

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
TELEPHONE: 808-586-1400 FAX: 808-586-1412
EMAIL: oip@hawaii.gov

To: Senate Committee on Intergovernmental and Military Affairs

From: Paul T. Tsukiyama, Director

Date: March 17, 2008, 3:30 p.m.
State Capitol, Room 229

Re: Testimony on H.B. 2730, H.D. 1
Relating to Legal Requirements for Neighborhood Board Meetings

Thank you for the opportunity to submit testimony on H.B. 2730, H.D.1.

The Office of Information Practices ("OIP") has concerns about this bill, which would add a new section to the Sunshine Law, part I of chapter 92, HRS. OIP is testifying to (1) suggest a technical amendment to clarify the bill, and (2) comment on the policy change this bill represents.

One technical issue throughout the bill is the use of the term "neighborhood board." Given that counties other than Honolulu may create localized advisory community boards, this Committee may want to define the term to be more generally applicable.

Although it is not a technical problem, OIP wants to be sure the committee is aware that the provision allowing board members to receive public testimony without having a quorum of members present (page 2, lines 5-13) would not allow those members to ask questions of testifiers or otherwise discuss the testimony presented, because that provision specifically excludes discussion from the acts that may be done without a quorum.

Finally, OIP wishes to comment on how this bill would change current law. Presently, a board may hear public input on items not on the agenda, but cannot discuss those items at that same meeting (unless the items are of minor significance and may be added by vote.) The board members may be frustrated by their inability to engage substantively with members of the public about the issues they have raised, and this bill would allow them to discuss the issues at the time they are raised. On the other hand, other members of the public who might be interested in the same issue would not have prior notice that the issue would be discussed and thus would miss out on the opportunity to be part of that discussion unless they happened to be at the meeting. Although notice would be required before a decision was made, the board members' minds might be made up on the issue after the initial discussion. Under the current law, a member of the public can be confident that an issue of major significance will not be discussed at a board's meeting unless it is on the filed agenda.

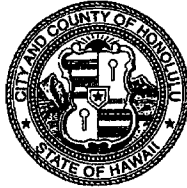
With regard to the section allowing board members to attend informational briefings and presentations, board members currently may attend such briefings and presentations but are limited in their ability to discuss board business – discrete proposals that are before the board or likely to come before the board – at those events. Neighborhood board members (as well as other board members) are sometimes frustrated by this limitation when they wish to attend, for instance, a community meeting or developer presentation regarding a project up for approval that the neighborhood board will be voting on. This bill would allow board members to participate in discussions at such events, and thus alleviate such frustrations. However, members of the public who are interested in the issue might be frustrated when they came to the neighborhood board meeting where a project was listed on the agenda, only to learn that the board members had already discussed the issue at length at a developer presentation and had, in essence, made

their minds up. It should be noted that the community meetings or presentations would not have to be open to the general public; this bill would require only that the events not be organized specifically for the neighborhood board members. Thus, the neighborhood board members' increased flexibility would come at the expense of the public's access to their discussions of neighborhood board business.

Thank you for the opportunity to testify.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
TELEPHONE: (808) 768-8000 • FAX: (808) 527-6743
INTERNET: www.honolulu.gov • DEPT. WEB SITE: www.honoluludpp.org



MUFI HANNEMANN
MAYOR

HENRY ENG, FAICP
DIRECTOR

DAVID K. TANOUE
DEPUTY DIRECTOR

March 17, 2008

The Honorable Lorraine R. Inouye, Chair
and Members of the Committee on
Intergovernmental and Military Affairs
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Inouye and Members:

**Subject: House Bill No. 2730 HD1
Relating to Legal Requirements for
Neighborhood Board Meetings**

The Department of Planning and Permitting **supports** House Bill 2730 HD1, which clarifies the actions of neighborhood boards and neighborhood board members. It addresses actions that may be taken on issues arising from public input, what actions require a quorum, and what actions do not require a quorum. It also addresses board members participation at seminars and other community meetings.

This bill would remove unnecessary barriers that prevent key community leaders from participating in planning for their communities at public information meetings and workshops for the various City plans. Paradoxically, the Sunshine Law, as interpreted, keeps the members of the Neighborhood Boards on Oahu in the dark about what is going on in their communities by prohibiting them from attending any event that might involve discussion of something that could come before their Board.

