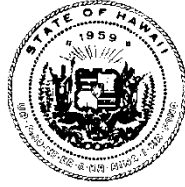


DAVID Y. IGE  
GOVERNOR



DENISE ISERI-MATSUBARA  
EXECUTIVE DIRECTOR

**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  
**DENISE ISERI-MATSUBARA**  
Hawaii Housing Finance and Development Corporation  
Before the

**HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS**

March 23, 2021 at 2:00 p.m.  
State Capitol, Room 325

In consideration of  
**S.B. 866, S.D. 2, H.D. 1**  
**RELATING TO AFFORDABLE HOUSING.**

The HHFDC supports S.B. 833, S.D. 2, H.D. 1.

Thank you for the opportunity to provide written comments on this measure.

# BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU  
630 SOUTH BERETANIA STREET  
HONOLULU, HI 96843  
www.boardofwatersupply.com



March 23, 2021

KIRK CALDWELL, MAYOR

BRYAN P. ANDAYA, Chair  
KAPUA SPROAT, Vice Chair  
RAY C. SOON  
MAX J. SWORD  
NA'ALEHU ANTHONY

JADE T. BUTAY, Ex-Officio  
ROGER BABCOCK, Jr., Ex-Officio

ERNEST Y. W. LAU, P.E.  
Manager and Chief Engineer

ELLEN E. KITAMURA, P.E.  
Deputy Manager and Chief Engineer

The Honorable Mark M. Nakashima, Chair  
The Honorable Scot Z. Matayoshi, Vice-Chair  
and Members  
House Committee on Judiciary and Hawaiian Affairs  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Dear Chair Nakashima and Vice-Chair Matayoshi and Members:

Subject: Senate Bill 866, SD2, HD1- Relating to Affordable Housing

The Board of Water Supply (BWS), City and County of Honolulu (City), strongly opposes Senate Bill (SB) 866, Senate Draft (SD) 2, House Draft (HD) 1, which exempts affordable housing projects by the Hawaii Housing Finance and Development Corporation (HHFDC) from all state and county fees and exactions.

The latest HD1 version of SB866 would effectively require the BWS to forego fees for such affordable housing projects.

As a semi-autonomous agency of the City, the BWS is self-sufficient and does not receive any funds from the City's primary revenue source – real property taxes. BWS generates its revenue directly from its customer base. The BWS Board recognizes the importance of affordable water to meet essential household needs, and allows for waiver(s) of the water system facilities charges and new meter costs for qualified affordable and homeless dwelling units pursuant to BWS Board adopted Resolution No. 889, effective September 15, 2018.

Attached is a formal legal opinion issued by the State Attorney General to the HHFDC that "[Hawaii Revised Statutes (HRS)] section 201E-210 re-codified as HRS 201H does not exempt housing developments of the [HHFDC] from compliance with the rules of the various county water boards." As such, the 1998 State Legislature included in Section 201H-38 subsection (a) (2) "[t]he development of the proposed housing project does not contravene any safety standards, tariffs, or rates and fees . . . . of the various boards of water supply authorized under chapter 54." The HD1 should therefore include this provision or amend subsection (b) of the bill to read as follows:

"(b) Affordable housing units in projects developed pursuant to this section shall be exempt from all state and county fees and exactions related to discretionary approval or ministerial permitting relating to planning, development, and improvement of land, and

The Honorable Mark M. Nakashima, Chair  
The Honorable Scot Z. Matayoshi, Vice-Chair  
and Members  
March 23, 2020  
Page 2

the construction of dwelling units thereon except as provided in §201H-38 subsection (a)(2) above as it pertains to the various boards of water supply authorized under chapter 54; provided . . .”

The BWS strongly opposes SB866, SD2, HD1 because it is unconstitutional special legislation. Article VIII, Section 1 of the Hawaii State Constitution provides that “Each political subdivision shall have and exercise such powers as shall be conferred under general laws.” SB866, SD2, HD1, is not a general law, in that it specifically excludes HHFDC from the state and county fees exemption. SB866, SD2, HD1 usurps the powers and authority conferred to all the county boards of water supply by Chapter 54, HRS.

