

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE
MAYOR



DAVID K. TANOUÉ
DIRECTOR

JIRO A. SUMADA
DEPUTY DIRECTOR

March 21, 2012

The Honorable Rida T.R. Cabanilla, Chair
and Members of the Committee on Housing
The Honorable Faye P. Hanohano, Chair
and Members of the Committee on Hawaiian
Affairs
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chairs Cabanilla, Hanohano, and Committee Members:

Subject: Senate Bill No. 3025, SD2
Relating to Affordable Housing Credits

The Department of Planning and Permitting **opposes** Senate Bill No. 3025, SD2, which would amend Section 46-15, HRS, regarding housing credits awarded to the Department of Hawaiian Home Lands (DHHL) under the county Affordable Housing (AH) programs. Specifically, this bill further limits the county's requirements on these credits, and thus affects the county's ability to make available affordable housing units for Oahu's residents. We are concerned that "the intent of this measure is to increase the potential value of the credits", seemingly, at the cost of the viability of the program itself.

As stated in our previous testimony on this bill, we are not opposed to the DHHL Homestead Program. The City will issue AH credits to the DHHL as required under Section 46-15.1(b), HRS. These credits will be applied as permitted under our program. The SD2 version of this bill attempts to address some of the income concerns previously raised by our department; however, the bill still falls short in addressing the equitable treatment of all residents. Our mission is to be able to provide AH opportunities to all of Oahu's residents, regardless of racial lineage.

The current version of the bill would allow developers with a county AH requirement to use DHHL credits to fulfill their entire obligation. As of March 19, 2012, there are only a few active projects that have an outstanding AH obligation that would need to be addressed within the next five years; one project between Pearl City and Hawaii Kai; one project on Windward Oahu; and two to three projects in Kapolei. Based on the potential amount of credits that could be awarded to DHHL, Oahu residents of non-Hawaiian ancestry might not have any opportunity for an AH unit offered under our program. This in turn, would only worsen Oahu's AH inventory situation.

The Honorable Rida T.R. Cabanilla, Chair
and Members of the Committee on Housing
The Honorable Faye P. Hanohano, Chair
and Members of the Committee on Hawaiian
Affairs

Re: Senate Bill No. 3025, SD2

March 21, 2012

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Please note that there are other county programs that already support the Hawaiian Homestead Program, for which property tax payers pay the cost. DHHL projects are exempt from county planning and zoning policies and controls, including all associated fees. Further, they can exempt themselves from subdivision requirements. These exemptions are extended to DHHL's commercial lessees, and provide a significant economic advantage over other commercial developments. Homesteaders pay a fixed property tax of \$300 a year, regardless of land and improvement values. Older homestead homes that qualify as "dilapidated" are completely exempt from building permit fees. On top of these financial and regulatory exemptions, Senate Bill No. 3025, SD2 would effectively transform our affordable housing program for all eligible families, into one program just for DHHL beneficiaries, regardless of house price and family income.

If the other counties are in a similar situation as Honolulu, then there is a real possibility that no AH units would be available within the State in the near future, as DHHL could claim credit to hundreds of units. This may not be the message the State legislature intends to convey to the residents of Hawaii. The deliberate inflation of DHHL credits adds no affordable housing. It just makes a currently bad situation, worse.

Our affordable housing program is fair, equitable, and reasonable. It has been crafted with the developers' needs in mind, as well as the goal of creating diverse, fulfilling, and equitable communities. It has been developed over many years of administering the program. We continue to welcome DHHL to participate in our program, as do other successful housing developers.

Senate Bill No. 3025, SD2 would create uncertainty in the future of our affordable housing program. For the above reasons, please hold this bill. Thank you for this opportunity to comment on this important matter.

