

JAN 28 2009

A BILL FOR AN ACT

RELATING TO KAKAAKO.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to increase the
2 reserved housing requirement for a planned development on a lot
3 of at least one acre in the Kakaako community development
4 district, mauka area. For this type of planned development, at
5 least fifty per cent of the floor area is required to be
6 constructed and made available as reserved housing units for
7 low- and moderate-income families. The floor area countable for
8 establishing the percentage for reserved housing units is the
9 total floor area of every building of the planned development,
10 except the floor area developed for community or special
11 facility uses. The developer is required to divide the reserved
12 housing floor area into the number, types, and sizes of reserved
13 housing units set by the Hawaii community development authority.
14 The legislature intends that the reserved housing requirement
15 apply to every planned development on a lot of at least one
16 acre, even if the developer intends to construct only
17 commercial, industrial, or resort uses on the lot.



1 This Act also establishes a reserved housing requirement
2 for a planned development with multi-family dwelling units on a
3 lot of at least twenty thousand square feet, but less than one
4 acre. For this type of planned development, at least twenty per
5 cent of the multi-family dwelling units to be constructed are
6 required to be set aside for reserved housing. This requirement
7 is the same as that presently existing under rule for a planned
8 development with multi-family dwelling units on a lot of at
9 least twenty thousand square feet.

10 This Act requires the Hawaii community development
11 authority to adopt implementing rules without regard to the
12 notice and public hearing requirements of chapter 91, Hawaii
13 Revised Statutes. The provision is intended to facilitate the
14 adoption of the rules.

15 To prevent a flurry of permit applications for planned
16 developments on lots of at least one acre before adoption of the
17 rules, this Act prohibits the authority from accepting
18 applications until the rules take effect. The legislature finds
19 that this action is necessary to ensure that the public receives
20 the maximum benefit from this Act.

21 With respect to the eligibility requirements of a low- or
22 moderate-income family to purchase or rent a reserved housing



1 unit, the legislature does not intend that this Act cause any
2 change from the requirements under existing statute or rule.
3 The legislature intends that the present eligibility
4 requirements remain the same until amended by statute or rule.

5 SECTION 2. Chapter 206E, Hawaii Revised Statutes, is
6 amended by adding a new section to part II to be appropriately
7 designated and to read as follows:

8 "§206E- Reserved housing requirement for Kakaako mauka
9 area. (a) For the purpose of this section:

10 "Base zoning" means the use, lot area, building area,
11 height, density, bulk, yard, setback, open space, on-site
12 parking and loading, and other zoning standards or other such
13 restrictions imposed upon a development on a particular lot.

14 "Community service use" means any of the following uses:

15 (1) Nursing or convalescent home, nursing facility,
16 assisted living administration, or ancillary assisted
17 living amenities for the elderly or persons with
18 disabilities;

19 (2) Child care, day care, or senior citizen center;

20 (3) Nursery school or kindergarten;

21 (4) Church;

22 (5) Charitable institution or nonprofit organization;



1 (6) Public use; or

2 (7) Consulate.

3 "Countable floor area" of a planned development means the
4 total floor area of every building on the lot of a planned
5 development, except the floor area developed for the following:

6 (1) Community service use; or

7 (2) Special facility use.

8 "Floor area" means the area of the several floors of a
9 building, including basement but not unroofed areas, measured
10 from the exterior faces of the exterior walls or from the center
11 line of party walls separating portions of a building. The
12 floor area of a building or portion thereof not provided with
13 surrounding exterior walls shall be the usable area under the
14 horizontal projection of the roof or floor above, including but
15 not limited to elevator shafts, corridors, and stairways.

16 "Floor area" shall not include the area for parking facilities
17 and loading spaces, driveways and access ways, lanais or
18 balconies of dwelling or lodging units that do not exceed
19 fifteen per cent of the total floor area of the units to which
20 they are appurtenant, attic areas with head room less than seven
21 feet, covered rooftop areas, and rooftop machinery equipment and
22 elevator housings on the top of buildings.



1 "Median income" means the median annual income, adjusted
2 for family size, for households in the city and county of
3 Honolulu as most recently established by the United States
4 Department of Housing and Urban Development for the section 8
5 housing assistance payments program.

6 "Planned development" means a development for which the
7 authority approves a greater density or any other difference
8 from the base zoning applicable to the lot on which the
9 development is situated in exchange for public facilities,
10 amenities, and reserved housing units provided by the developer.

