



## STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM  
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION  
677 QUEEN STREET, SUITE 300  
Honolulu, Hawaii 96813  
FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of  
**Craig K. Hirai**  
Hawaii Housing Finance and Development Corporation  
Before the

### SENATE COMMITTEE ON WAYS AND MEANS

April 5, 2019 at 10:15 a.m.  
State Capitol, Room 211

In consideration of  
**H.B. 820, H.D. 1, S.D. 1**  
**RELATING TO HOUSING.**

The HHFDC **supports the intent** of Part II of H.B. 820, H.D. 1, S.D. 1, which is intended to utilize state lands to substantially increase the housing supply. HHFDC has the following specific comments on Part II of the S.D. 1.

The S.D. 1 would authorize HHFDC to develop leasehold residential condominium units on government lands within one-half mile of a public transit station. The leasehold terms would be for up to 99 years. HHFDC supports this concept. Based on the advice of national affordable housing financing experts, the extended lease terms (i.e., 99 years) are necessary to finance these types of developments without major financial support from the State. We also note that leasehold condominium developments are exempt from the Land Reform Act set forth in Chapter 516, HRS. Accordingly, the fee simple interest in lands upon which these condominiums are located will remain with the State without risk of lease-to-fee conversion.

The ALOHA Homes condominium units would be priced to be affordable to households at or below 80 percent of the area median income (AMI), or \$300,000, whichever is less. This pricing scheme requires a significant State subsidy to purchasers of ALOHA Homes. In the City and County of Honolulu at current mortgage interest rates, regardless of household size, \$300,000 is less than the affordable sales price for a household at or below 80 percent AMI, so the actual sales price for an ALOHA Home would be \$300,000. We also note that this proposed sales price is significantly less than the average per-unit development cost of recent affordable housing developments that are comparable in scope (high-rise, new construction apartments). Because development and construction costs continue to rise over time, we suggest that there should not be any predetermined sales price in statute.

The ALOHA Homes program also differs from established homeownership programs in that they explicitly prohibit HHFDC from limiting participation to first-time homebuyers or even establishing a first-time homebuyer preference. Therefore, anyone, regardless of income or current homeownership status, may purchase an ALOHA Home so long as they sell or transfer their other real property no later than 6 months after closing on the unit. For example, senior parents who wish to downsize their housing could purchase an ALOHA Home by transferring ownership of their current single-family home to their adult children.

We take no position on Part I of the S.D. 1.

HHFC is willing to work with the Legislature on refining Part II of the S.D. 1. Thank you for the opportunity to provide written comments on this bill.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTIETH LEGISLATURE, 2019**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 820, H.D. 1, S.D. 1, RELATING TO HOUSING.

**BEFORE THE:**

SENATE COMMITTEE ON WAYS AND MEANS

**DATE:** Friday, April 5, 2019

**TIME:** 10:15 a.m.

**LOCATION:** State Capitol, Room 211

**TESTIFIER(S):** WRITTEN TESTIMONY ONLY. (For more information, call Sandra A. Ching or Matthew S. Dvonch, Deputy Attorneys General, 587-3080)

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Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General provides the following comments on this bill.

Part I of this bill provides that neither the State nor any county may require a housing developer to set aside a portion of its housing units to be sold at below market prices if the units in the development are offered exclusively for sale in perpetuity to buyers who: (1) are residents of the State; (2) are owner-occupants; and (3) do not own any other real property.

Part II of this bill establishes a new program within the Hawaii Housing Finance and Development Corporation (HHFDC) called the ALOHA Homes Program (the Program). Under the Program, HHFDC is authorized to construct high-density residential developments on State lands within a one-half mile radius of public transit stations. HHFDC is authorized to sell 99-year leases for units within such developments to Hawai'i residents at a price not to exceed \$300,000, or a price affordable to an individual or family whose income does not exceed 80 percent of the area median income, as defined by the United States Department of Housing and Urban Development, whichever is lower. Proceeds from the sale of leases would be used to finance future ALOHA Homes projects.

This bill also authorizes HHFDC to sell non-ALOHA Home leasehold condominiums for 99-year terms. It also provides that land set aside by the Governor to HHFDC, and land leased to HHFDC by other State agencies, are not considered “public lands” under chapter 171, Hawaii Revised Statutes (HRS). In addition, it provides that lands set aside by the Governor to the Hawaii Public Housing Authority (HPHA), and land to which HPHA holds title in its corporate capacity, are not considered “public lands” under chapter 171, HRS. It also requires legislative approval of the sale or gift of lands pursuant to section 171-64.7, HRS, to lands HPHA holds title in its corporate capacity. Lastly, the bill amends section 302A-1603, HRS, to exempt any form of development by HHFDC pursuant to chapter 201H, part II, subpart B, HRS, from the land requirement and vertical construction requirement of the Department of Education.

I. Transfer of ALOHA Homes Units to the Department of Hawaiian Home Lands

Section 201H-E(e) on page 23, lines 11-13, of this bill authorizes HHFDC to transfer units in ALOHA Homes developments to the Department of Hawaiian Home Lands (DHHL) for use by their respective beneficiaries.

