

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



DEAN MINAKAMI
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
HONOLULU, HAWAII 96813
FAX: (808) 587-0600

Statement of
DEAN MINAKAMI
Hawaii Housing Finance and Development Corporation
Before the

SENATE COMMITTEE ON WATER AND LAND AND SENATE COMMITTEE ON HAWAIIAN AFFAIRS

February 07, 2025 at 1:16 p.m.
State Capitol, Room 229

In consideration of
S.B. 1002
RELATING TO AFFORDABLE HOUSING.

Chairs Inouye and Richards, Vice Chairs Elefante and San Buenaventura, and members of the Committees.

HHFDC **supports** SB 1002, which beginning 7/1/2027, requires the State Historic Preservation Division (SHPD) of the Department of Land and Natural Resources (DLNR) to contract its review of proposed state projects, and projects affecting historic properties to third-party consultants if the projects involve the development of affordable housing and the division, after an initial evaluation, determines it will not be able to complete its review within sixty days. It establishes requirements for qualified third-party consultants providing review services, requires the project proponent to pay for the reasonable fee requirements of the third-party consultant, and allows the project proponent to contract or sponsor with any county, housing authority, non-profit organization, or person, to meet the third-party consultant fee requirement. It also requires DLNR to publish a draft of its proposed rules within one year, and within one year thereafter, present its proposed final rules to the Board of Land and Natural Resources. Appropriates funds.

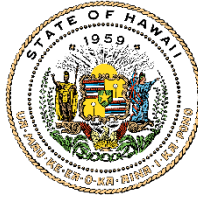
HHFDC supports efforts to streamline what has historically been a bottleneck in the development process and has slowed affordable housing projects, including those using the provisions of Chapter 201H, Hawaii Revised Statutes, to expedite development.

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 testify on this bill.

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

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
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

RYAN K.P. KANAKA'OLE
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ENFORCEMENT
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N. S. CHANG
Chairperson

Before the Senate Committees on
WATER AND LAND
And
HAWAIIAN AFFAIRS
Friday, February 7, 2025
1:16 PM
State Capitol Conference Room 229 & Videoconference

In consideration of
SENATE BILL 1002
RELATING TO AFFORDABLE HOUSING

Senate Bill 1002 would require the Department of Land and Natural Resources (Department) through the State Historic Preservation Division (Division) to contract is review of proposed state projects and affordable housing projects to third-party consultants under certain conditions. It also appropriates funds to the Division for recruitment and retention of qualified third-party consultants to expedite the review of state affordable housing projects. **The Department acknowledges the intent of this measure and offers comments.**

Chapter 6E, HRS, sets forth the framework for a comprehensive statewide historic preservation program in Hawai'i. A key part of that program is the review of projects, as required by sections 6E-8, 6E-10, 6E-42, and 6E-43, HRS; and the Department believes these sections of Chapter 6E, HRS, reflect the Legislature's intent to require project proponents to consider the impact of their projects on iwi kūpuna, as well as historic and cultural resources. The Department recognizes the need to streamline the historic preservation review process to improve the timeliness of historic preservation reviews. This bill amends 6E-8 and -42, HRS and requires that the Division contract a third-party consultant if, after its initial review, the Division determines that it will not be able to provide its written determination or written concurrence or non-concurrence within sixty days. It also requires that the third-party consultant have the appropriate qualifications and experience to review an application for permit, license, or approval, as set forth within rules adopted by the Division. It identifies that the project proponent shall pay for the reasonable fee requirements of the third-party consultant.

The Department is not opposed to the use of third-party reviewers who meet the appropriate professional qualifications. However, the Division would be required to assign a staff person to identify, certify qualifications of, and manage a third-party reviewer and third-party reviewer contract. Thus, managing a third-party reviewer would adversely offset the amount and level of work existing Division staff-person(s) would produce in lieu of the third-party reviewer. This amendment would likely result in the Division requiring the creation of an additional position within its Archaeology or Architecture Branches to serve as an affordable housing historic preservation review coordinator. If such a position was created, they would be assigned to make determinations about whether or not the Division would be able to meet the sixty-day review period, identify if a third-party reviewer was necessary and that they met appropriate qualifications, assign any necessary fees to the project proponent to cover the expenses of a third-party reviewer, and manage the third-party reviewer contract and deliverables to ensure that they are completed within the thirty-day review period.

