OFFICE OF HAWAIIAN AFFAIRS

ʻŌlelo Hōʻike ʻAha Kau Kānāwai
Legislative Testimony

SB2251 SD2 HD2
RELATING TO THE PUBLIC HOUSING AUTHORITY
Ke Kōmike Hale o ka ʻOihana ʻImi Kālā
House Committee on Finance

ʻApelila 05, 2022 | 2:30 p.m. | Lumi 308

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB2251 SD2 HD2, which seeks to amend Hawaiʻi Revised Statutes (HRS) § 356D by authorizing the Hawaiʻi Public HousingAuthority (HPHA) to build market-rate or above market-rate "housing" not subject to any affordability or income restrictions. OHA notes this measure, even with language that eliminates development on "ceded" lands vacant on or after January 2022, may result in the foreclosure of Native Hawaiian interests by the redevelopment of currently developed "ceded" lands which may also result in the foreclosure of Native Hawaiian claims to potentially large swaths of "ceded" lands for a century or longer. The issuance of long-term leases for the development and redevelopment of any housing is considered tantamount to a fee sale of lands in other contexts, such as those involving the leasing of tribal lands. While public housing is for residents of the State, this measure proposes market rate housing on public lands, the types of investments from private developers and purchasers for market rates **OHA opposes the foreclosure of Native Hawaiian claims to "ceded" lands whether currently vacant or developed, that were unlawfully taken under extreme duress and without consent by or compensation to the Native Hawaiian people.**

As OHA has repeatedly asserted, extremely long-term, multi-generational leases on "ceded" lands create a sense of entitlement on the part of lessees that has led to, and may continue to lead to, the alienation of public and "ceded" lands. Notably, long-termleases such as the 99-year leases contemplated in this and related measures have also been considered tantamount to the sale of a fee interest in tribal lands, as "**the land base is effectively lost for generations to come**," and "**the property expectation born of those leases, combined with the infrastructure development and capital investment made in reliance on them, may render those leases essentially irretractable as a political matter**."[1] OHA strongly objects to the sale or alienation of "ceded" lands

[1] Mary Christina Wood, *Protecting the Attributes of Native Sovereignty: A New Paradigm for Federal ActionsAffecting Tribal Resources*, 1995 UTAH L. REV. 109, 145-46 (1995); *see also* Reid Peyton Chambers & Monroe E. Price, *Regulating Sovereignty: Secretarial Discretion and the Leasing of Indian Lands*, 26 STANFORD L. REV. 1061, 1078 (1974) ("Through the lease instrument—often for 99 years—the fiction of Indian retention is retained, but the impact on the tribe is often inconsistent with the form. In

except in limited circumstances, and has significant concerns over any proposal that may facilitate the effective diminution of the "ceded" lands corpus. **Accordingly, OHA cannot support any proposal that may subject a significant amount of "ceded" lands to extremely long-term, multigenerational leases, including the instant measure, even with the contemplated exclusion of "undeveloped" ceded lands.**

Moreover, OHA notes that this measure contradicts HPHA's own stated purpose to "provide Hawai'i residents with affordable housing," by focusing on developing affordable rental, supportive, and public housing and services.[2] Currently, under HRS § 356D-11, HPHA may develop "public housing projects," pursuant to federal regulations and guidelines, to assist states with addressing "the shortage of <u>housing affordable to low- income families</u>" (emphasis added). SB2251 SD2 HD2 would delete the definition of "public housing projects" and authorize HPHA to work with "eligible developers" to construct "housing" projects explicitly defined in this bill as <u>any</u> type of housing, without restrictions as to affordability or income levels of occupants. **The development of high-end residential and associated commercial projects may result in significant impacts to the public's wide-ranging interests in agricultural and other public lands that are developed for housing units unaffordable to most local residents. SB2251 SD2 HD2 contemplates a significant expansion of HPHA's authority**, by enabling it to plan, develop, construct, and finance the development of <u>any</u> type of housing, <u>including market- and above market-rate and non-income restricted units</u>. The Department of Budget and Finances has indicated that the expanded authority provided by this measure appears to create a duplicative role for HPHA of financing and developing affordable housing, which is already overseen by the Hawai'i Housing Finance and Development Corporation (HHFDC). Currently, HHFDC can and does work with HPHA to help finance redevelopment projects on HPHA's properties using the Rental Housing Revolving Fund and Low-Income Housing Tax Credits, so this expanded authority does not seem necessary. **Combined with HPHA's extremely liberal leasing authority for lands leased or set aside to the agency, this measure may result in significant pressure to set aside or lease large swaths of public and "ceded" lands to the HPHA, to be disposed of for mixed-use and market- or above market-rate developments under multi-generational, long-term leases far exceeding the limits generally applicable to public land leases.[3] Allowing HPHA to develop market- or above market-rate housing would not only foreclose the use of our limited land base for affordable housing purposes, but could also result in an <u>increase</u> in demand for affordable and workforce housing**.[3] Accordingly, this bill would not only distract from HPHA's primary purpose to facilitate the development of housing for low-income local residents, but it may also hinder the ability of lower income families,

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this context,<u>99-year leases are tantamount ot the sale of the fee</u>" (emphasis added)).

