

Bill 58 (2017)
Additional Testimony

Speaker Registration/Testimony

Name	Kathryn Inouye
Phone	(808) 524-1508
Email	kinouye@kobayashi-group.com
Meeting Date	01-18-2018
Council/PH Committee	Zoning
Agenda Item	PROPOSED CD2 TO BILL 58 (2017), CD1
Your position on the matter	Oppose
Representing Organization	Organization Kobayashi Group LLC
Do you wish to speak at the hearing?	Yes
Written Testimony	
Testimony Attachment	20180117173238_20180117162318854.pdf
Accept Terms and Agreement	1

January 16, 2018

Councilmember Kymberly Marcos Pine
Chairperson, Committee on Zoning and Housing
City Council of Honolulu
530 South King Street
Honolulu, HI 96813

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Honolulu, Hawaii 96814
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**RE: Opposition to City Council Bill 58 (2017) CD2
"ESTABLISHING AN AFFORDABLE HOUSING REQUIREMENT"**

Dear Chairperson Pine:

We appreciate you, the rest of the City Council, and the Mayor undertaking the difficult task of trying to produce more affordable housing units in Honolulu. Our affordable housing needs and the issue of homelessness is at a crisis level in our State. It is an immense task, and we applaud your efforts in this endeavor.

Unfortunately, as currently written, the Kobayashi Group must strongly oppose Bill 58 (2017) CD2. We believe the proposals set forth within this Bill will have a negative effect on the ability to provide affordable housing of any significant numbers in Honolulu. It would also have the detrimental and unintended effect of further increasing the cost and resultant sales prices of gap group and mid-market housing throughout our City.

Bert Kobayashi and I each personally had our start in real estate development doing affordable housing for our residents. Now as a part of Kobayashi Group, we as Kama'aina Developers, aspire to be part of the solution. We see many of our affordable housing issues as unique to Hawai'i, including some of the highest construction costs in the nation, a lengthy and costly entitlement process, and limited availability of buildable land. To truly make a dent in this crisis, we need bold, forward-thinking incentives that address our unique issues and create thousands of affordable units annually.

A new supply of housing is the only long-term affordable housing solution, and increased supply can only be incentivized through lowering marginal costs that will make these projects financeable. The regulations outlined in this Bill increase marginal costs and inhibit our ability to finance new affordable housing projects. While the regulations outlined in this Bill may create a few hundred affordable units for a lucky few, it will be at the expense of many more affordable units that we could otherwise have helped to create.

We offer our specific comments below:

SECTION -1.3 APPLICABILITY

(a) (3) Conversion of hotels, offices, or other uses into multifamily dwellings containing ten or more total for-sale dwelling units; or conversion of rental dwelling units into for-sale dwelling units containing ten or more total for-sale dwelling units;

COMMENT: We should be incentivizing the conversion of other uses to new housing. The proposed applicability to include conversions of existing uses disincentivizes adaptive reuse, which has the effect of lowering the amount of new housing that can be developed. Future conversions to multifamily dwellings from alternate existing uses at the time of adoption of the Bill should be excluded.

Table -1.4 AFFORDABLE HOUSING REQUIREMENT PROVISIONS

In-Lieu Fee or Land Dedication, based on \$45 per square foot.

COMMENT: By maintaining a flat rate of \$45 per square foot regardless of location or zoning considerations, this in-lieu fee provides no rational nexus. Some portion of tax assessed valuations should be used as a basis for the fee. Additionally, the "per square foot" requirement should be clearly defined as "net saleable" square feet.

Table -1.4 AFFORDABLE HOUSING REQUIREMENT PROVISIONS

(2) Any on-site affordable dwelling unit provided through substantial rehabilitation will count as one half of a unit.

(3) Any off-site affordable dwelling unit provided through substantial rehabilitation will count as one half of a unit.

COMMENT: The proposed one half unit for substantial rehabilitation disincentivizes renovation of dilapidated housing. We believe an affordable housing unit is an affordable housing unit. Substantial rehabilitation of both on-site and off-site housing used toward meeting affordable requirements should be counted as a full unit and should be strongly encouraged to incentivize property owners to rehabilitate units.

SEC. -1.5 AFFORDABILITY PERIOD

(b)(1) During the first affordability... must remain affordable for not less than 30 years after the date when the unit is initially rented to a qualified buyer.

COMMENT: We take no issue with a 30-year restriction on rental projects. However, a 30-year required affordability provision creates an impediment to financing for both the Developer and Owner. Affordability provisions with a maximum of 10-years have been established in various State and City unilateral agreements.

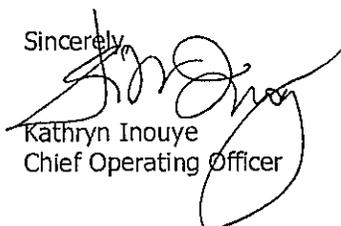
SEC. -1.5 MARKETING PERIOD

(b) If, at the end of the first marketing period, the declarant has been unable to obtain a contract for the rental or sale of an affordable dwelling unit to a qualified renter or purchase, then during the second marketing period...

COMMENT: Marketing periods have been defined in the Bill as requiring a period of 120 days, with a total of 3 marketing periods that adjust AMI levels should an Owner be unable to rent or sell their unit. Under this provision, an Owner may have a unit vacant for almost a year in the event they are unable to find a qualified renter or buyer. This time period creates unacceptable risks to property Owners, and will impede creation and financing of new units. A single 60-day marketing provision and required publication for new units, similar to the Owner-Occupancy provision required by the State under §514B-96, would be a less damaging requirement.

Thank you for the opportunity to provide comments.

Sincerely,



Kathryn Inouye
Chief Operating Officer

From: CLK Council Info
Sent: Wednesday, January 17, 2018 5:47 PM
Subject: Zoning and Housing Speaker Registration/Testimony
Attachments: 20180117174710_Bill_58_Zoning_and_Housing_Ctme_011818_FINAL.pdf

Speaker Registration/Testimony

Name	Office of Hawaiian Affairs
Phone	594-1953
Email	publicpolicy@oha.org
Meeting Date	01-18-2018
Council/PH Committee	Zoning
Agenda Item	Bill 58
Your position on the matter	Comment
Representing	Organization
Organization	Office of Hawaiian Affairs
Do you wish to speak at the hearing?	Yes
Written Testimony	Please see attached written testimony for the Office of Hawaiian Affairs.
Testimony Attachment	20180117174710_Bill_58_Zoning_and_Housing_Ctme_011818_FINAL.pdf
Accept Terms and Agreement	1



Testimony of Kamanaʻopono Crabbe, Ph.D
Ka Pouhana, Chief Executive Officer

City and County of Honolulu
Committee on Zoning and Housing

BILL 58 CD2 (2017)

A BILL FOR AN ORDINANCE ESTABLISHING AN AFFORDABLE HOUSING REQUIREMENT.

January 18, 2018

10:00 a.m.

Committee Meeting Room

The Administration of the Office of Hawaiian Affairs (OHA) supports inclusionary housing policies that serve low- to moderate- income levels, and believes that the affordable housing requirements in Bill 58 CD1 (2017) is a positive step towards generating much-needed relief to the City and County of Honolulu's (City's) affordable housing crisis. OHA further appreciates the continued recognition of the need for strong affordable housing requirements in the proposed drafts of Bill 58 CD2, including requirements for new residential projects as well as for the conversion of hotels, offices, and other existing building uses to multi-family dwellings. **With recent studies indicating an existing and future need for housing at levels that demand immediate and bold action, OHA provides the following comments on provisions within Bill 58 CD1 and the proposed drafts of Bill 58 CD2, and urges the Committee to consider additional provisions that strengthen its 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.¹ In furtherance of its constitutional mission, OHA has adopted **Hoʻokahua 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 for households at low-to-moderate income levels. Notably, recent research shows that half of the housing 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 housing units above 140% AMI.**² As such, careful

¹ HAW. CONST. ART. XII SEC. 5; Haw. Rev. Stat. ("HRS") § 10-3.