Mahalo for the opportunity to provide testimony on this measure.



February 5, 2025

LATE

Senator Lorraine Inouye, Chair
Senator Brandon Elefante, Vice Chair
Committee on Water and Land

Senator Tim Richards, Chair
Senator Joy San Buenaventura, Vice Chair
Committee on Hawaiian Affairs

RE: **SB 1002 - Relating to Affordable Housing**
Hearing date: February 7, 2025 at 1:16 PM

Aloha Chair Inouye, Vice Chair Richards and members of the committee,

Mahalo for the opportunity to submit testimony on behalf of NAIOP Hawaii in **STRONG SUPPORT** on SB 1002. NAIOP Hawaii is the local 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 1002 is intended to promote more timely reviews of projects by requiring the Department of Land and Natural Resources (DLNR) State Historic Preservation Division (SHPD) to contract its review of the proposed state projects, projects on privately owned historic property, and projects affecting historic properties to third-party consultants if the department will not be able to complete its review within sixty days. While NAIOP Hawaii prefers the language in SB 575 which has broader application to all projects we support the intent of SB 1002.

Primarily, SB 1002 seeks to address the significant delays that permit applicants face in obtaining county permits that require review under section 6E-42, Hawaii Revised Statutes. Currently, the backlog of historic reviews is encumbering permits throughout the state. Consequently, much needed housing, economic development, and critical infrastructure projects often face significant delays in permit approvals and project implementation. NAIOP understands the great importance that these reviews hold in preservation of Hawaii's historic and cultural sites, however, a balance needs to be found to increase efficiency while maintaining the quality of reviews.

Senator Lorraine Inouye, Chair
Senator Brandon Elefante, Vice Chair
Committee on Water and Land

Senator Tim Richards, Chair
Senator Joy San Buenaventura, Vice Chair
Committee on Hawaiian Affairs
February 5, 2025
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Accordingly, we strongly support the utilization of qualified third-party consultants to review projects in order to meet the intended statutorily required 90-day review timeline. Currently, SHPD is facing challenges in completing the overwhelming number of reviews due to capacity issues in the department. Allowing for 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.

Moreover, permitting third-party reviews offers the benefit of having market demand drive the number of reviewers entering the space. The more demand, the more qualified reviewers will take on the liability and responsibility of these historic preservation project reviews. This will allow market forces to help solve this issue.

Additionally, the language of SB 1002 requires third party consultants 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.

NAIOP Hawaii recommends clarification as to whether this would also apply to new market residential developments that are required to provide a certain percent of affordable units per ROH Chapter 29 which may be on site or off site. Those projects may not necessarily be "affordable housing projects" but still add to the affordable housing supply. In turn, we propose amending the new HRS Section 6E-8(d) to read "Whenever the project includes the development of residential units intended as affordable housing." This amendment will further ensure that third party reviews will apply to all affordable housing units.

Furthermore, NAIOP Hawaii recommends that SHPD be required to assign the reviews to a third-party consultant no later than 60 days after submission of the an application to SHPD if the department determines it will be unable to complete its review within 60 days. Specifically, language in the newly amended Sections 6E-8(d), 6E-10(e), and 6E-42(c) to state the following:

“The department shall retain a third-party consultant to conduct the review described under subsection (a) no later than sixty days after application submittal if, after an initial evaluation, the department determines that:”

Senator Lorraine Inouye, Chair
Senator Brandon Elefante, Vice Chair
Committee on Water and Land

Senator Tim Richards, Chair
Senator Joy San Buenaventura, Vice Chair
Committee on Hawaiian Affairs
February 5, 2025
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This amendment is consistent with the intent of the bill to expedite reviews and alleviate the overwhelming volume of work SHPD currently faces.

