

HB1232



HB 1232 HD 1 Relating to Sustainable Affordable Housing
Senate Committee on Education and Housing

March 18, 2009

2:00 pm

Room 225

The Office of Hawaiian Affairs **supports** the purpose and intent of HB 1232 HD 1.

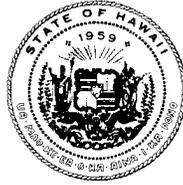
The growing affordable housing problem is one of the most critical issues faced by our communities, especially our Native Hawaiian communities. This issue seems to have many of our families struggling to find adequate housing and to make ends meet.

The state and county governments have not been able to maintain an inventory of affordable housing units in residential developments to meet the demand, therefore, government's kuleana is to ensure the affordable housing constructed with state assistance, on land purchased or leased from the State and on land located in a community development district, to be sold pursuant to restrictions that ensure continued affordability over time.

OHA recognizes that physical solutions by themselves will not solve social and economic problems, but neither can economic vitality, community stability, and environmental health be sustained without a coherent and supportive physical framework. This bill will provide some of the much needed framework to effect change in the affordable housing inventory.

Mahalo nui loa for the opportunity to provide this testimony.

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

SENATE COMMITTEE ON EDUCATION AND HOUSING

March 20, 2009, 1:30 p.m.
Room 225, State Capitol

In consideration of
H.B. 1232, H.D. 1
RELATING TO SUSTAINABLE AFFORDABLE HOUSING.

The Hawaii Housing Finance and Development Corporation (HHFDC) **opposes** H.B. 1232, H.D. 1.

This measure requires an unspecified portion of housing units in residential developments constructed on state land to be sold pursuant to sustainable affordable leases. Sustainable affordable leases were created by Act 197, Session Laws of Hawaii 2005, and are defined in section 516-1, HRS. We are not aware of any existing sustainable affordable leases and are very concerned that this bill provides for the mandatory sale of an unspecified portion of housing units under these leases. The bill also repeals HHFDC's and the County housing agencies' authority to recapture any subsidy, deferred sales price, or interest on the subsidy or deferred sales price upon resale of an affordable housing property, including properties that were previously sold. This Committee heard a similar measure, S.B. 1121, which was deferred indefinitely.

Thank you for the opportunity to testify.



HAWAII COMMUNITY
DEVELOPMENT AUTHORITY



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KALAELOA

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STATEMENT OF

ANTHONY J. H. CHING, EXECUTIVE DIRECTOR
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

BEFORE THE

SENATE COMMITTEE ON EDUCATION AND HOUSING

Friday, March 20, 2009

1:30 P.M.

State Capitol, Conference Room 225

**H. B. 1232, H. D. 1 – RELATING TO SUSTAINABLE AFFORDABLE
HOUSING.**

Purpose: This measure requires a portion of housing units in residential developments constructed with State assistance, on land purchased or leased from the State and on land located within a community development district, to be sold pursuant to restrictions that ensure continued affordability over time.

Position: The Hawaii Community Development Authority (“HCDA”) has concerns on this proposal, and **provides comments** on this measure only as they pertain to the HCDA.

The HCDA supports the Legislature’s efforts to insure that reserved housing units developed in Kakaako will remain affordable over time. These efforts, including the requirement in this proposal that the HCDA must manage any reserved housing unit subject to a buy back proposal or developed on State land such that “sustainable affordable leases” are created is laudable, however, we offer the following comments for your consideration with respect to the disposition of reserved housing units by the HCDA.

1. **Restriction on Selling Land in the Kakaako Community Development District.** As a result of past legislative action, the HCDA is prohibited from selling real property in the

Mauka and Makai Areas.¹ Without legislative relief, reserved housing units bought back by the HCDA will not be returned to the market.

