

JOSH GREEN, M.D.  
GOVERNOR



DENISE ISERI-MATSUBARA  
EXECUTIVE DIRECTOR

**STATE OF HAWAII**  
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM  
**HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION**

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

**SENATE COMMITTEE ON JUDICIARY  
AND  
SENATE COMMITTEE ON WAYS AND MEANS**

March 03, 2023 at 10:00 a.m.  
State Capitol, Room 211

In consideration of  
**S.B. 867**  
**RELATING TO INCLUSIONARY ZONING.**

HHFDC supports and offers comments on S.B. 867, which prohibits any law, ordinance, or rule from imposing an inclusionary zoning requirement on housing offered exclusively for sale in perpetuity to buyers who are residents of the State, are owner-occupants, and do not own any other real property.

The lack of affordable housing is one of the biggest barriers to recruiting and retaining a skilled workforce and is the reason why many Hawaii residents are migrating to more affordable communities in the continental United States. A 2022 study by UHERO on measuring the burden of housing regulation in Hawaii concluded that regulation has severely limited the ability of the housing market to create the units necessary to meet demand.<sup>1</sup>

The counties play a major role in setting policies that impact the production of housing.

Thank you for the opportunity to provide testimony.

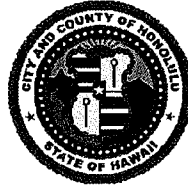
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<sup>1</sup> Rachel Inafuku, Justin Tyndall, and Carl Bonham. Measuring the Burden of Housing Regulation in Hawaii. UHERO. <https://uhero.hawaii.edu/measuring-the-burden-of-housing-regulation-in-hawaii/>

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

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RICK BLANGIARDI  
MAYOR



DAWN TAKEUCHI APUNA  
DIRECTOR

JIRO SUMADA  
DEPUTY DIRECTOR

March 3, 2023

The Honorable Karl Rhoads, Chair  
and Members of the Committee on Judiciary  
The Honorable Donovan M. Dela Cruz, Chair  
and Members of the Committee on Ways and Means  
Hawaii State Senate  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chairs Rhoads, Dela Cruz, and Committee Members:

**Subject: Senate Bill No. 867  
Relating to Inclusionary Zoning**

The Department of Planning and Permitting (DPP) **opposes** Senate Bill No. 867, which would prohibit inclusionary zoning requirements on for-sale housing units offered exclusively and in perpetuity to buyers who are Hawaii residents, owner-occupants, and do not own any other real property, and which would require the submittal of a report on inclusionary zoning annually until 2028.

It appears that the intent of the Bill is to provide housing for local residents without any restrictions on affordability, thus allowing such developments to be sold primarily, if not entirely, at market prices. Please note that the City's inclusionary zoning program does not require affordability in perpetuity. This override of income eligibility requirements runs counter to our decades-long basic housing strategy, which is to focus limited public resources on delivering more housing to those most in need.

In the last 40 years, our program has produced more than 15,000 affordable units, both for-sale and rental. In the next four years, our efforts are anticipated to help produce more than 5,000 affordable units. Beyond 2024, as major projects come to fruition, 18,000 more may be added to the inventory.

According to the City's most recent Annual Report on the Status of Land Use on Oahu, the housing cost burden is most onerous for low income households, i.e., those with income at or below 80 percent of Honolulu's area median income. Households in this income category, both homeowners and renters, are considered severely housing cost burdened, meaning they pay more than one-half of their income on housing. This

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Bill replaces a need-based strategy with one that supports housing production for Hawaii residents who do not own property, including those with high incomes.

Furthermore, the Bill is not clear on how the perpetuity requirement would be enforced; it appears that individual purchasers would be required to re-sell only to local residents who meet the specified restrictions. There is nothing in the Bill that specifies how that would be monitored, whether the State or City would administer it, and whether any penalties or enforcement would ensure this perpetuity requirement. Monitoring these units would be extremely burdensome on staff and a waste of public resources if the majority of the developments are sold at market prices.

As background information, the City has depended on inclusionary zoning for decades. It has, without a doubt, benefited local residents. Curtailing this program would be detrimental to the City's goal of increasing the supply of affordable housing.

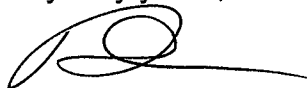
More recently, the City has focused on promoting denser, "infill" multi-family projects in the rail corridor with transit-oriented development (TOD) by allowing additional height and density in exchange for affordable housing and other community benefits. In addition, Revised Ordinances of Honolulu (ROH), Chapter 29 (Affordable Housing Requirement) requires affordable housing as part of new housing construction or subdivisions islandwide, and ROH, Chapter 42, promotes affordable rental units in low- to mid-rise developments on small lots by relaxing development standards.

Lastly, we oppose the additional language in Section 2 of this Bill. This report on inclusionary zoning requirements is an unfunded mandate, and there is no purpose in tracking the resale prices or profit realized from units that are beyond the affordability restriction period.

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 oppose Senate Bill No. 867, and request that it not move forward.

Thank you for the opportunity to testify.

