



**STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS**

P. O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF JOBIE M. K. MASAGATANI, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE HOUSE COMMITTEE ON
OCEAN, MARINE RESOURCES & HAWAIIAN AFFAIRS
IN SUPPORT OF

HB 1568, RELATING TO AFFORDABLE HOUSING CREDITS

January 29, 2014

Chair Hanohano, Vice-Chair Cullen, and Members of the Committee:

The Department of Hawaiian Home Lands (DHHL) is in strong support on this bill which extends the sunset date of a pilot program that enables DHHL to request and receive affordable housing credits from each county for units developed on Hawaiian home lands.

Affordable housing credits have afforded the department greater opportunities to gain resources to develop homesteads and, thus, meet our mission to return native Hawaiians to our trust lands. Since Act 141 was passed by the legislature in 2009, this program has been very successful for DHHL. The provision that allows DHHL to request and receive these credits repeals in 2015, so the department supports the extension of this provision, or any provision to make this program permanent.

A similar bill, HB 2286, repeals the 2015 sunset date and is part of the Governor's administrative package by request of our department. We ask your committee to consider amending HB 1568 to also repeal the

Department of Hawaiian Home Lands

HB 1568

OMH, 1-29-2014

Page 2

sunset date, rather than extend the sunset date. Further, we also propose a technical amendment. Act 141 (Session Laws of Hawaii, 2009) was amended by Act 98 (Session Laws of Hawaii, 2012) and both acts reference the sunset date. HB 1568 must address both acts to either extend or repeal the sunset date.

Thank you for your consideration of our testimony.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honolulu.dpp.org • CITY WEB SITE: www.honolulu.gov

KIRK CALDWELL
MAYOR



GEORGE I. ATTA, FAICP
DIRECTOR

ARTHUR D. CHALLACOMBE
DEPUTY DIRECTOR

January 29, 2014

The Honorable Faye E. Hanohano, Chair
and Members of the Committee on Ocean,
Marine Resources & Hawaiian Affairs
State House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Hanohano and Committee Members:

**Subject: House Bill No. 1568
Relating to Affordable Housing Credits**

The Department of Planning and Permitting (DPP) **opposes** House Bill No. 1568, which extends the award of affordable housing credits from 2015 to June 30, 2018. It also adds language that appears to expand eligible projects.

The City strongly supports an increase in the inventory of affordable housing units. The City also recognizes the challenges faced by the Department of Hawaiian Home Lands (DHHL) in fulfilling its obligations to its beneficiaries. However, we testified in opposition to this program at its inception in 2009. This program costs the State of Hawaii nothing. In fact, it creates credit value that DHHL can sell to developers who have an obligation to fulfill affordable housing requirements imposed by the counties. It undermines the ability of the counties to provide new affordable housing to all its residents within county-defined income need groups, on a time schedule commiserate with private sector construction, and in geographic areas where the counties believe affordable housing is warranted.

In the six years since this mandatory credit program was adopted as Act 141 (2009, Session Laws of Hawaii), the City and County of Honolulu awarded more than 600 affordable housing credits to DHHL. Other DHHL submittals involving 600 more credits may be forthcoming shortly. These are high figures compared to the total amount of affordable housing otherwise delivered; in high-construction years, the private sector delivers about 600 affordable housing annually.

The Bill would also amend Sec 46-15.1(b), HRS, addressing effective "obligations" by adding the phrase "regardless of the date of its enactment." The intent is unclear, and could be interpreted as including older, completed developments. The potential inclusion of completed developments does little to increase the affordable housing inventory. The goal should not be to redirect the resources and/or opportunities from one branch of government at the expense of another. We all need to work together in addressing the affordable housing shortage.

The Honorable Faye E. Hanohano, Chair
and Members of the Committee on Ocean,
Marine Resources, & Hawaiian Affairs
State House of Representatives
Hawaii State Capitol
RE: House Bill No 1568
January 29, 2014
Page 2

Moreover, it dampens the county's ability to focus affordable housing in our transit-oriented development areas to take advantage of the synergies with rail.

This policy would be more palatable if the issuance of credits was changed from "shall" to "may."

In summary, we believe Act 141 benefits the DHHL at the cost of the counties' programs. It infringes on home rule and the counties' ability to administer their affordable housing programs. If Act 141 cannot be repealed in its entirety, we ask that you hold House Bill No. 1568 in committee.

Thank you for this opportunity to testify.

Very truly yours,

A handwritten signature in blue ink that reads "George I. Atta". The signature is written in a cursive, flowing style.

