

MINUTES

PUBLIC WORKS & VETERANS SERVICES COMMITTEE

October 5, 2022

A meeting of the Public Works & Veterans Services Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Bill DeCosta, Chair, at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, October 5, 2022 at 2:03 p.m., after which the following Members answered the call of the roll:

Honorable Bernard P. Carvalho, Jr.
Honorable Mason K. Chock
Honorable Felicia Cowden
Honorable Luke A. Evslin
Honorable Bill DeCosta
Honorable KipuKai Kualii, Ex-Officio Member
Honorable Arryl Kaneshiro, Ex-Officio Member

The Committee proceeded on its agenda item, as follows:

Bill No. 2873, Draft 2 A BILL FOR AN ORDINANCE ADDING A NEW ARTICLE TO CHAPTER 15, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO BUILDING AND CONSTRUCTION REGULATIONS
(This item was Deferred.)

Councilmember Chock moved to approve Bill No. 2873, Draft 2, seconded by Councilmember Cowden.

Committee Chair DeCosta: Members, this is the Bill relating to Building and Construction Regulations that was recommitted back to this Committee due to concerns that were raised in the public testimony. I am going to suspend the rules at this time, for the Managing Director to give us an update on his efforts regarding outreach, and to also address the lingering questions that Councilmember Evslin had regarding the language change in one of the sections regarding building permits versus all permits.

Councilmember Chock: Mr. Chair, I have an amendment if you want me to circulate it.

Councilmember Chock moved to amend Bill No. 2873, Draft 2 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1, seconded by Councilmember Evslin.

Councilmember Chock: Again, this Floor Amendment is being introduced by request. The Managing Director can speak to the proposed amendment.

Committee Chair DeCosta: Mike, would you like to explain this?

There being no objections, the rules were suspended.

MICHAEL A. DAHLIG, Managing Director (*via remote technology*): Committee Chair DeCosta and Members of the Committee, let me answer as you open the discussion. Let me recap where we have gone, and I will explain the Amendment to you. I realize and understand that this has been a difficult Bill to get a general consensus on. Through the discussions, I would like to emphasize that no one around the table, as we have been talking, has disagreed with the general policy regarding permits that we need to keep the benefits of Kaua'i construction work on Kaua'i. There has always been a general agreement, and everyone agrees, that bad actors manipulating the contracting laws have no place in our community. I think we all recognize that there are entities that exist, that take advantage of certain nuances in the law, and do not play fair. I think everyone also agrees that when we look at information, having more information about who was working in our community needs to be known to the general public to aid in collective awareness, and push that timely information to authorities that have jurisdiction over the matter like RICO. I will admit that there is disagreement on whether as a County, we should try and do something within the limits of our narrow power or leave it up to the State to do something. That continues to be a point of disagreement that I can acknowledge.

We also recognize that as contractors have provided testimony, I know that there has been more testimony submitted today, there is skepticism and concern about the idea of more bureaucracy. We generally agree, and I think that is a philosophy of the Administration that adding requirements and adding to the bureaucracy should be done sparingly and limited if possible. I want to emphasize that at the core of this, this is still a disclosure Bill. It is meant to provide information to the public and it is not meant to be regulatory. It is meant to be informative and support collective enforcement of fair play with our building permitting laws, including information such as ongoing violations like Federal labor laws. At the Council's request, we have met with constituency groups. For example, the General Contractors Association of Hawai'i (GCA), the Contractor's Association of Kaua'i (KCA), and the Hawai'i Carpenters Union. Other contractors like Unlimited Construction have added testimony in the last meeting, and we responded by bringing them to the table and having these discussions.

Bottom line, development is an extractive activity. It is why approximately ten percent (10%) of the County's jobs are directly dependent on this construction industry. The general philosophy of engaging in this extraction...if we are going to do that, we want to keep that economy here, rather than it being taken away unfairly and unlawfully.

In front of you is an Amendment. Not everyone agrees on every single element. Not all contractors agree with what the representative organizations are providing in their testimony. What we are doing is, we are trying to provide an avenue for solution-making, because that is the basic agreement that we need to try to keep contracting work among our local folks. Based off of discussions that we have had during the most recent face-to-face meetings with GCA, KCA, Hawai'i Carpenters Union, and Unlimited Construction, we pulled everyone in the same room on September 30th for a few hours and hammered out where everyone had their agreements and disagreements on where they were willing to compromise to try and

provide solutions for these issues that are arising. They agreed upon three (3) elements that are reflected in this Amendment: (1) Making clear that the enhanced disclosure does not impact affordable housing. Outlined in Section 15-5.2, you will see that affordable housing is explicitly added under Subsection "c", along with the previous language in Draft 2, where you have R-3 classifications that were outlined in the previous measure; (2) To ensure that the threshold of the subcontractor disclosure should be described as those who contribute five percent (5%) of the effort of the permits. You will see that language put in Section 15-5.4, in Subsections (a) and Subsection (c). Along with Subsections (a) and Subsection (c), General Contractors (GCs) should not be responsible for any violation of disclosures of subcontractors. We agreed upon the principle at the discussion of the last draft. However, this language comes directly from the GCA, with an added proviso that talks about..."except as otherwise provided by state law" under Subsection 15-5.4(a), which was added by the County Attorney. At this point, we believe this Bill's amendments have been collectively agreed to. We only just transmitted the text to the constituency groups to comply with the Sunshine Law, so they are only getting it now. If we continue to add and amend the Bill beyond what is collectively agreed upon by the constituency representative groups, we are going get further away from the intent, which was just disclosure. This can happen and turn into a "Frankenstein bill" where at the end of the day, we get away from the intent of disclosure, and it turns into something that draws away from the original purpose.

In a nutshell, that is what we have collectively surmised as a compromise between GCA, KCA, Carpenters Union, and Unlimited Construction. I am happy to answer any questions regarding the proposed Amendment on the floor.

Committee Chair DeCosta: I would like to open it up for questions.

Councilmember Chock: I will go first. Thank you, Mike. I want to bottom-line this. I understand that you have been working on this and it has been coming up time and time again with multiple amendments. In the last iteration, you had a meeting with all the stakeholders. In the last twenty-four (24) hours, they came back and said they are not in agreement with the Bill. With that being said, I do not think they have seen this Amendment due to the posting requirements of the Sunshine Law. I am curious, with these amendments, do you think that they would agree, and do you recommend we take more time for them to read this updated version in order for them to come online with it.

