



LATE

HB1549 HD1
RELATING TO INCLUSIONARY ZONING
House Committee on Judiciary

February 14, 2017

2:00 p.m.

Room 325

The Administration of the Office of Hawaiian Affairs (OHA) will recommend the Board of Trustees **OPPOSE** HB1549 HD1. **OHA believes that this measure preempts ongoing efforts by local and state agencies to provide much-needed comprehensive and tangible relief to the State's affordable housing crisis.**

OHA is the constitutionally-established body responsible for protecting and promoting the rights of Native Hawaiians, and serves as the principle agency responsible for the performance, development, and coordination of programs and activities relating to Native Hawaiians; assessing the policies and practices of other agencies impacting Native Hawaiians; and conducting advocacy efforts for Native Hawaiians.¹ In furtherance of its constitutional mission, OHA has adopted **Ho'okahua Waiwai** as one of its strategic priorities, which focuses on improving Native Hawaiians' economic self-sufficiency through improved home ownership and rental standards, and increased family income.

Native Hawaiians have significant and unique housing needs, and are particularly affected by the ongoing lack of affordable housing. Research shows that Native Hawaiians are less likely to own a home, with Native Hawaiian homeownership rates lower than the City average.² More than half of Native Hawaiian renters, many of whom already live in overcrowded situations to reduce costs, live in homes they are struggling to afford. Despite the fact that Native Hawaiians participate in the labor force at higher rates than the state average and have larger than average family sizes, Native Hawaiian median family income is also \$9,627 (or 12.2%) lower than the state median family income.³ Moreover, recent research has further shown that Native Hawaiian housing demand is almost entirely for units that are affordable, rather than for market-rate or other 'gap'-rate units.⁴ **In particular, a draft planning study commissioned by HHFDC, shows that a majority, or 67% of Native Hawaiian housing demand, is for units affordable to those at**

¹ HAW. CONST. ART. XII SEC. 5; Haw. Rev. Stat. ("HRS") § 10-3.

² Office of Hawaiian Affairs, Native Hawaiian Homeownership Ho'okahua Waiwai Fact Sheet Vol. 2016, No.1, 10.

³ Office of Hawaiian Affairs, 2010-2018 Strategic Results: Median Family Income Indicator Sheet (2015).

⁴ SMS, HAWAII HOUSING PLANNING STUDY 74 (2016), available at https://dbedt.hawaii.gov/hhfdc/files/2016/12/State_HHPS2016_Report_111416-FINAL-122216.pdf.

80% AMI or below.⁵ The same study shows that a majority, or 55% of the state's housing demand, is for units affordable to those at 80% AMI or below.⁶

Unfortunately, most newly developed residential units may not be meeting the needs of Native Hawaiians or providing meaningful affordable housing opportunities to the cross-section of income levels for all state residents as required by the State Plan.⁷ The State must ensure that its development policies appropriately maintain a priority of affordable housing relief that provide housing choices. **Removing the counties flexibility to meet the specific needs of their residents, which may include encouraging development of rental housing units and for sale units for individuals earning less than 120% AMI, works counter-productive to the State's obligation to promote feasible approaches that increase choices for low-income, moderate-income, and gap group households, and negate positive movement toward comprehensive affordable housing solutions.**⁸ For these reasons, we respectfully request the Committee to hold HB1549 HD1.

Mahalo for the opportunity to comment on this matter.

⁵ *Id.* at 75, Table 49.

⁶ *Id.* at 37, Table 28b.

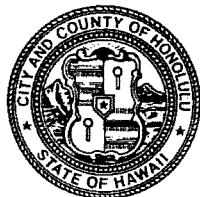
⁷ *Id.* at 75.

