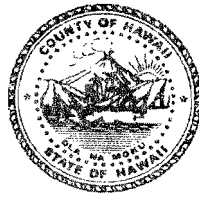


Harry Kim
Mayor



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Director

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County of Hawaii
PLANNING DEPARTMENT

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February 6, 2006

Honorable David Y. Ige, Chair
and Members of the Intergovernmental Affairs

Honorable Lorraine R. Inouye, Chair
and Members of the Transportation and Government Operations
SENATE
State Capitol
Honolulu, HI 96813

Dear Chairs Ige and Inouye and Members of the Intergovernmental
Affairs and Transportation and Government Operations Committees:

SUBJECT: SENATE BILL NO. 2909 – PERMIT APPROVALS

The Hawaii County Planning Department strongly supports Senate Bill 2909, which would allow individual counties to opt out of the state's "automatic approval" law.

Government agencies, like the Planning Department, should act promptly and efficiently on the permit applications that are entrusted to us, and we strive to do this. The current automatic approval law, however, by mandating approval of those permits that are not acted on in a set period of time, potentially penalizes the public and the environment.

There are many reasons why action on a permit may be delayed. Illness, retirement, and hiring freezes can eliminate necessary personnel. Many agencies are not deeply staffed: sometimes a single person is responsible for the professional review of a certain type of application.

Typically, applications must also be forwarded to other agencies for review and comment; the process is not entirely in the hands of one agency.

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We try not to be hypertechnical in the initial review and acceptance of applications, knowing that we can get more information from the applicant in the course of the normal review, but if the applicant can't give the information, we do not want to be forced into approving or denying by a particular deadline.

The automatic approval law also creates a dilemma for permits that are voted on by boards and commissions. The various county charters and H.R.S. sec. 92-15 provide that valid action needs a majority of the full membership of the board or commission. The problem arises when a matter is voted on and neither side receives a majority of the full membership (for example, because there are absent or disqualified members.) Without automatic approval, it is clear that the permit has not yet been approved. With automatic approval, it has been argued that the permit is approved if the deadline for action passes after the inconclusive vote. This is vote-rigging: it changes the law from one that requires prompt action to one that changes the number of votes needed to approve a permit.

In a recent case involving the Board of Land and Natural Resources, the Hawaii Supreme Court decided that a permit had been approved, despite 3-2 vote against the permit, because a majority of the full membership did not vote to deny.

SB2909 would allow each county to decide how they want to balance these issues. If they want to require automatic approval, they can. This is not something that should be forced upon county departments by legislative fiat, as is the case with the current automatic approval law.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

CJY:pak

Wpwin60/Chris – SB 2909 – Permit Approvals

Honorable David Y. Ige, Chair
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cc: Honorable Harry Kim, Mayor
Bobby Jean Leithead-Todd, Esq.
Mr. Andy Levin, Executive Assistant