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February 5, 2008

Honorable Russell Kokubun, Chair,  
and Members of the Committee on  
Commerce, Consumer Affairs, and  
Affordable Housing  
Hawaii State Senate  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Kokubun and Members:

Subject: In Support of Senate Bill No. 2294

This is to express my strong support for Senate Bill (S.B.) No. 2294 relating to Kakaako. S.B. 2294 seeks to require that 50 percent of the floor area in planned development project constructed in the Kakaako Community Development district be set aside as reserved housing units for low- and moderate-income households.

As you know, Honolulu faces a critical shortage of housing that is affordable to working class families. For many families an affordable home in Ewa/Kapolei or Central Oahu comes with the price of long commutes to employment, and a loss of quality family time. S.B. 2294 will expand housing options for working families in urban Honolulu. Doing so will place working families in close proximity to employment centers, educational and cultural activities, and major public facilities. For our business community, the expansion of affordable housing opportunities will help ensure that our existing workforce has access to housing they can afford, and enable employers to attract the highly skilled workforce so crucial to the Hawaii's continued growth and development.

In closing, I appreciate the opportunity to provide this testimony, and I respectfully request your support of S.B. 2294.

Sincerely,





HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY



KAKAOKO  
KALAELOA

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Governor

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STATEMENT OF

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

BEFORE THE

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION &  
AFFORDABLE HOUSING

Wednesday, February 6, 2008

9:00 A.M.

State Capitol, Conference Room 229

**S. B. 2294 - RELATING TO KAKAOKO.**

**Purpose:** Increases the reserved housing requirement for a planned development on a lot of at least one acre in the Kakaako Community Development District Mauka Area to at least fifty percent of the total floor area, except that space which is developed for community or special facility use.

**Position:** The Hawaii Community Development Authority (HCDA) agrees that there is a severe lack of inventory of affordable housing units in Honolulu; however, the Authority is obliged to oppose the passage of this measure. This opposition is based on the following reasons.

**If a developer in the area outside of the Kakaako Community Development District is not obliged to perform at the same standards, the proposal would only create a severe disincentive for any developer to pursue an identical project in Kakaako.** The City & County of Honolulu does not currently require that developers perform to a standard as stringent as is being

proposed. Barring a correction by the City & County of Honolulu, enactment of the proposal will only make the redevelopment of Kakaako that much more difficult, if not impossible.

**Development of inclusionary reserved housing units has not attracted significant interest from the development community.** The HCDA currently requires that planned developments shall provide at least twenty percent of the total number of dwelling units *in the development* for sale or rental to qualified persons as determined by the Authority. The HCDA rules also allow for the development of the reserved housing units elsewhere within the Mauka Area and/or allows the payment of a cash in-lieu fee.

It is unlikely that any developer in town would be interested in developing an inclusionary project which featured a fifty percent mix of reserved units and market units. Instead the most recent reserved housing projects built (i.e., 1995 – 1133 Waimanu/282 units) or proposed (i.e., 1226 Waimanu/64 units) have been free standing projects developed elsewhere in the Mauka Area.

**Development of inclusionary reserved housing units within a planned development is not cost efficient.** In order to control the cost of constructing housing towers where the footprint of land is limited, the floor template is typically consistent between all floors. This dictates that the floor space for each type of unit (studio, one and two bedroom) within the planned development is stacked and does not vary. The economics of this construction technique does not typically allow for configuring smaller reserved housing units with larger market units unless significant cost factors are included (e.g., number of plumbing stacks and separating walls).

**Application of the reserved housing requirement to projects with no housing units is problematic.** The design of a commercial development is considerably different from that of a housing development. I believe that developers of commercial properties would be outside of their comfort zone, if they were required to develop at least fifty percent of their project as a housing development. As discussed previously, I do not believe that the floor plates for a commercial development and a housing project are easily compatible and the development cost would be significantly increased.

**Summary.** Based on the foregoing reasons, the HCDA respectfully recommends that this measure does not receive any further consideration.



General Growth Properties, Inc.

Senator Russell S. Kokubun, Chair  
Senate Committee on Commerce, Consumer Protection and Affordable Housing

Wednesday, February 6, 2008; 9:00 a.m.  
Conference Room 229

**RE: SB 2294, Relating to Kakaako - Testimony in Opposition**

Aloha Chair Kokubun, Vice Chair Ige and Members of the Committee:

My name is Jan Yokota, Vice President- Development of the Hawaii Region for General Growth Properties. General Growth Properties **opposes** SB 2294.

The purpose of SB 2294 is to increase the reserved housing requirement for a planned development on a lot of at least one acre in the Mauka Area of the Kakaako Community Development District to 50% of the countable floor area. This bill would require reserved housing in every planned development even if only commercial, industrial or resort uses are intended.

While this bill seeks to increase the availability of reserved housing units for low- and moderate-income families, it may, in fact, reduce the overall development of housing in the Kakaako Mauka Area. Currently, development projects have thin margins as a result of high construction costs and inflated land prices. This measure would more than double the reserved housing requirement, making it even more financially difficult to build these projects. Ultimately, families who do not qualify for reserved housing would be affected, as sales prices for the non-reserved housing will have to be increased dramatically to compensate for the higher reserved housing requirement. In addition, the proportion of reserved housing required in this measure appears to be somewhat arbitrary and without sound basis. Finally, adding the reserved housing requirement to commercial, industrial and resort projects will make these financially infeasible as well.