[2] Hawai'i Public Housing Authority Official Website, *available at* http://www.hpha.hawaii.gov/ (last accessed March 15, 2022).

[3] Hawai'i Public Housing Authority Official Website, *available at* https://www.hphaofficesredevelopment.org/ (last accessed March 15, 2022).

including Native Hawaiian families, to secure affordable housing in our increasingly expensive state.[4]

While this measure intends for HPHA to fulfill it's mission, it will have the unintended consequence of reducing the availability of affordable housing. Moreover, the risk to the effective erosion of our limited public and "ceded" lands corpus further erodes the public's and especially Native Hawaiian's confidence in our State's ability to fairly control the development of projects on Public Land Trust's "ceded" lands. Accordingly, OHA respectfully urges the Committee to **HOLD** SB2251 SD2 HD2. Mahalo for the opportunity to provide written testimony on this measure.

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[4] *See* KEYSER MARSTON ASSOCIATES, RESIDENTIAL NEXUS ANALYSIS, p.6 (SEPTEMBER 2015) (every 100 new market-rate housing units generate an additional demand for an 20 affordable units, 15 (i.e. 75%) of whichare needed to be at 100% AMI or below.

DAVID Y. IGE
GOVERNOR

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EMPLOYEES' RETIREMENT SYSTEM
HAWAI'I EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAIʻI
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON FINANCE
ON
SENATE BILL NO. 2251, S.D. 2, H.D. 2

April 5, 2022
2:30 p.m.
Room 308 and Videoconference

RELATING TO THE PUBLIC HOUSING AUTHORITY

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 2251, S.D. 2, H.D. 2, amends Chapter 356D, HRS, to: 1) expand the Hawaiʻi Public Housing Authority's (HPHA) statutory authority for property development to include any home, house residence, building, apartment, living quarters, abode, domicile, or dwelling unit that is designed principally for the purposes of sheltering people; and 2) prohibit HPHA from developing or constructing housing projects on ceded lands that are vacant beginning on January 1, 2022.

B&F recognizes that the intent of the bill is to allow HPHA, which is primarily responsible for developing and managing public housing, to develop mixed-income and mixed-financed housing projects to address the lack of affordable housing in Hawaiʻi. However, the expanded authority appears to create a duplicative role for HPHA of financing and developing affordable housing, which is already overseen by the Hawaiʻi Housing Finance and Development Corporation (HHFDC). Currently, HHFDC, as the State housing finance agency, must still provide financing for redevelopment projects on HPHA's properties with Rental Housing Revolving Fund and Low-Income Housing Tax

Credits (LIHTCs), so this expanded authority is not necessary, and ultimately does not create any operating efficiencies or added value to the State. For example, HHFDC provided HPHA's School Street redevelopment projects with LIHTCs in October 2021, without which the project could not proceed.

Thank you for your consideration of our comments.

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Statement of
Hakim Ouansafi
Hawaii Public Housing Authority
Before the

HOUSE COMMITTEE ON FINANCE

Tuesday, April 5, 2022
2:30 PM – Videoconference – Room 308, Hawaii State Capitol

In consideration of
SB 2251, SD2, HD2
RELATING TO THE PUBLIC HOUSING AUTHORITY

Honorable Chair Luke, and Members of the House Committee on Finance, thank you for the opportunity to provide testimony concerning Senate Bill (SB) 2251, SD2, HD2, relating to the public housing authority.

The Hawaii Public Housing Authority (HPHA) **strongly supports**, the enactment of SB 2251, SD2, HD2, which allows the HPHA to develop mixed-income and mixed-financed housing projects. Prohibits the development or construction of housing projects on ceded land that is vacant on or after 1/1/2022.

Concentrating public housing for extremely low-income families in dense urban areas has shown to not be an effective use of scarce affordable housing resources, and a shift has been made to instead create financially viable and socially stable mixed-income housing by the U.S. Department of Housing and Urban Development (HUD).

The Mixed-Income and Mixed-Finance redevelopment model is a proven and successful redevelopment model nationwide and supported and encouraged by the federal government which provides the HPHA with over $140 million or 87% of its total yearly funding to house our most disadvantaged populations. The model is an attractive option, and beyond the social good that comes with preserving housing units for occupancy by extremely low-income families, it also contributes to the economic and social diversity and stability of the overall community.