Mr. Dahilig: Ultimately, it is at the pleasure of the Council. I can only represent what our perception is, and I can only represent that we are taking language and putting it into black and white. For the most part, when we look at the language, the correspondence that we have, mimics the language from GCA as considered. The only concern was whether we would pass legal muster. The additional language regarding "except as otherwise provided by state law," that was the language from the County Attorney to make the language that the GCA proposed legal. Again, we took this language directly from GCA's proposed language. I know their testimony is a bit noncommittal simply because they have not seen it. We explained to GCA, per the Sunshine Law, that we cannot disclose a floor amendment until it is dropped in front of the overall Council to be entertained in open session.

Committee Chair DeCosta: Councilmember Cowden.

Councilmember Cowden: Okay. I have a few clarifying pieces. Can you explain again what R-3 classifications are?

Mr. Dahilig: R-3 classifications are residential.

Councilmember Cowden: Okay.

Mr. Dahilig: In early conversations with the Council on the measure, there was a concern that it would start to infringe or come into some of the owner-builder or some of the residential types of projects that could slow down their process. That is when we initially added the R-3 language, at the suggestion of the Building Division to encompass anything that is residential.

Councilmember Cowden: Okay. Section 15-5.2A says, "any R-3 classification," and (c) says, "housing projects or portions of housing projects that are developed to be affordable to low-income housing or gap group..." On the "any R-3 classification," that is not just affordable or gap group by low-income, it could be a ten thousand (10,000) square foot mansion that would also be excluded.

Mr. Dahilig: A little history of why subsection (c) is in there. There are three (3) languages in there, which at the time of the Bill was thought to be enough. There was a request by Unlimited Construction to have that specifically mentioned. From a policy standpoint, I will have to agree with Councilmember Cowden, anything residential is not an element of value. The initial idea behind the Bill was whether there would be a financial threshold rather than a classification threshold. What we ran into in the analysis with preemption, our attorneys felt that putting a financial threshold would breach preemption obligation on our end. While we would say something that is a ten-million-dollar house would warrant for this type of disclosure. For preemption reason we specified a building permit value for that.

Councilmember Cowden: Okay. Thank you for clarifying that. I know there are contractors who are concerned about it. A common comment that I am hearing is that extraordinary luxury homes are sometimes amongst the worst offenders with bringing in work teams from a different country or who are not qualified. I want to ask you a few questions. What I am hearing from concerned contractors is that this will be hard on the good contractors and the bad actors will be able to continue bad practices. That is a common comment that I am hearing. Can you speak to that? How are we going to go out, enforce it, and be able to find it? It would be complaint-driven, correct?

Mr. Dahilig: Let me take a step back and agree that this Bill is not perfect when it comes to the scenario that the contractors are describing. What is clear from the authority of the County is that we cannot enforce a labor law. Yes, at the end of the day, our *kuleana* is to report it to the respective state for the Federal authorities to engage in that enforcement. Whether or not those agencies choose to follow-up, levy penalties, or sanctions, we do not have any control over that other than to forward the information up. Yes, it could happen, and I have to concede that, because we would not be able to take this information and enforce a labor law because that is preempted by State law.

Councilmember Cowden: What are the consequences of a bad action? For example, if we get a complaint, we go and find that a less than qualified person is putting in the electric. What is the consequence when we find that?

Mr. Dahilig: That is two-fold. Currently, if someone is not having a licensed electrician putting in electrical work, that is already considered a violation, and we can refuse to issue a certificate of occupancy to make occupancy of the structure legal. With this particular measure, let us say someone is not actually disclosing who, what, or how electric is being put into the home. The misrepresentation or lack of representation could be considered a false disclosure under State law, which is considered a punitive measure. That will then go to the Office of the Prosecuting Attorney. Where they would have the discretion to file a case in court under criminal law. Essentially, that particular provision of false statements before a Government Agency is a blanket law for any type of transaction that we have across the County, not just with this particular measure.

Councilmember Cowden: Okay. Our standing penalty for violation of a permit is ten thousand dollars (\$10,000) per day, per violation. Is that applied to this situation?

Mr. Dahilig: What I believe you are referring to is a situation where a Zoning Code would be in violation. When it is related to the Building Code, I am not particularly sure if the threshold is up that high, or if there would be that type of punitive action. At the end of the day, the way we see this is in a separate part of the overall set of ordinances is that the remedy is really falsifying representation before a government agency.

Councilmember Cowden: Is that fraud or less than fraud?

Mr. Dahilig: It is less than fraud.

Councilmember Cowden: This is my last question, at least for the moment. I spoke to several contractors and the Carpenters Union and it has been repeatedly stated that the State has the authority for the enforcement on this. My understanding is that the State does not enforce it easily. Is that why we want this? Does the County ever file complaints with the State against the build? Why is this not the State's responsibility?

Mr. Dahilig: It could be several different reasons. Most, if not all, inspectors are based out of Honolulu. By the time someone makes a complaint, it is a judgment call whether those enforcement agents will jump on a plane, take a look at the job site on Kaua'i, and be able to pick up on the activity as it goes on in real time. That is where the information element of the Bill is meant to aid more specificity to those enforcement agencies and being able to hit the ground running. Should they get a call and come to Kaua'i, they will have more depth beyond it. I cannot speak for State or Federal agencies. I know complaints are made by various contractors about violations over fair play laws, but at the end of the day, we can only do so much from a County jurisdictional standpoint, because we are preempted by State and Federal law to do so.

Councilmember Cowden: Have we pushed on the State to have a full-time Kaua'i position? To me, that seems like the best solution. If we had a full-time person from the State here, they would go out a deal with it as it is supposed to be, not us. Have you talked to State, have we pushed for that, did they say no?

Mr. Dahilig: That is a great suggestion. It is hard, but we can certainly bring that up with our State Delegation as a need. It is not to say that having someone stationed on Kaua'i is out of the question, but it would require appropriation and the agency to make that resource available to have on-island enforcement. Rather than looking at the State appropriations process, which tends to be involved and can flip on a dime, when approached about the issue we tried to look at ways that we can make forward progress on being able to advance the complaint process without breaking the veil of preemption.

