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JOBIE M. K. MASAGATANI
CHAIRMAN
HAWAIIAN HOMES COMMISSION

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DEPUTY TO THE CHAIRMAN

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

P. O. BOX 1879
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TESTIMONY OF JOBIE M. K. MASAGATANI, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE SENATE COMMITTEE ON HAWAIIAN AFFAIRS,
COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS &
COMMITTEE ON HUMAN SERVICES AND HOUSING
IN SUPPORT OF

SB 1100, RELATING TO AFFORDABLE HOUSING ON HAWAIIAN HOME LANDS

February 13, 2015

Aloha Chair Shimabukuro, Chair Espero, Chair Chun Oakland, and Members
of the Committees:

The Department of Hawaiian Home Lands (DHHL) is in strong support
on this bill which makes permanent provisions for affordable housing
credits to be requested by DHHL and received from each county for
units developed on Hawaiian home lands. This bill is part of the
Governor's administrative package by request of our department, and we
request that this bill be passed by the committee without amendment.

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, but it is set to repeal in 2015. By making this
program permanent, DHHL can continue to form private-public
partnerships through the exchange of credits creating resources for

Department of Hawaiian Home Lands

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the department, and DHHL can earn these resources without requiring any state funds.

Since the last legislative session, our department has executed a memorandum of agreement with the County of Kauai to smooth implementation of this program and to address concerns related to home rule previously raised by this county. We are also currently working on a memorandum of agreement with the City and County of Honolulu to do achieve the same goal.

Thank you for your consideration of our testimony.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR



GEORGE I. ATTA, FAICP
DIRECTOR

ARTHUR D. CHALLACOMBE
DEPUTY DIRECTOR

February 13, 2015

The Honorable Maile S.L. Shimabukuro, Chair
and Members of the Committee on Hawaiian Affairs
The Honorable Will Espero, Chair
and Members of the Committee on Public Safety,
Intergovernmental and Military Affairs
The Honorable Suzanne Chun Oakland, Chair
and Members of Committee on Human Services
and Housing
Hawaii State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chairs Shimabukuro, Espero, Chun Oakland, and Committee Members:

SUBJECT: Senate Bill No. 1100
Relating to Affordable Housing on Hawaiian Home Lands

The Department of Planning and Permitting (DPP) **opposes** Senate Bill No. 1100, which makes permanent, the affordable housing credit program under the Department of Hawaiian Home Lands (DHHL). We testified on similar bills in the past, which either proposed to extend the program or establish it permanently.

The City strongly supports an increase in the inventory of affordable housing units. The City also recognizes the challenges faced by 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 their 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 needed.

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 700 affordable housing credits to DHHL. If this program continues, we expect about 300 more in the near future. 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 Honorable Maile S.L. Shimabukuro, Chair
and Members of the Committee on Hawaiian Affairs
The Honorable Will Espero, Chair
and Members of the Committee on Public Safety,
Intergovernmental and Military Affairs
The Honorable Suzanne Chun Oakland, Chair
and Members of Committee on Human Services
and Housing
Hawaii State Senate
Hawaii State Capitol
RE: Senate Bill No. 1100
February 13, 2015
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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.

As you may know, the City is focusing on encouraging affordable housing in the rail corridor. This DHHL program dampens the county's ability to do so, in that credits for housing in Nanakuli can be substituted for housing that would have been delivered in the corridor. Moreover, the DHHL credits represent single-family dwellings, and the City is promoting denser, "infill," multi-family projects.

We do have ongoing conversations with DHHL about the opportunities that transit-oriented development (TOD) represents to DHHL in fulfilling its mission, whether as an independent housing developer or in partnership with other developers and landowners. We are encouraged by these conversations in recent months. To allow the credit program to continue would appear to be a disincentive to TOD.

Lastly, please note that DHHL can already participate in our affordable housing program without this credit law. They would receive the same benefits that private housing developers receive. Namely, for qualifying units, the DHHL would receive a higher benefit ratio than one credit for one housing unit. The credit value is increased for larger units and those that are kept in the affordable sales range for a longer period of time. Units that are located in the rail corridor can also receive bonus credits.

In summary, we believe Act 142 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 142 cannot be held, we ask that you amend it by making it an optional program, subject to compliance with county programs.

Thank you for this opportunity to testify.

Very truly yours,



George I. Atta, FAICP
Director

GIA:ks

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Unity, Equality, Aloha for all



To: SENATE COMMITTEES ON
HAWAIIAN AFFAIRS
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS
HUMAN SERVICES AND HOUSING

For hearing Friday, February 13, 2015

Re: SB 785 RELATING TO AFFORDABLE HOUSING ON HAWAIIAN HOME
LANDS.

