



**STATE OF HAWAII
OFFICE OF PLANNING
& SUSTAINABLE DEVELOPMENT**

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR

MARY ALICE EVANS
DIRECTOR

235 South Beretania Street, 6th Floor, Honolulu, Hawaii'i 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii'i 96804

Telephone: (808) 587-2846
Fax: (808) 587-2824
Web: <https://planning.hawaii.gov/>

Statement of
MARY ALICE EVANS, Director

before the
SENATE COMMITTEE ON JUDICIARY

Wednesday, March 4, 2026

9:40 AM

State Capitol, Conference Room 016

in consideration of
SB 2986, SD 1
RELATING TO THE LAND USE COMMISSION.

Chair Rhoads, Vice Chair Gabbard, and Members of the Senate Committee on Judiciary.

The Office of Planning and Sustainable Development (OPSD) offers **comments** on SB 2986, SD 1, which amends HRS §205-4 to allow the Land Use Commission (LUC), when it finds a petitioner has failed to comply with representations or conditions and regardless of whether there has been substantial commencement of use of the land, to: 1) modify or impose new conditions if the LUC finds the petitioner's failure to comply does not warrant reversion to the land's former land use classification; 2) issue an order to show cause for the petitioner's failure to comply with certain types of conditions; 3) assess a fine not to exceed \$50,000 per day until the petitioner cures the violation; and 4) defines "substantial commencement" as "completion of all public improvements and infrastructure, both within and outside the project area" as required by the imposed conditions and "completed construction of twenty per cent of the physical private improvements so that they are usable or habitable."

Petitioners who have or are in danger of noncompliance with conditions already can present alternative remedies under HAR §15-15-93 and the LUC has the authority to modify or delete conditions upon the petitioner's request under HAR §15-15-94. OPSD comments that it supports providing additional tools or mechanisms to the LUC that would encourage petitioners/landowners/developers to discuss with LUC staff and parties what remedies are available and what could be done to advance long-stalled projects, however, the threat of daily fines and the possibility of a notice of non-conformance recorded on the title of the property may have the opposite effect and discourage petitioners/landowners/developers from continuing on with their proposed project(s).

Thank you for the opportunity to testify on this measure.



LAND USE COMMISSION

Komikina Ho'ohana 'Āina

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

JOSH GREEN, MD
GOVERNOR

DANIEL E. ORODENKER
EXECUTIVE OFFICER

235 S. Beretania Street, RM 406, Honolulu, Hawai'i 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawai'i 96804
Email Address: dbedt.luc.web@hawaii.gov

Telephone: (808) 587-3822

Website: luc.hawaii.gov

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

Before the
Senate Committee on
Judiciary

Wednesday March 4, 2026
9:40 AM
State Capitol, Room 016 and Video Conference

In consideration of
SB2986 SD1

RELATING TO THE LAND USE COMMISSION

Chair Rhoads; Vice Chair Gabbard; and members of the Senate Committee on Judiciary:

The proposed Senate Draft 1 authorizes the Land Use Commission (“LUC”) to amend, revise, or modify a decision and order granting a district boundary amendment (“DBA”), or fine a petitioner, upon finding that a petitioner or its successors or assigns have not met the conditions imposed by the Commission, regardless of whether there has been substantial commencement of use of the land. In addition, the measure defines “substantial commencement.”

The Land Use Commission (“LUC”) met on February 11, 2026, to discuss legislative proposals. At that time the LUC did not take a position on this measure. The LUC staff supports measures that will ensure that approved projects will actually be constructed in a timely manner; particularly those that could provide affordable workforce housing and needed infrastructure improvements. The proposed measure would restore enforcement flexibility by allowing the LUC to require corrective actions or fines instead of requiring a reversion of entitlements through a new DBA proceeding.

Thank you for the opportunity to testify on this matter.



Cade Watanabe, Financial Secretary-Treasurer

Gemma G. Weinstein, President

Eric W. Gill, Senior Vice-President

March 2, 2026

Senate Committee on Judiciary
Sen. Karl Rhoads, Chair
Sen. Mike Gabbard, Vice Chair

Testimony in Support of SB2986

Chair Rhoads, Vice Chair Gabbard, and Members of the Committee,

UNITE HERE Local 5 represents 10,000 working people in the hotel, food service and health care industries across Hawaii.

We support SB2986 as a commonsense regulation that provides the Land Use Commission meaningful tools to hold developers accountable to the conditions placed on their developments. The conditions the LUC creates in its decision & orders granting district boundary amendments are meant to mitigate potential negative impacts of developments on the community and the environment. These conditions should be taken seriously for the sake of our communities, and SB2986 will help make that happen.

Thank you for this opportunity to testify.



**HAWAII STATE SENATE
COMMITTEE ON JUDICIARY
Conference Room 016
State Capitol
9:40 AM**

MARCH 4, 2026

Subject: SB 2986 - RELATING TO THE LAND USE COMMISSION

Chair Rhoads, Vice Chair Gabbard, and members of the Committee:

My name is Roseann Freitas, CEO 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 offers the following testimony in support of SB 2986, Relating to the Land Use Commission. This bill would authorize the Land Use Commission to amend, revise, or modify a decision and order granting a district boundary amendment, or fine a petitioner, upon finding that a petitioner or its successors or assigns have not adhered to the conditions imposed by the commission, regardless of whether there has been substantial commencement of use of the land.