11 "Reserved housing unit" means a multi-family dwelling unit
12 that is developed for the following:

13 (1) Purchase by a family that:

14 (A) Has an income of not more than one hundred forty
15 per cent of the median income; and

16 (B) Complies with other eligibility requirements
17 established by statute or rule; or

18 (2) Rent to a family that:

19 (A) Has an income of not more than one hundred per
20 cent of the median income; and

21 (B) Complies with other eligibility requirements
22 established by statute or rule.



1 A "reserved housing unit" shall be one of the following types of
2 dwelling units: studio with one bathroom; one bedroom with one
3 bathroom; two bedrooms with one and one-half bathrooms; two
4 bedrooms with two bathrooms; three bedrooms with one and one-
5 half bathrooms; three bedrooms with two bathrooms; and four
6 bedrooms with two bathrooms.

7 "Special facility use" means a use in a "special facility"
8 as defined under section 206E-181.

9 (b) At least fifty per cent of the countable floor area of
10 each planned development on a lot of at least one acre shall be
11 developed as and made available for reserved housing units. The
12 developer of the planned development shall divide the floor area
13 required for reserved housing into and construct the number,
14 types, and sizes of reserved housing units set by the authority.
15 The authority shall set the number, types, and sizes of reserved
16 housing units to establish sale prices or rents to be charged
17 that are affordable to families intended to be served by the
18 reserved housing units. The authority also shall set the number
19 of parking stalls to be assigned to the reserved housing units.

20 The countable floor area upon which the reserved housing
21 floor area requirement is calculated shall be the countable
22 floor area in the plan approved by the authority in the planned



1 development permit. The reserved housing floor area requirement
2 shall not be changed if, subsequent to the planned development
3 permit approval, the countable floor area is decreased. If,
4 however, the countable floor area is increased before the
5 issuance of a building permit for a building on the lot, the
6 reserved housing floor area requirement shall be appropriately
7 increased.

8 (c) For a planned development with multi-family dwelling
9 units on a lot of between twenty thousand and 43,559 square
10 feet, at least twenty per cent of the units shall be reserved
11 housing units. The types and sizes of the reserved housing
12 units shall be set by the authority to establish sale prices or
13 rents to be charged that are affordable to families intended to
14 be served by the reserved housing units. The authority also
15 shall set the number of parking stalls to be assigned to the
16 reserved housing units.

17 (d) The reserved housing floor area or units required for
18 a planned development under this section need not be developed
19 on the same lot as the planned development, provided that
20 section 206E-4(18) shall apply.

21 (e) As an alternative to requiring a developer to develop
22 and make available any reserved housing floor area or unit, the



1 authority may allow the developer to make an in lieu cash
2 payment to the authority. The authority shall establish the
3 amount of the cash payment, which may vary depending upon
4 projected gross revenue of the developer from the planned
5 development, amount of reserved housing units to be provided for
6 the planned development, affordability of non-reserved housing
7 units to be provided in the planned development, estimated
8 development cost of the reserved housing units if provided on
9 the same lot as the planned development, or other factors deemed
10 appropriate by the authority.

11 (f) The authority shall adopt rules in accordance with
12 chapter 91 and section 6 of this Act to implement this section."

13 SECTION 3. Section 206E-4, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§206E-4 Powers; generally.** Except as otherwise limited
16 by this chapter, the authority may:

- 17 (1) Sue and be sued;
- 18 (2) Have a seal and alter the same at pleasure;
- 19 (3) Make and execute contracts and all other instruments
20 necessary or convenient for the exercise of its powers
21 and functions under this chapter;



- 1 (4) Make and alter bylaws for its organization and
2 internal management;
- 3 (5) Make rules with respect to its projects, operations,
4 properties, and facilities, which rules shall be in
5 conformance with chapter 91;
- 6 (6) Through its executive director appoint officers,
7 agents, and employees, prescribe their duties and
8 qualifications, and fix their salaries, without regard
9 to chapter 76;
- 10 (7) Prepare or cause to be prepared a community
11 development plan for all designated community
12 development districts;
- 13 (8) Acquire, reacquire, or contract to acquire or
14 reacquire by grant or purchase real, personal, or
15 mixed property or any interest therein; to own, hold,
16 clear, improve, and rehabilitate, and to sell, assign,
17 exchange, transfer, convey, lease, or otherwise
18 dispose of or encumber the same;
- 19 (9) Acquire or reacquire by condemnation real, personal,
20 or mixed property or any interest therein for public
21 facilities, including but not limited to streets,