George I. Atta, FAICP
Director

GIA: cl
HB1568 DHHLrev

Bernard P. Carvalho, Jr.
Mayor

Nadine K. Nakamura
Managing Director



Kamuela Cobb-Adams
Housing Director

KAUA'I COUNTY HOUSING AGENCY

County of Kaua'i, State of Hawai'i
Pi'ikoi Building 4444 Rice Street Suite 330 Lihu'e Hawai'i 96766
TEL (808) 241-4444 FAX (808) 241-5118

January 29, 2014

Honorable Representative Faye P. Hanohano, Chair
and Members of the Committee on Ocean,
Marine Resources and Hawaiian Affairs
State House of Representatives
Hawai'i State Capitol
415 South Beretania Street
Honolulu, Hawai'i 96813

SUBJECT: TESTIMONY IN OPPOSITION TO HOUSE BILL NO. 1568 RELATING TO AFFORDABLE HOUSING CREDITS

Dear Chair Hanohano and Committee Members:

The Kaua'i County Housing Agency (KCHA) **opposes** House Bill No. 1568. The bill would extend the time period which requires the counties to grant affordable housing credits to the Department of Hawaiian Home Lands (DHHL).

KCHA empathizes with DHHL's plight to provide housing to native Hawaiians and does support DHHL's Kaua'i projects through its Affordable Housing Task Force. Additionally, the Kaua'i County provides many other support services to DHHL and its beneficiaries, including maintenance and operation of DHHL owned infrastructure. We also understand that DHHL intends to use affordable housing credits as a commodity to sell to developers who must meet Kaua'i County's affordable housing requirements. Unfortunately, Act 141 and Bill No. 1568 lacks responsible boundaries and adversely affects the County's ability to provide equitable services to all people of Kaua'i. We oppose the bill for the following reasons:

- (1) the home-rule issue, by allowing a state agency to commandeer affordable housing that is required for development within the county by a county ordinance;
- (2) the unlimited issue by requiring counties to issue credits for past and future projects as requested without requiring units to be constructed or to be completed;
- (3) making affordable housing credits completely transferrable fails to take in to consideration affordable housing needs within proximity to specific development;



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Honorable Representative Faye P. Hanohano, Chair
and Members of the Committee on Ocean,
Marine Resources and Hawaiian Affairs
State House of Representatives
Hawaii State Capitol
RE: House Bill No. 1568
January 29, 2014
Page 2

- (4) in most cases, DHHL provides homes to native Hawaiian families in rank order regardless of income and to provide an affordable housing credit based on homes built is inappropriate; and
- (5) the issues of trumping of all ordinance requirements and allowing satisfaction of 100% a developer's requirements, such that there is potentially no affordable housing left available for the general population including Native Hawaiians in need within the counties.

According to the Hawaiian Home Lands Residential Lessee Hand Book, DHHL's policy is to issue residential leases to native Hawaiians whose blood quantum is a minimum of 50% or a successor whose Hawaiian blood quantum is a minimum of 25%. Any affordable housing credits received by DHHL and then transferred for revenue only serves a specific ethnicity- a small fraction of Hawai'i's population. This creates a non-equitable effect for all Hawai'i residents

In 2007, the County of Kaua'i incorporated a provision in Ordinance No. 860, the Workforce Housing Policy for the County of Kaua'i, which allows up to 25% of a developer's housing requirement to be met through credits issued to state government agencies. This allows at least 75% of a developer's housing requirement to be available to the remaining population in need of affordable housing on Kaua'i, in amounts where and how needed. The proposed legislation would extend the period requirement of the County to accept affordable housing credits from DHHL in fulfillment of a developer's entire housing requirement.

Further, House Bill No. 1568 omits definition of "affordable housing" and overlooks the income qualifications counties use to determine affordable housing eligibility. Under Kaua'i County Ordinance No. 860, to qualify for affordable housing, a family's median household income must not exceed one hundred and forty percent (140%) of the Kaua'i median household income as determined annually by the U.S. Department of Housing and Urban Development (HUD). And while DHHL's homes may be affordably priced, the owner is not subject to affordable housing income qualifications. Issuing an affordable housing credit for this scenario would be contrary to County Ordinance No. 860.

Moreover, House Bill No. 1568 erroneously requires counties to issue affordable housing credits to existing and future Hawaiian home land projects. The added language being proposed for House Bill No. 1568 could unfavorably expand DHHL's eligible projects to include all existing homes built on DHHL prior to this bill and forward. Kaua'i County Ordinance No. 860 requires that an affordable housing



Honorable Representative Faye P. Hanohano, Chair
and Members of the Committee on Ocean,
Marine Resources and Hawaiian Affairs
State House of Representatives
Hawaii State Capitol
RE: House Bill No. 1568
January 29, 2014
Page 3

unit is completed in order for the developer to receive an affordable housing credit. As it currently stands, the language of House Bill No. 1568 has no assurance that future Hawaiian home lands projects be completed, prior to the receipt of an affordable housing credit from the County.

We request that you defer action on House Bill No. 1568. Thank you for the opportunity to testify on this important matter.

Sincerely,



Kamuela Cobb-Adams
Housing Director

cc: County of Kaua'i Boards and Commission