The Revised City Charter of Honolulu 1973 (2017 Edition), Article VII, Section 7-109 states that “[t]he board shall have the power to fix and adjust reasonable rates and charges for the furnishing of water and for water services so that the revenues derived therefrom shall be sufficient to make the department self-supporting.”

Over the next 30 years, the BWS will need to invest over \$5 billion in improvements to Oahu’s municipal water supply system. We estimate that about \$2.5 billion will be financed through revenue bonds. Loss of control over revenues can have serious financial impacts that would be borne by the community we serve. Every day we supply precious drinking water to nearly 1 million people here on Oahu.

For the foregoing reasons, the BWS strongly opposes SB866, SD2, HD1. Thank you for your consideration of our testimony.

Very truly yours,



ERNEST Y. W. LAU, P.E.  
Manager and Chief Engineer

#### Attachments

cc: County of Kauai Board of Water Supply  
County of Hawaii Department of Water Supply  
County of Maui Department of Water Supply

ATTACHMENTS



**DEPARTMENT OF WATER SUPPLY  
COUNTY OF MAUI  
P.O. BOX 1108  
WAILUKU, MAUI, HAWAII 96793-7108**

February 5, 1998

The Honorable Robert Bunda, Co-Chairperson  
The Honorable Marshall K. Ige, Co-Chairperson  
and Members of the Committee on Government  
Operations and Housing  
The Senate, The Nineteenth Legislature  
Conference Room 224, State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Co-Chairpersons and Members:

Subject: SB No. 3035, Relating to the Housing and Community  
Development Corporation of Hawaii

Thank you for the opportunity to comment on Senate Bill No. 3035.

My name is David Craddick, Director for the Maui County Board of Water Supply. We support the Hawaii Water Works Association proposed language change, as noted in the enclosure, to clarify that rates and fees of the various boards of water supply (BWS) allowed under HRS Chapter 54 are not to be contravened.

The State Attorney General has provided an opinion that Section 201E-210 does not exempt BWS charges. Because there are conflicting opinions provided by County Corporation Counsel, language changes as proposed are needed. Section 201E-210 is the same as Section 201G-118.

Again, thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "David Craddick".

David Craddick, P.E.  
Director  
Enclosure

**SECTION 22: 23. §201G-118 Housing development; exemption from statutes, ordinances, charter provisions, rules.** (a) The corporation may develop on behalf of the State or with an eligible developer, or may assist under a government assistance program in the development of, housing projects which shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of units thereon; provided that:

- (1) The corporation finds the project is consistent with the purpose and intent of this chapter, and meets minimum requirements of health and safety;
- (2) The development of the proposed project does not contravene any safety standard, or tariffs, or rates and fees approved by the public utilities commission for public utilities, or the various Boards of Water Supply authorized under HRS-54; and
- (3) The legislative body of the county in which the project is to be situated shall have approved the project.
  - (A) The legislative body shall approve or disapprove the project by resolution within forty-five days after the corporation has submitted the preliminary plans and specifications for the project to the legislative body. If on the forty-sixth day a project is not disapproved, it shall be deemed approved by the legislative body;
  - (B) No action shall be prosecuted or maintained against any county, its officials, or employees on account of actions taken by them in reviewing, approving, or disapproving the plans and specifications; and
  - (C) The final plans and specifications for the project shall be deemed approved by the legislative body if the final plans and specifications do not substantially deviate from the preliminary plans and specifications. The final plans and specifications for the project shall constitute the zoning, building, construction, and subdivision standards for that project. For purposes of sections 501-85 and 502-17, the executive director of the corporation, or the responsible county official may certify maps and plans of lands connected

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relating to consolidation and subdivision of lands, and the maps and plans shall be accepted for registration or recordation by the land court and registrar; and

(4) The land use commission shall approve or disapprove a boundary change within forty-five days after the corporation has submitted a petition to the commission as provided in section 205-4. If on the forty-sixth day the petition is not disapproved, it shall be deemed approved by the commission.

(b) For the purposes of this section, "government assistance program" means a housing program qualified by the corporation and administered or operated by the corporation or the United States or any of their political subdivisions, agencies, or instrumentalities, corporate or otherwise.

