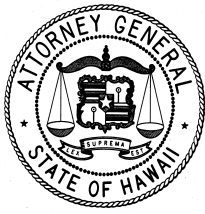
In consideration of  
**S.B. 1352 SD2 HD1**  
**RELATING TO TAXATION.**

HHFDC **supports** S.B. 1352 SD2 HD1, which amends the definition of "historic property" under the State's historic preservation program from 50 to 100 years and temporarily allows the State Historic Preservation Division (SHPD) to contract out for third-party reviews of applications and notifications.

HHFDC supports efforts to streamline what has historically been a bottleneck in the development process and has slowed affordable housing projects, including those using the provisions of Chapter 201H, HRS, to expedite development.

SHPD's engagement of third-party contractors would help to expedite the review process so that more affordable housing units can be produced in a timely manner.

Thank you for the opportunity to provide testimony.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-SECOND LEGISLATURE, 2023**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 1352, S.D. 2, H.D. 1, RELATING TO HOUSING.

**BEFORE THE:**

HOUSE COMMITTEE ON WATER AND LAND

**DATE:** Wednesday, March 22, 2023      **TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 430

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Linda L.W. Chow, Deputy Attorney General

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Chair Ichiyama and Members of the Committee:

The Department of the Attorney General provides the following comments on the bill:

This bill amends the definition of "historic property" and allows the Department of Land and Natural Resources to retain a third-party consultant to conduct required historic preservation review of projects on state or private lands under sections 6E-8, 6E-10, and 6E-42, Hawaii Revised Statutes.

Pursuant to article III, section 14, of the Hawaii State Constitution, "Each law shall embrace but one subject, which shall be expressed in its title." The Hawaii Supreme Court has held that this provision is mandatory and a violation thereof would invalidate legislation. *Schwab v. Ariyoshi*, 58 Haw. 25, 31, 564 P.2d 135, 139 (1977). The subject expressed in the title of this bill is "housing." There is no mention of "housing" within the bill.

The bill as introduced did address the housing shortage problem, as stated in section 1 of the original bill: "The purpose of this Act is to encourage development of affordable housing units, support workforce housing renters with direct loans for security deposits, and temporarily promote timely reviews of projects through targeted streamlined processes without compromising health and safety or historic preservation." However, after the bill was amended by the Senate to add provisions that appeared to go beyond the original purpose and raised concerns about germaneness, the House Committee on Housing in its Standing Committee Report No. 1295 stated that it

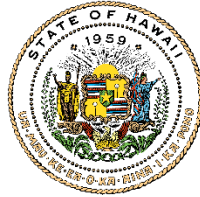
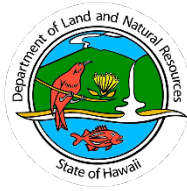
recognized the germaneness concerns, that it believed "that the content found in the S.D. 2 version of this measure may be better placed in another vehicle to help address the high costs associated with the development of affordable housing in the State," and that it deleted from this bill the provisions relating to housing.

Consequently, House Draft 1 of this bill is subject to challenge as being in violation of the single subject requirement of article III, section 14, of the Hawaii State Constitution and of the requirement for additional readings under the germaneness issue pursuant to article III, section 15, of the Hawaii State Constitution. To address these constitutional concerns, we recommend that wording be added to the bill to explain how the provisions of this bill are connected to housing and that additional readings of the further amended bill be required before final passage.

Thank you for the opportunity to provide these comments.

JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKUAĀINA 'Ō HAWAII'  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621  
HONOLULU, HAWAII 96809

DAWN N.S. CHANG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT  
LAURA H.E. KAAKUA  
FIRST DEPUTY  
M. KALEO MANUEL  
DEPUTY DIRECTOR - WATER  
AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES  
ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Testimony of  
DAWN N. S. CHANG  
Chairperson

Before the House Committee on  
WATER & LAND

Wednesday, March 22, 2023  
9:30 AM

State Capitol, Conference Room 430 Via Videoconference

In consideration of  
SENATE BILL 1352, SENATE DRAFT 2, HOUSE DRAFT 1  
RELATING TO HOUSING

Senate Bill 1352, Senate Draft 2, House Draft 1 proposes to amend Section 6E-2 Hawaii Revised Statutes (HRS), by changing the definition of “historic property”; and amend Sections 6E-8, 6E-10, and 6E-42, HRS, to require the Department of Land and Natural Resources (Department) to contract with third-party reviewers for affordable housing projects, if the Department is unable to complete its reviews in sixty days, provided that the consultant meets the Department’s professional qualifications standards and experience, and will provide their recommendation to Department within 30-days. **The Department appreciates the intent of this measure and offers comments, which are limited to SECTIONS 4, 5, 6, and 7.**

Senate Bill 1352, Senate Draft 2, House Draft 1 SECTION 4 would amend the definition of “historic property” from 50-years old to “100-years old. The Department agrees that the current definition which relies entirely on age alone to define what is or is not historic is flawed. In prior sessions, the Department has supported measures to amend the definition. However, the 100-years standard proposed in this measure would exclude, for example, places associated with people with historical events such as World War II and Statehood, as well as most or all of the careers and work of Hawai'i's most distinguished architects. The Department believes that defining historic property solely by age alone is the problem. Historical value is a reflection of age *and* association with events, people, architectural cohesiveness or distinction, or the potential to reveal valuable historic, scientific, or cultural information.

The Department recommends that Section 6E-2, HRS, be amended to read

"Historic property" means any building, structure, object, district, area, or site, including heiau and underwater site~~[, which]~~ that is over fifty years old[-] and meets the criteria to be placed into the

Hawaii register of historic places or has important value to Native Hawaiians or other ethnic group of the state due to associations with cultural practices once carried out, or still carried out, at the property or due to associations with traditional beliefs, events or oral accounts that are important to the group's history, traditional practices, and cultural identity. "

The Department recognizes the need to support affordable housing units in Hawai'i, and acknowledges that even though review of such projects is one of our highest priorities, reviews of such submissions are not always completed as promptly as project proponents might like or within the time period provided by the administrative rules. The Department acknowledges and appreciates the support of the Legislature by creating 14 new positions in the State Historic Preservation Division (SHPD) during the last session. The Department believes once filled these positions will provide the SHPD will the capacity to reduce the time it takes to complete Chapter 6E, HRS, reviews of most projects, including affordable housing projects.

Senate Bill 1352 Senate Draft 2, House Draft 1 SECTION 5(d), SECTION 6(e), and SECTION 7(c) each requires the Department to "retain a third-party consultant to conduct the review[s]..." required by Sections 6E-8, 6E-10, or 6E-42, HRS. To avoid any appearance of a conflict of interest, the Department recommends that the third-party reviewer be selected and paid by the Department, with funds paid to the Department by the project proponent. The Department suggests the following language or similar language to incorporate the appropriate verbiage immediately following SECTION 5(d)(3), SECTION 6(e), and SECTION 7(c):

- (3) The third-party consultant will be required by contract to provide a recommendation to the department within thirty days of the filing of the request with the department.
- (4) The project proponent shall provide the funds to the department to pay for the contract with the third-party reviewer. Such funds will be deposited in the historic preservation fund and expended for that purpose.

As currently drafted the immediately following paragraph requires that these contracts be subject to approval of the appropriate Island Burial Council. The Department believes that this is contrary to the purposes of this measure. Making such contracts subject to the approval of the Island Burial Councils will delay execution of the contract and completion of recommendations by the third-party reviewer. The Island Burial Councils meet once per month and do not always make a quorum. Any proposed third-party contract will have to wait until the next Island Burial Council meeting, delaying execution of the contract for potentially up to a month. If the Island Burial Council does not make a quorum, execution of the contract will wait at least an additional month. The department strongly recommends that this paragraph be deleted from the measure in each section.

