

**From:** CLK Council Info  
**Sent:** Wednesday, November 15, 2017 3:17 PM  
**Subject:** Zoning & Housing Speaker Registration/Testimony  
**Attachments:** 20171115151709\_Bill\_59\_testimony.docx

## Speaker Registration/Testimony

Name Bill Melohn  
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Meeting Date 11-16-2017  
Council/PH Committee Zoning  
Agenda Item 59  
Your position on the matter Support  
Representing Self  
Organization  
Do you wish to speak at the hearing? No  
Written Testimony  
Testimony Attachment 20171115151709\_Bill\_59\_testimony.docx  
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I would like to testify in support of Bill 59.

Background: my neighbors and I live in an area within the city of Honolulu where restrictive covenants attempt to control the height and lot footprint of houses. We've been involved for over 4 years in trying to stop one of our neighbors, a mainland landlord who owns a dozen other rental properties in Honolulu, from building a much taller and larger house, with the addition of a "wet bar", "rumpus room", and "family room", the latter two areas were originally submitted to DPP as "Living room 2", and "Dining room 2", but the room labels were changed after an initial failed submission to DPP, who then approved the plans which were otherwise unchanged.

Under our covenants, all structures are single family, and can be only 18' in height, and cover 33% of the lot.

Because we have no HOA, the enforcement of these covenants falls to individual lot owners in our subdivision. The DPP expressly play NO role in considering covenants when assessing a building permit.

When the homeowner refused to comply with these restrictions, we were forced to file a lawsuit to stop his construction. The court found any claims of use for the new addition to be "unripe", which means that until he builds the structure AND has another family occupy it, we have no means of preventing him from building this DPP approved plan.

This is ludicrous; once he's built the addition, the damage to our homes and community created is permanent, regardless of how he ends up using the space. If he's reported by us as having 2 families as tenants, the best we can hope for is a small DPP fine.

The lawsuit has dragged on for years, as he is currently appealing the ruling that found his plans in terms of height and lot coverage to be in violation. Each of us homeowners have had to pay tens of thousands of dollars to enforce the covenants, with NO guarantee that in the end the owner won't end up winning, or worse, casting doubt on the validity of the 35 year old covenants, jeopardizing the entire subdivision's reliance on them to preserve our community's views and single family character.

Based on our experience so far, I'd like to provide a couple of suggestions, either to this bill or a subsequent one.

- 1) Expand the definition of large homes to include any plan where the increase in square footage is more than 66% or 2000sq of the size of the original home. Very few single family homes are going to dramatically expand in this way, and just as ADUs are limited in size, so too should "additions" that are substantially larger than the homes they are attached to. Requiring a covenant requiring single family occupancy in these circumstances seems reasonable.

2) Require the DPP to consider ALL restrictive covenants applied to a lot, whether they run with the lot, or were added as part of a large home application. Demand the DPP **investigate** issues with covenants prior to plan approval, and put the weight of the city government behind their findings. Provide an adjudication process when covenant interpretation by land owners raises questions, and potentially involve neighbors or community associations in helping demonstrate the character of a given neighborhood to absentee home owners. Help neighborhoods adopt guidelines that prevent homes from being constructed that might impact shared resources, such as on street parking.

3) Have the DPP issue **rejections** of plans that obviously enable multi family dwellings, not just allow label changes to and then approve designs. A two story home, with separate living, dining, and kitchen areas (designated as a “wet bar” or not) that appears to an examiner to have the potential to be used as a multi family dwelling should be given the same red flag, requiring a restrictive covenant prior to approving the permit.

4) Consider explicitly stating that violations of the covenant can lead to the requirement that the addition be **demolished** from the property, and a permanent injunction granted preventing further non conforming modifications. Fines clearly are not working, but requiring someone to demolish non conforming structures could have a much stronger deterrent.

Mahalo for your consideration!

Bill Melohn

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