



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTIETH LEGISLATURE, 2020**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2214, RELATING TO HOUSING.

**BEFORE THE:**

SENATE COMMITTEES ON HOUSING AND ON PUBLIC SAFETY,  
INTERGOVERNMENTAL, AND MILITARY AFFAIRS

**DATE:** Tuesday, January 28, 2020                      **TIME:** 1:15 p.m.

**LOCATION:** State Capitol, Room 229

**TESTIFIER(S):** Clare E. Connors, Attorney General, or  
Sandra A. Ching, Deputy Attorney General

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Chairs Chang and Nishihara and Members of the Committees:

The Department of the Attorney General provides the following comments on this bill.

This bill adds a new section to chapter 201H, Hawaii Revised Statutes (HRS), to require state and county agencies to issue ministerial permits for housing projects that meet certain planning standards within sixty days of receipt of a permit application deemed to be complete by the state or county agency.

To qualify for the sixty-day permitting process, projects must have been “approved” pursuant to the new section added by the bill. See page 1, lines 5-10, and page 6, lines 9-13, of the bill. The new section, however, does not contain a project approval process, nor does it reference any existing approval process found in chapter 201H, HRS. We therefore suggest amending the bill to include a project approval process.

The term “development proponent” found on pages 1 and 2 of the bill, is vague. If the intent is to allow developers to apply under the new section, we suggest changing the term, “development proponent,” to “developer of a project described in this section.”

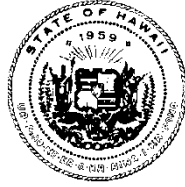
The requirement described on page 2, lines 3-7, of the bill could be interpreted narrowly to require units to be affordable for households with incomes at *only* one hundred percent of the area median income. If the intent is to allow units to be

affordable to households with lower incomes, we recommend amending page 2, lines 4-5, of the bill to read, “affordable for households with incomes at or below one hundred percent of the area median income.”

The bill defines “ministerial permit” on page 3, lines 10-12, with respect to “applicable ordinances.” Because state permits are generally governed by state statutes, we suggest amending page 3, line 12, of the bill to read, “with applicable statutes and ordinances.”

Thank you for the opportunity to provide these comments.

DAVID Y. IGE  
GOVERNOR



DENISE ISERI-MATSUBARA  
INTERIM 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  
**DENISE ISERI-MATSUBARA**  
Hawaii Housing Finance and Development Corporation  
Before the

**SENATE COMMITTEE ON HOUSING  
SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL,  
AND MILITARY AFFAIRS**

January 28, 2020 at 1:15 p.m.  
State Capitol, Room 229

In consideration of  
**S.B. 2214**  
**RELATING TO HOUSING.**

The HHFDC *offers the following comments* on S.B. 2214. This bill adds a new section to Chapter 201H, HRS, to require State and county agencies that issue ministerial permits to issue their permits within 60 days of submission if the permits are associated with high-density housing development projects approved pursuant to the new section that is located within a designated transit-oriented development zone that meets specific density and pricing criteria. The bill further requires State and county permit-issuing agencies to determine if the permit applications are deficient and provide written notification documenting any deficiencies to the applicant the applicants within 30 days of submission of the application.

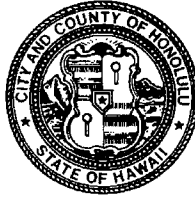
We question HHFDC's role in administering the new section to Chapter 201H, HRS. The criteria set forth in the new section are clear. If the intent is for HHFDC to approve the high-density housing development projects solely on these criteria, we recommend deleting the words "approved pursuant to this section" from page 1, line 7-8 of this bill as a means to further streamline the permitting process for these developments.

Thank you for the opportunity to testify.

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 768-6041  
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KIRK CALDWELL  
MAYOR



KATHY K. SOKUGAWA  
ACTING DIRECTOR

TIMOTHY F. T. HIU  
DEPUTY DIRECTOR

EUGENE H. TAKAHASHI  
DEPUTY DIRECTOR

January 28, 2020

The Honorable Clarence K. Nishihara, Chair  
and Members of the Committee on Public Safety,  
Intergovernmental, and Military Affairs  
The Honorable Stanley Chang, Chair  
and Members of the Committee on Housing  
Hawaii State Senate  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

**LATE**

Dear Chairs Nishihara and Chang, and Committee Members:

**Subject: Senate Bill No. 2214  
Relating to High-Density Housing**

The Department of Planning and Permitting (DPP) **opposes** Senate Bill No. 2214, which would require ministerial permits for high density projects to be issued within 60 days from receiving a complete application.

