

BILL031(24)
Testimony

MISC. COMM. 478

ZONING (ZON)

ZONING (ZON) Meeting

Meeting Date: Oct 23, 2024 @ 09:00 AM

Support: 1

Oppose: 1

I wish to comment: 5

Name: Kirby Shaw	Email: bryan.mick@doh.hawaii.gov	Zip: 96813
Representing: Disability and Communication Access Board	Position: I wish to comment	Submitted: Oct 21, 2024 @ 08:52 AM
Name: Jason Takeuchi	Email: jasontakeuchi@gmail.com	Zip: 96813
Representing: Self	Position: I wish to comment	Submitted: Oct 21, 2024 @ 10:00 PM
<p>Testimony:</p> <p>The intent behind Bill 31 (2024) is good, but appears open to all owners who are developing affordable rental housing. Developers and investors who already have large capital funds to acquire and build affordable rental units have already found incentive in developing without this subsidy. For example, a fifty-unit affordable rental housing project may potentially receive \$1.25M or about 25% of total construction costs. Therefore, this added incentive would be most impactful using taxpayer dollars for those who are struggling to raise capital, and first-time owner-developers. Would be grateful if language could be amended to target those in need of this support the most.</p> <p>Mahalo, Jason Takeuchi</p>		
Name: Martin Nguyen	Email: martin@centre-urban.com	Zip: 96815
Representing: Centre Urban Real Estate	Position: Support	Submitted: Oct 22, 2024 @ 07:23 AM
Name: Holly Shea	Email: hollyshea808@gmail.com	Zip: 96813
Representing: Self	Position: I wish to comment	Submitted: Oct 22, 2024 @ 08:55 AM
<p>Testimony:</p> <p>As a resident of Punchbowl and someone with many friends and family members who could greatly benefit from affordable housing in Honolulu, I strongly support the use of public funds to create housing that addresses our community's needs in both the short and long term. However, it is critical that these projects are developed with careful oversight to ensure they are livable, sustainable, and desirable for future residents.</p> <p>We need to avoid the mistakes seen in developments like The Block at 803 Waimanu in Kaka'ako, which is now facing foreclosure due to unsold units, many of which did not have parking, which may be a contributing factor. People need a place to park their cars, bikes, mopeds, or motorcycles. After a long day of work, the stress of hunting for parking only adds to daily challenges. This is especially true in a city like Honolulu, where reliable public transportation is not yet widely</p>		

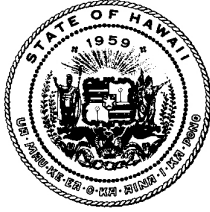
available to all areas.

The development must consider the impact of these residents loading groceries, moving furniture, and safely accessing the building from the street in already congested neighborhoods and streets.

When creating and funding affordable housing, we must consider not just the number of units, but also the quality of life for the residents. These homes must be designed with practical features—ample parking, access to public transportation, and nearby amenities—so that people will want to live there, and the project can be a long-term success. Livability and sustainability must be top priorities, especially when we are investing public money.

While I support affordable housing in principle, I believe funding should not be made without ensuring salability, quality of life, and impact to the community at large. Many of the proposed projects lack the essential features—such as adequate parking, transportation access, and in the case of projects in my neighborhood, adherence to Punchbowl Special District guidelines—that would make it a viable and successful development for our community.

Name: Michele Luke	Email: mluke@kdubm.com	Zip: 96813
Representing: Self	Position: I wish to comment	Submitted: Oct 23, 2024 @ 02:02 AM
Name: Bailey Matsuda	Email: baileymatsuda@earthlink.net	Zip: 96813
Representing: Self	Position: Oppose	Submitted: Oct 23, 2024 @ 04:33 AM
Name: Anne Smoke	Email: anne.smoke@gmail.com	Zip: 96813-1932
Representing: Self	Position: I wish to comment	Submitted: Oct 23, 2024 @ 07:29 AM



DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Rm. 118 • Honolulu, Hawai'i 96813
Ph. (808) 586-8121 (V) • Fax (808) 586-8129 • (808) 586-8162 TTY

October 23, 2024

The Honorable Calvin Say
Chair, Committee on Zoning
and Members of the Committee on Zoning
Honolulu City Council
530 South King Street
Room 203
Honolulu, HI 96813

Regarding: Bill 31 (2024) CD1 – Relating to Pre-Construction Financing for Affordable Rental Housing

Dear Chair Say and Committee Members:

The Disability and Communication Access Board (DCAB) would like to offer comments on Bill 31 (2024) CD1.