Councilmember Cowden: Okay. I probably do not have enough sense about the veil of preemption because I called. I asked some of our State Legislative Delegation if we can have this, because this is what we need. To me, that seems like the case. In the next two (2) weeks, can you see what you can do? To me, that seems like the real solution and to at least ask. If you ask the Administration at the Governor's Office and find out which department you need to speak to in order to do this. Clearly, they are not meeting their requirement.

Mr. Dahilig: There is a broader question concerning if people are doing their job or not. I think there are differences of opinion around the table whether appropriation effort or resources that are given to agencies like Department of Commerce & Consumer Affairs (DCCA) that matches the level enforcement they want. We can pose the question to the State Delegation. However, when we looked at trying to craft the Bill, we were trying to plug in something that was not necessarily all encompassing, but trying to advance the efforts of those State partners already. Our intake process seemed like an opportunity to dovetail additional information to be provided given what is already asked of in the Building Permit process.

Councilmember Cowden: Okay, those are my questions for now.

Committee Chair DeCosta: Members, are there any further questions.
Councilmember Evslin, followed by Councilmember Carvalho.

Councilmember Evslin: Mike, what Councilmember Cowden was getting to at the beginning with questions about R-3 and affordable housing, I believe you said item number (c) in this Amendment, which specifically exempts affordable housing, that was put in there at the request of some of the contractors. I believe what you were saying was, that would be covered if R-3 goes to all residential, then (c) is totally unnecessary other than being twice as clear.

Mr. Dahilig: That is the position we have taken. In the spirit of trying to meet people's concerns and needs, even though we may see that item 5-2(c) may be superfluous, we did not want to leave any doubt as to that exception applicability for affordable housing. That was a level of comfort that we had received as a comment, and we added that at their request.

Councilmember Evslin: I appreciate you doing that. I have concerns about superfluous language that is not necessarily needed. Because we do not have a definition of R-3 in front of us, is there any potential residential construction, or affordable construction, or components of affordable housing construction that would not be classified under R-3, or is R-3 broad enough that it always will catch all these.

Mr. Dahilig: We tossed that around and that would be the permit classification they would fall under.

Councilmember Evslin: Okay. From what we are getting from the contractors, it sounds like they understand the intent, it should be done, but it should be done via the State. Some of the contractors have said, this would add administrative burden onto the County, and is not necessary if the State is doing it. As you and others have said, the State is not necessarily doing it and they do not have the hands on the island here. What would be the administrative burden on the County end? How much is it going to take for the Building Division to stand this up and enforce it?

Mr. Dahilig: That is where the rule-making element of the existing draft would try to ferret out how and when to insert this into the overall building process. We would usually come out of the gates from an interpretation standpoint and implementing the ordinance would be to fold it into an already existing digital ePlanReview system. It would encompass adding additional fields into the system. For example, a name, address, and phone number would add an additional field to have it filled out. In addition, because there are ongoing touches with the ePlanReview system and each point of the phase is completed, there would be a simple potential as we are envisioning this again, a field that is added among the other things that already have to be filled out in the ePlanReview digital application process. We are trying to make this as non-onerous as possible. If we can go as far as to have the information forwarded directly to a web interface like much of our existing ePlanReview information already is, that would be the goal. Like anything, it becomes a nuts-and-bolts discussion on how to do it, and that is where the rule-making authority is being requested from the Council. We definitely agree that we do not want to add more administrative burden to our already short-staffed Building Division. If this can be encompassed as something that is almost entirely digital, it would eliminate that process of us having to push more paper.

Councilmember Evslin: Okay. Say the State takes action in the future, and they do this and we have a redundancy, would you be open to getting rid of the redundancy by eliminating it through the County Code?

Mr. Dahilig: Absolutely. We are simply looking at this as a way to try to help people do their job quicker, but at the same time, not having us be on point for enforcing Labor and Tax Laws. That is very clear in our play where we know our place. Like anything, because we operate a complaint-based system, by having information to develop complaints more accurately and timely, we believe that would get the machinery at the State and Federal systems quicker, rather than calling and saying, "I do not know who these people are, can you check it out." We think that is a step towards trying to get better response times on enforcement, and not having us bear the burden of actually enforce these other laws.

Councilmember Evslin: Thank you.

Councilmember Carvalho: Mike, I want to add to Councilmember Evslin. To clarify, this would not add another layer of regulations to our current Building Division staff.

Mr. Dahilig: It would not add additional regulations other than information at the building permit, that would need to be added to the building

permit process. That is where we would take the existing system and try to modify it to add more information.

Councilmember Carvalho: The amendments that we see before us, in your meetings with all the contractors at all levels, after your discussions with them, would this be as close to acceptable for them? This is the first time we are seeing this.

Mr. Dahilig: At the end of the day, this is what we can represent as our belief as to what they are seeking for them to be able to move forward. We know that not all contractors agree with their representative organizations. Please consider that in the overall totality of circumstances in the decision-making process. In our ability to consult, we rely on these representative organizations and associations to speak on their members' benefit and on their behalf. That is what we have been engaging and relying upon their expertise and representation positions to move forward and come to a compromise.

Councilmember Carvalho: As Councilmember Chock mentioned, I want to hear your comments on possibly holding off and having the contractors review these amendments before we move forward.

Mr. Dahilig: Moving forward or getting to a point of agreeing to disagree on certain things was the ultimate goal. A lot of the discussion at the last meeting involved one (1) organization saying they support the Bill, and then they opposed the Bill. That is why it was important for us to get face-to-face saying, "Hey, where do you folks stand on this?" Ultimately, that is what we understood was the message from the Council. We followed through with the face-to-face meeting where everyone was there at the same time. Again, if we polled every contractor and constituent in the room, we would never get a consensus. Every operation and every business has their own views on what protections they should be afforded in our economy.

Councilmember Carvalho: Okay, thank you.

Committee Chair DeCosta: Members, are there any additional questions?
Councilmember Cowden.

Councilmember Cowden: Thank you. If we look at Section 15-5.4 and Item (c) and (a), it says that provided that the value of their work meaning the subcontractor, is more than five percent (5%) of the total project cost, that was added as a compromise. I know that we had received letters that said there could be ninety (90) subcontractors. This is the steel or concrete workers, a big piece, whoever grades and grubs the land. Is that correct? We are looking at the big subcontractors.

Mr. Dahilig: In terms of what is contributing to what is considered "significant," I think that phrase "big" as you described it relative to the overall construction process, is why GCA recommended that amount to not overly nitpick at everything. What is enough of an effort to contribute to the construction that it starts to become significant.