1 sidewalks, parks, schools, and other public
2 improvements;

3 (10) By itself, or in partnership with qualified persons,
4 acquire, reacquire, construct, reconstruct,
5 rehabilitate, improve, alter, or repair or provide for
6 the construction, reconstruction, improvement,
7 alteration, or repair of any project; own, hold, sell,
8 assign, transfer, convey, exchange, lease, or
9 otherwise dispose of or encumber any project, and in
10 the case of the sale of any project, accept a purchase
11 money mortgage in connection therewith; and repurchase
12 or otherwise acquire any project [~~which~~] that the
13 authority has [~~theretefore~~] sold or otherwise
14 conveyed, transferred, or disposed of;

15 (11) Arrange or contract for the planning, replanning,
16 opening, grading, or closing of streets, roads,
17 roadways, alleys, or other places, or for the
18 furnishing of facilities or for the acquisition of
19 property or property rights or for the furnishing of
20 property or services in connection with a project;

21 (12) Grant options to purchase any project or to renew any
22 lease entered into by it in connection with any of its



1 projects, on such terms and conditions as it deems
2 advisable;

3 (13) Prepare or cause to be prepared plans, specifications,
4 designs, and estimates of costs for the construction,
5 reconstruction, rehabilitation, improvement,
6 alteration, or repair of any project, and from time to
7 time to modify such plans, specifications, designs, or
8 estimates;

9 (14) Provide advisory, consultative, training, and
10 educational services, technical assistance, and advice
11 to any person, partnership, or corporation, either
12 public or private, in order to carry out the purposes
13 of this chapter, and engage the services of
14 consultants on a contractual basis for rendering
15 professional and technical assistance and advice;

16 (15) Procure insurance against any loss in connection with
17 its property and other assets and operations in [~~such~~]
18 amounts and from [~~such~~] insurers as it deems
19 desirable;

20 (16) Contract for and accept gifts or grants in any form
21 from any public agency or from any other source;



1 (17) Do any and all things necessary to carry out its
2 purposes and exercise the powers given and granted in
3 this chapter; and

4 (18) Allow satisfaction of any affordable housing
5 requirements imposed by the authority upon any
6 proposed development project through the construction
7 of reserved housing, as defined in section 206E-101,
8 by a person on land located outside the geographic
9 boundaries of the authority's jurisdiction. Such
10 substituted housing shall be located on the same
11 island as the development project and shall be
12 substantially equal in value to the required reserved
13 housing units that were to be developed on site. The
14 authority shall establish the following priority in
15 the development of reserved housing:

16 (A) Within the community development district~~[7]~~ but
17 not the area prohibited under section
18 206E-31.5(2);

19 (B) Within areas immediately surrounding the
20 community development district;

21 (C) Areas within the central urban core;



1 (D) In outlying areas within the same island as the
2 development project.

3 The Hawaii community development authority shall
4 adopt rules relating to the approval of reserved
5 housing that are developed outside of a community
6 development district. The rules shall include, but
7 are not limited to, the establishment of guidelines to
8 ensure compliance with the above priorities."

9 SECTION 4. Section 206E-33, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§206E-33 Kakaako community development district;**
12 **development guidance policies.** The following shall be the
13 development guidance policies generally governing the
14 authority's action in the Kakaako community development
15 district:

16 (1) Development shall result in a community [~~which~~] that
17 permits an appropriate land mixture of residential,
18 commercial, industrial, and other uses. In view of
19 the innovative nature of the mixed use approach, urban
20 design policies should be established to provide
21 guidelines for the public and private sectors in the
22 proper development of this district; while the



1 authority's development responsibilities apply only to
2 the area within the district, the authority may engage
3 in any studies or coordinative activities permitted in
4 this chapter [~~which~~] that affect areas lying outside
5 the district, where the authority in its discretion
6 decides that those activities are necessary to
7 implement the intent of this chapter. The studies or
8 coordinative activities shall be limited to facility
9 systems, resident and industrial relocation, and other
10 activities with the counties and appropriate state
11 agencies. The authority may engage in construction
12 activities outside of the district; provided that
13 [~~such~~] the construction relates to infrastructure
14 development or residential or business relocation
15 activities; provided further, notwithstanding section
16 206E-7, that such construction shall comply with the
17 general plan, development plan, ordinances, and rules
18 of the county in which the district is located;

