
A BILL FOR AN ACT

RELATING TO KAKAAKO.

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

1 SECTION 1. The legislature finds that as we enter the
2 twenty-first century, Honolulu has become the primary urban core
3 for the island of Oahu, with the increasing concentration of
4 density at its downtown and Kakaako center. In Act 153, Session
5 Laws of Hawaii 1976, the legislature created the Hawaii
6 community development authority as the authority in charge of
7 the planning and development of Kakaako, one of the main centers
8 of urban living in Honolulu. This was due to its central
9 location and largely unplanned and underutilized condition at
10 the time. This initiative is all the more important with the
11 proposed rail transit project that is planned to traverse the
12 district and connect it with leeward Oahu and downtown Honolulu
13 on one side and, eventually, Waikiki and the university area on
14 the other side. This central position of Kakaako makes it more
15 imperative that Kakaako continue to play a role in providing
16 adequate housing opportunities for Hawaii's residents,
17 especially for the work force of Honolulu.



1 The opportunities presented by the planning framework in
2 place and the fact that there are but a few large landowners in
3 Kakaako make it imperative that planning incentives continue to
4 be made available for Kakaako to be developed to its fullest
5 potential.

6 The development principles put in place by the authority
7 for large-scale developments in the district allow for better
8 site planning through modifications and flexibility afforded
9 under this program. This also allows for an increase in public
10 amenities including increased open spaces, more recreational
11 opportunities for residents, the nearby availability of
12 community services and amenities, and improved pedestrian
13 circulation. Of equal importance, the authority's development
14 process allows for the provisions of housing for families of
15 varying sizes, income, age, and needs. In keeping with this
16 vision of the future of Kakaako, the purpose of this Act is to
17 provide for increased housing opportunities for Honolulu's work
18 force in the urban core of Honolulu in Kakaako by raising the
19 reserved housing requirements for large scale developments in
20 excess of three acres in size. However, it is not the intent of
21 the legislature to hamper the development of smaller
22 landholdings by increasing reserved housing requirements.



1 Accordingly, the purposes of this Act are to:

- 2 (1) Increase reserved housing requirements for the
- 3 development of large lots of three acres or greater in
- 4 area within the Kakaako mauka area from twenty per
- 5 cent to twenty-five per cent of the countable floor
- 6 area provided in the development;
- 7 (2) Allow smaller developments of less than three acres to
- 8 continue meeting the existing requirement that
- 9 reserved housing units comprise twenty per cent of the
- 10 dwelling units developed; and
- 11 (3) Provide safeguards to prevent a rush to development by
- 12 developers trying to avoid these new requirements.

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

16 "§206E- Reserved housing requirement for Kakaako mauka
17 area. (a) For the purpose of this section:

18 "Base zoning" means the use, lot area, building area,
19 height, density, bulk, yard, setback, open space, on-site
20 parking and loading, and other zoning standards or other
21 restrictions imposed upon a development on a particular lot.

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



- 1 (1) Nursing or convalescent home, nursing facility,
- 2 assisted living administration, or ancillary assisted
- 3 living amenities for the elderly or persons with
- 4 disabilities;
- 5 (2) Child care, day care, or senior citizen center;
- 6 (3) Nursery school or kindergarten;
- 7 (4) Church;
- 8 (5) Charitable institution or nonprofit organization;
- 9 (6) Public use;
- 10 (7) Public utility; or
- 11 (8) Consulate.

12 "Countable floor area" of a development means the total
13 floor area of every building on the lot of a development, except
14 the floor area developed for the following:

- 15 (1) Community service use; or
- 16 (2) Special facility use.

17 "Development" means the construction of a new building or
18 other structure on a lot, the relocation of an existing building
19 on another lot, or the use of a tract of land for a new use, or
20 the enlargement of an existing building or use.