Councilmember Cowden: Okay. One of the letters that came to us brought up an interesting point; it is different than the other letters. It said that there should be responsibility that falls to the project owner at least as much as the GC. I am

paraphrasing it, but I thought that was interesting. I am not in the construction industry. I would figure that you would have contracts that would lay out the scope of the work before you start the build. Is there any kind of pushback to the entity who is contracting the GC to do the build? What layer of responsibility goes there?

Mr. Dahilig: It is an interesting question because typically when you get into some of the Federal or State violations, the intention to violate, et cetera, I am not sure what the standard of intent is for each of those different violations. Whether simply having the activity happen on "Person X's" property, versus "Person X" knowingly, versus "Person X" intentionally, I am not sure. The general statement that landowners should be responsible, I would generally agree and say, "Hey, if you want something in that project, you should know what is going on your land." How that interfaces with the actual measure policy-wise, we do not routinely have the building permit process go into the level of compliance with the landowner. Rather it is on the signatory for the building permit, unless it is an owner-builder type of situation, which it predominately is for residential types of construction.

Councilmember Cowden: Okay. At the beginning you said the driving force for this Bill was to make sure that our carpenters on-island get to work on-island as opposed to bringing people in from someplace which is presumably not legal. When we have these large builds, it seems that many people are not from the bench. The big company comes in, they fly their workers over, and stay in a house three (3) to four (4) nights a week. Do we have any data that tells us on these big builds, what percentage of their workforce lives on the island?

Mr. Dahilig: I do not. I do know that has been a concern that contractors have raised regarding availability of labor on-island in general. I think the message is, where we are available, we want to provide those opportunities, but we also understand when it comes to the more specialize traits, the movement becomes more of a State discussion versus something that is specifically on-island.

Councilmember Cowden: Okay. My guess is that this is a relatively small percentage of the workers are coming from the region right around, but I do not have that data. Those are my questions.

Committee Chair DeCosta: Are there any further questions?
Councilmember Carvalho.

Councilmember Carvalho: Mike, overall, do you see foresee any legal issues? Has everything has been legally discussed and covered?

Mr. Dahilig: We have taken every bit of language and had that reviewed by the Office of the County Attorney. He gave us the ability to proceed and make these suggested amendments, along with the rest of the language that the Bill has been built upon.

Councilmember Chair DeCosta: Members, are there any further questions? While the rules are still suspended, is there anyone in the audience or on Zoom wishing to provide testimony on the amendment?

NATHANIEL KEENEY (*via remote technology*): Nathaniel Keeney, on behalf of the Carpenters Union. I wanted to say, we appreciate how much effort the

Administration has put in for developing a bill like this. We appreciate the time it took to sit down with the GCA and the Kaua'i Contractors Association. I think everything you see that has been amended in the Bill has been done to meet their concerns. We started out with a very different bill. We responded to their concerns and developed something we think is a very small first step towards providing more information. I support getting these jobs because wage fraud is a serious issue.

Committee Chair DeCosta: Council Chair Kaneshiro.

Council Chair Kaneshiro: You can go to your discussion. If he comes back online, he can continue to speak on the Amendment.

Committee Chair DeCosta: I thought the testimony should be on the Amendment, not the original Bill.

Council Chair Kaneshiro: I think he was talking about the Amendment.

Committee Chair DeCosta: Nathaniel, can you hear us? We cannot hear you.

Council Chair Kaneshiro: I think the connection got lost. They can let us know if he gets connected again.

Committee Chair DeCosta: The next step would be to move into final discussion on the Amendment, and we can vote on it. It is crucial to hear what Nathaniel has to say. He is the only one that is possibly speaking positively on this Amendment. Everyone else did not get a chance to speak on it.

Council Chair Kaneshiro: I am not on the Committee, but the Amendment was what they all worked on. I believe he was in that conversation. You could move forward with the Amendment if you want.

Committee Chair DeCosta: Let us vote on the Amendment. Members, is there any final discussion? Councilmember Evslin.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Councilmember Evslin: I support the amendment. I think the five percent (5%) threshold is good. I think it addresses what I understood to be GCA's strongest objection, at least from the last meeting. I appreciate the work that has gone into it. I am going to vote for it, I want to note that I am not super excited about Item (c) in Section 15-5.2, saying R-3 includes all residential, and again, we call out affordable housing. Anyone reading this would think R-3 means something else other than all residential if you are separately calling out affordable housing. Even if the intention is to make it clearer, I think it makes it confusing when you add that, but I am not going to hold up this Amendment or try and delete that out of here. I will go ahead and vote for it. I wanted to note my slight objection to that.

Committee Chair DeCosta: Councilmember Cowden.

Councilmember Cowden: Maybe we can ask Mike Dahilig.

Committee Chair DeCosta: I need to suspend the rules for any questions. This is discussion right now.

Councilmember Cowden: Alright. I will say what my thought is, and it might be that we ask Mike. When I asked the question, my understanding is Mike said that R-3 was residential, and I thought it was a single-family house. In Section (c) for example, if it was condominiums, it would apply to affordable condominiums and not vacation or luxury condominiums. What went through my mind is, if it was a multifamily dwelling, it would be for affordable, low-income or gap group. Perhaps, we can ask Mike.

Committee Chair DeCosta: I will suspend the rules. Managing Director Dahilig, can you ask Councilmember Cowden's question, please.

Councilmember Cowden: Is it a subtlety difference?

There being no objections, the rules were suspended.

Mr. Dahilig: There is a subtlety difference. I am pulling up the Code at this moment, so that I am not misspeaking at this point.

Committee Chair DeCosta: Hold on Nathaniel, we will let our Managing Director speak first.

Mr. Keeney: I am sorry. Okay.

Mr. Dahilig: I need to get to the specific section, Councilmember Cowden, but I believe that will fall under a different classification. I can get that over to you.

Councilmember Cowden: R-3 is different than these multifamily dwelling units. Okay, thank you.

Council Chair Kaneshiro: Committee Chair DeCosta, I believe Nathaniel is back on. While the rules are still suspended, you can let him finish his testimony on this.

Committee Chair DeCosta: Nathaniel Keeney, you can finish your testimony. You have approximately one (1) and one half (1½) minutes left.

