



OFFICE OF HAWAIIAN AFFAIRS

‘Ōlelo Hō‘ike ‘Aha Kau Kānāwai

**TESTIMONY WITH COMMENTS ON HOUSE BILL 1741 HD2
RELATING TO HOUSING**

Ke Kōmike ‘Aha Kenekoa o ke Ki‘ina Hana a me nā Kumuwaiwai
(Senate Committee on Ways and Means)
Ke Kapitala ‘o Hawai‘i
(Hawai‘i State Capitol)

‘Apelila 9, 2026

10:55 AM

Lumi 211

Aloha e Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee on Ways and Means:

The Office of Hawaiian Affairs (OHA) provides **COMMENTS ON HB1741 HD2**, and cautions against adopting a model of housing affordability that risks undermining longstanding local rule and governance with respect to workforce housing set asides essential for serving our island community.

OHA recognizes that legislatively imposed land-use conditions, including affordable housing set-asides (often called inclusionary zoning) are a critical mechanism used by counties and states to deliver affordable housing for local residents. **The state should preserve county home-rule and not impose a state-level regulation on a local government tool that is used all over the country. Any specific affordable housing set-asides should, can, and have historically been set at the county level, allowing each county the flexibility to deliver housing for their residents.** Kaua‘i offers a promising model in this regard¹, further highlighting the need for local level experimentation and innovation in affordable housing set-asides. The county can and has adjusted rules to meet local demand.

Unfortunately, in proposing a deviation from the historical status quo, this bill relies on a flawed housing model that has not been proven² in a housing market such as ours:

¹ Princeville’s workforce housing built as an inclusionary zoning set-aside from hotel development has resulted in workforce housing units going to local families. Other recent county initiated development with robust community engagement demonstrate best practices.

² Policy decisions should not immediately be made from preliminary results that are not peer reviewed. Note the recent UHERO study has the following disclaimer: INSIGHTS ARE PRELIMINARY MATERIALS CIRCULATED TO STIMULATE DISCUSSION AND CRITICAL COMMENT. THE VIEWS EXPRESSED ARE THOSE OF THE INDIVIDUAL AUTHORS. WHILE INSIGHTS BENEFIT FROM ACTIVE UHERO DISCUSSION, THEY HAVE NOT UNDERGONE FORMAL ACADEMIC PEER REVIEW.

that building new housing unit at the top end of the real estate market opens housing opportunities for buyers further down the financial cost ladder. This “filtering” theory is premised on the erroneous assumption that for every new luxury housing unit built in Hawai‘i, an older housing unit will become available as local families move up the financial ladder from a starter home to a more expensive home.

This is simply not the case in a housing market such as Hawai‘i that has endless elasticity as investors—including large companies and out of global real estate investment trusts— search out housing for the purpose of shareholder investment and profit, not as a primary residence or home. Because of this endless global demand for luxury housing in Hawai‘i it is simply not true that luxury construction has any trickle down benefits for residents attempting to purchase a home in this real estate market. As a result, the underlying assumptions of filtering that new units are occupied by local households and that resulting vacancies become accessible at lower price points, do not consistently hold in Hawai‘i’s housing market. Instead, new development may be captured by non-resident or investor purchasers, limiting the formation of local vacancy chains and reducing the likelihood that housing opportunities meaningfully reach lower-income households. **The bill also crucially misapplies a legal ruling, where inclusionary zoning set asides have and continue to be constitutional.**

Hawai‘i continues to face a severe shortage of affordable housing for low to moderate-income households. Statewide housing analyses have consistently shown that most housing demand comes from households earning between eighty per cent of the area median income (AMI), with a substantial share of demand from households at or below thirty per cent of AMI.³ “The consequences of unaffordable housing continue to show up in out-migration, homelessness, and more families being priced out of the local market.”² For example, in 2022, more than 67,000 former Hawai‘i residents moved to other states, with the high-cost of housing identified in surveys as a leading cause of out-migration.³

Native Hawaiians continue to bear a disproportionate and compounding burden, with lower homeownership rates than state average, higher rates of overcrowding, and significantly higher rates of hidden homelessness.⁴ These conditions make clear that weakening enforceable county level affordability tools at this time would exacerbate, not alleviate, existing disparities.

³ Hawai‘i Housing Planning Study (2025), at 34 (HHFDC).

⁴ U.S. Census Bureau, American Community Survey (2017); DHHL Homestead Services Division Submittal (Feb. 2018).

OHA cautions that statutory frameworks should not restrict counties from tailoring affordability strategies to local market conditions and demonstrated housing needs. OHA further notes that increased production of market-rate housing, standing alone, does not necessarily ensure that new units will be accessible to current Hawai‘i residents nor those in the low-income brackets that have the most demand. Absent enforceable affordability or residency standards, such development may continue to attract purchasers with substantially greater purchasing power than local households, while generating additional demand for affordable housing and public services.