² SMS, HAWAII HOUSING PLANNING STUDY 34 (2016).

planning and concrete affordable housing policies are necessary to ensure that development projects within the county address 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 that are receiving height and density bonuses 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 within TOD districts that are not receiving height bonuses, or for projects that fall outside of TOD districts, are required to produce 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. **Such policies ensure that any new development provides clear and concrete relief to Honolulu's affordable housing crisis, with heightened affordable housing contributions from developers who will enjoy substantial economic advantages from transit-oriented development.**

OHA further appreciates proposed amendments for a Bill 58 CD2, that would increase the percentage of affordable units required of on-site TOD and non-TOD projects by 5%. OHA notes that a recent Residential Nexus Study conducted for the City linked the creation of a range of new developments, including most commercial and hotel development, to the creation of lower-paying, service-related jobs, which in turn create an additional demand for affordable and workforce housing; such an increase in required affordable housing contributions will better address the increased demand for affordable units that these developments may create.³ **However, OHA notes that a concurrent increase in the AMI limits for these affordable units, to 140% AMI, may reduce the probability of these units providing meaningful housing relief to those income levels with the most need and demand for housing.** Again, half of the housing demand in Honolulu is for units at or below 60% 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 housing units above 140% AMI.

Affordable housing requirements should be heightened for all TOD areas. OHA continues to support heightened requirements for all TOD areas, to take advantage of the massive investment opportunity presented by the development of the rail, and related land use entitlements realized through the adoption of new neighborhood transit plans. Our rail investment alone has already provided developers with substantially increased property values in TOD areas throughout the City; neighborhood transit plans will provide developers with additional benefits tantamount to, or more valuable than, the benefits received through zone

³ KEYSER MARSTON ASSOCIATES, RESIDENTIAL NEXUS ANALYSIS: HONOLULU, HAWAII (2015).

changes. Accordingly, heightened affordable housing requirements should be applied to all TOD area developments, to best capitalize on our public investment in rail. **Accordingly, OHA supports Bill 58 CD1's inclusion of heightened affordable housing requirements for all TOD areas.**

OHA supports strictly limiting "in-lieu" fees as a final alternative to actually providing affordable housing units. In-lieu fees for affordable housing have historically been determined to be ineffective in providing meaningful affordable housing relief.⁴ 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 committee decide to include in-lieu fees as an option in a Bill 58 CD2, OHA recommends that such an in-lieu fee option be made available only in exigent circumstances, and calculated using the cost of actually building affordable units ("avoided cost"), rather than the difference between what a unit costs to produce and how much a buyer or renter could afford.

OHA requests strengthening of specific requirements to ensure that affordable housing continues to provide housing relief in the long-term. OHA supports long-term affordable requirements for all affordable units created under this measure. OHA notes that proposed amendments for a CD2 would allow affordable units to be marketed to higher-income buyers if not immediately sold, and would reduce the length of time such units must continue to remain affordable. However, no data appear to have been provided to justify this increase in the qualified buyer pool and reduction in affordability timeline. For example, the number of interested applicants who may or may not have qualified to purchase unsold affordable units in the past could prove useful in determining whether the lack of sales may be due to overly restrictive qualifying requirements, or a lack of demand for those housing opportunities. Again, maintaining long-term affordability requirements will help to ensure that any new affordable housing units will remain affordable and available to county residents, rather than become investment opportunities for high-income, out-of-state buyers.

OHA recommends the consideration of not only the number of affordable units produced, but the number and types of individuals and families that would be served by such units, as well as the price per square foot to any newly created "affordable" units. OHA believes affordability requirements should not only consider the number of units, but the quality and type of the units provided as affordable. For example, recent IPD-T projects have shown that absent specific consideration of unit size and type, affordability requirements may be met by units that are increasingly smaller in size, and serving only single adults. Such projects have also included affordable housing units to be rented and/or sold at or even above market level pricing, based on a price per square foot. **OHA suggests that, in addition to the number of affordable units produced, equal consideration should be given to minimum standards for unit size, varying unit types, and number of individuals served.**

Mahalo for the opportunity to testify on this measure.

⁴ Audit of the City's Management of Unilateral Agreements in Affordable Housing (2007).

From: CLK Council Info
Sent: Wednesday, January 17, 2018 5:58 PM
Subject: Zoning and Housing Speaker Registration/Testimony
Attachments: 20180117175821_YWCA_Oahu_Comments_on_Bill_58.pdf

Speaker Registration/Testimony

Name Kathleen Algire
Phone 6952633
Email kalgire@ywcaoahu.org
Meeting Date 01-18-2018
Council/PH Committee Zoning
Agenda Item BILL 58 CD1
Your position on the matter Support
Representing Organization
Organization YWCA Oahu
Do you wish to speak at the hearing? No
Written Testimony
Testimony Attachment 20180117175821_YWCA_Oahu_Comments_on_Bill_58.pdf
Accept Terms and Agreement 1

eliminating racism
empowering women

ywca

O'ahu

Fernhurst YWCA
1566 Wilder Avenue
Honolulu, Hawai'i 96822
808.941.2231

Kokokahi YWCA
45-035 Kāne'ohe Bay Drive
Kāne'ohe, Hawai'i 96744
808.247.2124

Laniākea YWCA
1040 Richards Street
Honolulu, Hawai'i 96813
808.538.7061

ywcaohu.org

To: Committee on Zoning and Housing Special Meeting Agenda
Hearing Date/Time: Thursday, January 18, 2018 10AM

Position Statement in Support of Bill 58 CD1

Chair Pine and Council members,

Thank you for the opportunity to provide written testimony. YWCA O'ahu supports Bill 58 CD1 and we encourage additional measures to ensure that families earning the least have access to housing.

On our island, development must address the needs of local taxpayers and residents. According to the 2016 housing study, there are high rates of out-of-town ownership for residential properties¹. We risk losing our communities to gentrification as investors seek ways to redevelop lands in the TOD areas.

Bill 58 CD1 should have truly affordable housing requirements. The current proposal states that affordable units are targeted at 80% AMI or below. The need for housing is at the 60% AMI or below level². Women, immigrant, and Native Hawaiians make much less than the median income. Half of the minimum wage workers in the state are women³. Affordable Housing must be truly affordable to those who survive on minimum wage and lower paying jobs. We know that our families are already paying a high share of their income for housing and many more who cannot find housing within their income level.

Thank you for the opportunity to testify and for your consideration on this matter.

Kathleen Algire
Director of Public Policy and Advocacy
YWCA O'ahu

¹ SMS Research & Marketing Services, Inc. (2016) *Hawaii housing planning study*. 2016. https://dbedt.hawaii.gov/hhfdc/files/2016/12/State_HHPS2016_Report_111416-FINAL-122216.pdf

² Ibid

³ Bureau of Labor Statistics (2014) *Minimum Wage Workers in Hawaii – 2013*. https://www.bls.gov/regions/west/news-release/minimumwageworkers_hawaii.htm

YWCA IS ON A MISSION

Speaker Registration/Testimony

Name Nadine Ortega
 Phone 8082642096
 Email Nadezna@hawaii.edu
 Meeting Date 01-18-2018
 Council/PH Committee Zoning
 Agenda Item Bill 58
 Your position on the matter Support
 Representing Organization
 Organization AF3IRM Hawaii
 Do you wish to speak at the hearing? No

Aloha Chair Pine and Honorable Members,

Written Testimony We write in support of Bill 58. We urge you to make this bill more meaningful for women and families by targeting residents below the median income.

Mahalo,
 Nadine Ortega, J.D.

Testimony Attachment
 Accept Terms and Agreement 1

From: CLK Council Info
Sent: Wednesday, January 17, 2018 7:15 PM
Subject: Zoning and Housing Speaker Registration/Testimony

Speaker Registration/Testimony

Name Catherine Ritti
Phone 8057040501
Email Catherine.ritti@gmail.com
Meeting Date 01-18-2018
Council/PH Committee Zoning
Agenda Item Bill 58
Your position on the matter Support
Representing Self
Organization
Do you wish to speak at the hearing? No

Written
Testimony

Please support requirements for affordable housing. If trickle down economics actually worked, we wouldn't be witnessing historical houseless rates in concert with historically low unemployment. It is time for our representatives to be brave and stand up to developers who continually claim that if we build more at any price the benefits of more housing supply will trickle down to the poor. If we continue with this faulty and immoral philosophy all of us will witness the island turn into a place with no open space and nowhere for local residents to live. Do something! Anything is better than nothing at all. This bill is a step, but also needs to be amended to lower the qualifications for working people to be able to actually afford the housing.