⁸ See Hawaii State Plan, HRS §226

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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February 14, 2017

The Honorable Scott Y. Nishimoto, Chair
and Members of the Committee on Judiciary
Hawaii House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Nishimoto, and Committee Members:

Subject: House Bill No. 1549, HD 1
Relating to Inclusionary Zoning

The Department of Planning and Permitting (DPP) **opposes** House Bill No. 1549, HD 1, which would prohibit counties from imposing an inclusionary zoning requirement on a housing development offered exclusively for sale to buyers earning 120 percent or less of the area median income. This would take over county roles in zoning and project approvals, as well as in adopting a carefully-crafted policy for affordable housing required for all development types and income levels.

Over the last two years, the City has conducted extensive technical analysis and stakeholder conversations on how much affordable housing should be required in a typical development, and we are preparing to introduce an islandwide affordable housing requirement. Our analysis of development pro forma shows that the amount of affordable housing required should vary by income level, by whether it is for-sale or rental, and whether it is built on-site or off-site. It will give developers several options for compliance, and include significant improvements in how compliance is monitored over time. In all cases, we are proposing a minimum 30-year period of affordability to build up and maintain a large supply of affordable units over time. This proposed Bill would carve out just one type of project and income level for exemption, and does not seem to require any extended period of affordability in return.

We do defer to the State on determining specific percentages of affordable housing for developments built on State lands or using State funding.

We believe it is critical for the State to coordinate planning and prioritize its investments in affordable housing and transit-oriented development infrastructure on State lands. The City is eager to continue collaborating with the State on this effort.

The Honorable Scott Y. Nishimoto, Chair
and Members of the Committee on Judiciary
Hawaii House of Representatives
House Bill No. 1549
February 14, 2017
Page 2

However, it should not usurp City zoning and project approval functions, or “carve out” one element of the City’s proposed affordable housing requirements. Please defer House Bill No. 1549, HD 1.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Sokugawa", with a long, sweeping flourish extending to the right.

Kathy Sokugawa
Acting Director



**Testimony to the House Committee on
Tuesday, February 14, 2017 at 2:00 P.M.
Conference Room 325, State Capitol**

RE: HOUSE BILL 1549 HD1 RELATING TO INCLUSIONARY ZONING

Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **supports** HB 1549 HD1, which provides that a county shall not impose an inclusionary zoning requirement on a housing development offered exclusively for sale to buyers earning 120% or less of the area median income.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

We view the proposed bill as an "incentive" to developers who can profitably deliver houses to buyers in the 120% and below AMI group. Other incentives should also be considered, such as:

1. Waiver of sewer, water and permitting fees;
2. Waiver of GET; and/or,
3. Transfer of real property taxes to the developer for a fixed period of time to make building for the lower income groups (i.e. 80% to 100% and below AMI) economically feasible.

These incentives could be bundled in different situations that would make building homes for the lower income target groups economically feasible.

With our current housing crisis, perhaps it's time to move away from using "blunt instruments" such as inclusionary zoning and exactions in an attempt to build more housing, and move toward incentivizing developers to build more affordable housing using the fees, access to infrastructure, density bonuses, and other tools that government has at their disposal.

With our average price of a new home on Oahu in the mid \$700,000.00 range, we need to build its way out of our current housing crisis by increasing the supply of housing at all price points. A healthy housing market allows people to purchase housing at price ranges they can afford and as their income improves, provides them with the opportunity to "move up" the housing ladder.



The proposed bill is a step in the right direction that will provide more housing at all price points in Hawaii. We are in support of HB 1549 HD1, and appreciate the opportunity to express our views on this matter.

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Testimony to the House Committee on Judiciary**Tuesday, February 14, 2017****2:00 pm****Conference Room 325****RE: HB 1549 HD1 – Relating to Inclusionary Zoning**

Chair Nishimoto, Vice-Chair San Buenaventura, and members of the Committee:

My name is Gladys Quinto Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-HAWAII is in strong support of H.B. 1549 HD1, which proposes to amend Chapter 46 HRS to prohibit the Counties from imposing an inclusionary zoning requirement on a housing development offered exclusively for sale to buyers earning 120% or less of the area median income. Inclusionary zoning refers to municipal and county planning ordinances or rules that require a given share of new construction to be affordable by people with low to moderate incomes.

