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Statement of
Hakim Ouansafi
Hawaii Public Housing Authority
Before the

House Committee on Finance
April 5, 2016 2:31 P.M.
Room 308, Hawaii State Capitol

In consideration of
SB 2563, SD 1 HD1
RELATING TO RENTAL HOUSING.

Honorable Chair Luke and Members of the House Committee on Finance, thank you for the opportunity to provide testimony regarding Senate Bill (SB) 2563, Senate Draft (SD) 1, House Draft (HD) 1 relating to rental housing.

The HPHA **supports** this measure that proposes to make the projects of the Hawaii Public Housing Authority (HPHA) eligible for grants from the rental housing revolving fund; make the HPHA eligible for the lease of land from the Hawaii Housing Finance and Development Corporation (HHFDC) at token lease; and revise the preferences and priorities for the funding of projects from the rental housing revolving fund.

Without this proposed bill, Hawaii Revised Statute (HRS) Section 201H-204(c) provides that a nonprofit is given preference over an equally ranked project, including the HPHA: "If the corporation, after applying the process described in this subsection, finds a nonprofit project equally ranked with a for-profit or government project, the corporation shall give preference to the nonprofit project in allotting fund moneys."

The HPHA is currently negotiating public-private partnerships to redevelop Mayor Wright Homes, the HPHA School Street Administrative Offices, and Kuhio Park Terrace Phase II. The HPHA is also endeavoring to redevelop several of its other properties within the transit-oriented development (TOD) zones of the Honolulu Rail line, envisioning the creation of vibrant, walkable, accessible and diverse communities. This measure would greatly assist the HPHA with these and other projects that are anticipated to substantially increase the number of affordable housing units.

The HPHA appreciates the opportunity to provide the House Committee on Finance with the HPHA's position regarding SB 2563, SD 1 HD1. We thank you very much for your dedicated support in addressing the affordable housing crisis in Hawaii.

DAVID Y. IGE
GOVERNOR

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IN REPLY REFER TO:

Statement of
Craig K. Hirai
Hawaii Housing Finance and Development Corporation
Before the

HOUSE COMMITTEE ON FINANCE
April 5, 2016 at 2:31 p.m.
State Capitol, Room 308

In consideration of
S.B. 2563, S.D. 1, H.D. 1
RELATING TO RENTAL HOUSING.

HHFDC ***supports the intent*** of S.B. 2563, S.D. 1, H.D. 1, to the extent that it is consistent with the Governor's housing strategy.

The Governor and the Administration are committed to:

- Building homes that people can afford, including rentals, to address the needs of those entering the work force;
- Renovating the state's public housing facilities; and
- On Oahu, identifying state lands near transit stations for housing, employment centers, daycare, senior centers, and community facilities.

HHFDC is prepared to assist the Hawaii Public Housing Authority in the redevelopment of its properties, including those located near to planned public transit stations.

Reference is made to page 13, line 10 of the H.D. 1. This provision amends subsection 201H-204(d), HRS to give a preference in allotting Rental Housing Revolving Funds to a “Hawaii public housing project or **its nonprofit**” [emphasis added]. We believe that clarification of the intent and meaning of this amendment is needed.

Thank you for the opportunity to testify.

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LATE

April 5, 2016

Representative Sylvia Luke, Chair
Representative Scott Y. Nishimoto, Vice Chair
House Committee on Finance

Comments, Concerns, Opposition and Proposed Amendments to SB 2563 SD1, HD1, Relating to Rental Housing. (Amends operations of the Hawaii Public Housing Authority and funding eligibility criteria of the Rental Housing Revolving Fund to make HPHA projects eligible for loans and grants from the RHRF and granting the HPHA preferences and priority in loan and grant applications. Requires the HPHA to coordinate with other state agencies in developing transit-proximate affordable housing. Makes HPHA eligible for preferential land leases through the HHFDC.)

<u>FIN Hearing</u>: Tuesday, April 5, 2016, at 2:31 p.m., Conference Room 308

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF members have built most of the affordable for-sale housing units in the State; support affordable housing built by government, nonprofit developers, and affordable housing partnerships among such parties. LURF commends Hawaii Public Housing Authority (HPHA) for its many recent improvements, accomplishments and initiatives, believes that this bill was well-intended, and supports its general intent and purpose.

LURF has, however, the following **comments, concerns, opposition, and proposed amendments to SB 2563 SD1, HD1**:

- <u>Policy question</u>: *Should a preference for HPHA allow it to <u>monopolize</u> funding from Hawaii Housing and Finance Development Corporation (HHFDC), which was originally meant for non-profits and other affordable housing developers?* LURF understands that non-profit and other affordable housing developers were the original intended recipients of HHFDC funding programs. LURF strongly supports HPHA's efforts to build affordable rentals, however, <u>HPHA's proposed funding preference can virtually "wipe-out" and exhaust HHFDC's available funding to assist nonprofits and private affordable housing developers</u>.