OHA respectfully cautions against reliance on indirect market mechanisms alone and **urges the Legislature to preserve county authority to prioritize policies that directly require and deliver affordable housing to Hawai‘i’s people.**

Mahalo for the opportunity to testify.

DEPARTMENT OF HOUSING AND LAND MANAGEMENT
KA 'OIHANA HO'OLĀLĀ KŪKULU HALE A ME KA HO'OKELE 'ĀINA
CITY AND COUNTY OF HONOLULU

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April 8, 2026

Senator Donovan M. Dela Cruz, Chair
and Members of the Senate Committee on Ways and Means
Hawaii'i State Senate
Hawaii'i State Capitol
415 South Beretania Street
Honolulu, Hawaii'i 96813

SUBJECT: Comments on House Bill 1741, HD2
Relating to Housing

Dear Chair Dela Cruz and Committee Members:

The Department of Housing and Land Management (DHLM) respectfully offers the following comments on HB 1741, HD2.

DHLM shares the Legislature's commitment to data-driven housing policy and agrees with a core economic premise of this bill: if inclusionary zoning (IZ) requirements are poorly calibrated, they act as an implicit tax on development that can unintentionally suppress the overall housing supply and drive up market prices. We support the intent of HB1741 to ensure that affordable housing policies are grounded in rigorous analysis.

However, we respectfully highlight concerns that the bill's highly prescriptive framework may yield unanticipated adverse consequences that run counter to its intent. Prescribing detailed study methodology at the state level may undermine effective local housing policy by limiting the flexibility counties need to respond to local conditions.

Our primary concerns are as follows:

1. The Unanticipated Consequences of Inflexible, Mandated Study Specifications

While we strongly support basing housing policy on research and data, attempting to codify the exact methodology of a complex financial study into state law risks generating irrelevant and costly work, and may ultimately result in bad policy due to unanticipated factors.

For example, Under HB1741, any county conducting a needs assessment must analyze "various representative market-rate prototypes commonly produced in the county, including single-family, duplex, townhome, condominium, and apartment formats," and evaluate "each compliance option." Because this analysis would be a prerequisite to adopting, amending, or enforcing an inclusionary requirement, counties may be unable to tailor the study to the specific housing types, geographic areas, or policy questions actually at issue. If the City and County of Honolulu wished to adopt or update an inclusionary requirement narrowly targeted at high-rise transit-oriented development (TOD) zones, this statutory language implies the City must still fund and conduct a broad, county-wide feasibility analysis for single-family homes and duplexes.

Similarly, if a county wishes to make adjustments to its study-supported IZ policies based on implementation experience or changing economic conditions—such as lowering the required percentage of affordable units to provide regulatory relief to developers— the bill may be read to prevent them from doing so without first funding and conducting a massive new feasibility study. Because the bill dictates that no county shall "adopt, amend, or enforce" an inclusionary mandate without a full-blown study, the lack of an express carve-out for minor adjustments means even modest, burden-reducing calibrations become slower, more expensive, and more administratively difficult than they should be.

By making the study requirement unnecessarily rigid and disconnected from the specific policy decision a county is trying to make, the bill may inadvertently paralyze local governments from making the very data-driven calibrations this legislation seeks to encourage.

2. The Threat to Voluntary Incentive Programs

While the bill attempts to exempt 'voluntary commitments not required by county law,' that language may not clearly protect formalized, opt-in incentive programs that are established by county ordinance. By inadvertently capturing these voluntary programs under the new mandates, the bill risks outlawing potentially successful programs—which research identifies as best practices—simply because they are formalized in county law.

3. The Real Risk of Increased, Rather than Decreased Burdens

Finally, while standardizing housing policy is a laudable goal, past legislative directives regarding county housing processes have sometimes inadvertently created new barriers rather than streamlining production. For example, after the legislature limited the ability of county councils to add requirements to certain HHFDC-approved

201H projects, the effect was not to eliminate potentially detrimental negotiations on project requirements, but to increase the risk of projects being killed outright and, to mitigate that risk, shift the negotiations to a different stage of the process. We are concerned that HB 1741 could similarly introduce new procedural friction without clearly improving housing production outcomes.

Recommended Revisions

If the Legislature wishes to move forward with the bill, DHLM recommends the following adjustments to address the concerns described above:

Focus study requirements on goals rather than a single state-wide methodology. Amend Section 2(b) to establish the broad goals of the needs assessment study—such as understanding the economic impacts of the mandate and ensuring it does not suppress overall housing production—rather than prescribing the exact methodology. Removing the rigid requirement to analyze every housing prototype and every compliance option will allow counties to tailor their studies to the specific geographic areas or housing types their proposed policies will actually affect. Potential language: *The needs assessment study shall evaluate the financial feasibility and general economic impacts of the proposed inclusionary mandate to ensure it supports, and does not suppress, overall housing production.*"

Clarify in Section 2(g) that the existing exemption for ‘voluntary commitments not required by county law’ includes codified voluntary, opt-in incentive programs established by county ordinance. As drafted, the bill appears intended to preserve voluntary arrangements, but it is not clear that this exemption would extend to formal density bonus or similar incentive programs that are established in county law yet remain elective for the applicant. To avoid unintended ambiguity, the exemption should expressly state that voluntary, opt-in programs do not become subject to this section merely because the program framework is codified.