We view the proposed bill as an “incentive” to developers who can profitably deliver houses to buyers in the 120% and below AMI group. Other incentives should also be considered, such as:

1. Waiver of sewer, water and permitting fees;
2. Waiver of GET; and/or,
3. Transfer of real property taxes to the developer for a fixed period of time to make building for the lower income groups (i.e. 80% to 100% and below AMI) economically feasible.

These incentives could be bundled in different situations that would make building homes for the lower income target groups economically feasible.

With our current housing crisis, perhaps it’s time to move away from using “blunt instruments” such as inclusionary zoning and exactions in an attempt to build more housing, and move toward incentivizing developers to build more affordable housing using the fees, access to infrastructure, density bonuses, and other tools that government has at their disposal.

With our average price of a new home on Oahu in the mid \$700,000.00 range, we need to build its way out of our current housing crisis by increasing the supply of housing at all price points. A healthy housing market allows people to purchase housing at price ranges they can afford and as their income improves, provides them with the opportunity to “move up” the housing ladder.

The proposed bill is a step in the right direction that will provide more housing at all price points in Hawaii. We are in strong support of H.B. 1549 HD1, and appreciate the opportunity to express our views on this matter.

LATE

Testimony of
Christopher Delaunay
Pacific Resource Partnership

HOUSE OF REPRESENTATIVES
THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2017

COMMITTEE ON JUDICIARY

Representative Scott Y. Nishimoto, Chair
Representative Joy A. San Buenaventura, Vice Chair

NOTICE OF HEARING

DATE: Tuesday, February 14, 2017
TIME: 2:00 pm
PLACE: Conference Room 325

Aloha Chair Nishimoto, Vice Chair San Buenaventura, and Members of the Committee:

PRP **supports the intent** of HB 1549, HD1, Relating to Inclusionary Zoning, which provides that a county shall not impose an inclusionary zoning requirement on a housing development offered exclusively for sale to buyers earning 120% or less of the area median income.

The shortage of homes is at a crisis level negatively affecting families throughout the State. We encourage the production of much needed homes and we feel this measure creates an incentive for developers to build more housing units and thus, lower housing prices.

Thank you for allowing us to express our views on HB 1549, HD1 and we respectfully request your favorable consideration.

About PRP

Pacific Resource Partnership (PRP) is a not-for-profit organization that represents the Hawaii Regional Council of Carpenters, the largest construction union in the state, and more than 240 of Hawaii's top contractors. Through this unique partnership, PRP has become an influential voice for responsible construction and an advocate for creating a stronger, more sustainable Hawaii in a way that promotes a vibrant economy, creates jobs and enhances the quality of life for all residents.





LATE

February 13, 2017

From: George S. Massengale
To: Committee on Judiciary
Date: Hearing February 14, 2017 at 2:00 A.M.
Subj: HB1549, HD1, Relating to Inclusionary Zoning

TESTIMONEY IN OPPOSITION

Chair Nishimoto, Vice Chair San Buenaventura and members to the Committee. I am here today on behalf of Hawaii Habitat for Humanity Association, and our seven Habitat affiliates located throughout the state, to testify in opposition of HB1539, HD1.

Collectively Hawaii Habitat for Humanity and its affiliates are the largest private nonprofit builder of self-help ownership homes in Hawaii. In 1992 the first Habitat in Hawaii opened its doors on Kauai to help repair and rebuild homes after Hurricane Iniki. Since then we built or repaired 512 home within the state.

As the judiciary committee members know. Hawaii faces an extraordinary affordable housing crisis, and is projected to need 30,000 units needed, just on Oahu to meet the demand, with two-thirds of these affordable for those who are considered low income or below. Yet little affordable housing, in either rental units, or ownership units are under development. Not surprisingly, our homelessness rates continue to increase, and 95% of Hawaii residents identify high housing costs as a very serious or important problem.