Makes permanent Act 141, Session Laws of Hawaii 2009, which requires the counties to issue affordable housing credits to DHHL.
Makes permanent Act 98, Session Laws of Hawaii 2012, which requires the counties to issue affordable housing credits for each residential unit developed by DHHL. Allows credits to be issued for rental units developed by DHHL on a two-credit per one-unit basis and to satisfy affordable housing obligations imposed by the counties, regardless of the date of enactment thereof.

AND Re: SB 1100 RELATING TO AFFORDABLE HOUSING ON HAWAIIAN HOME LANDS.

Makes permanent Act 141, Sessions Laws of Hawaii 2009, which requires the county to issue affordable housing credits to the Department of Hawaiian Home Lands. Makes permanent Act 98, Session Laws of Hawaii 2012, which requires the counties to issue affordable housing credits for each residential unit developed by the Department of Hawaiian Home Lands.

TESTIMONY IN OPPOSITION

A developer who applies for a permit to develop a piece of land by building houses, townhouses, or apartment buildings is often required, as a condition for being granted the permit, to sign an agreement with the county government to set aside a percentage of the housing units as "affordable" housing. That means that for a specified period of years those designated units can be sold only to owner-occupants, or used for rental housing, at prices or rents significantly below what those housing units would otherwise command in the free market.

Some of the alleged purposes of the affordable housing requirement are to ensure that people with low incomes, or ethnicities that might be discriminated against, can nevertheless afford a decent place to live in a multiracial neighborhood, and that ghettos or slums with high crime rates will be avoided by having low-income families dispersed in middle-class neighborhoods.

The concept of government-enforced affordable housing requirements for developers to get permits seems to be inspired by Robin Hood: Take from the rich and give to the poor. Take a landowner's right to develop his land, consistent with normal zoning requirements for safety and environmental protection, and confiscate a portion of the wealth he could expect from developing it in order to provide below-market prices for housing for low-income people. Social justice!

From the perspective of a developer, a requirement to provide affordable housing as a condition of getting a development permit closely resembles paying a bribe -- the main difference is that the bribe is paid in the form of legally allowed and well-publicized extortion of reduced profit rather than being paid secretly as cash in an envelope handed over in a dark alley; and that the extortionist is the elected county government rather than a Mafia hoodlum. Either way, force is being used.

Developers are allowed to buy or sell affordable housing credits among each other in a sort of marketplace, somewhat analogous to air-pollution credits or carbon credits. Thus a developer who builds a larger number of affordable housing units than required under terms of his permit can sell his surplus credits to a developer whose permit requires more affordable units than he wishes to actually build.

SB785 and SB1100 would badly distort the normal marketplace of affordable housing credits, turning it into a Frankenstein's monster. The Department of Hawaiian Homelands (DHHL) operates a very abnormal collection of neighborhoods where land can only be leased but never owned in fee simple, and where racial segregation is practiced because someone must have at least 50% Hawaiian native blood in order to be granted a lease (or 25% to inherit a lease). Furthermore DHHL is not a normal developer hoping to make a profit; rather, DHHL is heavily subsidized by owning land it was given for free and by receiving operating funds from the government; and DHHL's mission is to develop roads and utilities to enable leaseholders to build housing units at below-market cost in a planned community with rules enforced by a heavy-handed bureaucracy.

Every housing unit developed on DHHL property is likely to satisfy county requirements to be considered "affordable." So under terms of SB785 and SB1100, DHHL would accumulate a huge inventory of credits for affordable housing, which DHHL could then sell to normal free-market developers. SB785 and SB1100 would drop an enormous

windfall profit into DHHL, which seemingly materializes out of thin air. But we all know nothing comes for free. So who would pay for DHHL's windfall profit?

It seems obvious that a few of the expected outcomes of SB785 and SB1100 would be as follows. Normal (i.e., for-profit) developers would purchase all the affordable housing credits they need from DHHL and would therefore have no reason to actually build affordable housing. Each county, as a whole, outside the DHHL ghettos, would become increasingly gentrified due to lack of new affordable housing, so that young people from lower and middle class backgrounds would be under economic pressure to leave Hawaii even more-so than at present. Money that developers might normally pay to counties in lieu of the affordable housing requirement for a permit would now be paid to DHHL instead, forcing counties to raise taxes or reduce services for those unfortunate folks lacking the required native blood quantum.

I'm not an expert on economics or real estate. Surely the legislature can find experts to advise you on the consequences of SB785 and SB1100. Something seems terribly wrong with this legislation. Please get expert advice from people who have no affiliation with DHHL, OHA, or other racial entitlement institutions.

From: mailinglist@capitol.hawaii.gov
To: [HWNTestimony](#)
Cc: hynmahi@yahoo.com
Subject: Submitted testimony for SB1100 on Feb 13, 2015 13:20PM
Date: Friday, February 13, 2015 6:34:33 AM

SB1100

Submitted on: 2/13/2015

Testimony for HWN/HSH/PSM on Feb 13, 2015 13:20PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
carol lee kamekona	Individual	Comments Only	No

Comments: I am in support of making permanent Act 141 and Act 98.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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