

REPORT OF THE COMMITTEE ON ZONING

Voting Members:

Calvin K.Y. Say, Chair; Tyler Dos Santos-Tam, Vice-Chair;
Radiant Cordero, Esther Kia'aina, Matt Weyer

Committee Meeting Held
May 1, 2024

Honorable Tommy Waters
Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Zoning, to which was referred Bill 3 (2024) entitled:

"A BILL FOR AN ORDINANCE RELATING TO INCENTIVES FOR THE
CONSTRUCTION OF AFFORDABLE RENTAL HOUSING,"

introduced on January 17, 2024, and which passed First Reading at the Council meeting
on January 24, 2024, reports as follows:

The purpose of Bill 3 (2024) is to establish additional financial incentives to
encourage and expedite the construction of affordable rental housing in the City and
County of Honolulu.

At your Committee's meeting on May 1, 2024, the Director of Planning and
Permitting testified in support of the intent of the Bill, provided comments on the Bill, and
responded to questions from the Councilmembers.

At your Committee's meeting on May 1, 2024, no oral testimony on the Bill was
received.

Your Committee received written testimony in support of the Bill from Pacific
Resource Partnership, WKF, Inc. BIA Hawaii, Coulter Construction, Inc. Pine Apartments,
LLC, Center Urban Real Estate, CARES, and six individuals. The State of Hawaii
Disability and Communication Access Board and three individuals submitted comments
on the Bill.

HONOLULU CITY COUNCIL
Ke Kanihela o ke Kalana o Honolulu
CITY AND COUNTY OF HONOLULU

ADOPTED ON MAY 15 2024

COMMITTEE REPORT NO. 131

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Your Committee prepared a CD1 version of the Bill that makes the following amendments:

- A. In ROH § 32-4.1, deletes the proposed rulemaking provisions.
- B. Deletes ROH § 32-4.2(b) (relating to pre-construction grants and post-construction grants).
- C. Adds a new ROH § 32-4.2(b), relating to source of funds:
 1. Moves the \$10,000,000 aggregate limit provision in former proposed new ROH § 32-4.2(c) to new ROH § 32-4.2(b)(1); and
 2. Adds a new ROH § 32-4.2(b)(2) to provide that the maximum amount of funds available per fiscal year is limited to the amount appropriated for post-construction grants in each fiscal year's executive operating budget and program. Realphabetizes subsequent subsections accordingly.
- D. Deletes all pre-construction grant provisions in former proposed new ROH § 32-4.2(d).
- E. In realphabetized ROH § 32-4.2(c), deletes all post-construction grant requirements, and sets forth new post-construction grant requirements, including:
 1. Requiring that affordable rental housing units be at least 300 square feet in size to be eligible for the grant, and specifying the grant amounts available at each area median income ("AMI") level:

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- a. \$12,000 (instead of \$9,000) per affordable rental housing unit rented to households earning more than 60 percent of the AMI, but less than or equal to 100 percent of the AMI; and
 - b. \$18,000 (instead of \$15,000) per affordable rental housing unit rented to households earning 60 percent or below of the AMI.
2. Providing that to apply for a post-construction grant, no earlier than the date of issuance of a certificate of occupancy for the affordable rental housing project and no later than 12 months after the issuance of a certificate of occupancy, the owner must submit to the DPP a grant application. Also lists the minimum information that must be included in the grant application.
 3. Providing that upon receipt of the grant application, the DPP is required to certify project eligibility for the grant, review and process the grant application, and calculate the grant amount the project is eligible for.
 4. Providing that for all projects eligible for the grant, the DPP Director is required to transmit to the BFS Director certain specified information.
 5. Requiring that the BFS Director pay the grant amount to the owner no later than 30 days after receipt of the information from the DPP Director.
- F. In ROH § 32-4.3, deletes all reporting items required in the annual report from the DPP Director and the BFS Director to the Council, and requires a report every three years by September 30 of each third year, commencing on the effective date of the ordinance. Adds new reporting items as follows:

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1. The number of post-construction grant applications received in each prior fiscal year and for all fiscal years to date;
 2. The number of post-construction grants awarded in each prior fiscal year and for all fiscal years to date;
 3. Specified information for each affordable rental housing project that received a post-construction grant;
 4. The cumulative post-construction grant amount awarded for all fiscal years to date;
 5. Specified information for each affordable rental housing project that received a post-construction grant award that was subject to forfeiture; and
 6. The cumulative post-construction grant amount forfeited for all fiscal years to date and the cumulative interest paid on the forfeited amount for all fiscal years to date.
- G. In ROH § 32-4.4, deletes all proposed penalty provisions and adds new penalty provisions providing that if the DPP Director determines that:
1. The project fails to satisfy any of the requirements of ROH Chapter 32; or
 2. The use of the affordable rental housing project is abandoned;

then the owner of the affordable housing project will be subject to the administrative enforcement provisions in ROH § 21-2.150-2; provided that in addition to the civil fines specified in ROH §§ 21-2.150-2(e)(2)(C) and 21-2.150-

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2(e)(2)(D), and the penalty amounts specified in ROH § 32-1.6(a), the owner will be subject to a penalty equal to the total grant amount the owner received from the City, together with a penalty in the form of interest at 10 percent per annum, from the date the grant award moneys were paid to the owner, and any grant amounts not yet paid will be forfeited.

H. In SECTION 3 of the bill:

1. Pursuant to the Revisor of Ordinances' authority under ROH § 1-16.3(b)(1), directs the Revisor to replace the phrase "effective date of this ordinance" or similar phrase used in the codified language of this ordinance with the actual date on which the ordinance takes effect; and
2. Pursuant to the Revisor of Ordinances' authority under SECTION 2 of Ordinance 23-7, directs the Revisor to update the Reporting Requirements Table to include the amendments to the reporting requirements enacted by SECTION 2 of this ordinance.

I. In SECTION 4 of the bill, provides that the penalty provisions set forth in ROH § 32-4.4 will remain in effect for as long as any affordable rental house project is subject to the requirements of ROH Chapter 32 as it read on the day prior to the date on which ROH Chapter 32 is repealed.

J. Makes miscellaneous technical and nonsubstantive amendments.

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Your Committee on Zoning is in accord with the intent and purpose of Bill 3 (2024), as amended herein, and recommends that it pass Second Reading, be scheduled for public hearing, and be referred back to Committee in the form attached hereto as Bill 3 (2024), CD1. (Ayes: Cordero, Dos Santos-Tam, Kia'āina, Say, Weyer – 5; Noes: None.)

Respectfully submitted,

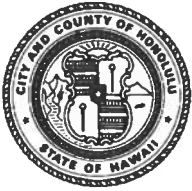


Committee Chair

HONOLULU CITY COUNCIL
Ke Kanihela o ke Kalana o Honolulu
CITY AND COUNTY OF HONOLULU

ADOPTED ON MAY 15 2024

COMMITTEE REPORT NO. 131



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 enactment of Ordinances 19-8, 20-13, and 21-12, which were adopted 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 pursuant to Chapter 32, Revised Ordinances of Honolulu 2021, may be hesitant to move forward due to economic uncertainties and high construction costs in the aftermath of the COVID-19 pandemic.

Accordingly, the Council finds that amendments to certain financial incentives for affordable rental housing projects are necessary to encourage and expedite the construction of these projects.

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

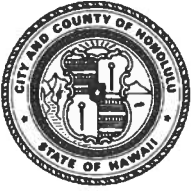
"ARTICLE 4: POST-CONSTRUCTION GRANTS

§ 32-4.1 Administration.

The director of budget and fiscal services, or the director's duly appointed representative, shall administer this article.

§ 32-4.2 Grants.

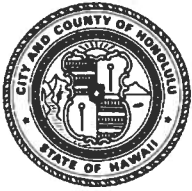
- (a) Post-construction grant establishment. A post-construction grant is established for the purpose of incentivizing the completion of construction of affordable rental housing units provided for in this chapter.
- (b) Source of funds.
 - (1) The aggregate of post-construction grant payments made under this article may not exceed \$10,000,000 in general funds; provided that there



A BILL FOR AN ORDINANCE

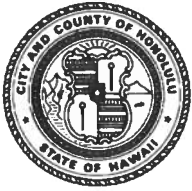
is no limit on payments made under this article from funds outside of the general fund.