Testimony
Attachment
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From: CLK Council Info
Sent: Wednesday, January 17, 2018 7:50 PM
Subject: Zoning and Housing Speaker Registration/Testimony

Speaker Registration/Testimony

Name Maxine Anderson
Phone 8082824782
Email Maxinekla@gmail.com
Meeting Date 01-18-2018
Council/PH Committee Zoning
Agenda Item Bill 58
Your position on the matter Support
Representing Self
Organization
Do you wish to speak at the hearing? No
Written Testimony STRONG SUPPORT of bill 58; all areas of Honolulu need affordable housing, not just kakaako.
Testimony Attachment
Accept Terms and Agreement 1

From: CLK Council Info
Sent: Wednesday, January 17, 2018 8:51 PM
Subject: Zoning and Housing Speaker Registration/Testimony

Speaker Registration/Testimony

Name Dean O
Phone 808-343-8076
Email deanandsue@gmail.com
Meeting Date 01-18-2018
Council/PH Committee Zoning
Agenda Item Bill 58
Your position on the matter Support
Representing Self
Organization
Do you wish to speak at the hearing? No

Written
Testimony

Bill 58 is the starting point to have affordable housing island and state wide. We need to have standardized integration of high income, low income and homeless to build balanced sustainable communities. I am very lucky to live and work on the west side, the only affordable place left on the island. With the movement of the homeless and the working class people out of the downtown area, they are just pushing more problems to the west side with traffic and less and less affordable housing. We have to have communities all over the island with all classes of people living in community together.

Testimony
Attachment

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From: CLK Council Info
Sent: Wednesday, January 17, 2018 9:00 PM
Subject: Zoning and Housing Speaker Registration/Testimony
Attachments: 20180117210000_hiAppleseed_Bill_58_testimony_1.17.2018.pdf

Speaker Registration/Testimony

Name	Victor Geminiani
Phone	8085877605
Email	victor@hiappleseed.org
Meeting Date	01-18-2018
Council/PH Committee	Zoning
Agenda Item	Bill 58
Your position on the matter	Comment
Representing	Organization
Organization	Hawaii Appleseed Center for Law and Economic Justice
Do you wish to speak at the hearing?	Yes
Written Testimony	
Testimony Attachment	20180117210000_hiAppleseed_Bill_58_testimony_1.17.2018.pdf
Accept Terms and Agreement	1



HAWAI' APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

Board of Directors

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Victor Geminiani, Esq.
Gavin Thornton, Esq.

Testimony of Hawaii Appleseed Center for Law & Economic Justice Commenting on Bill 58, CD1 (2017) Establishing an Affordable Housing Requirement Committee on Zoning and Planning Thursday, January 18, 2018 at 10:00 A.M.

The Hawaii Appleseed Center for Law and Economic Justice is working to build a Hawai'i where everyone has genuine opportunities to achieve economic security and fulfill their potential. We change systems that perpetuate inequality through research, policy development, education, coalition building, and advocacy.

Thank you for this opportunity to testify regarding Bill 58, CD1.

The community has invested billions in rail, which has increased the value of the properties around the rail stations and opened up the possibility of valuable height and density bonuses and parking waivers. Affordability requirements similar to those proposed by Bill 58 are critical to ensuring that the public receives its fair share of the return on its investment in rail and to maximize this one-shot opportunity to leverage rail to help fill the dire need for housing at lower levels of affordability.

While there is a risk that affordability requirements that are too onerous will make development financial infeasible at all income levels, there is a greater risk that too-weak affordability requirements will result in a reverse-Robin Hood: The people at the lower ends of the income scale pay a disproportionately high share of their income toward the GET that is funding the rail, which is increasing the value of properties around the rail stations. We will be taking money from the poor through the GET and using it to benefit the already well-to-do. Once the value increases created by rail are transferred through the issuance of building permits and height and density bonuses, they are gone for good.

Bill 58, CD1 includes many important components that will help to ensure the recapture of some of the value created by the public's investment in rail through the creation of affordable housing. For example, ensuring that the units created through the affordability requirements remain affordable for 30 years is critical. The provision added by the CD1 regarding rehabilitated units counting as half of a unit is helpful in combating against gentrification. Also, the CD1 provision creating four marketing periods seems like a fair and reasonable way to handle the concern of not being able to find income-qualified purchases/renters while still ensuring the units retain their intended level of affordability.

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Honolulu, HI, 96813
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happleseed.org

However, Hawai'i Appleseed has identified a number of potential concerns with Bill 58, CD1, including the following:

- It is unclear whether the proposed affordability requirements apply to all TOD projects, or only those where height and/or density bonuses will be sought. If it only applies where bonuses are sought, the increased land value created by the rail will be just given away—the public will not get any of the return on its investment. The bill should be amended to ensure and/or clarify that affordability requirements apply to all projects within the TOD zones.
- The option created by CD1 to fulfill the affordability requirements by building at 140% of AMI undercuts the purpose of the requirements. In effect, the new provision would allow fulfillment of the affordability requirements by building 8% of the units at 140% of AMI (which is essentially market rate) and 17% of the units at 120% of AMI. With this option, it is unlikely that anyone will opt to build to the originally proposed requirement (10% of units at 120% of AMI and 10% of the units at 100% of AMI). This is problematic for a number of reasons:
 - The originally proposed requirement was subject to rigorous analysis to ensure its feasibility and fairness. To our knowledge, the 140% of AMI requirement has not undergone a similar analysis.
 - Building at 140% and 120% of AMI does not create housing at the affordability levels where housing is most needed. The greatest need is at 60% of AMI and below. While housing at 100% of AMI still doesn't address the greatest need—it is still only affordable to half of the population—it's closer and fulfills a greater need than exists at higher income levels.
 - Placing a so-called affordability restriction at market (140% of AMI) does not create housing that is truly affordable for the community, and it will be difficult to sell—why would anyone buy a market unit with restrictions on its re-sale value, when the person could just buy a market unit without restrictions?
- The affordability requirements should be based on a percentage of the square footage of the buildings rather than the number of units. Otherwise, there will be a strong incentive to build the affordable units as tiny studios and one-bedrooms.
- Bill 58 needs to be clarified to ensure that government subsidies like LIHTC and the Rental Housing Revolving Fund cannot be used to fund the development of the affordable units. If the purpose of the affordability requirements is to recapture some of the value created by the public investment in rail, that purpose cannot be accomplished if public dollars are used to fulfill the affordability requirements.
- The cash-in-lieu option in Bill 58 should be eliminated. If the affordable units are not built along with the market units, they are likely to be built elsewhere—resulting in income segregation—if built at all. There is a considerable body of research demonstrating the importance of income-mixing. The best way to ensure income-integrated neighborhoods is to require that the affordable units be built along with the market units, versus placing money into an account that may or may not be used to build housing somewhere at some time in the future.

Hawai'i has the highest housing costs in the nation and the highest rate of homelessness. Forty-eight percent of Hawai'i's residents are living paycheck to paycheck, and the cost of housing relative to wages is the number one driver. We cannot afford to give up this one-time opportunity to recapture some of the value created by our public investment in rail for the purpose of creating affordable housing. The affordability requirements proposed by Bill 58 are not sufficient to solve the problem on their own, but they are an important piece of the solution. Along with subsidies, building incentives, improvements to the permitting process, and other measures, these efforts will help to make Hawaii is a place where our people and our future generations can thrive.

Thank you for the opportunity to testify on this important issue.

From: CLK Council Info
Sent: Wednesday, January 17, 2018 9:18 PM
Subject: Zoning and Housing Speaker Registration/Testimony

Speaker Registration/Testimony

Name Mychal E. Menor Ozoa
Phone 8087417880
Email meozoa@gmail.com
Meeting Date 01-18-2018
Council/PH Committee Zoning
Agenda Item Bill 58
Your position on the matter Support
Representing Self
Organization
Do you wish to speak at the hearing? No
Written Testimony I support Bill 58 and it needs to go much further by targeting the women and families making less than the medium income. Thank you.
Testimony Attachment
Accept Terms and Agreement 1

From: CLK Council Info
Sent: Wednesday, January 17, 2018 9:20 PM
Subject: Zoning and Housing Speaker Registration/Testimony

Speaker Registration/Testimony

Name RJ Mendendez Aglugub
Phone 8082229719
Email r.jayaglugub@gmail.com
Meeting Date 01-18-2018
Council/PH Committee Zoning
Agenda Item Bill 58
Your position on the matter Support
Representing Self
Organization
Do you wish to speak at the hearing? No
Written Testimony I support Bill 58 and it needs to go much further by targeting the women and families making less than the medium income. Thank you.
Testimony Attachment
Accept Terms and Agreement 1

From: CLK Council Info
Sent: Wednesday, January 17, 2018 9:40 PM
Subject: Zoning and Housing Speaker Registration/Testimony

