



A BILL FOR AN ORDINANCE

RELATING TO INCENTIVES FOR THE CONSTRUCTION OF AFFORDABLE RENTAL HOUSING.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to address affordable rental housing in the City and County of Honolulu ("City").

The City Council ("Council") finds that, since the adoption of Ordinances 19-8, 20-13, and 21-12, which were passed to address the shortage of affordable rental housing in the City, the continuing economic and social effects of the COVID-19 pandemic have exacerbated that shortage. Owners and developers considering the development of affordable rental housing projects under Ordinances 19-8, 20-13, and 21-12, as amended, are hesitant to move forward due to the economic uncertainties and high construction costs presented by the aftermath of the COVID-19 pandemic.

Accordingly, the Council finds that additional financial incentives are necessary to encourage and expedite the construction of affordable rental housing.

SECTION 2. Chapter 32, Article 4, Revised Ordinances of Honolulu 2021, is amended to read as follows:

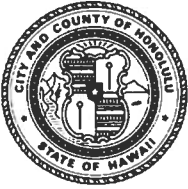
"ARTICLE 4: GRANTS

§ 32-4.1 Administration[.] and rulemaking.

The director of budget and fiscal services, or the director's duly appointed representative, shall administer this article. The director of budget and fiscal services may adopt rules pursuant to HRS Chapter 91 for the implementation, administration, and enforcement of this article, including eligibility criteria consistent with the purpose of this article and in the public interest.

§ 32-4.2 Grants.

- (a) Grant establishment. A grant is established for the purpose of incentivizing the completion of construction of affordable rental housing units provided for in this chapter.
- (b) Pre- or post-construction grant. The owner of an eligible affordable rental housing project may apply for a grant under this article prior to or following the



A BILL FOR AN ORDINANCE

construction of the eligible affordable rental housing project, subject to the requirements of subsections (d) and (e). An owner may only receive grant payments for either a pre-construction grant or a post-construction grant under this article for each eligible project in the following amounts:

(1) For pre-construction grants:

(A) For affordable rental housing units to be rented to households earning more than 60 percent of the AMI, but less than or equal to 100 percent of the AMI, the owner may receive up to \$25,000 per dwelling unit within an eligible affordable rental housing project; and

(B) For affordable rental housing units to be rented to households earning 60 percent and below of the AMI, the owner may receive up to \$35,000 per dwelling unit within an eligible affordable rental housing project; or

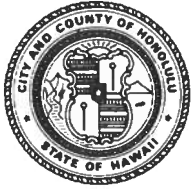
(2) For post-construction grants:

(A) For affordable rental housing units rented to households earning more than 60 percent of the AMI, but less than or equal to 100 percent of the AMI, the [amount of the incentive shall be \$11.25 per square foot of dwelling floor area contained in the building permit issued by the department of planning and permitting for the] owner may receive up to \$9,000 per dwelling unit within an eligible affordable rental housing project[-]; and

~~[(e)]~~ (B) For affordable rental housing units rented to households earning 60 percent and below of the AMI, the [amount of the incentive shall be \$15 per square foot of dwelling floor area contained in the building permit issued by the department of planning and permitting for the] owner may receive up to \$15,000 per dwelling unit within an eligible affordable rental housing project.

(c) \$10,000,000 aggregate limit. The aggregate of grant payments made under this article may not exceed \$10,000,000 in general funds; provided that there is no limit on payments made under this article from funds outside of the general fund.

~~[(d) Grants authorized under this article shall not exceed \$9,000 per dwelling unit within a project eligible under subsection (b).~~

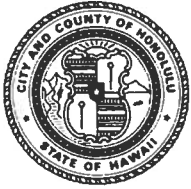


HONOLULU CITY COUNCIL
KE KANIHELA O KE KALANA O HONOLULU
CITY AND COUNTY OF HONOLULU

ORDINANCE _____
BILL 3 (2024)