SB 2986 provides important clarity and reinforces the authority of the Land Use Commission to ensure compliance with conditions attached to district boundary amendments. These conditions are often carefully negotiated and form the basis for the Commission's approval of projects that may include needed housing, infrastructure improvements, or community benefits.

Hawaii's housing crisis requires both regulatory certainty and accountability. This measure strikes an appropriate balance by affirming the Commission's oversight role while maintaining a clear process.

We appreciate the opportunity to provide our comments on this matter.



LATE

March 4, 2026

Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
Senate Committee on Judiciary

Opposition to SB 2986, SD1, RELATING TO THE LAND USE COMMISSION (Authorizes the Land Use Commission [LUC] to amend, revise, or modify a decision and order granting a district boundary amendment [DBA], or fine a petitioner, upon finding that a petitioner or its successors or assigns have not adhered to the conditions imposed by the LUC, regardless of whether there has been “substantial commencement” of use of the land. Defines "substantial commencement". [SD1])

**Wednesday, March 4, 2026, at 9:40 a.m.
State Capitol, Conference Room 016 & Videoconference**

The Land Use Research Foundation of Hawaii (LURF) is a private research and trade organization originally founded in 1979, whose members include major Hawaii landowners, developers, real estate investment trusts, utility companies, and land use professionals. LURF’s mission is to research, educate, and advocate for reasonable, rational, and equitable land use planning, laws, and regulations that encourage well-planned economic growth, agriculture, housing, renewable energy, commercial and industrial uses, health care, and tourism, while safeguarding Hawaii’s significant natural, historic, and cultural resources, public health, and safety.

LURF respectfully **opposes SB 2986, SD1**, based on, the following:

- **Unwarranted: LUC already has the strongest penalty available –the “Death Penalty” reversion to Agriculture.**
- **Unnecessary: The LUC has not requested this bill, nor taken a position, and the LUC already has the authority and process in place to work with petitioners to modify conditions.**
- **Unfair and circumvents the Hawai’i Supreme Court Bridge Aina Lea case which prevented the LUC from imposing the “death penalty” if there has been “substantial commencement” of the use of the land.**
- **Provides LUC with unlimited authority: This bill has no guardrails.**
- **Frustrates the purpose of current legislation facilitating building affordable and market housing and infrastructure.**
- **Instead of passing this bill, support bills that address facilitating development of housing and infrastructure.**

LURF's Position:

- 1. Unwarranted: LUC already has the strongest penalty available –the “Death Penalty” reversion to Agriculture.** LUC already has more than sufficient enforcement power to address noncompliance with district boundary amendments (DBA). The LUC already has a process already in place, where LUC can file a motion to revert the project and can schedule update hearings to monitor the progress of the project. After a petition and hearing, the LUC can vote to revert the property to the former land use classification. Land use practitioners call this the “Death Penalty,” and it has been effective in assuring compliance with the LUC’s decisions and orders.
- 2. Unnecessary: The LUC has not requested this bill, nor taken a position; and the LUC already has the authority and process in place to work with petitioners to modify conditions.** As explained in the testimony of the Office of Planning and Sustainable Development, petitioners who have or are in danger of noncompliance with conditions already can present alternative remedies under HAR §15-15-93 and the LUC has the authority to modify or delete conditions upon the petitioner’s request under HAR §15-15-94. Moreover, the counties also have powers to monitor and facilitate the compliance with LUC conditions for development of the property through its planning and permitting departments and zoning and subdivision approvals.
- 3. Unfair and circumvents the Hawai’i Supreme Court’s Bridge Aina Lea case which prevented the LUC from imposing the “death penalty” if there has been “substantial commencement” of the use of the land.** The deletion of the "substantial commencement" standard of development protections would violate the spirit, intent, and holding of the Hawai’i Supreme Court’s Bridge Aina Lea case, which recognized certain vested rights of the landowner based on the substantial commencement” of the development of the property and the landowner’s reliance on its LUC DBA entitlements. The Hawai’i Supreme Court’s “substantial commencement” standard recognizes the fairness of preventing the LUC from reverting a DBA, if the petitioner has “substantially commenced” the use of the land. The Hawai’i Supreme Court “substantial commencement” standard is both fair and prudent – this bill is not.
- 4. Provides LUC with unlimited authority: This bill has no guardrails.** The bill does not include any limits on the power of the LUC to amend, revise, modify, or fine the landowner, under the Decision & Order relating to a district boundary amendment (DBA). Thus, without any limits or guardrails, the bill could allow the LUC to violate the U.S. Supreme Court Penn Central legal test for "regulatory takings" by allowing the LUC to take such harsh actions and impose unreasonable conditions that might deny the landowner the "reasonable productive use" of their entitled lands.

5. **Frustrates the purpose of current legislation facilitating building affordable and market housing and infrastructure.** This measure would frustrate the purpose of current legislation this 2026 session relating to affordable housing, infrastructure, building codes, etc all provide support to landowners in their development of properties for the public good.
6. **Instead of passing this bill, support bills that address facilitating development of housing and infrastructure.** In the spirit of supporting affordable housing and economic development - instead of passing this bill, LURF and others would be willing to work with the Legislature and LUC on alternatives that could be a win-win for landowners, the LUC, State, counties, and the public.

Based on the above **LURF opposes SB 2986, SD1**, and respectfully requests that this bill be **deferred**.

Thank you for the opportunity to provide testimony relating to this proposed measure.