Very truly yours,



David K. Tanoue, Director
Department of Planning and Permitting

DKT:jmf
sb3025sd2-AffordHousingCredits-ks.doc

Bernard P. Carvalho, Jr.
Mayor

Gary K. Heu
Managing Director



Eugene K. Jimenez
Housing Director

KAUAI COUNTY HOUSING AGENCY

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Lihu'e Hawai'i 96766
Tele. (808) 241-4444 FAX (808) 241-5118

March 19, 2012

Rep. Rida T. R. Cabanilla, Chair, Committee on Housing
and Committee Members
Rep. Faye P. Hanohano, Chair, Committee on Hawaiian Affairs
and Committee Members
The House of Representatives
The Twenty-Sixth Legislature
Regular Session of 2012

SUBJECT: TESTIMONY IN OPPOSITION TO SB3025 SD2
RELATING TO AFFORDABLE HOUSING CREDITS
HEARING: HSG/HAW 03/21/12 10:00AM Conference Room 325

The County of Kaua'i **strongly opposes** Senate Bill No. 3025, SD 2, which would impair the County's obligation to issue affordable housing credits to provide for the general welfare of the resident workforce. We oppose this measure for the following reasons:

1. The transfer of DHHL credits to a developer in satisfaction of affordable housing requirements would circumvent the County's workforce housing policy (Ordinance No. 860). Ordinance No. 860 imposes requirements on a developer concerning the number of affordable housing units, location, type and class, time of production, and income qualification. SB3025 SD2 nullifies these requirements, as far as credits issued to DHHL, and also requires counties to apply credits in full satisfaction of all county requirements on the developer.
2. SB3025 SD2 requires the County to issue housing credits to DHHL for each single family residence, multi-family unit, other residential unit or vacant lot developed. If, for example, vacant lots were developed on DHHL land at less cost, there is more economic incentive to developers to purchase credits from DHHL than to produce workforce housing elsewhere. As there is no limit to the amount of housing credits that DHHL can request, the potential exists that a developer could elect to satisfy all of their workforce housing obligations solely through the purchase of credits from DHHL. This outcome would result in workforce



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and Committee Members

Rep. Faye P. Hanohano, Chair, Committee on Hawaiian Affairs
and Committee Members

March 19, 2012

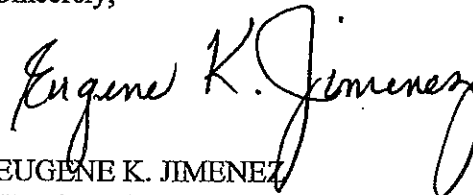
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housing only being developed on DHHL lands. Affordable housing opportunities for the majority of the population would go unmet. As applied, we believe SB3025 SD2 is not racially neutral.

3. Given the scenario just described, we do not view SB3025 SD2 as a path to provide workforce housing that is fair and equitable for the citizens of Kaua'i. We should point out that we are not opposed to the DHHL Homestead program. In fact, we are proud of the fact that Ordinance No. 860 was crafted to accommodate the issuance of housing credits for housing units produced on state government lands. Under Section 9.4 of the Ordinance, DHHL may request the issuance of credits on a one-for-one basis for housing units provided to satisfy up to 25% of a developer's total workforce housing requirement. The 25% cap is intended to regulate the number of credits that can be issued so that the entire resident population benefits from the impacts of large scale residential and resort development. The 25% cap reduces the potential for conflicts to arise with federal fair housing law, 42 U.S.C.A. § 3604, as it relates to discrimination in the sale or rental of housing and other prohibited practices.
4. HRS 46-15.1(b) states that each county shall issue credits with respect to "existing and future Hawaiian home lands projects" upon request for such credits by DHHL. It is unclear how this affects developments which have been in the development stage for a number of years. Without further clarification, under SB3025 SD2, developers could purchase and effectively "land bank" credits issued by DHHL to fulfill future affordable housing obligations indefinitely, without having to address workforce housing for the entire population.

For the above reasons, please hold SB3025 SD2.

Sincerely,



EUGENE K. JIMENEZ
Housing Director.

