



**SB865 SD2 HD1**  
**RELATING TO HOUSING**  
House Committee on Finance

April 4, 2023

2:30 PM

Room 308

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The Administration of the Office of Hawaiian Affairs (OHA) will recommend to the Board of Trustees **COMMENT** on SB865 SD2 HD1, which would establish a ninety-nine year leasehold pilot program to develop low-cost homes on state-owned and county-owned land in urban redevelopment sites to be sold in leasehold by the Hawai'i Community Development Authority (HCDA) to qualified residents.

**OHA wishes to express its appreciation to the Legislature for amending this measure to better protect 'ceded lands' from the potential of permanent alienation and the unintended undermining of the betterment of conditions of Native Hawaiians.** OHA emphasizes that over the years, the Public Land Trust corpus has been gradually eroded to afford a 'work-around' for public entities to own, sell, and otherwise dispose of public lands for private ownership; long, multi-generational leases, such as 99-year leases have led to the permanent alienation of Public Land Trust lands. The unintentional consequences of this erosion directly result in the undermining of the State's trust obligations to the Native Hawaiian people – one of the most critical of these obligations being the appropriation of adequate funding to address, in significant part, the inequities and disparities faced by Native Hawaiians.

Crown and Government lands of the Hawaiian Kingdom, often referred to as "Ceded Lands" of the Public Land Trust corpus, are continuously held in trust for the betterment of the conditions of Native Hawaiians.<sup>1</sup> In addition to its codification within the Hawai'i Admissions Act, lawmakers sought to ensure the continuous uplifting of Native Hawaiian socio-economic status through the creation of OHA and the enacting of these principles into State law.<sup>2</sup> OHA serves as the principal public agency of the State responsible for the programs and activities of Native Hawaiians,<sup>3</sup> whose well-being is often positively impacted by the programs and services funded by revenue from the public land trust. OHA maintains that the Native Hawaiian people continue to assert their claim to Crown and Government lands; claims that have yet to be settled.<sup>4</sup>

OHA appreciates the opportunity to comment on SB865 SD2 HD1 and again wishes to express its appreciation to the Legislature for the impactful amendment. Mahalo nui loa.

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<sup>1</sup> Pub. L. 86-3, 73 Stat. 4; Hawai'i Admissions Act of 1959.

<sup>2</sup> HRS §10-3.

<sup>3</sup> Id.

<sup>4</sup> Pub. L. 103-150 (1993), 107 Stat. 1510 "Apology Resolution."



**HAWAI'I COMMUNITY  
DEVELOPMENT AUTHORITY**

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JOSH GREEN, M.D.  
GOVERNOR

CHASON ISHII  
CHAIRPERSON

CRAIG K. NAKAMOTO  
EXECUTIVE DIRECTOR

Statement of  
**Craig K. Nakamoto, Executive Director**  
Hawai'i Community Development Authority

**HOUSE COMMITTEE ON FINANCE**

Tuesday, April 4, 2023  
3:00 PM  
State Capitol, Conference Room 308 & Videoconference

In consideration of  
**S.B. 865, S.D. 2, H.D. 1**  
**RELATING TO HOUSING.**

Chair Yamashita, Vice Chair Kitagawa, and members of the Committee.

The Hawai'i Community Development Authority (HCDA) **supports the intent of S.B. 865, S.D. 2, H.D. 1, and offers comments.**

The intent of this bill is to establish a 99-year leasehold program to test the concept of whether low-cost homes can be developed on state- or county-owned lands in "urban development sites" located on the island of O'ahu.

If an affordable leasehold for sale product is viable in Hawai'i's real estate market, this could be another tool to develop more housing, which aligns with the Administration's goals.

This proposed leasehold pilot program, a.k.a., the ALOHA Homes program, is a matter of first impression for HCDA this session. At the last subject-matter House committee hearing, the pilot program was moved from the Hawai'i Public Housing Authority to HCDA. Thus, until now, HCDA has not had the opportunity to offer comments or suggestions on this measure or assess the implications of this measure in an in-depth manner. We note that this bill does not include funding or positions.

Success of a leasehold, for sale, pilot program could be contingent on what the market will support and until potential developers are approached, we will not know what the terms of the for sale, leasehold product should be, much less prescribe terms in a bill. The remainder of our testimony describes where flexibility, rather than rigidity, of the guidance or terms, may result in a successful pilot program. If HCDA administers this program, we will, consistent with our other developments, procure for a suitable and qualified developer.

If the committee can accept these suggestions and pass the bill out, we will work with other state agencies to find suitable, developable land and report back to the Legislature.

