



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:

H.B. NO. 814, H.D. 1, RELATING TO AFFORDABLE HOUSING.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Friday, February 24, 2023

TIME: 10:00 a.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Alison S. Kato or Bryan C. Yee, Deputy Attorneys General

Chair Yamashita and Members of the Committee:

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

This bill requires the counties to adopt ordinances allowing religious institutions, educational institutions, and medical institutions to build housing developments of less than fifteen acres on land that the institutions own for use by the institutions, their employees, or their contractors, or for sale after thirty years.

The title of the bill may be subject to a legal challenge for having a subject that is not clearly expressed in its title. Pursuant to article III, section 14, of the Hawaii State Constitution, "Each law shall embrace but one subject, which shall be expressed in its title." The Hawaii Supreme Court has held that this provision is mandatory and a violation thereof would invalidate legislation. *Schwab v. Ariyoshi*, 58 Haw. 25, 31, 564 P.2d 135, 139 (1977).

Here, the title of the bill is "Relating to Affordable Housing," but the bill does not specify that the permitted housing development is for affordable housing. To avoid a constitutional infirmity, we recommend replacing the words "housing units" on page 5, line 19, with "units of affordable housing as defined in section 46-15.25."

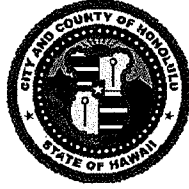
Additionally, on page 6, line 5, the word "offer" should be revised to "offering."

Thank you for the opportunity to offer comments.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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DIRECTOR

JIRO SUMADA
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February 24, 2023

The Honorable Kyle T. Yamashita, Chair
and Members of the Committee on Finance
Hawaii House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Yamashita and Committee Members:

**Subject: House Bill No. 814, HD 1
Relating to Affordable Housing**

The Department of Planning and Permitting (DPP) **opposes** House Bill No. 814, HD 1, which would require the counties to adopt ordinances to allow religious, educational and medical institutions to build housing units on land they own regardless of current zoning restrictions.

This Bill would provide certain groups preference over others. We find it problematic that without a connection between the "institution" and the housing that additional rights should be granted to certain land owners, but not others. We also believe this Bill oversteps county homerule responsibilities, and overrides county plans and regulations.

The Bill calls into question the purpose of the zoning ordinances if select institutional owners alone were awarded new development rights. Homes would be allowed on all land, including those zoned preservation and restricted agricultural.

Also, we question the validity of this Bill because its contents are beyond the scope of the Bill's title, "Relating to Affordable Housing." There is no mention in the Bill that any of the homes produced and sold or rented by these institutions will meet the definition of affordable homes. Who are these homes meant for? The institution's employees? To be used as a retreat or reward for executives of these institutions? As vacation rentals? Without a clear explanation as to who will be eligible to occupy these units and at what cost, we cannot determine whether the homes are truly in the affordable housing category.

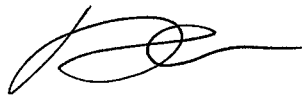
The Honorable Kyle T. Yamashita, Chair
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In so many ways, this Bill is unfair and likely unconstitutional because it would give preference for development rights to particular groups, while excluding all others.

We ask that Bill No. 814, HD 1, be held in Committee.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Dawn Takeuchi Apuna', with a long horizontal flourish extending to the right.

Dawn Takeuchi Apuna
Director



February 24, 2023

10:00 a.m.

Conference Room 308

Via Videoconference

To: House Committee on Finance

Rep. Kyle T. Yamashita, Chair

Rep. Lisa Kitagawa, Vice Chair

From: Grassroot Institute of Hawaii

Ted Kefalas, Director of Strategic Campaigns

RE: HB814 HD1 — RELATING TO AFFORDABLE HOUSING

Comments Only

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on [HB814 HD1](#), which would require counties to adopt ordinances allowing religious institutions, educational institutions and medical institutions to build housing units on their own land for purchase in fee simple or for use by the institutions, their employees, or their contractors, regardless of current zoning restrictions.

We commend the Legislature for considering ways to increase Hawaii's housing supply through zoning reform. It is important to recognize the role that zoning plays in restricting housing growth, and to think creatively about how we can streamline building permissions and approvals for new housing.

