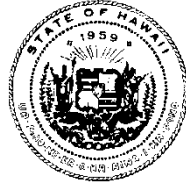


DAVID Y. IGE  
GOVERNOR



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

### HOUSE COMMITTEE ON HOUSING

Thursday, March 17, 2022

9:00 AM – Video Conference – Room 423, Hawaii State Capitol

In consideration of  
**SB 2251, SD2**

### RELATING TO THE PUBLIC HOUSING AUTHORITY

Honorable Chair Nakamura, and Members of the House Committee on Housing, thank you for the opportunity to provide testimony concerning Senate Bill (SB) 2251, SD2, relating to the public housing authority.

The Hawaii Public Housing Authority (HPHA) **supports**, the enactment of SB 2251, SD2, which allows the HPHA to develop mixed-income and mixed-financed housing projects, provided that no such projects shall be constructed on vacant ceded land on or after January 1, 2022.

Concentrating public housing for extremely low-income families in dense urban areas has shown to not be an effective use of scarce affordable housing resources, and a shift has been made to instead create financially viable and socially stable mixed-income housing by the U.S. Department of Housing and Urban Development (HUD).

The Mixed-Income and Mixed-Finance redevelopment model is a proven and successful redevelopment model nationwide and supported and encouraged by the federal government which provide the HPHA with over \$140 million or 87% of its total yearly funding to house our most disadvantaged populations. The model is an attractive option, and beyond the social good that comes with preserving housing units for occupancy by extremely low-income families, it also contributes to the economic and social diversity and stability of the overall community.

Households with affordable rents based on Area Median Incomes, and higher income families paying market rate rents not only diversify these Mixed-Income developments

economically, but market rate units also support the lower income units while providing a taxpayer benefit by reducing the gap financing needed from the Legislature to underwrite these developments.

Additionally, following the conversion of a federal public housing property into a mixed finance redevelopment, the HPHA will be required to execute a Mixed Finance Annual Contributions Contract with HUD. Under this agreement, the HPHA would be required to ensure that sufficient reserves are maintained to support the operation and maintenance of the project units. This component is vital to ensure the affordable housing units in the project remain affordable throughout the life of the Master Development Agreement, and not just for a limited period of time.

Moreover, Mixed-Income and Mixed-Financed redevelopment projects are typically executed through public private partnerships, better positioning HPHA properties to access the private capital and financing necessary to revitalize them into vibrant communities for our future generations.

The HPHA has identified several properties within its portfolio located in close proximity to the planned Honolulu Rail System stations currently being developed by The Honolulu Authority for Rapid Transportation (HART), that could immediately benefit from this initiative, as well as identifying additional HPHA properties with the potential for redevelopment on our neighbor islands. Undertaking redevelopment of these assets would not only allow the HPHA to rehabilitate functionally obsolete public housing units but would eliminate expensive repair and maintenance expenses required to maintain these units, while also significantly expanding the inventory of critically needed affordable housing units across the state.

After review with the Department of the Attorney General, it was recommended that HPHA needed to remove any ambiguity regarding the term “housing projects” in order to make it clear that the HPHA would be able to incorporate Mixed-Income rental units as opposed to strictly public housing units.

This is not an attempt to build million-dollar condos, but it is a necessary step to not concentrate poverty and give an opportunity to people of all income levels to live side by side in a community that does not isolate the poor. This will have so many positive outcomes for the children, the schools they attend, and create an environment that exemplifies the Aloha Spirit.

The HPHA appreciates the opportunity to provide the Committee with the HPHA’s testimony. We thank you very much for your dedicated support.

DAVID Y. IGE  
GOVERNOR



CRAIG K. HIRAI  
DIRECTOR

GLORIA CHANG  
DEPUTY DIRECTOR

**STATE OF HAWAII**  
**DEPARTMENT OF BUDGET AND FINANCE**  
P.O. BOX 150  
HONOLULU, HAWAII 96810-0150

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND  
MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

**LATE**

**WRITTEN ONLY**  
TESTIMONY BY CRAIG K. HIRAI  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE HOUSE COMMITTEE ON HOUSING  
ON  
SENATE BILL NO. 2251, S.D. 2

**March 17, 2022**  
**9:00 a.m.**  
**Room 423 and Videoconference**

RELATING TO THE PUBLIC HOUSING AUTHORITY

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 2251, S.D. 2, amends Chapter 356D, HRS, to: 1) expand the Hawai'i Public Housing Authority's (HPHA) statutory authority for property development to include any home, house residence, building, apartment, living quarters, abode, domicile, or dwelling unit that is designed principally for the purposes of sheltering people; and 2) prohibit HPHA from developing or constructing housing projects on ceded lands that are vacant as of January 1, 2022.

