BILL051(24)
Testimony

MISC. COMM. 531

HOUSING, SUSTAINABILITY AND HEALTH (HSH)

HOUSING, SUSTAINABILITY AND HEALTH (HSH)

Meeting

Meeting Date: Nov 20, 2024 @ 02:30 PM

Support: 2

Oppose: 1

I wish to comment: 2

Name:	Email:	Zip:
Bryan Mick	bryan.mick@doh.hawaii.gov	96734
Representing:	Position:	Submitted:
Disability and Communication Access Board	I wish to comment	Nov 18, 2024 @ 12:27 PM

Name:	Email:	Zip:
Michael Silva	mikesilva@hawaii.rr.com	96782
Representing:	Position:	Submitted:
Self	Oppose	Nov 19, 2024 @ 08:12 AM

Name:	Email:	Zip:
Jamie Barboza	lho@hawaiipublicpolicy.com	96813
Representing:	Position:	Submitted:
BOMA Hawaii	I wish to comment	Nov 19, 2024 @ 09:07 AM

Name:	Email:	Zip:
Malia Hill	maliablom@gmail.com	96813
Representing:	Position:	Submitted:
Grassroot Institute of Hawaii	Support	Nov 19, 2024 @ 11:31 AM

Name:	Email:	Zip:
Evan Oue	eoue@imanaka-asato.com	96813
Representing:	Position:	Submitted:
NAIOP Hawaii	Support	Nov 19, 2024 @ 04:55 PM

DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Rm. 118 • Honolulu, Hawai'i 96813
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November 20, 2024

The Honorable Matt Weyer
Chairperson
and Members of the
Committee on Housing, Sustainability, and Health
Honolulu City Council
530 South King Street
Room 100
Honolulu, HI 96813

Regarding: Bill 51 (2024) CD1 – Relating to Adaptive Reuse

Dear Chair Weyer and Members of the Committee on Housing, Sustainability, and Health:

The Disability and Communication Access Board (DCAB) would like to offer comments on Bill 51 (2024) CD1.

Commercial properties converted to residential use that received their first Certificate of Occupancy (COO) on or after March 13, 1991, are required to comply with the accessibility design standards of the federal Fair Housing Act. Properties that obtained their COO before this date are exempt from these accessibility requirements.

DCAB urges the Council to close this loophole to ensure that all residential units converted under Bill 51 (2024) CD1 fully comply with the accessibility design standards of the federal Fair Housing Act. This will ensure that projects include accessible features in common areas and provide accessibility-adaptable units, particularly for those located on the ground floor or accessible by elevator. This will give kupuna and persons with disabilities housing options that were not available before. To that end, DCAB proposes the following amendment to the Revised Ordinances of Honolulu:

§ 16A-1.3 Application—Compliance required.

(a) *Application.*

(1) This code applies in the City and County of Honolulu to any building, as defined in this code, and to any parcel of real property located within 30 feet of any building governed by this code.

(2) Where any building is used or intended to be used as a combination apartment house-hotel, the provisions of this code relative to each part of such combination applies to such part as if it were a separate building.

(3) Every rooming house, congregate residence, or lodging house must comply with all the requirements of this code for dwellings.

(b) *Alteration.* When alterations, additions, or repairs are made to an existing building, such alterations, additions, or repairs must conform to this code.

(c) *Relocation.* Buildings or structures moved into or within the city must comply with the requirements in the building code for new buildings and structures.

(d) *Retrofitting.* A non-residential building that is retrofitted or repurposed for residential use shall comply with the accessibility design standards of the federal Fair Housing Act.

Thank you for considering our comments.

Sincerely,



KIRBY L. SHAW
Executive Director

Tuesday, November 19, 2024

Matt Weyer, Chair
Esther Kiaāina, Vice Chair
Housing Sustainability and Health Committee Members
Honolulu City Council

Subject: Bill 51 (2024) Adaptive Reuse, CD1, CD2

Aloha Chair Weyer, Vice-Chair Kia'āina, and other members of the Committee.

I am a licensed professional engineer in the fields of both Mechanical and Civil Engineering and have been a part of the construction and building industry for over 40 years. I am also the former Building Division Chief – Chief of Building Safety of the Department of Planning and Permitting (DPP). However, I must make it clear that I am submitting testimony as a private citizen. I am not submitting testimony as an employee of the City and County of Honolulu.