2. **HCDA owns no developable land in the Mauka Area.**
Notwithstanding the prohibition, within the Mauka Area, outside of a 10,000 square foot parcel on Cooke Street and two park sites, the HCDA does not own any developable land in the Mauka Area and will not be able to undertake the development of reserved housing projects until that situation changes.
3. **Restriction on Residential Development in the Makai Area.**
The State has significant holdings within the Makai Area which might be developed for reserved housing. However, previous legislative action prevents the HCDA from pursuing or approving the development of any form of residential development on State lands or by a private developer within the Makai Area.
4. **Administration of Reserved Housing Units in Kakaako Mauka.** The HCDA administers its reserved housing buy back program in accordance with those rules administered by the HHFDC and subject of this legislative proposal. Should this legislative proposal be enacted into law, the HCDA will promulgate appropriate rules to comply with the objective that affordable and reserved housing units within Kakaako remain affordable in perpetuity.

Thank you for opportunity to submit this testimony.

¹ As a result of the past legislative action, the HCDA is also prohibited from selling any reserved housing units that may be bought back by the HCDA. The Administration has submitted a proposal this legislative session that would remove the prohibition on selling real property in the Mauka area only.



March 17, 2009

Senator Norman Sakamoto, Chair
Senator Michelle Kidani, Vice Chair
Committee on Education and Housing
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: H.B. NO. 1232, RELATING TO SUSTAINABLE AFFORDABLE HOUSING

UniDev Hawaii is a “mission driven” company specializing in the development of “reserved housing” that is sold pursuant to ground leases that contain restrictions to ensure permanent affordability. UniDev Hawaii is strongly supportive of H.B. 1232 for the reasons stated below.

The State of Hawaii currently imposes affordability requirements for projects assisted by the Hawaii Housing Finance and Development Corporation (“HHFDC”). Under Section 201H-47, Hawaii Revised Statutes, with respect to the transfer of real property sold under Chapter 201H, HHFDC has the first option to purchase the real property at a formula price for a period of ten years. The formula price includes the original cost to the purchaser, the cost of any improvements added by the purchaser and simple interest at one percent per year. If the owner wishes to transfer the property and HHFDC does not exercise its purchase option, then HHFDC may require the owner to sell the property to a “qualified resident” on terms that preserve the intent of Sections 201H-47, 201H-49 and 201H-50.

After this ten-year period, the owner may sell the property *free of any price restrictions* as long as the owner repays HHFDC for any subsidy or deferred sales price made by HHFDC in the original acquisition, development, construction and sale of the real property, plus interest on the subsidy at 7% per year. At the time of sale, the owner must also pay to HHFDC a share of appreciation as determined under HHFDC rules.

The current statutory scheme does not ensure permanent affordability to future buyers, and eventually allows state-assisted “affordable housing” to convert to market rate pricing. The current system can create a “windfall” for families who keep the units beyond the ten-year buy-back period and thus are able to sell their “affordable home” at market prices.

Under H.B. 1232, affordability resale restrictions would remain in place beyond the current 10-year restricted period. After that period, the property could be sold for a price that does not exceed the “maximum resale price.” The same limit would apply

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Senator Norman Sakamoto, Chair
Senator Michelle Kidani, Vice Chair
Committee on Education and Housing
March 17, 2009
Page 2 of 2



during the first ten years if HHFDC did not exercise its purchase option. In both cases, the maximum resale price would be defined as the sum of the current owner's purchase price for the property, plus *appreciation limited to increases in the Consumer Price Index*, plus the cost of all capital improvements made by the current owner. With these changes, all affordable housing built with HHFDC assistance should remain affordable in perpetuity.

The bill would also impose affordability requirements for housing developed on land purchased or leased from the State of Hawaii even if there is no HHFDC assistance under Chapter 201H. In such developments, at least a specified percentage of the total residential floor area in the development would have to constitute "affordable housing" and be sold pursuant to "sustainable affordable leases," as each term is defined in the bill.

Finally, the bill would amend Section 206E-15, HRS, to require any residential project constructed within a community development district to provide at least 20 percent of the total residential floor area as "reserved housing" that is affordable to households with incomes at or below 140 percent of median family income. If sold rather than rented, the reserved housing would have to be sold pursuant to sustainable affordable leases. The reserved housing requirement would be increased to 25 percent with respect to planned developments located on lots of three acres or more or that are part of a master planned area.