Allow minor amendments and burden-reducing calibrations without requiring a full new study. The bill currently prohibits a county from amending an ordinance without a full study. We recommend adding a carve-out for minor ordinance amendments or amendments that reduce regulatory burdens (e.g., lowering a required percentage), so counties are not forced to fund a massive feasibility study just to provide developers regulatory relief.

Delay the effective date to allow time for procurement, analysis, public process, and implementation. Conducting these highly complex needs assessment studies requires securing funding, procuring specialized economic consultants, and

The Honorable Donovan M. Dela Cruz, Chair
and Members of the Senate Committee on Ways and Means
April 8, 2026
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undergoing extensive public and council review. We recommend an effective date of July 1, 2028.

For these reasons, DHLM respectfully recommends that the measure be amended in the ways described above if the legislature wishes to move the measure forward.

Thank you for the opportunity to provide comments on this measure. If you have any questions, please feel free to contact me or Gavin Thornton, Director of Housing Policy, at (808) 768-4277.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin D. Auger", written in a cursive style.

Kevin D. Auger
Director



Aloha e Representatives, Chair, Vice Chair:

Opposition to HBHB1741

We are testifying on behalf of Locals In My Backyard (LIMBY) Hawai'i. LIMBY Hawai'i is a hui of concerned kama'āina and kānaka advocating for solutions to our state's housing crisis.

We are concerned that NIMBYism has driven up costs and driven our friends and families out by opposing all development. We are equally concerned that the apparent answer to this, YIMBYism, insists that anything resembling true affordability is impossible and promotes building housing that gets bought by overseas investors. ***We won't solve our housing woes without building more, but we won't solve them by simply building more.***

The true solution is to create a housing market for locals: one that houses locals first, is tied to local wages, and is managed in trust. We detail real solutions to our housing woes on our website and through our newsletter.

The future for kama'āina and kānaka will be LIMBY or Las Vegas. This bill moves all but the wealthiest closer to Vegas.

The bill is premised on the mistaken assumption that market forces alone are sufficient to produce lower priced housing. This assumption has not been proven anywhere it has been tried. It pairs to this presupposition an overbroad reading of SCOTUS precedent to present this change as a necessity, but ignores that in no jurisdiction have IZ rules such as those adopted by Hawai'i county's been struck down.

Even granting the premise that some justification for IZ must be made, this bill is overly prescriptive and is clearly intended not to increase production, but to pad donor pockets in an election year. The study design outlined here is clearly intended to make IZ impossible in all cases—its requirements beg the question. The definitions of luxury housing provided would put the legislature in the absurd position of calling \$1.5 million dollar homes the gold standard for affordability.

If the legislature desires that the counties balance the production of affordable housing with other outcomes it should not design a set of study requirements that precludes the possibility of affordable housing being produced. The legislature should at a minimum eliminate the over specification of the study and only require counties to engage actual experts in the production of such a study.

It is reckless for the legislature to undermine a tool that has brought thousands of units of affordable housing and been in use for decades without actually funding or proposing a meaningful alternative. We are in a crisis, the solution is not to gut one of the few options we have.

The fundamental constraint on our housing production is not inclusionary zoning. We have on O'ahu alone tens of thousands of approved units, many of them dating back to the 1990s and 1980s. The reason they have not been built

is not because of inclusionary zoning, but because developers are speculating. This behavior is documented in our [white paper](#), [CivilBeat](#), the [Star Advertiser](#), and [Environment Hawaii](#).

We urge you to reject this measure.

Me ka ha'aha'a
Makana Hicks-Goo,
Organizer on behalf of LIMBY Hawai'i

April 9, 2026, 10:55 a.m.
Hawaii State Capitol
Conference Room 211 and Videoconference

To: Senate Committee on Ways and Means
Sen. Donovan M. Dela Cruz, Chair
Sen. Sharon Y. Moriwaki, Vice Chair

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

RE: TESTIMONY IN SUPPORT OF HB1741 HD2 — RELATING TO INCLUSIONARY ZONING

Aloha Chair, Vice Chair and other Committee Members,

The Grassroot Institute of Hawaii **supports** [HB1741 HD2](#), which would treat county inclusionary zoning mandates as impact fees subject to nexus and rough proportionality legal tests.