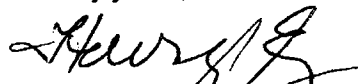
For your information, all city land use and regional plans are submitted to the neighborhood boards for review and comment prior to submittal to the Planning Commission and City Council. These plans are developed with input from the public through meetings which are open to all other members of the community and are widely publicized. It is not only unfortunate that neighborhood board members are at a disadvantage by the restriction imposed by the current interpretation of the Sunshine Law in that only two board members may attend such meetings. This prohibition denies the City the benefit of the views and insights of other members of the boards and limits the ability of many of the Board members to be fully briefed on the City's plans and proposals.

The Honorable Lorraine R. Inouye, Chair
and Members of the Committee on
Intergovernmental and Military Affairs
The Senate
Re: House Bill 2730 HD1
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Further, we support the allowance to have the boards receive information even if there is no quorum. Many times, there are time-sensitive announcements that would be useful to both board members and any public representatives attending the meeting. By at least being able to receive this information, both board members who attended, as well as presenters have not wasted their time.

Please adopt House Bill 2730 HD1.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Henry Eng", written over the typed name.

Henry Eng, FAICP, Director
Department of Planning and Permitting

HE: jmf
hb2730hd1-kh.doc



NEIGHBORHOOD COMMISSION

NEIGHBORHOOD COMMISSION • 530 SOUTH KING STREET ROOM 400 • HONOLULU, HAWAII, 96813
PHONE (808) 527-5749 • FAX (808) 527-5760 • INTERNET <http://www.honolulu.gov>

March 17, 2008

The Honorable Lorraine R. Inouye
Chair, Senate Committee on Intergovernmental and Military Affairs
Hawaii State Capitol, Room 201
415 South Beretania Street
Honolulu, HI 96813

Re: H.B. No. 2730, H.D.1, Relating to Legal Requirements for Neighborhood Board Meetings

Dear Chair Inouye and Committee Members:

I am the Chair of the Neighborhood Commission (Commission) and we thank you for hearing this bill. The Commission strongly supports this bill and respectfully requests that the Senate Committee on Intergovernmental and Military Affairs (IGM) pass the bill.

When H.B. No. 2730, H.D. 1 passed the House, there were no representatives voting no. This bill has been referred to IGM and the Senate Committee on Judiciary and Labor.

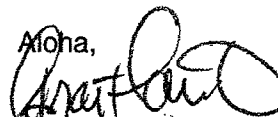
The Neighborhood board system was created in 1972 by the Honolulu City Charter Commission as a means for individual citizens to be heard effectively and to provide a better sense of connectedness between citizens and our government. Neighborhood Boards provide advice to government agencies and elected officials. The changes proposed in this bill are necessary for the Boards to carry out this mission.

Neighborhood Boards are subject to the sunshine law, a "one-size fits all" law, which has prevented Boards from carrying out their mission. For example under the current law, Boards cannot even receive reports from public safety officials and elected officials or discuss issues if a quorum is not present; Boards must either wait for a quorum or dismiss all attendees without hearing any reports or discussing any issues because there can be no "meeting" if a quorum is not present.

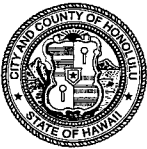
This bill authorizes public input at noticed neighborhood board meetings and discussion but not decision-making on those issues; allows two or more neighborhood board members, but less than a quorum, to attend meetings relating to board business; and clarifies neighborhood board actions on unanticipated events. All of these provisions would allow citizens to be heard by the Boards and allow Boards to provide better advice to agencies and elected officials.

This bill is very similar to H.B. No. 1512, H.D.1, S.D. 1 which was heard by IGM on February 11, 2008 and passed by IGM.

Thank you for the opportunity to testify on this bill.

Aloha,

Grant Tanimoto





DOWNTOWN NEIGHBORHOOD BOARD NO. 13

c/o NEIGHBORHOOD COMMISSION • 530 SOUTH KING STREET ROOM 400 • HONOLULU, HAWAII, 96813
PHONE (808) 527-5749 • FAX (808) 527-5760 • INTERNET: <http://www.honolulu.gov>

**Testimony of
Thomas Smyth, Chair**

**Before the
Senate Committee on Intergovernmental and Military Affairs
Monday, March 17, 2008
3:30 p.m. Room 229**

On

HB 2730 HD 1

Relating to Legal Requirements for Neighborhood Board Meetings

Chair Inouye, Vice Chair Tsutsui and Members of the Committee:

The Downtown Neighborhood Board strongly supports HB 2730 HD 1, which provides some sorely needed flexibility for Neighborhood Boards as they try to provide seemingly contrary philosophies: Sunshine Law transparency and openness, and responsiveness and informed decision-making to meet the often urgent needs of their communities.