- 19 (2) Existing and future industrial uses shall be permitted
20 and encouraged in appropriate locations within the
21 district. No plan or implementation strategy shall
22 prevent continued activity or redevelopment of



- 1 industrial and commercial uses [~~which~~] that meet
2 reasonable performance standards;
- 3 (3) Activities shall be located [~~so as~~] to provide primary
4 reliance on public transportation and pedestrian
5 facilities for internal circulation within the
6 district or designated subareas;
- 7 (4) Major view planes, view corridors, and other
8 environmental elements such as natural light and
9 prevailing winds, shall be preserved through necessary
10 regulation and design review;
- 11 (5) Redevelopment of the district shall be compatible with
12 plans and special districts established for the Hawaii
13 Capital District, and other areas surrounding the
14 Kakaako district;
- 15 (6) Historic sites and culturally significant facilities,
16 settings, or locations shall be preserved;
- 17 (7) Land use activities within the district, where
18 compatible, shall to the greatest possible extent be
19 mixed horizontally, that is, within blocks or other
20 land areas, and vertically, as integral units of
21 multi-purpose structures;



1 (8) Residential development may require a mixture of
2 densities, building types, and configurations in
3 accordance with appropriate urban design guidelines[+]]
4 and the integration both vertically and horizontally
5 of residents of varying incomes, ages, and family
6 groups[; ~~and an increased supply of housing for~~
7 ~~residents of low or moderate income may be required~~
8 ~~as a condition of redevelopment in residential use.];~~
9 provided that the reserved housing requirements of
10 section 206E- shall be imposed upon a planned
11 development when applicable. Residential development
12 shall provide necessary community facilities, such as
13 open space, parks, community meeting places, child
14 care centers, and other services, within and adjacent
15 to residential development;

16 (9) Public facilities within the district shall be
17 planned, located, and developed [~~so as~~] to support the
18 redevelopment policies for the district established by this
19 chapter and plans and rules adopted pursuant to it."

20 SECTION 5. Section 206E-101, Hawaii Revised Statutes, is
21 amended by amending the definition of "reserved housing" to read
22 as follows:



1 "Reserved housing" means [~~housing designated for residents~~
2 ~~in the low or moderate income ranges who meet such~~] a reserved
3 housing unit, as defined under section 206E- , developed and
4 made available for purchase by a family that has a household
5 income of not more than one hundred forty per cent of the area
6 median income and that meets other eligibility requirements as
7 the authority may adopt by rule."

8 SECTION 6. The Hawaii community development authority
9 shall adopt new or amendatory rules to implement this Act
10 without regard to the public notice and public hearing
11 requirements of section 91-3, Hawaii Revised Statutes, or the
12 small business impact review requirements of chapter 201M,
13 Hawaii Revised Statutes. The authority shall adopt the rules
14 before January 1, 2010. Any subsequent amendment of the rules
15 adopted pursuant to this section shall be subject to all
16 applicable provisions of chapter 91 and chapter 201M, Hawaii
17 Revised Statutes.

18 SECTION 7. (a) From the effective date of this Act until
19 the effective date of the new or amendatory rules adopted
20 pursuant to section 6, the Hawaii community development
21 authority shall not accept any planned development permit



1 application for a planned development on a lot of at least one
2 acre.

3 (b) From the effective date of the new or amendatory rules
4 adopted pursuant to section 6, the Hawaii community development
5 may accept any planned development permit application for a
6 planned development on a lot of at least one acre.

7 SECTION 8. From the effective date of this Act until the
8 effective date of the new or amendatory rules adopted pursuant
9 to section 6, the Hawaii community development authority may
10 accept any planned development permit application for a planned
11 development with multi-family dwelling units on a lot of between
12 twenty thousand and 43,559 square feet. The reserved housing
13 unit requirement for this type of planned development shall be
14 subject to the statutes and rules in effect on the date of the
15 permit application.

16 SECTION 9. Any planned development, the planned
17 development permit application for which is pending on the
18 effective date of this Act, shall not be subject to this Act or
19 rules adopted pursuant to section 6. This type of planned
20 development shall be subject to the statutes and rules in effect
21 on the date of the permit application.



1 SECTION 10. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 11. This Act shall take effect upon its approval.

4

INTRODUCED BY: *V. B. D. D. J. L.*



Report Title:

Kakaako Community Development District, Mauka Area; Reserved Housing

Description:

Increases the reserved housing requirement for a planned development on a lot of at least 1 acre in the Kakaako community development district, mauka area.