BENJAMIN J. CAYETANO  
GOVERNOR



0896129

ROY S.  
EXECUTIVE

STATE OF HAWAII  
DEPARTMENT OF BUDGET AND FINANCE  
HOUSING FINANCE AND DEVELOPMENT CORPORATION  
677 QUEEN STREET, SUITE 300  
HONOLULU, HAWAII 96813  
FAX (808) 587-0800

IN REPLY

96:PPE/

August 23, 1996

The Honorable David Craddick  
Director  
Board of Water Supply  
County of Maui  
P.O. Box 1109  
Wailuku, Maui, Hawaii 96793-7833

Dear Mr. Craddick:

We are in receipt of your letter of August 13, 1996 in which you follow-up on a previous request for an Attorney General's opinion regarding the applicability of section 201E-210, HRS, to water system development fees.

Pursuant to your request, enclosed is a formal legal opinion issued by the Attorney General dated August 9, 1996.

Sincerely,

A handwritten signature in cursive script, appearing to read "Roy S. Oshiro".

ROY S. OSHIRO  
Executive Director

Enclosure

AUG-15-1996 16:38

COMMERCIAL MARKETS

808 528 1175 P.002

BENJAMIN J. CAYETANO  
GOVERNOR

RECEIVED  
H.F.D.C.



MARGERY S. BRONF  
ATTORNEY GENERAL

AUG 19 7 45 AM '96

STATE OF HAWAII  
DEPARTMENT OF THE ATTORNEY GENERAL  
425 QUEEN STREET  
HONOLULU, HAWAII 96813  
(808) 528-1000

JOHN W. ANDERSON  
FIRST DEPUTY ATTORNEY GENERAL

August 9, 1996

RECEIVE

AUG 14 1996

Time: 2:30 PM  
Bank of America, FS  
Commercial Real Estate Serv

Mr. Donald K. W. Lau, Chairman  
Board of Directors  
Housing Finance and Development  
Corporation  
677 Queen Street, Suite 300  
Honolulu, Hawaii 96813

Dear Mr. Lau:

Re: Applicability of Section 201E-210, Hawaii Revised  
Statutes, to Water System Development Fees

In a letter dated November 27, 1995, Mr. David Craddick of the County of Maui Board of Water Supply questioned the use of section 201E-210, Haw. Rev. Stat., to exempt housing projects from the payment of water system development fees. According to Mr. Craddick, there are "differing legal opinions" among the counties regarding the application of section 201E-210. Subsequently, we received a request from your planning branch for our advice.

Section 201E-210, Haw. Rev. Stat., permits either the Housing Finance and Development Corporation (HFDC) or the counties (through section 46-15.1, Haw. Rev. Stat.) to obtain exemptions from various specified governmental requirements related to the development of housing on an expedited basis. The section 201E-210 exemption reads:

(a) The corporation may develop, on behalf of the State or with an eligible developer, or may assist under a government assistance program in the development of housing projects which shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of units thereon: . . . .



Mr. Donald K. W. Lau  
August 9, 1996  
Page 2

Certain conditions under section 201E-210 also must be met:

- (1) The project must meet minimum health and safety requirements and be consistent with the purposes of chapter 201E, Haw. Rev. Stat.;
- (2) No safety standards or tariffs for public utilities may be violated;
- (3) The project must be approved or deemed approved by the county council; and
- (4) Any boundary change must be submitted to the land use commission and either be approved or deemed approved.

Assuming the conditions are met, the project could be exempt from the rules of any governmental agency. A semi-autonomous board of water supply would be encompassed within the term "any governmental agency." The issue to resolve then is whether water system development fees adopted under the rules of a board of water supply are rules relating to "planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of units" to which the section 201E-210 exemption applies.

Exemptions to state laws are not lightly inferred. As the Hawaii Supreme Court stated, "It is a well settled rule of statutory construction that exceptions to legislative enactments must be strictly construed" and the one "who claims the benefits of such an exception has the burden of bringing himself clearly within it." State v. Russell, 62 Haw. 474, 480, 617 P.2d 84, 88 (1980). Such "exceptions, generally, should be strictly, but reasonably, construed; that they extend only so far as their language warrants; and all doubts should be resolved in favor of the general provision, rather than the exception." State v. Christensen, 137 P.2d 512, 518 (Wash. 1943).