Speaker Registration/Testimony

Name Greg and Pat Farstrup
Phone 808-523-2067
Email gfarstrup@msn.com
Meeting Date 01-18-2018
Council/PH Committee Zoning
Agenda Item Bill 58
Your position on the matter Support
Representing Self
Organization
Do you wish to speak at the hearing? No
Written Testimony Even more needs to be done in this area.
Testimony Attachment
Accept Terms and Agreement 1

From: CLK Council Info
Sent: Thursday, January 18, 2018 1:38 AM
Subject: Zoning and Housing Speaker Registration/Testimony
Attachments: 20180118013826_Woo_-_Bill_58_CD1.pdf

Speaker Registration/Testimony

Name Nicole Woo
Phone 8086835621
Email woonicole@yahoo.com
Meeting Date 01-18-2018
Council/PH Committee Zoning
Agenda Item Bill 58 CD1
Your position on the matter Support
Representing Self
Organization
Do you wish to speak at the hearing? No
Written Testimony
Testimony Attachment 20180118013826_Woo_-_Bill_58_CD1.pdf
Accept Terms and Agreement 1

We all know that our city and county are facing an affordable housing and homelessness crisis. To address this crisis, I write in support of Bill 58 CD1 but believe it needs to be strengthened in order to truly help our local families.

Housing created for people making more than 100% of median income is by definition unaffordable to most of our local residents. Studies of our housing market shows that the real need is for housing that is affordable for families earning 100% of median, so that is where the income eligibility limits should be set.

Honolulu developers have been required to ensure that 30% of the units that they build are affordable, in exchange for a zone change that brings them development benefits and higher land values. Other counties in our state already have such requirements for all new developments. Since the rail will provide similar benefits to developers, they should be required to provide at least 30% of their units at affordable levels.

It is also important to ensure that developers in the Transit-Oriented Development zone build their affordable units near the rail, rather than being allowed to pay a fee for affordable housing in other areas. Living near the rail enables residents to reduce the number of cars that they need. The thousands of dollars per year that they would save on car costs could go a long way towards a down payment on a future home.

The rail project presents us with a tremendous opportunity to make significant progress in relieving Honolulu's affordable housing crisis. But that window is closing fast, and we have only one chance to get it right. I urge you to pass affordable housing requirements -- those in Bill 58 CD1 and more -- as soon as possible. We can't afford to wait much longer.

Speaker Registration/Testimony

Name	Harry Saunders
Phone	808 548-4884
Email	fsakai@castlecooke.com
Meeting Date	01-18-2018
Council/PH Committee	Zoning
Agenda Item	Bill 58 (2017) CD1, CD2
Your position on the matter	Oppose
Representing Organization	Organization Castle & Cooke Hawaii
Do you wish to speak at the hearing?	No
Written Testimony	
Testimony Attachment	20180117173913_Testimony_in_Opposition_to_Bill_58_FINAL2_01-18-18.pdf
Accept Terms and Agreement	1



Castle & Cooke
Hawaii, Inc.
1001 Kalia Road, Suite 1000
Honolulu, HI 96813

Castle & Cooke

Fax Submittal: 768-3827

Email Submittal: <http://www.honolulu.gov/ccl-testimony-form.html>

January 17, 2018

Kymerly Marcos Pine, Zoning Committee Chair
Ikaika Anderson, Vice Chair
Joey Manahan
Ann H. Kobayashi
Brandon J. C. Elefante

Subject: Testimony in Opposition to Bill 58 (2017) CD1, CD2

Dear Chair Pine, Vice-Chair Anderson and Zoning Committee Members:

I am Harry Saunders, President of Castle & Cooke Homes Hawaii, Inc. I have worked in the housing industry for more than forty-five years in various capacities, including salesperson, real estate broker, director of residential operations, builder, developer, and now President of one of Hawaii's oldest and largest producers of homes. In its recent history, Castle & Cooke has built some 24,000 homes, of which nearly 40% were in the "affordable" category. The vast majority of these homes were built here on Oahu. Castle & Cooke knows how to build affordable homes and has been doing so for the past five decades.

I have participated in numerous hearings regarding mandates placed on land owners and developers to compel building more affordable housing. Such mandates have been placed with various requirements, buy back periods, and shared appreciation, and yet we are back again with the same set of mandates, just more onerous than prior mandates. The reason such mandates have failed in the past and the reason they will continue to fail is that they do not address the problems creating the lack of affordable housing:

Inadequate and aging infrastructure, over-regulated, painfully long, expensive, unnecessarily redundant, and time-consuming entitlement, subdivision and permitting processes. These all dramatically add to the cost of housing and thereby thwart efforts to provide additional affordable housing to O'ahu's communities.

City & County of Honolulu Zoning Committee
Testimony in Opposition to Bill 58 (2017) CD1, CD2
January 17, 2017
Page 2

The efforts by Chair Pine to find a compromise solution to a flawed Bill 58 are admirable however miss the mark in that Bill 58 still relies on the “sticks” of unfunded mandates. These sticks are to be applied to already zoned properties that could be used to provide much needed housing if adequate infrastructure and adequate financing are available.

Mandates have come and gone and our Government has continued to under-fund critical infrastructure and over regulate housing in Hawaii. The result is that new homebuyers subsidize infrastructure and bear the burden of increased development costs. The cost of improving our infrastructure should not be borne by our new homebuyers. Housing is critical to all and the burdens of the necessary infrastructure should be borne by all.

Building and buying a home is always about money. Mandates do not provide money – they increase costs that are paid by homebuyers. Incentives such as property tax credits, permit fees, water hook up and sewer fee reductions or eliminations together with adequate infrastructure are a first step to making homes more affordable. In addition, if we are really trying to help the lower income families achieve home ownership then a focus on down payment and mortgage rate reductions or assistance must be considered.

I urge you to not continue on the misguided path of increased mandates. While increased mandates may be politically appealing, they will likely yield the same results: a growing need for affordable housing in a market with resultant ever-increasing prices for Oahu’s people.

Please hold Ordinance 58, CD2, I urge you to do something different and actually listen and work with the industry that can and will build more affordable homes.

Facilitate- don’t regulate.

Respectfully submitted
Castle & Cooke Hawai’i, Inc.

A handwritten signature in black ink, appearing to read 'H.A. Saunders', written over a horizontal line.

Harry A. Saunders

From: CLK Council Info
Sent: Thursday, January 18, 2018 9:27 AM
Subject: Zoning and Housing Speaker Registration/Testimony
Attachments: 20180118092724_180114_Bill_58_CD2_IZ-AHR_LURF_Proposed_Revisions_01.14.18rev_dza.docx

Speaker Registration/Testimony

Name David Arakawa
Phone 808 783-9407
Email darakawa@lurf.org
Meeting Date 01-18-2018
Council/PH Committee Zoning
Agenda Item Bill 58 and Bill 59
Your position on the matter Oppose
Representing Organization
Organization Land use Research Foundation of Hawaii
Do you wish to speak at the hearing? Yes

Written Testimony

The Land Use Research Foundation of Hawaii (LURF) appreciates the efforts of Zoning & Housing Chair Pine, who has made many revisions that will encourage the building of more affordable housing and housing for all income groups. However LURF OPPOSES Bill 58, CD1, and has a few major concerns and also OPPOSES a number of sections in the Proposed CD2 version; and respectfully RECOMMENDS AMENDMENTS to the Proposed CD2 version (see attached proposed revisions). LURF would respectfully request that Bill 58 be DEFERRED, so that Chair Pine, the Council and housing stakeholders and advocates can work further on Bill 58, so it can be effective in producing more affordable housing and housing at all income levels.

LURF SUPPORTS Bill 59, however, there are additional incentives (carrots) which could be added to encourage the building of more housing on Oahu (free use of city land; adequate infrastructure; expedited permitting; waiver of fees and costs for all projects which include affordable housing).

Testimony Attachment 20180118092724_180114_Bill_58_CD2_IZ-AHR_LURF_Proposed_Revisions_01.14.18rev_dza.docx
Accept Terms and Agreement 1

**LURF COMMENTS: LIKELY FAILURE OF 30-YEAR RESTRICTED PERIOD
BILL 58, CD2 (2017) ESTABLISHING AN AFFORDABLE HOUSING REQUIREMENT.
January 15, 2018**

Experienced housing developers and financial experts have offered to assist with, and have proposed amendments to Bill 58 (Inclusionary Zoning restrictions and requirements), which were crucial to encourage and facilitate the production and preservation of more affordable housing and housing for all income levels on Oahu. Unfortunately, the City Administration and Council Committee have not included several key recommendations in the CD2 drafts of Bills 58 and 59, and LURF and its members believe that the current version of Bill 58, CD2, will not result in the production of more housing. This information is submitted on behalf of those housing developers and financial experts, for consideration by this Committee and including the amendments into revised CD2s for Bills 58 and 59.

