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Delegation of Certain Legislative Matters to TOD Council Co-chairs

INTRODUCTION

The Hawaii Interagency Council for Transit-Oriented Development (TOD Council) is subject to the Sunshine Law of Chapter 92, Hawaii Revised Statutes. In 2015, the Office of Information Practices (OIP) issued an advisory as to how Boards can and should submit legislative testimony on a timely basis while still following the Sunshine Law (see attached). The Sunshine Law (<https://oip.hawaii.gov/wp-content/uploads/2018/07/0106-Quick-Review-SL-legislative-options-July-2018.pdf>) provides options to address State legislative issues and measures. The First Option, Delegation to Staff, suggests that the TOD Council delegate the authority to staff (e.g., Co-chairs) to submit legislative testimony on behalf of the TOD Council, in accordance with positions and policy directives adopted by the TOD Council. Such delegation to the Co-chairs provides a practical way to timely address legislative matters while complying with the Sunshine Law.

The Co-chairs would continue to report to the TOD Council on all legislative measures at the Council's regularly scheduled meetings and may seek confirmation or clarification of testimony that will or has been presented to the Legislature.

DISCUSSION

There are numerous TOD-related measures that are taken up by the State Legislature, and to a lesser extent, County Councils that affect TOD and the TOD Council. A general summary of the types of legislative measures, along with the proposed TOD Council positions as follows:

1. Strategic Plan and TOD project appropriations
Position: Support measures for implementation of the TOD Strategic Plan and appropriations for TOD Projects in the Strategic Plan, provided that passage of any appropriations does not replace or adversely impact priorities indicated in the Executive Budget.
2. Administration bills related to the duties and administration of the TOD Council.
Position: The TOD Council, through the Co-chairs, should provide supporting testimony on administration bills related to the duties and administration of the TOD Council.
3. Measures which propose to give the TOD Council additional resources or powers.
Position: Support the intent provided that its passage does not replace or adversely impact

priorities indicated in the Executive Budget; and/or support expanded capacity or powers provided they are in line with the TOD Council's mission and do not impair existing programs.

4. Measures which propose to revise the TOD Council's existing programs.
Position: Oppose revisions that impose restrictive requirements that negatively impact the financial feasibility of projects or the program itself. Support revisions that provide greater flexibility in meeting the TOD Council's mission.
5. Measures which propose to diminish the TOD Council's resources or powers.
Position: Oppose.
6. Measures which relate to TOD.
While the TOD Council generally does not testify on measures that do not impact the TOD Council, legislators may ask the TOD Council for testimony on other transit-oriented development measures.
Position: None; however, provide information.

RECOMMENDATION

That the TOD Council:

- A. **Authority is delegated to the Co-chairs and authorized staff designated by the Co-chairs to track legislative measures and provide testimony in accordance with the above positions and statutory directives. HRS §226-63**
- B. **The Co-chairs are authorized to undertake all tasks necessary to effectuate the purposes of this delegation.**
- C. **The TOD Council shall review and act on this delegation authority prior to the beginning of each legislative session.**
- D. **The Co-chairs shall report to the TOD Council at the TOD Council's regularly scheduled meetings on all legislative measures for which testimony has been submitted by the Co-chairs on behalf of the TOD Council; and the Co-chairs may seek confirmation or clarification of testimony that will or has been presented to the Legislature.**

This delegation authority does not bar individual TOD Council members from submitting testimony as individuals or on the behalf of their agency or organization on TOD-related measures. TOD Council members are requested to inform the TOD Council at a regularly scheduled meeting of their submittal of individual testimony on a TOD-related measure.