The Department does not have funds to contract with third party consultants and this mandate is not included in the Department's budget. While we believe this authorization would facilitate timely review of affordable housing projects, funds would need to be provided. The Department believes that the mechanism suggested above, where the project proponent would pay for the third-party consultant that is selected, approved, and contracted by the Department resolves this matter appropriately. It also eliminates the potential for an appearance of the conflict of interest if the 3<sup>rd</sup>-party reviewer is selected and paid directly by the project proponent. Furthermore, it is difficult for the Department to determine in advance the cost estimate for a third-party consultant contract, thus, the Department cannot advise the Committee on a meaningful estimate of the costs of such third-part contracts but is willing to pursue this approach.

With the recommended amendments, the Department supports the portions of this measure that pertain to Chapter 6E, HRS.

Mahalo for the opportunity to provide testimony on this measure.

# HISTORIC HAWAII FOUNDATION

**TO:** Representative Linda Ichiyama, Chair  
Representative Mahina Poepoe, Vice Chair  
Committee on Water and Land (WAL)

**FROM:** Kiersten Faulkner, Executive Director  
Historic Hawai'i Foundation

**Committee:** Wednesday, March 22, 2023  
9:30 a.m.  
Via Video Conference and Conference Room 430

**RE: SB1352, SD2, HD1, Relating to Housing**

On behalf of Historic Hawaii Foundation (HHF), I am writing in **opposition to SB1352 SD2 HD1**. This measure was introduced as a means to support a rental deposit loan program to support affordable housing.

However, as amended, the bill would amend Hawai'i Revised Statutes §6E-2 to revise the definition of "historic property" to include only those properties that are over 100 years of age and would change the State Historic Preservation Division's review of projects that have the potential to affect historic properties. Historic Hawai'i Foundation opposes both proposed changes to the State's historic preservation process and recommends that the bill be returned to its original purpose to support housing programs for low income households.

## **Comments on Section 1: Definition of Historic Property**

Currently, HRS §6E-2 defines historic properties as any building, structure, object, district, area, or site, including heiau and underwater site, which is over 50 years old. HHF is concerned that changing the age threshold to 100 years will disadvantage numerous sites that are important to the history and culture of Hawai'i.

Under the current system, properties must be at least 50 years old even to be considered for listing on the Hawai'i Register of Historic Places and for the Hawai'i Historic Places Review Board to determine if the nominations demonstrate eligibility. It is unclear whether the State would be able to accept and approve new nominations to list properties to the State Register if such property was built after 1923, or if it would affect those that are already listed but not yet 100 years old. The changed definition could throw the entire Hawai'i Register of Historic Places into chaos.

It would also be a departure from the criteria for listing on the National Register of Historic Places, which uses the 50-year ago as a rule of thumb, but includes additional criteria of historic significance and integrity to evaluate all properties, of any age, in determining eligibility.

Just of few of the many historic properties that are already listed on the Hawai'i Register that could be illegitimated by this bill include:

- Alexander & Baldwin Building (1929), Honolulu, O'ahu
- Aloha Tower (1926), Honolulu
- Arizona Memorial (1962) and other sites associated with the December 7, 1941 attack and all of World War II (1941-1945), Pearl Harbor, O'ahu and additional locations
- National Memorial Cemetery of the Pacific (1948) and the Honolulu Memorial (1964), Honolulu, O'ahu
- Civilian Conservation Corps Camp at Kōke'e State Park (1934-1941), Kōke'e, Kaua'i
- Dillingham Transportation Building (1929), Honolulu, O'ahu
- East West Center Complex (1962), Mānoa, O'ahu
- 'Ewa Sugar Plantation Villages (1890 – 1957), 'Ewa Villages, O'ahu
- Hawai'i State Capitol (1969), Honolulu, O'ahu
- Honolulu Museum of Art (1927), Honolulu, O'ahu
- 'Īao Theater (1928), Wailuku, Maui
- ILWU Jack Wayne Hall (1954), Honoka'a, Hawai'i
- Kalaupapa Historic District (1866-1969), Kalaupapa, Moloka'i
- Kunia Camp Historic District (1928-1963), Kunia, O'ahu
- Līhu'e Post Office (1939), Līhu'e, Kaua'i
- Palace Theater (1925), Hilo, Hawai'i
- Sueoka Store (1933), Kōloa, Kaua'i

The proposed change would have a disproportionate outcome and adverse effect on properties associated with women, people of color and less affluent groups.