Additionally, in construing a statute, we must give effect to the legislative intent. See In re Tax Appeal of Hawaiian Telephone Co., 61 Haw. 572, 577, 608 P.2d 383, 387 (1980); Keller v. Thompson, 56 Haw. 183, 189, 532 P.2d 664 (1975); 2A Norman J. Singer, Sutherland Statutory Construction § 45.05 (5th ed. rev. 1992). Weight must also be given to the interpretation of the statute by the agency charged with

Mr. Donald K. W. Lau  
August 9, 1996  
Page 3

administering the statute. See, e.g., Noverola-Bolaina v. Immigration & Naturalization Service, 395 F.2d 131, 136 (9th Cir. 1968); Chun v. Employees' Retirement System, 61 Haw. 596, 602, 607 P.2d 415, 419 (1980); 2B Norman J. Singer, Sutherland Statutory Construction § 49.05 (5th ed. rev. 1992).

On its face, section 201E-210 does not exempt HFDC housing developments from rules of the county boards of water supply. The language of section 201E-210 exempting such housing developments from statutes and rules "relating to planning, zoning, construction standards for subdivisions, development and improvement of land" does not mention or include water facility fees. The words of section 201E-210 must be given their usual meaning. Section 1-4, Haw. Rev. Stat., states that the "words of a law are generally to be understood in their most known and usual signification, . . . their general or popular use or meaning."

While the phrase "planning, zoning and construction standards" is not defined in the statute, some guidance to its meaning may be found in legislative history. The exemptions in section 201E-210 are based on those previously found in sections 359A-4 and 359G-4.1 which arose in Act 105, 1970 Haw. Sess. Laws 190 and Act 225, 1976 Haw. Sess. Laws 556, respectively. Act 105 created the housing development program within the Hawaii Housing Authority. Act 105's preamble cited "a critical shortage of housing units for lower and middle income residents" in the State of Hawaii. Act 105 gave the Hawaii Housing Authority the power to adopt rules that "shall have the force and effect of law and shall supersede . . . all other inconsistent laws, ordinances, and rules and regulations relating to the use, zoning, planning, and development of land." 1970 Haw. Sess. Laws at 193. Act 225 authorized the development of housing projects "which shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to zoning and construction standards for subdivisions, development and improvement of land and the construction and sale of homes . . .". 1976 Haw. Sess. Laws at 563-64.

Water development fees are clearly not encompassed in zoning and construction standards. The term "planning" was added to the exemptions stated in section 359G-4.1(a) by Act 279, 1984 Haw. Sess. Laws 651. In reporting on the bill that was subsequently enacted as Act 279, the Committee on Conference said:

Mr. Donald K. W. Lau  
August 9, 1996  
Page 4

The purpose of this bill is to amend Section 359G-4.1, Hawaii Revised Statutes, to permit the Hawaii Housing Authority ("HHA"), on behalf of the State or in partnership, to develop housing projects which are exempt from development and general plans adopted by the various counties.

S. Conf. Comm. Rep. No. 47-84, Hawaii S.J. 926 (reg. sess. 1984); H. Conf. Comm. Rep. No. 43-84, Hawaii H.J. 739 (reg. sess. 1984). Thus the word "planning" refers to the development and general plans of the counties, and not to the rules of water boards. The purpose of this exemption is "to provide an expedited process for government-assisted housing projects." *Id.* Those exemptions expressly relate to the production, development, construction and zoning of housing.

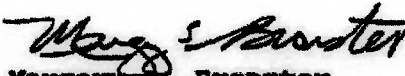
By limiting the exemptions to only certain types of statutes, and not to others, the Legislature intended HFDC housing projects to be subject to and comply with other laws. It is a rule of statutory construction that the express mention of one thing in a statute implies the exclusion of what is not mentioned. See *Carter v. Gear*, 16 Haw. 242 (1904), *aff'd*, 197 U.S. 348 (1905); *Welsh v. Campbell*, 42 Haw. 490, 494 (1958).

Based on the above discussion, we conclude that section 201E-210 does not exempt housing developments of the Housing Finance and Development Corporation from compliance with the rules of the various county water boards. We believe that legislative amendment of section 201E-210 would be required to provide such an exemption.