DHHL’s powers are established by the Hawaiian Homes Commission Act, 1920, as amended (HHCA), which is part of the Hawai’i Constitution. Section 207 of the HHCA authorizes DHHL to issue residential homestead leases to native Hawaiians for an initial term of 99 years. A “native Hawaiian” is defined by the HHCA as “any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778.” The HHCA only authorizes DHHL to issue these leases on Hawaiian home lands; it is not authorized to issue homestead leases on non-Hawaiian home lands.

If this bill’s intent is to have ALOHA Homes units that are transferred to DHHL remain non-Hawaiian home lands, DHHL will not be able to lease them to native Hawaiians for homesteading purposes. An amendment to the HHCA would be required, which will trigger review by the U.S. Department of the Interior as to whether consent of the United States is required for the amendment to take effect.

If the intent is to have these units acquire the status of Hawaiian home lands, a different concern arises. Under section 204 of the HHCA, DHHL has exclusive authority

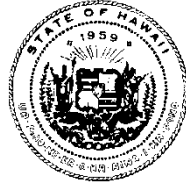
over the zoning and other land use controls on Hawaiian home lands. If certain units within an ALOHA Home development are transferred to DHHL, and those units acquire the status of Hawaiian home lands, the restrictions placed on the use, occupancy, and sale of ALOHA Home units by this bill may no longer apply to these units. Instead, these units may be governed by the terms of the HHCA and be under the sole jurisdiction of DHHL.

II. Exemption of ALOHA Homes Revolving Fund From Appropriation and Allotment

Section 201H-O on page 31, lines 6-18, of this bill exempts expenditures from the ALOHA Homes Revolving Fund from legislative appropriation and allotment. Article VII, section 5 of the Hawai'i Constitution, however, prohibits such exemptions and provides that "[n]o public money shall be expended except pursuant to appropriations made by law." We suggest amending the bill to remove this provision.

Thank you for the opportunity to provide these comments.

DAVID Y. IGE  
GOVERNOR



HAKIM OUANSAFI  
EXECUTIVE DIRECTOR

BARBARA E. ARASHIRO  
EXECUTIVE ASSISTANT

**STATE OF HAWAII**  
HAWAII PUBLIC HOUSING AUTHORITY  
1002 NORTH SCHOOL STREET  
POST OFFICE BOX 17907  
HONOLULU, HAWAII 96817

Statement of  
**Hakim Ouansafi**  
Hawaii Public Housing Authority  
Before the

**SENATE COMMITTEE ON WAYS AND MEANS**

**Friday, April 5, 2019**  
**10:15 AM - Room 211, Hawaii State Capitol**

In consideration of  
**HB 820, HD1, SD1**  
**RELATING TO HOUSING**

Honorable Chair Dela Cruz, and Members of the Senate Committee on Ways and Means, thank you for the opportunity to provide testimony concerning House Bill (HB) 820, HD1, SD1, relating to housing.

The Hawaii Public Housing Authority (HPHA) supports SECTION 6 and SECTION 7 of HB 820, HD1, SD1. SECTION 6 and SECTION 7 of this bill addresses an HPHA "housekeeping" issue that seeks to exempt HPHA lands from the definition of "public lands" under Hawaii Revised Statutes (HRS) section 171-2.

HPHA titled lands were previously exempted from section 171-2, HRS, when the lands were held by the HPHA's predecessor agencies the Housing and Community Development Corporation of Hawaii (HCDCH) and the Hawaii Housing Authority (HHA). After the HCDCH bifurcated into two separate agencies, an exemption for HPHA titled lands was inadvertently not included in the list of lands exempted from section 171-2, HRS.

HPHA is authorized to acquire, own, and hold real property under chapter 356D-8, HRS, and its federal low-income public housing properties are in a Federal Annual Contributions Contract with the United States of America. Therefore, its titled lands do not fall under the catchall jurisdiction of state "public lands" under the Department of Lands and Natural Resources (DLNR). Unless exempted from the definition of "public lands" under section 171-2, HRS, the Board of Land and Natural Resources (BLNR) could cause unnecessary delay with HPHA's redevelopment projects due to the need for the BLNR to review and take action on land leases for "public lands".

A 2006, the Legislative Reference Bureau published a report, *“Clarifying Statutory References in State Housing Agency Laws,”* stating that an amendment should be made based on the facts and history of both the HPHA and HHFDC.

Prior to 1987, §171-2 excluded from the definition of "public lands" those "lands to which the Hawaii housing authority in its corporate capacity holds title". Act 337, SLH 1987, that established the housing finance and development corporation, added a further exclusion in §171-2 for the corporation's properties. After 1997, when the two agencies merged into the housing and community development corporation of Hawaii, this section was further amended to change the reference to the housing and community development corporation of Hawaii to the (present) Hawaii housing finance and development corporation.

It would appear that this section should be amended to include both the Hawaii housing finance and development corporation and the Hawaii public housing authority, as both agencies are authorized to acquire, own, and hold real property.