BACKGROUND FACTS AND COMMENTS

1. **VESTED RIGHTS.** Bill 58 (IZ Restrictions & Requirements) may violate the *vested rights of landowners and constitute an unconstitutional taking*. Based on the 2002 Golf Course 5 and 6 (“Sandy Beach”) downzoning case, Hawaii landowners have “*vested development rights*” to develop consistent with their current zoning, based on obtaining all of its discretionary permits (zoning and SMA), plus a “substantial expenditure of funds.” (See, attached 2002 newspaper article, “*Sandy Beach dispute settled,*” and attached memo “*Vested Development Rights, Government Takings and Remedies – Summary of Golf Course 5 and 6 (‘Sandy Beach’) Case*”)

2. **CITY’S DRAFT FINANCIAL ANALYSIS.** This Report confirms that the most housing developments on Oahu are infeasible, even without imposing Bill 58, CD2; and that the additional financial burdens imposed by this bill (selling 30% of the total units of the project at below cost) would make housing developments financially infeasible in all areas of Oahu, except for 40-story condos in the Ala Moana area, which have substantial height and density bonuses and other incentives. (See, attached excerpts from Strategic Economics; *Draft Affordable Housing Requirement Financial Analysis, Draft Report for City, April 7, 2016*)

3. **IMPACT FEES.** New residential units on Oahu may also be subject to other impact fees:
 - a. DOE School Impact Fee (Ala Moana to Kalihi): **\$9374 to \$5,858 per unit**
 - b. Department of Transportation “Enhancement” Fee for Lihue-Hanamalu Master Plan, Kauai: **\$62,435 per unit** (\$120M for 1,922 residential units)
 - c. City Department of Transportation Services Ewa Transportation Impact Fee:

	Current	Proposed	Increase
SF (per unit)	\$ 1,836	\$ 8,265	350%
3350%MF (per unit)	\$ 1,245	\$ 4,508	262%

4. **COMPETITION.** Bill 58’s proposed 30-year restricted period will likely fail, due to competition with approximately 1,900 affordable units sold each year with NO resale restrictions (See, attached Board of REALTORS® statistics; and attached HHFDC’s Honolulu County Affordable Price Guidelines); and **over 5,400 affordable units which will be marketed with drastically less restricted resale years.** Experienced housing developers and financial experts have predicted that Bill 58 will fail, based on its excessive 30-year affordability requirement; the City’s own Draft Financial Analysis (April 7, 2016); the past history of restricted

resale periods in Hawaii; and competition from the following affordable units that will be for sale over the next few years.

- **NO resale restrictions.** Competition from approximately 1,900 affordably priced single family homes and condos each year,* that could be sold annually, with NO restricted resale period. *SOURCES: See attached HHFDC's 2017 Honolulu County Affordable Sales Price Guidelines 2017; and Honolulu Board of REALTORS®, compiled from MLS data (December 2017)
 - **5-year resale restrictions in Kakaako.** Howard Hughes and Kamehameha Schools have vested requirements to build approximately 900 for-sale affordable “reserved” units in Kakaako with only a 5-year restricted resale period; and
 - **10-year resale restrictions for Ho’opili and Koa Ridge.** The projects have vested rights to build approximately 4,500 affordable units, with only a 10-year restricted resale period.
5. **Requirements and Restricted Marketing Periods have repeatedly failed in Hawaii, due to availability of housing units for sale without restrictions.** Statewide, the following **less stringent** Inclusionary Zone (“IZ”) restrictions **have all failed** due to buyers’ opting to purchase available housing units without IZ resale restrictions, leaving the IZ restricted units unsold:
- **Statewide IZ requirements and restrictions failed.** From 1988-1992, the State’s 60% affordable housing IZ restrictions **failed** (Office of State Planning/Harold Matsumoto).¹
 - **Honolulu’s 10-year restriction failed (1999-2005).** In 1999, the Honolulu City Council admitted that the City’s 10-year IZ restrictions on buyer income and resale **failed**, and the City Council stopped requiring the IZ restrictions from 1999 to 2005.²
 - **Honolulu’s 10-year restriction failed – no new affordable housing projects proposed (2005-2010).** The Honolulu City Council reinstated the IZ restrictions in 2005, however, between 2005–2010 the restrictions **failed again**, because no new affordable housing projects were submitted for review and approval.³
 - **HHFDC’s 10-year restriction failed (2010).** In January 2010, like the City, the Hawaii Housing Finance and Development Corporation (“HHFDC”) was **forced to remove its ten-year IZ restriction** on its Plantation Town Project’s 138 unsold units reserved for gap income buyers. The HHFDC said that declines in property values had narrowed the gap between market prices and Plantation Town unit prices to the point where the income limits and resale restrictions turned away buyers. Qualifying gap income households were not interested in reserved affordable housing units that come with major restrictions when market units with no restrictions were already affordable to them.⁴

¹ See, David L. Callies; *Preserving Paradise, Why Regulation Won’t Work*, 49-51 (1994).

² See, University of Hawaii Economic Research Organization; *Inclusionary Zoning: Implications for Oahu’s Housing Market* (February 12, 2010) (“UHERO IZ Report”), p.4.

³ See, UHERO IZ Report, p. 4.

⁴ See, UHERO IZ Report, pp. 5-6.

- **Kauai’s 20-year IZ resale restriction is currently failing (2007-present).** According to a presentation by the Kauai Housing Director at the HSAC Conference in September 2017, Kauai’s IZ policy has resulted in zero affordable housing units built and sold.
- **Maui’s prior Residential Workforce Housing (RWH) ordinance and 25-year restriction failed (2006-2014).** Maui’s 50% RWH requirement and 25-year IZ restriction included less stringent, more relaxed deed restrictions than the proposed Bill 58. During the period of Maui’s prior affordable RWH law (2006-2014), there was only one signed RWH agreement; only fourteen of the proposed seventeen affordable units were built; only three units were able to be sold at affordable rates WITH the 25-year restricted period; the balance of 11 affordable units with the 25-year restrictions were NOT SOLD; and were eventually sold at market rates WITHOUT any restricted period. The failure to sell those eleven units at affordable prices can be attributed to the fact that Maui buyers were not willing to accept a 25-year restricted resale period. (See, attached Maui Council Housing & Human Concerns Committee Report, dated December 19, 2014; Maui Ordinance 4177 (2014); Tables below and attached, re Maui County’s past and present affordable Workforce Housing ordinances, MCC 2.96)
- **Amended Maui Workforce Housing ordinance (2015-present).** In December 2014, the Maui Council amended the County’s Housing Policy via Maui Ordinance 4177 (2014), changing the prior 25-year restricted period to the following:
 - 10 years** – “Below-moderate income” (80% AMI up to 100% AMI)
 - 8 years** – “Moderate income” (100% AMI up to 120% AMI)
 - 5 years** – “Above-moderate income” (120% AMI up to 140% AMI)
 The following are the results of Maui’s new workforce Housing ordinance and reduced restricted marketing periods:

MAUI RESIDENTIAL WORKFORCE HOUSING POLICY, MCC §2.96	MCC §2.96 HOUSING AGREEMENTS*	PROPOSED RWH UNITS	RWH UNITS BUILT**	RWH SOLD AT AFFORDABLE PRICES***
OLD 2006-2014 (eight years): 50% of total units required to be affordable; <u>25-Year Restricted Resale Period</u>	1	17	14	3
NEW 2015-present (Dec 2014 to Dec 2017 – three yrs): 25% total units required to be affordable; Restricted Resale Periods: <u>10 years</u> (80% AMI to 100% AMI - Below Moderate Income); <u>8 years</u> (100% AMI to 120% AMI - Moderate Income); and <u>5 years</u> (120% AMI to 140% AMI - Above Moderate Income)	10	486	83	63
COMMENTS:	*New law (2015-present): 1,063 total proposed RWH & market units		**Construction on-going	***Approximately two dozen currently in escrow