Very truly yours,

  
Celia L. Jacoby  
Deputy Attorney General

APPROVED:

  
Margery S. Bronster  
Attorney General

1095052

DEPARTMENT OF THE CORPORATION COUNSEL  
**CITY AND COUNTY OF HONOLULU**

HONOLULU HAWAII 96813  
FAX NUMBER: (808) 523-4933

1095 OCT-8 12 01 PM '95

JEREMY HARRIS  
MAYOR

Post-It® Fax Note	7671	Date	10-9-95	Page	2
To	David Craddock	From	Ray Sato		
Co./Dept.	BWS-Main	Cell			
Phone #		Phone #	5276180		
Fax #	243-7833	Fax #	5332714		

OLYMP  
GRAPH

October 3, 1995

VIA FAX AND HAND DELIVERY

**TO:** RAYMOND H. SATO, MANAGER AND CHIEF ENGINEER  
BOARD OF WATER SUPPLY

**FROM:** LOWELL WOLF, DEPUTY CORPORATION COUNSEL

**SUBJECT:** WATER FACILITY CHARGE EXEMPTION

This is in response to your memorandum of October 2, 1995 which requests our opinion regarding the possibility that the City Council might seek to exempt a developer from paying BWS's water systems facilities charges.

We opine that the City Council has no authority to exempt a developer, operating either independently or in connection with a City-sponsored low cost housing project, from paying BWS's water systems facilities charges. The Revised Charter of the City and County of Honolulu 1973, as amended ("RCH"), provides in Section 7-103(2):

The department shall have full and complete authority to manage, control and operate the water systems and properties used or useful in connection with such water systems.

See also Section 54-15, et seq., Hawaii Revised Statutes. The City Council has no authority over the financial operation of the BWS. Additionally, Section 7-119, RCH, states that:

TO: RAYMOND E. SATO

-2-

October 3, 1995

Except as otherwise provided, no provision of this charter, other than those set forth in this article of the charter, shall be applicable to the department.

We believe the continuing intent of the several charter commissions was to retain the semi-autonomous character of the BWS for the purpose of avoiding excessive political influence. See, e.g., Minutes of Charter Commission, April 13, 1972.

If you have any further questions regarding this matter, please contact me at extension 4116.

*Lowell Wolf*  
LOWELL WOLF  
Deputy Corporation Counsel

APPROVED:

*Darolyn Hatsuko Lendio*

DAROLYN HATSUKO LENDIO  
Corporation Counsel

LN:gg

BWS-WSC:TLW

▪ March 22, 2021

The Honorable Mark M. Nakashima  
The Honorable Scot Z. Matayoshi, Vice Chair  
And Members of the House Committee on Judiciary & Hawaiian Affairs

**RE: Testimony In Support Of SB866, SD2, HD1 Relating To Affordable Housing  
Tuesday, March 23, 2021; House Conference Room 325; Via Videoconference**

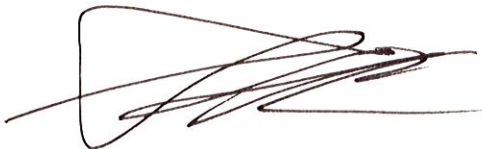
Dear Chair Nakashima, Vice Chair Matayoshi, and Committee Members,

My name is Stanford S. Carr and I am the President of Stanford Carr Development, LLC. We are a local development firm that has worked to provide the community with affordable housing opportunities. I am submitting testimony in support of SB866, SD2, HD1 which would temporarily exempt affordable housing units in projects by the Hawaii Housing Finance and Development Corporation from specific state and county fees and exactions related to discretionary approval or ministerial permitting, except application fees; provided that the units are exclusively for certain qualified residents.

Affordable housing developers like myself face significant challenges in building affordable housing projects given high construction and development costs. Driving up these costs are state and county fees and exactions that developers are required to pay which are tacked on to the price of housing.

Therefore, SB866, SD2, HD1 is an important measure because it will help to mitigate these cost barriers and incentivize the development of more affordable housing opportunities for our local residents in the future. I would like to emphasize that It is not going to be possible to build the thousands of affordable residential units that will be needed to meet the huge demand for such housing without more of the kinds of incentives that are contained in SB866, SD2, HD1.