This bill would allow boards to deal with community concerns that usually come to the board without prior notice. Matters of immediate health and safety can be decided on at the meeting when first introduced, rather than waiting, usually a month.

The bill also allows a board to proceed with the input from public safety and elected officials and from public presentations on important issues, even if a quorum is not present. This serves one of the most important purposes of Neighborhood Boards, which is to allow our residents to speak directly to their elected and appointed officials in an informal, comfortable and convenient manner. Many come to our meetings primarily for that opportunity or to hear first-hand about new topics that affect their communities.

While providing much needed relief from the current untimely and responsive practice of creating Permitted Interaction Groups at a previous meeting in order for up to one less than a quorum to attend other meetings. We note that there remains the dilemma that only less than a quorum may attend these meetings to obtain information upon which to make a decision. This continues the concept of the "informed minority" while leaving the "uninformed majority" to also be expected to vote on matters, large and small, that may greatly affect their community. But it is a step in the right direction.

Our board urges you to pass this bill out for continued discussion so that we can truly serve our constituents in a timely and informed manner while giving them adequate visibility into our deliberative process.

Thank you for the opportunity to provide this testimony.



March 17, 2008

Testimony on HB 2730, HD 1

Madam Chairman and Members of the Committee:

Madam Chairman and members of the Committee. My name is Richard Oshiro and I am the Chairman of the Waipahu Neighborhood Board No. 22.

The Waipahu Neighborhood Board supports amendments to the Sunshine Law that will remove current restrictions that inhibit efficient functioning of the Neighborhood Boards. The Neighborhood Boards are advisory in nature and comprised of citizen volunteers. Current interpretation of the Sunshine Law provisions have had the effect of reducing citizen participation in government, therefore, the Waipahu Neighborhood Board supports amendments that will remove those restrictions. HB 2730, HD1 helps to address our concerns by removing those restrictions.

The neighborhood board system on Oahu is a grassroots mechanism that encourages citizen participation in government. Citizen volunteers run for office and advise the city administration on issues important to their communities. Transportation, crime, community development are a few of the many issues which come before the neighborhood boards for review and discussion.

The purpose of the Sunshine Law is to open up the inner workings of government so that its deliberations will be open and transparent to the public. Over the years, the interpretation of this law has evolved to the point today that it has had the opposite effect of stifling the work of our neighborhood boards and if left unamended, will discourage citizen participation in government in the long term.

Your favorable consideration and passage of HB 2730, HD1 is appreciated. Thank you for the opportunity to share our views.

Respectfully submitted,

Richard Oshiro, Chairman
Waipahu Neighborhood Board No. 22

537-7104 (B)
671-1040 (R)

testimony

From: WEWoodsMPH@aol.com
Sent: Sunday, March 16, 2008 10:06 AM
To: testimony
Subject: Testimony for HB 2730 Monday - 3-17-08 Senate Intergovernmental Affairs Committ

TO: Senate Intergovernmental Affairs Committee; Sen. Loraine Inouye, Chair and Committee Members

FROM: William E. Woods-Bateman, Chair of Neighborhood Board #16 Kalihi Valley

Very important - please support HB 2730

One way or other I have benefited from the reviews and actions of neighborhood boards for over 30 years. A totally accepted policy backed up by OIP opinions allowed that a business meeting be converted to an informational meeting if a quorum was not established. It would grandly. It allowed those who were participating in our communities, leaders of proposed projects, etc to have their planned forum that they have made time to be involved.

An OIP opinion which was poorly written and confusing business with information became a rule of the neighborhood board system because of their extreme interpretation. So the over 30 years of open and familiar process has been hurt. People who were to make presentations could not do so.. their evenings or deadlines, etc wiped out.

This bill is profoundly good to get us back to where we were as well as allowing more participation of elected board members to attend and participate in other informational forums.

You should know we have.. and I can speak for dozens of chair and member clearly indicated that no business could transpire if there was no quorum or item not specifically on the agenda.

Please pass this bill and help us be more productive in understanding and processing information to benefit our communities.

