



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

H.B. NO. 2212, RELATING TO AFFORDABLE HOUSING.

BEFORE THE:

HOUSE COMMITTEES ON HOUSING AND ON WATER AND LAND

DATE: Wednesday, February 7, 2024 **TIME:** 8:30 a.m.

LOCATION: State Capitol, Room 430 and Videoconference

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

Chairs Evslin and Ichiyama and Members of the Committees:

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

The purpose of this bill is to allow religious, educational, and medical institutions to build residential housing developments less than fifteen acres on lands zoned for residential or commercial use within the urban state land use district, provided that the development is no greater than fifty percent of the parcel area and that the housing is retained by the institution so long as the institution remains in existence.

The title of this bill is "Relating to Affordable Housing," but the bill does not specify that the permitted housing development is for affordable housing. Article III, section 14, of the Hawaii Constitution states that "[e]ach 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). To remedy this, we recommend clarifying that the residential units are to be affordable housing.

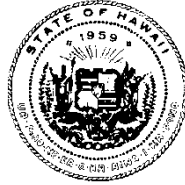
Additionally, residential units are to a certain extent already allowed in lands zoned for residential or commercial use that is within the urban state land use district. It is, therefore, not entirely clear in which zoning districts this bill intends to allow housing to be built. If it is the intent of this bill to allow religious, educational, or medical institutions to be able to build affordable housing within any county zoning district that is

within the urban state land use district, then to remedy both issues identified above we recommend the following amendments to section 46-4(d), Hawaii Revised Statutes, at page 6, lines 10 to 11 (shown in Ramseyer format for convenience): "build [~~residential~~] units of affordable housing as defined in section 46-15.25 on a parcel of land [~~zoned for residential or commercial use~~] within any county zoning district that is within the urban state land use"

Thank you for the opportunity to offer comments.

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



DEAN MINAKAMI
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

Statement of
DEAN MINAKAMI
Hawaii Housing Finance and Development Corporation
Before the

**HOUSE COMMITTEE ON HOUSING
AND
HOUSE COMMITTEE ON WATER & LAND**
February 7, 2024 at 8:30 a.m.
State Capitol, Room 430

In consideration of
H.B. 2212
RELATING TO AFFORDABLE HOUSING.

HHFDC **supports** HB 2212, which allows religious, educational, and medical institutions to build residential units on lands zoned for residential or commercial use within the Urban State Land Use District, under certain conditions.

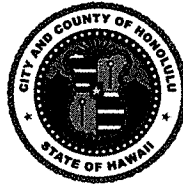
HHFDC appreciates the willingness of some of the institutions in the medical, educational, and religious community to use portions of their lands to provide housing. This bill provides those institutions with the flexibility to use portions of their lands for that purpose and will help to address the statewide shortage of affordable housing.

Thank you for the opportunity to testify on this bill.

DEPARTMENT OF PLANNING AND PERMITTING
KA 'OIHANA HO'OLĀLĀ A ME NĀ PALAPALA 'AE
CITY AND COUNTY OF HONOLULU

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RICK BLANGIARDI
MAYOR
MEIA



DAWN TAKEUCHI APUNA
DIRECTOR
PO'O

JIRO A. SUMADA
DEPUTY DIRECTOR
HOPE PO'O

February 7, 2024

The Honorable Luke A. Evslin, Chair
and Members of the Committee on Housing
The Honorable Linda Ichiyama, Chair
and Members of the Committee on Water & Land
Hawai'i House of Representatives
Hawai'i State Capitol
415 South Beretania Street
Honolulu, Hawai'i 96813

Subject: House Bill No. 2212
Relating to Affordable Housing

Dear Chairs Evslin, Ichiyama and Committee Members:

The Department of Planning and Permitting (DPP) **opposes** House Bill No. 2212, which would allow religious, educational, and medical institutions to build residential units on lands zoned for residential or commercial use within the urban state land use district, under certain conditions.

We agree that there is a severe shortage of affordable housing across the state, but this Bill calls into question why these groups are being singled-out for the development of residential units. This measure does not state what type of residential units would be allowed. Will they be single-family dwellings, apartment buildings, or high-rise condominiums? This Bill appears to provide certain groups preference over others to develop any type of housing they desire. It's the government's duty to provide fair and equal treatment.

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 housing units 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 Luke A. Evslin, Chair
and Members of the Committee on Housing
The Honorable Linda Ichiyama, Chair
and Members of the Committee on Water & Land
Hawai'i House of Representatives
House Bill No. 2212
February 7, 2024
Page 2

This Bill is unfair and likely unconstitutional because it appears to give preference to particular groups. For these reasons, we ask that House Bill No. 2212 be held in committee.

