

**BILL044(23)**  
**Testimony**

**MISC. COMM. 438**

COUNCIL

## **COUNCIL Meeting**

Meeting Date: Aug 9, 2023 @ 10:00 AM

Support: 2

Oppose: 3

I wish to comment: 0

Name: Trey Gordner	Email: trey@gogordner.com	Zip: 96706
Representing: Self	Position: Oppose	Submitted: Aug 7, 2023 @ 10:50 AM
<p>Testimony:</p> <p>I am an Ewa Neighborhood Board member and Director of the Hawaii Zoning Atlas, a data advocacy project that reveals how restrictive zoning contributes to our housing crisis.</p> <p>While some of our residents demonize "monster homes" and the developers who build them, progressive communities on the mainland have realized that "missing middle"--house-scale buildings containing multiple units--are one of the most affordable and feasible solutions to housing shortages. Portland, OR; Arlington, VA; Minneapolis, MN; and many more have all passed successful zoning reforms to permit missing middle housing by right in inner-ring suburbs. Honolulu's insistence on criminalizing them only deepens our crisis.</p> <p>High-rises are expensive and time-consuming to develop and build, but constructing 4-12 small units on a residential lot that would otherwise be occupied by one large unit requires no special materials, no massive new investment in infrastructure, and no sprawl on the edges of town. Residents of a given neighborhood are not entitled to a permanent veto on necessary change. It's time to stop prioritizing the private interests of a minority of vocal, relatively well-off homeowners over the needs of the community at large.</p> <p><a href="https://missingmiddlehousing.com/">https://missingmiddlehousing.com/</a></p>		
Name: Larry Bartley	Email: sonhawaii@hawaii.rr.com	Zip: 96734
Representing: Save O'ahu's Neighborhoods	Position: Support	Submitted: Aug 7, 2023 @ 10:58 AM
Name: Jeffrey Cudiamat	Email: jcudiamat@structuralhawaii.com	Zip: 96782
Representing: Self	Position: Oppose	Submitted: Aug 7, 2023 @ 03:57 PM
<p>Testimony:</p> <p>I am opposed to Bill 44.</p> <p>To clarify, I am not in favor of knowingly making false statements to City Officials. It is ethically wrong; and it can lead to serious issues.</p> <p>For my situation, I am a plan maker, who prepares drawings and stamped plans for permit approval. My staff and I do our best to reasonably prepare design drawings and calculations. We are not perfect, and we may make unintended mistakes on the plans or analysis. This proposed Bill 44 brings me trepidation thinking that the City officials may misconstrue purposeful falsification of plans as opposed to a humble mistake from human error. Bill 44 proposes to impose penalties as harsh as combination of imprisonment up to one year, a \$2000 fine and community service up to 80 hours.</p> <p>In light of the recent issues with DPP staff and plan makers who may have purposely misrepresented information on the drawings, there seems to be a heightened sense of scrutiny and mistrust of the design profession by the City. Knowing that it is often difficult to prove a person's intent, I would hate to be the target for imprisonment for an unintended mistake on plans.</p>		
Name: Julia Fink	Email: julia@aiahonolulu.org	Zip: 96813
Representing: AIA Honolulu	Position: Support	Submitted: Aug 8, 2023 @ 08:33 AM
Name: Stefanie Sakamoto	Email: ssakamoto@imanaka-asato.com	Zip: 96789
Representing:	Position:	Submitted:

BIA Hawaii

Oppose

Aug 8, 2023 @ 02:43 PM



Dear Honolulu Councilmember,

Founded in 2005 to coordinate O'ahu-wide efforts to combat illegal short-term rentals in residential zoning, **SONHawaii supports BILL044(23)**.

Effective enforcement of our Land Use Ordinance demands that our enforcement agents have the tools necessary to do their job. Bill 44 is another tool in the box.

Please, take this necessary step to bring residential-zoned houses and apartments into the residential use they were permitted and built for.