21 "Floor area":



1 (1) Means the total area of the several floors of a
2 building, including basement but not unroofed areas,
3 measured from the exterior faces of the exterior walls
4 or from the center line of party walls separating
5 portions of a building. The floor area of a building
6 or portion thereof not provided with surrounding
7 exterior walls shall be the usable area under the
8 horizontal projection of the roof or floor above,
9 including but not limited to elevator shafts,
10 corridors, and stairways; and

11 (2) Shall not include the area for parking facilities and
12 loading spaces, driveways and access ways, lanais or
13 balconies of dwelling or lodging units that do not
14 exceed fifteen per cent of the total floor area of the
15 units to which they are appurtenant, attic areas with
16 head room less than seven feet, covered rooftop areas,
17 and rooftop machinery equipment and elevator housings
18 on the top of buildings.

19 "Kakaako mauka area" means that portion of the Kakaako
20 community development district, established by section 206E-32,
21 that is bound by King street, Piikoi street from its
22 intersection with King street to Ala Moana boulevard, Ala Moana



1 boulevard, exclusive, from Piikoi street to its intersection
2 with Punchbowl street, and Punchbowl street to its intersection
3 with King street.

4 "Lot" means a duly recorded parcel of land that can be
5 used, developed, or built upon as a unit.

6 "Median income" means the median annual income, adjusted
7 for family size, for households in the city and county of
8 Honolulu as most recently established by the United States
9 Department of Housing and Urban Development for the section 8
10 housing assistance payment program.

11 "Reserved housing unit":

12 (1) Means a multi-family dwelling unit that is developed
13 for the following:

14 (A) Purchase by a family that:

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

17 (ii) Complies with other eligibility requirements
18 established by statute or rule; or

19 (B) Rent to a family that:

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



1 (ii) Complies with other eligibility requirements
2 established by statute or rule.

3 (2) Shall be one of the following types of dwelling units:

4 (A) Studio with one bathroom;

5 (B) One bedroom with one bathroom;

6 (C) Two bedrooms with one bathroom;

7 (D) Two bedrooms with one and one-half bathrooms;

8 (E) Two bedrooms with two bathrooms;

9 (F) Three bedrooms with one and one-half bathrooms;

10 (G) Three bedrooms with two bathrooms; and

11 (H) Four bedrooms with two bathrooms.

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

14 (b) At least twenty-five per cent of the countable floor
15 area of a development on a lot within the Kakaako mauka area
16 shall be developed and made available for reserved housing units
17 if the lot is:

18 (1) Three acres or greater in area; or

19 (2) Less than three acres in area following a subdivision
20 or consolidation and subdivision after June 30, 2009
21 of a lot that was three acres or greater in area
22 before July 1, 2009.



1 The developer of the development shall divide the floor
2 area required for reserved housing into, and construct the
3 number, types, and sizes of reserved housing units set by the
4 authority. The authority shall establish sale prices or rents
5 to be charged that are affordable to families intended to be
6 served by the reserved housing units. The authority shall also
7 set the number of parking stalls to be assigned to the reserved
8 housing units.

9 The countable floor area upon which the reserved housing
10 floor area requirement is calculated shall be based on the plan
11 approved by the authority in the development permit or base zone
12 development permit, as applicable, for the development. The
13 reserved housing floor area requirement shall not be changed if,
14 subsequent to the approval or submission of the plan to the
15 authority, the countable floor area is decreased. If, however,
16 the countable floor area is increased before the issuance of a
17 building permit for a building on the lot, the reserved housing
18 floor area requirement shall be appropriately increased.

19 (c) For a development with dwelling units on a lot of
20 between twenty thousand and 130,679 square feet, at least twenty
21 per cent of the units shall be reserved housing units. The
22 authority shall set the types and sizes of the reserved housing



1 units and establish sale prices or rents to be charged that are
2 affordable to families intended to be served by the reserved
3 housing units. The authority also shall set the number of
4 parking stalls to be assigned to the reserved housing units.