COUNTY COUNCIL

Jay Furfaro, Chair
JoAnn A. Yukimura, Vice Chair
Tim Bynum
Dickie Chang
KipuKai Kualii
Nadine K. Nakamura
Mel Rapozo



OFFICE OF THE COUNTY CLERK

Ricky Watanabe, County Clerk
Jade K. Fountain-Tanigawa, Deputy County Clerk

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Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

March 20, 2012

TESTIMONY OF JOANN A. YUKIMURA
COUNCIL VICE CHAIR, KAUAI COUNTY COUNCIL
ON

S.B. 3025, SD2, RELATING TO AFFORDABLE HOUSING CREDITS
Committee on Housing
Committee on Hawaiian Affairs
Wednesday, March 21, 2012
10:00 A.M.
Conference Room 325

Dear Chair Cabanilla, Chair Hanohano, and Committee Members:

Mahalo for the opportunity to submit testimony in opposition to S.B. 3025, S.D. 2 Relating to Affordable Housing Credits. I am providing this testimony in my individual capacity as a member of the Kaua'i County Council.

I am opposed to S.B. 3025, S.D. 2 because, as currently drafted, it will allow developers to purchase and effectively "land bank" credits issued by DHHL to fulfill future affordable housing obligations indefinitely, without having to address workforce housing for the entire population.

While I am in favor of DHHL developing housing, it should not be at the expense of the affordable housing for the rest of our island community. This legislation, which potentially impacts the housing policies for all counties, should be further deliberated before it is brought to a vote by this body.

For the foregoing reasons, I oppose S.B. 3025, S.D. 2, and I ask that the bill be held by your committees.

Sincerely,

JOANN A. YUKIMURA
Council Vice Chair, Kaua'i County Council

Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
G. Riki Hokama
Michael P. Victorino
Mike White



Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

March 19, 2012

TO: The Honorable Rida T.R. Cabanilla, Chair
House Committee on Housing
The Honorable Faye P. Hanohano, Chair
House Committee on Hawaiian Affairs,

FROM: Danny A. Mateo
Council Chair

SUBJECT: **HEARING OF MARCH 21, 2012; TESTIMONY IN OPPOSITION TO SB 3025, SD 2, RELATING TO AFFORDABLE HOUSING CREDITS**

Thank you for the opportunity to testify in opposition to this important measure. The purpose of this measure is to amend Section 46-15.1(b), Hawaii Revised Statutes (HRS), to clarify that affordable housing credits shall be issued for each single-family residence, multi-family unit, other residential unit, or if allowed under the county's affordable housing programs, vacant lot, developed by the Department of Hawaiian Home Lands ("DHHL") under specified conditions and requirements. Such housing credits shall be freely transferable. The measure also prohibits county limitations relating to the application of the credits toward affordable housing obligations.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I oppose this measure for the following reasons:

1. This measure strips the counties' authority to effectively restrict or condition affordable housing credits. It creates a mechanism that would enable the DHHL to transfer or assign affordable housing credits to developers of luxury homes without restriction.
2. The transfer of DHHL credits to a private developer in satisfaction of the developer's affordable housing obligations imposed by the county would circumvent Maui County's residential workforce housing policy. The measure would also undo any control the county might hope to exert through its conditional zoning or subdivision process in dictating how affordable units are to be provided, in violation of home rule principles. None of the conditions that a county may impose with respect to timing for construction of affordable housing, types of affordable units, or even the community plan area in which the housing is to be constructed would be enforceable.

For the foregoing reasons, I oppose this measure.

Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
G. Riki Hokama
Michael P. Victorino
Mike White



Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
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200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
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March 19, 2012

TO: Honorable Rida T.R. Cabinilla, Chair
House Committee on Housing

Honorable Faye P. Hanohano, Chair
House Committee on Hawaiian Affairs

FROM: Joseph Pontanilla, Council Vice-Chair

A handwritten signature in cursive script, appearing to read "Joseph Pontanilla".

DATE: Wednesday March 21, 2012

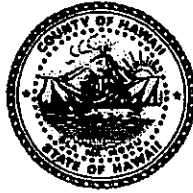
SUBJECT: **OPPOSITION TO SB 3025, SD2, RELATING TO AFFORDABLE HOUSING CREDITS**

Thank you for the opportunity to testify in opposition of this measure. I provide this testimony as an individual member of the Maui County Council.