**SUMMARY OF LURF'S PROPOSED AMENDMENTS AND COMMENTS
TO BILL 58, PROPOSED CD2
January 15, 2018**

1. Section 1 ("Purpose"). **ADD:** relevant information/facts. **DELETE:** misleading statements.
 - a. **ADD:** information from the City's draft Affordable Housing Requirement Financial Analysis, dated April 7, 2016 (City's Financial Analysis). After the sentence describing the Mayor's Affordable Housing Strategy, there should be a paragraph describing the findings and conclusions of the City's Financial Analysis:
 - 1) **Bill 58, CD2 is only feasible for 40-story high-rise condos in Ala Moana, with Community Benefit incentives.** The City's Financial Analysis confirms that the Inclusionary Zoning affordable housing requirements and restrictions (IZ- AHR) proposed by the City Administration, are only feasible for 40-story high-rise condo projects in Ala Moana, with density and height bonuses and other Community Benefit incentives. See, City's Financial Analysis, pp. 12, 14; and DPP Director's Report, p. 10.
 - 2) **Development of condos, apartments and other housing prototypes are currently infeasible in most all other areas on Oahu, even without the proposed IZ-AHR (Pearl Ridge, Kapalama, Kapolei).** The market conditions and feasibility in Downtown, Chinatown and Kakaako areas were not specifically tested. See, DPP Director's Report, dated May 19, 2017, pp. 10-11; and City's Financial Analysis, pp. 12-14.
 - 3) **The "one size fits all" approach of Bill 58, CD2 is CONFLICTS with the findings and recommendations of the City's Financial Analysis and DPP Director's Report.** Bill 58, CD2 imposes the same IZ-AHR on known infeasible development areas and Ala Moana, which is the only feasible area on Oahu. Both City documents confirm that the feasibility of housing development on Oahu vary widely, so the implementation of the IZ-AHR should NOT be "one size fits all." The application of proposed Bill 58, CD2 is conflicts with the findings and recommendations of the City's Financial Analysis, which states, *"In order to meet the goal of providing new workforce housing without stalling new development, the implementation of the AHR should acknowledge the range of development contexts and market conditions on the island."* See, City's Financial Analysis, p. 20; and DPP Director's Report p. 12.
 - 4) **Proposed Bill 58, CD2 is INCONSISTENT with the findings and the recommendations in the City's Financial Analysis and DPP Director's Report, which recommended that the IZ-AHR should be "waived" or "phased-in" over several years in geographical locations where development is not yet feasible.** Bill 58, CD2 imposes the IZ-AHR upon all applicable new housing developments on all Oahu. However, based on the fact that most Oahu housing projects are already infeasible, without application of the IZ-AHR, both the Financial Analysis and DPP recommend *"phasing-in"* the IZ-AHR over several years by geography. See, City's Financial Analysis, p. 20; and DPP Director's Report p. 12, 14-15, 20, 21.
 - b. **DELETE:** the selective and misleading statements which appear to blame the lack of affordable housing on Oahu on low-income buyers of affordable housing that resell their homes: [~~*"In as little as four years, the affordable for sale homes may be resold by the buyer at market prices, which would eliminate them from the affordable housing*~~]

~~inventory.~~] The purpose of this portion of Bill 58 appears to be to direct blame for the lack of affordable housing solely on the resale of affordable housing units. If this sentence remains in Bill 58, *the whole truth should be told* – including the facts behind that statement – the specific number of units sold at market prices. Also, since this sentence places blame, to be fair, this section should also include facts relating to the following:

- 1) The number of times the City has had the opportunity to preserve affordable housing by exercising its first option to purchase affordable housing units, and the number of times the City has exercised its option;
- 2) The City housing project name, location, date of completion, and number of affordable rental, or for-sale housing units that the City has built in the past twenty years;
- 3) The estimated number of illegal vacation rental units on Oahu, which have a negative impact on the supply and price of available rentals and for-sale housing for residents; and the number of successful city enforcement actions against illegal vacation rentals;
- 4) The number of Accessory Dwelling Units that have been denied building permits by the DPP, because of the lack of sewer capacity;
- 5) The areas of Oahu where major housing projects cannot be built, due to the lack of sewer capacity, drainage, and other infrastructure;
- 6) Explanation of the claims of the Department of Housing and Urban Development (HUD) that over the past several years, including currently, the City has mismanaged its affordable housing and homeless programs, and has cost Honolulu the loss of nearly \$5 million in federal aid. (*How Mismanagement Cost Honolulu Nearly \$5 Million in Federal Aid*, Civil Beat article, dated January 8, 2018);
- 7) The number of times in the last ten years that the City has supported state legislation relating to affordable housing; and
- 8) A closing sentence should be added: *The City's various failures to act, as described above, eliminated major opportunities to increase the inventory of affordable and market housing.*

2. **Section 1 (“Purpose”). AMEND: reference to the “30-year restriction.”** LURF’s position is that due to the numerous failures of 10-year, 25-year any “30-year restriction” should be in the form of an “incentive” in Bill 59, and not in Bill 58. See, Summary of Failures of Restricted Resale Periods.
3. **Sec. ___-1.2 (“Definitions”). AMEND: the definition of “Micro-unit” from [300-square-foot], to 500 square feet or less.** The square footage in the definition of “Micro-unit” should be increased, because there are already government approvals in Honolulu for 309, 370 and 375 square feet micro-units; also materials published by the Urban Land Institute materials describe micro-units across the United States as ranging between 250 to 500 square feet.

4. **Sec. ___-1.3 (“Applicability”). AMEND: Bill 58, CD2 should only apply to 40-story condos in the Ala Moana area, with height and density bonuses and a Community Benefit package.** According to the City’s Financial Analysis and the DPP Director’s Report, this specific area and prototype is the only area on Oahu where imposing the IZ-AHR could currently be feasible. See, DPP Director’s Report, dated May 19, 2017, pp. 10-11; and City’s Financial Analysis, pp. 12-14.
5. **Sec. ___-1.3 (“Applicability”). AMEND: to “waive” or “phased-in” the IZ-AHR over several years in locations where development is not yet feasible.** This amendment is based on the City’s findings that most Oahu housing projects are already infeasible, without application of the IZ-AHR; and both the City’s Financial Analysis and DPP Director’s Report, which recommends “phasing-in” the IZ-AHR; the over several years. See, City’s Financial Analysis, p. 20; and DPP Director’s Report p. 12, 14-15, 20, 21.
6. **Sec. ___-1.3 (“Applicability”). AMEND: to apply only to zone changes.** The City’s long-standing and current affordable housing policy is to require a certain percentage of dwelling units to be affordable in new housing projects for which a zone change is requested. LURF’s proposed amendment is *consistent* with the City’s long-standing and current policy, and *consistent* with the principles of vested rights and unconstitutional takings. Several LURF members and other land owners and developers have expressed that they have vested rights in their current zoning; that they should be able to build what they want, as long as the project is consistent with zoning; and that the requirements and restrictions in Bill 58 would constitute an unconstitutional taking. LURF believes that there is legal precedent for this position: In the late 1990’s, then-circuit court Judge Sabrina McKenna ruled against the City in the *Sandy Beach “downzoning” case*, finding that the landowner had “vested development rights” based on obtaining all of its discretionary permits (zoning and SMA), plus a “substantial expenditure of funds” (in that case, \$200k for architecture and engineering fees). (See, Vested Rights & Takings Summary, and newspaper article regarding the Sandy Beach Settlement)
7. **Sec. ___-1.3 (“Applicability”). AMEND: to apply only to areas with adequate City infrastructure (sewer, drainage, water, streets, etc.).** Imposing IZ restrictions and also forcing developers to pay for basic infrastructure improvements will make projects infeasible.
8. **Sec. ___-1.3 (a)(3) (“Applicability”). DELETE: application to “hotels,” because it will discourage the conversion of some hotel units to for-sale dwelling units.** The City should be encouraging, and providing incentives for - not penalizing the conversion of hotel units to for-sale or for-rental residential units (Pagoda Apartments, timeshare conversions). The City’s failure to enforce residential zoning for short-term vacation rentals in residential neighborhoods has caused the lack of availability of hundreds of dwelling units for Honolulu residents. Given the City’s failure to control the thousands of illegal vacation rentals and the resulting loss of residential rental or for-sale units, it should not be penalizing the conversion of hotel units to for-sale dwelling units or rentals – this could discourage conversions such as the Pagoda Apartments, as well as other types of hotel conversions.
9. **Sec. ___-1.3 (“Applicability”). AMEND: to allow “exempted” projects to “opt-in” to incentives in Bill 59.** Under the proposed CD2, certain projects would be “exempted,” if the developments were subject to unilateral agreements or development agreements approved by the City and recorded; any subdivision granted tentative approval; and any building permits accepted as complete, prior to the effective date of Bill 58. LURF proposes an amendment to allow these projects to “opt-in” to take advantage of the incentives in Bill 59.