5 (d) The authority shall determine the ratio of reserved
6 housing units that shall be available for sale or for rent;
7 provided that:

8 (1) With regard to the reserved housing units that shall
9 be sold, the authority shall adopt rules pursuant to
10 chapter 91 to ensure that the reserved housing units,
11 for the economic life of the units, shall remain
12 available for resale to persons subject to the same
13 qualifications that were imposed on the original
14 purchasers of the units, including but not limited to
15 resale to other qualified persons or buyback
16 conditions; and

17 (2) The reserved housing units that are made available for
18 rental shall be transferred to the Hawaii public
19 housing authority for rental by the Hawaii public
20 housing authority pursuant to its rules.

21 (e) The authority shall not allow a developer to make a
22 cash payment to the authority in lieu of developing and making



1 available the reserved housing floor area or units required
2 under this section; provided that the authority may adopt rules
3 providing for a contribution in lieu of the provision of
4 reserved housing units, with a fee simple assignment of real
5 property within the Kakaako mauka area.

6 (f) Subject to the rules of the authority, reserved
7 housing units shall be built and made available for occupancy
8 prior to or concurrently with the development of the lot that
9 required the provision of the reserved housings units. The
10 authority shall prohibit the issuance of any certificate of
11 occupancy for any of the other uses before the issuance of the
12 certificate of occupancy for all the required reserved housing
13 floor area or units.

14 (g) Any project that provides more reserved housing units
15 than required under this section may transfer excess housing
16 credits to another project in the Kakaako community development
17 district toward satisfaction of the reserved housing units
18 requirement of that project as follows:

- 19 (1) \$60,000 for a studio with one bathroom of at least
20 four hundred square feet;
21 (2) \$75,000 for a one bedroom with one bathroom of at
22 least five hundred square feet;



- 1 (3) \$105,000 for a two bedroom with one bathroom of at
2 least seven hundred square feet;
- 3 (4) \$112,500 for a two bedroom with one and a half
4 bathroom of at least seven hundred fifty square feet;
- 5 (5) \$120,000 for a two bedroom with two bathrooms of at
6 least eight hundred square feet;
- 7 (6) \$135,000 for a three bedroom with two bathrooms of at
8 least nine hundred square feet; and
- 9 (7) \$150,000 for a four bedroom with two bathrooms of at
10 least one thousand square feet.

11 Alternatively, the developer of a development may sell a
12 credit to another developer of a development in the Kakaako
13 mauka area at a price mutually agreed upon. The developer who
14 purchases the credit may deduct the credit from the reserved
15 housing square footage or units required for the developer's
16 development.

17 The authority shall annually review the amount and price
18 for the transfer of the excess credits and is authorized to
19 increase the amount as deemed necessary. The terms of the
20 reserved housing credits transfer shall be approved by the
21 authority."



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

3 **"§206E-4 Powers; generally.** Except as otherwise limited
4 by this chapter, the authority may:

- 5 (1) Sue and be sued;
- 6 (2) Have a seal and alter the same at pleasure;
- 7 (3) Make and execute contracts and all other instruments
8 necessary or convenient for the exercise of its powers
9 and functions under this chapter;
- 10 (4) Make and alter bylaws for its organization and
11 internal management;
- 12 (5) Make rules with respect to its projects, operations,
13 properties, and facilities, which rules shall be in
14 conformance with chapter 91;
- 15 (6) Through its executive director appoint officers,
16 agents, and employees, prescribe their duties and
17 qualifications, and fix their salaries, without regard
18 to chapter 76;
- 19 (7) Prepare or cause to be prepared a community
20 development plan for all designated community
21 development districts;



