



KAMEHAMEHA SCHOOLS

February 10, 2009

TESTIMONY TO THE HOUSE COMMITTEE ON HOUSING AND THE HOUSE COMMITTEE ON WATER, LAND, & OCEAN RESOURCE

By

Sydney W.C.K. Keli'ipuleole
Endowment/ Residential Assets Division
Kamehameha Schools

Hearing Date: Wednesday, February 11, 2009
9:00 a.m., Conference Room 325

RE: HB 948 – Relating to Kaka`ako.

To: Rep. Rida Cabanilla, Chair
Rep. Pono Chong, Vice Chair
Members of the Committee on Housing

Rep. Ken Ito, Chair
Rep. Sharon E. Har, Vice Chair
Members of the Committee on Water, Land, & Ocean Resources

Thank you for the opportunity to comment on HB No. 948.

Kamehameha Schools respectfully opposes this measure.

Kamehameha Schools broadly supports the increasing availability of affordable housing throughout Hawai'i. We believe that the housing crisis in Hawai'i is real and requires immediate action. We also believe it is critically important to implement policies that will result in the construction of new affordable units (or retention of existing supply) and not have the unintended and ironic consequence of inhibiting construction altogether.

Our overarching comment is that provisions in statute, rules and policies concerning affordable housing must be viewed collectively for their contribution to an overall effective policy that promotes actual development of affordable housing. Legislating a prescribed percentage of "affordable" units in specific districts or communities will not accomplish the desired result. To be truly effective, we must find ways to build low-to-gap group housing throughout our state. We believe that a range of strategies will help provide realistic options for many Hawaii residents. We want to engage in constructive dialog with you and key stakeholders and thank you for allowing us to highlight several key issues.

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February 10, 2009

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Rep. Pono Chong, Vice Chair
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Rep. Ken Ito, Chair
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Members of the Committee on Water, Land, & Ocean Resources

Address the Need for Housing Broadly.

The basis for mandating construction of affordable housing should be tied to market residential units constructed and should be considered on a statewide or at least island-wide basis. We would propose a statewide, coordinated effort to set a maximum level, such as 10 percent of residential units constructed with the opportunity for developers to donate land within the state (or island) in lieu of on-site construction. The governing agencies would have discretion to set the appropriate level depending on market conditions and other considerations. This will result in many more units of affordable housing across the state being built. And it will not inhibit, the way a higher mandated threshold might, construction in Kaka'ako.

Provide Meaningful Incentives - Facilitate Free Award of Development Credits and Trade Between Developers.

Credits for developing affordable housing should to be transferable between developers (across the state or the island) and credits should be granted on a pro-rata basis when developed for residents with a lower median income than required by law or when committed to a longer than statutory period. This will promote construction. Without these kinds of policies, developers find it economically infeasible to construct projects even when land is free or already paid for.

For example, we believe that units designed and offered to residents with income at 70 percent of the average median income should be given double the credits as those offered to residents at 140 percent of average median income. This type of a program serves two important needs: 1) it encourages developers to target more than just the 140% median income populace, thereby creating broader access to affordable housing units and 2) it helps target housing opportunities to greater at risk income categories.

Similarly, the state should be concerned with the preservation of existing affordable housing stock as much as creating new housing stock. Currently, most ordinances require new reserved housing units to remain in the affordable housing pool for a period of 10 years. Since a unit removed from the affordable housing pool exacerbates the need for new units to be constructed, investors and developers should be incentivized to preserve affordable units. One easy strategy is to give twice the credit for an affordable unit dedicated for a 20-year period than a unit dedicated for a 10-year period. Another option is to create legislation that allows owners of existing, older housing product to upgrade and then income restrict their units and sell credit to developers of new housing.

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This provides the dual benefit of improving older housing stock that is increasingly in disrepair and preserving affordable housing stock for longer periods, thereby reducing the need to build replacement housing as redevelopment occurs in older communities.

Provide Flexibility.

In the Kaka'ako area, which is so close to many jobs in the Honolulu urban core, the HCDA should be given the flexibility to allow for fewer or even zero parking spaces per unit to lower costs. Some cities set maximum parking limits to encourage more people to use other mobility methods. Rental housing can also provide access to many who might not otherwise be able to afford home ownership.