This measure would require the counties to conduct a study analyzing the costs of requiring that housing projects include a certain amount of affordable housing units as a condition of permit approval before imposing such a requirement.

If the study found that the requirement would increase the cost of market-rate housing, that county would not be allowed to enforce inclusionary zoning unless it provided incentives to offset the costs associated with it.

This bill is a smart approach to dealing with affordable housing mandates that have been shown to stifle homebuilding.¹

¹ Tom Means, Edward Stringham and Edward Lopez, "[Below-Market Housing Mandates as Takings: Measuring their Impact](#)," The Independence Institute, November 2007; Carl Bohnam, Kimberly Burnett, Andrew Kato, et al., "[Inclusionary Zoning: Implications for Oahu's Housing Market](#)," The Economic Research Organization at the University of Hawai'i, Feb. 12, 2010; Sanford Ikeda and Emily Washington, "[How land-use regulation undermines affordable housing](#)," Mercatus Research, November 2015; Arjuna Heim, "[We need to talk about inclusionary zoning](#)," Hawaii Appleseed Center for Law & Economic Justice, Aug. 13, 2025.

These mandates force homebuilders to increase the prices of market-rate homes to make up for the so-called affordable homes, and that becomes even more problematic depending on the percentage of homes that must be so-called affordable.

Think of it this way: If a car manufacturer were required to sell three out of every 10 cars at a loss, the company would make up for those losses by increasing prices on the seven cars they are allowed to sell for profit.

Customers will respond to the higher prices by buying fewer cars, which will prompt the manufacturer to produce fewer cars.

In a real sense, this is what is happening to Hawaii's housing market: Affordable housing mandates are reducing the total amount of housing that gets built.

Research supports this. Carl Bonham at the Economic Research Organization at the University of Hawai'i pointed out in 2013 that 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."²

And a 2024 study of a voluntary inclusionary zoning program in Los Angeles found that "increasing IZ requirements may not produce substantially more below market-rate units, and is very likely to reduce future housing production." The study concluded that land-use reform would be a more effective way to increase the housing supply.³

Grassroot applauds HB1741 for recognizing that inclusionary zoning doesn't work, and we urge the Legislature to approve this bill.

Thank you for the opportunity to testify.

Ted Kefalas
Director of strategic campaigns
Grassroot Institute of Hawaii

² Carl Bonham, "[The Unintended Consequences of Affordable Housing Policy](#)," The Economic Research Organization at the University of Hawai'i, Sept. 8, 2013.

³ Shane Phillips, "[Modeling Inclusionary Zoning's Impact on Housing Production in Los Angeles: Tradeoffs and Policy Implications](#)," Turner Center for Housing Innovation, April 2024.

April 9, 2026

TO: Chair Dela Cruz and Members of the Senate Committee on Ways and Means
RE: HB 1741 HD2, Relating to Housing

Dear Chair Dela Cruz and Committee Members,

Housing Hawai'i's Future is a nonprofit dedicated to creating opportunities for Hawai'i's next generation by ending the workforce housing shortage.

We support House Bill 1741 HD2. This bill would prohibit a county from adopting, amending, or enforcing an inclusionary mandate or inclusionary mandates for residential or mixed-use development, among other things.

In theory, inclusionary housing policies can be well-intentioned tools to generate affordable units. However, they practically function as unpredictable cost burdens that reduce overall housing production. The result is fewer total units delivered to residents, regardless of whether they are market-rate or 'affordable.'

HB1741 creates a targeted framework that allows such mandates to apply in circumstances where there is a clear policy rationale, such as luxury residential projects or developments that receive discretionary value increases (e.g., upzoning, variances, or density bonuses).

By aligning inclusionary mandates with documented need, proportionality, and clearly defined criteria, this bill supports a more stable and effective housing policy framework. **Please advance House Bill 1741 HD2.**

Thank you,



Lee Wang
Executive Director
Housing Hawai'i's Future
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TESTIMONY IN STRONG SUPPORT — HB 1741 H.D.2

RELATING TO HOUSING

Aloha Chair, Vice-Chair, and Members of the Committee:

Avalon Development Company respectfully submits this testimony in **STRONG SUPPORT of HB 1741 H.D.2**, which establishes a clear, legally sound, and economically grounded framework for county inclusionary housing mandates. Hawai'i's housing shortage cannot be addressed without a substantial increase in housing production, particularly multifamily and mixed-use projects that add meaningful unit count in already urbanized areas. This measure appropriately recognizes that affordability policies must be structured in a way that does not unintentionally suppress the very housing supply needed to stabilize prices and rents.

HB 1741 H.D.2 correctly treats county inclusionary mandates as **development exactions** and requires compliance with constitutional standards of **essential nexus and rough proportionality**, consistent with recent U.S. Supreme Court precedent. By requiring counties to rely on transparent, professionally prepared needs assessment and feasibility studies before adopting or enforcing such mandates, the bill ensures that affordability requirements are grounded in evidence of project-related impacts rather than generalized housing goals. This approach promotes legally defensible, predictable policy while reducing the risk of mandates that deter housing production.

