

HB 1044 RELATING TO HOUSING
House Committee on Housing

February 18, 2009
Room: 325

9:05 a.m.

Dear Chair Cabanilla, Vice Chair Chong and members of the committee on Housing,

My name is Berman Viernes. I am an 18- year resident of Kapolei. I am writing in **STRONG SUPPORT** of this bill.

From the time that we moved in, our neighbor has been involved in suspicious activities. We have worked with the Attorney General's office, Honolulu Police Department and other law enforcement agencies, but unfortunately have not been successful in evicting this neighbor from his property due to his criminal activity. We were recently advised that this individual had defaulted on his mortgage and were thrilled to learn that the house was in foreclosure. What should have been a simple transaction in foreclosing upon the property has become a nightmare for the residents of Nihopeku Street allowing this neighbor to continue living at the property without having to pay anything. In this case, the mortgage company, Countrywide, is taking the position that its mortgage interest has priority above the shared appreciation equity lien ("SAE") imposed by HHFDC. As such, HHFDC and Countrywide are now fighting over any anticipated appreciation that may be realized upon the auctioning of the home. In the meantime, this neighbor continues to live next door to me free of charge while continuing to terrorize the neighborhood.

The HHFDC program under which this house was purchased allowed it to be sold for less than market value and therefore does not allow the purchaser to sell the home for a profit. The issue now involves the auctioning of the home and who gets the profit should the home sell for a price above that which it was purchased for.

With regard to the eviction process, neither HHFDC nor Countrywide can evict this neighbor until an auction occurs and the deed is transferred to a new owner. The problem is that HHFDC and Countrywide are involved in litigation due to the issue of which lien is superior.

HB 1044 clarifies that the SAE lien is a priority lien and will enable HHFDC to collect the value of SAE more easily. It will also require advance written notification to the HHFDC of intent to foreclose on properties encumbered by such priority liens. Had this bill been law, Countrywide could not have taken its current position and the foreclosure proceedings against my neighbor would have taken place long ago. I strongly urge this committee to pass this bill.

Thank you for the opportunity to testify.

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Room: 325

9:05 a.m.

Dear Chair Cabanilla, Vice Chair Chong and members of the committee on Housing,

My name is Donna Galang. I am an 18- year resident of Kapolei. I am writing in **STRONG SUPPORT** of this bill.

From the time that we moved in, our neighbor has been involved in suspicious activities. We have worked with the Attorney General's office, Honolulu Police Department and other law enforcement agencies, but unfortunately have not been successful in evicting this neighbor from his property due to his criminal activity. We were recently advised that this individual had defaulted on his mortgage and were thrilled to learn that the house was in foreclosure. What should have been a simple transaction in foreclosing upon the property has become a nightmare for the residents of Nihopeku Street allowing this neighbor to continue living at the property without having to pay anything. In this case, the mortgage company, Countrywide, is taking the position that its mortgage interest has priority above the shared appreciation equity lien ("SAE") imposed by HHFDC. As such, HHFDC and Countrywide are now fighting over any anticipated appreciation that may be realized upon the auctioning of the home. In the meantime, this neighbor continues to live next door to me free of charge while continuing to terrorize the neighborhood.

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HB 1044 RELATING TO HOUSING
House Committee on Housing

February 2, 2009
Room: 325

9:05 a.m.

Dear Chair Cabanilla, Vice Chair Chong and members of the committee on Housing,

My name is Harvey Rumbaoa. I am 5 - year resident of Kapolei. I am writing in **STRONG SUPPORT** of this bill.

From the time that we moved in, our neighbor has been involved in suspicious activities. We have worked with the Attorney General's office, Honolulu Police Department and other law enforcement agencies, but unfortunately have not been successful in evicting this neighbor from his property due to his criminal activity. We were recently advised that this individual had defaulted on his mortgage and were thrilled to learn that the house was in foreclosure. What should have been a simple transaction in foreclosing upon the property has become a nightmare for the residents of Nihopeku Street allowing this neighbor to continue living at the property without having to pay anything. In this case, the mortgage company, Countrywide, is taking the position that its mortgage interest has priority above the shared appreciation equity lien ("SAE") imposed by HHFDC. As such, HHFDC and Countrywide are now fighting over any anticipated appreciation that may be realized upon the auctioning of the home. In the meantime, this neighbor continues to live next door to me free of charge while continuing to terrorize the neighborhood.

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HB 1044 RELATING TO HOUSING
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February 18, 2009
Room: 325

9:05 a.m.

Dear Chair Cabanilla, Vice Chair Chong and members of the committee on Housing,

My name is Monique Tingkang. I am a six-year resident of Kapolei. I am writing in **STRONG SUPPORT** of this bill.

From the time that we moved in, our neighbor has been involved in suspicious activities which includes but is not limited to having visitors at all hours of the day and night who stay for ridiculously short amounts of time; working on vehicles at all hours of the night, sometimes interchanging parts on several vehicles; running a generator and power inverter due to lack of electricity for the past three years; as well as allowing an individual who was arrested for identity theft reside in his home. We have worked with the Attorney General's office, Honolulu Police Department and other law enforcement agencies, but unfortunately have not been successful in evicting this neighbor from his property due to his criminal activity. We were recently advised that this individual had defaulted on his mortgage and were thrilled to learn that the house was in foreclosure. What should have been a simple transaction in foreclosing upon the property has become a nightmare for the residents of Nihopeku Street allowing this neighbor to continue living at the property without having to pay anything. In this case, the mortgage company, Countrywide, is taking the position that its mortgage interest has priority above the shared appreciation equity lien ("SAE") imposed by HHFDC. As such, HHFDC and Countrywide are now fighting over any anticipated appreciation that may be realized upon the auctioning of the home. In the meantime, this neighbor continues to live next door to me free of charge while continuing to terrorize the neighborhood.