A BILL FOR AN ORDINANCE

- ~~(e) Grants authorized under this article shall not exceed \$15,000 per dwelling unit within a project eligible under subsection (c).~~
- ~~(f) The aggregate of grant payments made under this article shall not exceed \$10,000,000.]~~
- (d) *Pre-construction grant requirements.* For pre-construction grants under this article, the requirements are as follows:
- (1) The owner must apply for the grant prior to the issuance of a building permit for the project; provided that the director of budget and fiscal services may waive this requirement for affordable rental housing projects containing one or more grant-eligible units for which a building permit application had been issued prior to the effective date of this ordinance if the waiver would be consistent with the purpose of this article and in the public interest;
 - (2) An owner who receives any grant payment under this subsection must:
 - (A) Complete the project within _____ months following the issuance of the building permit for the project;
 - (B) Ensure that the project is completed in compliance with all applicable laws, rules, regulations, and other governmental requirements; and
 - (C) Return all or a portion of any funds received under this subsection plus interest calculated at the rate set forth in § 1-3.3, if the eligible affordable rental housing project is not constructed or is not rented in accordance with the eligibility criteria, as determined by the director of budget and fiscal services;
 - (3) To apply for a grant under this subsection, the owner must submit an application to the director of budget and fiscal services on a form prescribed by the director of budget and fiscal services, and with supporting documentation establishing the project's eligibility;
 - (4) The director of budget and fiscal services shall assess each application to ensure that the project is economically viable, the developer has sufficient sources of funding to complete the project, and the project meets the eligibility requirements of grants issued under this subsection;

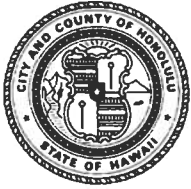


HONOLULU CITY COUNCIL
KE KANIHELA O KE KALANA O HONOLULU
CITY AND COUNTY OF HONOLULU

ORDINANCE _____
BILL 3 (2024)

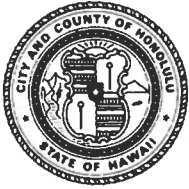
A BILL FOR AN ORDINANCE

- (5) No grant payment may be disbursed to the owner of an eligible affordable rental housing project under this subsection until the owner has:
- (A) Submitted to the department of budget and fiscal services a copy of the building permit issued for the project;
 - (B) Executed a memorandum of agreement between the owner and the city that complies with the provisions of this subsection; and
 - (C) Complied with any other requirements deemed necessary by the department of budget and fiscal services;
- (6) The executed memorandum of agreement required in subdivision (5) must, at a minimum, include statements that the owner agrees to:
- (A) Construct and provide an affordable rental housing project under this chapter;
 - (B) Provide a project timeline that includes a description of major project milestones and when they are anticipated to be completed;
 - (C) Comply with the requirements of this subsection, including but not limited to complying with all applicable laws, rules, regulations, and other governmental requirements, and completing the project within the specified timeline; and
 - (D) Return all or a portion of any funds received under this subsection plus interest calculated at the rate set forth in § 1-3.3, if the eligible affordable rental housing project is not constructed or is not rented in accordance with the eligibility criteria, as determined by the director of budget and fiscal services;
- (7) By the end of the first calendar year that the owner receives funds under this subsection and by the end of each year thereafter, up to and including one year after the completion of the construction of the project, the owner shall annually submit a report to the department of budget and fiscal services that provides an update on the following:
- (A) The project timeline, including the completion of major project milestones;



A BILL FOR AN ORDINANCE

- (B) The status of the marketing of and tenant acquisition for the units; and
- (C) Any issues that would delay the completion of the project beyond the time period specified in subdivision (2) or prevent the completion of the project; and
- (8) The director of budget and fiscal services shall pay or cause to be paid the grant amount to the claimant no later than 30 days following compliance with the requirements set forth in subdivision (5).
- (e) Post-construction grant requirements. For post-construction grants under this article, the requirements are as follows:
- [(g)] (1) All grants payable to the owner of an eligible affordable rental housing project ~~[shall only be authorized upon issuance of]~~ under this subsection may not be authorized until a certificate of occupancy for that project[-] has been issued;
- [(h)] (2) An intent to claim a grant under this ~~[article shall]~~ subsection must be submitted upon the filing of a building permit application[-]; provided that the director of budget and fiscal services may waive this requirement for affordable rental housing projects containing one or more grant-eligible units for which a building permit application had been submitted, or a building permit had been issued, prior to April 21, 2021 if the waiver would be consistent with the purpose of this article and in the public interest;
- [(i)] (3) The intent to claim ~~[shall]~~ a grant under this subsection must be made to the director of planning and permitting on a form prescribed by the director of planning and permitting. The director of planning and permitting shall forward the intent to claim and the estimated amount of the grant to the director of budget and fiscal services no later than 30 days after receipt of the intent to claim[-];
- [(j)] (4) A claim for the grant ~~[shall]~~ must be made by the owner of an affordable rental housing project no earlier than the date of issuance of a certificate of occupancy for the affordable rental housing project and no later than one year after the issuance of the certificate of occupancy[-]; provided that an initial intent to claim was submitted pursuant to [subsection (h)-] subdivision (2); and



A BILL FOR AN ORDINANCE

~~[(k)]~~ (5) A claim for the grant ~~[shall]~~ must be made to the director of planning and permitting on a form prescribed by the director of planning and permitting and must be supported by documentation establishing the number of ~~[square-foot-of-dwelling-space]~~ dwelling units permitted by the building permit for the project and a copy of the certificate of occupancy for the project. The director of planning and permitting shall forward the amount determined to be paid as a grant to the director of budget and fiscal services no later than 30 days after receipt of ~~[a] the claim[, and the]~~.