*“Clarifying Statutory References in State Housing Agency Laws,” Report No. 5, 2006, Legislative Reference Bureau.*

HHFDC lands have since been exempted under HRS Section 171-2. Accordingly, the HPHA lands should also be exempted from “public lands.”

The HPHA appreciates the opportunity to provide the Committee with the HPHA’s testimony regarding HB 820, HD1, SD1. We thank you very much for your dedicated support.



**Evelyn Hao**  
President

**Rev. Won-Seok Yuh**  
Vice President-  
Clergy

**William Bekemeier**  
Vice President-  
Laity

**Jon Davidann**  
Treasurer

**Deanna Espinas**  
Secretary

**Christy MacPherson**  
Executive  
Director

**Soo San Schake**  
Organizing  
Assistant

**TESTIMONY OF FAITH ACTION FOR COMMUNITY EQUITY IN  
SUPPORT OF HB 820, HD1, SD1**

To the Senate Committee on Ways and Means  
For Hearing on April 5, 2019, at 10:15 am Conference Room 211

**We support HB 820, HD1, SD1 and its bold approach to addressing our housing crisis.**

Faith Action for Community Equity (fka FACE) is a 23-year old grassroots, interfaith organization that includes 18 churches and temples, a union (Local 5), housing association, health center and three advocacy organizations. Faith Action is driven by a deep spiritual commitment to improve the quality of life for our members and all people of Hawaii. We strive to address issues of social justice at all levels of government.

Hawaii has a crisis in affordable housing and homelessness that negatively impacts our entire community. This crisis requires bold visioning for a sustainable way to create tens of thousands of affordable housing for our residents. Sadly, the government's efforts and funding to date have been severely inadequate, too slow and costly. Our critical lack of housing causes decline in quality of life causes many residents to need to leave the islands, and increases our related crisis of homelessness. We need a major new affordable housing program that can actually work on a large scale to produce both volume and quality for affordable housing options.

Faith Action believes the ALOHA bill is a game changer we need. It proposes to create affordable housing in a way that will be sustainable and budget neutral, in transit areas with walkability and a socio-economic mix that will enhance our island.

We recognize these ALOHA homes will still not be "affordable" to many of our residents who need housing. This bill should still assist in our overall affordability needs, however, because we need many more affordable housing units across the spectrum, particularly under 80% AMI (area median income). The thousands of ALOHA homes to be created should free up existing rental housing to create more affordable options for those who seek to rent. That should also assist in stabilizing lease rents, to become more affordable to working persons who could otherwise become homeless. This is a win-win for all of us.

This bill deserves our strongest support. Let's give ALOHA a chance to work in Hawaii; it creates the opportunity for a new model for sustainable affordable housing for Hawaii and for the United States.



# IRON WORKERS STABILIZATION FUND

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April 5, 2019  
10:15 am

Senate Committee on Housing  
Conference Room 221  
State Capitol  
Honolulu, Hawai'i 96813

Re: HB820, HD1, SD1 – Relating to Housing

*Aloha* Chair Dela Cruz, Vice-Chair Keith-Agaran and members of the Senate Committee on Ways and Means:

We **SUPPORT THE INTENT** of HB820, HD1, SD1. *Mahalo* for ensuring the the Aloha Homes program is not exempt from the state Procurement Code for construction projects. However, we are gravely concerned that the Corporation can bypass the procurement code by leasing out commercial projects for up to 65 years without public auction or sealed bid.

Further, we ask for (1) clarification be provided on how the program would support our families unable to afford \$300,000 for a unit, (2) the measure specify how Native Hawaiians will receive their fair-share for the use of the Public Land Trust lands; and further, we ask that this be turned into a pilot program with a sunset date of 10 years and in conjunction with the Department of Hawaiian Homelands, the state agency that has a mandate to create housing. Such a pilot program would allow for a controlled and measured approach to the establishment of a program that would undoubtedly reshape Hawaii for future generations and would tie up the use of public lands for a century

We are opposed to this measure until such time that it is: (1) clarified how our families unable to afford \$300,000 for a unit will benefit from this program; (2) ensured that Native Hawaiians get their fair share; (3) and turned into a pilot program with a sunset date of 10 years with limited scope to the Department of Hawaiian Homelands; and (4) addressing the procurement code bypass.

*Mahalo* for your time and consideration.

T. George Paris, Managing Director

TGP: MP

**HB-820-SD-1**

Submitted on: 4/3/2019 4:51:21 PM

Testimony for WAM on 4/5/2019 10:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Patrick F. Hurney	Testifying for Habitat for Humanity Hawaii Island, Inc.	Support	No

Comments:

**Please support HB476!**

**Currently, NLIHC RATED Hawaii as the highest rate in the USA of Housing Wage at \$32.75 per hour in order to afford fair market rent. Our local families are pricing out of the housing market. We need to combat the affordable housing crisis now!**

Mahalo

Patrick Hurney

**TESTIMONY OF ELLEN GODBEY CARSON  
IN SUPPORT OF HB820, HD1, SD1**

To Senate Ways and Means Committee

For Hearing on April 5, 2019 at 10:15am in Room 211

I am writing in strong support HB820, HD1, SD1 and the ALOHA Homes proposal.

