



HB 2242 RELATING TO COUNTIES

House Committee on Economic Development & Business Concerns

February 26, 2008
Room 325

10:00 am

The Office of Hawaiian Affairs supports the purpose and intent of HB 2242 (HSCR 650-08).

The growing affordable housing problem is one of the most critical issues faced by our communities, especially our Native Hawaiian communities. This issue seems to have many of our families struggling to find adequate housing and to make ends meet.

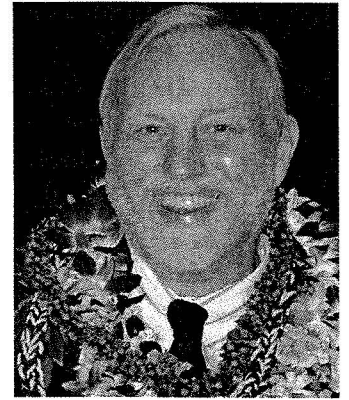
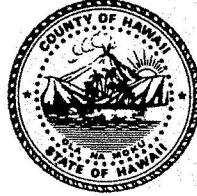
The 2006 Housing Study confirms the need to do affordable rental and for sale housing and doing innovative housing types. Policies addressing the need to develop and create partners to do these units timely need to be adopted. Until our housing crisis is manageable government is compelled to look at every opportunity to have everyone come to the 'table' to discuss in earnest viable solutions.

OHA also advocates a commitment to reestablishing the relationship between the art of building and the making of community, through citizen-based participatory planning and design.

Mahalo for this opportunity to provided written testimony.

BOB JACOBSON
Councilmember

Chair, Environmental Management Committee
Vice-Chair, Finance Committee



HAWAI'I COUNTY COUNCIL

County of Hawai'i

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February 22, 2008

Representative Kyle T. Yamashita, Chair
Representative Glenn Wakai, Vice-Chair
And Members
Committee on Economic Development and Business Concerns

Conference Room 325
State Capitol
415 South Beretania Street

Hearing February 26, 2008 at 10:00 a.m.

Aloha Chairpersons, and Committee Members,

I strongly urge passage of House Bill 2242. This Bill authorizes the County to impose upon certain subdividers or developers an affordable housing requirement as a condition for approval of a subdivision or issuance of a building permit. One critical issue facing the residents of the State of Hawaii is affordable housing. Each of the Counties needs to be able to have the decision making ability to impose their own affordable housing requirements which meets the needs of their own County.

I humbly ask for your support of House Bill 2242.

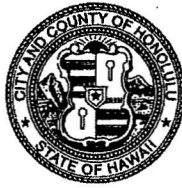
Mahalo nui loa,

A handwritten signature in cursive that reads "Bob Jacobson".

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
MAYOR



HENRY ENG, FAICP
DIRECTOR

DAVID K. TANOUE
DEPUTY DIRECTOR

February 26, 2008

The Honorable Kyle T. Yamashita, Chair
and Members of the Committee on Economic
Development & Business Concerns
House of Representatives
State Capital
Honolulu, Hawaii 96813

Dear Chair Yamashita and Members:

**Subject: House Bill 2242
Relating to Counties**

The Department of Planning and Permitting is a strong supporter of affordable housing, but must **oppose** HB 2242 as it is enabling legislation that, in our view, is not needed.

This bill would allow the counties to impose an affordable housing requirement on urban developments, either through subdivision or building permit action, or both.

We believe the counties can already establish "inclusionary housing" programs under Section 46-4(a), HRS, which states, "The powers granted herein shall be liberally construed in favor of the county exercising them . . ." In fact, all counties already have some type of affordable housing requirement associated with approval of urban developments. Our program has been administered since the late 1970s.

Although we appreciate the legislature's interest in supporting county affordable housing efforts, this bill was not requested by the counties. On the other hand, we have asked for other forms of state assistance, such as financial support of the Third Party Review program, and infrastructure upgrades to allow for "infill development." Please look favorably on the bills that support these requests. In the meantime, House Bill 2242 is not needed and should be filed.

Thank you for the opportunity to testify.

Sincerely yours,

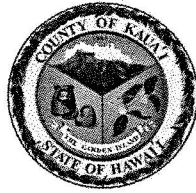
A handwritten signature in black ink, appearing to read "Henry Eng", is written over a horizontal line.