The director of budget and fiscal services shall pay the grant amount to the claimant no later than 30 days after receipt of the information from the director of planning and permitting[-]; provided that no claim for a grant payment may be made for an affordable rental housing project with a certificate of occupancy issued after the repeal of this chapter.

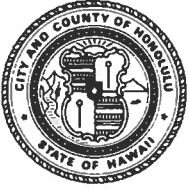
~~[(l)] No claim for a grant payment shall be made for an affordable rental housing project with a certificate of occupancy issued after the repeal of this chapter.~~

~~[(m)] The director of budget and fiscal services may waive the requirements of subsection (h) for affordable rental housing projects containing one or more grant-eligible units for which a building permit application had been submitted, or a building permit was issued, prior to April 21, 2021 if the waiver is consistent with the purpose of this article and in the public interest.]~~

§ 32-4.3 Reporting.

The director of budget and fiscal services and the director of planning and permitting shall provide annual reports to the city council ~~[every six months beginning on April 21, 2021,]~~ by March 1 of each year that at a minimum must include~~[-:]~~ the following information relating to pre-construction and post-construction grants under the grant program established by this article:

- (1) The number of building permit applications submitted ~~[under the grant program established by this article for the six-month]~~ during the one-year period and cumulatively;
- (2) The number of building permits approved ~~[under the grant program for the six-month]~~ during the one-year period and cumulatively;

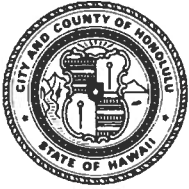


A BILL FOR AN ORDINANCE

- (3) The number of grant applications submitted ~~[under the grant program]~~ at each AMI tier ~~[for the six-month]~~ during the one-year period and cumulatively;
- (4) The number of grant claims approved ~~[under the grant program for the six-month]~~ during the one-year period and cumulatively;
- (5) The number of affordable rental housing units supported ~~[with grants]~~ for the ~~[six-month]~~ one-year period and cumulatively;
- ~~[(6)]~~—The amount of grant funds disbursed for the six-month period and cumulatively;
- ~~(7)~~—The number of waivers granted under § 32-4.2(m) for the six-month period and cumulatively;
- ~~(8)~~—The number of affordable rental housing units built under the grant program for the six-month period and cumulatively;] and
- ~~[(9)]~~ (6) A description of any violations of this article discovered during the ~~[six-month]~~ one-year period and actions taken against the violator.

§ 32-4.4 Violation—Penalty.

- (a) Violation. Any recipient of a grant issued under this article shall comply with all requirements of this article for the applicable grant type. The failure to comply with the requirements of this article for the applicable grant type, including but not limited to the construction and provision of eligible affordable rental housing units, constitutes a violation of this article.
- (b) Notice of violation. Whenever an owner in receipt of grant funding under this article is in violation of this article, the director of budget and fiscal services or the director's designee may serve a notice of violation to the owner stating that the owner shall comply with the requirements of this code.
 - (1) Service. A notice of violation must be served on the owner either personally or by certified mail. However, if (1) the whereabouts of the owner are unknown and cannot be ascertained by the director of budget and fiscal services or the director's designee in the exercise of reasonable diligence, and (2) the director of budget and fiscal services or the director's designee provides an affidavit to that effect, then a notice of violation may



A BILL FOR AN ORDINANCE

be served by publishing the notice of violation in accordance with HRS § 1-28.5, or if that provision no longer applies, by publication once each week for two consecutive weeks in a newspaper of general circulation in the city.

(2) Contents. In addition to any other information or requirements deemed appropriate by the director of budget and fiscal services or the director's designee, the notice of violation must include the following information:

- (A) Date of the notice of violation;
- (B) The name of the person noticed;
- (C) The address or location of the violation;
- (D) The specific ordinance, rule, or condition that has been violated;
- (E) A concise description of the violation;
- (F) A statement of the actions that are necessary to correct the violation;
- (G) A requirement that the violator correct the violation by a specified date;
- (H) A statement of the penalties that will be imposed if the violation is not corrected by the deadline for correction established pursuant to paragraph (G); and
- (I) A requirement that the violator send a written notice to the director of budget and fiscal services or the director's designee reporting the correction of the violation when the violator believes the violation has been corrected.

