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Subject: New Public Testimony
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Representing
Self
Agenda Item
2023 Proposed Admin Rules
Position
Support
Testimony
<p>Aloha Land Use Commissioners,</p> <p>My name is Travis Hishinuma and I am a Honolulu resident and current student at the University of Hawai'i William S. Richardson School of Law. I would like to respectfully submit my testimony in support of postponing the Proposed Administrative Rules dated November 7, 2023 (the "Proposed Rules") due to concerns regarding language that may be construed as subverting the Hawai'i Revised Statutes ("HRS") section 91-13.5. In the Proposed Rules, the new subsection that is proposed, Section 15-15-90(e)(25), provides that a "[p]etitioner shall be required to submit for review and approval by the State Office of Planning and Sustainable Development's ("OPSD") state sustainability coordinator compliance with chapter 226, HRS." The reason given for this subsection is to provide clarification that if a petition is automatically approved under HRS section 91-13.5, the automatic condition will require the OPSD Sustainability Coordinator to review the petition to ensure that the Land Use Commission ("LUC") has input from subject matter experts.</p> <p>The proposed subsection has potential to make HRS section 91-13.5 irrelevant as even if the petition is automatically approved, the petition still needs the OPSD's approval in order to be 'officially' approved. This is not what the Hawai'i legislature intended as they had intended to provide "all parties with a greater level of certainty of the time required for review and final determination." <i>Kauai Springs, Inc. v. Plan. Com'n of Cnty. of Kauai</i>, 133 Hawai'i 141, 168, 324 P.3d 951, 978 (Haw. 2014). By requiring another agency's approval, the petitioner has no way of knowing when or even if their petition will be approved when by statute their petition was already approved. These sentiments also apply to the change in wording for Proposed Rules section 15-15-90(e)(9).</p> <p>Echoing the concerns and sentiments brought up in Calvert Chipchase's written testimony submitted to LUC dated February 5, 2024, this also brings in due process and abuse of administrative powers concerns. I respectfully encourage this Commission to further consider the Proposed Rules and to seek assistance in drafting amendments that align with current Hawai'i statutes. Thank you for the opportunity to submit testimony and for your time and consideration into this matter.</p> <p>Sincerely, Travis Hishinuma</p>