B&F recognizes that the intent of the bill is to allow HPHA, which is primarily responsible for developing and managing public housing, to develop mixed-income and mixed-financed housing projects to address the lack of affordable housing in Hawai'i. However, the expanded authority appears to create a duplicative role for HPHA of financing and developing affordable housing, which is already overseen by the Hawai'i Housing Finance and Development Corporation (HHFDC). Currently, HHFDC can and does work with HPHA to help finance redevelopment projects on HPHA's properties using the Rental Housing Revolving Fund and Low-Income Housing Tax Credits, so this expanded authority does not seem necessary.

Thank you for your consideration of our comments.

**SB2251 SD2**  
RELATING TO THE PUBLIC HOUSING AUTHORITY  
Ke Kōmike Hale o ke Kuleana Hale Noho  
House Committee on Housing

Malaki 17, 2022

9:00 a.m.

Lumi 423

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB2251 SD2, which seeks to amend Hawai‘i Revised Statutes (HRS) § 356D by authorizing the Hawai‘i Public Housing Authority (HPHA) to build market-rate or above market-rate “housing” not subject to any affordability or income restrictions. OHA notes this measure may result in the foreclosure of Native Hawaiian claims to potentially large swaths of “ceded” lands for a century or longer, by the issuance of long-term leases considered tantamount to a fee sale of lands in other contexts, such as those involving the leasing of tribal lands. **OHA opposes the foreclosure of Native Hawaiian claims to “ceded” lands that were unlawfully taken under extreme duress and without consent by or compensation to the Native Hawaiian people, and urges the inclusion of language provided below that would provide some recognition of and protection for these claims.**

**SB2251 SD2 contemplates a significant expansion of HPHA’s authority**, by enabling it to plan, develop, construct, and finance the development of any type of housing, including market- and above market-rate and non-income restricted units. Combined with HPHA’s extremely liberal leasing authority for lands leased or set aside to the agency, this measure may result in significant pressure to set aside or lease large swaths of public and “ceded” lands to the HPHA, to be disposed of for mixed-use and market- or above market-rate developments under multi-generational, long-term leases far exceeding the 65 year limit generally applicable to public land leases.

**As OHA has repeatedly asserted, extremely long-term, multi-generational leases on “ceded” lands create a sense of entitlement on the part of lessees that has led to, and may continue to lead to, the alienation of public and “ceded” lands.** Notably, long-term leases such as the 99-year leases contemplated in this and related measures have also been considered tantamount to the sale of a fee interest in tribal lands, as **“the land base is effectively lost for generations to come,”** and **“the property expectation born of those leases, combined with the infrastructure development and capital investment made in reliance on them, may render those leases essentially irrevocable as a political matter.”**<sup>1</sup>

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<sup>1</sup> Mary Christina Wood, *Protecting the Attributes of Native Sovereignty: A New Paradigm for Federal Actions Affecting Tribal Resources*, 1995 UTAH L. REV. 109, 145-46 (1995); see also Reid Peyton Chambers & Monroe E. Price, *Regulating Sovereignty: Secretarial Discretion and the Leasing of Indian Lands*, 26

OHA strongly objects to the sale or alienation of “ceded” lands except in limited circumstances, and has significant concerns over any proposal that may facilitate the effective diminution of the “ceded” lands corpus. Accordingly, OHA cannot support any proposal that may subject a significant amount of “ceded” lands to extremely long-term, multigenerational leases, including the instant measure.

**Moreover, OHA notes that this measure contradicts HPHA’s own stated purpose to “provide Hawai‘i residents with affordable housing,” by focusing on developing affordable rental, supportive, and public housing and services.**<sup>2</sup> Currently, under HRS § 356D-11, HPHA may develop “public housing projects,” pursuant to federal regulations and guidelines, to assist states with addressing “the shortage of housing affordable to low-income families” (emphasis added). SB2251 SD2 would delete the definition of “public housing projects” and authorize HPHA to work with “eligible developers” to construct “housing” projects explicitly defined in this bill as any type of housing, without restrictions as to affordability or income levels of occupants. The development of high-end residential and associated commercial projects may result in significant impacts to the public’s wide-ranging interests in agricultural and other public lands that are developed for housing units unaffordable to most local residents. **Allowing HPHA to develop market- or above market-rate housing would not only foreclose the use of our limited land base for affordable housing purposes, but could also result in an increase in demand for affordable and workforce housing.**<sup>3</sup> Accordingly, this bill would not only distract from HPHA’s primary purpose to facilitate the development of housing for low-income local residents, but it may also hinder the ability of lower income families, including Native Hawaiian families, to secure affordable housing in our increasingly expensive state.

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STANFORD L. REV. 1061, 1078 (1974) (“Through the lease instrument—often for 99 years—the fiction of Indian retention is retained, but the impact on the tribe is often inconsistent with the form. In this context, 99-year leases are tantamount to the sale of the fee” (emphasis added)).