In recent decades, there have been deliberate and methodical attempts to diversify the National and the Hawai'i Registers of Historic Places to include underrepresented groups and untold stories in order to include the full history of both the state and the nation. As many of those individuals and communities did not have the opportunities available to them in earlier eras, it is only now that their



stories and sites are becoming known. The proposed age threshold of 100 years places an unnecessary barrier and penalizes historically marginalized communities from recognition of their historic significance and contributions to Hawai'i and the nation.

HHF offers a few examples to illustrate this concern:

- In 2012, the Legislature established a working group through the Department of Land and Natural Resources to develop recommendations to preserve and protect Honouliuli, a major site on O'ahu where Japanese-Americans were interned during World War II from 1943-1946. At that time, the Honouliuli Confinement Camp site was 70 years old. It was unknown if it retained enough integrity to be listed on the Hawai'i or National Register of Historic Places.

If the proposed definition of historic property had been in place at that time, Honouliuli would not be considered a historic property until 2043. The State would have foregone that research and designation effort, and the now-designated **Honouliuli National Historic Site** would still be a forgotten gulch rather than a place remembering this era of history to serve as an illustration of the dangers of civil rights violations.

- In 1944 (79 years ago), 163 naval personnel were killed and 396 were injured at West Loch at the Pearl Harbor Naval Base when the 29<sup>th</sup> Decontamination Unit were loading ammunition and fuel on landing ship tanks in preparation for the U.S. invasion of the Japanese-held Mariana Islands. The victims were primarily African American sailors; in the aftermath of the disaster, the Navy made drastic changes to both its ordnance handling procedures and social changes that eventually lead to integration within the services.

The **West Loch Disaster** was classified until the 1960s. It became better known with annual commemorative events beginning in 2009 through the efforts of the African American Diversity Cultural Center of Hawai'i, but this historic event is still not widely known. The site itself has not been evaluated to determine if it meets the criteria for being listed individually on the Hawai'i Register of Historic Places, although it is contained within the boundaries of the Pearl Harbor National Historic Landmark, which is listed for its World War II significance generally.

Under the bill's proposed definition of historic property, the site of the West Loch Disaster might not be considered a historic property for association with this catastrophic event and SHPD would not have a nexus to participate in efforts to preserve and interpret this part of history.

- Many of Hawaii's most **notable architects, artists and designers** did outstanding work between 100 and 50 years ago. Many of the buildings, structures and artworks from this period have only recently become recognized and valued. A few of those who are only now coming into wider public awareness are listed below.

Many of their works still need to be added to the Hawai'i Inventory of Historic Properties and evaluated for eligibility for the state register for design, engineering and construction significance. Under the proposed definition of historic property, many of them would remain obscure or ignored by the official historic preservation program of the State.