10. Table ___-1.4 (“Affordable Housing Requirement Provisions”). **DELETE:** “Penalties” for building “off-site” affordable housing (onsite requirement is 20% and offsite penalty requirement is 25%). Affordable housing is needed everywhere on Oahu; and the Council and/or Planning Director is empowered to approve the off-site housing.
11. Sec. ___1.5 (“Affordability period”). **DELETE:** 30-Year Restricted Resale period; and **AMEND** Bill 59 (Incentives) to include the 30-year Restricted Resale period. LURF proposes the following amendments:
- a. **MOVE:** the 30-year Restricted Resale period to Bill 59 (Incentives).
 - b. **AMEND:** Bill 39 to include the 30-year Restricted Resale period, with incentives. The City could create incentives for a City “pilot project” to determine whether the 30-year restriction is feasible, or the City can RFP all of the City’s developable lands and require a 30-year resale restriction. (if the council passes an ordinance allowing 99-year leases for City lands with affordable housing, perhaps the pilot project can be on City lands).
 - c. **AMEND:** Bill 58, CD2 Period of Restricted Resale period. LURF recommends amending the 30-year restriction to the restricted periods that have been so successful at producing affordable housing in Maui County:
 - 1) **10 years** – “Below-moderate income” (80% AMI up to 100% AMI)
 - 2) **8 years** – “Moderate income” (100% AMI up to 120% AMI)
 - 3) **5 years** – “Above-moderate income” (120% AMI up to 140% AMI)
12. Sec. ___1.5 (“Affordability period”) and Sec. ___-1.6 (“Marketing period”). **AMEND:** Reduce the “Marketing Period” from [120 days] to 60-days to accurately reflect the reality of home sales marketing periods in Honolulu. The *Honolulu Board of Realtors Monthly Housing Statistics for November 2017*, show the following *Median Days on Market** statistics: 14 – 35 days for single family homes (\$550k and below) and 21 to 43 days for condos (\$250k and below). Also, the Hawaii Home Ownership Center confirms that he could qualify and close most affordable housing clients (80% to 140% AMI) within 14 to 45 days. **Median Days on Market* does not necessarily reflect the actual time between listing and closing, however, it is a reasonable estimate of how long properties are on the market and how long it would take for low income family to qualify for a mortgage for affordable housing units. See, attached Marketing Period Tables. Amendments should reduce proposed the [~~120-day~~] marketing periods, as follows:
- ✓ **60-days** for units marketed to income levels below 100% AMI; and
 - ✓ **45-days** for units marketed to income levels from 100% AMI to 140% AMI.
- These revisions are based on data from the “*Days on Market Until Sale*” for single family homes (SFH) and condos in Honolulu for 2017, SOURCE: Honolulu Board of REALTORS®, compiled from MLS data; and Hawaii Housing Finance and Development Corporation (HHFDC) “*Honolulu County Income Schedule by Family Size, 2017.*”
13. Sec. ___-1.9 (“Procedures”). **AMEND:** All permits and other approvals by City Agencies or officials shall be completed within 45 days. This requirement is consistent with county approvals under HRS §201H.
14. Sec. ___-1.11 (Administration and fees”). **DELETE:** Administrative fees proposed on low-income families. **AMEND:** this section to require the City to determine the increased costs, personnel and technology required to implement Bill 58, CD2, and to use the Affordable Housing Fund or General Fund for those costs. The City has unnecessarily created more costs by imposing the IZ-AHR over thousands more housing units that are not monitored today, and by proposing to triple the current restricted period of 10 years to 30 years. The City

consultant and DPP Report that supports these fees **refers to low income homeowners as a “sustainable revenue source”** for generating funds for the City monitoring program. The City justifies charging increasing fees to low income people, stating: **“the broader purpose of this fee is to remind owners that they own an affordable dwelling unit.”** It seems unfair and unconscionable for the City to use low income residents as *“sustainable revenue sources”* just *“to remind them that they own an affordable dwelling unit.”* The new IZ-AHR would multiply the administrative and employee costs because the City would be required to monitor thousands of more the housing units for 20 more years. The City’s IZ Consultant, emphasized that the financial aspects should be carefully planned before adopting an AHR. Under the circumstances, these administrative costs should be paid through the General Fund of the City budget, and not use low income homeowners as a “revenue source.” See, DPP Director’s Report, pp. 22-24.

15. **SECTION 3. (“Status Report to Council”). AMEND: to require codification of annual production goals and to require the Status Report to Council every year (instead of waiting five years).** To assess the effectiveness of Bill 58, the bill should clearly state its goal of producing 800 affordable units a year (under Bill 58); and the required Status Report to the Council should be done no later than one year after the effective date of Bill 58, and every year thereafter. Within just one year, it was clear that Maui’s revised Residential Workforce Housing ordinance had been a success – and within three years, Maui County has eight affordable housing agreements signed and 489 affordable units proposed. See, *Maui County Affordable Housing Projects – Status Update (December 14, 2017)*

**VESTED DEVELOPMENT RIGHTS, GOVERNMENT TAKINGS AND REMEDIES
- SUMMARY OF GOLF COURSE 5 and 6 ("SANDY BEACH") CASE**

This summarizes the experience of the City and County of Honolulu in the Golf Course 5 and 6 (*Sandy Beach*) vested rights litigation in 2002, and the significant economic risks a county would face if it attempted to restrain development through land use restrictions directed at projects which have already obtained their discretionary permits, and have also made substantial expenditures in reliance on those existing discretionary permits.

In the case of "Golf Course 5 and 6" on Oahu, approximately 30 acres of land had been zoned for residential development for a number of years and had obtained its discretionary shoreline management area permit (SMA permit). In reliance on the existing zoning and SMA permit, the developer expended over \$200,000 on planners, architects, etc. and obtained all discretionary permits for the development of 171 houses on the property.

After all of the discretionary permits had been approved, the public became upset about the project and initiated an island-wide campaign to have the property down-zoned on the premise that down-zoning was needed in order to "Save Sandy Beach." A ballot initiative was passed down-zoning the property. Later, the Hawaii Supreme Court held the ballot initiative ineffective.

Following the Hawaii Supreme Court ruling, the Honolulu City Council followed what it believed was the will of the public as expressed in the overturned ballot initiative, and "down-zoned" the property from "Residential" to "Preservation" despite the fact that the landowner had obtained all discretionary permits to construct 171 homes on the property under the residential zoning that had previously existed.

In the Golf Course 5 and 6 case, the landowner (Kamehameha Schools) and developer (Maunalua Associates) brought suit against the City in 1989. In a series of rulings over a period of several years, and the ruling by Circuit Court Judge Sabrina McKenna in March 2000, the courts held:

1. That the landowner had "**vested rights**" to build 171 homes on the Golf Course 5 and 6 property, and the right were **vested** based upon (1) issuance of all discretionary permits, if any are needed; plus (2) the developer's expenditure of a substantial amount of funds in reliance on the zoning and any discretionary permits (in this case the Court held that \$200,000 on architects and engineers far exceeded this requirement).

2. Once the landowner's right to develop was "vested," any attempt by the government to interfere with that right violated the landowner's Constitutional guarantee (a) prohibiting taking of property taken by the government without compensation; and (b) assuring due process of law.

3. The government's down-zoning of the property was unenforceable – the landowner could continue to enjoy its rights to develop.

4. In addition to the “vested right” to develop the property pursuant to the former zoning, the landowner was entitled to damages calculated based on lost profits and attorneys’ fees incurred in bringing the litigation.

5. The City was powerless to prevent the development except by way of condemnation proceeding in which the City would be required to pay fair market value for the property and the valuation must be based on the previous zoning.

As a result of the court rulings finding that the landowner and developer had vested rights and that the City's downzoning action was a “taking,” the City Council determined that the litigation of the Sandy Beach case could have cost the City more than \$120 million in damages and attorneys’ fees. In 2002, the City was forced to settle the “*takings*” case for an estimated \$60 million to \$70 million, including paying the plaintiffs the proceeds of the sale of 46 acres of city properties on Manana; payment of \$5.4 million; and conveyance of City properties adjacent to the plaintiff's properties, including two streets and a parcel at the old Gems store in Kapalama.

