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Ka Pouhana, Chief Executive Officer

City and County of Honolulu  
City Council

BILL 58 CD1 (2017)  
A BILL FOR AN ORDINANCE ESTABLISHING AN AFFORDABLE HOUSING  
REQUIREMENT.

July 12, 2017 10:00 a.m. City Council Chamber

The Administration of the Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on Bill 58 CD1 (2017), which creates affordable housing requirements for the development of residential projects as well as the conversion of hotels, offices, and other uses to multi-family dwellings. Bill 58 CD1 is a step towards generating much-needed relief to the City and County of Honolulu’s (City’s) affordable housing crisis, by requiring affordable housing for new residential developments, ensuring that newly-created affordable housing units remain affordable for 30 years, and requiring heightened affordable housing contributions in exchange for the substantial economic advantages that transit-oriented development provides to developers. **With recent studies indicating an existing and future need for housing at levels that demand immediate and bold action, OHA supports the amendments in Bill 58 CD1, and urges the Council to consider further strengthening the City’s affordable housing policies, to address the housing needs of Native Hawaiians and the local community at large.**

OHA is the constitutionally-established body responsible for protecting and promoting the rights of Native Hawaiians, and serves as the principle agency responsible for the performance, development, and coordination of programs and activities relating to Native Hawaiians; assessing the policies and practices of other agencies impacting Native Hawaiians; and conducting advocacy efforts for Native Hawaiians.<sup>1</sup> In furtherance of its constitutional mission, OHA has adopted **Ho‘okahua waiwai** as one of its strategic priorities, which focuses on improving Native Hawaiians’ economic self-sufficiency through improved home ownership and rental standards, and increased family income. It is with this kuleana in mind that OHA offers the following comments.

**Hawai‘i families are in particular need of affordable housing units at or below low-moderate income levels.** Notably, recent research shows that half of the housing

<sup>1</sup> HAW. CONST. ART. XII SEC. 5; Haw. Rev. Stat. (“HRS”) § 10-3.

demand in Honolulu is for units at or below 60% of the Area Median Income (AMI). 82 percent of the Honolulu demand is for units that are at 120% AMI or below; only 10 percent of Honolulu's housing demand is for market rate housing, or housing units at or above 140% AMI.<sup>2</sup> As such, careful planning and concrete affordable housing policies are necessary to ensure that any new development addresses the housing needs of our island's residents and taxpayers.

**Bill 58 CD1's affordable housing requirements are a positive step forward to meeting the City's current and future housing needs.** As drafted, Bill 58 CD1 creates concrete standards for affordable housing development in projects involving dwelling or residential units as well as conversion of hotels, offices, and other uses. The proposal requires projects in Transit-Oriented Development (TOD) special districts to either produce 20 percent of project units as affordable, on-site for-sale units; 25 percent of project units as affordable, off-site for-sale units; or 15 percent of on or off-site units as affordable rental units. Affordable housing requirements for projects that fall outside of the TOD districts require the production of 10 percent of project units as affordable, on-site units for-sale, 15 percent of project units as affordable off-site units for-sale, or 5 percent of on or off-site project units as affordable rental units. All on or off-site for-sale affordable units for all areas must be owner-occupied, and sold to households at 120% AMI and below, with one half of these units reserved for those earning 100% AMI and below. All on or off-site affordable rental units for all areas must be affordable to those earning 80% AMI or below. All affordable units must remain affordable for 30 years.

Given the pressing affordable housing needs of Honolulu's residents, the establishment of such concrete affordable housing requirements will not only provide developers with clear expectations in project planning, but will also provide local families with a small but meaningful level of affordable housing relief, particularly where projects may significantly benefit from our public investment in rail.

While this proposal is a positive step, given the extreme level of demand for affordable housing rather than market rate units, OHA believes the proposal should ensure that a larger proportion of new development meets the existing and future needs of our residents and OHA beneficiaries. As such, OHA offers the following recommendations:

**Bill 58 CD1 should ensure that all development projects that may increase the demand for affordable housing provide an appropriate level of affordable housing relief.** OHA notes the City's Residential Nexus Study linked the creation of a range of new residential developments to increased housing demand. OHA suggests that commercial and hotel development may also be linked to the creation of lower-paying, service-related jobs, which in turn create an additional demand for affordable and workforce housing.<sup>3</sup> As such, we suggest expanding Bill 58 CD1's affordable housing requirements to apply to

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<sup>2</sup> *Id.* at 34.