While I write as an individual, I have served as President and director of Institute for Human Services, community organizer for Faith Action for Community Equity, and member of the Church of the Crossroads Peace and Justice Mission Team, spending hundreds of volunteer hours helping Hawaii find better systemic ways to address its dual crises of homelessness and lack of affordable housing.

I believe the ALOHA Homes bill is the game changer we need. We need a way to create affordable housing that will be sustainable and budget neutral, with low cost ways to build tens of thousands of affordable units quickly. This bill is designed to do just that. It also offers much needed community planning for our transit oriented areas in ways that will enhance the sense of community for those of us living in urban Honolulu.

The ALOHA Homes model is the only proposal I've seen in my 30+ years of living in Hawaii that have any hope of making a major change in the supply of affordable housing units, in a way that is sustainable and budget neutral, using market forces and creative intelligence instead of taxpayer subsidies.

I have traveled to Singapore and marveled at their system that allows approximately 90% of their population to own their own home, at affordable prices, on an island that shares many of the same daunting challenges we have in Hawaii. Our current methods for creating affordable housing in this state have been inadequate, incremental, unbelievably slow and tedious. We have failed to create the critical mass of new affordable housing we need.

In my opinion, this bill deserves our strongest support. Let's give this bill a chance to work in Hawaii. It's true that there will be much to be worked out in details of how best to make a Singaporean model work in Honolulu. That's why this bill needs all of us working together toward this goal, to help Hawaii create a new model for sustainable affordable housing in the United States.

Respectfully submitted,

Ellen Godbey Carson, Honolulu, Hawaii



**Testimony to the Senate Committee on Ways and Means  
Friday, April 5, 2019 at 10:15 A.M.  
Conference Room 211, State Capitol**

**RE: HB 820 HD1 SD1, RELATING TO HOUSING.**

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee:

The Chamber of Commerce Hawaii (“The Chamber”) **supports** HB 820 HD1 SD1 which proposes the following:

Part I: Amends Chapter 46-4 HRS by adding a section that prohibits any law, ordinance, or rule from imposing an inclusionary zoning requirement on housing offered exclusively for sale in perpetuity to buyers who are residents of the State, are owner-occupants, and do not own any other real property.

Part II: Proposes to establish the ALOHA homes program under the Hawaii Housing Finance and Development Corporation to facilitate the development of low-cost homes for sale to Hawaii residents on state-owned and county-owned land near rail stations of the Honolulu rail transit system, to be known as the “Urban Redevelopment District.” Establishes guidelines within the urban redevelopment district and provisions related to the sale of leasehold interest of ALOHA homes. Exempts land set aside or leased to the Hawaii Housing Finance and Development Corporation from the definition of public lands in section 171-2, HRS. Establishes and appropriates funds into and out of the ALOHA homes revolving fund. Authorizes the Hawaii Housing Finance and Development Corporation to sell the leasehold interest in residential condominium units located on state lands for lease terms of 99 years.

The Chamber is Hawaii’s leading statewide business advocacy organization, representing about 2,000+ 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.

With respect to Part I of the bill, we understand that the bill defines “inclusionary zoning requirement” as any requirement to set aside a fraction of a housing development to be sold at below market prices.

We have consistently supported efforts to “incentivize” the production of more housing units at all price points. Not being “mandated” to subsidize below market units in a project will encourage more developers to build more “workforce housing” which is usually in the 100% to 140% AMI. This is the market with the highest demand of qualified buyers.



# Chamber of Commerce HAWAII

*The Voice of Business*

Regarding Part II of the bill, we believe the bill should be referred to as “Hawaii’s Omnibus Housing Bill.” It consolidates many of the ideas and initiatives we have been proponents of over the last few years. This type of consolidated and focused effort is required by the State in order to build out way out of our housing crisis by increasing the supply of housing at all price points.

We strongly support and encourage more dialogue on the bill especially on some of the specific action items. We support the purpose of focusing on low-cost, high-density leasehold houses on government lands located along the transit corridor. We do suggest that to avoid “gentrification,” a mix of incomes and price points be provided.

We have also been a supporter of using the existing HCDA statutes to redevelop the State lands along the transit corridor as the redevelopment efforts would mirror what has happened in Kakaako. Incorporating the language from HCDA’s statutory authority is a step in the right direction, there is no need to reinvent the wheel with new legislation.

We also support the idea that this effort should be “revenue neutral” as there is an opportunity to monetize government assets along the transit corridor. However, we believe there will be a need for the State to make a substantial upfront investment, especially in developing infrastructure capacity. Without this type of investment, redevelopment of the government owned lands will not be realized.

While the bill mentions the need for “mixed use development,” we believe there should be an emphasis on creating opportunities for knowledge-based employers to locate along the transit corridor to bring knowledge-based jobs and create a truly Live-Work-Play mixed use community.

