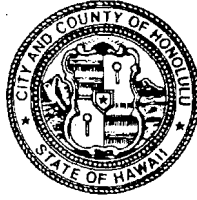


DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 523-4432 • FAX: (808) 527-6743  
DEPT. WEB SITE: [www.honolulu.gov](http://www.honolulu.gov) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

MUFI HANNEMANN  
MAYOR



HENRY ENG, FAICP  
DIRECTOR

DAVID K. TANOUÉ  
DEPUTY DIRECTOR

February 7, 2006

The Honorable David Ige, Chair  
and Members  
Committee on Intergovernmental Affairs  
The Senate  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Ige and Members:

Re: Senate Bill No. 3039  
Relating to Zoning

The Department of Planning and Permitting opposes the portion of Senate Bill No. 3039, which amends Chapter 46, Hawaii Revised Statutes to mandate that counties adopt zoning ordinances to require a minimum percentage of all roof tops on structures in multi-family, business, hotel, industrial or mixed use zoning districts to be landscaped.

We support the concept of tax credits as an incentive to promote the development of landscaped amenities on the roof of structures, but we strongly oppose enacting such requirements as a mandatory provision in each county's zoning code and implemented as a condition of building permit approval. Further, the bill is not clear whether this requirement must be imposed on all permits for structures in the above zoning districts, e.g., whether it applies when there is a building permit application for a small addition to an existing structure or internal renovations only. This creates confusion and the requirement for roof top landscaping may result in a disincentive to renovate existing structures.

Chapter 46-4, HRS, grants zoning power to the counties to implement the county's general and development plan; and authorizes county councils to prescribe rules, regulations, and administrative procedures to exercise its zoning power. We believe that each county council already has the authority to determine when roof top landscaping is appropriate and specify the area (e.g., a special district) and circumstances under which such a requirement is appropriate, and such a requirement should not be imposed as a broad, across-the-board mandate. We strongly prefer an approach which motivates rather than mandates.

The Honorable David Ige, Chair  
and Members  
Committee on Intergovernmental Affairs  
February 7, 2006  
Page 2

If this bill passes as currently written, we also have concerns about the ability to enforce maintenance of the required roof top landscaping for the life of the structure. Our building inspectors are not trained arborists or landscape specialists and would be unable to uphold a legal challenge in terms of defining adequate landscape maintenance. Thus, our inspectors and code enforcement officials would be reluctant to issue citations and civil fines against building owners.

This bill would create a building maintenance problem for the owners, occupants, and managers of these buildings. Rooftop landscaping causes significant structural and water intrusion problems, which may lead to health and safety concerns (tree roots, concealed roof leaks which could affect the structural elements as well as health concerns due to the possibility of mold). All of these would translate to increased maintenance cost which would encourage these individuals to remove these improvements creating an enforcement issue.

Therefore, we recommend that Section 2 mandating counties to establish this landscaping requirement be deleted from Senate Bill No. 3039 and references to Chapter 46, HRS, be removed from or amended accordingly in Section 3 of the bill, which establishes a roof top landscaping credit under Chapter 235, HRS.

Thank you for allowing our Department the opportunity to testify about our concerns on Senate Bill No. 3039.

Very truly yours,

A handwritten signature in black ink, appearing to read "Henry Eng", written over a horizontal line.

Henry Eng, FAICP, Director  
Department of Planning and Permitting