Mr. Keeney: Again, we have tried many times with the State to file these types of actions. They do not have the manpower and I do not think they have the ability. We just got a judgment back for a small fine on a licensing issue. We filed the complaint back in 2016, and we got the judgment back in 2022. We handed the State everything the affidavits from workers, pictures, paperwork, all the backup documentation for any fine, and they tell us, "Oh, we cannot do it." Maybe one (1) out of twenty (20) complaints we file ever get acted upon. After beating our heads over that sort of situation for years, that is when we finally come to the County to say, "Look, this is a clear problem. Two (2) of the largest jobs on the item in the last eighteen (18) months went to someone who was operating illegally." That is why we are here at the County. It is not for lack of trying.

Committee Chair DeCosta: Councilmember Cowden, clarifying question.

Councilmember Cowden: Thank you, Nathaniel for being on and testifying. I forgot my question and I want to frame it right. I am going to wait.

Committee Chair DeCosta: I have a clarifying question. Nathaniel, you mentioned two (2) of jobs that were lost to outside contractors here on-island. Did the outside contractors use your Carpenter Union workers?

Mr. Keeney: No. They do not ever use local workers. It is not a union or nonunion issue. They are bringing in people from Guatemala and Mexico. None of them are "employees," they are all called "subcontractors." The intent of the Bill in front of you...okay, you are bringing all these people down, all of them are subcontractors, when you fill out the Building Permit Request Form, all thirty (30) of these people need to be listed. They are all "subcontractors," but if you have them coming in to do a job and they only list the GC, electrical subcontractor, painting subcontractor, and a drywall subcontractor—those are the only subcontractors that are listed on the Building Permit. When you go down to the job site and you see twenty-nine (29) people working, who are all those people? We are told that they are all "independent contractors," but, those are not independent contractors, they are employees that are being paid or by 1099. That is exactly what the contractor did in this case. He did it in Princeville and in Lihue. He did it during the middle of the pandemic.

Committee Chair DeCosta: Chair, is it possible for me to ask him to disclose the contractor since he mentioned it? Can you disclose the contractor?

Mr. Keeney: No, not currently. Right now, they are under Federal investigation that was prompted by the complaints on who these people were. You had good quarantine laws. When they cleared in, it was the County officials who tipped us off wondering who all these people were working on a job site. They asked if we knew any of them, and we did not know any of them. That is what started this. We went to the State and they said we cannot help you. We went to the feds, they said this was a serious situation. This is kind of like human trafficking. It is human trafficking and immigration fraud. That is what triggered the Federal Department of Labor to look into this. They started looking into it, and they find out situations where there is a second set of books, this contractor has been doing this all over the nation and not just the two (2) jobs that we know of on Kaua'i. That is why it is taking longer for the Federal case to wrap up. I would prefer not to share that, because we do not want to burn an agency who has shown they are willing to enforce the law. This shows that you go to the State, they do not do anything, the feds found out that there is a lot going on and it is crazy. If the State is not going to act, can we do something at the County level? To us, a disclosure bill like this would be the difference between these people getting a job, walking away "scot-free," to come back and do it again. If we catch them in the act, they falsified a County document, and there is proof of it. Our agents are constantly monitoring things. As this is going on, this type of bill would be instrumental in helping us do our job and ensuring the local jobs stay with the local people. That is the whole thrust of this and prompted us in the first place.

Committee Chair DeCosta: Councilmember Cowden.

Councilmember Cowden: I remembered my question. Kaua'i compared to O'ahu, are they finding these problems there? Is it on the neighbor islands or is Kaua'i worse than the rest?

Mr. Keeney: In my personal experience, they feel like they can get away with these things on the neighbor islands more, so they do it more. I have been at jobs on Kaua'i, Kona, and some in Maui. When they try to do it on O'ahu, we set up an elaborate surveillance operation and caught them in the act at Maile Sky Court. That was the exact same situation they are doing on Kaua'i. The only reason we were able to do that was because the feds helped us. We can show you a whole bunch of things if you want to talk about what is going on. It is wage fraud and human trafficking and abhorrent to us.

Councilmember Cowden: I have one more question regarding wage fraud. What does that mean to you? To me, I know what it implies.

Committee Chair DeCosta: That is not part of the Bill.

Councilmember Cowden: It is clarification on his testimony.

Committee Chair DeCosta: Wage fraud has nothing to do with this Bill or this amendment.

Councilmember Cowden: I think this Amendment is basically the Bill.

Councilmember Kualii: He just said it.

Councilmember Cowden: You would like me to not say it?

Councilmember Kualii: No. I mean you should ask your question because he just said it.

Councilmember Cowden: Yes. To me, wage fraud means...

Committee Chair DeCosta: Are you asking a question or are you giving a directive?

Councilmember Cowden: I am trying to ask a question.

Committee Chair DeCosta: Ask the question.

Councilmember Cowden: I am getting distracted by you asking me. Can I get back to him? I said, "Can you clarify wage fraud for me, so I understand what you mean when you say "wage fraud?"

Mr. Keeney: Wage fraud is quite simply when you treat what is really an employee as an independent contractor. When you tell someone where to show up, what to do, and where to go, they are an employee. There is very extensive legal test used to define whether someone is an employee or an independent contractor. It is what sophisticated people do when they do not want to pay the correct wages, workers compensation insurance, health insurance, and temporary disability insurance, you can call them an independent contractor.

Councilmember Cowden: Thank you for that. You said human trafficking. If someone is told you are going to make "X" amount if you come here from your country and they are not paid that, that is very different from...

Mr. Keeney: Yes, I understand what you are saying. Well, they do that too. They tell them we are going to pay you twenty dollars (\$20) an hour and you are going to have a vacation in Hawai'i. They come here and tell everyone to hand over their passports, so they do. This happened at Maile Sky Court. They hand over their passports and get paid ten dollars (\$10) an hour in cash.

Councilmember Cowden: Okay.

Committee Chair DeCosta: I am going to intervene right now. Excuse me Nathaniel. This going way off the board right now. He is not a professional consultant, he is a testifier, he made his testimony, you asked your clarifying questions, and we are going to move forward. Thank you. Members, are there any further questions? Councilmember Carvalho.

Councilmember Carvalho: Nathaniel, Floor Amendments. I wanted to clarify that the Floor Amendments that we have here now meet the concerns from everyone else. Is that what you said?