- (2) The maximum amount of funds available per fiscal year is limited to the amount appropriated for post-construction grants pursuant to this article in each fiscal year's executive operating budget and program.
- (c) Post-construction grant. The owner of the zoning lot on which an affordable rental housing project is situated may apply for a post-construction grant under this subsection after a certificate of occupancy has been issued for the affordable rental housing project in accordance with the following provisions.
- (1) Post-construction grant amount:
- ~~[(b)]~~(A) For affordable rental housing units that are a minimum of 300 square feet in size and are 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 is eligible to receive \$12,000 per affordable rental housing [project.] unit; and
- ~~[(e)]~~(B) For affordable rental housing units that are a minimum of 300 square feet in size and are rented to households earning 60 percent [and] or 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 is eligible to receive \$18,000 per affordable rental housing [project.] unit.
- ~~[(d)]~~ Grants authorized under this article shall not exceed \$9,000 per dwelling unit within a project eligible under subsection (b).
- ~~(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.



A BILL FOR AN ORDINANCE

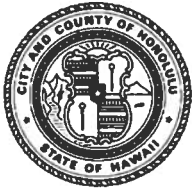
- ~~(g) All grants payable to the owner of an eligible affordable rental housing project shall only be authorized upon issuance of a certificate of occupancy for that project.~~
- ~~(h) An intent to claim a grant under this article shall be submitted upon the filing of a building permit application.~~
- ~~(i) The intent to claim shall 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 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) A claim for the grant shall 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).~~
- ~~(k) A claim for the grant shall 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 feet of dwelling space 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 claim, and 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.~~
- ~~(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.]~~
- (2) To apply for a post-construction grant, no earlier than the date of issuance of a certificate of occupancy for the affordable rental housing project, and no later than 12 months after the issuance of a certificate of occupancy,



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the owner shall submit to the department of planning and permitting a grant application for the project in a form prescribed by the director of planning and permitting. At a minimum, the grant application must include:

- (A) The building permit number or professional self-certification number issued for the affordable rental housing project; and
 - (B) The certificate of occupancy number issued for the affordable rental housing project.
- (3) Upon receipt of the post-construction grant application for an affordable rental housing project, the department of planning and permitting shall certify project eligibility for the grant, review and process the grant application, and calculate the grant amount the project is eligible for.
- (4) For all affordable rental housing projects eligible for a post-construction grant, the director of planning and permitting shall send the following to the director of budget and fiscal services:
- (A) Certification that the affordable rental housing project is eligible for the post-construction grant, together with a copy of the project's grant application;
 - (B) The building permit number or professional self-certification number issued for the affordable rental housing project;
 - (C) The certificate of occupancy number issued for the affordable rental housing project; and
 - (D) The total post-construction grant amount payable, and the calculation thereof.
- (5) The director of budget and fiscal services shall pay or cause to be paid the post-construction grant amount to the owner no later than 30 days after receipt of the information set forth in subdivision (4) from the director of planning and permitting.

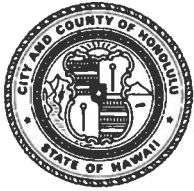


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§ 32-4.3 Reporting.

[The] Commencing on the effective date of this ordinance, the director of budget and fiscal services and the director of planning and permitting shall provide reports to the [city] council every [six months beginning on April 21, 2021, that] three years by September 30 of each third year, which at a minimum must include:

- ~~[(1) The number of building permit applications submitted under the grant program established by this article for the six month period and cumulatively;~~
- ~~(2) The number of building permits approved under the grant program for the six month period and cumulatively;~~
- ~~(3) The number of grant applications submitted under the grant program at each AMI tier for the six month period and cumulatively;~~
- ~~(4) The number of grant claims approved under the grant program for the six-month period and cumulatively;~~
- ~~(5) The number of affordable rental housing units supported with grants for the six month 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) A description of any violations of this article discovered during the six-month period and actions taken against the violator.]~~
- (1) The number of post-construction grant applications received in each prior fiscal year and for all fiscal years to date;
- (2) The number of post-construction grants awarded for each prior fiscal year and for all fiscal years to date;