If the committee cannot accept these suggestions, we will work with the introducer/sponsor of this bill to revise it for the next session.

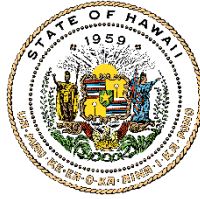
HCDA respectfully suggests §206-E-C and §206-E-D in this measure be deleted (for the reasons bulleted below), and allow HCDA to promulgate rules with respect to the development of the project, as well as rules determining eligibility and enforcing affordability, such as the buyback right and shared equity.

- The bill requires HCDA to promulgate rules under Chapter 91 to address, among other matters, zoning, land use, which shall supersede all other inconsistent ordinances and rules.
- Since the one leasehold pilot program is contemplated an O'ahu "urban development site" which is within a one-mile radius of a transit station, **presumably county zoning and entitlement could be used.**
- Since the bill contemplates development on county-owned land, it is preferable to collaborate with the county.
- The bill also states that HCDA's actions and development within the urban development sites must follow the fifteen enumerated principles.
  - Some of these principles are consistent with HCDA's development approach in its other districts, like mixed-use developments that include residential as well as commercial, retail, or industrial uses.
  - Other principles, such as the need to provide community facilities, parks, meeting places, child care centers, are desirable but **could increase the development costs** of the leasehold, for-sale residential units.
- The section on requirements and eligibility to purchase leasehold units establishes requirements that the Authority must follow to determine eligibility of buyers and maintain the affordability of units. Rules that set forth eligibility requirements should be promulgated. We offer the following comments:
  - A buyer or persons living with a buyer cannot own residential or "non-residential property", like an asset test. Provided that the buyer or persons living with the buyer may sell such property within six months after closing.
  - The Authority has the first right of refusal if a buyer intends to sell the unit. There is no time limit or regulated term, and the buyback price is vague. The marketability of units could be affected by a buyback right that exists in perpetuity.

Thank you for the opportunity to testify.

JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621  
HONOLULU, HAWAII 96809

Testimony of  
DAWN N. S. CHANG  
Chairperson

Before the House Committee on  
FINANCE

Tuesday, April 4, 2023  
3:00 PM

State Capitol, Conference Room 308 & Videoconference

In consideration of  
SENATE BILL 865, SENATE DRAFT 2, HOUSE DRAFT 1  
RELATING TO HOUSING

Senate Bill 865, Senate Draft 2, House Draft 1 proposes to establish the ninety-nine year leasehold pilot program to develop low-cost homes on state owned and county owned land in urban redevelopment sites to be sold in leasehold by the Hawaii Community Development Authority (HCDA) to qualified residents. The measure also proposes to provide for the disposition of lands acquired by HCDA but no longer needed for the pilot program; and appropriate funds. **The Department of Land and Natural Resources (Department) offers the following comments to this measure.**

The purpose of this bill is to increase the number of affordable residential leasehold units for sale to qualified persons, in the State of Hawai'i. The measure proposes that HCDA identify an urban redevelopment site for a single ninety-nine year leasehold housing units development which would serve as a pilot program. The measure defines as urban redevelopment site as non-ceded State-owned land within a one mile radius of a station of the Honolulu Rail Transit System. The Department has four parcels adjacent or in close proximity to the planned Keone'ae rail station in East Kapolei, O'ahu which would be impacted by this measure. As the four parcels are non-ceded, the parcels would be one of the few sites that qualify for this proposed project.

The Department's long-term objective is to lease the parcels for income generating purposes to support the Department's natural resource management and protection programs. The Department also recognizes the State's obligation to provide affordable housing to residents in need and notes that planned uses for the parcels include affordable and other types of rental housing units. Other proposed uses include transit oriented mixed uses including commercial, retail, hotel, and medical.

DAWN N.S. CHANG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT

LAURA H.E. KAAKUA  
FIRST DEPUTY

M. KALEO MANUEL  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
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ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Additionally, the Department intends to include light industrial uses for parcels located further away from the rail station. Setting aside the land to another agency will result in a loss of revenue for the Department as some of the housing is planned on the mixed-use site next to the rail station, and the Department has already invested significant resources to developing affordable housing on its parcels. The Department is already planning on working with Hawaii Housing Finance and Development Corporation (HHFDC) for the housing area located on the parcel east of Kualakai Parkway, O‘ahu. Beyond generating income to support its programs, the Department believes that the proposed project’s multiple uses will be a critical economic, employment and residential component of the East Kapolei community.