Importantly, the bill does not eliminate affordable housing requirements. Instead, it establishes a targeted and differentiated framework that protects non-luxury, by-right housing from feasibility-breaking mandates, while preserving counties' ability to impose proportionate requirements on luxury residential projects and developments that receive discretionary increases in density, height, or floor area. This distinction reflects economic reality: affordability requirements are most appropriate where additional land value is created and can be reasonably shared without undermining project viability.

As the Legislature correctly recognizes, **blanket affordability mandates imposed without feasibility-based calibration often require income-restricted units to be produced below cost**. In the absence of public subsidies or offsets, **those uncompensated costs must be recovered elsewhere within the project**, which can place upward pressure on the sales prices or rents of market-rate units. In practice, this cost shifting can increase housing prices for other residents while reducing overall production, an outcome counter to affordability objectives.



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HB 1741 H.D.2 directly addresses this problem by requiring either a no-price-increase finding or full cost offsets for non-luxury projects.

From a housing delivery and fiscal perspective, the bill addresses one of the core barriers to production: uncertainty and misaligned cost burdens. When inclusionary mandates are imposed without demonstrating feasibility or proportionality, the result is fewer projects moving forward, fewer homes delivered, and higher costs passed on to renters and buyers. By grounding inclusionary requirements in rigorous analysis and clear standards, HB 1741 H.D.2 promotes housing production while supporting affordability goals through transparent and accountable public policy choices.

Avalon Development Company supports HB 1741 H.D.2 because it advances a balanced housing strategy, one that expands overall housing supply, maintains lawful and economically sound affordability tools, and encourages governments to fund income-restricted housing openly rather than embedding hidden costs into private development. This measure represents a thoughtful and necessary step toward improving housing outcomes for Hawai'i's residents.

For these reasons, we respectfully urge the Committee to pass HB 1741 H.D.2.

Respectfully submitted,

Avalon Development Company LLC



Hawai'i YIMBY
Honolulu, HI 96814
hawaiiyimby.org
info@hawaiiyimby.org

April 9, 2026

Senate Committee on Ways and Means
Hawai'i State Capitol
Honolulu, HI 96813

RE: SUPPORT for HB 1741 HD2 - RELATING TO HOUSING

Aloha Chairs Dela Cruz, Vice Chair Moriwaki, and Members of the Committee,

On behalf of Hawai'i YIMBY, we are writing in **support of HB 1741 HD2**, which supports a more careful and evidence-based approach to affordable housing policy at a time when Hawai'i cannot afford to slow overall homebuilding. The bill does not eliminate affordable housing requirements. Instead, it ensures that these requirements are designed and applied in ways that do not unintentionally reduce the total number of homes produced.

Research shows that inclusionary zoning can help produce income-restricted units, but only when requirements and incentives are balanced correctly. When mandates are set without clear data on feasibility or market impacts, they can suppress new construction, raise prices, or shift development toward fewer and more expensive homes. That outcome makes affordability worse, not better.

HB 1741 HD2 responds to this challenge by requiring counties to rely on studies before imposing or enforcing inclusionary housing mandates. These studies must show how requirements affect feasibility, prices, and production across common housing types. By doing so, the bill helps ensure that affordable housing policies do not result in a net loss of housing stock.

The bill also recognizes that not all projects are the same. It protects non-luxury housing that adds meaningful supply, while still allowing proportionate affordability requirements for luxury projects.



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Supporting HB 1741 HD2 means committing to affordable housing policies that are grounded in data rather than assumptions. It reflects the understanding that increasing affordability and increasing supply are not competing goals. When policies are carefully calibrated, they can do both. HB 1741 HD2 is a practical step toward housing solutions that expand opportunity without reducing the homes Hawai'i urgently needs.

Hawai'i YIMBY (*Yes In My Backyard*) is a volunteer-led grassroots advocacy organization dedicated to supporting bold and effective solutions for Hawai'i's devastating housing crisis. Our members are deeply concerned about Hawai'i's chronic and worsening housing shortage, which has caused home prices to rise much faster than incomes and pushes thousands of kama'āina out to the mainland or into homelessness every single year.

We ask your support for this bill. Thank you for the opportunity to testify.

Sincerely,
Damien Waikoloa
Chapter Lead, Hawai'i YIMBY

Edgardo Díaz Vega
Chapter Lead, Hawai'i YIMBY

Huey Kwik
Chapter Lead, Hawai'i YIMBY





April 8, 2026

Senate Committee On Ways and Means

Senator Donovan M. Dela Cruz, Chair

Senator Sharon Y. Moriwaki, Vice Chair

Testimony in opposition to HB1741_HD2, Relating To Housing, for hearing on April 9, 2026 at 10:55am

Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee,

UNITE HERE Local 5 represents working people throughout Hawaii's hotel, food service, and health care industries. We are in opposition to HB1741_HD2.