For all of these reasons, I ask this committee to pass this important measure. Thank you for the opportunity to offer testimony.



Stanford S. Carr



Hunt Development Group, LLC  
737 Bishop Street, Suite 2750  
Honolulu, Hawai'i 96813  
Office: 808-585-7900

Representative Mark Nakashima, Chair  
Representative Scot Matayoshi, Vice Chair  
Committee on Judiciary & Hawaiian Affairs

**RE: SB 866 SD2 HD1 – Relating to Affordable Housing – In Support  
March 23, 2021; Via Videoconference; 2:00 P.M.**

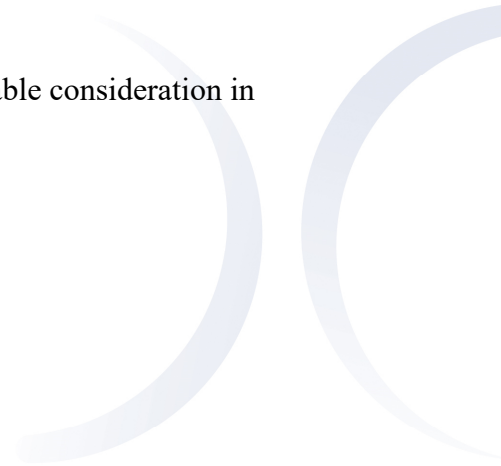
Aloha Chair Nakashima, Vice Chair Matayoshi and members of the Committee,

Hunt Companies – Hawaii appreciates this opportunity to provide testimony in support of SB 866 SD2 HD1, which temporarily exempts affordable housing units in projects by the Hawaii Housing Finance and Development Corporation from specific state and county fees and exactions related to discretionary approval or ministerial permitting, except application fees, when the units are exclusively for certain qualified residents.

We applaud the legislature's efforts to mitigate Hawaii's affordable housing crisis. The fiscal incentives provided in this bill will allow affordable housing projects to be more financially feasible, promoting an increase in the number of affordable units built.

Thank you for the opportunity to submit testimony. We ask for your favorable consideration in passing SB 866 SD2 HD1.

Steven W. Colón  
President – Hawaii Division



**SB-866-HD-1**

Submitted on: 3/22/2021 12:40:46 PM

Testimony for JHA on 3/23/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Karen Seddon	The Michaels Organization	Support	No

Comments:

Testimony in strong support of temporarily exempting affordable housing projects from state and county fees and exactions related to discretionary approval or ministerial permitting, except application fees, with a sunset date of June 30, 2027.





**HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS  
Hawaii State Capitol  
415 South Beretania Street  
Via Videoconference  
2:00 PM**

March 23, 2021

RE: SB 866, RELATING TO AFFORDABLE HOUSING

Chair Nakashima, Vice Chair Matayoshi, and members of the committee:

My name is Beau Nobmann, 2021 President 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 support of SB 866**, which temporarily exempts affordable housing projects from specific state and county fees and exactions related to discretionary approval or ministerial permitting, except application fees; provided that the units are exclusively for qualified residents who are owner/renter occupants and own no other real property.

The bill properly recognizes the delays, exactions, and additional costs that are layered onto housing projects subject to the County's permitting and entitlement process. Uncertainty in obtaining county approval increases risks and drives up the cost of housing in Hawaii. Currently, the median price of a home on Oahu is a staggering \$870,000. We are in a severe housing and economic crisis, and any method of providing more affordable housing to our residents who need it should be of the highest priority to this Legislature.

We appreciate the opportunity to provide our comments on this matter.



COMMERCIAL REAL ESTATE  
DEVELOPMENT ASSOCIATION  
HAWAII CHAPTER

March 22, 2021

The Honorable Representative Mark Nakashima, Chair  
The Honorable Representative Scot Matayoshi, Vice Chair  
House Committee on Judiciary and  
Hawaiian Affairs

RE: **SB 866 SD2 HD1- Relating to Affordable Housing**  
**Hearing date: Tuesday, March 23, 2021 at 2:00 P.M.**

Aloha Chair Nakashima, and Members of the Committee,

Mahalo for the opportunity to submit testimony on behalf of NAIOP Hawaii **SUPPORTING WITH AMENDMENTS** to SB 866, SD2, HD1. 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. Hawaii has a critical shortage of housing for residents, and NAIOP Hawaii strongly supports the development of resident housing at all levels of income, especially affordable housing projects.