- 1 (8) Acquire, reacquire, or contract to acquire or
2 reacquire by grant or purchase real, personal, or
3 mixed property or any interest therein; to own, hold,
4 clear, improve, and rehabilitate, and to sell, assign,
5 exchange, transfer, convey, lease, or otherwise
6 dispose of or encumber the same;
- 7 (9) Acquire or reacquire by condemnation real, personal,
8 or mixed property or any interest therein for public
9 facilities, including but not limited to streets,
10 sidewalks, parks, schools, and other public
11 improvements;
- 12 (10) By itself, or in partnership with qualified persons,
13 acquire, reacquire, construct, reconstruct,
14 rehabilitate, improve, alter, or repair or provide for
15 the construction, reconstruction, improvement,
16 alteration, or repair of any project; own, hold, sell,
17 assign, transfer, convey, exchange, lease, or
18 otherwise dispose of or encumber any project, and in
19 the case of the sale of any project, accept a purchase
20 money mortgage in connection therewith; and repurchase
21 or otherwise acquire any project [~~which~~] that the



- 1 authority has [~~theretofore~~] sold or otherwise
2 conveyed, transferred, or disposed of;
- 3 (11) Arrange or contract for the planning, replanning,
4 opening, grading, or closing of streets, roads,
5 roadways, alleys, or other places, or for the
6 furnishing of facilities or for the acquisition of
7 property or property rights or for the furnishing of
8 property or services in connection with a project;
- 9 (12) Grant options to purchase any project or to renew any
10 lease entered into by it in connection with any of its
11 projects, on such terms and conditions as it deems
12 advisable;
- 13 (13) Prepare or cause to be prepared plans, specifications,
14 designs, and estimates of costs for the construction,
15 reconstruction, rehabilitation, improvement,
16 alteration, or repair of any project, and from time to
17 time to modify [~~such~~] the plans, specifications,
18 designs, or estimates;
- 19 (14) Provide advisory, consultative, training, and
20 educational services, technical assistance, and advice
21 to any person, partnership, or corporation, either
22 public or private, in order to carry out the purposes



- 1 of this chapter, and engage the services of
2 consultants on a contractual basis for rendering
3 professional and technical assistance and advice;
- 4 (15) Procure insurance against any loss in connection with
5 its property and other assets and operations in ~~[such]~~
6 amounts and from ~~[such]~~ insurers as it deems
7 desirable;
- 8 (16) Contract for and accept gifts or grants in any form
9 from any public agency or from any other source;
- 10 (17) Do any and all things necessary to carry out its
11 purposes and exercise the powers given and granted in
12 this chapter; and
- 13 (18) Allow satisfaction of any affordable housing
14 requirements imposed by law or the authority upon any
15 proposed development project through the construction
16 of reserved housing~~[7]~~ units, as defined in section
17 ~~[206E-101,]~~ 206E- , by a person on land located
18 outside the ~~[geographic boundaries of the authority's~~
19 ~~jurisdiction. Such substituted housing shall be~~
20 ~~located on the same island as the development project~~
21 ~~and shall be substantially equal in value to the~~
22 ~~required reserved housing units that were to be~~



1 ~~developed on site. The authority shall establish the~~
2 ~~following priority in the development of reserved~~
3 ~~housing.~~

4 ~~(A) Within the] lot of the proposed development~~
5 ~~project, but within the same community~~
6 ~~development district;~~

7 ~~[(B) Within areas immediately surrounding the~~
8 ~~community development district;~~

9 ~~(C) Areas within the central urban core;~~

10 ~~(D) In outlying areas within the same island as the~~
11 ~~development project.] provided that the~~

12 ~~prohibitions of section 206E-31.5(2) shall apply.~~

13 The Hawaii community development authority shall
14 adopt rules relating to the approval of reserved
15 housing [~~that are~~] units to be developed outside [~~of a~~
16 ~~community development district. The rules shall~~
17 ~~include, but are not limited to, the establishment of~~
18 ~~guidelines to ensure compliance with the above~~
19 ~~priorities.] the lot of a proposed development
20 ~~project, but within the same community development~~
21 ~~district, in accordance with this paragraph."~~~~



