



LAND USE COMMISSION

Komikina Ho'ohana 'Āina

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
Ka 'Oihana Ho'omōhala Pā'oihana, 'Imi Wai wai a Ho'omāka'ika'i

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February 7, 2023

Statement of
Daniel E. Orodener
Executive Officer
State Land Use Commission

Before the
Senate Committee on Water and Land

Wednesday February 7, 2024
1:00 PM
State Capitol, Room 229 and Video Conference

In consideration of
SB2035
RELATING TO THE LAND USE COMMISSION

Chair Inouye; Vice Chair Elefante; and members of the Senate Committee on Water and Land:

The LUC is not opposed to proposed language in Section 2 of this measure as amended which reduces the number of required votes to approve a petition from 6 to 5.

However, we do not support the proposed amendments in Section 3 that would require the LUC to conduct a hearing within 120 days and render a decision within 180 days of a proper petition filing. It is the LUC's opinion that this measure will in fact have the opposite of its intended effect and will result in significant delay for housing projects.

The LUC works diligently to conduct their hearing process efficiently with respect to time and the requirements under Hawai'i Revised Statutes ("HRS") 91 and 92. Due process for all participants when property rights are being considered is an important process to get right. Most of our petitions are handled within the 180-day timeframe. However, the ones that take longer are usually those that require more time to address significant public trust issues such as traditional and customary rights, water use, public infrastructure, public schools, and sustainability and climate change.

It should also be pointed out that the LUC Commissioners are unpaid volunteers who, under the current structure generously give up 25% of their time from their regular jobs to hear and decide petitions. Asking them to contribute more time as a result of a change to the timeframes proposed by this measure is

overly burdensome and onerous on volunteers. As a result, it is possible that important petitions will remain unheard and/or denied because of a truncated time frame.

Thank you for the opportunity to provide testimony.



SB2035
RELATING TO THE LAND USE COMMISSION
Senate Committee on Water and Land

February 7, 2024

1:00 PM

Conference Room 229

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB2035, which specifies that a simple majority of affirmative votes of the members of the Land Use Commission present at a meeting and qualified to vote is required for any boundary amendment and reduces the number of days by when the Land Use Commission must act for certain actions related to amendments to district boundaries.

OHA respectfully expresses concerns about the impact this measure may have on district boundary amendments related to important agricultural lands. As of September 4, 2020, a total of 136,489 acres of land has been designated by the Land Use Commission (LUC) as important agricultural lands. We want to ensure these lands can provide Hawai'i with the food system it deserves. At the same time, we want to note that most of the district boundary amendments granted over the last decade have redistricted Agricultural or Conservation lands to Urban.

Article XI, Section 3 of the Hawai'i State Constitution states that "[l]ands identified by the State as important agricultural lands... shall not be reclassified by the State or rezoned by its political subdivisions without... [being] approved by a two-thirds vote of the body responsible for the reclassification or rezoning action." We believe this constitutional provision was enacted to protect important lands devoted to agricultural production. OHA has concerns that SB2035, as it is currently written, may lead to the LUC making decisions inconsistent with this constitutional standard. Given that many of the district boundary amendments dealt with redistricted agricultural or conservation lands, we are worried that a blanket change to the voting process may complicate the LUC's ability to uphold its constitutional obligation. If the committee decides to advance this measure, we respectfully suggest that language be added to ensure that any votes related to the reclassification or rezoning of important agricultural lands be made with at least a two-thirds vote.

OHA appreciates the opportunity to share our concerns about this measure. We stand ready to work with the State Legislature to find solutions to improve our land use laws and decisions. OHA respectfully asks this committee **DEFER** SB2035 or consider adding



SB2035 RELATING TO THE LAND USE COMMISSION
Committee Hearing of the Senate Committee on Water and Land

language to ensure reclassifications or rezoning of important agricultural lands be made by a two-thirds vote. Mahalo nui.