Henry Eng, FAICP, Director
Department of Planning and Permitting

HE: jmf
hb2242a-kt.doc

Bryan J. Baptiste
Mayor

Gary K. Heu
Administrative Assistant



Housing Director

Kenneth N. Rainforth
Executive on Housing

KAUAI COUNTY HOUSING AGENCY
Pi'ikoi Building 4444 Rice Street Suite 330
Lihu'e, Hawai'i 96766

February 25, 2008

The Honorable Kyle T. Yamashita, Chair
The Honorable Glenn Wakai, Vice Chair
and Committee Members
Committee on Economic Development & Business Concerns
The House of Representatives
The Twenty-Fourth Legislature
Regular Session of 2008

SUBJECT: Testimony in Support of House Bill 2242, Relating to Counties
Committee: EDB

Hearing: February 26, 2008 10:00 AM Conference Room 325

The Kaua'i County Housing Agency (KCHA) supports House Bill 2242, with amendments.

The KCHA believes this bill, if amended, would enable Counties to impose an affordable housing requirement on certain subdividers or developers as a condition of approval of a subdivision or the issuance of a building permit. Further, it would enable Counties to impose affordable housing requirements on Commercial, Industrial and Resort developments which may generate the need for affordable housing for employees. The bill would also enable the acceptance of an in lieu fee to meet that requirement. The bill does not allow imposition of a requirement on lands subject to affordable housing conditions through previous land use approvals.

The bill recognizes that current residential, resort, commercial and industrial development in Hawai'i needs to include a housing component that is affordable to Hawai'i's resident workforce. Continued escalation of housing prices and lack of housing opportunities will be detrimental in the long and short range to the health and stability of Hawai'i's economy and workforce.

If amended, HB 2242 would be consistent with the intent of Kaua'i County's recently adopted Housing Policy Ordinance. We suggest that language be amended as follows:

- **Add definition (insert Page 1 line 15):**
“ “Affordable housing lot” means a lot of record, the rent or purchase price of which is affordable to a low-or moderate-income family for a minimum period, as determined by the applicable county.”
- **Delete bracketed text and insert underlined text at Page 1 Line 15:**
“ “Eligible project” means a project on a discrete parcel or parcels of land that will be developed for either of the following:”



“(1) A building or buildings for a commercial, industrial, resort, or commercial-, industrial-, or resort-emphasis mixed use; or”

“(2) [A multi-family] Multi-family or single-family dwellings, or any combination thereof.”

- **Insert underlined text in the section beginning on Page 2 Line 9 to read:**

“(b) Each county shall have the power to require a subdivider applying for an eligible subdivision approval to provide a certain number of affordable housing units or affordable housing lots within or outside the subdivision as a condition of the issuance of the final subdivision approval. A county may choose to impose the affordable housing requirement only upon a subdivider of an eligible subdivision that will have a minimum number of parcels specified by the county. A county also may choose to allow a subdivider to pay the county cash in lieu of providing the required number of affordable dwelling units or affordable dwelling lots.

A county, however, shall not impose an affordable housing requirement upon a subdivider who previously has had imposed upon the subdivider or predecessor landowner an affordable housing exaction as a condition for reclassification or rezoning of the land proposed to be subdivided.”

- **Insert underlined text in the section beginning on Page 3 Line 3 to read:**

“(c) Each county shall have the power to require the developer of an eligible project to provide a certain number of affordable housing units within or outside the project as a condition of issuance of the first building permit for the project. A county may choose to impose the affordable housing requirement only upon an eligible project that will have a minimum number of dwelling units, or a minimum square footage of commercial, industrial or resort building area, or a combination thereof. A county may also choose to allow a developer to pay the county cash in lieu of providing the required number of affordable dwelling units.

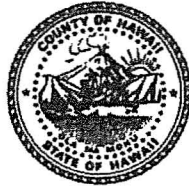
A county, however, shall not impose an affordable housing requirement upon a developer who previously has had imposed upon the developer or predecessor landowner an affordable housing exaction as a condition for reclassification, rezoning, or subdivision of the land upon which the project is situated.”

We reiterate our support of HB 2242 with the foregoing amendments. Thank you for the opportunity to provide testimony.

