

SB 1224

Report Title:

RELATING TO LAND USE

Measure Title:

Requires the counties to allow the construction of accessory dwelling units on lots where a residential dwelling unit is permitted.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR



JIRO A. SUMADA
ACTING DIRECTOR

February 7, 2013

The Honorable Will Espero, Chair
and Members of the Committee on Public
Safety, Intergovernmental and Military Affairs
Hawaii State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Senator Espero and Members:

Subject: **Senate Bill No. 1224**
Relating to Land Use

The Department of Planning and Permitting **opposes Senate Bill No. 1224 as an** unwarranted infringement on county zoning authority established by Section 46-4, Hawaii Revised Statutes. The bill would require each county to adopt "reasonable standards" to allow the construction of "one single-family dwelling unit and one accessory dwelling unit" on any lot where a residential dwelling unit is permitted. The bill would define an "accessory dwelling unit" as "a separate additional dwelling unit, including separate kitchen, bedroom, and bathroom facilities, attached or detached from the primary residential dwelling unit." Occupancy of such an accessory unit would not be limited to family members; rather it would be available to anyone. Therefore, State law would mandate that the counties allow an additional dwelling unit on any residential lot of any size—regardless of that lot's underlying infrastructure. The bill thus has the potential to cause severe adverse impacts on residential areas, including negative effects on sewers, traffic, roadways, parking, water, public parks, and schools.

The City and County of Honolulu ("City") already has in place provisions to encourage housing development. For example, the City's zoning code, the Land Use Ordinance (LUO) (Section 21-8.20-1), allows ohana dwellings in areas which have been determined by the appropriate government agencies to have adequate public facilities to accommodate such dwellings. Also, pursuant to LUO, Section 21-8.20A, the City has acknowledged the importance of allowing multiple dwelling units on a single lot. This section of the LUO permits a maximum of eight dwelling units on a single lot in a Country or Residential Zoning District, as long as that lot has an area equal to or greater than the required minimum lot size for the underlying zoning district multiplied by the number of dwelling units on or to be placed on the lot. The City therefore recognizes the desirability of encouraging the development of infill/affordable housing, but only in areas where the infrastructure is available to support that housing. The City does not

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believe that the development of new dwellings should come at the expense of lowering the living standards of the surrounding neighborhood.

As such, we maintain that Senate Bill No. 1224 would preempt appropriate standards for the development of housing now found in the City's zoning code. We therefore ask that the bill be held in committee. If the Legislature finds that the bill should be enacted into law, we request that the bill be amended to exclude the City from its requirements. But this should only be done after consulting with the other counties to determine if those local governments have existing alternative mechanisms that encourage the development of affordable and/or infill housing.

Thank you for your consideration.

Very truly yours,


Jiro A. Sumada, Acting Director
Department of Planning and Permitting

JAS:jmf
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COUNTY OF MAUI
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February 6, 2013

TO: The Honorable Will Espero, Chair
Senate Committee on Public Safety, Intergovernmental and Military Affairs

FROM: Gladys C. Baisa *Gladys C. Baisa*
Council Chair

SUBJECT: **HEARING OF FEBRUARY 7, 2013; TESTIMONY IN OPPOSITION TO SB 1224,
RELATING TO LAND USE**

Thank you for the opportunity to testify in opposition to this important measure. The purpose of this measure is to require the counties to allow the construction of accessory dwelling units on lots where a residential dwelling unit is permitted.

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. The measure usurps a county's authority to regulate development standards for housing through its zoning ordinances. Such standards appropriately lie in the discretion of each individual county to regulate.
2. Currently, a landowner within Maui County with the appropriate zoning is permitted to build one single-family dwelling unit on a lot of only 3,000 square feet. An accessory dwelling is currently permitted only where the lot area on which the main house is located is 7,500 square feet or more. The measure would force the County to allow accessory dwellings on residential lots ranging from 3,000 to 7,499 square feet in size irrespective of conformance with other development standards, impacts on the adequacy of infrastructure, and impacts on neighbors and community health and safety concerns certain to result from the increased density.
3. Requiring a County to permit an accessory dwelling without regard to other factors does not equate to providing affordable, elderly, or transitional housing. While the goal may be laudable, without restrictions on use that would compel the construction of housing for those purposes, such housing would likely be dictated by market forces.
4. Just last week, the Maui County Council's Planning Committee considered, and rejected, proposed legislation to amend the County Code to allow accessory dwelling units on residential lots of 6,000 to 7,499 square feet, for the very reasons noted above.

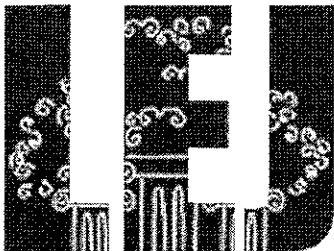
For the foregoing reasons, I oppose this measure.

SB1224

Submitted on: 2/4/2013

Testimony for PSM on Feb 7, 2013 15:00PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Jenny Lee	Hawaii Appleseed Center for Law & Economic Justice	Support	No



Testimony of Hawai'i Appleseed Center for Law and Economic Justice
Supporting SB 1224 Relating to Land Use
Senate Committee on Public Safety, Intergovernmental and Military Affairs
Scheduled for Hearing on Thursday, February 7, 2013, 3:00 PM, Room 224

Thank you for an opportunity to testify in strong support of Senate Bill 1224, which would require counties to allow the construction of accessory dwelling units on lots where a residential dwelling unit is permitted.

Hawai'i Appleseed Center for Law and Economic Justice is a nonprofit, 501(c)(3) law firm created to advocate on behalf of low income individuals and families in Hawai'i on civil legal issues of statewide importance. Our core mission is to help our clients gain access to the resources, services, and fair treatment that they need to realize their opportunities for self-achievement and economic security.

Hawai'i is facing an affordable housing crisis that requires creative solutions such as accessory dwelling units to increase our affordable housing stock.

- Hawai'i's housing costs exceed the national average by fifty percent. More than seventy-five percent of people living in poverty spending over *half* their income on housing.
- The severe affordable housing shortfall has contributed to Hawai'i's homelessness rate, the third highest among the states.
- By 2016, Hawai'i will need 13,000 units to meet the demand for affordable housing according to the Hawai'i Housing Planning Survey.

Accessory dwelling units are growing in popularity, with municipalities from around the country permitting and promoting their development. In many cities, accessory dwelling units are actually a key component of the city's affordable housing plan. Accessory dwelling units let private homeowners increase the supply of affordable housing. They are a practical housing option for elderly people, young workers, low-income households, couples without children, and people with disabilities and have many benefits, including:

- Extra income for homeowners
- Helping elderly homeowners to stay in their homes
- No extra expense of purchasing additional land or building new infrastructure
- Can be developed by converting existing structures
- Encouraging neighborhood infill, preventing sprawl, and promoting sustainable land use patterns
- Increased GET tax revenues and sewer fees

We are also concerned that due to the difficulties in creating accessory dwelling units, homeowners may be circumventing the permitting process and building illegal units, potentially creating substandard housing. With illegal units, the government also misses out on revenue from taxes and fees.

Allowing accessory dwelling units is an efficient and inexpensive way to create more affordable housing and promotes sustainability by taking advantage of land that has already been developed for residential use.