Mr. Keeney: Yes. We had a sit-down meeting with the Kaua'i Contractors Association, GCA, and Unlimited Construction. This is what came out of the discussion. All the things they asked for are being put into the Bill.

Committee Chair DeCosta: Are there any further clarifying questions? Thank you, Nathaniel.

Mr. Keeney: Thank you.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Committee Chair DeCosta: Discussion.

Councilmember Evslin: I would like to note when I said I did not like (c) in there because it was superfluous, given that the definition of R-3 is only one (1) or two (2) family dwellings, I think (c) is important, and does add further clarity. So, I remove my objection to that, and I support the entire Amendment as written.

Committee Chair DeCosta: Is there further discussion on the Amendment as is?

The motion to amend Bill No. 2873, Draft 2 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1 was then put, and unanimously carried.

Committee Chair DeCosta: The Amendment is approved. We will go back to the main motion as amended. Members, are there any additional questions on the main motion of the Bill? Is there anyone in audience or on Zoom wishing to provide testimony on the main Bill?

There being no one present to provide testimony, proceeded as follows:

Committee Chair DeCosta: Members, is there any final discussion?
Councilmember Evslin.

Councilmember Evslin: I am ready to move forward and move this out of Committee. I think at prior meetings, we were getting testimony along the lines of really specific policy changes being advocated for. I think essentially, all those changes have been made. Now, we are left with some general disagreement over whether the County or State should be doing it. Given that, I do not see a whole lot of value at this point in deferring. I do not think that anyone is suggesting changing the Bill. For me, as Mike said, I see that there could be an issue if we have duplication of efforts if the State ends up doing this, then the County should not. If the State ends up doing it at some point in the future, a future Council can review this. If it is not happening, I think it is on us to ensure that it is happening for all the reasons that Nathaniel Keeney suggested. I am good with passing this out of Committee, but I am also fine to defer it if other Members want to defer to give others time to see the entire Bill.

Committee Chair DeCosta: Councilmember Cowden.

Councilmember Cowden: I am both fine to defer and fine to move it out of Committee. I want to say the reason I really wanted to pursue what I was discussing with the Carpenters Union with wage fraud, when I look at the whole topic, prior to listening to him, what was in my mind is that this is tension between the Contractors Association and Carpenters Union. If there are real crimes going on like human trafficking and bad things going on, to me, that is very important if our State is not doing anything. I want to find out background to what he is saying, but if one (1) of twenty (20) complaints get addressed, that is significant to me. If it is not something bad like that, I could see the risk of the burden for the Building Division, the contractors and permitting delays, but short of that, it does not seem to merit the benefit of possibly catching some of the bad actions on some of the large commercial builds. If it is minimal gain and a bigger burden, that is something important to me that might not be worth it. If there is a real crime underline here, where we are bringing in semilegal or illegal immigrants and exploiting them at the cost of safe builds and our own employment, to me, that is a different and separate issue. I felt what I was asking was very important to me and it makes quite a bit of difference. I am certainly willing to move this forward. What I want to learn in the next couple of weeks is—and it is guaranteed that I am going to talk to the State—I want to find out why they are not responding to the complaints. I want to find out what we can do about it. Nathaniel is going to hear from me again about his assertions. If we have human exploitation going on, that also hurts us here. That is a big issue. I want to be able to find that out. We might be uncovering something very significant. For today, I am willing to say yes, but I am going to look deeper into that.

Committee Chair DeCosta: I have a question for Mike Dahilig, but I will hear the discussion first before I suspend the rules.

Council Chair Kaneshiro: I would suspend the rules now.

Committee Chair DeCosta: I will suspend the rules, so I can address Managing Director Dahilig with my question. Mike, you mentioned that the County

has no authority over labor law, as it is a State issue. What is the process for reporting nonunion workers on a commercial job? What is the process and who can turn in people?

There being no objections, the rules were suspended.

Mr. Dahilig: We do not discern whether someone is or is not union. We discern whether someone that is on the site is licensed or not. For example, if there are specialty contracting work that is being conducted and not in accordance with Chapter 444, our inspectors are obligated to make a report to DCCA about that potential violation. Also, if it is a situation where it may be a potential health and safety issue, including human trafficking, because we are sworn officers as public servants, we would be under an obligation to report that to the appropriate agencies.

Committee Chair DeCosta: We have DCCA intact with the State and they have jurisdiction over this. You just told me that anyone can turn someone in, whether it is the County Inspector or anyone on the job site. You are telling me even though we create this Bill, we will not have jurisdiction or authority over the process of having unlicensed people on the job site. What would be the benefit of us creating this layer of bureaucracy.

Mr. Dahilig: We see it as an opportunity for people to be informed, with the Sunshine Law and how we have laws on Public Disclosure 92F. Public information is what keeps people accountable, whether they are public servants or are members of the public. Ultimately, that is our intent behind what the measure comes down to. It is arming everyone with information. Just to reiterate from a bureaucracy standpoint, the County will not be in a position to enforce labor laws. That is the Department of Labor both at the State and Federal levels. In order to make informed complaints, anyone and everyone that has a concern about this who are members of our society, if they give them information that is easily accessible, they can formulate detailed and deeper complaints to these regulatory agencies to have them take action. That is what the policing element is. It is not to create a layer of bureaucracy, it is an opportunity to create information that is out in the public domain, so that it is easily accessible.

Committee Chair DeCosta: Have we thought about addressing DCCA and possibly creating a resolution encouraging them to do their part in upholding the legal side of the nonconforming/non-licensed contractors? Have we reached out?

Mr. Dahilig: We can always ask a State agency to do more. I know there is several other items that will come up before the Council where other State agencies are coming into the crosshairs in terms of whether they are satisfactory or sufficiently meeting the needs of the people of our county. This is in effect, a possibility that you suggest, and we can continue to ask. At the end of the day, we believe based on what has been the track record and what we are seeing as these issues, that arming people with information is the least we can do to move the needle on enforcement by those agencies.

Committee Chair DeCosta: Thank you, Mike. Would you say that there has been substantial change in the language of the original Bill?

Mr. Dahilig: I do not believe there is substantial change given that all these items came up in previous testimony. The amendments that have been introduced reflect changes that have been asked specifically through the public testimony process in the Council's deliberations.