SB 866, SD2, HD1 temporarily exempts affordable housing projects from specific state and county fees and exactions related to discretionary approval or ministerial permitting, except application fees. The measure provides that the units are exclusively for qualified residents who are owner/renter occupants and own no other real property. The exemption specifically applies to affordable housing units in projects developed under HRS § 201H-38.

NAIOP believes SB 866, SD2, HD1 is vital to addressing the State's looming affordable housing crisis. NAIOP appreciates the current language of the measure which exempts affordable housing units in development projects under HRS § 201H-38. However, the language applies narrowly only to affordable housing units and not entire project that include 201H housing. NAIOP would like to propose an amendment to Section (b), page 6 line 11-20, and page 7 line 1-3 to read as follows:

(b) ~~[Affordable housing units in projects]~~ **Affordable housing projects** developed pursuant to this section shall be exempt from all state and county fees and exactions related to discretionary approval or ministerial permitting relating to planning, development, and improvement of land, and the construction of dwelling units thereon; provided that the exemption under this subsection shall not apply to fees and costs payable to the corporation; provided further that the dwelling units developed as

part of a fee-exempted affordable housing project shall be exclusively made available to:

- (1) Qualified residents, as defined by section 201H-32;
- (2) Who are owner or renter occupants; and
- (3) Who own no other real property.

This proposed amendment will expand the exemption to ALL new housing as long as it was for qualified residents under 201H-32, owner-renter occupant residents, and those who do not own other housing. This amendment will address the critical issue of up-front costs which make it difficult for 201H projects to "pencil out." NAIOP supports the expansion provided under this amendment because affordable housing units in a project must be subsidized by market units, and therefore, exempting entire projects under this measure will significantly incentivize the development of affordable housing. Further, the government will receive any waived up-front fees through increased General Excise Tax ("GET") on construction purchases and additional income for workers, and county real property taxes to be paid over the lifetime of each unit created.

In sum, NAIOP supports this measure to create housing for owner/renter occupants that do not own other real property as it will directly address the growing need for affordable housing for Hawaii residents. NAIOP supports the measure with amendments to further incentivize the creation of additional affordable housing units.

Mahalo for your consideration,



Catherine Camp, President  
NAIOP Hawaii



March 22, 2021  
House Committee on Judiciary & Hawaiian Affairs  
Tuesday, March 23, 2021  
Conference Room 325, 2:00 p.m.

## **SB866 SD2 HD1 – SUPPORT WITH AMENDMENTS**

Aloha Committee Chair Nakashima, Vice-Chair Matayoshi 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 and State Support Organization for the direct service Habitat for Humanity organizations across the state to **SUPPORT SB866 SD2 HD1 with amendments.**

HHFHA appreciates the Legislature’s work in introducing a number of bills that address cost of living issues, as well as the increasing costs of construction of housing. Prior to the COVID-19 pandemic, Hawaii’s residents suffered from extreme housing costs. According to the National Low Income Housing Coalition, a majority of renters in Hawaii are cost burdened, spending more than 30% of their income on housing costs. This can be seen across most income groups, from the extremely low-income group to middle income group. Between the extremely low income and very low-income groups, a majority of renters suffer from severe cost burdens, spending over 50% of their income on housing costs. Due to the pandemic causing Hawaii’s unemployment rate to reach a historical high, with expectations for our economy not to recover until 2024, these housing costs will continue to burden our families with even greater impact.

HHFHA supports this bill in temporarily exempting affordable housing projects from all state and county fees and exactions related to discretionary approval or ministerial permitting, with the exception of application fees, until 06/30/2027. The bill properly recognizes the delays, exactions and additional costs that are layered onto housing projects subject to the County’s permitting and entitlement process that drives up the costs of development. The savings from these exemptions will support more affordable housing development for Hawaii’s working people.

Our organization, however, requests that SB866 SD2 HD1 be amended to revert back to its original language in SB866 by which exemptions would only be provided to units available to households having incomes of 100 percent of the area family income or below as determined by HUD.

