



SB2212 SD1
RELATING TO INCLUSIONARY ZONING
Ke Kōmike ‘Aha Kenekoa o ka Ho‘okolokolo

Pepeluai 24, 2020

12:00 p.m.

Lumi 016

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB2212 SD1. While OHA appreciates this measure’s underlying desire to encourage greater housing development for local residents, **OHA believes that this bill as drafted may unnecessarily tie the hands of local and state agencies in exploring and implementing much-needed, comprehensive, and tangible solutions to our complex housing challenges, for projects that are unlikely to be affordable to current local residents and that may exacerbate, rather than relieve, the State’s housing crisis.**

As the legislature recognizes, Hawai‘i is in the midst of an affordable housing crisis: recent research indicates a projected need for 65,000 more housing units by 2025, with nearly one quarter of this demand for units affordable for individuals and families at or below 30% of the Area Median Income (AMI);¹ two thirds of this demand is also for units affordable to those at or below 80% of the AMI.² Notably, only 11 percent of Hawai‘i’s housing demand is for market rate units, or units priced 140% AMI or higher.³ **With 48% of households in the State already unable to afford basic household necessities including housing, food, transportation, health care, and child care,⁴ the demand for and lack of affordable housing, combined with rising housing costs, require bold and aggressive policies that meaningfully prioritize the housing needs of local residents.**

OHA does also recognize that Native Hawaiians have significant and unique housing needs, and are particularly affected by the ongoing lack of affordable housing. Notably, Native Hawaiians are less likely to own a home;⁵ Native Hawaiian households are also much more likely to be “doubled up,” with multi-generational or unrelated individuals living together

¹ See SMS, HAWAII‘I HOUSING PLANNING STUDY, at 34 (2016), available at https://dbedt.hawaii.gov/hhfdc/files/2017/03/State_HHPS2016_Report_031317_final.pdf

² See *id.*

³ The State defines “affordable housing” as being affordable to individuals and families who make 140% of the AMI or less. See *id.* at 34.

⁴ ALOHA UNITED WAY, ALICE: A STUDY OF FINANCIAL HARDSHIP IN HAWAII‘I (2017).

⁵ Native Hawaiians’ homeownership rate is lower than the state average; it is 54.4%, compared to the statewide average of 58.5%. Excluding DHHL lessees from this figure, the Native Hawaiian homeownership rate is even more disparate, at 42.7%. U.S. CENSUS BUREAU, AMERICAN COMMUNITY SURVEY 1-YEAR ESTIMATES: 2017, (2018). HHL: Homestead Services Division, Commission submittal, 02/20/18. Retrieved on 11/15/18 from <https://dhhl.hawaii.gov/wp-content/uploads/2018/02/February-20-21-2018-HHC-Packet-Kapolei-Oahu1.pdf>.

in single households.⁶ Furthermore, Native Hawaiian households are more than three times more likely have a ‘hidden homeless’ family member than all state households.⁷ Accordingly, ensuring that our counties and planning agencies can explore and implement a range of policies that may address Hawai‘i’s multi-faceted affordable housing crisis is of particular importance for the Native Hawaiian community.

OHA therefore appreciates that this measure seeks to facilitate the development of housing units to meet state residents’ unprecedented demand for housing. **However, the development policies promoted by this measure do not necessarily ensure that new housing developments on our limited available land base will actually be reserved for current state residents.** For example, although this bill would require that developments exempted from inclusionary zoning requirements are offered for sale to state residents and owner-occupants, it does not provide an effective state residency standard, nor does it require that units actually be sold to current state residents. Similarly, while prohibiting purchasers from owning any other real property could reduce the demand from speculators and multiple property owners, such a prohibition does not address the considerable demand from the potentially substantial numbers of nonresident home purchasers seeking to relocate to Hawai‘i. Accordingly, the “market” for units that would be encouraged under this measure may continue to include national and global purchasers seeking to establish residency in Hawai‘i, and who are likely to have considerably greater buying power than Native Hawaiians and other local residents.

Moreover, while facilitating the development of “market” rate units, this measure may significantly frustrate efforts to explore a range of policy options that could more meaningfully address our affordable housing crisis. Again, 25% of the state’s projected housing demand will be for those earning 30% of the AMI, and over two thirds of the demand will be for units affordable to those earning 80% of the AMI or less. **Inclusionary zoning requirements may include a range of approaches that enable counties and policymakers to ensure that developments directly address the affordability needs of a majority of state residents.**⁸ Prohibiting the use of inclusionary zoning requirements for developments that could be comprised entirely of market rate units would foreclose important opportunities to ensure that the development of housing on our limited land base serves a cross-section of all income levels, as required by the State Plan⁹ and needed by Native Hawaiians and current Hawai‘i residents.

⁶ 24.8% of Native Hawaiian households, compared to 9.6% of state households, include more than two generations or unrelated individuals. SMS, *supra* note 1, at 70.

⁷ 14.1% of Native Hawaiian households, compared to 4.2% of state households have a hidden homeless family member. *Id.*

⁸ **Notably, an individual earning 140% AMI in Honolulu, the target income class for the State’s affordable housing goals, would be making up to \$118,160 per year.** See HHFDC 2019 INCOME, SALES, AND RENT GUIDELINES, HONOLULU COUNTY INCOME SCHEDULE BY FAMILY SIZE *available at* <https://dbedt.hawaii.gov/hhfdc/files/2019/07/2019-Income-Sales-and-Rent-Guidelines.pdf>. At 140% AMI, a family of four would earn \$168,700 per year.