NAIOP greatly supports the intent of the measure to identify a solution to the significant backlog of much needed projects awaiting SHPD review. Ultimately, SB 1002 addresses a critical issue in the development of more affordable housing and critical infrastructure for Hawaii residents. NAIOP appreciates the Legislature's commitment to collaborating on this issue and look forward to working together.

Mahalo for your consideration,

A handwritten signature in black ink, appearing to read 'Reyn Tanaka', with a stylized flourish at the end.

Reyn Tanaka, President
NAIOP Hawaii



HISTORIC HAWAI'I FOUNDATION

680 Iwilei Road Suite 690, Honolulu HI 96817 • (808) 523-2900 • preservation@historichawaii.org • www.historichawaii.org

TO: Senator Lorraine R. Inouye, Chair
Senator Brandon J.C. Elefante, Vice Chair
Committee on Water and Land (WTL)

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

Committee: Friday, February 7, 2025
1:16 p.m.
Via Video Conference and Conference Room 229

RE: **SB 1002, Relating to Affordable Housing**

On behalf of Historic Hawai'i Foundation (HHF), I am writing in **opposition for SB 1002**. The bill requires the State Historic Preservation Division (SHPD) of the Department of Land and Natural Resources to contract its review of proposed state projects, and projects affecting historic properties to third-party consultants if the projects involve the development of affordable housing and the division, after an initial evaluation, determines it will not be able to complete its review within sixty days.

The Constitution recognizes the value of conserving historic and cultural property for the public good; the purpose of HRS 6E is to implement “the public policy of this State to provide leadership in preserving, restoring and maintaining historic and cultural property...and to conduct activities, plans and programs in a manner consistent with the preservation and enhancement of historic and cultural property” (HRS §6E-1).

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.

SUMMARY OF HHF CONCERNS and RECOMMENDATIONS

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.

Historic Hawai'i Foundation is a statewide nonprofit organization established in 1974 to encourage the preservation of historic buildings, sites, structures, objects and districts on all the islands of Hawai'i. As the statewide leader for historic preservation, HHF works to preserve Hawai'i's unique architectural and cultural heritage and believes that historic preservation is an important element in the present and future quality of life, environmental sustainability and economic viability of the state.

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 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 project proponent or 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 recommends that SB 1002 be held in committee and not passed.

Thank you for the opportunity to comment.

Feb. 7, 2025, 1:16 p.m.
Hawaii State Capitol
Conference Room 229 and Videoconference

To: Senate Committee on Water and Land

Sen. Lorraine Inouye, Chair

Sen. Brandon Elefante, Vice Chair

Senate Committee on Hawaiian Affairs

Sen. Herbert "Tim" Richards, III, Chair

Sen. Joy San Buenaventura, Vice Chair

From: Grassroot Institute of Hawaii

Ted Kefalas, Director of Strategic Campaigns

RE: SB1002 — RELATING TO AFFORDABLE HOUSING

Aloha Chairs, Vice-Chairs and other members of the committees,

The Grassroot Institute of Hawaii **supports** [SB1002](#), which would require the Hawaii Department of Land and Natural Resources to contract with third parties for the review of state or private affordable housing projects and private projects that affect historic properties if the State Historic Preservation Division cannot complete the review within 60 days.

Grassroot has advocated contracting with third parties when practical to conduct certain government work.

As we pointed out in our recent report "[Seven low-cost ways to speed up permitting in Hawaii](#)," Maui County has seen success in contracting with the private firm 4Leaf to expedite the rebuilding of structures in Lahaina that were destroyed or heavily damaged by the August 2023 wildfires.¹ Maui County often takes 200 days to approve permits, but 4Leaf has issued permits in just over 73 days, on average.²

¹ Jonathan Helton, "[Seven low cost ways to speed up permitting in Hawaii](#)," Grassroot Institute of Hawaii, Oct. 2024, p. 11.