The revenues collected by the Department’s Land Division cover the entire annual operating budget for the Land Division, the Department’s Office of Conservation and Coastal Lands, and the Dam Safety and Mineral Resources Programs of the Department. The revenues fund over 80 Department staff positions, including 5 positions within the Commission on Water Resource Management, and provide funding support to the Division of State Parks and various resource protection programs administered by the Division of Forestry and Wildlife such as the protection of threatened and endangered species, removal of invasive species, and wildland firefighting. Revenues collected by other divisions have supported watershed protection, preservation of cultural and historical sites and public recreational resources. Furthermore, the Department has provided lands for affordable housing projects, often at the expense of generating revenue to support its own programs.

The Department understands the need for affordable housing and has historically supported the development of affordable housing through the conveyance or transfer of management of lands to HHFDC for affordable housing or rental projects statewide. In most instances, the lands transferred to HHFDC could have been used for more intensive income producing purposes. Rather, these lands were instead dedicated by the Department to alleviate the significant lack of supply of affordable housing and rental units for the less fortunate citizens of Hawai‘i. The following affordable housing/rental projects have been supported by the transfer of lands from the Department to HHFDC:

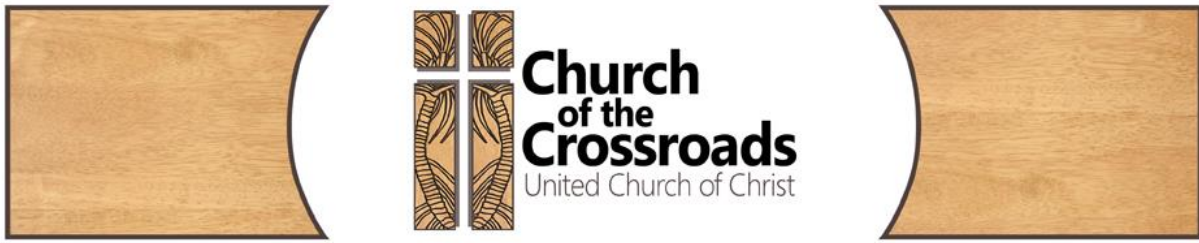
- The Villages of Leiali‘i in Lāhaina, Maui, 1,033 acres of land mauka of downtown Lāhaina.
- 690 Pohukaina in Kaka‘ako, approximately 2.168 acres in Honolulu’s urban core, adjacent to the rail line with access to existing infrastructure.
- Halekauwila Place in Kaka‘ako, approximately 1.249 acres adjacent to the 690 Pohukaina project.
- Hale Mōhalu in Pearl City, O‘ahu, 4.75 acres of land designated Urban, adjacent to Kamehameha Highway with access to existing infrastructure.
- The Villages of La‘i‘ōpua, in North Kona, Island of Hawai‘i, 802 acres adjacent to Queen Ka‘ahumanu Highway between Kona International Airport and Kailua Kona.

The Department further notes that its strategic plan for the development of the four parcels already includes affordable and workforce rental housing units that would be located within a one-mile radius of the transit station. This project is in the planning phase, and initial market studies along with agency consultation, indicate that the Department’s proposed housing development contains the maximum amount that would be feasible for a developer to undertake.

Per the Department's East Kapolei Affordable Rental Market Study, "on the supply side, the actual financing and construction cost realities present a high barrier to achieving such a high unit count. . . These lower Area Medium Income (AMI) units need greater subsidy to offset the costs. And the subsidies currently available do not appear sufficient to fund large-scale production of units serving the lower AMI households." Based on preliminary studies, the areas that are designated for housing units are physically capable of holding a maximum 2,000 units but the East Kapolei Affordable Rental Market Study found that developing that many units is not feasible due to financing. The Department is currently in the process of conducting an Environmental Impact Statement (EIS) for the project. As the EIS budget is limited to \$1,300,000.00, the focus will be to study the most realistic scenario. In addition to requiring at least \$1,000,000.00 in additional funding, expanding the scope of the EIS to include additional housing development would add another 1-2 years to the EIS timeline because it would require that the Department redo its traffic, noise, engineering, and urban design studies.

Finally, the Department has concerns that this measure will result in unrealistic expectations of the volume and density of development around and/or near the rail stations. While in some areas this may be appropriate, such as in the urban core, in others, it may be unsuitable and appear to be disjointed from other nearby developments that were not granted carte blanche on height and housing density requirements. The Department has attended area neighborhood board meetings to get community feedback on development of the Department's parcels near the Keone'ae Rail Station, and to observe general community sentiment on density in East Kapolei. If the Legislature desires that the Department study the development of higher density housing, the Department cautions that, aside from requiring additional funding for the EIS, the East Kapolei community and nearby landowners may not support the development of significantly higher housing density on the Department's parcels.

Mahalo for the opportunity to comment on this measure.



