



SB2212
RELATING TO INCLUSIONARY ZONING

Senate Committee on Public Safety, Intergovernmental, & Military Affairs
Senate Committee on Housing

January 28, 2020

1:15 p.m.

Room 229

The Administration of the Office of Hawaiian Affairs (OHA) **OPPOSES** SB2212. 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.**

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

¹ See SMS, HAWAII 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 (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>.

multi-generational or unrelated individuals living together 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 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 still 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 includes 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 the 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 a 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 Committees **HOLD** SB2212. Mahalo for the opportunity to testify on this matter.

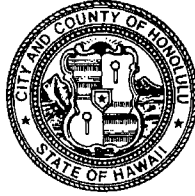
¹⁰ KEYSER MARSTON ASSOCIATIONS, RESIDENTIAL NEXUS ANALYSIS 6 (2015).

¹¹ HRS § 226-19.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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

KIRK CALDWELL
MAYOR



KATHY K. SOKUGAWA
ACTING DIRECTOR

TIMOTHY F. T. HIU
DEPUTY DIRECTOR

EUGENE H. TAKAHASHI
DEPUTY DIRECTOR

January 28, 2020

The Honorable Clarence K. Nishihara, Chair
and Members of the Committee on Public Safety,
Intergovernmental, and Military Affairs
The Honorable Stanley Chang, Chair
and Members of the Committee on Housing
Hawaii State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chairs Nishihara and Chang, and Committee Members:

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

The Department of Planning and Permitting (DPP) **opposes** Senate Bill No. 2212, 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.

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 home rule.

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

The Honorable Clarence K. Nishihara, Chair
and Members of the Committee on Public Safety,
Intergovernmental, and Military Affairs
The Honorable Stanley Chang, Chair
and Members of the Committee on Housing
Hawaii State Senate
Senate Bill No. 2212
January 28, 2020
Page 2

affordable housing and other community benefits. In addition, Ordinance 18-10 requires affordable housing as part of new housing construction or subdivisions islandwide.

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, 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, with a long, sweeping underline that extends to the right.

Kathy K. Sokugawa
Acting Director

Council Chair
Alice L. Lee

Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Riki Hokama
Kelly Takaya King
Michael J. Molina
Tamara Paltin
Shane M. Sinenci
Yuki Lei K. Sugimura



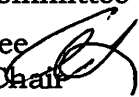
Director of Council Services
Traci N. T. Fujita, Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us



January 27, 2020

TO: The Honorable Clarence K. Nishihara, Chair
Senate Committee on Public Safety, Intergovernmental, and Military Affairs
The Honorable Stanley Change, Chair
Senate Committee on Housing

FROM: Alice L. Lee
Council Chair 

SUBJECT: **HEARING OF JANUARY 28, 2020; TESTIMONY IN SUPPORT WITH REVISIONS OF SB 2212, RELATING TO INCLUSIONARY ZONING**

Thank you for the opportunity to testify in **support with revisions** of this important measure. The purpose of this measure is to prohibit 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.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I support this measure with revisions for the following reasons:

1. The Maui News recently reported that nearly half of all homebuyers on Maui from 2008 to 2019 were out-of-state residents. Mainland residents made up 42.4 percent of homebuyers, and foreigners made up 5.7 percent of homebuyers. This bill is a good start in developing tools to incentivize housing for local people.
2. Housing should be developed for the residents who most need it. Therefore, I respectfully ask you consider revising this measure to require the housing exempted from inclusionary zoning requirements to only be sold to households at 120 percent of the Area Median Income or below.

For the foregoing reasons, **I support this measure with revisions.**



January 27, 2020

Senate Committees on Public Safety, Intergovernmental, and Military Affairs and Housing
Tuesday, January 28, 2020, 1:15pm
Conference Room 229

SB2212 – Relating to Inclusionary Zoning

Aloha Committee Chairs, Vice-Chairs, and Members:

I am submitting testimony on behalf of Hawaiian Community Assets (HCA), the State’s largest HUD-approved housing counseling agency, and Hawaii Community Lending (HCL), a Department of Treasury certified community development financial institution to **OPPOSE SB2212**.

SB2212 would unnecessarily prohibit our counties from passing legislation that would assist our State in addressing our collective affordable housing crisis. Specifically, it would prohibit our counties from passing legislation to increase affordable homeownership opportunities for our workers and families earning less than 140% the area median income (AMI).