- Policy question**:** *Is it really necessary for HPHA to have a priority and preference over non-profits and other affordable housing developers, when it already has the advantage of having other major funding alternatives – direct legislative appropriations and government grants.* Non-profit and other affordable housing developers do not have equal access to such capital resources.

- Policy question: *In the current economy, where government is encouraging "public-private partnerships," interest rates are favorable and financing is available for non-profit and other affordable housing developers, is it prudent for HPHA to be able to monopolize HHFDC's the funding resources?* Should government projects such as HPHA projects be planned for periods when non-profits and other affordable housing developers have difficulty raising capital and buyers/renters have difficulty qualifying for loans and rentals?

- Policy question: *Does the legislature intend to abdicate its powers to oversee millions of dollars of HPHA's budget?* If HPHA has a priority and preference for HHFDC's funding programs, the Legislature could lose authority and oversight over major portions of HPHA's budget.

- Policy question: *By mandating a priority and preference for HHFDC, is the Legislature's intent to strip HHFDC of its evaluation, discretion and decision-making powers?* If so, the Legislature needs to make amendments to Hawaii Revised Statutes, Section 201H.

- Policy question: *Should HPHA be allowed to operate without any restrictions or oversight, and only have to vaguely "coordinate" with Office of Planning and HHFDC?*

- Proposed amendment: The Office of Planning has planning expertise and HHFDC has statewide affordable housing finance and development expertise. Nevertheless, this bill merely requires vague "coordination with the Office of Planning and HHFDC. HPHA does not need to follow any advice or recommendations of any office department; and can act independently. This measure should be amended to require *mutual agreement* between HPHA, the Office of Planning and HHFDC, instead of vague *"coordination"* (HD1, p. 2, ln. 20 – p. 3, ln. 9);

- Proposed amendment: This bill provides that all HPHA needs to do is vaguely *"coordinate"* with the Office of Planning and HHFDC. This bill should be amended to require that HPHA comply with all applicable laws, rules and regulations (HD1, p. 2, ln. 20 – p. 3, ln. 9);

- Proposed amendment: LURF supports the RHRF, its purposes and funding by legislative appropriations, private contributions, repayment of loans, interest, other returns and moneys from other sources. However, this bill should be amended to delete RHRF funding by conveyance taxes, because it would violate HRS Sections 37-52.3 and 37-52.4, and the 2012 State Auditor's Report, which requires a *"clear link,"* or *"nexus"* between the benefits sought and taxpayer or beneficiary charges. Important programs such as the RHRF should be funded through legislative appropriations, be subject to the uncertainties of conveyance taxes (HD1, p. 5, ln. 20 – p. 6, ln. 1);

- Proposed amendment: LURF understands that Low-Income Housing Tax Credits (LIHTCs) which were originally intended for, and have been effectively used by non-profits and private affordable housing developers. This bill should be amended to delete HPHA's priority and preference for LIHTCs; and instead provide that HPHA projects, or units in HPHA projects, are eligible to receive LIHTCs, after all other worthy non-profit or private projects receive LIHTCs, which LURF understands is consistent with the original intent and operation of LIHTCs (HD1, p. 6, ln. 17 – p. 7, ln. 4);

- Proposed amendment: HHFDC has successfully provided financing for many affordable *"Townhouses."* There is no explanation or justification for deleting *"Townhouses"* from receiving RHRF financing. This bill should be amended to retain affordable *"Townhouses"* as one of the nine categories of housing that which are identified as RHRF preferences (HD1, p. 11, ln. 7);

- Proposed amendment: LURF understands that the RHRF was originally intended to assist non-profits and private affordable housing developers. The existing law provides the following preferences to allot RHRF fund moneys in the following order: (1) a nonprofit project; (2) a for-profit project, or (3) other government project (HPHA would qualify as a government project). HPHA should not be the first priority, as it could exhaust all funding for any other projects. This bill should be amended to delete HPHA's priority and preference for RHRF allotments; and instead provide that HPHA projects, or units in HPHA projects, are eligible to receive RHRF moneys, as a *"government project,"* after all other worthy non-profit or private projects, which LURF understands is consistent with the original intent and operation of the RHRF (HD1, p. 13, ln. 3-12); and

- Proposed amendment: LURF understands that HPHA may have a *"nonprofit"* affiliate, and thus the priority and preference language reads: *"The Hawaii public housing project or its nonprofit"* (HD1, p. 13, ln. 10). This bill should be amended to clarify the meaning and intent of the term *"its nonprofit."*

SB 2563, SD1, HD1. The purpose of this Act is to address rental housing by providing the Hawaii Public Housing Authority (HPHA) with more opportunities for funding and favorable land lease terms and facilitating the HPHA's participation in collaborative projects to provide affordable rental housing near public transit stations. These measure amends the operations of HPHA, as follows:

LURF's Position. LURF understands that this measure may be well intended, however, it must **oppose SB 2563, SD1, HD1**, and respectfully recommends that this measure be **held** by your Committee, based on, among other things, the following:

- **SB 2563 should not change the funding priorities of the RHRF.** According to HHFDC, Subsection 201H-202(e), HRS, authorizes the RHRF to provide loans or grants for rental housing projects in order of the following priorities: First priority are projects which are allocated Low-Income Housing Tax Credits (LIHTCs) or funded by United States Department of Housing and Urban Development (HUD), or USDA-Rural Development Programs; and second priority are mixed-income rental projects. However, SB 2563 would change the existing priorities, and would make *"grants for HPHA projects"* the first priority. Given the size and scope of the HPHA's redevelopment plans, this could have the unintended consequence of allocating the entire RHRF balance for HPHA projects and, thereby, preclude funding of other low-income housing developments including projects awarded 9% LIHTCs (which face strict completion deadlines).

- **This measure would allow the use of the RHRF for grants to HPHA, which would reduce the extent to which funds could be efficiently leveraged for HPHA projects that utilize LIHTCs or RHRF.** According to HHFDC, "grants" reduce the eligible basis of the project, and therefore will adversely affect the amount of LIHTCs or RHRF moneys for which a given project qualifies. Any potential financing scenario for the redevelopment of the HPHA's large public housing properties would require the extensive use of LIHTCs and the RHRF.

- **Providing HPHA *preference* for grants, loans and programs, usurps the authority of HHFDC to use its experience, expertise and discretion in making housing decisions; and is arguably *in violation* of HRS 201H.** Stripping the Office of Planning and HHFDC of their discretion would require amendment of the statutes relating to the Office of Planning and HRS Section 201H.

- **The language of this bill allows HPHA to do whatever it wants, as long as it *"coordinates"* with the Office of Planning and HHFDC.** This measure allows HPHA to be *"above the law,"* as it is not specifically required to comply with the State Planning Act, or HHHFDC and county laws, rules and regulations**.** When HPHA develops any public housing project that is located on property within one-half mile of a public transit station and utilizes funds from the Rental Housing Revolving Fund as a portion of its project financing, this bill only requires HPHA to *"coordinate"* the planning with the Office of Planning, and only to *"coordinate"* the development with the HHFDC. There is no requirement that HPHA comply with any county laws, rules or regulations relating to transit-oriented-development.

- **Funding of the RHRF with Conveyance Taxes is arguably illegal and in violation of HRS Sections 37-52.3 and 37-52.4, and the 2012 State Auditor's Report, because there is no clear link between the benefits sought and user or beneficiary charges (sellers of real estate who pay conveyance taxes should not pay more than other members of the public for affordable housing)**. It is unnecessary to use of the conveyance tax to fund the RHRF. According to the 2012 State Auditor's Report, special funds like the RHRF created for worthy purposes, deserve funding through broad taxes on the public and the State General Fund, rather than through the Conveyance Tax, which targets few, is unreliable, and fluctuates with the housing market. The RHRF is such a special fund with a worthy purpose, so it deserved funding through broad taxes on the pubic – rather than a tax on only a few who sell their property.

Funding of the RHRF through conveyance taxes would also violate Act 130, (SLH 2013), which sets the legal criteria for establishing and continuing to fund a special fund such as the RHRF.

This measure is also flawed, because it does not indicate any attempts to comply with HRS Section 6K-9.5(a), which lists existing, alternative and more legally appropriate sources of funding for the RHRF.

- **This bill lacks reasonable justification for the deletion of attached single family units and townhouses as preferred types of housing for RHRF funding.** LURF strongly objects to Section 5 of the current version of this bill, which amends subsection 201H-204(b), HRS, by deleting *"attached single family units and townhouses"* from the preferred types of projects that may be funded by the RHRF. LURF understands that HHFDC has utilized the RHRF to successfully assist a number of recent attached single family units and townhouse projects, including, but not limited to:
  - ✓ 70-attached single family units at *Kapolei Ho'olimalima*, under the Department of Hawaiian Home Lands' *Rent to Own Program*;
  - ✓ 192-townhouse units at *Villages of Moa'e Ku;*
  - ✓ 150-townhouse units at *Franciscan Vistas Ewa*;
  - ✓ 308-townhouse units at Ko'oloa'ula; and
  - ✓ 48-townhouse units Hale Makana O Waianae.

- **HHFDC should be allowed the flexibility to consider different housing types, and should not be restricted, as proposed in this bill.** It appears that this measure intends to increase unit production, however, HHFDC should be allowed to retain its flexibility to consider different housing types depending upon the needs of the specific community in which the projects are located. Further refinements to modernize housing types can then be made in administrative rule amendments to HHFDC's programs.

For the reasons stated above, LURF **must oppose SB 2563, SD1. HD1** and respectfully requests that this bill be **held** in your Committee.

Thank you for the opportunity to present testimony regarding this matter.