- **Ray Akagi** was a draftsman in the 1930s with C.W. Dickey, Hart Wood and Guy Rothwell. He became a licensed architect in 1947 and operated his office until 1971. He designed the Buck Toy Society Hall on Vineyard Avenue, Niu Valley Elementary School, and a number of churches for the Roman Catholic Church, including Holy Family on Hickam Air Force Base, St. Peter and Paul in Honolulu, and St. Anthony's in Kailua;
- **Juliette May Fraser** was a talented painter, muralist and printmaker who received a WPA commission in 1934 to prepare murals for the Hawai'i State Library. Her other works can be seen at the Board of Water Supply and Ben Parker School in Kāne'ohe.
- **Hego Fuchino** opened his engineering office in Honolulu in 1919. Shortly after the bombing of Pearl Harbor, Fuchino was arrested and sent to an internment camp in Wisconsin where he was held for five years. With his release he returned to Hawai'i and reopened his office. Major works prior to the war include the Makiki Christian Church and the Izumo Taishakyo Mission. In 1947 he entered into partnership with Robert Katsuyoshi, which lasted until Fujino's death. The Soto Zen Mission on Nu'uaniu Avenue and the Waipahu Hongwanji are among his noteworthy post-war designs.
- **Ernest Hideo Hara** opened his architectural firm in 1945. He designed a number of apartments and hotels, including the Queen Kapi'olani (1968), Waikiki Grand (1962), Hilo Hawaiian (1976), and the Waikiki Shopping Plaza (1975). He was a founding member of Central Pacific Bank and served on its board from 1954-1980. In 1969 he was the first person of Asian descent appointed to Punahou School's Board of Trustees.
- **Erica Karawina** was a renowned stained-glass artist whose works adorn many churches, businesses and public buildings. She came to Honolulu in 1949 and created dozens of stained-glass murals. Her works include the windows in the Kalanimoku Building, St. Anthony's in Kailua, Mānoa Valley Church, Wesley Methodist Church, and St. John's Episcopal Church in Kula, Maui.
- **Stephen Oyakawa** was born in Hawai'i and worked for Frank Lloyd Wright from 1944 until 1959. His works include the 'Aiea Library, Liliha Library, Lihue Library and the Hale Aloha complex of four round dormitories at the University of Hawai'i.
- **Kenneth Sato** was born on the North Shore of O'ahu, graduated from McKinley High School, and received a degree in civil engineering from the University of Hawai'i in 1930. He owned the Kewalo Steel Company and designed a number of churches, apartments, and low-rise commercial buildings. He also worked on a number of public schools and bridges for the Territory of Hawai'i.

These are only a few of the events, people and design achievements that are important to the history of Hawai'i that have occurred less than 100 years ago but that nevertheless need to be included in Hawai'i's historic preservation program.

**HHF believes that the revised definition of "historic property" as proposed would introduce a great deal of confusion, conflict and delay. It would negate and marginalize the many contributions, lessons and achievements of prior generations and deny those sites the recognition that they deserve, as well as access to programs to help preserve and share them.**

### **Comments on Section 2: Review of Projects with the Potential to Affect Historic Properties**

State law (HRS §6E-8), currently requires that prior to any state, county or public project commencing that the proposed project shall be referred to SHPD for its review of the proposed project's potential effect on historic properties, aviation artifacts, or burial sites, especially those listed on the state register of historic places. The proposed project shall not commence until the department gives its written concurrence. SHPD review and comment is also required for privately-owned projects (see §6E-10, §6E-42 and §6E-43).

SHPD's review of proposed projects is an important safeguard to ensure that historic properties and cultural resources are identified and appropriate treatment measures are in place during planning and design work, which also then limits surprises or delays during construction.

The bill does not demonstrate how the proposed third-party consultant would achieve either the aims of appropriate treatment and preservation of Hawai'i's historic and cultural resources, nor how the third-party consultant would achieve the aims of expediting development proposals and project reviews.

The measure would allow SHPD to retain a third-party consultant to conduct the historic preservation reviews on behalf of the department in the event that SHPD is unable to complete its review within 60 days. The bill implies that SHPD would develop and maintain a list of individuals or organizations who are qualified as third-party consultants who can be activated on demand.

**Rather than establish a new program and divert SHPD's resources and professional staff to overseeing and managing third-party reviewers, HHF recommends that SHPD be provided with the adequate professional staffing and resources to execute its statutory responsibilities.**

In addition to issues of effectiveness, HHF is also concerned with several practical issues, including: professional qualifications that would be required; selection and contracting procedures; how conflicts of interest would be addressed; how the third-party consultant decisions would be reviewed and incorporated into the administrative record; what resources the Division would need to manage

the third-party consultants and review processes; and how the decisions reached by the third-party reviewers would be institutionalized, communicated and tracked.