This requirement will add unnecessary complexity to the building permit process. The City and County of Honolulu does not regulate development by units per acre, but by floor area. This requirement raises expectations, but will not deliver on those expectations and may be rarely used, as it exceeds current density limits. On a 10,000 square-foot property, 250 dwelling units per acre translates to 57 units. Using a gross floor area of 700 square feet per dwelling, this translates to a floor area ratio (FAR) of almost 4.0, which is the density limit on our central business district, far higher than the limits on our apartment-zoned neighborhoods. As such, this could also mean that supportive infrastructure may not be available.

This requirement will slow down the building permit process, if ever used, as it adds additional review requirements. It will create a significant "pre-application process" before the mandated 60-day turnaround begins. We will have to require clearances, agreements and calculations necessary to meet the eligibility criteria before the building permit process begins. This becomes a hidden "slow down" of the permit process.

It should be emphasized that high-density housing development projects, as defined in the Bill, almost always require discretionary approvals prior to submittal of a building permit application, which is the reason for this hidden "slow down." Such projects will require compliance with the City's Affordable Housing Requirement, as codified in Ordinance 18-10, as well as appropriate approvals if located within a transit-oriented development (TOD) area. While the Bill supports TOD, it ignores TOD principles, such as enhancing the public realm with

The Honorable Clarence K. Nishihara, Chair  
and Members of the Committee on Public Safety,  
Intergovernmental, and Military Affairs  
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Hawaii State Senate  
Senate Bill No. 2214  
January 28, 2020  
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public plazas, open space, better circulation, and active streetscapes that are addressed in the necessary discretionary approvals. Furthermore, including affordable housing requirements in the Bill will only muddle the process as it conflicts with, or adds confusion to the implementation of Ordinance 18-10.

We believe our efforts, which include working closely with the State in planning and prioritizing investments in affordable housing and TOD infrastructure, will add significant affordable housing inventory throughout the county. Accordingly, we ask that Senate Bill No. 2214 be held in Committee.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Sokugawa", written in a cursive style.

Kathy K. Sokugawa  
Acting Director

# HISTORIC HAWAII FOUNDATION

**TO:** Senator Clarence K. Nishihara, Chair  
Senator Glenn Wakai, Vice Chair  
Committee on Public Safety, Intergovernmental and Military Affairs  
  
Senator Stanley Chang, Chair  
Senator Dru Mamo Kanuha, Vice Chair  
Committee on Housing

**FROM:** Kiersten Faulkner, Executive Director  
Historic Hawai'i Foundation

**Committee:** Tuesday, January 28, 2020  
1:15 p.m.  
Conference Room 229

**RE:** **SB 2214, Relating to Housing**

On behalf of Historic Hawai'i Foundation (HHF), I am writing **with comments, concerns and recommendations for amending SB2214**. The bill would require automatic approvals for high-density housing development projects located in transit-oriented development zones.

**HHF recommends that SB 2214 be amended by adding another condition to the list of planning standards under which a development project may be approved:**

**“The housing development project will not demolish or substantially the characteristics of any building, structure, site or object that meets the criteria for listing on the Hawai'i Register of Historic Places (see HAR §13-198-8).”**

Historic Hawai'i Foundation is aware of and sympathetic to the need to address affordable and workforce housing in the urban center. While the shift towards Transit-Oriented Development (TOD) held the promise of addressing this need, the reality has fallen far short and is exacting a heavy price on livability, quality design and both preservation and creation of places that are reflect Hawaii's unique historic, cultural and scenic values.

The City & County of Honolulu's TOD enabling legislation requires Neighborhood TOD plans to identify cultural and historic resources that form the context for TOD.<sup>1</sup> It also mandates minimum requirements for

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<sup>1</sup> ROH Sec. 21-9.100-2

development regulations to include “Identification of important neighborhood historic, scenic, and cultural landmarks, and controls to protect and enhance these resources.”<sup>2</sup>

Despite these regulations, most of the TOD developments coming forward have sought to maximize height, minimize setbacks, and squeeze as much parking and as little landscaping as can be approved. They demolish historically-significant buildings, remove exceptional trees and landscaping, block important viewsheds, place undifferentiated walls along street corridors and fail to meet urban design principles of place-making.