We support the residency requirement and the idea of requiring those interest to register to vote. Interesting concept and worthy of a discussion as it relates to housing in Hawaii. We also are in support of the need for the state to develop a 99-year leasehold condominium program as it will provide for a new market for the use of government lands. We would suggest that this program be vetted with the land reform act to insure the lands remain government owned in perpetuity.

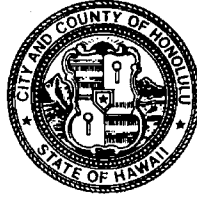
Thank you for the opportunity to testify.

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 768-6041  
DEPT. WEB SITE: [www.honoluluudpp.org](http://www.honoluluudpp.org) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

**LATE**

KIRK CALDWELL  
MAYOR



KATHY K. SOKUGAWA  
ACTING DIRECTOR

TIMOTHY F. T. HIU  
DEPUTY DIRECTOR

EUGENE H. TAKAHASHI  
DEPUTY DIRECTOR

April 5, 2019

The Honorable Donovan M. Dela Cruz, Chair  
and Members of the Committee on Ways & Means  
Hawaii State Senate  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Dela Cruz and Committee Members:

**Subject: House Bill No. 820, HD 1, proposed SD 1  
Relating to Housing**

The Department of Planning and Permitting (DPP) **opposes** House Bill No. 820, HD 1, SD 1, primarily because of Part I of the Bill that prohibits inclusionary zoning requirements on for-sale housing units offered exclusively and in perpetuity to buyers who are Hawaii residents, owner-occupants, and do not own any other real property. We **offer comments** on Part II of the Bill, which establishes the ALOHA Homes program.

Part I of the Bill invades county inclusionary housing programs (similar to Senate Bill No. 362) by creating a work-around carefully crafted strategies and requirements that require affordable housing to be included in most housing developments. The Bill is flawed in that it amends HRS Sec 46-4, County Zoning, but goes beyond zoning and requires monitoring real estate transactions. It is practically unenforceable, for many reasons. Here are a few:

- How will the perpetuity requirement be enforced, and by whom?
- Additional legislation may be needed to allow counties to monitor, deny or approve real estate transactions based on whether the specified restrictions are met. If this is not the intent, then these provisions should not be in Sec 46-4. If not the counties, what state agencies would be responsible for compliance?
- If it is discovered after a sales transaction has been completed that the buyer did not meet the qualifications, what are the repercussions? Are there penalties? Does the sale become null and void?
- Similarly, if a unit no longer meets the requirements, such as being owner-occupied, or owning other property, what happens? Is there a penalty?

The City's inclusionary zoning program has produced more than 15,000 affordable units over the last 40 years, both for-sale and rental. More recently, the City has focused on promoting denser, "infill" multi-family projects in the rail corridor with transit-oriented

development (TOD) by allowing additional height and density in exchange for affordable housing and other community benefits. In addition, Ordinance 18-10, adopted last year, requires affordable housing as part of new housing construction or subdivisions islandwide. Development under the City's inclusionary policies is anticipated to produce 2,250 affordable units over the next five years. Beyond 2024, as major projects come to fruition, an additional 7,500 affordable units may be added to the inventory.

With respect to Part II of the Bill, we strongly support building affordable housing on state lands near rail stations. We applaud the intent of this program – to take bold action to increase the supply of affordable homes for local families – but the program should be adjusted to maintain their affordability for generations. The same public subsidies will be given to lower income and wealthy local families (including the value of the land, public infrastructure, fee waivers, and extra height and density). It might be more equitable to charge a price based on household income (like most affordable housing programs), so that lower-income families pay less than wealthy ones. Since units can be resold at market prices after five years, an initial sales price of \$300,000 would likely more than double in value on resale (especially near rail stations) and no longer be available to local lower- and middle-income families. Yes, 75 percent of that windfall profit would go back to the program to develop more housing, but all the units would become unaffordable market-priced units over time. It might be preferable to use existing state formulas that allow 1 percent appreciation per year, and maintain a long-term affordable inventory.

We have other concerns about Part II:

- It appears that the first buyer of an ALOHA home is tied to a 99-year lease. These first buyers can sell their units after the first five or more years to “eligible buyers,” but there is no definition of “eligible buyers”; is this a reference to ability to get financing or complying with the 80 percent AMI restriction?
- With each sale, does the 99-year lease term re-start with the new owner, or is the intent that all leases in a project expire at the same time?
- ALOHA housing would be set for 99 year leases. Commercial leases are not to exceed 65-year terms. In a vertically mixed building, will this present a conflict?
- Given that these are not units being conveyed fee simple, but essentially are leasehold units, will the Hawaii Housing and Finance Development Corporation (HHFDC) play a role in any community association?
- As the 99<sup>th</sup> year draws near, how does this affect the market value of the units?

As an alternative to Part II, we suggest that the HHFDC undertake a feasibility study to evaluate the cost of developing a project under the ALOHA program. This would designate one or more sites, develop a conceptual development plan, including a site plan, assess the cost of upgrading any necessary infrastructure, estimate the price the units could be sold at, and how long it would take to have the units ready for occupancy.