## ***A Just Peace and Open and Affirming Congregation***

### **TESTIMONY IN SUPPORT OF SB 865, SD 2, HD1**

House Committees on Finance

April 4, 2023 at 3:00 p.m., Conference Room 308 & Video

Church of the Crossroads, Hawaii's first deliberately interracial congregation now in its 100th year, remains committed to celebrating diversity and fighting economic injustice. SB 865 tackles our high cost of living — 2/3rds above the national average — driven by our housing crisis.

Crossroads supports SB 865, SD 2, HD 1. It would create a ninety-nine year leasehold pilot program to develop low-cost homes on government-owned land in urban redevelopment sites to be sold in leasehold by the Hawaii Community Development Authority to qualified residents.

The Aloha United Way's report entitled, "**Asset Limited, Income Constrained, Employed (ALICE): A Study of Financial Hardship in Hawaii**" found that people who have jobs, yet do not earn enough to afford basic necessities especially housing, are a paycheck or two away from homelessness.

Prior to Covid, 37% of local households were ALICE, earning between \$30,000 and \$75,000 a year, below the median household income. Another 11% of people were below the poverty line. That made 48% of Hawaii households ALICE and below. Since Covid, that figure has risen to 59%.

Governor Green says we need 36,000 housing units. The National Low Income Housing Coalition estimates that Hawaii faces a shortage of more than 40,000 homes for families earning incomes of 50% or below of the area median income. A Department of Business, Economic Development and Tourism report put the need at 72,000 through this decade.

Traditional State and county housing programs rely on government money. But with money limited, housing programs fall short. Honolulu Mayor Blangiardi in his "State of the City" address said, "*Make no little plans, they have no magic to stir [our] blood.*"

SB 865, SD2, HD1 pilots a revenue-neutral plan. It seeks to be independent of government money. It could lead to an agency able to plan, develop, and construct housing units integrated with commercial, recreational, and social urban amenities. Such attractive, dense, mixed-use, walkable developments are environmentally efficient and minimize the need for personal vehicles.

For Honolulu, the rail transit system will further reduce the need for private autos. The State is the largest landowner along the rail line, owning about 2,000 acres, land we should dedicate to needed homes for the people of Hawaii.

Mahalo.

Submitted by Galen Fox, Crossroads' moderator

Email: [office@churchofthecrossroadshawaii.org](mailto:office@churchofthecrossroadshawaii.org)

**SB-865-HD-1**

Submitted on: 4/1/2023 2:59:52 PM

Testimony for FIN on 4/4/2023 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Elizabeth Nelson	Individual	Support	Written Testimony Only

Comments:

I support SB 865 because there are so many people who have lived in Hawaii for many years now leaving because they cannot afford a place to live. Or they want to join their children who had to move for the same reason.

I know people who have to work 2 or 3 jobs just to pay for their housing. Or live with several others for the same reason.

Please support this bill. Thank you.

Elizabeth Nelson



**SB-865-HD-1**

Submitted on: 4/1/2023 5:00:03 PM

Testimony for FIN on 4/4/2023 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Bruce Anderson	Individual	Support	Written Testimony Only

Comments:

I support SB865 as an important tool in our state's effort to provide truly affordable housing for our lower income residents.

**SB-865-HD-1**

Submitted on: 4/1/2023 9:44:55 PM

Testimony for FIN on 4/4/2023 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ellen Godbey Carson	Individual	Support	Written Testimony Only

Comments:

Please support this very important bill for addressing Hawaii's housing problems. It is one of the few ideas that could be a major game changer for this State. I have worked for years on affordable housing solutions for Hawaii and have traveled to Singapore to study their very successful affordable housing solutions. This bill includes key concepts from that model that should work very well in Hawaii.

- Our housing crisis has pushed Hawaii's cost of living 2/3 higher than the rest of the country, with 59% of our people 1-2 paychecks from homelessness or already there. We lose a higher share of people to the rest of the U.S. than all but two states. A majority of native Hawaiians now live on the mainland.
- SB865's pilot project could lead to thousands of needed homes for residents built on 2,000 acres of state land along the proposed rail line at no net cost to taxpayers.
- The projects would be attractive, dense, with retail, recreational, medical, and social amenities a walk away and transit nearby.

This is a model we need for Hawaii's future. Let's give it a chance to work.

thank you for consideration of my testimony.

Ellen Godbey Carson

**SB-865-HD-1**

Submitted on: 4/2/2023 1:27:13 PM

Testimony for FIN on 4/4/2023 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Will Caron	Individual	Support	Written Testimony Only

Comments:

Please support SB865 SD2 HD1.