While many jurisdictions recognize and provide credit for rental housing, they often punish developers of rental housing by establishing lower income threshold exist relative to "for sale" housing. This restricts adding viable units to the market. Across the island and the state such flexibility can promote the development of true affordable housing.

The worldwide economic turmoil has put Hawai'i in a precarious position financially. We commend the State Legislature for seeking ways to stimulate economic activity in our state that also provides housing options for more of our residents and families. Unfortunately, this measure will not accomplish that objective.



WATERHOUSE

February 9, 2009

Representative Rida Cabanilla, Chair
Representative Pono Chong, Vice Chair
Committee on Housing

Representative Ken Ito, Chair
Representative Sharon E. Har, Vice Chair
Committee on Water, Land & Ocean Resources
State Capitol, Room 309
Honolulu, HI 96813

RE: HB948, Relating to Kakaako

Dear Chairs Cabanilla and Ito, and Vice Chairs Chong and Har and Members of both Committees:

As the President of Waterhouse, Inc., I am respectfully writing to voice our strong concern over **HB948** Relating to Kakaako. To be clear, we oppose any new, more onerous reserve housing requirements for Kakaako but support this bill's recognition of small landowners who own lots of three-acres or less by exempting them from the impact of this bill.

Waterhouse is a small land and business owner in Kakaako and has been for more than 35 years. We currently lease our Kakaako commercial real estate to over 50 businesses. We are also active members of the Kakaako Improvement Association. In short, we are and have been long-time stakeholders in Kakaako and we hope to one day redevelop our small property.

While we support affordable housing in Kakaako, we **oppose** any changes to the existing reserved housing requirements for small landowners on the grounds that the additional reserved housing requirement will do nothing more than effectively place a moratorium on redevelopment in Kakaako. As I hope you can appreciate, any redevelopment by a small landowner will be an enormous undertaking requiring great risk. There must be reasonable inducement to take on such risk. Without exempting small landowners who own three-acres or less, this bill would further erode what little inducement there already is for us to redevelop our property. We support affordable housing in Kakaako, but there must be a reasonable balance. The reality for the small landowner is that without sufficient incentive to redevelop, we will not risk the capital to do so and without redevelopment the State will not accomplish its desired affordable housing goals.

Representative Rida Cabanilla, Chair
Representative Pono Chong, Vice Chair
Committee on Housing

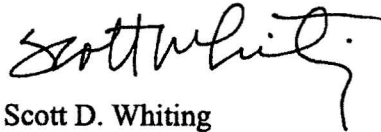
Representative Ken Ito, Chair
Representative Sharon E. Har, Vice Chair
Committee on Water, Land & Ocean Resources
February 9, 2009
Page 2 of 2

In spite of these realities, we support the fact that, as written, small landowners of three-acres or less would be exempted from these more stringent requirements.

At a time when the Federal Government is passing legislation authorizing the spending of hundreds of billions of dollars to stimulate the economy, this bill represents a significant step away from stimulus. Now is not the time for the legislature to provide disincentives to private development, particularly to small landowners.

We respectfully urge the Committee to recognize the catastrophic impact any changes to the current redevelopment requirements would have on small landowners in Kakaako.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott D. Whiting". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Scott D. Whiting
President



General Growth Properties, Inc.

Representative Ken Ito, Chair
Representative Sharon Har, Vice Chair
House Committee on Water, Land & Ocean Resources

Representative Rida Cabanilla, Chair
Representative Pono Chong, Vice Chair
House Committee on Housing

Wednesday, February 11, 2009; 9:00 a.m.
Conference Room 325

RE: HB 948 & HB 1532 – Relating to Kaka`ako - Testimony in Opposition

Aloha Chairs Ito and Cabanilla, Vice Chairs Har and Chong and Members of the Committees:

My name is Jan Yokota, Vice President- Development of the Hawai`i Region for General Growth Properties. General Growth Properties **opposes HB 948 & HB 1532.**

The purpose of these bills is to increase the reserved housing requirement for a planned development in the Kaka`ako Community Development District Mauka Area. Additionally, these bills would require reserved housing in every planned development even if only commercial, industrial or resort uses are intended.