Rather than introduce an entirely new bureaucracy to the process, Historic Hawai'i Foundation recommends that SHPD be provided with the resources for personnel, technology, equipment and training to do the job for which it has been entrusted. If the Division is fully staffed and supported, the issues of timeliness and quality of reviews would be addressed at the source, and the proposed work-around is moot.

#### ISSUE #1: Qualifications and Logistics for Third-Party Consultants

Although the reliance on third-party reviewers could be a viable approach for matters such as building or zoning codes, most architects and engineers do not possess the specialized technical training to allow them to make determinations of effect on historic properties and provide meaningful review comments to ensure appropriate treatment of historic properties. We are concerned with the issue of ensuring that the reviewers have knowledge, understanding and expertise in native Hawaiian cultural resources or values, especially if the third-party consultants are selected from out-of-state.

HHF appreciates that the measure makes reference to education and experience standards and qualifications for preservation professionals as determined by SHPD rules. HHF recommends that the administrative rules also include a quality control and audit procedure that ensures the appropriateness and quality of the reviews, data tracking, implementation of review comments, and reporting.

**HHF recommends that additional criteria and standards be established for any such third-party consultants.** At minimum, the criteria should include:

- Professional qualifications and standards that each consultant shall demonstrate;
- Sufficient internal controls to ensure qualified third-party consultant can make independent determinations and function in a manner that does not create a conflict or appearance of a conflict of interest; and
- The third-party consultants must be independent from the party that drafted or generated the project or program submittal that is the subject of the review.

It is unclear what action is required of SHPD once it receives the third-party consultant's recommendation. What action is the department expected to take? Do state personnel then review the third-party consultant's recommendations? If there are discrepancies or conflicts, how will they be resolved? Is SHPD responding to the original applicant or to the third-party reviewer? How will appropriate quality control and checks and balances be sustained? These issues will need to be addressed either in the bill or in the implementing rules and regulation.

HHF recommends that the bill include a deadline by which DLNR is to develop the draft rules for public input and comment, as well as a deadline for the final version of the rules be presented to the Board of Land and Natural Resources for action.

#### ISSUE #2: Integration with Federal Historic Preservation Reviews

The review and compliance process currently outlined in State statute and rules is substantially parallel to a similar process in Federal regulations, which provides for the identification, review and agreement on treatment of historic properties in cases where federal funding, land, permits or other approvals apply. However, there are key differences that need to be accommodated.

In the case of many public projects, including transportation and other infrastructure, as well as affordable housing projects, federal funds are frequently used for land acquisition and/or project financing. In those cases, Section 106 of the National Historic Preservation Act applies. The Code of Federal Regulations (36 CFR Part 800) governs issues related to historic preservation and includes specific roles and responsibilities for the State Historic Preservation Officer (SHPO). While the technical reviews may be delegated to qualified preservation professionals in the fields of architecture, architectural history or archaeology, the SHPO is ultimately responsible for the authorization and approval of the Section 106 process and resolution of potential effects on historic properties.

In the cases where federal funds, lands, permitting, licenses or approvals are required, the proposed use of third-party consultants would result in a double review process: one by the third-party reviewer for purposes of HRS §6E and one by the SHPD personnel for compliance with 36 CFR 800.