It is DCAB's understanding that any project that receives a taxpayer funded grant related to design or construction requires its plans to be reviewed by DCAB pursuant to Hawaii Revised Statutes, §103-50 Building design to consider needs of persons with disabilities; review fees. Hawaii Revised Statutes, §103-50 covers projects that "[a]re designed, constructed, purchased, or leased with the use of any state or county funds or federal funds administered by the State or a county." It also requires that "[a]ll state and county agencies subject to this section shall seek advice and recommendations from the disability and communication access board on any construction plans prior to commencing with construction."

Therefore, DCAB suggests amending section 2 in the bill:

§ 32-5.2 Pre-construction financing.

* * * * *

- (c) Pre-construction financing. The owner of the zoning lot on which an affordable rental housing project is proposed to be situated may apply for pre-construction financing under this subsection after a building permit or professional self-certification has been issued for the affordable rental housing project in accordance with the following provisions.
- (1) An owner of an affordable rental housing project who has been awarded pre-construction financing is not eligible for a post-construction grant pursuant to Article 4.
 - (2) Pre-construction financing amount. For affordable rental housing units that are a minimum of 300 square feet in size and are rented to households earning 60 percent or below of the AMI, the owner is eligible to receive \$25,000 per affordable rental housing unit.

- (3) Pre-construction financing may only be used for purposes of paying prevailing wages to every laborer and mechanic performing work on the job site for the construction of the affordable rental housing project, in compliance with HRS Chapter 104.
- (4) To apply for pre-construction financing, no earlier than the date of issuance of a building permit or professional self-certification for the affordable rental housing project, and no later than 12 months after the issuance of a building permit or professional self-certification, the owner shall submit to the department of planning and permitting a pre-construction financing application for the project in a form prescribed by the director of planning and permitting. At a minimum, the pre-construction financing application must include:
 - (A) A description of the affordable rental housing project, including but not limited to location, zoning lot tax map key number, underlying zoning district, height, density, the number of affordable units at each AMI level, and whether there is a commercial component to the project;
 - (B) The building permit number or professional self-certification number issued for the affordable rental housing project; ~~and~~
 - (C) The total estimated cost of the affordable rental housing project and all sources of funding for the project; and
 - (D) Documentation that the project has complied with HRS §103-50.

DCAB's position is that these projects must comply with the accessibility design standards of the Federal Fair Housing Act and the Federal Americans with Disabilities Act (ADA). The ADA Standards require only five percent of units to be accessible for mobility disabilities and two percent of units to be accessible for communication disabilities. Hawaii has an aging population, which correlates to a higher number of disabilities, and it is good public policy to ensure that housing units produced with taxpayer dollars are useable to all.

Therefore, DCAB advocates that government should require higher levels of accessibility and suggests in public facilities with residential dwelling units: (1) at least twenty percent, but no fewer than one unit, of the total number of residential dwelling units shall provide mobility features that comply with applicable technical requirements in the ADA Standards. (2) In public facilities with residential dwelling units, at least thirteen percent, but no fewer than one unit, of the total number of residential dwelling units shall provide communication features that comply with applicable technical requirements in the ADA Standards.

Thank you for considering our comments.