General Growth agrees that there is a significant need for affordable housing in Hawai`i. However, these bills do not facilitate the development of reserved housing in Kaka`ako. It is very difficult and risky to build residential projects because of high construction costs, inflated land prices and economic uncertainties. In today's market, development is extremely challenging and numerous projects have been halted in the midst of construction. With the loss of government subsidies and tax credits for the development of affordable housing and the serious challenges facing the development of market rate housing, it is essential that the State, counties and developers work together to formulate a practical and realistic program to provide reserved and affordable housing. This could include incentives that would work towards minimizing the high development costs involved. Such incentives may include density and height bonuses, relaxed parking requirements and expedited permitting processes.

Finally, we respectfully request that the reserved housing requirement not be applied to commercial, industrial and resort projects. Adding such a requirement to these projects may make these projects financially infeasible.

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In summary, while General Growth Properties agrees that there is a significant need for affordable housing, we believe that the creation of incentives that would work towards minimizing the high development costs is the key to facilitating the development of affordable housing. Therefore, we strongly urge the committee to defer action on HB 948 & HB 1532 to allow an opportunity to work collaboratively with you on these incentives. Thank you.

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HAWAII COMMUNITY
DEVELOPMENT AUTHORITY



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STATEMENT OF
ANTHONY J. H. CHING, EXECUTIVE DIRECTOR
HAWAII COMMUNITY DEVELOPMENT AUTHORITY
BEFORE THE
HOUSE COMMITTEE ON WATER, LAND, & OCEAN RESOURCES
AND
HOUSE COMMITTEE ON HOUSING
Wednesday, February 11, 2009
9:00 A.M.
State Capitol, Conference Room 309
H. B. 948 - RELATING TO KAKAAKO.

Purpose: Amongst other requirements, this proposal increases the reserved housing requirement for planned development on lots greater than three acres to twenty-five percent of floor space in the Kakaako Community Development District Mauka Area.

Position: The Hawaii Community Development Authority (“HCDA”) agrees that the supply of affordable housing units in Honolulu is severely lacking; however, we offer the following comments and amendments with respect to the construction and specifications of this legislative proposal.

Current Planned Development Regulations. Existing planned development permits administered by the HCDA apply to lots of 10,000 square feet or more with a lot size of 80,000 square feet receiving the full benefits of a planned development. For consistency and maximum effect, the proposal should close any loophole created between lots of 80,000 square feet and three acres and subsequently for lots between 20,000 and 80,000 square feet as landowners could subdivide a three-acre lot in order to avoid the requirements of this measure.

Master Planned Area [see Page 7, Line 14]. This subsection increases the reserved housing requirement to twenty-five percent of the countable floor area for any planned development with a height of more than 45 feet and a floor area that equals or exceeds 1.5 times the area for development located within a “master

planned area”. A master planned area is defined as “any area for which the Authority has approved a master plan application under Title 15, Chapter 22, of the Hawaii Administrative Rules”.

The application of this subsection raises the specter of a legal challenge as it would appear to invalidate previous action duly taken by the HCDA. Recently, the HCDA approved the Master Plan Permit application of Victoria Ward, Limited (a wholly owned subsidiary of General Growth Properties, Inc.) in accordance with duly promulgated administrative rules. The Decision and Order approving the Master Plan Permit application requires that (as specified in the Authority’s administrative rules) twenty percent of the residential units to be developed within the “Master Planned Area” be set aside for reserved housing. The specification of this legislative proposal that a requirement that was previously duly ordered be retroactively increased raises the specter of an improper “taking”.

Mixed-Use Projects in the Kakaako Mauka. To promote efficiency in urban design and appropriate density within the urban core, planned development projects on lots of at least 10,000 square feet within Kakaako Mauka allow a combination including residential, commercial and/or industrial uses (i.e., MUZ-R and MUZ-C). Single use commercial and industrial projects are not allowed on planned development lots, though single use residential is allowed.