There are key differences between State and Federal historic preservation regulations, including:

- Federal law requires the agency or department to consult with other parties, including preservation organizations; other individuals or organizations with an interest in the historic resource or the proposed project; and Native Hawaiian Organizations that attach religious or cultural significance to the historic property. Hawai'i Administrative Rules include only a limited duty to consult with other interested parties. Third-party consultants would be ill-equipped to manage or participate in the consultation process and could not represent the SHPD views.
- Federal law requires that review of projects include not only direct effects within the footprint of the project, but also indirect and cumulative effects, in which the entirety of the effect is identified and evaluated, and appropriate measures are taken. State law is primarily concerned only with direct effects and seldom looks beyond the immediate consequences to a larger picture. Third-party consultants would be ill-equipped to understand the cumulative effects or how to address them.
- Another significant difference between State and Federal regulations as they apply to historic resources is that State law is explicitly concerned with protection of Native Hawaiian burials and cultural resources, whereas Federal law is much less direct. Early identification of other types of

historic properties—buildings, structures, archaeological sites—is relatively simple in that they can almost always be seen. However, subsurface or submerged historic properties are usually not previously identified. Third-party consultants would likely be unaware of unseen historic properties or have information on how to identify and resolve effects to them.

SHPD professional staff are versed in these and other differences and are able to ensure that review and compliance procedures address them. If a double-review with third-party consultants were introduced, the review processes would be segregated, adding conflict, confusion and contradiction.

Besides being inefficient and ineffective, the use of third-party consultants has the potential to remove an important safety net for the preservation and protection of the historic and cultural resources of Hawai'i and would introduce more uncertainty in the development process.

**Given the ambiguities of the policy and proposed direction, and the availability of simpler and more direct solutions, HHF opposes the bill as proposed in HD1.**

Thank you for the opportunity to comment.

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**HOUSE COMMITTEE ON WATER & LAND**  
**State Capitol**  
**415 South Beretania Street**  
**9:30 AM**

MARCH 21, 2023

RE: SB 1352 SD2 HD1 - RELATING TO HOUSING

Chair Ichiyama, Vice Chair Poepoe, and members of the committee:

My name is Max Lindsey, 2023 Government Relations Committee Chair of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii. Our members build the communities we all call home.

**BIA-Hawaii is in support of SB 1352 HD1, Relating to Housing.** This bill amends the definition of "historic property" under the State's historic preservation program from fifty to one hundred years. Temporarily allows the State Historic Preservation Division to contract out for third-party reviews of application and notifications.

Many homes in Hawaii will soon be considered "historic properties" under the current definition, which defines historic property as "any building, structure, object, district, area, or site, including heiau and underwater site, which is over fifty years old". This would mean that many homeowners' construction projects would have to go through the SHPD process. We support changing the definition to 100 years, as this would immediately lower the amount of construction projects that would be subject to SHPD analysis and approval.

BIA-Hawaii is generally in support of the intent to streamline SHPD review. Allowing SHPD to outsource projects to third-party reviewers would help reduce their current backlog.

The state of Hawaii is in a dire housing crisis. As the Legislature is aware, the cost of housing in Hawaii is extremely high, with Oahu's median price of homes being currently over \$1 million. Approximately 153,967 U.S. households are priced out of buying a home for every \$1000 increase in price, according to the National Association of Home Builders (NAHB). We are in support of legislation that would allow for the building of much-needed housing at every price point in Hawaii.

We appreciate the opportunity to express our support for this measure..

March 22, 2023

**The Honorable Linda Ichiyama, Chair**

House Committee on Water & Land

State Capitol, Conference Room 430 & Videoconference

**RE: Senate Bill 1352, SD2, HD1, Relating to Historic Preservation**

**HEARING: Wednesday, March 22, 2023, at 9:30 a.m.**

Aloha Chair Ichiyama, Vice Chair Poepoe, and Members of the Committee:

My name is Lyndsey Garcia, Director of Advocacy, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i and its over 11,000 members. HAR **supports** Senate Bill 1352, SD2, HD1, which amends the definition of "historic property" under the State's historic preservation program from fifty to one hundred years. Temporarily allows the State Historic Preservation Division to contract out for third-party reviews of application and notifications. Sunsets 7/1/2028. Effective 6/30/3000.