⁹ See HRS § 226-19.

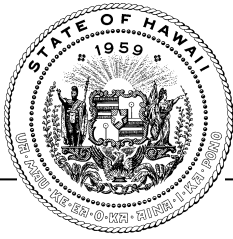
Finally, OHA notes that the promotion of market-rate developments may actually increase Hawai‘i’s affordable housing demand and exacerbate the current housing crisis. For example, studies have indicated that for every 100 new market rate units developed in Honolulu, a new need for 20 affordable units may be created.¹⁰ Accordingly, prohibiting inclusionary zoning requirements for new developments would only incentivize the development of market rate units that increase the demand for affordable housing, and tie the hands of policymakers in addressing such demand.

The State must ensure that development policies appropriately prioritize meaningful affordable housing relief for its residents. **Restricting or removing the counties’ ability to provide such relief, including through this measure’s proposed prohibition on inclusionary zoning policies, would run counter to the State’s obligations to facilitate such relief and ensure a full range of housing opportunities currently needed by low-income, moderate-income, and gap group individuals and families.**¹¹

For these reasons, we respectfully request that the Committee **HOLD** SB2212 SD1. Mahalo nui loa for the opportunity to testify on this matter.

¹⁰ KEYSER MARSTON ASSOCIATIONS, RESIDENTIAL NEXUS ANALYSIS 6 (2015).

¹¹ HRS § 226-19.



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DAVID Y. IGE
GOVERNOR

MARY ALICE EVANS
DIRECTOR
OFFICE OF PLANNING

Statement of
MARY ALICE EVANS
Director, Office of Planning
before the
SENATE COMMITTEE ON JUDICIARY
Monday, February 24, 2020
12:00 PM
State Capitol, Conference Room 16

in consideration of
SB 2212, SD 1
RELATING TO INCLUSIONARY ZONING.

Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Committee on Judiciary.

The Office of Planning (OP) **opposes** SB 2212, SD 1, and offers the following comments. SB 2212, SD 1 would amend Hawaii Revised Statutes (HRS) § 46-4 to prohibit the imposition of inclusionary zoning requirements on housing offered exclusively for sale in perpetuity to buyers who are Hawaii residents, owner-occupants, and do not own other real property.

OP has two primary concerns about the proposal.

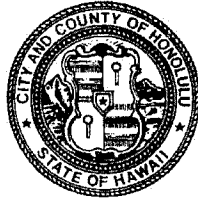
1. The language on page 6, line 18, “neither this section nor any other law” (emphasis added), would appear to broadly prohibit the imposition of affordable housing requirements pursuant to other statutes affecting other State agencies, including HRS Chapter 205, under which the State Land Use Commission seeks affordable housing conditions for projects seeking land use district boundary amendments.
2. Inclusionary zoning requirements with income eligibility requirements has been a long-standing means for State and county agencies to provide affordable housing that otherwise may not have been developed. Implementation and enforcement of compliance with the proposed buyer qualifications will also be problematic, particularly, “in perpetuity”. The proposal will place a significant administrative burden on public agencies to ensure compliance with these conditions.

Thank you for the opportunity to testify on this measure.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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February 24, 2020



The Honorable Karl Rhoads, Chair
and Members of the Committee on Judiciary
Hawaii State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Rhoads and Committee Members:

**Subject: Senate Bill No. 2212, SD 1
Relating to Inclusionary Zoning**

The Department of Planning and Permitting (DPP) **opposes** Senate Bill No. 2212, SD 1, which would prohibit 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. The Bill would also require the counties to provide annual reports on inclusionary requirements to the Legislature until 2025.

It appears that the intent of the Bill is to provide housing for local residents without any restrictions on affordability, thus allowing such developments to be sold at market prices that are not affordable. While we are not aware of any such developments being proposed, this Bill appears intended to offer developers an “end run” around the City’s policies that require affordable housing to be included in most housing developments. Please note that the city’s inclusionary housing program does not require affordability in perpetuity, but they do require beneficiaries to be Hawaii residents, and owner-occupied. Thus, our opposition is only on the elimination of any income qualification.

This override of our income eligibility requirements interferes with our ability to define our own housing strategies, i.e., deliver more housing to those most in need. Accordingly, we object on the basis of homerule.

The City has depended on inclusionary zoning for decades. It has, without a doubt, benefited local residents. Curtailing this program would be detrimental to the State’s and City’s shared goal of increasing the supply of affordable housing. In the last 40 years, our program has produced more than 15,000 affordable units, 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 requires affordable housing as part of new housing construction or subdivisions islandwide.

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For the future, our efforts are anticipated to produce more than 5,000 affordable units over the next five years. Beyond 2024, as major projects come to fruition, 18,000 more may be added to the inventory.

We believe our efforts, which include working closely with the State in planning and prioritizing investments in affordable housing and TOD infrastructure, will add significant affordable housing inventory throughout the county. Accordingly, we oppose Senate Bill No. 2212, SD 1, and request that it not move forward.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy K. Sokugawa". The signature is fluid and cursive, written over the printed name below it.

Kathy K. Sokugawa
Acting Director