Very truly yours,



Dawn Takeuchi Apuna  
Director



March 3, 2023

10 a.m.

Conference Room 211

Via Videoconference

**To: Senate Committee on Judiciary**

**Senator Karl Rhoads, Chair**

**Senator Mike Gabbard, Vice Chair**

**Senate Committee on Ways and Means**

**Senator Donovan M. Dela Cruz, Chair**

**Senator Gilbert S.C. Keith-Agaran, Vice Chair**

**From: Grassroot Institute of Hawaii**

**Ted Kefalas, Director of Strategic Campaigns**

RE: SB867 — RELATING TO INCLUSIONARY ZONING

***Comments Only***

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on [SB867](#), which would prohibit any law, ordinance or rule from imposing an inclusionary zoning requirement on housing offered exclusively for sale in perpetuity to buyers who are residents of Hawaii, are owner-occupants and do not own any other real property.

By eliminating inclusionary zoning rules for certain properties, this bill would make an important stride toward encouraging the growth of housing in our state.

For years, municipalities have tried to use inclusionary zoning rules to force the creation of affordable housing. This policy, which specifies that a certain percentage of homes in a proposed project be sold or rented at a certain price point, often does more harm than good and can even make developing housing projects financially unfeasible.

A large body of research shows that inclusionary zoning makes housing less affordable, since developers respond to such mandates by building fewer homes.<sup>1</sup> To make matters worse, the mandates force developers to raise the prices of their market-rate homes to make up for the so-called affordable homes.

Our research using the “Inclusionary Housing Calculator” developed by Grounded Solutions Network shows that in housing markets like Maui that have a 50% inclusionary zoning requirement, it is nearly impossible to make a profit building housing without a government subsidy.<sup>2</sup> As the required percentage goes up, it becomes even less feasible to build new housing.

For example, according to the calculator, a low-rise apartment project with 30 units costing \$18 million would incur a net loss of \$7 million, if built in an area with an affordable housing requirement of 50%.<sup>3</sup>

As noted by economist Carl Bonham at the Economic Research Organization at the University of Hawai‘i, 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.”<sup>4</sup>

A 2004 study by the Reason Foundation found that inclusionary zoning led to reduced housing growth in the San Francisco Bay Area region.<sup>5</sup>

While well-intentioned, inclusionary zoning requirements have created a regulatory roadblock to the increase of the housing supply.

This bill should be praised for identifying that problem and creating a pathway that allows homebuilders to avoid inclusionary zoning requirements by building the homes that such requirements were originally intended to encourage.

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<sup>1</sup> Tom Means, Edward Stringham and Edward Lopez, “[Below-Market Housing Mandates as Takings: Measuring their Impact](#),” The Independence Institute, November 2007; “[Inclusionary Zoning: Implications for Oahu’s Housing Market](#),” The Economic Research Organization at the University of Hawai‘i, Feb. 12, 2010; “[How land-use regulation undermines affordable housing](#),” Mercatus Research, November 2015; Paul Kupiec and Edward Pinto, “[The high cost of ‘affordable housing’ mandates](#),” The Wall Street Journal, Feb. 12, 2018; Benjamin Powell and Edward Stringham, “[Housing supply and affordability](#),” Reason Foundation, April 1, 2004; and “[Inclusionary zoning primer](#),” National Association of Home Builders, August 2019.

<sup>2</sup> “[Inclusionary Housing Calculator 2.0](#),” Grounded Solutions Network, 2019.

<sup>3</sup> “[Project Summary](#),” Grounded Solutions Network, accessed Feb. 9, 2021.

<sup>4</sup> Carl Bonham, “[The Unintended Consequences of Affordable Housing Policy](#),” The Economic Research Organization at the University of Hawai‘i, Sept. 8, 2013.

<sup>5</sup> Benjamin Powell and Edward Stringham, “[Housing supply and affordability](#),” Reason Foundation, April 1, 2004.

By eliminating inclusionary zoning requirements on homes built for Hawaii owner-occupants with no other real estate, SB867 would give builders a chance to address slow housing growth in a way that responds to the current market.

This bill would provide a strong incentive to build housing of different types, thus allowing developers to meet the needs of Hawaii families without being constrained by the inherent limits of inclusionary zoning regulations.

It would remain only for the counties to reduce zoning restrictions that prevent the creation of smaller homes or multi-unit lots such as triplexes and fourplexes.

We do have one minor concern with the bill's current language — namely, the restriction of the class of buyers to Hawaii residents. We sympathize with the intent to ensure that Hawaii residents have priority in the purchase of new homes, but there is reason to fear that such a restriction may run into legal difficulties.

In addition, and perhaps more important, this restriction would prevent the purchase of such homes from former Hawaii residents who at one time moved to the mainland for whatever reason but now very much wish to return.

Notwithstanding that issue, this is a bill that could make a big difference in the effort to increase Hawaii's housing supply. We appreciate that the committee is willing to consider innovative ways to address the state's housing crisis.

Thank you for the opportunity to submit our comments.

Sincerely,

Ted Kefalas  
Director of Strategic Campaigns  
Grassroot Institute of Hawaii