HB1741 surrenders state and county affordable housing policy to an overbroad and premature reading of the *Sheetz v. County of El Dorado* decision. There are nuances and not-yet litigated positions that will decide if Hawaii and its counties were sound in their affordable housing mandate policies.

HB1741_HD2 fails to consider the follow-up developments of the *Sheetz* case. The California Court of Appeals on July 29, 2025, after the Supreme Court remanded *Sheetz vs. County of El Dorado* for reconsideration, found that the original case's traffic impact fee was justified and appropriate. One legal analysis summarized the remanded decision, stating:

- *"The Court held that class-based, legislatively imposed impact fees can satisfy the Takings Clause if they are supported by credible data and applied through a reasonable methodology. Critically, the Court clarified that local agencies are **not required** to make parcel-specific determinations to justify each individual fee [emphasis added]."*
- *"The Court's decision also clarifies a critical question left open by the Supreme Court: whether class-wide, legislatively imposed fee schedules can satisfy Nollan/Dolan. **The Court held that they can**—provided that they are supported by sound data and methodology [emphasis added]."*
- *"The Court clarified that local agencies are not required to make parcel-specific determinations to justify each individual fee."*

The remanded California case is ongoing.

Yet HB1741 immediately jumps to an explicit assertion that *"any county inclusionary mandate shall be deemed a form of development exaction and shall be treated as a housing affordability impact fee pursuant to this part."*

HB1741_HD2 unnecessarily and prematurely trashes carefully crafted state and county affordability policies. HB1741_HD2 assumes without evidence that the initial policy rationales will not hold up to scrutiny.

HB1741_HD2 bill itself violates its own premise:

- The bill is exempting "luxury" residential units from mandate exclusion *without* HB1741_HD2 itself providing "evidence" that exempting luxury projects leads to increased affordable units. Furthermore, the bill defines "luxury" as a one-unit single family property at 125% of the Federal Housing Finance Agency price. In 2026, the FHHA one-unit mortgage loan limit for Honolulu is

\$1,250,000; limits for other counties are even higher. The bill adds a further 25% to set the threshold amount, so it treats multi-family condo developments that sell units up to \$1.56M as not “luxury.”

- For rental units, the bill would set the “luxury” threshold at twice the HUD fair market rent, which in Honolulu for a one-bedroom unit in an urban core zip code would be \$3,600. For a two-bedroom rental in the same zip code, the bill would set the “luxury” threshold at \$4,800.

In other words, the bill says that anything less than \$4,800 monthly rent for a 2-bedroom rental, or less than \$1.5 million for a condo unit isn’t “luxury”. This is unreasonable.

- Exempting HHFDC and HCDA projects under HRS 201H and HRS206E without those statutes providing the evidence these two legislatively imposed policies have nexus and proportionality to meeting affordable housing goals. Does HB1741_HD2 consider potential exaction issues inherent in the two statutory policies and whether they are defensible?
- The entire concept of the bill is begging the question. If affordable housing construction is cost prohibitive to developers, then how is this bill supposed to magically make development costs cheaper and magically create more local residents who can afford market priced homes? If the counties can’t justify a mandate - as the bill seems to suggest - then there will be few if any affordable units developed, only “market rate” units (keeping in mind the “market rate” is driven by ultra-rich, global buyers who want a tropical home asset with great historical return on investment). If the State and Counties do have justifications for the mandates, then the bill is wasting everyone’s time, energy, and money.
- HB1741_HD2 dictates what a needs assessment study shall include. Under what basis does the legislature assume HB1741’s proposed framework for an assessment study is better or will be satisfactory compared to the initial county rationale?

The bill fails to acknowledge that Hawaii is a unique real estate market unlike any other in the country. Hawaii is a tropical paradise with limited real estate space. Hawaii real estate is an investment that historically appreciates at a dependable and attractive rate of return. The conditions of Hawaii’s unique status attracts millionaire/billionaire investors from around the world. These conditions distort traditional economic paradigms of supply and demand. Local residents are bidding against millionaires from Hong Kong, London, Tokyo, and Wall Street to set the “market rate.”

The Legislature, via HB1741_HD2, is effectively adopting a “trickle-down” housing policy. “Trickle-down” wealth is a Reagan-era economic belief that does not work. HB1741_HD2 would favor uncontrolled building and leaves a large policy vacuum the counties will struggle to fill.

The legislature is freeing developers from obligations to taxpaying residents by building what is conveniently profitable with the vague hope that “more” housing units will eventually trickle down to Hawaii’s working-class families at affordable prices. Again, while ignoring Hawaii’s unique market status.

