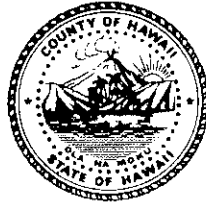


William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

County of Hawai'i

PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

September 19, 2011

The Honorable Dominic Yagong, Chair
and Members of the Hawai'i County Council
25 Aupuni Street
Hilo, HI 96720

Subject: Bill 304 (Draft 3): Amends The Hawai'i County Code 1983 (2005 Edition, As Amended), (2008-2010) By Adding A New Chapter Relating To Impact Fees

Dear Chairperson Yagong and Council Members:

We understand that the Council proposes to replace the Fair Share Program with an Impact Fee Program with authority in HRS and clear implementation roles and responsibilities. The Planning Department appreciates the Council's opportunity for constructive deliberation about how to develop a workable and effective impact fee program. As you may know we have submitted extensive comments previously, but upon reviewing the latest draft, we herein present additional comments.

We have not seen formal comments from Finance, Housing, or Public Works, so we hope that Council has received adequate comments to your satisfaction from these departments as they will be most affected by this bill should it pass.

Our comments are as follows:

- 36-2 – Definitions – Impact Fee Fund Administrator is deleted but should be included back in since Finance Department is by Charter responsible for custody of all public funds and collection of special assessments. The Impact Fee Fund Administrator should be clearly identified in the Ordinance.
- 36-9(a) (1) – Exemptions – please clarify that is for “new” SF detached dwelling ... [and not existing]. What is the definition of “facilities” in the bill - does it refer to any new dwellings?

- 36-10(f) – Affordable Housing Trust Fund - who oversees administration of this program and who oversees the trust fund? Although OHCD is described with different responsibilities, it does not specify their role as administrator. The Affordable Housing Trust Fund and Administrator need definitions (Finance or OHCD). We should NOT set a start date for the impact fees program until the trust fund is set up and in place and Council has identified where the funds will come from.
- 36-12(a) – Pre-calculated Fees are broken down by land use type and by unit size. According to the Duncan & Associates study, an analysis that shows proportional share by unit size would need to be conducted. What formula was used to calculate these numbers?
- 36-12(a) – Pre-calculated Fees – it should state that it is 50% of what is needed to actually cover infrastructure costs based on the Duncan study – would prefer that the ordinance show calculations at 100% (as calculated in the study) and then state that the program will start fees at 50% with incremental increases.
- 36-14 – Independent Fee Calculation – is it calculated based on 100% or 50%? Include definition.
- 36-16 – refund - request that Council solicit the State Legislature to amend HRS, Chapter 46 regarding the current 6-year expend requirement if impact fees are not used. Ten to twenty (10-20) years is becoming a country-wide trend because jurisdictions need more time to implement projects, especially when federal funds or grant monies are used.
- 36-23(b) – funding accounts – There should be an island-wide account with 5-10% of all fees which can be used anywhere. Example: resort developments typically bring in large fees and have an impact on the entire island due to tourism.
- 36-24 – use of funds – we have language from Washington State to encumber the funds on a first in, first out basis – this is standard with many jurisdictions.
- Article 3 - DPW and Planning are presented as possible Impact Fee Administrators. We understand from Councilmember Hoffman that this was done to give the Mayor more flexibility. However, it does not work for Planning to be the Impact Fees Administrator when the fees are being collected at the building permit level by DPW. In looking across the country at other jurisdictions, they administer the program in the Building Division and collect fees at building permits. The Impact Fee Administrator should be clearly identified in the Ordinance.
- We are concerned with how Concurrency and Impact Fees will be addressed, as there has been little to no discussion about this.

Thank you again for the opportunity to provide input. If you have any questions, please contact me or April Surprenant of my staff at 961-8288.

Chairperson Yagong and Council Members
September 19, 2011
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Sincerely,

A handwritten signature in black ink, appearing to read "BJ Leithhead Todd". The signature is written in a cursive, flowing style.

BJ LEITHEAD TODD
Planning Director

c: Mayor William P. Kenoi
Bill Takaba, Managing Director
Director of Finance, Nancy Crawford
Housing Administrator, Stephen Arnett
Director of Public Works, Warren Lee
Corporation Counsel, Lincoln Ashida
Corporation Counsel for Planning, Amy Self, Esq.