Households with affordable rents based on Area Median Incomes, and higher income fa milies paying market rate rents not only diversify these Mixed-Income developments economically, but market rate units also support the lower income units while providing a taxpayer benefit by reducing the gap financing needed from the Legislature to underwrite these developments.

Additionally, following the conversion of a federal public housing property into a mixed finance redevelopment, the HPHA will be required to execute a Mixed Finance Annual Contributions Contract with HUD. Under this agreement, the HPHA would be required to ensure that sufficient reserves are maintained to support the operation and maintenance of the project units. This component is vital to ensure the affordable housing units in the project remain affordable throughout the life of the Master Development Agreement, and not just for a limited period of time.

Moreover, Mixed-Income and Mixed-Financed redevelopment projects are typically executed through public private partnerships, better positioning HPHA properties to access the private capital and financing necessary to revitalize them into vibrant communities for our future generations.

The HPHA has identified several properties within its portfolio located in close proximity to the planned Honolulu Rail System stations currently being developed by The Honolulu Authority for Rapid Transportation (HART), that could immediately benefit from this initiative, as well as identifying additional HPHA properties with the potential for redevelopment on our neighbor islands. Undertaking redevelopment of these assets would not only allow the HPHA to rehabilitate functionally obsolete public housing units but would eliminate expensive repair and maintenance expenses required to maintain these units, while also significantly expanding the inventory of critically needed affordable housing units across the state.

After review with the Department of the Attorney General, it was recommended that HPHA needed to remove any ambiguity regarding the term “housing projects” in order to make it clear that the HPHA would be able to incorporate Mixed-Income rental units as opposed to strictly public housing units.

Please know that the Faircloth Limit prohibits public housing authorities nationwide from building additional federal public housing units, and the only way to increase density and provide additional rental units must be through Mixed-Income and Mixed-Finance redevelopment.

This is not an attempt to build million-dollar condos, but it is a necessary step to not concentrate poverty and give an opportunity to people of all income levels to live side by side in a community that does not isolate the poor. This will have so many positive outcomes for the children, the schools they attend, and create an environment that exemplifies the Aloha Spirit.

The HPHA appreciates the opportunity to provide the Committee with the HPHA’s testimony. We thank you very much for your dedicated support.

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April 5, 2022

The Honorable Sylvia Luke, Chair
House Committee on Finance
Via Videoconference

RE: Senate Bill 2251, SD2, HD2, Relating to the Public Housing Authority

HEARING: Tuesday, April 5, 2022, at 2:30 p.m.

Aloha Chair Luke, Vice Chair Yamashita, and Members of the Committee,

I am Ken Hiraki, Director of Government Affairs, testifying on behalf of the Hawaiʻi Association of REALTORS® ("HAR"), the voice of real estate in Hawaiʻi, and its over 11,000 members. HAR **supports** Senate Bill 2251, SD2, HD2, which allows the Hawaiʻi Public Housing Authority to develop mixed-income and mixed-financed housing projects. Prohibits the development or construction of housing projects on ceded land that is vacant on or after January 1, 2022.

A mixed-income housing development is a proven model that works. These developments are comprised of housing units with differing levels of affordability, typically with some market-rate housing and some housing that is available to low-income occupants below market-rate.

"Most housing professionals agree that concentrating assisted-housing for low- and very low-income Americans in dense, urban areas is not an effective use of scarce affordable housing resources. Over the past decade, professionals in the affordable housing industry have turned increasingly to mixed-income housing as an alternative to traditional assisted-housing initiatives. Mixed-income housing is an attractive option because, in addition to creating housing units for occupancy by low-income households, it also contributes to the diversity and stability of American communities."[1]

According to the Department of Business Economic Development and Tourism's 2019 report on Housing Demand in Hawaiʻi, the State needs up to 46,000 housing units to meet demand in Hawaiʻi by 2030. Ultimately, we have a housing supply problem, and this measure would help address our State's housing challenges, including the need for more affordable rentals for low-income occupants.

Mahalo for the opportunity to testify.

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[1] Mixed-Income Housing and the Home Program
U.S. Department of Housing and Urban Development, Community Planning and Development

SB-2251-HD-2
Submitted on: 4/1/2022 3:01:35 PM
Testimony for FIN on 4/5/2022 2:30:00 PM

Submitted By	Organization	Testifier Position	Testify
L Basha	Individual	Support	Written Testimony Only

Comments:

Mixed housing is good.

SB 2251 SD 2 HD 2 TESTIMONY

To: House Committee on Finance
Hearing on April 5, 2022 at 2:30 p.m.

From: John Kawamoto

Position: Support

Hawaii suffers from a shortage of 50,000 homes, many of which are needed by low- and moderate-income families. The shortage has grown for decades because existing efforts to build affordable housing are not enough. Much more must be done to alleviate the shortage. In creating a new mechanism for the development of affordable housing, this bill represents a step in the right direction.