

Bill 46, CD1
Testimony

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October 7, 2024

To Honolulu City Council
Re: Bill 046(2024)

Dear Council:

Here is my testimony on Bill 046(2024). I previously filled in the form with comments, but I do not see it on your testimony list, so I am writing this separately.

OPPOSED

RE: Bill 046(24) THIS IS A BAD BILL! Even with its bandaid 'fixes, it is still a bad bill. Many in the public, including the Honolulu StarAdvertiser, don't seem to be familiar with its contents.

1. Bill 46(24) is self defeating, in that if the bill achieves the desired results and results in all dwellings being occupied, the added tax revenue will disappear. But the costs of administration will remain. Those costs will then have to be borne by the public in other ways, perhaps by increased property taxes on owner-occupied properties.
2. There is no discussion of the estimated costs of administration, such as
 - A. cost of supplying the necessary forms to the public.
 - B. The public's cost of time spent filling them out.
 - C. The cost of the 'property tax police' necessary to physically inspect properties to insure compliance.
 - D. The costs of general administration in running multiple property tax rates and ensuring their proper application to the properties in question.
 - E. The costs of the city defending itself against multiple lawsuits regarding the constitutionality of the bill and the application of the provisions of bill.
 - F.. The costs to the city in the event of successful legal challenges to the bill and the settlement costs thereof.
3. As more and more properties come into compliance, the revenues will decrease, eventually reaching zero if the bill works as designed.
3. It is a derogation of property rights and privacy rights and puts an undue record keeping burden on the citizenry. The idea that 'property tax police' can enter a property to check compliance (which would require actually entering dwellings). is a violation of the fifth amendment's protection against self incrimination and the fourth amendment's protections against unreasonable search and seizure.
4. It creates two classes of citizens: 'locals' and 'others'. That is patently unfair. I believe that will negatively affect tourism and income from tourism, and will encourage demonization of tourists and result in increased crimes against them.
5. Most homes owned as second homes by off island owners are unaffordable to the local citizens whom the bill is trying to help.

6. If the bill works as designed, it might lower property values on Oahu in general. In fact that is one of its stated goals. Where are the provisions to make local people whole for the loss of their property value?

7. A lot of properties on Oahu have two dwellings on them; a primary residence and a guest house. The guest house may be considered to be an ADU IF it is less than 800SF. In that case it would be exempt (for now) from this onerous 950% increase in property tax. But Kupuna who are retired and want their family members and guests to visit but whose second dwelling is over 800sf will face tremendous sudden increases in their property taxes. It is unreasonable to expect people who may have been on their properties for decades and are in their 70s or 80s to be required to rent to strangers and manage a rental property that prevents family members from visiting is extremely unfair!

8. Only three other United States cities that I can find, San Francisco, Berkeley and Oakland, CA (my requests to Council Members Kiaina and Waters for examples went unanswered) currently have similar bills, and both have dollar caps on the tax increases and exempt properties that are owner occupied even if they have additional dwelling units.

A. San Francisco, CA has an Empty Homes tax for CERTAIN residential units. Residential Unit means a house, an apartment, a mobile home, a group of rooms, or a single room that is designed as separate living quarters, subject to limited exceptions. A person that owns any Residential Unit located in a building with two or fewer Residential Units is exempt from the Empty Homes Tax with respect to any Residential Unit located in that building. This would eliminate the Bill 46(24) taxation of additional dwellings on a property. The tax is capped at between \$2,500 and \$5,000 depending on the size of the unit. Bill 46(34) has no such cap, and its own examples state that a \$4,000,000 property could be taxed \$120,000 in Hawaii! Also, in San Francisco, A person that owns any Residential Unit located in a building with two or fewer Residential Units shall be exempt from the Empty Homes Tax with respect to any Residential Unit located in that building. San Francisco's base residential tax rate is 1.18%.

B. Oakland, CA has a \$6,000 tax on any PARCEL that is vacant. A property is considered "vacant" if it is "in use less than fifty (50) days in a calendar year," "Residential Parcel" means all parcels that are improved with one (1) or more residential units. Again, there is no provision for taxing an additional dwelling as a proportion of the total square footage as is the case in Bill 46(24). Oakland's base residential tax rate is 0.88%.


C. Berkeley, CA has a \$6,000 tax on any Residential Unit Vacant for more than 182 days a year. There is a provision that exempts a second, third, or fourth dwelling on a property: "A natural person or trust who is the owner of a single property of four or fewer Residential Units, inclusive of accessory dwelling units and junior accessory dwelling units, that is their principal residence shall be exempt provided that they own no other Residential Units in the City." Berkeley's base residential tax rate is 1.5%.

D. NONE of these cities tax additional dwelling units as envisioned in Bill 46(24). NONE of these bills authorize the respective City to physically search the dwellings to see if they are occupied as Bill 46(24) does!. ALL of these cities except Vancouver, which is not in the United States have a cap on the empty homes tax that is relatively nominal compared to the existing tax rate. ALL of these cities exempt properties that are the primary residence of the owner.

9. The bill is confiscatory and will no doubt be vacated by the courts.

PLEASE, PLEASE, defeat this divisive and poorly designed bill!!

Sincerely,

A handwritten signature in black ink, appearing to read "Robert A. Gould". The signature is fluid and cursive, with the first name "Robert" being the most prominent.

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