Sincerely,

KENNETH N. RAINFORTH
Executive on Housing

Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

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February 25, 2008

Honorable Kyle T. Yamashita, Chair
And Members of the Committee on Economic Development & Business Concerns
COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS CONCERNS
House of Representatives
State Capitol
415 South Beretania Street
Honolulu, HI 96813

Dear Chair Yamashita and Members of the Committee on Economic Development
& Business Concerns:

SUBJECT: HOUSE BILL 2242 – RELATING TO COUNTIES

The Hawai'i County Planning Department supports HB2242, which would authorize the counties to require affordable housing as a condition of new subdivisions or building permits. This is the practice in many mainland jurisdictions that have inclusionary affordable housing requirements. In Hawai'i, affordable housing has typically only been required when made a condition of a rezoning ordinance or LUC condition. While we believe that the counties have this power under present law, efforts to exercise this power have come under legal challenge, hence it would be useful if the state enabling laws explicitly stated this.

Sincerely,

A handwritten signature in cursive script that reads "Chris Yuen".

CHRISTOPHER J. YUEN
Planning Director

CJY:pak

Wpwin60/Chris 08 – Testimony – HB 2242 – Relating to Counties - Committee on Economic Development & Business Concerns

Honorable Kyle T. Yamashita, Chair
And Members of the Committee on Economic Development & Business Concerns
COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS CONCERNS
House of Representatives
Page 2
February 25, 2008

cc: Mayor Harry Kim
Corporation Counsel
Mr. Andy Levin
Mr. Ralph Boyea



**The Chamber of
Commerce of Hawaii**

Since 1850

**TESTIMONY TO THE HOUSE COMMITTEE ECONOMIC DEVELOPMENT &
BUSINESS CONCERNS
TUESDAY, FEBRUARY 26, 2008 AT 10:00 A.M.
ROOM 325, STATE CAPITOL**

RE: H.B. 2242 Relating to Counties

Chair Yamashita, Vice Chair Wakai, Members of the Committee:

My name is Christine Camp, Chair of The Chamber of Commerce of Hawaii, Land Use and Transportation Committee. The Chamber of Commerce of Hawaii is strongly opposed to HB 2242.

The Chamber is the largest business organization in Hawaii, representing 1100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. The organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

H.B. No. 2242 proposes to authorize each county to impose upon certain subdividers or developers an affordable housing requirement as a condition for approval of a subdivision or issuance of a building permit.

The bill does not state clearly what the problem is that the legislation is attempting to address. The bill proposes to amend Chapter 46 HRS by adding the following:

1. Authorizing the county to impose affordable housing requirement at subdivision or building permit stage.
2. Defines "Affordable housing unit" as a dwelling unit, the rent or purchase price of which is affordable to a low- or moderate-income family for a minimum period, as determined by the applicable county.
3. Defines "Eligible project" as a project on a discrete parcel of land that will be developed for either of the following:
 - a. A building for a commercial, industrial, resort, or commercial-, industrial-, or resort-emphasis mixed use; or
 - b. A multi-family dwelling.
4. Defines "Eligible subdivision" as a subdivision or consolidation of land that will result in separate parcels zoned for residential, commercial, industrial, resort, or commercial-, industrial-, or resort-emphasis mixed use.

The bill will allow counties to exact, through what is represented as "inclusionary zoning, a yet to be determined affordable housing requirement for any project that seeks zoning, building permit or subdivision.

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Page 2 of 3
The Chamber of Commerce of Hawaii Testimony on HB 2242
February 26, 2008

At the first House hearing on this bill, the House Committee on Human Services and Housing made five (5) findings in approving the bill without amendments. The five (5) findings are listed below with our specific comments.

1. The land use or zoning ordinance should be of general application to all developments to better protect against legal challenges based on the constitutional "taking clause";
2. The best way to achieve specificity and across-the-board application to survive legal attacks is by the adoption of an implementing ordinance, that provides exemptions for true hardship and alternative means of compliance, as well as clear implementation procedures;

We strongly disagree with the finding that it imposing inclusionary zoning requirements for affordable housing on "ALL DEVELOPMENTS" is a good public policy and therefore laws should be passed to shield it from arguments on constitutional taking. Will more government regulations of this nature create an environment that business and employers will want to bring quality jobs to Hawaii? How and where will developers of commercial, industrial, retail, residential and agricultural uses build "affordable housing" units that will be required under this bill?