We urge you to defer HB1741_HD2.

Thank you for this opportunity to testify.



Testimony of the Hawai'i Appleseed Center for Law and Economic Justice
Support for HB1741 HD2– Relating Housing
Senate Committee on Ways and Means
Thursday, April 9, 2026 at 10:55AM Conf. Rm. 211 and via Videoconference

Aloha Chair Dela Cruz, Vice Moriwaki, and members of the committee;

Mahalo for the opportunity to testify in **strong support of HB 1741 HD2**, relating to housing which would classify county affordable housing mandates as a form of extraction and impact fee, while allowing exemptions for luxury development. It also standardizes requirements for a needs assessment study and establishes a criteria that allows for extractions on luxury and discretionary projects. HB1741 recognizes that when a county's inclusionary zoning (IZ) or affordable housing mandate functions as a de facto exaction, and must be grounded in clear feasibility analysis so that well-intentioned requirements do not unintentionally chill overall housing production.

Each of the four counties has an IZ requirement and Kauai, Honolulu, and Hawaii all commissioned third-party feasibility work to understand the impacts of these policies on development. Both Kauai and Hawaii counties undertook feasibility or impact studies after their IZ programs were already in place, in response to concerns that existing requirements might be suppressing housing production. This led to Kauai strategically exempting town core areas from IZ requirements.¹

Honolulu, by contrast, commissioned two studies in 2016 in advance of adopting its island-wide Affordable Housing Requirements (AHR): a residential nexus analysis to quantify how new market-rate development creates demand for affordable units, and a financial feasibility analysis to test whether different prototypes could realistically support the proposed AHR formulas.

Honolulu's "Affordable Housing Requirement Financial Analysis" shows that, even under relatively favorable assumptions, only one of the modeled condominium prototypes—the high-rise with community benefits bonus in Ala Moana—is currently feasible, and that this prototype become infeasible if the AHR is satisfied through payment of the in-lieu fee rather than an on- or off-site construction. The report further concludes that the other condominium prototypes remain infeasible under the AHR even with the City's financial incentives, and the payment of the in-lieu fee consistently produces the lowest returns. For apartment prototypes, the findings are more severe: "none of the apartment prototypes are currently feasible without subsidy," and therefore none can support the AHR "with or without financial incentives."

1

<https://www.kauai.gov/files/assets/public/v/1/county-council/documents/committee-meetings/minutes/2020-08-19-special-hir-minutes.pdf>



HAWAII APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of the Hawai‘i Appleseed Center for Law and Economic Justice
Support for HB1741 HD2– Relating Housing
 Senate Committee on Ways and Means
 Thursday, April 9, 2026 at 10:55AM Conf. Rm. 211 and via Videoconference

On condominium feasibility: *“Only the high-rise with CB bonus prototype in Ala Moana is currently feasible...this prototype remains feasible if the AHR is met with on-site or off-site construction, but becomes infeasible if the in-lieu fee is paid...each of the infeasible prototypes generates lower returns under the AHR, with payment of the in-lieu fee providing the lowest return. While the financial incentives improve feasibility for all priorities, they are not sufficient to make any of the previously infeasible prototypes feasible.”* (pg. 12)

On apartment feasibility: *“Because none of the apartment prototypes are currently feasible without subsidy, none are able to support the AHR, with or without financial incentives”* (pg. 12)

Figure 15: Return-on-cost for Condominium Prototypes, assuming an 18 Percent Threshold for Financial Feasibility

Financial Incentives	Low-rise, Kapolei	Low-rise, Pearlridge	Mid-rise, Kapalama	Mid-rise + CB Bonus, Kapalama	High-rise, Ala Moana	High-rise + CB Bonus, Ala Moana
Baseline - No Affordable Housing Requirement						
Before Incentives	-13%	12%	-7%	5%	1%	25%
On-Site Affordable Housing Requirement						
Before Incentives	-16%	7%	-11%	0%	0%	20%
With Incentives	-15%	9%	-9%	2%	3%	24%
Off-Site Affordable Housing Requirement						
Before Incentives	-16%	7%	-11%	0%	0%	20%
With Incentives	-15%	9%	-9%	2%	3%	24%
In-lieu Fee						
Before Incentives	-20%	2%	-13%	-4%	-4%	15%
With Incentives	-20%	2%	-13%	-4%	-4%	15%

Figure 16: Return on Yield for Apartment Prototypes, assuming a 7.5 Percent Threshold for Financial Feasibility