<sup>2</sup> Hawai‘i Public Housing Authority Official Website, available at <http://www.hpha.hawaii.gov/> (last accessed February 9, 2021).

<sup>3</sup> See KEYSER MARSTON ASSOCIATES, RESIDENTIAL NEXUS ANALYSIS, 6 (SEPTEMBER 2015) (every 100 new market-rate housing units generate an additional demand for an 20 affordable units, 15 (i.e. 75%) of which are needed to be at 100% AMI or below

While this measure intends to generate more revenues for HPHA to fulfill its mission, the risk to the effective erosion of our limited public and “ceded” lands corpus is too high. Accordingly, OHA respectfully urges the Committee to **HOLD** SB2251 SD2. Mahalo for the opportunity to testify on this measure.

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March 17, 2022

**The Honorable Nadine A. Nakamura, Chair**

House Committee on Housing

Via Videoconference

**RE: Senate Bill 2251, SD2, Relating to the Public Housing Authority**

**HEARING: Thursday, March 17, 2022, at 9:00 a.m.**

Aloha Chair Nakamura, Vice Chair Hashimoto, and Members of the Committee,

I am Ken Hiraki, Director of Government Affairs, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its over 11,000 members. HAR **supports** Senate Bill 2251, SD2, which allows the Hawai'i Public Housing Authority to develop mixed-income and mixed-financed housing projects. Prohibits the development or construction of housing projects on ceded land that is vacant on or after January 1, 2022.

A mixed-income housing development is a proven model that works. These developments are comprised of housing units with differing levels of affordability, typically with some market-rate housing and some housing that is available to low-income occupants below market-rate.

"Most housing professionals agree that concentrating assisted-housing for low- and very low-income Americans in dense, urban areas is not an effective use of scarce affordable housing resources. Over the past decade, professionals in the affordable housing industry have turned increasingly to mixed-income housing as an alternative to traditional assisted-housing initiatives. Mixed-income housing is an attractive option because, in addition to creating housing units for occupancy by low-income households, it also contributes to the diversity and stability of American communities."<sup>1</sup>

According to the Department of Business Economic Development and Tourism's 2019 report on Housing Demand in Hawai'i, the State needs up to 46,000 housing units to meet demand in Hawai'i by 2030. Ultimately, we have a housing supply problem, and this measure would help address our State's housing challenges.

Mahalo for the opportunity to testify.

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<sup>1</sup> [Mixed-Income Housing and the Home Program](#)

U.S. Department of Housing and Urban Development, Community Planning and Development



**LATE**

## House Committee on Housing

### Hawai'i Alliance for Progressive Action (HAPA) Opposes: SB2251 SD2

Thursday, March 17th, 2022 9 a.m.

Aloha Chair Nakamura, Vice Chair Hashimoto and Members of the Committee,

HAPA opposes SB2251 SD2, which may lead to the effective privatization of our public and “ceded” lands, by allowing lands leased or set aside to the Hawai'i Public Housing Authority (“HPHA”) to be used for market - and above market-rate housing as well as associated commercial and mixed-use projects.

The HPHA has the important task of housing the needs of our islands' most financially insecure. The HPHA is also granted liberal leasing authorities, with lands leased or set aside to the HPHA exempted from the lease length and public land disposition protections otherwise applicable to lands held by the state.<sup>1</sup>

If the HPHA are given these powers this measure will lead to pressure from private developers to have large amounts of public lands allocated to the HPHA, for the development of residential and commercial projects that are not affordable to residents. This may result in significant impacts to the public's interests. Development agreements are likely to incorporate the use of long-term leases that would encumber public and “ceded” lands for a century at a time. Long-term leases such as these would effectively privatize these lands, resulting in the displacement of future generations, and preventing these lands from being used to fulfill commitments made to Native Hawaiians.

We ask that you please defer SB2251 SD2. Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read 'Anne Frederick', is written over a light blue horizontal line.

Anne Frederick  
Executive Director

[1] See HRS §171-2.



**SB-2251-SD-2**

Submitted on: 3/16/2022 8:31:07 AM

Testimony for HSG on 3/17/2022 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kupuna for the Mo'opuna	Kupuna for the Moopuna	Oppose	Written Testimony Only

Comments:

**OPPOSE!**

We OPPOSE 99-plus-year leases on our ceded lands!

SB 2251 SD 2 TESTIMONY

**LATE**

To: House Committee on Housing  
Hearing on March 17, 2022 at 9:00 a.m.

From: John Kawamoto

Position: Support

Hawaii suffers from a shortage of 50,000 homes, many of which are needed by low- and moderate-income families. The shortage has grown for decades because existing efforts to build affordable housing are not enough. Much more must be done to alleviate the shortage. In creating a new mechanism for the development of affordable housing, this bill represents a step in the right direction.