<sup>3</sup> KEYSER MARSTON ASSOCIATES, RESIDENTIAL NEXUS ANALYSIS: HONOLULU, HAWAII (2015).

commercial and hotel developments as well as projects involving dwelling units. This latter approach of requiring affordable housing for local employees as a condition of hotel development approvals is used in all other counties in Hawai‘i<sup>4</sup> and will assist in tackling our housing crisis.<sup>5</sup>

**OHA supports Bill 58 CD1’s heightened affordable housing requirements for all TOD areas.** Bill 58 originally created heightened affordable housing requirements only for the TOD special districts around Ala Moana, Chinatown, and Downtown. OHA supports Bill 58 CD1’s amendments to ensure that heightened requirements apply to all TOD areas immediately. Our rail investment alone is already providing developers with substantially increased property values in TOD areas throughout the City; neighborhood transit plans may provide developers with additional benefits tantamount to, or more valuable than, the benefits received through zone changes. Accordingly, heightened affordable housing requirements should be applied to all TOD area developments, to best capitalize on our public investment in rail. OHA notes that Bill 15 CD1, currently moving and being vetted by the Council, would establish requirements for interim rail developments at all transit stations. The Council may want to consider whether these requirements should be consistent.

**Affordable housing requirements for TOD area developments should be commensurate with existing affordable housing requirements for zone changes.** OHA notes that the City already requires residential developers pursuing a zone change to set aside at least 30 percent of the units they subsequently develop as affordable, whether the units are for sale or rent.<sup>6</sup> Again, new land use entitlements associated with TOD development and neighborhood transit plans may be tantamount to, or more valuable than, those that would be provided by zone changes. As such, a 30 percent affordable housing requirement may be a more appropriate condition for developers in TOD areas, who may receive TOD-related benefits commensurate with that of a zone change. Notably, developers may receive such benefits without the significant time and expense required by the zone change process.

**OHA supports Bill 58 CD1 amendments limiting “in-lieu” fees as an alternative to actually providing affordable housing units.** In-lieu fees for affordable housing have

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<sup>4</sup> Kaua‘i County requires 30% affordable housing units for resort development that generates 100 or more full time jobs, 20 or more hotel rooms, or 10 or more residential units. See Kaua‘i County Code, Sec. 7A-2.1, available at <http://qcode.us/codes/kauaicomty/>. Maui County requires a 25% affordable housing units for conversion of 10+ hotel units to dwelling or timeshare units, or hotel redevelopment or renovation which increases lodging or dwelling units by 10+ units. See Maui County Code Ch.2.96. available at [https://library.municode.com/hi/county\\_of\\_maui/codes/code\\_of\\_ordinances?nodeld=TIT2ADPE\\_CH2.96RE\\_WOHOPO](https://library.municode.com/hi/county_of_maui/codes/code_of_ordinances?nodeld=TIT2ADPE_CH2.96RE_WOHOPO). Hawai‘i County requires 20% affordable housing units for resort/hotel or industrial uses that generate more than 100 full-time jobs. See Hawai‘i County Code, Chapter 11, available at <http://www.hawaiicounty.gov/lb-file-review/files/county-code/chapter11.pdf>.

<sup>5</sup> An estimated 25,848 housing units are needed by 2025 to meet current demand. HAWAI‘I HOUSING PLANNING STUDY 35 TABLE 27B (2016).

<sup>6</sup> See DEPT. OF PLANNING AND PERMITTING AFFORDABLE HOUSING RULES FOR UNILATERAL AGREEMENTS§ 2-7(5).

historically been determined to be ineffective in providing meaningful affordable housing relief.<sup>7</sup> Accordingly, OHA notes and appreciates Bill 58 CD1's exclusion of in-lieu fees as an alternative to the actual development of affordable housing. Should the Council decide to include in-lieu fees as an option, OHA recommends that an in-lieu fee option be made available only in exigent circumstances, and should be calculated using the cost of actually building affordable units, rather than the methodology used in the original draft.

**OHA supports Bill 58 CD1 amendments removing references to the phasing-in of affordable housing requirements based on geographical area.** The original draft of Bill 58 would have "phased in" its affordable housing requirements, based on geographic area; the current CD1 draft eliminates this phasing-in approach. Evidence does not suggest that affordable housing requirements would limit development in any particular geographic area.<sup>8</sup> Instead, reports suggest that development will occur on O'ahu based primarily on projects' economic feasibility, in which affordable housing requirements are not a limiting factor. Again, O'ahu is in a housing crisis of growing proportion, where immediate and meaningful action is sorely needed. A geographic phase-in requirement will only delay much needed relief.

**OHA appreciates Bill 58 CD1's efforts to preserve affordable housing long-term.** Finally, OHA appreciates the 30-year affordable requirement for all affordable units created under this measure. As the proposal requires units to remain affordable for thirty years or more, we can be assured that housing will be affordable and available to local residents.

Mahalo for the opportunity to comment on this measure.

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<sup>7</sup> Audit of the City's Management of Unilateral Agreements in Affordable Housing, October 2007.

<sup>8</sup> See RICK JACOBUS, INCLUSIONARY HOUSING CREATING AND MAINTAINING EQUITABLE COMMUNITIES (2015), available at [http://honoluluudpp.org/Portals/0/pdfs/projectinfo/InclusionaryHousingJacobus\\_0915.pdf](http://honoluluudpp.org/Portals/0/pdfs/projectinfo/InclusionaryHousingJacobus_0915.pdf).