I support adaptive reuse of commercial buildings; however, **I strongly oppose Bill 51 in its current form along with the proposed CD1, and CD2.** All three versions would allow for one hundred percent mechanical ventilation in dwellings 24 hours a day with NO openings to the exterior, thus eliminating natural ventilation. Therefore, all three versions do not safely and sustainably increase the supply of housing.

There is no provision for when the mechanical ventilation system breaks down and the buildings are without air for days or even weeks. Do we really want another Century Center situation where people ended up sleeping in their cars?

Although CD2 is a step in the right direction, it still does not address long durations of power outages such as the recent outage in Chinatown for a number of days, nor power outages due to emergency events that can possibly last for weeks. The International Building Code (IBC) only requires backup emergency power for two hours.

I again recommend that Bill 51, be amended to include the following statement:

> Ventilation for bedrooms shall be in accordance with the natural ventilation requirements of the *International Building Code.*

Adding the above statement to Bill 51 would meet the requirement of the State's Act 37 as well as preserve the intent and purpose of ROH 16A Housing Code. The IBC Section 1202.5 provides a number of alternate methods for natural ventilation not currently available in the Housing Code.

I have included a quote of IBC Section 1202.5 for natural ventilation and a brief discussion of one hundred percent mechanical verses natural ventilation attached to my

testimony. The discussion also references a well-balanced evaluation of adaptive reuse by the Terner Center for Housing Innovation,UC Berkeley, *Adaptive Reuse Challenges and Opportunities in California* (https://ternercenter.berkeley.edu/wp-content/uploads/2021/11/Adaptive-Reuse-November-2021.pdf).

Mahalo,

Michael O. Silva

Michael O. Silva, P.E.
(Attachments)

The following is taken from the *2018 International Building Code*.

1202.5 Natural Ventilation. Natural ventilation of an occupied space shall be through windows, doors, louvers or other openings to the outdoors. The operating mechanism for such openings shall be provided with ready access so that the openings are readily controllable by the building occupants.

1202.5.1 Ventilation area required. The openable area of the openings to the outdoors shall be not less than 4 percent of the floor area being ventilated.

1202.5.1.1 Adjoining spaces. Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the opening to the adjoining room shall be unobstructed and shall have an area of not less than 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.3 m^2). The openable area of the openings to the outdoors shall be based on the total floor area being ventilated.

Exception: Exterior openings required for ventilation shall be allowed to open into a sunroom with thermal isolation or a patio cover provided that the openable area between the sunroom addition or patio cover and the interior room shall have an area of not less than 8 percent of the floor area of the interior room or space, but not less than 20 square feet (1.86 m^2). The openable area of the openings to the outdoors shall be based on the total floor area being ventilated.

1202.5.1.2 Openings below grade. Where openings below grade provide required natural ventilation, the outside horizontal clear space measured perpendicular to the opening shall be one and one-half times the depth of the opening. The depth of the opening shall be measured from the average adjoining ground level to the bottom of the opening.

1202.5.2 Contaminants exhausted. Contaminant sources in naturally ventilated spaces shall be removed in accordance with the International Mechanical Code and the International Fire Code (revised as ROH Chapter 20, *Fire Code* of the City and County of Honolulu).

1202.5.2.1 Bathrooms. Rooms containing bathtubs, showers, spas and similar bathing fixtures shall be mechanically ventilated in accordance with the International Mechanical Code.

1202.5.3 Openings on yards or courts. Where natural ventilation is to be provided by openings onto yards or courts, such yards or courts shall comply with Section 1205.

Natural Ventilation vs. Mechanical Ventilation in Adaptive Reuse

Openable windows in bedrooms are required for natural ventilation per the City's Housing Code, ROH 16A-4.4(c). There is a recent movement by adaptive reuse developers to remove this requirement from the Housing Code.

In 2021 the Terner Center for Housing Innovation,UC Berkeley, produced the report *Adaptive Reuse Challenges and Opportunities in California.* This report provides a balanced evaluation of adaptive reuse. The report can be found at https://ternercenter.berkeley.edu/wp-content/uploads/2021/11/Adaptive-Reuse-November-2021.pdf.