HB1549, HD1, if passed would effectively scuttle affordable housing construction efforts throughout the state.

In closing we would ask the committee to defer this measure. Let's not make our housing crisis worse than it already is.

Respectfully,

A handwritten signature in black ink, appearing to read "George S. Massengale".

George S. Massengale
Director, Community Engagement



HAWAII APPLES
CENTER FOR LAW & ECONOMIC JUSTICE

LATE

Testimony of Hawai'i Appleseed Center for Law and Economic Justice
Opposing HB 1549 Relating to Inclusionary Zoning

House Committee on Judiciary

Scheduled for Hearing Tuesday, February 14, 2017, 2:00 PM, Conference Room 325

Hawai'i Appleseed Center for Law and Economic Justice Hawai'i Appleseed is committed to a more socially just Hawai'i, where everyone has genuine opportunities to achieve economic security and fulfill their potential. We change systems that perpetuate inequality and injustice through policy development, advocacy, and coalition building.

Dear Chair Nishimoto, Vice Chair Sn Buenaventura, and Members of the Committee on Judiciary:

While Hawai'i Appleseed supports the intent of HB 1549—to spur development of housing affordable to residents at 120% of the Area Median Income—it opposes the bill. Although well intentioned, we are concerned that rather than spurring affordable housing development, it will have the opposite effect for reasons described below.

First, it is important to note that there are currently no inclusionary zoning requirements on the island of Oahu, where the largest number of affordable units are needed. Despite this fact, very few units are being built at or below the 120% of AMI level of affordability. Since there currently are no inclusionary zoning requirements on Oahu, it is clear that inclusionary zoning requirements are not responsible for preventing development of homes at this level of affordability. Instead, other market factors, such as increased profitability for higher-end units, are responsible for the lack of homes affordable to Hawai'i residents.

Second, to the extent that permitting the circumvention of inclusionary zoning requirements would offer an incentive to build at the 120% of AMI level, it would do so at the expense of housing targeted toward income levels at which there is a much greater demand for housing, and a much more dire need. At 80% of AMI, for every 10 affordable units needed, there are only 7.3 available. At 50% of AMI, there are only 4. Labeling units at the 120% of AMI level as “affordable” is a misnomer. By definition, units at that level are out of reach for well over *half* of Hawai'i's residents (half of Hawai'i's households make below 100% of AMI, and half make above that amount).

Third, determining affordability levels for inclusionary zoning requirements is not simply a matter of picking a desirable level of affordability and requiring that units be built at that level. The factors that determine the financial viability of a development vary from county to county and neighborhood to neighborhood. Using a statewide, one-size fits all solution like that proposed by HB 1549 to preempt inclusionary zoning requirements that have been the subject of a more careful local analysis will likely result in lost opportunities to build housing at lower levels of affordability.

For example, the City and County of Honolulu has been conducting a study of potential inclusionary zoning requirements, using a process that has included relevant stakeholders and a thorough analysis of the relevant factors affecting the financial viability of developments. That analysis has determined that while a development with a significant number of affordable units might be feasible in one area, it may not be feasible in another. Presumably, the inclusionary zoning requirements that the City adopts will be based on this analysis, with the affordability levels required in each area based on what is financially viable. **If HB 1549 is adopted, in the areas that are most ripe for building housing at the lowest levels of affordability, developers will have the strongest incentives to take advantage of HB 1549's exemption,** assuming that building for a higher income level will be more lucrative.

For the foregoing reason, Hawai'i Appleseed opposes HB 1549. Thank you for this opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 14, 2017 7:56 AM
To: JUDtestimony
Cc: rkailianu57@gmail.com
Subject: *Submitted testimony for HB1549 on Feb 14, 2017 14:00PM*

LATE

HB1549

Submitted on: 2/14/2017

Testimony for JUD on Feb 14, 2017 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Individual	Support	Yes

Comments:

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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