Financial Incentives	Low-rise, Kapolei	Low-rise, Pearlridge	Mid-rise, Kapalama	Mid-rise + CB Bonus, Kapalama	High-rise, Ala Moana	High-rise + CB Bonus, Ala Moana
Baseline						
Before Incentives	5.7%	6.2%	4.6%	5.3%	not analyzed	
On-Site Affordable Housing Requirement						
Before Incentives	5.4%	5.8%	4.3%	4.8%	not analyzed	
With Incentives	5.5%	5.9%	4.3%	4.9%	not analyzed	
Off-Site Affordable Housing Requirement						
Before Incentives	5.4%	5.9%	4.3%	4.9%	not analyzed	
With Incentives	5.5%	5.9%	4.4%	4.9%	not analyzed	
In-lieu Fee						
Before Incentives	5.2%	5.6%	4.3%	4.8%	not analyzed	
With Incentives	5.2%	5.6%	4.3%	4.8%	not analyzed	

Source: Strategic Economics, 2016

Despite the pre-resolution analysis Honolulu City Council went forward with an island wide IZ requirement, the AHR which is activated at a 10 unit threshold, meaning that small and mid-sized projects across the island are now subject to an IZ mandate the City’s own consultant found many typical prototypes cannot viably absorb the costs. HB1741 HD2 would have created a clear statewide standard to prevent this situation by treating county IZ and affordable housing programs as development exaction that must be structured so as not to render representative prototypes infeasible. Had such a standard been in place, Honolulu’s AHR would have been constrained or recalibrated in light of its 2016 nexus and financial analyses, and future county IZ



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updates—like Hawaii County’s ongoing Chapter 11 feasibility work— would be guided by a consistent framework that protects both affordability and overall housing production.

For these reasons we urge the committee to pass HB1741 HD2 and to reaffirm that affordable housing policy must be grounded in rigorous feasibility analysis that protects both affordability and overall housing production.

Mahalo for the opportunity to testify.



LATE

April 9, 2026

Senator Donovan Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair
Senate Committee on Ways and Means

Strong Support of HB 1741, HD2 RELATING TO HOUSING (Deems a county inclusionary mandate as a form of development exaction and treats the mandate as a housing affordability impact fee, with certain exemptions. Prohibits a county from adopting, amending, or enforcing an inclusionary mandate or inclusionary mandates for residential or mixed-use development, under certain circumstances. Establishes additional requirements for a needs assessment study for a county-imposed inclusionary mandate. Establishes a criterion that allows luxury residential projects or projects that receive certain discretionary value increases to be subject to inclusionary mandates. Effective 7/1/3000. [HD2])

WAM Decision Making: Thursday, April 9, 2025, at 10:55 a.m.
Conference Room 211 & Videoconference

The Land Use Research Foundation of Hawai'i (LURF) is a private research and trade association founded in 1979, whose members include major Hawai'i landowners, developers, utility companies, and land use professionals. LURF's mission is to research, educate, and advocate for reasonable, rational, and equitable land use planning, laws, and regulations that encourage well-planned and sustainable economic growth in agriculture, housing, renewable energy, commercial and industrial uses, and tourism, while safeguarding Hawai'i's significant natural, environmental, historic, and cultural resources, public health, and safety.

LURF appreciates the opportunity to express its **strong support for HB 1741, HD2.**

HB 1741, HD2. The purpose of this measure is to:

- (1) Treat county inclusionary mandates as housing affordability impact fees;
- (2) Require a straightforward, professional study showing feasibility and market prices or rents with and without any inclusionary mandate across common prototypes; and
- (3) Adopt a dual compliance framework under which non-luxury, by-right housing is protected by a no-price-increase or full-offset standard, while luxury housing and projects that receive discretionary increases in entitlements may be subject to proportionate inclusionary mandates supported by a needs assessment study.

LURF's Position. Hawai'i continues to face a severe housing crisis due to the shortage of housing inventory at all income levels and resulting high cost of housing. While well-intentioned government mandates and regulatory requirements are often adopted to address important public goals, those mandates and requirements can also increase the cost of housing if their impacts are not clearly justified and carefully evaluated. It is critical that government evaluate how its mandates can increase the costs of housing, negatively affect the feasibility of developing more housing, and result in limiting housing opportunities particularly for working families and local residents.

HB 1741 HD2 is an important step toward transparency and accountability by requiring a needs assessment study that includes, among other things, an analysis of the government's inclusionary zoning mandates and the legal tests of *essential nexus* and *proportionality* to the project-specific impacts, and whether the proposed requirements will actually increase the costs of housing.

LURF strongly believes that when mandates increase housing costs, the government should be prepared to justify those increased costs to homebuilders and future home buyers in a needs assessment study; and also consider reasonable alternatives, including incentives that could offset increased costs, and the removal or reduction of regulatory barriers that unnecessarily delay or increase the cost of housing production. Including evaluation and recommendations of incentives and improvements to the permit process would ensure that the study not only identifies and justifies the government mandates that increase costs, but also provides practical, solution-oriented strategies to increase housing supply while maintaining public objectives.

For the reasons stated above, LURF is in **strong support of HB 1741, HD2**, and respectfully urges your favorable consideration of this measure.

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