In sum, we request that Part I of House Bill No. 820, HD 1, SD 1, be dropped, and Part II be substituted with a feasibility study.

The Honorable Donovan M. Dela Cruz, Chair  
and Members of the Committee on Ways & Means  
Hawaii State Senate  
House Bill No. 820, HD 1, SD1  
April 5, 2019  
Page 3

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kathy K. Sokugawa', written in a cursive style.

Kathy K. Sokugawa  
Acting Director





## Legislative Testimony

**HB820 HD1 SD1**  
**RELATING TO HOUSING**  
Senate Committee on Ways and Means

April 5, 2019

10:15 a.m.

Room 211

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on HB820 HD1 SD1 which seeks to address the urgency of Hawai'i's affordable housing crisis. OHA is very **appreciative** of the amendments made to this draft, which makes concrete the contemplated benefits to Native Hawaiians by requiring, rather than permitting, transfers of ALOHA Homes units to OHA and DHHL. Additionally, OHA appreciates the opportunity to be a meaningful part of the continued dialogue informing the development of this measure, and respectfully offers an amendment related to lease term lengths; and requests the committee clarify that state-owned lands set aside from the Governor or leased to the Hawaii Housing Finance and Development Corporation (HHFDC) and the Hawai'i Public Housing Authority remain consistently protected against inappropriate alienation.

First, **OHA appreciates the amendments made to this measure**, which, now, concretely carries out the state's responsibilities to the Department of Hawaiian Home Lands (DHHL) and its native Hawaiian beneficiaries, as well as the state's fiduciary obligation to uphold the interests of Native Hawaiians in Public Land Trust lands that may be developed under the ALOHA Homes program. Specifically, we applaud the contemplated transfer of ALOHA Homes units to OHA and DHHL, particularly given the unique and significant housing needs of the Hawaiian community.<sup>1</sup> Data demonstrates the

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<sup>1</sup> Data show that Native Hawaiians are less likely to own a home. See OFFICE OF HAWAIIAN AFFAIRS, NATIVE HAWAIIAN HOMEOWNERSHIP HO'OKAHUA WAIWAI FACT SHEET VOL.2016, No. 1, page 3, available at <https://19of32x2yl33s8o4xza0gf14-wpengine.netdna-ssl.com/wp-content/uploads/NH-Homeownership-Fact-Sheet-2016.pdf>. This data even includes 8,329 DHHL residential lease "owner-occupied" property units. DHHL ANNUAL REPORT 2014, at 47, available at <http://dhhl.hawaii.gov/wpcontent/uploads/2011/11/DHHL-Annual-Report-2014-Web.pdf>. For non-DHHL properties, the Native Hawaiian homeownership rate is therefore 41.2%, 15.5 percentage points below the statewide rate. Native Hawaiian households are also much more likely to be "doubled up," with multi-generational or unrelated individuals living together in single households. 24.8% of Native Hawaiian households, compared to 9.6% of state households include more than two generations or unrelated individuals. Furthermore, Native Hawaiian households are more than three times more likely to have a 'hidden homeless' family member than all state households. 14.1% of Native Hawaiian households, compared to 4.2% of state households have a hidden homeless family member. See SMS, Hawai'i Housing Planning Study, 70 (2016), available at [https://dbedt.hawaii.gov/hhfdc/files/2017/03/State\\_HHPS2016\\_Report\\_031317\\_final.pdf](https://dbedt.hawaii.gov/hhfdc/files/2017/03/State_HHPS2016_Report_031317_final.pdf).

dire need for housing among the Native Hawaiian community and the potential for the ALOHA Homes program to respond to that need.<sup>2</sup>

Second, OHA repeats its suggestions over the length of the proposed 99-year leasehold interests in public lands, which may include Public Land Trust lands as well as “ceded” lands taken through the unlawful overthrow of the Hawaiian Kingdom, and to which Native Hawaiians maintain unrelinquished claims. Extremely long-term multi-generational leases, such as those proposed, may inhibit multiple future generations from ensuring the best use of public lands and Public Land Trust lands, and may inadvertently create a sense of entitlement on the part of lessees that has led and may continue to lead to the alienation of public and “ceded” lands. Notably, OHA objects to the sale or alienation of “ceded” lands except in limited circumstances, and has significant concerns over any proposal that may facilitate the diminution of the “ceded” lands corpus. OHA understands that certain federal housing financing programs may require leasehold interests of 75 years, and that there are concerns regarding potential community concerns regarding kupuna without family or resources that may outlive a 75-year lease. OHA is open to further discussion regarding whether statutory lease extension language to accommodate such exigent circumstances may be appropriate, but still urges the committee to consider limiting initial leases to 75-year lease terms.

