REPORT OF THE COMMITTEE ON ZONING

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

Committee Meeting Held
June 26, 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), CD1, entitled:

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

which passed Second Reading and was the subject of a public hearing held at the Council meeting on May 15, 2024, reports as follows:

The purpose of Bill 3 (2024), CD1, is to establish additional financial incentives to encourage and expedite the construction of affordable rental housing in the City and County of Honolulu.

Your Committee, at its meeting on April 3, 2024, postponed action on the Bill to allow more time to consider the measure and to propose certain amendments to address concerns expressed by various stakeholders.

A representative of the Department of Planning and Permitting provided comments on the Bill.

The Executive Director of the Office of Housing testified in support of the Bill and responded to questions from Councilmembers.

At your Committee's meeting on June 26, 2024, the Hawaii Operating Engineers Local 3, and two individual testified in support of the Bill.

ADOPTED ON AUG 07 2024

COMMITTEE REPORT NO. 201

Your Committee received written testimony in support of the Bill from PVH Construction LLC, Olive Avenue 216 LLC, Centre Urban Real Estate, Collaborative 7 Architects LLC, Hawaii Building & Construction Trades Council, and five individuals. BIA Hawaii, Disability and Communication Access Board, Pacific Resource Partnership, and one individual submitted comments on the Bill.

Your Committee has prepared a CD2 version that makes the following amendments:

A. Adds a new ROH § 32-4.2(b)(3) to provide that no more than 5 percent of the moneys designated for post-construction grants in any fiscal year may be used for administrative expenses.

B. In ROH § 32-4.2(c)(1), provides for post-construction grant amounts as follows:

   1. For affordable rental housing units that are less than 300 square feet in size, the owner is eligible to receive $15 per square foot of dwelling unit floor area (which is the same as currently provided in ROH § 32-4.2(b) for units rented to households earning 60 percent or below of the AMI); and

   2. For affordable rental housing units that are 300 square feet or more in size, the owner is eligible to receive $12,000 per affordable rental housing unit.

C. Makes miscellaneous technical and nonsubstantive amendments.

REPORT OF THE COMMITTEE ON ZONING

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

Your Committee on Zoning is in accord with the intent and purpose of Bill 3 (2024), CD1, as amended herein (the votes for amendment to the CD2 version, discussed above, being: Ayes: Kia'āina, Say, Weyer – 3; Noes: Cordero, Dos Santos-Tam – 2.), and recommends that it pass Third Reading in the form attached hereto as Bill 3 (2024), CD2. (Ayes: Cordero, Dos Santos-Tam, Kia'āina, Say, Weyer – 5; Noes: None.)

Respectfully submitted,

Committee Chair

At the 8/7/24 Council meeting, the Bill was further amended and subsequently passed third reading as Bill 3 (2024), CD2, FD1.

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

ADOPTED ON AUG 0 7 2024

COMMITTEE REPORT NO. 201

HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

ORDINANCE _____

BILL **3 (2024), CD2**

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.~~] Post-construction grant.

(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

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.

(3) No more than 5 percent of the moneys designated for post-construction grants in any given fiscal year may be used for administrative expenses.

(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 [~~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~~] that are less than 300 square feet in size, the owner is eligible to receive $15 per square foot of dwelling unit floor area [~~contained in the building permit issued by the department of planning and permitting for the affordable rental housing project.~~]; and

[~~(c)~~](B) For affordable rental housing units that are 300 square feet or more in size [~~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~~], the owner is eligible to receive $12,000 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,

the owner shall submit to the department of planning and permitting a post-construction grant application for the project in a form prescribed by the director of planning and permitting. At a minimum, the post-construction 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 post-construction grant, review and process the grant application, and calculate the post-construction 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 post-construction 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.

A BILL FOR AN ORDINANCE

§ 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;

(3) For each affordable rental housing project that received a post-construction grant:

(A) The total number of dwelling units in the project rented out at each AMI level;

(B) The fiscal year in which the project received a post-construction 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 that 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:

A BILL FOR AN ORDINANCE

(1) The affordable rental housing project fails to satisfy any of the requirements of this chapter; or

(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.

A BILL FOR AN ORDINANCE

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 post-construction grants to eligible owners; clarifying and updating the process by which an owner who receives a post-construction grant may be subject to certain penalties and the enforcement of those penalties on the owner by the DPP; and updating the reporting requirements for post-construction grants that were awarded and the 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.