Rather than remove the few remaining protections available for saving and creating livable neighborhoods, the State should take steps to reject over-reaching development proposals that would destroy or diminish historically-significant properties; require urban design principles for appropriate streetscapes, scale and setbacks; and ensure that every new development provides the best possible design solution for each and every parcel.

There are alternatives that can preserve historic buildings and cultural sites while maintaining a human scale for the neighborhood and still allow for sensible development and affordability for working families. Cities around the world have integrated smart housing solutions with good urban design, including preserving the past while providing for affordable and mixed-income housing. Hawai‘i should do the same.

Thank you for the opportunity to comment.

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<sup>2</sup> ROH Sec. 21-9.100-4



**LATE**

**SENATE COMMITTEES ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY  
AFFAIRS, AND HOUSING  
State Capitol, Conference Room 229  
415 South Beretania Street  
1:15 PM**

January 28, 2020

RE: SENATE BILL NO. 2214, RELATED TO HOUSING

Chairs Nishihara and Chang, Vice Chairs Wakai and Kanuha, and members of the committees:

My name is Gladys Quinto-Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii. Our members build the communities we all call home.

**BIA-Hawaii is in strong support of S.B. 2214**, which would require state or county agencies to issue ministerial permits for housing development projects that meet certain requirements within sixty days of receipt of a permit application deemed to be complete by the receiving state or county agency.

This bill addresses one of the biggest problems developers face in Hawaii: permitting delays. The long permit processing time is the result of the counties requiring that building permit applications and plans are prepared to show compliance with applicable codes. On other non-code issues, the counties do not have standard criteria for how plans should be prepared, resulting in arbitrary decisions on whether the plans are complete. What makes this process even more illogical is that the counties are not liable for issuing a building permit that doesn't meet code; the design professional and contractor are ultimately liable. It begs the question: why does it take so long to issue a building permit?

This bill focuses on high-density developments, and is targeted for transit oriented development projects. This bill should also be expanded to all affordable housing projects, as it would address a major problem to increasing the supply of housing at all price points.

We are in strong support of S.B. 2214, and appreciate the opportunity to express our views on this matter.





# Chamber of Commerce HAWAII

*The Voice of Business*

**Testimony to the Senate Committees on Public Safety, Intergovernmental,  
and Military Affairs, and Housing  
Tuesday, January 28, 2019 at 1:15 P.M.  
Conference Room 229, State Capitol**

**LATE**

**RE: SB 2214, RELATING TO HOUSING**

Chairs Nishihara and Chang, Vice Chairs Wakai and Kanuha and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") **supports** SB 2214, which would require state or county agencies to issue ministerial permits for housing development projects that meet certain requirements within sixty days of receipt of a permit application deemed to be complete by the receiving state or county agency.

The Chamber is Hawaii's leading statewide business advocacy organization, representing 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

This bill would help to address one of the biggest problems that developers face in Hawaii, delays in permitting. The delays in processing permits is a result of the Counties requiring that building permit applications and plans are prepared to show compliance with applicable codes. On other non-code issues, the Counties do not have a standard criterion for how plans should be prepared resulting in arbitrary decisions on whether the "plans are complete." What makes this process even more inconsistent, is that the Counties are not liable for issuing a building permit that doesn't meet code. The design professional and Contractor are ultimately liable, so the question is the length of time to issue a building permit.

The bill focuses on high-density developments and is targeted for transit-oriented development projects. Perhaps this bill could be expanded for all affordable housing projects as it would address a major problem to increasing the supply of housing at all price points.

Thank you for the opportunity to provide testimony in support of SB 2214.

**SB-2214**

Submitted on: 1/24/2020 8:28:50 AM

Testimony for HOU on 1/28/2020 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
keomailani von gogh	Individual	Oppose	No

Comments:

Aloha,

I oppose SB2214. We don't need more development just sliding through the permitting process. This bill would allow more and more development unscrutinized pass through the system and reeks of construction and developers lobbyists with deep pockets buying laws.

Lets try and change the paradigm here in Hawaii and be Pono in our lawmaking.

Mahalo for your time,

Keomailani Von Gogh