Feb. 7, 2024, 1:00 p.m.
Hawaii State Capitol
Conference Room 229 and Videoconference

To: Senate Committee on Water and Land
Sen. Lorraine R. Inouye, Chair
Sen. Brandon J.C. Elefante, Vice-Chair

From: Grassroot Institute of Hawaii
Ted Kefalas, Director of Strategic Campaigns

RE: TESTIMONY IN SUPPORT OF SB2035 — RELATING TO THE LAND USE COMMISSION

Aloha Chair Inouye, Vice-Chair Elefante and Committee Members,

The Grassroot Institute of Hawaii would like to offer its strong support for [SB2035](#), which would streamline the process by which the state Land Use Commission acts on boundary amendments.

Under this bill, the number of affirmative votes required for a boundary amendment would be reduced from six to a simple majority.

In addition, the number of days from filing a petition in which the commission must hold a hearing would be reduced from 180 to 120, and the number of days in which the commission must act to approve, deny or modify the petition would be reduced from 365 (one year) to 180 (six months).

This bill correctly identifies and addresses one of the major causes for the slow growth of housing in this state: the delays caused by multiple layers of bureaucratic approvals.

Such delays — whether caused by permitting backlogs or the difficulties of navigating Hawaii's multitiered approval process — are one of the reasons Hawaii's average approval delay is three times the national mean.¹

¹ Rachel Inafuku, Justin Tyndall and Carl Bonham, "[Measuring the Burden of Housing Regulation in Hawaii](#)," Economic Research Organization at the University of Hawai'i, April 14, 2022, p.7.

And sad to say, the LUC is a major contributor to the problem of delays.

Established over 60 years ago, the LUC was intended to protect and manage Hawaii’s four land-use designations — urban, rural, agricultural and conservation — and, in the words of the LUC, encourage those uses “to which lands are best suited.”²

In a sense, it became a statewide zoning and approval agency, often trumping the zoning authorities of the counties, which has added to the delay and bureaucracy faced by homebuilders.

In 2020, the Grassroot Institute of Hawaii produced a report, “Reform the Hawaii LUC to encourage more housing,” that focused heavily on ways to reduce the scope of the LUC, leaving it free to focus on statewide environmental issues and district boundary amendments of conservation lands, as well as be more efficient in general.³

Further reform should look at ways to continue refocusing the LUC to better achieve its original purpose, but in the short term, SB2935 would help reduce the wait for housing developments that require LUC approval.

For anyone who wants to see more homes built, enactment of this bill would be an important and very welcome step forward. We urge the committee to pass this bill.

Thank you for the opportunity to testify.

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii

² [“State of Hawaii — Land Use Commission,”](#) files.Hawaii.gov, accessed Feb. 4, 2024.

³ Jackson Grubbe, [“Reform the Hawaii LUC to encourage more housing.”](#) Grassroot Institute of Hawaii, September 2020.



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February 7, 2024

COMMITTEE ON WATER AND LAND

Senator Lorraine R. Inouye, Chair
Senator Brandon J. C. Elefante, Vice Chair
Committee Members

SB 2035
RELATING TO THE LAND USE COMMISSION

Hawaii's Thousand Friends, a statewide non-profit water and land use planning organization dedicated to protecting the environment, human health, and cultural and natural resources opposes SB 2035, which will change the Land Use Commission voting process.

It is unclear what problem this bill is designed to solve.

The bill quotes the Grassroot Institute of Hawaii, stating that it can take ten years to navigate the approval process for new housing development but their report How to facilitate more homebuilding in Hawaii does not identify the Land Use Commission voting process as a reason for delay.

Most housing developments are proposed on urban designated land, which is administered by the counties thus they do not go to the Land Use Commission.

The proposed voting change from two-thirds of the 9-member commission from six members to a simple majority of five members present is terrifying because outside forces could influence that one swing vote.

Changing the time needed to conduct a hearing on a petition from 180 days to 120 days and reducing the time from 365 days to 180 days for the Commission to review and vote on a petition could create a rescheduling cycle because of unworkable hearing deadlines.

Unless the Land Use Commission identifies issues with the voting and timeline process needed to be more efficient, we urge that this bill be held in committee.