Lastly, **OHA requests that any proposals to exempt state lands from the definition of public lands in HRS § 171-2 be paired with amendments to ensure continued compliance with HRS § 171-64.7, a critical mechanism protecting our public lands, including “ceded” lands, from inappropriate alienation.** The legislative approval required for the sale or gift of public lands under HRS § 171-64.7 ensures a close level of oversight, accountability, and transparency in the potential alienation of our limited public land base; this statutory requirement is particularly critical to maintaining the “ceded” lands corpus, and its enactment was a condition precedent to the settlement agreement in the OHA v. Housing and Community Development Corporation of Hawai‘i lawsuit, brought in response to the State’s actions to sell and otherwise alienate “ceded” lands. After further review, OHA notes that 201H-9(c) authorizes HHFDC to sell property to any person or government. Therefore, even though it is OHA’s understanding that the ALOHA homes program does not anticipate fee sales, to the extent that this measure proposes to exempt any HHFDC- and, now, HPHA-controlled state lands from the definition of public lands under HRS § 171-2 and the attendant public land provisions of Chapter 171, OHA urges that such lands be expressly included under HRS § 171-64.7, consistent with lands HHFDC and HPHA hold in title and other state lands excluded from HRS § 171-2.

Accordingly, OHA requests that the proposed subsection (d) of HRS § 201H-W, found on page 34 lines 12-19, be amended to be read as follows:

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<sup>2</sup> Recent research has further shown that state and Native Hawaiian housing rental housing demand is almost entirely for increasingly rare “affordable” units, rather than for market-rate or other ‘gap’-rate units. See SMS, *supra* note 1, at 34. 63 percent of the Native Hawaiian demand for rental units is for those priced at 60 percent of the Area Median Income (AMI) and below. 77 percent of the Native Hawaiian demand for rental units is for units affordable to those at 80 percent AMI. *Id.* at 72, Table 49.

"(d) State land set aside by the governor to the corporation and lands leased to the corporation by any department or agency of the State for a condominium described in this section shall be exempt from the definition of "public land" under section 171-2, except for the provision in section 171-2(6) that subjects corporation lands to the accounting for all receipts for lands subject to section 5(f) of the Admission Act; provided further that any sale, gift, or exchange of real property shall be subject to the terms, conditions, and restrictions applicable to the sale, gift, or exchange of public lands in sections 171-50 and 171-64.7."

Additionally, OHA respectfully requests that parallel language be added to HRS § 171-64.7(a)(4) on page 40, lines 1-3, to mirror the proposed amendment to HRS § 171-2, to read as follows:

"(4) Lands that are set aside by the governor to the Hawaii housing finance and development corporation; lands leased to the Hawaii housing finance and development corporation by any department or agency of the State; or lands to which the Hawaii housing finance and development corporation in its corporate capacity holds title;"

Similarly, OHA requests that the HPHA proposed amendments between HRS § 171-2 and HRS § 171-64.7 mirror one another. As such OHA requests amendments to page 41, lines 1-2, to be read as follows:

(10) Lands set aside by the governor to the Hawaii public housing authority or lands to which the Hawaii public housing authority in its corporate capacity holds title."

Mahalo piha for the opportunity to testify on this measure.



April 4, 2019

Senate's Committee on Ways & Means  
Hawaii State Capitol  
415 South Beretania Street, Room 211  
Honolulu, HI 96813

Hearing: Friday, April 5, 2019 – 10:15 a.m.

**RE: STRONG SUPPORT for House Bill 820 Proposed SD 1 – RELATING TO HOUSING**

Aloha Chair Dela Cruz, Vice Chairs Keith-Agaron and fellow committee members,

I am writing in STRONG SUPPORT for House Bill 820 proposed Senate Draft 1 on behalf of the LGBT Caucus of the Democratic Party of Hawai'i. The proposed Senate Draft 1 establishes the ALOHA homes program under the Hawaii Housing Finance and Development Corporation to facilitate the development of low-cost homes for sale to Hawaii residents on state-owned and county-owned land near rail stations of the Honolulu rail transit system, to be known as the urban redevelopment district.

The housing crisis impacts the LGBTQIA community greater than our straight and/or cisgender counterparts. Which is one of many reasons we needed to expand the public accommodations laws, earlier this century, to include the LGBTQIA community. Research has shown, even in states with antidiscrimination protections, gay men and transgender individuals experience discrimination in gaining access to housing. SB 1 will help eliminate this discrimination on O'ahu. More work needs to be done for the neighbor islands but that is bill for another day.

The LGBT Caucus of the DPH asks that you support this very important bill as it will help ensure that all the kama'aina on O'ahu have access to affordable housing.

Mahalo nui loa,

Michael Golojuch, Jr.  
Chair

**LATE**

**HB-820-SD-1**

Submitted on: 4/4/2019 10:54:24 PM

Testimony for WAM on 4/5/2019 10:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Pride Work HI	Testifying for Pride at Work Hawaii	Support	Yes

Comments:

Aloha Senators,

The Pride at Work Hawaii, an affiliate of Hawaii State AFL-CIO, supports the passage of the proposed Senate Draft for HB 820 HD 1 SD 1.

