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GOVERNOR



DENISE ISERI-MATSUBARA  
EXECUTIVE DIRECTOR

**STATE OF HAWAII**  
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM  
**HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION**

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Statement of  
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Hawaii Housing Finance and Development Corporation  
Before the

**SENATE COMMITTEE ON HOUSING  
AND  
SENATE COMMITTEE ON PUBLIC SAFETY AND INTERGOVERNMENTAL AND  
MILITARY AFFAIRS**

February 13, 2023 at 3:00 p.m.  
State Capitol, Room 225

In consideration of  
**S.B. 867**  
**RELATING TO INCLUSIONARY ZONING.**

HHFDC **supports** and offers **comments** on S.B. 867, which prohibits any law, ordinance, or rule from imposing an inclusionary zoning requirement on housing offered exclusively for sale in perpetuity to buyers who are residents of the State, are owner-occupants, and do not own any other real property.

The lack of affordable housing is one of the biggest barriers to recruiting and retaining a skilled workforce and is the reason why many Hawaii residents are migrating to more affordable communities in the continental United States. A 2022 study by UHERO on measuring the burden of housing regulation in Hawaii concluded that regulation plays a key role in setting the supply of housing.<sup>1</sup>

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<sup>1</sup> Rachel Inafuku, Justin Tyndall, and Carl Bonham. Measuring the Burden of Housing Regulation in Hawaii. UHERO. Accessed February 12, 2023. <https://uhero.hawaii.edu/wp-content/uploads/2022/04/MeasuringTheBurdenOfHousingRegulationInHawaii.pdf>

HHFDC supports this measure, as it attempts to reduce barriers to affordable housing production. While we support efforts to streamline regulation, we want to recognize the counties' desire to set housing policies that are tailored to the unique needs of their communities. We also recognize the conditions in Section 1(g) of the bill that mandate perpetual owner-occupant requirements for for-sale units are there to ensure that the homes remain for the benefit of Hawaii residents but suggest seeking feedback from developers on this condition to ensure that it does not adversely impact a project's marketability and ultimately its ability to obtain private financing.

Thank you for the opportunity to provide testimony.

February 13, 2023  
3 p.m.  
Conference Room 225  
Via Videoconference

**To: Senate Committee on Housing**  
**Senator Stanley Chang, Chair**  
**Senator Dru Mamo Kanuha, Vice Chair**

**Senate Committee on Public Safety and Intergovernmental and Military Affairs**  
**Senator Glenn Wakai, Chair**  
**Senator Brandon J.C. Elefante, Vice Chair**

**From: Grassroot Institute of Hawaii**  
**Ted Kefalas, Director of Strategic Campaigns**

RE: SB867 — RELATING TO INCLUSIONARY ZONING

***Comments Only***

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on [SB867](#), which would prohibit any law, ordinance or rule from imposing an inclusionary zoning requirement on housing offered exclusively for sale in perpetuity to buyers who are residents of Hawaii, are owner-occupants and do not own any other real property.

By eliminating inclusionary zoning rules for certain properties, this bill would make an important stride toward encouraging the growth of housing in our state.

For years, municipalities have tried to use inclusionary zoning rules to force the creation of affordable housing. This policy, which specifies that a certain percentage of homes in a proposed project be sold or rented at a certain price point, often does more harm than good and can even make developing housing projects financially unfeasible.

A large body of research shows that inclusionary zoning makes housing less affordable, since developers respond to such mandates by building fewer homes.<sup>1</sup> To make matters worse, the mandates force developers to raise the prices of their market-rate homes to make up for the so-called affordable homes.

Our research using the “Inclusionary Housing Calculator” developed by Grounded Solutions Network shows that in housing markets like Maui that have a 50% inclusionary zoning requirement, it is nearly impossible to make a profit building housing without a government subsidy.<sup>2</sup> As the required percentage goes up, it becomes even less feasible to build new housing.

For example, according to the calculator, a low-rise apartment project with 30 units costing \$18 million would incur a net loss of \$7 million, if built in an area with an affordable housing requirement of 50%.<sup>3</sup>

As noted by economist Carl Bonham at the Economic Research Organization at the University of Hawai‘i, inclusionary zoning “reduces incentives for developers to produce all forms of housing, and will reduce the overall supply of housing units and increase the price of housing.”<sup>4</sup>

A 2004 study by the Reason Foundation found that inclusionary zoning led to reduced housing growth in the San Francisco Bay Area region.<sup>5</sup>

While well-intentioned, inclusionary zoning requirements have created a regulatory roadblock to the increase of the housing supply.

This bill should be praised for identifying that problem and creating a pathway that allows homebuilders to avoid inclusionary zoning requirements by building the homes that such requirements were originally intended to encourage.

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<sup>1</sup> Tom Means, Edward Stringham and Edward Lopez, “[Below-Market Housing Mandates as Takings: Measuring their Impact](#),” The Independence Institute, November 2007; “[Inclusionary Zoning: Implications for Oahu’s Housing Market](#),” The Economic Research Organization at the University of Hawai‘i, Feb. 12, 2010; “[How land-use regulation undermines affordable housing](#),” Mercatus Research, November 2015; Paul Kupiec and Edward Pinto, “[The high cost of ‘affordable housing’ mandates](#),” The Wall Street Journal, Feb. 12, 2018; Benjamin Powell and Edward Stringham, “[Housing supply and affordability](#),” Reason Foundation, April 1, 2004; and “[Inclusionary zoning primer](#),” National Association of Home Builders, August 2019.

<sup>2</sup> “[Inclusionary Housing Calculator 2.0](#),” Grounded Solutions Network, 2019.

<sup>3</sup> “[Project Summary](#),” Grounded Solutions Network, accessed Feb. 9, 2021.

<sup>4</sup> Carl Bonham, “[The Unintended Consequences of Affordable Housing Policy](#),” The Economic Research Organization at the University of Hawai‘i, Sept. 8, 2013.

<sup>5</sup> Benjamin Powell and Edward Stringham, “[Housing supply and affordability](#),” Reason Foundation, April 1, 2004.

By eliminating inclusionary zoning requirements on homes built for Hawaii owner-occupants with no other real estate, SB867 would give builders a chance to address slow housing growth in a way that responds to the current market.

This bill would provide a strong incentive to build housing of different types, thus allowing developers to meet the needs of Hawaii families without being constrained by the inherent limits of inclusionary zoning regulations.

It would remain only for the counties to reduce zoning restrictions that prevent the creation of smaller homes or multi-unit lots such as triplexes and fourplexes.

We do have one minor concern with the bill's current language — namely, the restriction of the class of buyers to Hawaii residents. We sympathize with the intent to ensure that Hawaii residents have priority in the purchase of new homes, but there is reason to fear that such a restriction may run into legal difficulties.

In addition, and perhaps more important, this restriction would prevent the purchase of such homes from former Hawaii residents who at one time moved to the mainland for whatever reason but now very much wish to return.

Notwithstanding that issue, this is a bill that could make a big difference in the effort to increase Hawaii's housing supply. We appreciate that the committee is willing to consider innovative ways to address the state's housing crisis.

Thank you for the opportunity to submit our comments.

Sincerely,

Ted Kefalas  
Director of Strategic Campaigns  
Grassroot Institute of Hawaii