



HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY



KAKAAKO  
KALAELOA

Linda Lingle  
Governor

Jonathan W. Y. Lai  
Chairperson

Anthony J. H. Ching  
Executive Director

677 Ala Moana Boulevard  
Suite 1001  
Honolulu, Hawaii  
96813

Telephone  
(808) 587-2870

Facsimile  
(808) 587-8150

E-Mail  
contact@hcdaweb.org

Web site  
[www.hcdaweb.org](http://www.hcdaweb.org)

STATEMENT OF

ANTHONY J. H. CHING, EXECUTIVE DIRECTOR  
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

BEFORE THE

HOUSE COMMITTEE ON FINANCE

Friday, March 28, 2008

2:00 P.M.

State Capitol, Conference Room 308

**S. B. 2982, H. D. 1 - AUTHORIZING THE RESALE OF RESERVED  
HOUSING UNITS BY THE HAWAII  
COMMUNITY DEVELOPMENT AUTHORITY.**

**Purpose:** S. B. 2982 was an Administration proposal submitted by the Hawaii Community Development Authority (HCDA) which allowed the HCDA to sell a fee simple interest in newly developed reserved housing units and/or administer buyback provisions and resell reserved housing units located within the Kakaako Community Development District (Kakaako) in accordance with applicable sections of the HCDA Administrative Rules. Act 317, Session Laws of Hawaii 2006, prohibits, with certain exceptions, HCDA from transferring a fee simple interest in lands it holds title to in its corporate capacity within Kakaako. This change in HCDA's enabling statute prohibits, among other things, the Authority from selling newly developed reserved housing units developed within the Kakaako Community Development District and/or exercising buyback provisions under its reserved housing rules and then reselling the units to qualified buyers. The HCDA reserved housing program targets Hawaii residents who: (1) earn 140 percent or less of median income, (2) have not owned real property as a principal residence for the prior three years, and (3) desire to be owner-occupants, among other requirements. The buyback restrictions are designed to prevent

“windfall” profits from purchasers of these units, by first offering the unit to HCDA, who in turn can choose to purchase the unit and then resell the unit to another qualified reserved housing buyer.

The House Committee on Human Services & Housing, amended S. B. 2982 by requiring the units sold to **remain affordable in perpetuity** and referred S. B. 2982, H. D. 1, to your Committee on Finance.

**Position:** The HCDA is unable to support the passage of S. B. 2982, H. D. 1, in its current form and prefer that the bill be restored to its original form. However, we offer the following comments on the concept of requiring the units sold to remain affordable in perpetuity.

- HCDA’s Administrative Rules (Chapter 15-22, Subtitle 4, Hawaii Administrative Rules, entitled “The Mauka Area Rules”) must be amended to effectuate the intent of the “in perpetuity” language. The transfer of a reserved housing unit is currently regulated under the terms of HCDA’s Administrative Rules. Those rules provide for a “regulated term[s]” based on the affordability of the person occupying the reserved housing unit. For example, the regulated term for qualified persons with an adjusted household income of 120% to 140% of median income is two (2) years. The exercise by HCDA of its buyback and equity sharing rights are tied into the length of the regulated term. The HCDA Administrative Rules provide that HCDA “may elect to extend the period on a case-by-case basis”, which would appear to allow HCDA to extend the regulated term in perpetuity. Therefore, it is possible under HCDA’s current Administrative Rules that the

regulated term of a reserved housing unit could be extended in perpetuity.

- Despite that language, we believe it prudent that should the Legislature deem it appropriate for HCDA to extend the regulated term of reserved housing units in perpetuity, HCDA's Administrative Rules be amended to make clear that the transfer restrictions will apply in perpetuity, as initial and subsequent buyers of reserved housing should know, in advance, what the length of the regulated term will be.
- Accordingly, we recommend that, as the adoption of revised administrative rules are necessary to effectuate the "in perpetuity" concept, the effective date for this measure should be the date of the adoption of the revised administrative rules by HCDA or 9 months from the adoption of this measure, whichever is earlier.

Thank you for the opportunity to testify on S. B. 2982, H. D. 1.