It is clear that counties need the flexibility to meet the specific and unique affordable housing needs of their residents. SB2212 suggests the State can and should be expected to do this work on its own.

Need for Affordable Housing for Our Low- and Moderate-Income Households

According to the 2016 Hawaii Housing Planning Study¹ conducted by the Hawaii Housing Finance and Development Corporation, the Counties, and the Office of Hawaiian Affairs, nearly 70% of all housing demand in our State is from our low- and moderate-income households earning less than 100% the area median income (AMI). Market priced units are out-of-range for at least 89% of our population. Only 11% of demand is for units priced higher than 140% AMI.

SB2212 disregards these facts and argues that affordable homeownership opportunities should not be available to any of your constituents unless they are earning more than \$109,500 annually as a family of 3. Instead, it makes the argument that homeownership should almost exclusively be an opportunity for 11% of the population that can afford market rate housing.

¹ 2016 Hawaii Housing Planning Study,

If we are to address our dual homeless and affordable housing crises, we need to allow our counties the ability to pass common sense laws that give opportunities for our low- and moderate-income workers and families to access the spectrum of affordable rental and for-sale units. Stopping our counties from engaging in this important work would set a dangerous precedence and leave the State on its own to address the crises.

At a time when Hawaii reports the highest homeless rate per capita of any state in the nation and our renters and homeowners are the most cost burden of any other persons across the United States, SB2212 would only make our homeless and affordable housing crises worse. It would set the rules for making homeownership a luxury for only those earning above 140% AMI contrary to research and data that shows the need for affordable housing in our State is most pronounced for those workers and families earning at or below 100% AMI.

Give our counties the flexibility to join the State in addressing the affordable housing needs of all of our residents - **OPPOSE SB2212.**

Mahalo for your time, leadership and consideration. Please contact me directly at 808.587.7653 or jeff@hawaiiancommunity.net should you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink that reads "Jeff Gilbreath". The signature is written in a cursive, slightly slanted style.

Jeff Gilbreath
Director of Lending and Development



Building strength and stability through shelter

January 27, 2020

Senate Committees on Public Safety, Intergovernmental, and Military Affairs and Housing
Tuesday, January 28, 2020
Conference Room 229, 1:15 p.m.

SB 2212 – Relating to Inclusionary Zoning

Aloha Committee Chairs, Vice-Chairs and Members;

I am submitting testimony in my capacity as Executive Director of Hawaii Habitat for Humanity Association (HHFHA), a nonprofit community development financial institution certified by the US Dept. of Treasury and State Support Organization for the direct service Habitat for Humanity organizations across the state to **OPPOSE SB2212.**

SB2212 would unnecessarily prohibit our counties from passing legislation that would assist our State in addressing our collective affordable housing crisis. Specifically, it would prohibit our counties from passing legislation to increase affordable homeownership opportunities for our workers and families earning less than 140% the area median income (AMI). Counties need the flexibility to meet the specific and unique affordable housing needs of their residents. SB2212 suggests the State can and should be expected to do this work on its own.

Without inclusionary zoning requirements, housing built for ownership will only accomplish more housing for people who can afford traditional financing at market rate pricing. With the average cost of an existing single family home in Hawaii well over \$800,000, Hawaii's families are already shut out of the opportunity to even own an existing home. With the new construction of homes, even with more inventory, our low income families will be shut out for years from owning their homes. The advantage of inclusionary zoning is a mixed income community, a place for all residents to thrive.

According to Grounded Solutions Network (groundedsolutions.org), a Habitat for Humanity International partner, inclusionary housing policies are notable for their ability to create more affordable housing, but also to do so in neighborhoods with access to transportation, quality jobs, good schools and safe streets. Inclusionary housing policies create affordable housing in places that are desirable to residents of all income levels and in neighborhoods where market-rate housing is being built. Numerous studies (Levy, Diane K., Zach McDade, and Kassie Dumlao. 2011. "[Effects from Living in Mixed-Income Communities for Low-Income Families: A Review of the Literature.](#)" Metropolitan Housing and Communities Center. Washington, DC: Urban Institute) attest to the lasting benefits of living in a mixed-income neighborhood with access to jobs and amenities. Low-income families who move into low-poverty neighborhoods tend to experience physical and mental health improvements and increased self-esteem and motivation.

They are also more likely to be employed when compared to residents who move into high-poverty neighborhoods (which is where they may be forced to live, without inclusionary zoning benefits).