1 SECTION 4. Section 206E-15, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§206E-15 Residential projects; cooperative agreements.**

4 ~~[(a)]~~ If the authority deems it desirable to develop a
5 residential project, it may enter into an agreement with
6 qualified persons to construct, maintain, operate, or otherwise
7 dispose of the residential project. Sale, lease, or rental of
8 dwelling units in the project shall be as provided by the rules
9 established by the authority. The authority may enter into
10 cooperative agreements with the Hawaii housing finance and
11 development corporation for the financing, development,
12 construction, sale, lease, or rental of dwelling units and
13 projects.

14 ~~[(b)] The authority may transfer the housing fees collected~~
15 ~~from private residential developments for the provision of~~
16 ~~housing for residents of low or moderate income to the Hawaii~~
17 ~~housing finance and development corporation for the financing,~~
18 ~~development, construction, sale, lease, or rental of such~~
19 ~~housing within or without the community development districts.~~
20 ~~The fees shall be used only for projects owned by the State or~~
21 ~~owned or developed by a qualified nonprofit organization. For~~
22 ~~the purposes of this section, "nonprofit organization" means a~~



1 ~~corporation, association, or other duly chartered organization~~
2 ~~registered with the State, which organization has received~~
3 ~~charitable status under the Internal Revenue Code of 1986, as~~
4 ~~amended.] "~~

5 SECTION 5. Section 206E-33, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§206E-33 Kakaako community development district;
8 development guidance policies. The following shall be the
9 development guidance policies generally governing the
10 authority's action in the Kakaako community development
11 district:

12 (1) Development shall result in a community [~~which~~] that
13 permits an appropriate land mixture of residential,
14 commercial, industrial, and other uses. In view of
15 the innovative nature of the mixed use approach, urban
16 design policies should be established to provide
17 guidelines for the public and private sectors in the
18 proper development of this district; while the
19 authority's development responsibilities apply only to
20 the area within the district, the authority may engage
21 in any studies or coordinative activities permitted in
22 this chapter [~~which~~] that affect areas lying outside



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

15 (2) Existing and future industrial uses shall be permitted
16 and encouraged in appropriate locations within the
17 district. No plan or implementation strategy shall
18 prevent continued activity or redevelopment of
19 industrial and commercial uses [~~which~~] that meet
20 reasonable performance standards;

21 (3) Activities shall be located [~~so as~~] to provide primary
22 reliance on public transportation and pedestrian



- 1 facilities for internal circulation within the
2 district or designated subareas;
- 3 (4) Major view planes, view corridors, and other
4 environmental elements, such as natural light and
5 prevailing winds, shall be preserved through necessary
6 regulation and design review;
- 7 (5) Redevelopment of the district shall be compatible with
8 plans and special districts established for the Hawaii
9 Capital District, and other areas surrounding the
10 Kakaako district;
- 11 (6) Historic sites and culturally significant facilities,
12 settings, or locations shall be preserved;
- 13 (7) Land use activities within the district, where
14 compatible, shall to the greatest possible extent be
15 mixed horizontally, that is, within blocks or other
16 land areas, and vertically, as integral units of
17 multi-purpose structures;
- 18 (8) Residential development may require a mixture of
19 densities, building types, and configurations in
20 accordance with appropriate urban design guidelines [7]
21 and the integration, both vertically and horizontally,
22 of residents of varying incomes, ages, and family



1 groups; [~~and an increased supply of housing for~~
2 ~~residents of low or moderate income may be required as~~
3 ~~a condition of redevelopment in residential use.]~~

4 provided that the reserved housing requirements of
5 section 206E- shall be imposed upon a development

6 when applicable. Residential development shall
7 provide necessary community facilities, such as open
8 space, parks, community meeting places, child care
9 centers, and other services, within and adjacent to
10 residential development; and

- 11 (9) Public facilities within the district shall be
12 planned, located, and developed [~~so as~~] to support the
13 redevelopment policies for the district established by
14 this chapter and plans and rules adopted pursuant to
15 it."