Larry Bartley  
Executive Director  
Save O'ahu's Neighborhoods

August 9, 2023

TO: Honorable Tommy Waters, Chair  
Honorable Esther Kia'aina, Vice-Chair  
City & County of Honolulu City Council

FROM: Todd Hassler, AIA  
2023 Board President  
**American Institute of Architects, Honolulu Chapter**

SUBJECT: Bill 44 (2023) Relating to False Statements

Dear Chair Waters and Members of the City Council,

Aloha, my name is Todd Hassler, 2023 President of AIA Honolulu, writing in **SUPPORT OF THE INTENT** of Bill 44 (2023) Relating to False Statements and offering **COMMENTS**. In reviewing 49 public testimonies, the citizens of Honolulu are intent on preventing and penalizing the proliferation of "monster houses." *We are pleased to see action being taken to inhibit rule-breaking by a few instead of increasing limiting measures that affect the whole design and construction industry.* However, after further feedback from our membership, we feel more specificity is needed in the bill and stronger repercussions for violations should be prescribed.

The current Bill 44 language is vague, focusing on false "statements," implying verbal communications, and feels like restrictions on free speech. AIA suggest revising the proposed Section 1-\_.2 with the following red text:

§ 1-\_.2 Prohibition.  
A person may not knowingly:  
(1) Make a false statement to a city official; or  
(2) Incite the making of a false statement to a city official  
**for purposes of influencing the city official's determination of compliance with any city ordinance, rule, or regulation**

We suggest more focused language on illegal development in residential neighborhoods. For example, many "monster houses" have building height zoning violations. It is also clear that the disguised intent of building owners is the real driver of neighborhood aggravation.

We believe that penalties such as low dollar fines and limited jail terms are ineffective. Anyone can file a "misrepresentation complaint" against the engineer or architect who stamped/signed the permit drawings. **But for zoning and building code violations, the only meaningful owner correction is demolition of the portion(s) in violation and legalized reconstruction.** By setting this precedent, Council should amend existing ROH sections that are already framed to regulate building design,

The American Institute of Architects

AIA Honolulu  
828 Fort Street Mall, Suite 100  
Honolulu, HI 96813

T (808)628-7243  
[contact@aiahonolulu.org](mailto:contact@aiahonolulu.org)  
[aiahonolulu.org](http://aiahonolulu.org)

construction, and operational use against falsification of information. Our recommendations for these amendments are below.

### **Amend ROH Chapter 18-4.3 Information on plans and specifications**

Add a paragraph to combat falsification of permit applications: Complete a thorough on-site investigation of the site where work is to be performed to determine that the drawings accurately reflect site conditions and existing building conditions, if applicable.

### **Amend ROH Chapter 18-4.4 Requirement for owner affidavit**

Amend Section 18-4.4(c) for owner violation for residential changes of use with a meaningful City-imposed \$ fine and demolition order PRIOR to charges of perjury under state statute. Based on Bill 44 testimony, owner illegal practice seems to be rather common, while perjury charges are unheard of. Owner penalties could be in addition to construction without a building permit. The City might consider penalty for licensed trades that perform illegal transformative construction; either by state law in HRS 444 or time-limited ban on DPP trade permit issuances.

### **Amend ROH Chapter 18.7 with owner fines for building without a permit**

“If a building is constructed without a permit, a fine of \$10,000 or fine of 10x the cost of a building permit will be issued daily until work on an illegal construction project is halted. This fine is non-negotiable and must be paid.” Quote from internet.

AIA questions why the penalties of Chapter 18 cannot be applied to unpermitted renovations for kitchens /bathrooms after a Certificate of Occupancy has been issued? Unpermitted renovations are the most common violation in existing houses to create illegal rentals / transient accommodations; a problem not limited to “monster houses.”

### **Amend Honolulu Housing Code Chapter 27**

This is suggested to allow City condemnation of an existing condition in residence where a building permit was issued and closed. Building and zoning codes generally have “grandfathering” whereby conditions that were legally permitted continue to be legally acceptable. Architects consider the Housing Code as an “operating code;” meaning a “legally permitted” residence can still be declared a “substandard building” and “public nuisance.” Examples include:

- Kitchen/bathroom built with zoning/building code violations is already a Housing Code violation. Clarify that adding a third kitchen in a permitted single-family house (R-3 Occupancy) is a building safety code violation of R-2 Occupancy in 3-story houses, requiring 1-hour fire-rated construction.