Based on the Golf Course 5 and 6 case, counties should be very careful (and in most cases reluctant) to adopt new restrictions on development projects that already have received the needed discretionary permits, and where the landowner or developer has expended substantial funds in reliance on the zoning and any discretionary permits.

Speaker Registration/Testimony

Name	Gladys Marrone
Phone	8088474666
Email	gqm@biahawaii.org
Meeting Date	01-18-2018
Council/PH Committee	Zoning
Agenda Item	Bill58
Your position on the matter	Comment
Representing	Organization
Organization	BIA Hawaii
Do you wish to speak at the hearing?	No
Written Testimony	
Testimony Attachment	20180118095732_180118_CCbill58_affordablehousing.pdf
Accept Terms and Agreement	1

BIA-HAWAII

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January 18, 2018

Honorable Kymberly Pine, Chair
Honolulu City Council Committee on Zoning

Dear Chair Pine and Council members,

Subject: Testimony on Bill No. 58, Establishing an Affordable Housing Requirement

My name is Gladys Quinto Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, BIA-Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

We very much appreciate the work and dedication of Mayor Caldwell and his administration on making affordable housing a priority and for including BIA-Hawaii and our members in this very important discussion and to provide input on the Mayor's affordable housing strategy.

Our industry is keenly aware of the need to produce more housing units because more housing makes housing more affordable. Our current crisis of a lack of housing impacts our ability to function as a community and develop our economy. Over the past two years, BIA-Hawaii convened our "Houseless in Honolulu" Housing Summit to raise awareness of one of Hawaii's most pressing issues - home affordability. We have focused on the challenges employers face due to the lack of housing and, at our most recent Summit, "Still Houseless in Honolulu," we focused on increasing the supply of housing at all price points.

Our housing events illustrated how the lack of housing impacts us a community. When potential professionals/employees cannot find houses they can afford, they will choose not to come to Hawaii. Furthermore, stratospheric home prices have forced residents to leave to more affordable markets.

The bottom line is we need to build our way out of this crisis by increasing the supply of housing at all price points. With the Oahu median home price now at \$795,000, the repercussions are having a major impact on Honolulu's economy. The Department of Business, Economic Development and Tourism forecasted that over 50,000 new housing units are needed Statewide, 25,847 units in Honolulu. (DBEDT Report—Measuring Housing Demand in Hawaii, 2015-2025).

We believe that in order to address the current "Housing Crisis," a seismic shift in the focus of how government views housing development must occur and move from our current reactionary or regulatory stance to a more proactive or production-oriented" stance.

For example, the City and County of Honolulu could adopt a goal of approving an average of 2,500 new residential units each year over the next 10-year period to address the projected 25,847 unit demand. Over the last couple of years, the number of building permits issued for new single-family residential construction has been between under 900 units per year. The City might consider creating opportunities for new housing production by investing in increasing infrastructure capacity in areas identified for future growth or density. As capacity becomes available, up-zone properties to allow for higher density in accordance with areas planned for growth. Creating opportunities for building more housing, versus imposing inclusionary zoning requirements, will yield the desired outcome of more affordable housing.

BIA-Hawaii has expressed concerns that the overall approach proposed in the Mayor's strategy will not result in increasing the supply of housing. Focusing on the affordable housing segment of the market by tinkering with the existing exclusionary zoning requirements at the City will do little to increase the inventory of workforce housing on Oahu.

The existing inclusionary zoning requirements which have been imposed on new residential developments for decades, we firmly believe, has caused the overall lack of supply of housing and the median prices of a single-family home upwards of \$700,000 we are experiencing today. This belief is validated by the University of Hawaii Economic Research Organization (UHERO) in their report on inclusionary zoning which states, "Inclusionary zoning polices have failed in other jurisdictions, and are failing on Oahu. Inclusionary Zoning reduces the number of "affordable" housing units and raises the prices and reduces the quantity of "market priced" housing units."

Creating Opportunities for More Housing

For Sale:

Land, material, and labor costs are generally outside of developer control. That being the case, what can government do to "incentivize" the construction of more housing units? In most instances, developers are able to build new housing in the 80% to 140% AMI income range (i.e. Workforce Housing) under current regulations and market conditions. Construction of units below 80% AMI (i.e. Low Income Housing), will require some type of government assistance, thru providing entitled government land, providing direct government funding, or a little bit of both. To incentivize the construction of more units in the 80% to 140% AMI, government could do one or more of the following:

1. Provide free access to existing infrastructure (sewer) capacity;
2. Waive or reduce all government connection fees;
3. Waive or reduce park dedication fees;
4. Waive or reduce any other infrastructure or public facilities assessment or impact fees (i.e. DOE School Impact Fees).
5. Provide for greater density to spread development cost around more units;

For construction of unit priced above 140% AMI, the city should consider assessing fees to access existing infrastructure capacity, with fees increasing as the price of the units increase. These fees could then be reinvested in building more infrastructure capacity or providing subsidies for the below 80% AMI.

Rentals:

Rental units need to be analyzed differently. Similar to for sale units, land, material, and labor costs are outside of most developer control. That being the case, the cost to construct rental units is no different from the cost to construct fee simple sale units. From a developer's perspective, rental units have a longer payback and require active property management. From the renter/buyer perspective, it is really a question of renting a unit and not building any equity or buying a similar priced unit with a mortgage about the same as monthly rent, but building equity over time.

In the foreseeable future, any significant increase in the number of new rental housing units will require use of government land.

Keeping Housing Affordable

Government imposed restrictions on units to keep them affordable generally result in the owners not being able to recognize any equity, or enough equity (shared appreciation), to step up to a larger unit as their income improves.

It is ironic that the only reason to consider government intervention in “keeping units affordable” is primarily due to government restrictions on overall development. If the overall supply of housing units were allowed to be increased at all price points, buyers/consumers would have a choice based on product type and location.

Government intervention in the market place usually does not have positive results.

How to Partner to Build More Housing

BIA Hawaii believes that in order for a partnership to work, both parties need to agree on a common outcome. We have been a strong advocate for this Mayor, and government in general, to set PRODUCTION GOALS to help build us out of our current housing crisis. We have members who focus on specific price points in the housing market. The question is not if developers are willing to build but how can government create opportunities for development of housing at all price points?

We appreciate the opportunity to provide our comments on this bill.

From: CLK Council Info
Sent: Thursday, January 18, 2018 9:31 AM
To:
Cc: Khillste@hawaii.edu;
Subject: Council Speaker Registration/Testimony

Speaker Registration/Testimony

Name Katie hillstead
Phone 808-364-0601
Email Khillste@hawaii.edu
Meeting Date 01-18-2018
Council/PH
Committee Council
Agenda Item Bill 58
Your position on
the matter Support
Representing Self
Organization
Do you wish to
speak at the
hearing? No

Written
Testimony

I am a full time teacher here in Hawaii. As a working professional, I still do not make enough money to buy a house that fits my families needs. Hawaii needs affordable housing requirements in all neighborhoods so that it's working community can provide for their families. Please help the kanaka stay on their land. We don't need any more luxurious apartments no one working in hawaii can afford, we need affordable housing for all. Teachers are being priced out of Oahu and neighboring islands, working professionals cannot afford these luxury apartments. What we need is comprehensive affordable housing requirements. Please support local families instead of wealthy investors.

Testimony
Attachment
Accept Terms
and Agreement 1



Queen's Court
800 Bethel Street, Suite 501
Honolulu HI 96813

Phone 808.587.7770
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www.avalonhi.com

January 18, 2018

Re: Zoning Committee Special Meeting

Testimony: Ask for Deferral of bill 58

Aloha,

Avalon Group has been actively seeking solutions to provide more supply of affordable rentals and for-sale housing in Honolulu. What will help are the “bucket of tools” that are being proposed in Bill 59 that will ease the ability for us to finance the construction of the projects and allow the projects to become economically viable. There has been a lot of work been done to date with stakeholders, however, it is my belief that this bill is not yet ready.

We ask that this bill be held to be revised further to meet the supply side economic needs. At this point, the bill is not ready and will hinder new development instead of helping add to affordable housing. I assure you that the supply side of the equation is certainly working hard to work with everyone to make this happen, but when good intentioned laws actually end up hurting the industry from developing more supply of housing, we as a community would all be hurt by the action.

As such, I ask you for more time to discuss and work on this bill. Thank you.

Christine Camp, President & CEO.