Sincerely,



KIRBY L. SHAW
Executive Director



Martin M. Q. Nguyen, MRED
Managing Principal
CA DRE #02074177
HI RB-24080

October 22, 2024

The Honorable Calvin K. Y. Say
Committee on Zoning
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813

RE: TESTIMONY IN SUPPORT WITH COMMENTS OF BILL 31 (2024) RELATING TO INCENTIVES FOR THE CONSTRUCTION OF AFFORDABLE HOUSING

Aloha Chair Say, Vice Chair Dos Santos-Tam, and Committee Members,

I am submitting testimony in my capacity as principal of Centre Urban Real Estate in **SUPPORT WITH COMMENTS** of Bill 31 (2024) relating to incentives for the construction of Affordable Housing. Centre Urban is a commercial real estate investment, development, and advisory firm active in Honolulu and Southern California, with a specific focus on impactful multifamily and mixed-use projects.

We are currently working on creating housing under ROH Chapter 32, otherwise known as “Bill 7”, which is a preeminent example of common-sense collaboration between the public and private sectors to solve one of the most pressing issues of our generation: creating more housing. The pre-construction subsidy creates an option for larger projects to consider, while utilizing skilled and trained labor, to create a greater community impact all in one go. However, while progressing through our projects, we have learned of a few potential issues in the context of Bill 31, as currently drafted.

First, the Hawai‘i Housing Finance and Development Corporation (HHFDC) has communicated that they will require the following items prior to issuing a developer with a GET exemption status letter for design, construction and rent income for a project:

1. Execute a regulatory agreement with the City which includes:
 - a. Agreeing that the project will have 30 years of affordability; and,
 - b. Agreeing to complying with HRS 104 wage and hour regulations.

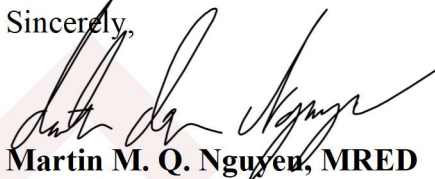
The waiver of GET during construction would offer significant support to any Bill 7 project that qualifies – almost equivalent to the amount of the post-construction grant of \$12,000 per affordable rental housing unit established by Bill 3. Further, the timing of the regulatory agreement as currently drafted in Bill 31 seems to disqualify the ability to waive GET for all the pre-development and design costs, as the regulatory agreement would only come well after all of these have been completed – potentially a missed opportunity. While I imagine these requirements by HHFDC were intended for 201H projects, the difference between the 15-year requirement of ROH Chapter 32 and the 30-year requirement by HHFDC are materially different requirements that may make some Bill 7 developers reconsider the utilization of pre-construction subsidies. **Discussion with HHFDC would be warranted to determine if these gaps can be bridged through administrative rulemaking, which would unlock GET exemption status for Bill 7 projects throughout the entire process, from design to construction to rental.** If not via rulemaking, this is a significant enough issue to warrant discussion during the next session of the Legislature.

Second, we learned that most lenders – local and national – will require that any pre-construction subsidy funds be set aside as a reserve until all potential obligations to and requirements set by the City & County associated with the subsidy funds are satisfied, where a default of such requirements would force the repayment of said subsidy funds plus penalties. This is typical practice for lenders as, if they were required to foreclose and take ownership of a project, the lender would then be subject to the potential subsidy repayment and penalties. However, this would mean subsidy funds would not be released until much later, depending on the language of the “pre-construction subsidy agreement”. As currently drafted, at worst, this may mean the subsidy funds may not be released by the lender until after the end of the 15-year affordability period. Naturally, as most Bill 7 projects will likely require a construction loan, this would negate the intent of the subsidy funds to support projects during the construction phase. **It would be worthwhile to initiate discussions with the local lenders to work through and agree to a mutually acceptable pre-construction subsidy agreement that would allow the use of the subsidy funds as the Council intends with Bill 31, perhaps by subordinating subsidy funds to the senior construction loan.**

Third, while any amount of funds is much appreciated and helpful in getting these Bill 7 projects across the finish line, the cost of materials and labor has increased considerably even since Bill 3 and Bill 31 were introduced. While the construction industry has been a bright spot in the local economy, due to substantial investments by the US Federal Government and State, this has naturally increased costs across the board, especially for skilled and trained labor. **Increasing the pre-construction subsidy amount to the lesser of \$100 per square foot of dwelling unit floor area for affordable rental housing units less than 300 square feet in size or \$30,000 per affordable rental housing unit would get closer to the realities of the market.**

Thank you for the opportunity to contribute to this important dialogue. If there are any questions or concerns, please reach me at martin@centre-urban.com to discuss.