I oppose SB 3025, SD2 for the reasons cited in testimony submitted by Maui County Council Chair Danny A. Mateo and urge you to oppose this measure.

12:03:20:kbm/JP: SB 3025 SD2

William P. Kenoi
Mayor



Stephen J. Arnett
Housing Administrator

Niniau K. Simmons
Assistant Housing Administrator

County of Hawai'i

Office of Housing and Community Development

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March 20, 2012

Honorable Rida T.R. Cabanilla, Chair,
Honorable Ito, Vice Chair
and Committee Members
Committee on Housing

Twenty-Sixth Legislature
Regular Session of 2012

SUBJECT: Senate Bill 3025 SD2
Hearing Date: 03-22-2012
Time: 10:00 AM
Conference Room: 325

While the Office of Housing and Community Development ("OHCD") supports the Department of Hawaiian Home Lands ("Department") in their efforts to provide affordable housing, the OHCD opposes Senate Bill 3025 SD2 for the following reasons:


- *Disparate Impact:* As a recipient of federal funds, the OHCD is required to take affirmative steps to ensure programs and activities benefit all of our ethnic populations. Implementation of the bill, as amended, would result in a disparate impact by benefiting one (1) specific ethnic population which, according to our discussions with the U. S. Department of Housing and Urban Development, would trigger a violation of the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, and Section 504 of the Rehabilitation Act of 1973.
- *Proximity:* Under Chapter 11 of Hawai'i County Code, affordable housing credits may only be applied within 15 miles of the project from where the credits were generated. This ensures an inventory of affordable units in proximity to expanding development and sources of employment. According to Hawai'i Housing Planning Study, 2011, those who plan to move out of state regarded the length of commute times (46%) as a major factor contributing to the decision to leave the state. By not being accountable to any type of location standard, such as the radius requirement, the Department could conceivably develop affordable housing in remote locations, which would not benefit those who have to commute long distances to places of employment.



- *Eligibility:* The bill, as amended, allows the Department to, in some cases, earn affordable housing credits without verification of income eligibility. The Department would have flexibility to serve its target population, regardless of income level, and earn “affordable housing” credits without a reasonable standard of accountability. By not establishing affordable pricing in conjunction with affordable housing credits the Department expects to earn, those that are in most need for housing could continue to go unserved.

The OHCD suggests revised language that is more in alignment with the intent of our housing code, in effort to provide housing for all of our populations. As such, the OHCD respectfully requests the Committee to oppose SB 3025 SD2 in its current form, until such time that the Department is able to construct legislation that maintains a higher level of accountability as it relates to affordable housing.

Thank you for your careful consideration of the negative impacts of this bill.


for Stephen J. Arnett
Housing Administrator



March 19, 2012

The Honorable Rida Cabanilla, Chair
and Members of the Committee on Housing
The Honorable Faye Hanohano, Chair
and Members of the Committee on Hawaiian Affairs
House of Representatives
State of Hawaii
State Capitol
Honolulu, Hawaii 96813

Dear Chairs Cabanilla and Hanohano, and Committee Members:

Subject: Senate Bill No. 3025, S.D.2
Relating to Affording Housing Credits

Thank you for this opportunity to submit testimony in support of SB 3025, S.D.2. This bill will provide clarifications to 46-15.1 (b), HRS. SB 3025, S.D.2 will provide a sustainable source of private sector funding to the Department of Hawaiian Home Lands, which DHHL can then use to develop homesteads for its beneficiaries. This source of private funding is important to DHHL as it looks to replace diminishing government funding.

Furthermore, SB 3025, S.D.2 is also important to the State of Hawaii's private sector construction industry as it provides the private sector with an alternative method to satisfy county imposed affordable housing requirements. If passed the resulting affordable housing credits can be used to jump start long stalled developments and create job opportunities for Hawaii's unemployed construction workers.

I respectfully encourage the Committee to approve Bill No. 3025, S.D.2.

Best regards,

A handwritten signature in black ink, appearing to read "Everett Dowling", is written over the typed name.

Everett Dowling
President