Please delete on page 6, text on lines 18 through page 7, line 1, to be replaced by the following:



*Building strength and stability through shelter*

*"...dwelling units developed as part of a fee-exempted affordable housing project shall be affordable to households having incomes at or below one hundred per cent of the area median family income as determined by the United States department of Housing and Urban Development."*

Although we appreciate the intent of SB866 SD2 HD1 in recognizing the need for increasing affordable housing stock to qualified residents who are owner or renter occupants and who own no other real property, we believe these exemptions should only be provided for affordable housing units specifically for low-income households who need the cost reductions provided by such exemptions. Our organization, however, recognizes and supports the HD1 revisions that reinserts the language to specify that the legislative bodies of the county have approval and disapproval authority, as well as adding additional language to clarify the exemptions will be made for all affordable housing units within project developments.

Help us do our part to provide affordable housing for Hawaii's people. Please **PASS SB866 SD2 HD1 with our recommendations**, so that we can increase our work across Hawaii and give our hard-working, low-income families a chance to obtain affordable housing.

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

Sincerely,

A handwritten signature in blue ink that reads "Jean Lilley".

Jean Lilley  
Executive Director



March 23, 2021

Representative Mark M. Nakashima, Chair  
Representative Scot Z. Matayoshi, Vice-Chair  
House Committee on Judiciary & Hawaiian Affairs

**Comments Relating to a Proposed Amendment and Strong Support of SB 866, SD2, HD1 RELATING TO AFFORDABLE HOUSING (Temporarily exempts affordable housing units in projects by the Hawaii Housing Finance and Development Corporation [HHFDC] from specific state and county fees and exactions related to discretionary approval or ministerial permitting, except application fees, when the units are exclusively for certain qualified residents. Effective 5/6/2137. Sunsets on 6/30/2027. [HD1])**

**JHA Hearing: Tuesday, March 23, 2021, 2:009:15 a.m.  
VIA VIDEOCONFERENCE in Conference Room 325**

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers, and utility companies. LURF's mission is to research, educate and advocate for reasonable, rational, and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to express its **comments in strong support of SB 866, SD2, HD1, with an amendment** back to the SD1 and SD2 language that applied to HHFDC affordable housing projects.

**SB 866, SD2, HD1.** The purpose of the SD1 and SD2 versions of this measure is to take immediate action to mitigate the affordable housing crisis through legislation that temporarily exempts affordable housing projects by the HHFDC from specific state and county fees and exactions related to discretionary approval or ministerial permitting, except application fees payable to HHFDC; provided that the housing units are exclusively for qualified residents who are owner or renter occupants and who own no other real property. The HD1 version restricts the exemption to only units.

**LURF's Position.** LURF members lead the state in the production of affordable housing and housing for all income levels. Housing is needed at all income levels, and LURF strongly supports the current efforts of HHFDC and private homebuilders to facilitate and build affordable housing projects that provide dwelling units for all of Hawaii's residents.

LURF proposes the following **amendment** back to the SD1 and SD2 language that applied to HHFDC affordable housing projects.

(b) Affordable housing [~~units in~~] projects developed pursuant to this section shall be exempt from all state and county fees and exactions related to discretionary approval or ministerial permitting relating to planning, development, and improvement of land, and the construction of dwelling units thereon; provided that the exemption under this subsection shall not apply to fees and costs payable to the corporation; provided further that the dwelling units developed as part of a fee-exempted affordable housing project shall be exclusively made available to:

- (1) Qualified residents, as defined by section 201H-32;
- (2) Who are owner-occupants or renters; and
- (3) Who own no other real property.

The above amendment is consistent with the purpose and intent of this measure, and it will help reduce Hawaii's severe housing shortage by providing fiscal incentives to allow HHFDC's 201H affordable housing projects to be more financially feasible, which will facilitate the production of more HHFDC 201H affordable housing projects and expand the availability of 201H housing units to thousands of more qualified residents.

For the reasons stated above, LURF **is in strong support of SB 866, SD2, HD1, with an amendment** back to the SD1 and SD2 language that applied to HHFDC affordable housing projects, and respectfully urges your favorable consideration of an amendment to, and passage of this bill.

Thank you for the opportunity to present testimony regarding this matter.