(c) Notice of order. If the violation is not corrected by the date specified in the notice of violation, the director of budget and fiscal services or the director's designee may issue a notice of order imposing penalties for failure to correct the violation.

(1) The notice of order may require the owner to do any or all of the following:

- (A) Cease and desist from the violation;

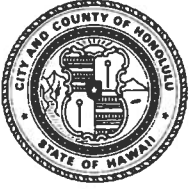


HONOLULU CITY COUNCIL
KE KANIHELA O KE KALANA O HONOLULU
CITY AND COUNTY OF HONOLULU

ORDINANCE _____
BILL 3 (2024)

A BILL FOR AN ORDINANCE

- (B) Correct the violation at the owner's own expense before a date specified in the order; and
 - (C) Pay a civil fine not to exceed the amount of the grant funding paid to the owner under this article plus interest calculated in accordance with § 1-3.3. The civil fine must be paid in the manner, at the place, and before the date specified in the order.
- (2) The order must advise the owner:
- (A) That the order will become final 30 days after the date of its mailing;
 - (B) Of the appropriate body to which the order may be appealed; and
 - (C) That the fines, if unpaid within the prescribed time period, may be added to specified fees, taxes, or charges collected by the city, and may be recorded as an administrative lien on all real property owned by the responsible person.
- (3) The notice of order must be served in accordance with subsection (b)(1). A copy of the notice of order must also be posted in a conspicuous place on the property affected by the complaint or order and may be recorded in the State bureau of conveyances or the land court, or both, as appropriate. If so recorded, a notice of order has the same force and effect as other lis pendens or other legal notices provided by law.
- (d) Effect of order—right to appeal. The order issued by the director of budget and fiscal services or the director's designee under this section will become final 30 calendar days after the date of the mailing of the order. The owner may appeal the order to the body stated in the notice of order. The appeal must be received in writing on or before the date the order becomes final. An appeal does not stay any provisions of the order requiring correction of the violation and payment of civil fines.
- (e) Addition of unpaid civil fines to fees or charges collected by the city—administrative liens. When civil fines imposed pursuant to this section remain unpaid after all rights to administrative appeal or judicial review have been exhausted, and the fines either:



A BILL FOR AN ORDINANCE

- (1) Exceed \$150,000; or
- (2) Have been outstanding for more than five years;

the director of budget and fiscal services or the director's designee may, in accordance with Chapter 6, Article 1, add the civil fines to city fees and charges and record the unpaid civil fines as a lien in favor of the city on all real property owned by the responsible person.

(f) Judicial enforcement.

- (1) The director of budget and fiscal services or the director's designee may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. Where the civil action has been instituted to enforce the civil fine imposed by said order, the director of budget and fiscal services or the director's designee need only show that the notice of violation and order were served, that a civil fine was imposed, the amount of the civil fine imposed, and that the fine imposed has not been paid.
- (2) The corporation counsel may seek enforcement of a lien under subsection (e) in the circuit court of the first circuit, and the proceedings before the circuit court must be conducted in the same manner and form as ordinary foreclosure proceedings as provided for in HRS Chapter 667.

If, during the course of the lien enforcement, the owners or claimants of the property are unknown or cannot be served, the corporation counsel may request that the court permit service to be made in accordance with HRS §§ 634-23 through 634-29; provided that:

- (A) The owners or claimants are at the time out of the city, cannot be served within the city, or are unknown;
- (B) An affidavit stating that fact is provided to the satisfaction of the court; and
- (C) A prima facie cause of action appears to exist against such owners or claimants or against the property described in the complaint, or it appears that such owners or claimants are necessary or proper parties to the action."



HONOLULU CITY COUNCIL
KE KANIHELA O KE KALANA O HONOLULU
CITY AND COUNTY OF HONOLULU


ORDINANCE _____
BILL 3 (2024)

A BILL FOR AN ORDINANCE

SECTION 3. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the bracketed and stricken material, or the underscoring.

SECTION 4. This ordinance takes effect upon its approval and will be repealed on the repeal date of Chapter 32, Revised Ordinances of Honolulu 2021.

INTRODUCED BY:



DATE OF INTRODUCTION:

JAN 17 2024

Honolulu, Hawai'i

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 ____.

RICK BLANGIARDI, Mayor
City and County of Honolulu