Currently, Hawai'i Revised Statutes Chapter 6E, defines a historic property as, "any building, structure, object, district, area or site, including heiau and under water site, which is over fifty years old. With the current definition, the number of homes and buildings that qualify has continued to increase. This can be challenging for homeowners that must comply with the historic preservation review process for permits, even when their properties have no historical significance. For example, homes in Mililani were built in 1968, and homes there can be over 55 years old.

Furthermore, current law can also be challenging for the State Historic Preservation Division, as they will have to review properties simply because the property is over 50 years old, even without historical significance. As such, amending the definition of a historic property to properties that are over 100 years old may help address these challenges.

For the foregoing reasons, Hawai'i REALTORS® supports this measure. Mahalo for the opportunity to testify.





March 21, 2023

Representative Linda Ichiyama, Chair  
Representative Mahina Poepoe, Vice Chair  
Members of the Committee Water and Land

RE: **SB 1352 – RELATING TO HOUSING**  
**Hearing date – March 22, 2023 at 9:30 a.m.**

Aloha Chair Ichiyama, Vice Chair Poepoe and members of the committees,

Thank you for allowing NAIOP Hawaii to submit testimony with **SUPPORT ON SB 1352 – RELATING TO HOUSING**. NAIOP Hawaii is the Hawaii chapter of the nation's leading organization for office, industrial, retail, residential and mixed-use real estate. NAIOP Hawaii has over 200 members in the State including local developers, owners, investors, asset managers, lenders and other professionals.

SB 1352 amends the definition of "historic property" under the State's historic preservation program from 50 to 100 years. Further, the measure temporarily allows the State Historic Preservation Division (SHPD) to contract out for third-party reviews of application and notifications.

Currently, the backlog of historic reviews is encumbering permits throughout the state. Reviews by SHPD are significantly slowing down the permitting process adding costs and delays to a substantial number of projects across the State. Consequently, much needed housing, economic development, and critical infrastructure projects often face significant delays in permit approvals and project implementation. These delays result in decreased economic and construction activity and delivery of housing units. This measure seeks to address two main issues occurring during SHPD review.

First, the issue at hand is that far too many projects are being sent to SHPD for review that don't qualify as historic under any reasonable interpretation associated with historic importance. Nearly half of Oahu's housing stock is 50 years old including projects built in the 60s and 70s which should not be deemed historic. An increase from 50 to 100 years would significantly reduce the volume of projects that would require review, thus, aiding the to focus on truly historic properties.

Representative Linda Ichiyama, Chair  
Representative Mahina Poepoe, Vice Chair  
Members of the Committee Water and Land  
March 21, 2023  
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NAIOP understands the great importance that these reviews hold in preservation of Hawaii's historic sites, however, a balance needs to be found to: 1) reduce overwhelming volume of reviews placed on an understaffed department; and 2) allow SHPD staff to focus on the truly aged projects to determine if they are indeed historic. An increase to 100 years is the most cost-effective solution to reducing the volume of reviews while still preserving historic properties.

Second, the overwhelming volume of reviews are placed on an understaffed department. As such, allowing third party consultants to conduct reviews will significantly reduce the current caseload while expediting future reviews that allow for the development of much needed housing and critical infrastructure.

Further, third party consultants will be required to meet qualifications for preservation professionals pursuant to rules adopted by SHPD. This ensures that reviews will be conducted by qualified consultants to meet the high standards of review. NAIOP Hawaii supports this provision of the measure which seeks to balance the interests of all stakeholders by expediting quality reviews.

Accordingly, NAIOP Hawaii would respectfully request that the utilization of third-party reviewers be made mandatory rather than discretionary. This amendment would further the purpose of the measure to expedite reviews during the temporary timeframe.

Ultimately, NAIOP Hawaii is supportive of all policies which encourage the production of much needed housing stock for our local residents. This measure offers two tools which will aide SHPD in their review to assist in allowing projects to move forward for our residents. Thank you for the opportunity to testify on this measure.

Mahalo for your consideration,



Jennifer Camp, President  
NAIOP Hawaii