Do good,

Family Values Means Valuing Families . . . All Families

William E. Woods-Bateman
P.O. Box 37083
Honolulu, Hawaii 96837
808 537-2000

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THE LEAGUE OF WOMEN VOTERS OF HAWAII

TESTIMONY ON HB 2730 HD1, RELATING TO LEGAL REQUIREMENTS FOR NEIGHBORHOOD BOARD MEETINGS

Senate Committee on Intergovernmental and Military Affairs
Senator Lorraine R. Inouye, Chair
Senator Shan S. Tsutsui, Vice Chair
Monday, March 17, 2008 3:30 p.m.
Conference Room 229

Testifier: Jean Aoki

Chair Inouye, Vice Chair Tsutsui, members of IGM committee,

The League of Women Voters opposes HB 2730 H.D.1 Relating to Legal Requirements for Neighborhood Board Meetings.

We urge the deletion of Section 92 – Permitted interactions of neighborhood board members which begins on page 2, line 16 and ends on page 3, line 12.

HB 2730 HD1 would allow two or more members but fewer than the number necessary for a quorum to attend informational meetings or presentations on matters relating to official board business, including meetings of another entity, seminars, and community meetings provided that the presentation is not specifically and exclusively organized for or directed toward members of the board, and to allow the board members to participate in discussions, including discussions among themselves; provided that the discussions occur during and as part of the informational meeting or presentation allowed by subsection (a) and provided further that there is no commitment made relating to a vote on the issue.

These provisions are not in keeping with the objectives nor the spirit of the open meetings law. We know the importance of full discussions on matters before the boards at their duly scheduled meetings. There, the public should hear all of the information pertinent to the issues under consideration, the answers to questions board members may have which probably reflect the questions the public has, and all of the pros and cons. There already is in the law, provisions for the appointment of fact finding committees to report back to the board. The law does not prevent individual board members from doing some research on their own and using the acquired information

in the discussion on the issue under consideration.

Prior discussions held outside the board meetings tend to abbreviate the deliberative process because the members have gotten answers as to facts and the implications and consequences of different actions taken on the issues and have already heard the supportive and opposing views. Not only does this short circuiting of the process raise suspicions of closed door agreements, it deprives the public of valuable information and all of the reasoning behind the action taken by the board.

One might argue that the neighborhood boards are only advisory in nature and do not have the power to enact laws so they should not be held to the same standards as other boards. But to the extent that they do have the power to influence the policies adopted by the city council, and even by the legislature when there seems to be general consensus among the majority of the boards on any given issue, they must be perceived as being responsive to the opinions of the residents of the neighborhoods that they represent. Without transparency in their operating procedures, that perception could erode.

We note that many members eventually run for elected office or are appointed to boards where they could be exercising policy-making powers where transparency is even more critical. The attitudes they develop on the importance of open government and its critical role in a constitutional democracy will carry over to their new roles.

We would reiterate our plea that you delete Section 92 –Permitted interactions of neighborhood board members from HB 2730, HD1.

Public Input

I would like to briefly discuss one issue addressed here that is peculiar to NB meetings – the public input item on all their agenda, separate from testimony allowed on issues on the agenda. I've sat through countless meetings of the neighborhood boards all over Oahu, and have noticed that many of the concerns raised have to do with occurrences or problems in the immediate neighborhood of the speakers, or other issues mostly of interest to members of the neighborhood represented by the respective boards. It's mostly a fuzzy, friendly situation where even the least sophisticated among us can dare to air our concerns.

Where we would not support such an item on the agenda of most boards, we support it wholeheartedly for the neighborhood boards.

However, we would like to propose an amendment to the last sentence in subsection section 92-A-(c) beginning on line 1 of Page 2. "The board may make decisions on matters originally raised as part of a public input agenda only at a later meeting [the agenda for which shall give notice of decision-making on the matter.] at which time the original as well as new testimony will be allowed to be presented. The agenda will give notice of the item for both discussion and decision-making.

Since the item was not on the agenda when it was raised, it should be treated as a new item for purposes of discussion and decision-making.

As to the rest of the bill, we would suggest the language used in S.B. 2201, S.D.1, a companion bill to HB 2730 which tightens the requirements for meeting unusual or unanticipated events.

We want to reemphasize the strong support that the League has for the neighborhood board system. Even with the advisory nature of their powers, the boards must appreciate their importance to the governance of the city and the democratic process in our community. They fill a badly needed niche in our political system; they truly are the voice of the common man and woman. The extent to which our community continues to have trust and faith in the NB system and the individual boards depends a great deal on the openness of their deliberations and decision-making. Once the boards are perceived to be operating behind closed doors, the trust and faith in them will erode.

Our hope is for the continued health of the NB system and the strengthening of the weaker boards. And above all, we support practices that will ensure that democracy will prevail, and the people of our state and the nation can live with the assurance that they will have their say on the future of our state and our country.

Thank you for this opportunity to testify on HB 2730, H.D.1.