H.B. 1232 would allow homebuyers who are subject to its provisions to obtain all the benefits of homeownership, including the ability to build equity in a home, lock in their monthly costs, ensure continued occupancy and take full advantage of all state and federal tax benefits associated with mortgage interest and real property taxes. However, resale prices would be limited so that these homes would remain affordable to families earning 140% of AMI or less over the life of the dwelling, thereby assuring that generations of Hawaiian families will have access to affordable housing, not just the lucky few that are "first in" the door.

Very truly yours,

UniDev Hawaii, LLC

By 
Jeffery A. Minter
Its President

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WATERHOUSE

March 18, 2009

Senator Norman Sakamoto, Chair
Senator Michelle Kidani, Vice Chair
Committee on Education and Housing
State Capitol, Room 225
Honolulu, HI 96813

RE: HB1232, HD1, Relating to Sustainable Affordable Housing

Dear Chair Sakamoto and Vice Chair Kidani and Members of the Committee:

As the President of Waterhouse, Inc., I am respectfully writing to voice our **opposition** to **HB 1232, HD1** Relating to Kakaako.

Waterhouse is a small land and business owner in Kakaako and has been for more than 35 years. We currently lease our Kakaako commercial real estate to over 50 businesses. We are also active members of the Kakaako Improvement Association. In short, we are and have been long-time stakeholders in Kakaako and we hope to one day redevelop our small property.

While we support affordable housing in Kakaako, we **oppose** this bill on the grounds that the additional reserved housing requirement recently added in Section 206E-15(c) will do nothing more than effectively place a moratorium on redevelopment in Kakaako. As I hope you can appreciate, any redevelopment by a small landowner will be an enormous undertaking requiring great risk. There must be reasonable inducement to take on such risk. This bill would further erode what little inducement there already is for us to redevelop our property. We support affordable housing in Kakaako, but there must be a reasonable balance. The reality for the small landowner is that without sufficient incentive to redevelop, we will not risk the capital to do so and without redevelopment the State will not accomplish its desired affordable housing goals.

In spite of these realities, should the Committee elect to move this bill forward, we respectfully ask that the bill be either **amended back to its original version** or amended so that landowners who own **three-acres** or less are not subject to these more stringent requirements.

At a time when the Federal Government is passing legislation authorizing the spending of hundreds of billions of dollars to stimulate the economy, this bill represents a significant

Senator Norman Sakamoto, Chair
Senator Michelle Kidani, Vice Chair
March 18, 2009
Page 2 of 2

step away from stimulus. Now is not the time for the legislature to provide disincentives to private development, particularly to small landowners.

We respectfully urge the Committee to recognize the catastrophic impact this bill would have on small landowners in Kakaako by either rejecting the bill entirely or exempting owners who own lots that are three-acres or less from any additional affordable housing requirement.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott Whiting". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Scott D. Whiting
President



KAMEHAMEHA SCHOOLS

Testimony to the Senate Committee on Education and Housing
Hearing Date: Friday, March 20, 2009
1:30 p.m. – Conference Room 225

Paul Quintiliani
Director, Commercial Assets Division
Kamehameha Schools

Thank you for the opportunity to **comment** on HB No. 1232 HD1.

Kamehameha Schools respectfully oppose this measure.

Kamehameha Schools broadly supports the increasing availability of affordable housing throughout Hawai'i. We believe that the housing crisis in Hawai'i is real and requires immediate action. We also believe it is critically important to implement policies that will result in the construction of new affordable units (or retention of existing supply) and not have the unintended and ironic consequence of inhibiting construction altogether.

Our overarching comment is that provisions in statute, rules and policies concerning affordable housing must be viewed collectively for their contribution to an overall effective policy that promotes actual development of affordable housing. We believe that a range of strategies will help provide realistic options for many Hawaii residents. We want to engage in constructive dialog with you and key stakeholders and thank you for allowing us to highlight several key issues.

Unfortunately, this measure does not appear to be confined to its stated intent and instead increases the affordable housing requirement of residential projects in a manner which we believe will have potential negative unintended consequences. Section 4 of this measure appears to be addressed in several other measures currently being considered by the legislature and we ask that you eliminate these provisions from this measure.

Thank you for the opportunity to testify on this measure.

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