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

ORDINANCE _____

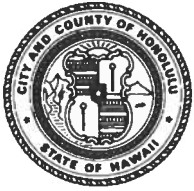
BILL 3 (2024), CD1

A BILL FOR AN ORDINANCE

- (3) For each affordable rental housing project that received a post-construction grant:
 - (A) The total number of dwelling units in the project at each AMI level;
 - (B) The fiscal year in which the project received a grant; and
 - (C) The total post-construction grant amount;
- (4) The cumulative post-construction grant amount awarded for all fiscal years to date;
- (5) For each project that received a post-construction grant that was subject to forfeiture pursuant to § 32-4.4:
 - (A) The date on which the project received a post-construction grant;
 - (B) The date on which the project forfeited the post-construction grant;
 - (C) The nature of the violation that resulted in forfeiture;
 - (D) The post-construction grant amount forfeited, and the interest amount paid; and
 - (E) Any other actions taken against the violator; and
- (6) The cumulative post-construction grant amount forfeited for all fiscal years to date and the cumulative interest paid on the forfeited amount for all fiscal years to date.

§ 32-4.4 Penalty.

- (a) An owner of the zoning lot on which an affordable rental housing project is situated who received a post-construction grant under this article will be subject to the penalty provisions set forth in this section.
- (b) If the director of planning and permitting determines at any time that:
 - (1) The affordable rental housing project fails to satisfy any of the requirements of this chapter; or



HONOLULU CITY COUNCIL
KE KANIHELA O KE KALANA O HONOLULU
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ORDINANCE _____

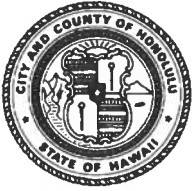
BILL 3 (2024), CD1

A BILL FOR AN ORDINANCE

(2) The use of the affordable rental housing project is abandoned prior to the expiration of the required affordability period;

the owner of the affordable rental housing project will be subject to the administrative enforcement provisions in § 21-2.150-2; provided that in addition to the civil fines specified in § 21-2.150-2(e)(2)(C) and 21-2.150-2(e)(2)(D), and the penalty amounts specified in § 32-1.6(a), the owner will be subject to a penalty equal to the total post-construction grant amount the owner received from the city, together with a penalty in the form of interest at 10 percent per annum, from the date the post-construction grant moneys were paid to the owner. Any post-construction grant amounts not yet paid will be forfeited."

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. The Revisor of Ordinances shall, pursuant to the Revisor's authority under Section 1-16.3(b)(1), Revised Ordinances of Honolulu 2021 ("ROH") replace the phrase "effective date of this ordinance" or similar phrase used in the codified language of this ordinance with the actual date on which the ordinance takes effect. The Revisor of Ordinances shall, pursuant to the Revisor's authority under SECTION 2 of Ordinance 23-7, update the Reporting Requirements Table to include the amendments to the reporting requirements enacted by SECTION 2 of this ordinance.



HONOLULU CITY COUNCIL
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ORDINANCE _____

BILL 3 (2024), CD1

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SECTION 4. This ordinance takes effect upon its approval; provided that upon the repeal of ROH Chapter 32, the penalty provisions set forth in ROH Section 32-4.4 will remain in effect for as long as any affordable rental housing project is subject to the requirements of ROH Chapter 32 as it read on the day prior to the date on which ROH Chapter 32 is repealed.

INTRODUCED BY:

Tyler Dos Santos-Tam

DATE OF INTRODUCTION:

January 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

Report Title:

Affordable Rental Housing; Post-Construction Grants; Reporting Requirements; Penalties; Department of Planning and Permitting ("DPP"); Department of Budget and Fiscal Services ("BFS")

Description:

Amends ROH Chapter 32, Article 4, by clarifying that the grants issued under ROH Chapter 32, Article 4 are post-construction grants; clarifying and updating the criteria for eligibility for the post-construction grants and the amount of the grant an owner of a zoning lot on which is situated an affordable housing project is eligible to receive; updating the application requirements for the post-construction grants; clarifying and updating the process by which the DPP and BFS must process and award the grant to eligible owners; clarifying and updating the process by which an owner who receives the grant may be subject to certain penalties and the enforcement of those penalties on the owner by the DPP; and updating the reporting requirements and frequency of submission of those reporting requirements (every three years) by the DPP to the City Council.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.