**The Chamber of
Commerce of Hawaii**

Since 1850

**Testimony to the Senate Committee on Intergovernmental and Military Affairs
Monday, March 17, 2008 at 3:30 p.m.
Conference Room 229, State Capitol**

**RE: HOUSE BILL NO. 2730 HD1 RELATING TO LEGAL REQUIREMENTS FOR
NEIGHBORHOOD BOARD MEETINGS**

Chair Inouye, Vice Chair Tsutsui, and Members of the Committee:

My name is Christine H. H. Camp, Chair of the Chamber of Commerce of Hawaii, Land Use and Transportation Committee.

The Chamber is the largest business organization in Hawaii, representing 1100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. The organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber provides the following comments:

H.B. No. 2730, HD 1 purposes to amend Chapter 92 HRS to prescribe the procedure to be followed at certain neighborhood board meetings, such as the information that may be included in the written public notice, the information that the board may receive on a matter, and the deliberation and decision-making process.

The focus of the neighborhood board should be on creating a forum that allows for resident discussion on activities that impact their neighborhood. The focus should not be on the actions/recommendations of the neighborhood boards but on empowering the citizens to get involved to influence public policy makers (i.e. call your elected representative).

We understand that the Sunshine law creates problems for members of the neighborhood boards to attend other community meetings to participate in or gather information on activities occurring in their community. Given the fact that Neighborhood Boards are "advisory" we would support efforts to allow board members to participate in other community meetings.

We are concerned on the other two sections of the bill that would:

1. Allow for discussion on items that have not been properly noticed; and,

We are concerned that this provision tends to stray from the intent of neighborhood boards. If the issue is of significant importance that the board would like to have information presented, then it should be properly noticed so all parties are aware and have the opportunity to participate in the discussion at the same time. Using the problem of proper notice to limit discussion on an item seems a bit unfair.

2. Allow the Board to take action on an item, not properly noticed, that is determined to be "... urgently necessary for public health, welfare, and safety."

As an advisory body, we are puzzled as to understand what actions the Board would take to address these situations. We believe the authority to address public health, welfare or safety issue does not rest with the Neighborhood Boards.

Thank you for this opportunity to express our views.

Honorable Senator Lorraine R. Inouye,
Intergovernmental & Military Affairs, Chair

Honorable Senator Shan S. Tsutsui,
Intergovernmental & Military Affairs, Vice Chair

RE: HB 2730 HD1 – relating to Neighborhood Boards requirements, agenda,
Public input, quorum and unanticipated urgent public matters – **IN STRONG SUPPORT**

Good afternoon Chair Inouye, Vice Chair Tsutsui and Committee Members:

I am Daisy Murai, a resident of Kapahulu and member of the General Public. I have not served on any Neighborhood Board, but attend several Neighborhood Board Public meetings in my district of Kapahulu and the surrounding areas. The meetings are held once a month and but a recess is taken on the month chosen by the Board members. Senators, because you attend Neighborhood Board meetings within your own Districts, you are familiar with items for discussion and voting by the members of your Boards. The General Public is sometimes pressed for urgent voting action by the Neighborhood Board, which could not make the deadline due to Sunshine Law requirements to be placed on the agenda for that month. There are times when there is a requirement for a matter to be placed on the agenda for Neighborhood Board members and members of the General Public for informational and public input must be presented at the Neighborhood Board – such as Liquor License Application or Development project notices, but a decision is pending with the Government Agency for the following month. There are also times, when the Board will recess the following month, when the matter is to be decided by the Government Agency – such as a development project. If there is no public concern addressed in a timely matter or a decision by the Neighborhood Board, the Government Agency would have approved the project – thinking there was NO OPPOSITION OR CONCERNS from the General Public, when this is NOT TRUE.

Permitted Interaction Groups (P.I.G.) is a vital component to Neighborhood Board System – especially when there is a project that will greatly impact the Community, when more than 2 Board Members but less than a quorum could attend Community meetings and present information to the Board Members for voting at latter meeting. P.I.G. would really assist our Kapahulu Community with the Super “Safeway Shopping Center” project that Really impacted our Residential Kapahulu Community.

Thank you for the opportunity to speak in STRONG FAVOR of HB 2730 HD1.

Daisy Murai
3039 Kaunaoa Street
Honolulu, HI 96815
March 14, 2008

Date: March 17, 2008 (Monday)
Time: 3:30 pm
Conference Room 229
Fax: 586-6659, Senate Sgt.-at-Arms