General Growth Properties strongly urges the committee to defer action on SB 2294. Thank you for the opportunity to testify on this matter.

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February 4, 2008

Senator Russell S. Kokubun  
Chairman  
Committee on Commerce, Consumer Protection & Affordable Housing

Sent via email: [testimony@capitol.hawaii.gov](mailto:testimony@capitol.hawaii.gov)

Re: SB 2294 Relating to Kakaako **(In Support)**

Dear Chair Kokubun:

I am Steven Ohata, Senior Vice President of Central Pacific HomeLoans, testifying in support of SB 2294.

This bill will encourage development of much needed workforce housing by the private sector with no monetary outlay by the public sector. The lack of affordable housing for our middle income residents is a growing problem. Employees that cannot find an affordable place to live, have one more reason to migrate to the mainland; thereby continuing Hawaii's brain drain.

Kakaako Mauka can accommodate the development of such housing. It has the roads and sewer capacity, and is close to urban employment centers. Housing built in the urban core can greatly add to a household's quality of life. With its proximity to retail shopping, restaurants, entertainment, and parks; Kakaako is fulfilling the vision as a livable community.

I along with many parents worry about whether their children will be able to stay in Honolulu and realize the American dream of owning a home. This bill is a step in the right direction.

Thank you for your consideration off this bill and for the opportunity to submit testimony.

Sincerely,

Steven Ohata  
Senior Vice President  
Email: [sohata@cp-homeloans.com](mailto:sohata@cp-homeloans.com)

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LATE



February 6, 2008

The Honorable Senator Russell S. Kokubun, Chair, and Members  
 Committee on Commerce, Consumer Protection  
 and Affordable Housing  
 State Senate, Conference Room 229  
 Honolulu, Hawaii 96813

**Subject: Senate Bill No. S.B. No. 2294 Relating to Kakaako  
 (50% affordable housing requirement)**

Dear Chair Kokubun and Committee Members:

My name is David Arakawa, Executive Director of the Land Use Research Foundation of Hawaii (LURF), 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 and rational land use planning, legislation and regulations affecting common problems in Hawaii.

While LURF supports the development of housing projects in Kakaako which include affordable housing units, it is **opposed to S.B., No. 2294 in its current form and recommends that the bill should be held.** LURF's opposition is based on, among other things, the following: it imposes substantial affordable housing requirements without the required legal nexus and proportionality, does not include adequate economic incentives, the proposed implementation procedures are fundamentally unfair, and it is inconsistent with the current visions, plans and processes of the Hawai'i Community Development Authority ("HCDA"), which has jurisdiction over the Kakaako area. We would strongly recommend that the supporters of this bill should work with HCDA, the Hawai'i Housing Finance and Development Corporation ("HFDC"), the major land owners and stakeholders in Kakaako and other government agencies to develop a consensus regarding the development of housing projects in Kakaako which include affordable housing units.

**S.B. No. 2294.** The proposed bill significantly alters the development of housing in Kakaako by proposing a substantial increase in the reserved housing requirement for a planned development on a lot at least one acre in the Kakaako Community Development District, Mauka Area, and includes the following:

- At least fifty percent (50%) of the floor area is required to be constructed and made available as reserved housing units for low and moderate income families;

- The floor area countable for establishing the percentage for reserved housing units is the total floor area of every building of the planned development, except the floor area developed for community or special facility uses;
- The reserved housing requirement applies to every planned development lot of at least one acre, even if the developer intends to construct only commercial, industrial, or resort uses on the lot.;
- In order to facilitate the adoption of the rules, the HCDA is required to adopt implementing rules without regard to the notice and public hearing requirements of Chapter 91, Hawaii Revised Statutes (“HRS”); and
- To prevent a flurry of applications for planned developments before the adoption of the rules, this bill would prohibit HCDA from accepting such applications until the rules take effect.

#### **Problems with the proposed S.B. No. 2294.**

The proposed bill is unconstitutional, as it lacks a nexus to the development of residential, commercial, industrial and resort uses. The legislation is not based on any study, statistics or legal policy which would justify imposing such a reserved affordable housing requirement on those uses in Kakaako.

The bill is also unconstitutional, because there is no study, statistics or legal policy to justify the fifty percent (50%) reserved affordable housing requirement on projects in Kakaako.

The portions of the bill which allow HCDA to adopt rules without regard to the notice and public hearing requirements of Chapter 91, HRS and which prohibit HCDA from accepting applications for planned developments until the rules take effect – are fundamentally unfair, may also violate procedural due process rights, as well as constitute an unconstitutional taking.

Finally, we understand that the proposed bill is inconsistent with HCDA’s plans, policies and processes for Kakaako-Mauka. We understand that HCDA’s Kakaako-Mauka plans were developed through a comprehensive planning process, involving many stakeholders and issues. This proposed bill significantly alters those plans, policies and processes without the necessary public input and participation.

**Conclusion.** LURF appreciates the opportunity to express our views on this matter and while we understand the intent of this bill, we urge you and your committee **not to pass this measure in its current form**, because it unconstitutionally imposes substantial affordable housing requirements without the required legal nexus, does not include adequate economic incentives, the proposed implementation procedures are fundamentally unfair, and it is inconsistent with the current visions, plans and processes of the HCDA. Instead of passing this bill, we would strongly recommend that the supporters of this bill should work with HCDA, HFDC, the major land owners and stakeholders in Kakaako and other government agencies to develop a consensus regarding the development of housing projects in Kakaako which include affordable housing units.