² Ibid, p. 11. See also [Maui's Automated Planning and Permitting System](#). Permit type: Building Permit - Disaster Recovery for Single-Family Dwellings, Accessory Dwellings and Accessory Structures. Status: Issued. Date range: April 29, 2025 to Dec. 30, 2024. Then download the results.

According to The Economic Research Organization at the University of Hawai'i, Hawaii's housing regulations are the strictest in the country and "approval delays" for housing developments are three times longer than the national average among communities surveyed.³ Likewise, UHERO researchers have estimated that regulations comprise 58% of the cost of new condominium construction.⁴

Land-use and zoning rules are a key driver of Hawaii's housing crisis. As measured by the state's Honolulu Construction Cost Index, the cost for building single-family homes in 2024 was 2.6 times higher than the cost in 2020. For highrises, the cost was 2.5 times higher.⁵

Historic preservation reviews certainly play a role in these delays and their associated costs. While SHPD's average review times for projects are not readily available, the agency noted in its report to the 2023 Legislature that its archaeology reviews were taking between six months and one year, on average.⁶

Allowing third parties to conduct historic reviews could streamline the system for everyone.

Thank you for the opportunity to testify.

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii

³ Rachel Inafuku, Justin Tyndall and Carl Bonham, "[Measuring the Burden of Housing Regulation in Hawaii](#)," The Economic Research Organization at the University of Hawai'i, April 14, 2022, p. 6.

⁴ Justin Tyndall and Emi Kim, "[Why are Condominiums so Expensive in Hawai'i?](#)" The Economic Research Organization at the University of Hawai'i, May 2024, p. 11.

⁵ "[Quarterly Statistical and Economic Report, 4th Quarter 2024](#)," Hawaii Department of Business, Economic Development & Tourism, pp. 107-108.

⁶ "[Report to the Thirty-Second Legislature 2023 Regular Session on the State Historic Preservation Program For Fiscal Year 2021-2022](#)," Hawaii Department of Land and Natural Resources, October 2022, p. 1.

LATE



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

**HEARING BEFORE THE SENATE COMMITTEES ON
WATER AND LAND and HAWAIIAN AFFAIRS
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 229
Friday, February 7, 2025 AT 1:16 P.M.**

To The Honorable Senator Lorraine R. Inouye, Chair
The Honorable Brandon J.C. Elefante, Vice Chair
Members of the Committee on Water and Land
To The Honorable Senator Herbert M. "Tim" Richards, Chair
The Honorable Senator Joy A. San Buenaventura, Vice Chair
Members of the Committee on Hawaiian Affairs

SUPPORT FOR SB1002 RELATING TO RELATING TO AFFORDABLE HOUSING

The Maui Chamber of Commerce would like testify in **SUPPORT for SB1002** which requires the Department of Land and Natural Resources State Historic Preservation Division (SHPD) to contract its review of proposed state projects, and projects affecting private historic properties to third party consultants if it determines it will not be able to complete its review within sixty days.

The Chamber has repeatedly seen housing projects – especially affordable housing projects – delayed significantly at the offices of SHPD. There is a large number of projects – big and small – being processed at all of the SHPD offices. They are overwhelmed with projects and have a limited staff. To allow qualified third parties to assist with the workload would speed up the permit reviews that are bottlenecked at SHPD, which would help affordable housing projects get through the process much faster thus lowering the expenses for the housing.

For these reasons, we **SUPPORT SB1002**.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

SB-1002

Submitted on: 2/5/2025 9:06:26 PM

Testimony for WTL on 2/7/2025 1:16:00 PM

Submitted By	Organization	Testifier Position	Testify
Jacob Wiencek	Individual	Support	Written Testimony Only

Comments:

Aloha Committee Members,

Delays in permitting are a key driver in ever escalating costs and delays for even the simplest of projects. Not only are the projects directly and negatively impacted by these backlogs, so are the concerns that these review processes are designed to address. Granting firmer timelines and more flexibility to get processes finished would provide relief to projects small and large, cheap and expensive.

I urge this Committee to SUPPORT this bill.