

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

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March 10, 2008

The Honorable Joseph M. Souki, Chair  
and Members of the Committee on Transportation  
House of Representatives  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Souki and Members:

**Subject: SENATE BILL 3165, SD2  
Relating to Taxation**

The Department of Planning and Permitting's primary concern has been that this bill is **premature and an infringement on home rule**. That said, DPP can **support Section 4** of Senate Bill 3165 SD2. The bill provides for the exemption of the general excise tax (GET) for affordable rental housing units and "community health care facilities" within a "mixed-use transit-oriented joint development." Section 4 of the bill provides that the country surcharge of state tax remains imposed on these types of projects.

Following are the Department's **comments on the rest of the bill**. The department has just started its transit-oriented development (TOD) program. We are eager to develop a toolbox of financial incentives and options to encourage the most successful kinds of TOD projects. We are also aware of concerns about gentrification as an unintended consequence of TOD, and will be looking at this issue carefully. However, financial tools and incentives should be considered broadly and in the context of what the community needs and wants in TOD projects in specific neighborhoods. This bill interferes with the free flow of development ideas offered by the community under a community-based planning effort and does nothing to complement TOD. Rather it is an attempt to dictate and/or impose uses in our TOD's.

Senate Bill 3165 SD2 is also **redundant with existing statutes and confusing**. Section 3 of the bill would amend Section 201H0-36(a), HRS by assigning the Hawaii housing finance and development corporation (HHFDC) the responsibility of certifying that any project with affordable rental housing in a mixed-use transit-oriented joint development project can be exempt from GET. We believe that affordable rental projects, especially those in urban areas already qualify for this exemption under other given eligibility criteria under this section, making the proposed language redundant.

**LATE**

The Honorable Joseph M. Souki, Chair  
and Members of the Committee on Transportation  
House of Representatives  
Re: Senate Bill 3165 SD2  
March 10, 2008  
Page 2

The language is confusing in that it is not clear whether the entire mixed use project is eligible for the tax exemption, or just the affordable housing units. We also note that the proposed definition of "mixed-use transit-oriented joint development project" does not define "transit-oriented," nor "joint development." Can a project next to a bus stop qualify? Can a project ½ mile away from a rapid transit station qualify? What does "joint development" refer to—a partnering of different landowners? A grouping of separate lots of record to be developed under a unified project concept? The participation of a particular government entity?

We find it odd that a bill designed to promote the objectives of HHFDC is opposed by this same agency. A committee report also indicates that this measure is opposed by the Department of Taxation, the Department of Transportation and the Building Industry Association.

While we are aware of the desire to "age in place," the solution to accomplish this is far more complex than simply offering a GT exemption. If the state legislature believes this is a serious public issue, then it goes far beyond future TOD projects, and should be addressed comprehensively. Other actions that should be weighed include: encouraging daily support services for the independent elderly, more senior day-care facilities, new incentives to keep rental units affordable for the long term or in perpetuity; and deep income and re-investment credits for existing affordable rental projects. At the regional scale, state subsidies into the upgrade of infrastructure systems can also help reduce construction costs to individual projects, and help maximize the use of land by increasing infrastructure capacities to accommodate new development. Clearly all these incentives could have financial repercussions on the state's budget, and therefore, should be evaluated simultaneously to determine what actions will make the most difference and at the same time, are financially supportable over the long term.

In summary, we are deeply committed to a good TOD program, and fully aware that state incentives can be a key element to success. Thus we welcome supportive state actions on this important initiative. But this bill is premature, and should be weighed with other state actions that could address affordable housing and social service issues and opportunities associated with development near rapid transit stations.

If you must adopt a GET exemption bill (without affecting current provisions on the county surcharge), consider retaining the exemption for community health care facilities, regardless of their location to transit stations. In addition, serious consideration should be given to questions posed in paragraph 4, above which would hopefully result in further amendment to the bill to clarify intent and to reduce confusion.

**LATE**

The Honorable Joseph M. Souki, Chair  
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House of Representatives  
Re: Senate Bill 3165 SD2  
March 10, 2008  
Page 3

Thank you for this opportunity to comment.

Very truly yours,



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Department of Planning and  
Permitting

HE: jmf  
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