While we support the intent of the proposed Senate Draft we have the following concerns:

- (1) how the program would support our families unable to afford \$300,000 for a unit,
- (2) what ensurances are there that the Native Hawaiians will receive their fair-share for the use of the Public Land Trust lands; and
- (3) ensuring that the procurement code is not bypassed.

Mahalo for your consideration and for the opportunity to testify in SUPPORT of proposed Senate Draft 1 for HB 820 HD 1 SD 1.

Mahalo,

Pride at Work - Hawaii

**LATE**

KAILUA NEIGHBORHOOD BOARD NO. 31

WILLIAM M. HICKS, CHAIRMAN ♦ 923 AKUMU STREET ♦ KAILUA, HAWAII, 96734-4004  
PHONE (808) 230-2293 ♦ E-MAIL hicksw001@hawaii.rr.com

April 4, 2019

Dear Chair Dela Cruz and Vice-Chair Keith-Agaran:

The Kailua Neighborhood Board at our meeting held on April 4, 2019 approved the following motion:

“The Kailua Neighborhood Board opposes HB 820 HD1 SD1 that permits Transit Oriented Development (TOD) at bus stops.”

Thank you for the opportunity to testify.

Sincerely,

Levani Lipton, Vice-Chair

Kailua Neighborhood Board

**LATE**

**HB-820-SD-1**

Submitted on: 4/4/2019 4:06:17 PM

Testimony for WAM on 4/5/2019 10:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
karen bohner	Individual	Support	No

Comments:

Please support.



**LATE**

**TESTIMONY TO THE SENATE COMMITTEE ON WAYS AND MEANS  
State Capitol, Conference Room 211  
415 South Beretania Street  
10:15 AM**

April 5, 2019

RE: HOUSE BILL NO. 820, HD 1, SD 1 RELATING TO HOUSING

Chair Dela Cruz, Vice Chair Keith-Agaran, 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. Our members build the communities we all call home.

BIA-Hawaii is in **strong support** of H.B. 820, HD 1, SD 1, which proposes the following:

Part I: Amends Chapter 46-4 HRS by adding a section that prohibits any law, ordinance, or rule from imposing an inclusionary zoning requirement on housing offered exclusively for sale in perpetuity to buyers who are residents of the State, are owner-occupants, and do not own any other real property.

Part II: Proposes to establish the ALOHA homes program under the Hawaii Housing Finance and Development Corporation to facilitate the development of low-cost homes for sale to Hawaii residents on state-owned and county-owned land near rail stations of the Honolulu rail transit system, to be known as the "Urban Redevelopment District." Establishes guidelines within the urban redevelopment district and provisions related to the sale of leasehold interest of ALOHA homes. Exempts land set aside or leased to the Hawaii Housing Finance and Development Corporation from the definition of public lands in section 171-2, HRS. Establishes and appropriates funds into and out of the ALOHA homes revolving fund. Authorizes the Hawaii Housing Finance and Development Corporation to sell the leasehold interest in residential condominium units located on state lands for lease terms of 99 years.

With respect to Part I of the bill, we understand that the bill defines "inclusionary zoning requirement" as any requirement to set aside a fraction of a housing development to be sold at below market prices.





We have consistently support efforts to incentivize the production of more housing units at all price points. Not being mandated to subsidize below-market units in a project will encourage more developers to build more workforce housing, which is usually in the 100% to 140% AMI. This is the market with the highest demand of qualified buyers.

Regarding Part II of the bill, we believe the bill should be referred to as "Hawaii's Omnibus Housing Bill." It consolidates many of the ideas and initiatives we have been strong proponents of over the last few years. This type of consolidated and focused effort is required by the state in order to build out way out of our housing crisis by increasing the supply of housing at all price points.

We strongly support and encourage more dialogue on the bill especially on some of the specific action items. We support the purpose of focusing on low-cost, high-density leasehold houses on government lands located along the transit corridor. We do suggest that to avoid "gentrification," a mix of incomes and price points be provided.

We have also been a strong supporter of using the existing HCDA statutes to redevelop the state lands along the transit corridor, as the redevelopment efforts would mirror what has happened in Kaka`ako. Incorporating the language from HCDA's statutory authority is a step in the right direction, there is no need to reinvent the wheel with new legislation.

We also support the idea that this effort should be revenue-neutral, as there is an opportunity to monetize government assets along the transit corridor. However, we believe there will be a need for the state to make a substantial upfront investment, especially in developing infrastructure capacity. Without this type of investment, redevelopment of the government owned lands will not be realized.

While the bill mentions the need for "mixed-use development," we believe there should be an emphasis on creating opportunities for knowledge based employers to locate along the transit corridor to bring knowledge based jobs and create a truly Live-Work-Play, mixed-use community.

We also are in strong support of the need for the state to develop a 99 year leasehold condominium program as it will provide for a new market for the use of government lands. We would suggest that this program be vetted with the land reform act to insure the lands remain government-owned in perpetuity.

We are in **STRONG SUPPORT** of H.B. 820, HD 1, SD 1, and appreciate the opportunity to express our views on this matter.