Reasons supporting 100% mechanical ventilation in adaptive reuse:

1. Modifying existing commercial buildings to include openable windows increases construction costs.

2. Mechanical ventilation can help to regulate indoor temperatures on extreme temperature days, i.e., when outdoor temperature is too hot or too cold.

3. Other jurisdictions allow 100% mechanical ventilation.

Reasons supporting natural ventilation:

1. Long-Term Costs. While developers claim that providing openable windows for natural ventilation increase construction costs, the long-term costs of energy use, maintenance, and repair of mechanical ventilation systems far exceed any initial costs by the developers. These long-term costs would be borne by the residents of the buildings.

2. Air Quality. Good air quality can be provided with mechanical systems. However, it is a well-known fact that air quality in mechanical systems decrease over time. Even in the most well maintained systems, there is no way to avoid the buildup of dust and contaminants in equipment and ductwork over time. Cleaning ductwork is non-viable due to logistical infeasibility and costs involved. Thus, air quality in mechanical ventilation systems will always decrease over time.

3. Hawaii's Environment: With the exception of extreme weather conditions, Hawaii's moderate climate and good air quality allow for natural ventilation 24 hours a day.

4. Addition of Air-conditioning. One hundred percent mechanically ventilated buildings not only require systems for outside air, but they also require air-conditioning to regulate indoor temperatures. Sometimes the air-conditioning systems are independent of the outside air systems, thus compounding the long term buildup of dust and contaminants in the overall air system.

5. Energy Use. One hundred percent mechanically ventilated buildings require constant energy use 24 hours a day and is not consistent with the City's sustainable efforts. This clearly diverges from the 2045 energy mandate.

6. Power Failures. The Building Code only requires 2 hours of emergency power. For longer durations that occur during major emergencies, it is unrealistic to expect buildings to refuel every 2 hours. After major events, power may be out for days or even weeks.

7. System failures. All mechanical ventilation and air-conditioning systems will eventually fail. Repair of these systems often take days or even weeks. In June 2023, multiple local news agencies reported on the mechanical system failure in the Century Center Condominiums near Ala Moana where residents reported health issues due to the lack of adequate ventilation and cooling. At the time of reporting, the mechanical ventilation system had been inoperative for about three weeks.

8. Other Jurisdictions. While it is true that some jurisdictions allow for 100% mechanical ventilation, there are also other jurisdictions that require natural ventilation. It is important to note that the other jurisdictions apply natural ventilation on a more expansive scale than ROH 16A, which only requires natural ventilation for bedrooms.

    a. Sacramento requires natural light and ventilation in every space intended for human occupancy (*City of Sacramento Charter*, 8.100.340 Natural light and ventilation).

    b. Berkeley Housing Code §19.40.030 requires natural ventilation for all habitable spaces.

    c. Chicago's building code §1202.1 requires natural ventilation in all living, dining, and sleeping rooms with a floor area of 70 square feet or more.

    d. New York's building code §1203.5.1.2 requires natural ventilation for all habitable spaces.

9. Infection Control. The CDC recommends opening doors and windows to bring in fresh air into homes. The World Health Organization produced a publication in 2009 that discussed ventilation for infection control. Although the publication pertained to health-care settings, the principles discussed are very applicable to adaptive reuse in light of the recent COVID pandemic. They concluded that natural ventilation over mechanical ventilation is the better option when possible. The publication can be viewed on the National Library of Medicine website at https://www.ncbi.nlm.nih.gov/books/NBK143284.

BOMA HAWAII
Building Owners and Managers Association

"Advancing the Commercial Real Estate Industry through Education, Networking and Advocacy"

Committee:	Housing, Sustainability and Health
Date:	Wednesday, November 20
Time:	2:30PM
Place:	City Council Chamber
RE:	Bill 51, CD1 Adaptive Reuse

Aloha Chair Weyer, Vice Chair Kiaʻāina, and members of the committee,

Thank you for the opportunity to submit testimony on Bill 51, CD1 Relating to Adaptive Reuse. This bill is intended to increase the supply of housing, by amending the Revised Ordinances of Honolulu to allow for the adaptive reuse of existing commercial buildings.

We are the Building Owners and Managers Association of Hawaiʻi (BOMA Hawaiʻi) testifying with **comments** on Bill 51, CD1.