Residential and industrial activities of any size or consequence are not generally seen as compatible uses. The legislation establishing the HCDA intended to both support the development of increased residential density in the urban core while maintaining or preserving existing industrial/commercial activities within specific areas of Kakaako. If this proposal is adopted in its current form, the critical need for reserved and market housing in urban Honolulu will likely drive land values up and preclude the maintenance or development of industrial activities and projects of any consequence. Also, placing reserved housing requirement on industrial development could inhibit new industrial development in Kakaako which runs contrary to the spirit and intent of HCDA’s enabling statute. If the proposal, as an unintended consequence, does not seek to further inhibit the continuation of industrial activities within Kakaako Mauka, the proposal should be amended to exclude industrial development projects from the reserved housing requirement.

The twenty-five percent requirement applies to the “countable floor area” of a building and the proposed definition of countable floor area is problematic [see Page 5, Line 9]. In the proposal, basements, elevator shafts, corridors, and walkways (typically associated with circulation) are counted and included in the definition of “floor area”. We suggest that the reserved housing requirement instead be based on the *residential* floor area of a development, excluding area used for parking, loading, common areas, basement, stairways, hallways, driveways and access ways, lanais or balconies of dwelling units that do

not exceed fifteen percent of the total floor area of the appurtenant unit, attic areas with headroom of less than seven feet, covered rooftop areas, and rooftop machinery equipment and elevator housings on the top of buildings.

Transfer of Excess Housing Credits [see, Page 9, Line 15]. This subsection establishes a mechanism or a “bank” to transfer credits for any excess reserved housing units produced by a developer to another project in Kakaako via an exchange of cash. The provision is flawed and counter intuitive and should be deleted in its entirety for the following reasons.

1. Page 9, Line 11, Section (e) specifies that the “The authority shall not allow the developer of the planned development to make a cash payment to the authority in lieu of developing and making available the reserved housing floor area or units required under this section.” This prohibition would contradict the proposal that a development may “substitute” payment to another developer for units that are “owed” by that developer.
2. Page 10, Lines 1-14, Sections (1-7) proposes a rate schedule which runs contrary to conventional wisdom. Without including costs typically associated with land acquisition, construction costs are currently at \$300 per square foot regardless of their status as primary or excess units. Setting a transfer of credit fee schedule that is substantially less than the construction cost of a residential unit does not make sense.
3. Even if the rate schedule were amended to more accurately reflect the real cost of construction, the proposed allowance that a developer be allowed to transfer any or all of the reserved housing requirement to another site runs contrary to the principle that planned developments should primarily be inclusionary and include both reserved and market units.
4. This provision only creates a market for a developer with excess units and does not in and of itself increase the supply of reserved housing units developed in Kakaako Mauka.
5. In addition to the reasons cited above, the logistics (staff and record keeping) of establishing such a transfer of credit “bank” would not be worth the effort.

Reference to Area Median Income and Median Income [see Pages 6 and 19]. For consistency, references within the proposal should reference either area median income or median income.

Moratorium on accepting applications for planned developments on a lot of at least three acres [see Page 20, Line 11]. This section prohibits the HCDA from accepting any applications for planned development projects on lots of at least three acres until rules are adopted. While it is clearly within the purview of the Legislature to establish any moratorium or prohibition on accepting applications for planned developments, this would appear to contradict conventional wisdom that during the existing “down” economy, development projects should be encouraged to create economic activities rather than imposing a moratorium on development.

Thank you for the opportunity to offer our comments on this proposal.



HB 948 Relating to Kakaako
House Committee on Housing
Committee on Water, Land, & Ocean Resources

February 11, 2009
325

9:00 am

Room

The Office of Hawaiian Affairs supports the purpose and intent of HB 948.

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.

OHA recognizes housing is the highest cost item for our families and more needs to be done to address the affordable housing issue or our families will continue to move down the economic and social ladder.

Urban cores need the affordable units because the jobs are there and until neighborhoods are built, instead of subdivisions, families need to be where the jobs are.

Policies addressing the need to develop and create partners to do affordable rentals and affordable for sale units timely in the urban cores need to be adopted.

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 nui loa for the opportunity to provide this testimony.