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proceedings against my neighbor would have taken place long ago. I strongly urge this committee to pass this bill.

Thank you for the opportunity to testify.

Monique Tingkang
91-1010 Nihopeku Street
Kapolei, HI 96707

Linda Lingle
GOVERNOR



KAREN SEDDON
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

IN REPLY REFER TO

Statement of
Karen Seddon
Hawaii Housing Finance and Development Corporation
Before the

HOUSE COMMITTEE ON HOUSING

February 18, 2009, 9:05 a.m.
Room 325, State Capitol

In consideration of
H.B. 1044
RELATING TO HOUSING.

The Hawaii Housing Finance and Development Corporation (HHFDC) **strongly supports H.B. 1044, an Administration bill, with requested technical amendments.** H.B. 1044 enables the HHFDC to more easily collect the value of shared appreciation equity and other restrictions when an affordable housing property is sold and to require advance written notification of intent to foreclose on properties encumbered by such priority liens.

The sale of affordable housing properties sponsored or assisted by the HHFDC is subject to a buyback restriction and a shared appreciation equity (SAE) lien. The HHFDC has also provided deferred sales price liens to assist low or moderate income homebuyers in purchasing a first home. Upon the sale or transfer of an HHFDC-assisted home, the SAE is collected and deposited into the Dwelling Unit Revolving Fund, where it can be used to support the development of additional affordable housing projects.

Recently, the HHFDC has not been receiving sufficient prior notice of foreclosure proceedings on HHFDC-assisted properties. The lack of sufficient advance notice makes it difficult for HHFDC to prepare to bid at foreclosure sales. This measure would afford the HHFDC with notice of intent to foreclose forty-five days before commencement of the foreclosure. This notice period will allow HHFDC sufficient time to conduct our due diligence and, when, appropriate and beneficial to do so, prepare to bid at the foreclosure sale.

Additionally, because SAE or other government entity liens are priority liens (following the purchase money mortgage), the mortgagee pursuing the foreclosure must satisfy the amount due to the HHFDC before claiming the property at the auction. However, the HHFDC has had to intervene in over 50 bankruptcy and foreclosure actions and litigate to assert our rights as a priority lien holder. Passage of this bill will protect HHFDC's lien rights in the event of foreclosure, and enable us to recover funds to support the development of additional housing.

The Department of the Attorney General has recently advised us of technical errors made during the drafting of this bill. Accordingly, we respectfully request that the Committee adopt a House Draft 1 making the following amendments:

1. On page 6, line 16, the word "initially" should be deleted;
2. Page 9, line 9 should be amended to read as follows:
"consented to, and agreed to subordinate the restrictions to the"; and
3. Page 9, line 21 should be amended by deleting the semicolon.

Thank you for the opportunity to testify.

DEPARTMENT OF COMMUNITY SERVICES
CITY AND COUNTY OF HONOLULU

715 SOUTH KING STREET, SUITE 311 • HONOLULU, HAWAII 96813 • AREA CODE 808 • PHONE: 768-7762 • FAX: 768-7792



MUFI HANNEMANN
MAYOR

DEBORAH KIM MORIKAWA
DIRECTOR

ERNEST Y. MARTIN
DEPUTY DIRECTOR

February 17, 2009

The Honorable Rida Cabanilla, Chair
and Members of the Committee on Housing
The House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Cabanilla and Members:

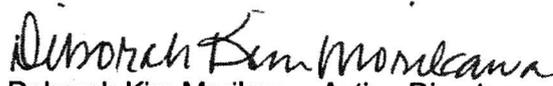
Subject: House Bill 1044
Relating To Housing

The Department of Community Services strongly supports H.B. 1044, a bill sponsored by the Hawaii Housing Finance and Development Corporation (HHFDC). Section 46-15.1, Hawaii Revised Statutes, gives to the counties the same housing powers as HHFDC pursuant to Chapter 201H. H.B. 1044 enables the HHFDC and counties to more easily collect the value of shared appreciation equity and other restrictions when an affordable housing property is sold and requires advance written notification of intent to foreclose on properties encumbered by such priority liens.

The sale of affordable housing properties sponsored or assisted by the HHFDC or a county is subject to a buyback restriction and a shared appreciation equity (SAE) lien. In recent years, the HHFDC and counties have not been receiving sufficient prior notice of foreclosure proceedings on assisted properties. This measure would afford the HHFDC or county with notice of intent to foreclose 45 days before commencement of the foreclosure, providing sufficient time to conduct due diligence and when appropriate to do so, prepare to bid at the foreclosure sale.

Additionally, because SAE or other government entity liens are priority liens (following the purchase money mortgage), the mortgagee pursuing the foreclosure must satisfy the amount due to the HHFDC or county before claiming the property at the auction. Passage of this bill will protect HHFDC or the county's lien rights in the event of foreclosure, and enable the respective agency to recover funds to support the development of additional housing. We respectfully request your favorable consideration of this important bill. Thank you for the opportunity to testify.

Sincerely,


Deborah Kim Morikawa, Acting Director
Department of Community Services

DKM:gk