3. The inclusionary zoning ordinance should specify by income category the economic segments for whom the units must be affordable;

Agreed, but this is not a problem right now in any of the counties.

4. To have maximum effectiveness and meet the inclusion goals, policies should require as many on-site comparable affordable housing units as possible; and

We strongly disagree with this finding as it fails to recognize the fact that certain communities are "over served" with affordable units right now. Encouraging more market units in certain neighborhoods by allowing affordable units to be constructed in areas under served with affordable units would seem to be a more logical approach.

5. The provision of incentives and concessions, such as density bonuses, expedited application and permit processing, and financial incentives are a critical part of a successful inclusionary zoning ordinance."

Agreed, but perhaps the Legislature should consider establishing minimum limits or parameters that the counties must adhere to in developing incentive packages that will truly result in construction of more affordable units.

The bill fails to recognize the different roles of government. Counties are able to pass inclusionary zoning requirements right now and do not need this type of legislation. The focus should be on creating

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The Chamber of Commerce of Hawaii Testimony on HB 2242
February 26, 2008

consistency by developing inclusionary zoning standards among the counties in how the inclusionary zoning laws were applied. For example:

1. Set the income range at 80% to 140% of HUD median income for each county.
2. Set the affordable requirement at 30% of the total number of units with 10% of the 30% built to service the 80% and below income group.
3. Provide incentives for private developers to build affordable rental units (i.e. 80% and below income group).
4. Require each county to include incentives such as density bonuses that are provided when inclusionary zoning is used on a project.
5. Establish a standard formula for all counties that determines the price of the unit should be based on the targeted income group and not a subjective measure of based on the appropriate size house (i.e. number of bedrooms).

It is also inappropriate to allow inclusionary zoning requirements to be imposed at the building permit and subdivision stages of a development. Building permits and subdivision approvals should be viewed as "ministerial" approvals that are intended to protect the public health and safety. It is bad practice to impose these types of exactions at the ministerial permitting of projects. The proposed bill creates too much risk and uncertainty, and also elevates the ministerial approval process (i.e. building permits and subdivision) to a discretionary form of the entitlement process. Why is this good public policy to make the process of building homes longer and less predictive?

We are disappointed that a public policy body has not focused on developing an overarching public policy on Housing in the state. Which we believe to be that the Hawaii housing market lacks sufficient supply of homes at all income groups. It should also identify the three different housing income groups that need to be serviced, with a recognition and acceptance of responsibility of Government to provide for the "public housing" or those units that can only be built with substantial government financial support. The three categories are:

1. Public Housing (+/- 60% and below HUD median income);
2. Affordable/Workforce Housing (up to 140% of HUD median income);
3. Market Housing (140% and up of HUD median income).

Thank you for this opportunity to express our views.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:

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February 25, 2008

TO: Representative Kyle T. Yamashita
Chair, House Committee on Economic Development
& Business Concerns
Hawaii State Capitol, Room 402
Via Email: EDBtestimony@capitol.hawaii.gov

FROM: Gary Slovin

RE H.B. 2242 Relating to Counties
Hearing Date: Tuesday, February 26, 2008 @ 10:00 a.m., Room 325

Dear Chair Yamashita and Members of the Committee on Economic Development & Business Concerns:

I am Gary Slovin testifying on behalf of Wyndham Worldwide. Wyndham Worldwide offers individual consumers and business-to-business customers a broad suite of hospitality products and services across various accommodation alternatives and price ranges through its portfolio of world-renowned brands. Wyndham Worldwide has substantial interests in Hawaii that include Wyndham Vacation Ownership, with its new resort at Waikiki Beach Walk.

Wyndham Worldwide opposes H.B. 2242 which authorizes the counties to impose affordable housing requirements upon certain subdividers or developers as a condition for approval of a subdivision or issuance of a building permit. Affordable housing is a pressing issue for Hawaii; however, the provisions of this bill will not fulfill the intent of this measure. Rather, this bill will serve as a disincentive for any developer to build in Hawaii and will result in higher housing costs and production delays. Reduction of development costs, financial incentives, and removal of unnecessary regulations will help to solve Hawaii's affordable housing problems. For these reasons, we respectfully ask you to hold H.B. 2242.

Thank you very much for your consideration and for this opportunity to submit testimony.