Sincerely,



Martin M. Q. Nguyen, MRED
Managing Principal
Centre Urban Real Estate Hawaii, LLC

October 23, 2024

Written Testimony Submitted in Partial Opposition & Comment to Bill 31 (2024)

Dear Council members ~

I am in favor of this bill's proposal to provide pre-construction subsidies, for sustainable affordable housing. However, these subsidies should be prioritized for first time owner-developers who (1) are otherwise undercapitalized; and/or (2) are more likely to construct smaller scale projects which better fit the character and needs of certain residential areas. Larger investor-developer entities, by contrast, have already entered the affordable housing market, do not require further financial incentive above those already afforded, and are already engaged in the development of mid to large scale rental housing projects. These entities should be afforded secondary priority, as funds allow.

Second, the bill as currently constructed, at §32-5.2(c)(3), states:

A pre-construction subsidy may only be used for purposes of paying prevailing wages to every laborer and mechanic performing work on the job site for the construction of the affordable rental housing project, in compliance with HRS Chapter 104.

There is no legitimate reason for requiring that all subsidy money be limited to union labor costs. Developers of affordable housing should have the flexibility to use subsidies for any aspect of a project's cost, including design, construction materials, inspections, and overall administration. Often, funding is needed during early phases of a project, when little to no labor is involved. §32-5.2(c)(3) should be deleted from this bill, in its entirety. In addition, the reference to HRS Chapter 104, which applies to public works projects, is not appropriate. All other provisions of the bill that assume that subsidies are limited to labor cost, including those provisions calling for certified payrolls should also be deleted from this bill.

In connection with the foregoing, and to control potential cost overruns, favor should be given to those applicants who agree to stipulated sum contracts for their projects, with a percentage cap on change orders and/or contingencies.

Third, to the extent that these subsidies are used for larger-scale rental housing projects, however the term may be defined (which may terminate as affordable rental housing upon expiration of an initial 15-year period), I suggest adding the following term or an equivalent, to the bill:

§32-5.5 Credit.

The pre-construction subsidy agreement shall reflect the subsidy amount received by the owner/developer, as may be amended, and shall be filed with the Bureau of

Conveyances. With respect to any “large-scale rental housing project,” the amount of the recorded subsidy shall serve as a conditional credit, which owner or its successor shall promptly remit to the City, in the event that the project, at any time, ceases to operate as an affordable housing project, within the meaning of ROH, Chapter 32, §32-1.1, sub-§(1)(A) and (2).

This provides some degree of incentive for the project to continue as affordable housing after completion of its mandatory 15-year period. Alternatively, if the project is no longer operated as affordable housing and is either sold or converted to market rental or sale, the City should be entitled to recoup its subsidy, given the likely profit to be realized by the owner.

Thank you for considering the foregoing.

Aloha,
Michele Luke
670 Prospect Street
Honolulu, Hawai'i 96813

October 23, 2024

Bill 31

Aloha e Councilmember Tyler Dos Santos-Tam, Councilmember Calvin Say, and the full City Council of Honolulu,

I am writing this testimony in firm opposition to the adoption of Bill 31.

I am opposed even though I agree with all of you that we, the people of Honolulu, have an urgent need for affordable rental units, especially for our Kama'aina "workforce." I am an owner at 670 Alapa'i Street, and I and many of my neighbors support and welcome affordable housing in our community ***if done in a responsible and respectful way.***

Unfortunately, there are Bill 7 affordable rental housing projects, like the one in the Core Punchbowl Special District where we live, that are being permitted, funded and built under Chapter 32 that have become an extremely troubling issue. With all the systemic problems that plague Chapter 32 and the "by right" abberation that abrogates City responsibilities to its citizens, I cannot support the Bill 31 ordinance that will fund it.