16 SECTION 6. Section 206E-101, Hawaii Revised Statutes, is
17 amended by amending the definition of "reserved housing" to read
18 as follows:

19 "Reserved housing" means [~~housing designated for residents~~
20 ~~in the low or moderate income ranges who meet such]~~ a reserved
21 housing unit, as defined under section 206E- , developed and
22 made available for purchase by a family that has a household



1 income of not more than one hundred forty per cent of the area
2 median income and that meets other eligibility requirements as
3 the authority may adopt by rule."

4 SECTION 7. The Hawaii community development authority
5 shall adopt new or amend existing rules to implement this Act
6 without regard to the public notice and public hearing
7 requirements of section 91-3, Hawaii Revised Statutes, or the
8 small business impact review requirements of chapter 201M,
9 Hawaii Revised Statutes. The authority shall adopt the rules
10 before January 1, 2010. Any subsequent amendment of the rules
11 adopted pursuant to this section shall be subject to all
12 applicable provisions of chapter 91 and chapter 201M, Hawaii
13 Revised Statutes.

14 SECTION 8. (a) From the effective date of this Act until
15 the effective date of the new or amended rules adopted pursuant
16 to section 6 of this Act, the Hawaii community development
17 authority shall not accept any planned development permit or
18 base zone development permit application for a development on a
19 lot that is three acres or greater in area.

20 (b) From the effective date of this Act, the Hawaii
21 community development authority may accept any planned
22 development permit or base zone development permit application



1 for a development on a lot that is less than three acres in
2 area. The application for the development shall be subject to
3 the law and rules in effect on the date of the permit
4 application.

5 SECTION 9. Any planned development permit or base zone
6 permit application for any development that is pending on the
7 effective date of this Act shall not be subject to this Act or
8 rules adopted pursuant to section 7 of this Act. The
9 development shall be subject to the laws and rules in effect on
10 the date of the permit application.

11 SECTION 10. From the effective date of this Act until the
12 effective date of the new or amended rules adopted pursuant to
13 section 7, the Hawaii community development authority shall
14 prohibit the developer of a lot three acres or greater in area
15 in the Kakaako mauka area from submitting:

- 16 (1) A building permit application for the development to
17 the city and county of Honolulu; or
18 (2) A subdivision application to subdivide or consolidate
19 and subdivide any lot or lots that are three acres or
20 greater in area.

21 SECTION 11. (a) Twenty days prior to the convening of the
22 regular session of 2017, the Hawaii community development



1 authority shall submit a report to the legislature, including
2 any proposed legislation, on the status of its reserved housing
3 program in the Kakaako community development district.

4 (b) The report shall set forth:

5 (1) The total number of reserved housing units contained
6 in the Kakaako community development district at the
7 time of the report, broken down with regard to:

8 (A) Size and type of unit;

9 (B) Age group of occupants of the units; and

10 (C) Whether the units were sold or rented;

11 (2) The number of reserved housing units that were
12 provided or are under construction at the time of the
13 report as a result of the requirements of this Act;

14 (3) A recommendation whether the reserved housing
15 requirements contained in this Act should be reduced,
16 remain unchanged, or increased; and

17 (4) Any other information that it deems relevant to its
18 reserved housing program in the Kakaako community
19 development district.

20 SECTION 12. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22 SECTION 13. This Act shall take effect on July 1, 2009.



Report Title:

Kakaako Community Development District, Mauka Area; Reserved Housing

Description:

Increases the reserved housing requirement for a development in the Kakaako community development district, mauka area, for lots 3 acres or more in area to 25% of the countable floor area of the development. Directs HCDA to submit a report prior to the convening of the 2017 regular session on its reserved housing program in the Kakaako community development district. (HB948 HD1)