The American Institute of Architects

AIA Honolulu  
828 Fort Street Mall, Suite 100  
Honolulu, HI 96813

T (808)628-7243  
[contact@aiahonolulu.org](mailto:contact@aiahonolulu.org)  
[aiahonolulu.org](http://aiahonolulu.org)

- Amend Sec. 27 to specify that any house permitted after December 31, 1968, in violation of LUO building height is a “public nuisance” that diminishes light and air to adjacent houses. This could be grounds for citing/demolishing taller portions of monster houses that may have been permitted using **false topographical information** or interpretation error made by a third-party reviewer. Section 27-4.2(b)(1)(C) already reads “For buildings or structures more than 25 feet in height, 10 feet plus one foot for each 10 feet in height for that portion in excess of 25 feet in height, up to a maximum of 20 feet.” Revise it to say “For buildings or structures more than 25 feet in height, 10 feet plus one foot or commensurate fraction thereof for each 10 feet or fraction thereof for that portion in excess of 25 feet in height, up to a maximum of 20 feet.” This change will increase sideyard setback requirement beyond what is likely existing. An owner’s solution could be demolishing house portion in excess of 25 feet high.

**The American Institute of Architects**

AIA Honolulu  
828 Fort Street Mall, Suite 100  
Honolulu, HI 96813

T (808)628-7243  
[contact@aiahonolulu.org](mailto:contact@aiahonolulu.org)  
[aiahonolulu.org](http://aiahonolulu.org)

The Honolulu Housing Code, if strictly administered, allows “right of entry” and “arrest without warrant” of the violator; something current monster house enforcement does not seem to use. The Housing Code also allows a posted sign on the house-in-question declaring it a public nuisance. Bill 44 can also amend penalties by clarifying that condemnation and partial demolition are allowed as public policy.

**Existing penalties seem frustratingly ineffective in public perception**

Based on the grievances expressed in 49 supporting public testimonies, the existing penalties for falsification are ineffective. Local design and construction industries have a generally trustworthy reputation, hence the laws regulating design and construction now seem too lenient in public mind. This is frustrating to AIA because, while our industry is still generally law-abiding, Honolulu faces some new owner-developers who have illegal intentions. Like the public, we question why the City cannot transform unsatisfied owner penalties into something more compelling like a lien on an owner’s property – including any demolition order as some may take years for any appeals to be settled.

Thank you for this opportunity to **SUPPORT THE INTENT** of Bill 44.

Sincerely,

Todd Hassler, AIA  
2023 President, American Institute of Architects, Honolulu





**HONOLULU CITY COUNCIL  
Honolulu Hale  
10:00 AM**

August, 2023

RE: Bill 44 - RELATING TO FALSE STATEMENTS

Chair Waters, Vice Chair Kiaaina, and members of the Council:

My name is Max Lindsey, Government Relations Committee Chair 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 offers the following comments on Bill 44, Relating to False Statements.** This bill creates the offense of “making false statements to city officials”, sets penalties, and defines the offense. BIA Hawaii offers the following comments on this bill.

We understand that the intent of this bill may be to deter the illegal building of so-called “monster homes” in our communities. While we certainly agree with that intent, we have concerns with the overly broad definitions in the bill. The bill defines “false statement” as: “any statement...that is incorrect, inaccurate, or not in accordance with truth or fact”. We have objections to this definition. We agree that knowingly lying to a city official should be an offense, however, the definition would not allow for any unintentional errors or alterations. Further, the inclusion of the “incite” definition is extremely unclear. It would seem that it is intended to deter bribery, however, it could also mean that someone who is simply “asking” a city inspector a question could be in violation. Additionally, we would suggest that government officials should also be held to the same standards.

We thank the Council for looking for ways to fix our current building permit process, and hope that we can continue to be a part of the conversations going forward.

The state of Hawaii is in a dire housing crisis. As the Council is aware, the cost of housing in Hawaii is extremely high, with Oahu’s median price of homes being currently over \$1 million. Approximately 140,436 U.S. households are priced out of buying a home for every \$1000 increase in price, according to the National Association of Home Builders (NAHB). We are in support of legislation that would allow for the building of much-needed housing at every price point in Hawaii.

Thank you for the opportunity to testify.