Thank you for the opportunity to testify.

Very truly yours,

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

Dawn Takeuchi Apuna
Director

Feb. 7, 2024, 8:30 a.m.
Hawaii State Capitol
Conference Room 430 and Videoconference

To: House Committee on Housing

Luke Evslin, Chair
Micah Aiu, Vice-Chair

To: House Committee on Water and Land

Linda Ichiyama, Chair
Mahina Poepoe, Vice-Chair

From: Grassroot Institute of Hawaii

Ted Kefalas, Director of Strategic Campaigns

COMMENTS IN SUPPORT OF HB2212 — RELATING TO AFFORDABLE HOUSING

Aloha Chairs Evslin and Ichiyama, Vice-Chairs Aiu and Poepoe, and members of the Committees,

The Grassroot Institute of Hawaii would like to offer its support for [HB2212](#), which would allow religious institutions, medical facilities and schools to build housing on their land by-right, subject to certain conditions.

We commend the Legislature for looking to increase Hawaii's housing supply through zoning reform. As we discussed in a recent report, "[How to facilitate more homebuilding in Hawaii](#)," zoning reform can play a pivotal role in lowering housing prices and providing certainty to builders.

In the report, we considered by-right approvals, which "refer to projects that can proceed automatically without discretionary approval from a neighborhood board, planning department, planning commission or county council."¹

By-right approvals do not allow unrestricted development; instead, they set up rules beforehand — such as on densities and uses — and let proceed any project that complies with those rules.

¹ Jonathan Helton, "[How to facilitate more homebuilding in Hawaii](#)," Grassroot Institute of Hawaii, p. 16.

Because many nonprofits have limited access to financing and little expertise in managing the development process, uncertainty in the approval process can stop charitable housing projects before they begin.²

To help solve this problem, HB2212 proposes a creative approach pioneered last year by California. The Golden State’s “Yes in God’s backyard” law allowed certain religious and educational institutions to build housing on lands they own, subject to some affordability and density restrictions.

That law is already creating housing. For example, the Episcopal Church’s Los Angeles Diocese is planning to build affordable housing on a quarter of its more than 130 campuses in the region.³

In Hawaii, allowing schools, hospitals and religious institutions to create housing on their own properties would help them with their recruitment and retention issues⁴ by enabling them to more easily provide affordable housing for their employees.

Nonprofit institutions that had been prevented from creating housing for their own staff would be able to offer a convenient on-campus housing benefit, thereby freeing up housing elsewhere throughout the islands for other homebuyers.

Thank you for the opportunity to testify.

Ted Kefalas
Director of Strategic Campaigns
Grassroot Institute of Hawaii

² [“Hayashi on a mission to help Hawaii churches provide housing,”](#) Grassroot Institute of Hawaii, Nov. 15, 2023.

³ Lynette Wilson, [“Los Angeles diocese set to develop affordable housing on 25% of church-owned land,”](#) Episcopal News Service, Oct. 18, 2023.

⁴ Allyson Blair, [“On Hawaii Island, a desperate request to house traveling nurses key to patient care,”](#) Hawaii News Now, Feb. 21, 2023.



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**The State Legislature
House Committee on Housing
House Committee on Water and Land
Wednesday, Feb 7, 2024
Conference Room 430, 8:30 a.m.**

TO: The Honorable Luke Evslin, Chair
The Honorable Linda Ichiyama, Chair
FROM: Keali'i Lopez, State Director, AARP Hawaii
RE: Support for H.B. 2212-Relating to Affordable Housing

Aloha Chairs Evslin and Ichiyama, and Members of the Committees:

My name is Keali'i Lopez, and I am the State Director for AARP Hawai'i. AARP is a nonpartisan, social impact organization that advocates for individuals age 50 and older. We have a membership of nearly 38 million nationwide and nearly 140,000 in Hawaii. We advocate at the state and federal level for the issues that matter most to older adults and their families.

AARP supports H.B. 2212 which allows religious, educational, and medical institutions to build residential units on lands zoned for residential or commercial use within the urban state land use district, under certain conditions.

Hawaii's high cost of housing is making it unaffordable for many including our workforce as well as those on low and/or fixed incomes. Allowing religious, educational and medical institutions with available space or land to build residential units, could help address the housing needs of workers who otherwise might leave the state for better housing and work opportunities. The growing loss of educators, health care workers and other younger workers threatens Hawaii's economy and communities as this outbound migration continues. Hawaii's kupuna needs the help and support of their own families and more health care workers as they age and require more assistance. Therefore, allowing other entities build residential units on their available land would help increase our housing inventory and benefit many Hawaii residents.