To be clear, there are Bill 7 projects that are sensible and a good fit for their locations, near to bus routes, grocery stores and other important services in areas that are flat and easily walkable when parking is not provided.

Bill 7 was originally meant to revitalize neighborhoods by allowing small landowners to build small to medium affordable rental projects on their properties. These projects were meant for workforce housing, which should generally support those making 80% to 100% of AMI because workforce renters, of course, are *working*.

But Bill 31 offers tax breaks and higher grant amounts that can be obtained by constraining access to lower-income renters, at a maximum of 80% AMI down to 30% or even 0% of AMI. These Bill 31 projects' net effect is to take away workforce housing. There will be workers who make too much to qualify for rent support in these situations even though they cannot afford the market rents.

On the subject of Bill 7, former Councilmember, now State Senator Carol Fukunaga writes, "the idea started out as a seemingly straightforward way of working with smaller landlords to redevelop, again, (their) properties. However, it seems to have morphed into a money-making venture for knowledgeable investors..." Investors who are only concerned with return on investments, that will be made more financially viable by grants from the City's Bill 31.

The investors who have no regard for people who already live in the neighborhoods where these projects are being built, or for the safety and well-being of the people who will rent in these projects should be subject to oversight by the City. In Bill 31, the only oversight offered comes in (6) (D) “Requiring that the owner develop the affordable rental housing project in compliance with all applicable laws, rules, regulations, and other governmental requirements;” Compliance that is, ironically, set aside by Chapter 32.

The City supports, by its own plans and ordinances, affordable rentals that blend into the fabric of communities into which they are placed, preserving the culture, place and character of the neighborhoods in which they will be built. The City requires that community input be an essential part of the process.

But, the current system for the development of affordable rental units is flawed. By lack of oversight, lack of community engagement, of due process, of proper permitting procedure, especially for safety, Bill 32 sets aside the City’s own Land Use Ordinances and Special District Ordinances and doesn’t even follow its own PUC_DP, rendering the City’s ongoing protestation of “It’s the law” just so much *shibai*.

That Bill 31 seeks to fund these projects with no oversight, no accountability or enforcement, and without preservation or protection of the Core Punchbowl Special District Guidelines and Ordinances, renders it unfit for adoption.

Mahalo for your consideration of these issues,

Bailey Matsuda

670 Prospect Street, Honolulu, 96813

Testimony From:

Anne Marie Smoke
(808) 294-0602
Anne.smoke@gmail.com

October 23, 2024

Testimony in Favor of Bill 31

Good morning, Councilmember Tyler Dos Santos-Tam, Councilmember Calvin Say, and the full City Council of Honolulu,

I am in favor of this bill's proposal to provide pre-construction subsidies, for sustainable affordable housing. However, these subsidies should be prioritized for first time owner developers who (1) are otherwise undercapitalized; and/or (2) are more likely to construct smaller scale projects which better fit the character and needs of certain residential areas. Larger investor-developer entities, by contrast, have already entered the affordable housing market, do not require further financial incentive above those already afforded, and are already engaged in the development of mid to large scale rental housing projects. These entities should be afforded secondary priority, as funds allow.

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§32-5.5 Credit. The pre-construction subsidy agreement shall reflect the subsidy amount received by the owner/developer, as may be amended, and shall be filed with the Bureau of Conveyances. With respect to any “large-scale rental housing project,” the amount of the recorded subsidy shall serve as a conditional credit, which owner or its successor shall promptly remit to the City, in the event that the project, at any time, ceases to operate as an affordable housing project, within the meaning of ROH, Chapter 32, §32-1.1, sub-§(1)(A) and (2).

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Thank you for considering the foregoing.