This bill proposes one such creative approach. By allowing schools, hospitals and religious institutions to create housing on their own properties, this legislation would simultaneously help them with their recruitment and retention issues by enabling them to more easily provide affordable housing for their employees.

Nonprofit institutions that have been prevented from creating housing for their own staff would be able to offer a convenient on-campus housing benefit, thereby freeing up more housing for local families.

By limiting the acreage and use of the housing, this bill should ease any concerns that the institutions would take advantage of the by-right housing initiative to create large developments.

In addition, there is no need to fear that the inclusion of residential properties next to these institutions would cause any health or safety concerns, nor would it disturb the intent of any county or municipal plans.

In fact, mixed-use zoning, such as allowing residential construction in commercial zones, is a popular tool for encouraging the growth of housing without requiring large-scale development.

For more information on the ways that zoning can throttle the growth of housing, please refer to the zoning reform toolkit, [“How to Build Affordable, Thriving Neighborhoods.”](#) produced by the State Policy Network, which explores different ways to grow housing and improve affordability by reforming state and local zoning restrictions. If you would like us to provide you a copy of that report, please let me know.

We are pleased that HB814 embraces two principles in the zoning toolkit:

>> It allows for creative options aimed at solving serious social problems related to housing — especially as housing from such institutions will likely be aimed at better serving local communities or helping those with the greatest need.

>> It reduces the bureaucratic burden involved in building such housing by allowing those institutions to construct that housing regardless of local zoning laws.

We do have one concern about the bill in its current form. Since we testified on it earlier, it has been amended to require the institutions to own housing units for 30 years before offering them for sale.

The intent of this amendment is to prevent organizations from profiting off of the construction of housing, but we fear that this addition would frustrate the goal of the bill as a whole.

It must be stressed that the organizations given this right are nonprofits using their own land, and that their ability to profit in a general sense is thereby constrained. In addition, even if the

organizations providing housing via this bill were to obtain some financial benefit from doing so, that should not be seen as a negative, if the outcome is to create more affordable housing for Hawaii residents.

If enacted with the 30-year sale constraint, this bill would create an unnecessary barrier that could discourage nonprofit organizations from building these units, possibly forcing them into a landlord relationship that they are unable or unwilling to maintain.

Nonetheless, the general intent of this bill is a good one. By allowing religious, medical and educational institutions to build affordable housing on their own lands, regardless of existing zoning restrictions, this bill would take a positive step toward addressing the state housing shortage.

Thank you for the opportunity to submit our comments.

Sincerely,

Ted Kefalas

Director of Strategic Campaigns, Grassroot Institute of Hawaii



Housing Hawaii's Future
PO Box 3043
Honolulu, HI 96802-3043

February 23, 2023

Dear Chair Yamashita, Vice Chair Kitagawa, and Finance Committee members,

On behalf of Housing Hawai'i's Future, I write in support of HB814, requiring the counties to adopt ordinances to allow religious institutions, educational institutions, and medical institutions to build housing units on land that the institutions own.

Housing Hawai'i's Future is a movement led by young locals who will create opportunities for Hawai'i's next generation by ending the workforce housing shortage.

One of the most effective ways to achieve this goal is to build on-site worker housing. By eliminating a worker's commute, we can save them time and money that can be reinvested in their family and community. The Bureau of Transportation Statistics reports that transportation costs account for more than 15% of household expenditures, making this saving substantial.¹

That's why HB814 is so important. It will allow hospitals and schools to use the land they own to develop housing for their workers.

I urge you to support HB814 and help make Hawai'i a better place to live, work, and raise a family. Thank you for your time and consideration.

Thank you,

A handwritten signature in black ink that reads "Sterling Higa".

Sterling Higa
Executive Director
Housing Hawai'i's Future

sterling@hawaiisfuture.org

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<https://data.bts.gov/stories/s/Transportation-Economic-Trends-Transportation-Spen/ida7-k95k/#:~:text=Households%20in%20the%20lowest%20income,highest%20income%20quintile%20in%202021.>

hawaiisfuture.org