Committee Chair DeCosta: Would you oppose us bringing the amended language, containing the concerns of all entities in the room, to get their consensus and before we vote on the Bill. Right now, it is still in Committee. I believe Committee is where we iron out everything. Would you object if we reached out to the different entities to do a temperature check regarding this Amendment?

Mr. Dahilig: I am going to be very frank on this, Committee Chair. If this is a law or proposal of consequence, these paid representatives are speaking on behalf of these constituency groups and would be testifying in front of the Council right now. They are aware of this Bill coming forward, they submitted testimony, they can engage in the public process, this is "where the sausage is made." Delaying it for their convenience, because they are not attending a meeting as part of a discourse and process of law making, I think overly holds their hand in what should be ultimately the respect they should give this body in showing up at your meeting. At the end of the day, that is your folks' discretion in terms of how you want to accommodate these constituency groups. We went through our process of trying to accommodate, meet, spend time, and handle them. It is a little unfortunate that they are not here face-to-face with the body to deliberate on things that can be simply satisfied by a simple, "Okay yes, we are fine."

Committee Chair DeCosta: I agree. In defense of the people who are not here, due to Sunshine Law, they did not know about the changes, and only found out about it today. Are there any questions for the Managing Director? Councilmember Cowden.

Councilmember Cowden: When we heard about worker exploitation from other countries, if there was a complaint delivered to the County about a workforce that surrendered passports, would we call the Immigration and Naturalization Service (INS) or would we go to the State? It seems like we can take a direct pathway where you will get results. I know we dealt with surrendered passports in the Agricultural sector. This happened before you were in your position. If we had that, it is serious. Would we call the INS?

Mr. Dahilig: I think we would start with local law enforcement. If it is human trafficking, that is considered kidnapping. That is something that is within the realm of Kaua'i Police Department (KPD) to look at. If there are people being held against their will, have that be investigated first. If there are layered Federal or other State types of pre-jurisdictional laws that apply, KPD is in the best position to funnel those things up the chain to the Federal Bureau of Investigation (FBI), INS, Attorney General, and those types of agencies. We would not necessarily start with our folks here, because ultimately, we do not want our inspectors to be placed in a health and safety type of response situation in case these people become violent; "pimp" or people that are holding people against their will. We would trust that KPD's expertise would need to know what jurisdiction above them can levy even higher or repeated measures to hold these people accountable.

Councilmember Cowden: Okay, thank you, I wanted to make sure. There is a difference between unfair competition and crimes. Thank you.

Committee Chair DeCosta: If there are no further questions, I would like to move into final discussion. Councilmember Carvalho.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Carvalho: This is a very serious discussion. Contractors in general, the hope is to keep them all together, we always talk about that. At the same time, another big area of concern is the Building Division. No matter what anyone says, they are going to be affected by this and do they have the resources? I know everyone is trying to include technology, which is good. At this point, based on what I have before me, it would be better to defer, and get everyone on board. I think this will bring it to a place where we can move forward. I am hoping that my fellow Councilmembers are open to this. I really want the Contractors and the Building Division to see this and make sure everyone is on the same page. I do not want to forget the Building Division; they need the support too.

Committee Chair DeCosta: Chair, can we finish our final discussion before we entertain the deferral?

Council Chair Kaneshiro: Yes.

Committee Chair DeCosta: I would like to continue our discussion. Councilmember Cowden.

Councilmember Cowden: The Building Division matters to me. We asked them, and they said they were fine with it. I know we are very "thin." That matters. I will agree with Managing Director Dahilig on terms of a deferral for the basis of the contractors. I called and spoke to five (5) different entities, and I asked them continuously to please be in this room. I believe I said it to Nathaniel, but I did not call him this week. I appreciate that the Carpenters Union was here even if it was virtually. I did ask the contractors because I said, "It is not likely that we will defer, I need you here, and I need to hear from you if you are good with this." I was very clear.

Committee Chair DeCosta: Thank you. Is there any further discussion from the Members? Councilmember Chock.

Councilmember Chock: Committee Chair, if it pleases you to defer, I am okay with that. Let me tell you where I am with this. This item was referred from Second Reading back to Committee. It already went through its process. In my mind, we had ample time to go through this process. After hearing comments from the Managing Director here today, I am convinced that we are probably at an impasse, meaning, we have gone as far as we can in terms of what we can agree upon, because I am being told they already met and that every single item that was of concern was addressed in this Amendment. While they have not seen it, we have one (1) more meeting left, which is Second Reading. I am not as concerned and I think at this point, they are either going to support it or not, on the premise that it is the States *kuleana*. Now, on that point, I am not a fan of taking on the State's *kuleana*.

I think what is different is, we are not being asked to be the regulatory agency. We are asking for disclosure, which is merely listing who it is that you are going to work with, their background, and their agency. At one point, I was concerned it would raise the cost of construction. I am not anymore. According to the Managing Director, it does not cost more and I am comfortable moving this forward. Again, I will defer to your leadership, if you prefer giving it more time, I am open to it.

Committee Chair DeCosta: In defense of this question and answering session, on behalf of the contractors, when you said someone applies for a building permit and a bid, they have to list their subcontractors. A lot of companies have a list of subcontractors they use. The bigger contractors like Layton Construction, they do not have all the subcontractors lined up. They need to go out and get it. I am speaking from having a construction background. Let us say, a job will commence in one (1) or two (2) years, a subcontractor cannot commit to the job offer from the GC, because they are not sure where they are going to be in one (1) or two (2) years. They might throw a bid in for a portion of the drywall, roofing, or painting. The bid might be very high because they already have jobs lined up and they are not sure if they need it or not. It is going to be a disadvantage when they put in their overall bids, because the bids could be escalated. You have GCs with their own laundry list of subcontractors that always work for them, or sometimes they have their own entities within their company that do drywall, roofing, or painting. They are at an advantage versus the one who needs to subcontract. This is a significant Bill. I wanted to put that on the as we seem to have forgotten that information today. Councilmember Evslin, discussion.

Councilmember Evslin: I made my discussion at the first round of final discussion. Again, I am ready to pass the Bill out to Second Reading. I do not think that we are going to get anywhere productive. I do not see anyone calling on specific policy changes that they are advocating for at this point, or as we had in the past, which is why we referred it back to Committee. I am ready to move forward. Again, I will support a deferral if that is what the Committee wants to do.

Committee Chair DeCosta: Is there any further discussion.
Councilmember Chock.