The Building Owners and Managers Association (BOMA) Hawaiʻi supports efforts to expand housing opportunities, recognizing the importance of addressing Honolulu's housing challenges. With expertise in commercial real estate, property management, and experience in adaptive reuse, BOMA understands the complexities involved in transforming existing structures to meet community needs. We are committed to sharing our knowledge on best practices, potential challenges, and effective solutions. BOMA Hawaiʻi stands ready to serve as a resource for the Honolulu City Council as it explores policies that promote sustainable development and economic growth.

BOMA Hawaiʻi is a non-profit trade association dedicated to advancing the commercial real estate industry through education, networking and advocacy. Please consider BOMA Hawaiʻi as a resource to policy makers. Thank you for the opportunity to testify on this measure.

Sincerely,

Jamie Barboza
BOMA Hawaiʻi Government Affairs Committee Chair

GRASSROOT INSTITUTE OF HAWAII

1050 Bishop St. #508
Honolulu, HI 96813
808-864-1776
info@grassrootinstitute.org

Removing barriers to Hawaii's prosperity

Nov. 20, 2024, 2:30 p.m.
Honolulu Hale

To: Honolulu City Council Committee on Housing, Health and Sustainability
Matt Weyer, Chair
Esther Kiaʻāina, Vice Chair

From: Grassroot Institute of Hawaii
Malia Hill, Policy Director

RE: Bill 51 (2024) — RELATING TO ADAPTIVE REUSE

Aloha Chair Weyer, Vice-Chair Kiaʻāina and other members of the Committee,

The Grassroot Institute of Hawaii **supports — and offers amendments to** — Bill 51 (2024), CD1, which would amend county ordinances to allow for the adaptive reuse of existing commercial buildings.

Converting non-residential structures to residential use is an innovative way to boost Hawaii's housing stock and foster the creation of vibrant, walkable communities, as discussed in the Grassroot Institute's policy report "How to facilitate more homebuilding in Hawaii."[1]

Unfortunately, many adaptive-reuse projects are frustrated by regulations that make it difficult or prohibitively expensive to refit commercial buildings for residential use, such as window or ventilation requirements.

Carving out an alternate approach to current ordinances on light and ventilation would help facilitate adaptive reuse on Oahu. It also would help meet the state's Act 37 requirement that the counties adopt or amend existing ordinances to allow for adaptive reuse by the end of this year.

As for the proposed amendments, Grassroot suggests clarifying how the parking mandates would apply to projects retrofitted under the bill.

[1] Jonathan Helton, "How to facilitate more homebuilding in Hawaii," Grassroot Institute of Hawaii, December 2023.

Current city ordinance does not impose a parking mandate for projects in Primary Urban Center Development Plan or Ewa Development Plan areas unless the projects are built in the residential, agricultural and preservation zoning districts.[2]

In paragraph 1 of Councilmember Matt Weyer's CD2 amendment, the bill does provide that, "The retrofitting or repurposing shall be exempt from park dedication and additional off-street parking requirements; provided that (A) The number of the building's existing off-street parking spaces satisfies at least fifty per cent of the city's off-street parking requirement; and (B) The building's floor area, height, and setbacks do not change as a result of adaptive reuse, except when providing outdoor amenities for the residential use or activating the street frontage of ground floor commercial area."

The inclusion of these stipulations might be interpreted as an exemption to the general rule of no parking mandates in the areas mentioned above, and thus would frustrate the Council's past efforts to reduce parking requirements.

It also could be costly for adaptive-reuse projects. The Ulupono Initiative has estimated that each parking space imposes between $53,000 and $57,000 in costs on commercial developments in Honolulu,[3] driving up housing costs as a result.

Grassroot recommends removing paragraph (A) to provide clarity that such projects do not need to provide additional parking spaces — no matter where on the island they are located.

Likewise, there is ambiguity in the word "effects" in section 7, which states: "Any purchase or rental agreement for a dwelling unit reliant on mechanical ventilation shall include notice to the purchaser or renter of the potential effects to the unit and its occupants should the mechanical ventilation fail."

We recommend replacing this section with the following language: "(7) Any purchase or rental agreement for a dwelling unit reliant on mechanical ventilation shall include notice that the unit is mechanically ventilated with non-openable windows."

Thank you for the opportunity to testify.