Thank you very much for the opportunity to testify in support **H.B 2122**.



Hawai'i YIMBY
Honolulu, HI 96814

hawaiiyimby.com
admin@hawaiiyimby.com

Wednesday, February 7, 2024

House Committee on Housing and House Committee on Water & Land
Hawai'i State Capitol
Honolulu, HI 96813

RE: SUPPORT for HB 2212 - RELATING TO AFFORDABLE HOUSING

Aloha Chairs, Vice Chairs, and Members of the Committees,

On behalf of Hawai'i YIMBY, I'm writing to support HB 2212, which would allow religious, educational, and medical institutions to build residential units on lands zoned for residential or commercial use.

Our housing crisis demands we step up with creative and innovative solutions. This bill's core concept - allowing institutions to build housing on urban zoned land they own, with protections against abuse - is based on a proven model that is already delivering results in California, hastening the construction of affordable units on church land for far less than they would normally cost to build (See excerpt on next page). We should adopt this idea as well - it's good for institutions, for our environment, and for housing affordability.

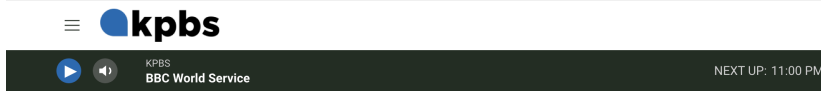
Hawai'i YIMBY (*Yes In My Backyard*) is a volunteer-led grassroots advocacy organization dedicated to supporting bold and effective solutions for Hawai'i's housing crisis. We urge your support for this bill, and thank you for the opportunity to testify.

Sincerely,

Matt Popovich

Co-Lead, Hawai'i YIMBY





Quality of Life

San Diego's first affordable housing project on church land under construction

By [Andrew Bowen](#) / Metro Reporter
Contributors: [Mike Damron](#) / Video Journalist, [Matthew Bowler](#) / Video Journalist
Published January 8, 2024 at 5:00 AM PST



Most affordable housing is built with government subsidies in the form of tax credits. But Evan Gerber, the project's consultant, said Bethel One is funded entirely by private donations and loans.



KPBS MIDDAY EDITION
St. Paul's Cathedral Puts Its Faith In A High Rise

"Government tax credits and public programs are a great tool to build affordable housing," Gerber said. "The challenge with it is you really have to build a lot of units to really make it make sense. There's also a lot of soft costs and additional fees that go into using public subsidy."

Avoiding those additional costs associated with public subsidies, and keeping the project relatively small at three stories, allowed Bethel One to keep its cost per unit around \$260,000. Publicly funded affordable housing projects in San Diego can cost \$750,000 per unit or more.

Source:
<https://www.kpbs.org/news/local/2024/01/08/san-diegos-first-affordable-housing-project-on-church-land-under-construction>

HB-2212

Submitted on: 2/5/2024 9:56:03 AM

Testimony for HSG on 2/7/2024 8:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Seth Kamemoto	Individual	Comments	Written Testimony Only

Comments:

Why is “residential” included? If it’s already zoned residential, wouldn’t they already be able to build? It seems redundant here.

What is meant by “commercial” zoning? Is that only the business/industrial districts? I ask because many general preservation (P-2) parcels, which are often green space (think golf courses or cemeteries), do allow commercial activities. Could they now become a target for housing development with this law?

Under what development standards would the housing project be held to (i.e. build heights, setbacks, FAR, etc.)?

How does this differ from 201H? Would this law only be utilized for projects that wouldn’t qualify as “affordable” under 201H? I guess I’m saying that 201H already can exempt any law, so these organizations could already build housing on whatever parcel they own through 201H. The “affordable” limits under 201H are already quite high, so would this law really only support ultra-luxury housing beyond 140% AMI?

Few possible loopholes:

1. A “holding” organization. It’s not that hard to start an educational or religious organization that could qualify. And once it’s out of existence there’s nothing in this law that forces a transfer to an equivalent entity, so it could just be funneled back into a private, for-profit organization after construction is complete.

1. The “no greater than fifty percent of the parcel area” does not account for what else is on the parcel. An organization could propose two separate housing developments under this law, each using 49.99% of the overall parcel.

Thank you for your attention to this matter,
Seth Kamemoto