Please do not eliminate inclusionary zoning requirements, Hawaii's hardworking low income families need a home in a supportive community where they can thrive. Do not pass SB2212, for the sake of healthy thriving communities.

Mahalo for your time, leadership and consideration. Please contact me directly at 808.847.7676 or jean@hawaiihabitat.org should you have any questions or need additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jean Lilley".

Jean Lilley
Executive Director



January 27, 2020

The Honorable Clarence K. Nishihara, Chair
The Honorable Glenn Wakai, Vice-chair
Members of the Senate Committee on Public Safety, Intergovernmental,
and Military Affairs

The Honorable Stanley Chang, Chair
The Honorable Dru Mamo Kanuha, Vice-chair
Members of the Senate Committee on Housing

RE: **SB 2212 – RELATING TO HOUSING**
Hearing date: January 28, 2020 at 1:15 Pm

Aloha Chairs Nishihara and Chang, and members of the committees,

Mahalo for the opportunity to submit testimony on behalf of NAIOP Hawaii in **SUPPORT** of SB 2212. NAIOP Hawaii is the local chapter of the nation's leading organization for office, industrial, retail, residential and mixed-use real estate. NAIOP Hawaii has over 200 members in the State including local developers, owners, investors, asset managers, lenders and other professionals. NAIOP Hawaii strongly supports the development of housing for Hawaii residents at all levels of income, especially affordable housing projects.

SB 2212, would prohibit any law, ordinance, or rule from imposing an inclusionary zoning requirement on housing offered exclusively for sale in perpetuity to buyers who are (1) residents of Hawaii; (2) will be owner-occupants; and (3) do not own any other real property. This would allow 100% of projects to be sold to Hawaii residents at market rates, so long as the properties were restricted under those criteria in perpetuity. Given that affordable housing units built in accordance with inclusionary zoning requirements are subsidized at a rate of up to \$300,000 per unit, or more, the exemption in SB 2212 will save tens of thousands of dollars per unit for market rate units. This will help make housing affordable to the often forgotten homebuyer gap which does not qualify for subsidies, yet cannot afford market rate homes.

This type of forward-thinking legislation is critical to Hawaii's ability to address the housing shortages without increasing the costs for development, and accordingly the cost of homes.

Mahalo for your consideration,

Catherine Camp, President
NAIOP Hawaii



**SENATE COMMITTEES ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY
AFFAIRS, AND HOUSING
State Capitol, Conference Room 229
415 South Beretania Street
1:15 PM**

January 28, 2020

RE: SENATE BILL NO. 2212, RELATED TO INCLUSIONARY ZONING

Chairs Nishihara and Chang, Vice Chairs Wakai and Kanuha, and members of the committees:

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 S.B. 2212, which would prohibit a county from using any law, ordinance, or rule to impose 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. The bill defines "inclusionary zoning requirement" to mean any requirement to set aside a fraction of a housing development to be sold at below-market prices.

Inclusionary zoning is ineffective because it forces developers to increase prices at the higher end in order to subsidize units at below market rates. Our housing crisis is a supply issue. We need to increase the supply of housing at all price points in order to solve this crisis. The housing market is the only market where government requires manufacturers to sell their product at specified price points. In other economies, the free market system takes care of pricing.

We are in strong support of S.B. 2212, and appreciate the opportunity to express our views on this matter.



Chamber of Commerce HAWAII
The Voice of Business

**Testimony to the Senate Committees on Public Safety, Intergovernmental,
and Military Affairs, and Housing**

**Tuesday, January 28, 2019 at 1:15 P.M.
Conference Room 229, State Capitol**

LATE

RE: SB 2212, RELATING TO INCLUSIONARY ZONING

Chairs Nishihara and Chang, Vice Chairs Wakai and Kanuha and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") **supports** SB 2214, which would prohibit a county from using any law, ordinance, or rule to impose 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. The bill defines "inclusionary zoning requirement" to mean any requirement to set aside a fraction of a housing development to be sold at below market prices.

The Chamber is Hawaii's leading statewide business advocacy organization, representing 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.

Inclusionary zoning does not work as it forces developers to increase prices at the higher end in order to subsidize units at below market rates. Our housing crisis is a "supply" issue, and we need to work to increase the supply of housing at all price points in order to build our way out of this crisis. The housing market is the only market where government requires builders to build units to be sold at specified price points. In other markets, the free market system takes care of pricing.

Thank you for the opportunity to testify in support of SB 2212.