Malia Hill
Policy Director
Grassroot Institute of Hawaii

[2] § 21-6.20 Off-street parking requirements., Revised Ordinances of Honolulu, accessed Nov. 19, 2024.
[3] "The Costs of Parking in Hawai'i," prepared by PBR & Associates for the Ulupono Initiative, August 2020, p. 3.

NAIOP
COMMERCIAL REAL ESTATE DEVELOPMENT ASSOCIATION
HAWAII CHAPTER

November 19, 2024

Councilmember Matt Weyer, Chair
Councilmember Esther Kiaʻāina, Vice Chair
Committee on Housing, Sustainability and Health

RE: **Bill 51 CD1 - Relating to Adaptive Reuse**
Hearing date: Wednesday, November 20, 2024, at 2:30PM

Aloha Chair Weyer, and members of the Committee,

Mahalo for the opportunity to submit testimony on behalf of NAIOP Hawaii in **STRONG SUPPORT of BILL 51 CD1**. NAIOP Hawaii is the local chapter of the nation's leading organization for office, industrial, retail, residential and mixed-use real estate. NAIOP Hawaii has over 200 members in the State including local developers, owners, investors, asset managers, lenders and other professionals.

As background, Act 37, Session Laws of Hawaii 2024 ("Act 37") was passed by the legislature to allow for the adaptive reuse of existing commercial buildings in the county's building code. Specifically, under the new Section 46-B(b)(2) of Act 37, the intent of the Legislature was to allow for adaptive reuse to meet the interior environment requirements of the International Building Code ("IBC"). In accordance with Act 37, Bill 51 has been introduced to safely and sustainably increase the supply of housing by amending the Revised Ordinances of Honolulu ("ROH") to allow for the adaptive reuse of existing commercial buildings consistent with the IBC.

Currently, Honolulu is the only county in the state that has a Housing Code that is imbedded into the building code. The Housing Code specifically requires operable windows to allow for natural lighting and direct ventilation for living rooms and bedrooms. Honolulu's building code dictates that IBC governs except as maybe contrarily specified in the Housing Code. This is overly restrictive as most office buildings do not have sufficient windows to provide direct window access.

The IBC code is an international code. Advances in technology for artificial lighting and ventilation methodologies with proven application in living spaces have been validated by the IBC. The IBC approved the change in 2012 and Hawai'i adopted the changes in 2018. The new code allows for indirect or artificial light and mechanical ventilation options to consider rooms to become "bedrooms" and living rooms. Furthermore, the IBC does not require emergency power or generators for mechanical ventilation. **Most significantly, the changes do not compromise life and safety for potential residents.**

NAIOP Hawaii supports the amendments to Bill 51 which addressed several concerns from the original version of the bill including:

1. Reference to building code in Section 16A-4.4(e)(3) and (4) creates more onerous requirements than the IBC for ventilation and lighting which prevent a project from proceeding.
2. Additional generator requirement in in Section 16A-4.4(e)(5) is cost prohibitive, logistically unrealistic (size and location) and overly burdensome.
3. Section 16A-4.4(e)(6) contains overbroad language for relocation plan requirements.

To provide further clarification regarding ventilation requirements in Section 16A-4.4(e)(5) we recommend the following language:

> "(5) In the event of a power outage, for dwelling units exclusively reliant on mechanical ventilation, the fresh air supply system shall maintain the delivery of outdoor air to the dwelling units pursuant to the ventilation requirements of the International Building Code. Dwelling units meeting the openable window ventilation requirements of Chapter 16A or the natural ventilation requirements of the International Building Code are not required to be equipped with or utilize a backup emergency power and fresh air supply system;"

Accordingly, NAIOP Hawaii supports the amendments to Bill 51 which: 1) clarify IBC as the applicable code for artificial lighting and ventilation requirements for adaptive reuse projects; and 2) remove overburdensome and duplicative requirements. These amendments will help achieve the intended purpose of Bill 51 to allow for adaptive reuse in Honolulu and increase housing inventory for residents.

Ultimately, Honolulu is currently in a housing crisis which is continuing to worsen due to the ongoing economic changes. NAIOP Hawaii supports this measure which seeks to encourage the conversion of commercial units into residential units. NAIOP Hawaii is dedicated to the creation of affordable housing for our communities. Thank you for the opportunity to testify on this measure and we look forward to working with all interested stakeholders to address this issue.

Mahalo for your consideration,

Reyn Tanaka, President
NAIOP Hawaii