Councilmember Chock: My only request is, if we defer, let us get to work here. If we need to make an amendment where we have a wider range of subcontractors, et cetera, whatever the issues are that are coming from the contractors and everyone else, let us not wait. As Councilmember Cowden said, they are not here. We need them working. We held the meeting not once, a few times. Let us get to the outcome here. I do not want this to get referred again. If there is more work to do, as you see it, I am fine to defer it. Let us get the work done.

Committee Chair DeCosta: Is there any further discussion? I have done a lot of homework. I was on the phone this morning with four (4) different contractors. I spoke directly to Conrad with Shioi Construction. There is very important and substantial language that was changed in the Bill. This is not the same Bill we looked at. Normally, we receive the bill and start over. In my opinion, we have a Floor Amendment, but the Amendment was not reviewed by the contractors. It was discussed behind closed doors with the Managing Director, but they did not see it. Unless it was emailed to them today? A lot of times people cannot fill this room because contractors are on a job site working. They are managing the office, or they

are a supervisor working. They would have sat in a room waiting how many hours, until 3:30 p.m., to provide their testimony. I am looking at the amount of language that has been substantially changed. Testimony came in on October 4th and there are piles of it from yesterday. There is still concern. What is the harm? Let them look at their new language in the Amendment, come back, and we have a better understanding of where they stand. If they do not like the amendments and they have things to say, then the Bill itself has changed too much, and we should start over. Councilmember Evslin.

Councilmember Evslin: Real quick. The difference here is that the language came from GCA; they told me that they were in the room and proposed the language. It is not as if this is coming out of left field. It was their language. I do not necessarily think we need to give them another two (2) weeks for them to review their own language. Again, there will be an opportunity at Second Reading. Lastly, GCA and KCA, as Mike Dahilig said, they are not contractors on the job. They have paid representation and organizations where it is their job to do this. I think that they could have been in the room if they knew this was coming and if they thought there was further work to be done. Again, if you as the Chair want to defer, we can defer.

Councilmember Chock: Committee Chair, I will move to defer. Would you like the motion?

Committee Chair DeCosta: Do I have a motion to defer?

Councilmember Chock moved to defer Bill No. 2873, Draft 2, as amended to Bill No. 2873, Draft 3 seconded by Councilmember Carvalho, and unanimously carried.

Committee Chair DeCosta: The deferral passes. Seeing no objections and hearing no objections, the Public Works & Veterans Services Committee is now adjourned.

There being no further business, the meeting was adjourned at 3:21 p.m.

Respectfully submitted,



KarLyn Sukehira
Council Services Assistant I

APPROVED at the Committee Meeting held on October 19, 2022:



BILL DECOSTA
Chair, PWVS Committee

(October 5, 2022)

FLOOR AMENDMENT

Bill No. 2873, Draft 2, Relating to Building and Construction Regulations

Introduced by: MASON K. CHOCK, Councilmember

1. Amend Bill No. 2873, Draft 2, SECTION 2, to read as follows:

“Article 5. Designation and Disclosure of Contractor Status

Sec. 15-5.1 Purpose.

The purpose of this article is to ensure that the County is timely made aware of violations and disciplinary actions that impact the County’s role in enforcing the Building Code.

Sec. 15-5.2 Applicability.

[This article shall apply to permits for all classifications of buildings and structures as to use and occupancy except for any R-3 classifications under the Building Code, or projects that are accessory to a building or structure classified as R-3.]

This article shall apply to permits for all classifications of buildings and structures as to use and occupancy except for:

(a) any R-3 classifications under the Building Code; or

(b) projects that are accessory to a building or structure classified as R-3; or

(c) housing projects or portions of housing projects that are developed to be affordable to low-income households or gap-group households as determined by the Housing Director or the authorized representative of the Kauaʻi County Housing Agency, provided such projects conform to applicable provisions of the County’s affordable housing program.

Sec. 15-5.3 Definitions.

“Contractor” means a contractor as defined in Chapter 444, Hawaiʻi Revised Statutes.

“County Engineer” means the County Engineer, Department of Public Works of the County of Kauaʻi.

“Disciplinary action” means any public disciplinary action taken by an administrative entity in response to a violation, any public settlement agreement made between an administrative entity and a person to resolve a claim of violation, any license suspension, or any license revocation.

“License” means a license obtained under and in compliance with Chapter 444, Hawai‘i Revised Statutes.

“Permit” means a building permit issued under Chapter 12, Kaua‘i County Code 1987, as amended, subject to Section 15-5.2 of this Article.

“Person” means any individual, firm, partnership, association, or corporation; or its or their successors or assigns, according to the context thereof.

“Violation” means any public administrative or judicial decision or finding of a violation of any law, ordinance, rule, or regulation relevant to a person’s work as a contractor.

Sec. 15-5.4 Designation of Person, Contractor, or Subcontractor Who Will Do Work.

(a) As determined by the County Engineer, no permit issued shall authorize any person or contractor to work upon any phase of a building, structure, or project except as identified in the permit application including any attachment or amendments thereto, as the contractor or subcontractor designated to do that particular phase of work[.]; except as otherwise provided by state law the permit application shall not require the applicant to identify a contractor or subcontractor if the value of their work is equal to or less than five percent (5%) of the total project cost.

(b) No permit shall be loaned to another by the person to whom it was issued.

(c) Subsequent to the issuance of a permit, the permit holder shall file a written request to the County if there is a change in the designation of any contractor for any phase of work[. The request shall include the change in designation and a revised statement form for each contractor or subcontractor engaged to do work upon the building, structure, or project.] ; provided that the value of their work is more than five percent (5%) of the total project cost. The request shall include the change in designation and a revised statement form for each contractor or subcontractor engaged to do work upon the building, structure, or project; provided that the value of each contractor or subcontractor’s work is more than five percent (5%) of the total project cost.

Sec. 15-5.5 Disclosure of Change of License Status or Disciplinary Action.

Permits issued by the County shall have a condition requiring the contractor issued the permit to inform the County Engineer as soon as practicable of any violations or disciplinary actions of the contractor that is determined relevant by the County Engineer [to which the contractor issued the permit is a party].

Sec. 15-5.6 Rulemaking Authority.

Pursuant to Chapter 91, Hawai'i Revised Statutes, the County Engineer may promulgate rules to carry out the purposes of this Article.”

(Material to be deleted is bracketed. New material to be added is underscored)
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