



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII 96813-3077

**COMMITTEE ON ZONING AND
HOUSING**

Voting Members:

Kymerly Marcos Pine, Chair
Trevor Ozawa Vice Chair
Carol Fukunaga
Ann H. Kobayashi
Joey Manahan

MINUTES

**SPECIAL MEETING
TUESDAY, MARCH 27, 2018
9:00 A.M.**

**COUNCIL COMMITTEE MEETING ROOM
2ND FLOOR, HONOLULU HALE
HONOLULU, HAWAII 96813**

Note: A copy of the video of the full proceedings of this meeting may be requested by calling the City Clerk's Office at 768-5822.

CALL TO ORDER

The special meeting of the Committee on Zoning and Housing was called to order by Committee Chair Kymerly Marcos Pine at 9:40 a.m. Voting Members Kobayashi, Manahan, and Ozawa were present at the meeting. Voting Member Fukunaga was excused from the meeting. Nonvoting member, Council Chair Martin (temporary voting member for quorum) also attended the meeting.

STAFF PRESENT

Matt Caires, Chief of Staff to Committee Chair Pine
Lori Hiraoka, Attorney, Office of Council Services
Gavin Kennedy, Analyst, Office of Council Services
Denise Wong, Deputy, Department of the Corporation Counsel, assigned to the Committee
Cynthia Nakazaki, Council Committee Aide, Office of the City Clerk

ORDER OF BUSINESS

FOR ACTION

1. BILL 58 (2017), CD1 – COMMITTEE REPORT 119

ESTABLISHING AN AFFORDABLE HOUSING REQUIREMENT. Increasing the production of affordable housing, to encourage dispersal of affordable housing throughout the City and County of Honolulu, and to maintain the units as affordable for a long period of time.

CD2 TO BILL 58 (2017), CD1 (Submitted by Councilmember Pine) – The CD2 (OCS2018-0022/1/12/2018 4:45 PM) was approved by the Committee at its January 18, 2018 meeting and makes the following amendments:

- A. In SECTION 1 of the bill: (1) adds reference to payment of an in-lieu fee or the provision of improved land as options to satisfy the affordable housing requirement; and (2) clarifies that the affordable housing must remain affordable for at least 30 years, except under certain circumstances.
- B. In Section __-1.1 ("Purpose"): (1) adds reference to payment of an in-lieu fee or the provision of improved land as options to satisfy the affordable housing requirement, and (2) removes reference to the affordability period.
- C. In Section __-1.2 ("Definitions"), adds new definitions for "first affordability period," "first marketing period," "gap financing," "hotel," "interim planned development-transit project" or "IPD-T project," "planned development-transit project" or "PD-T project," "second affordability period," "second marketing period," "substantial rehabilitation," and "third marketing period."
- D. In Section __-1.2 ("Definitions"), revises the definition of "rail transit station area" to clarify that "draft neighborhood TOD plan" means the most current version of the plan then under consideration by the department of planning and permitting or the council at the time an application for a principal project is submitted to the department and accepted as complete, commencing with the first public review draft released by the director of planning and permitting to the community for review and comment. Council committee drafts of a plan are deemed under consideration by the council after they have been placed on a full council agenda for public hearing or adoption. Council floor drafts of a plan are deemed under consideration by the council after the council has amended the plan to the floor draft version.

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- E. In Section __-1.3 ("Applicability"), provides that the affordable housing requirement applies to projects involving new construction of ten or more total for-sale dwelling units or the conversion of hotels, offices, or rental units into multifamily dwellings containing ten or more total for-sale dwelling units. Also deletes applicability of the affordable housing requirement to the substantial rehabilitation of ten or more dwelling units.
- F. In Section __-1.3(b), adds a new subdivision (10) to exclude hotels not located within a TOD special district from applicability of the affordable housing requirement.
- G. In Table __-1.4:
- Categorizes projects as: (1) IPD-T projects, PD-T projects, or TOD special district projects seeking bonus height or density, or both; or (2) all areas, excluding IPD-T projects, PD-T projects, or TOD special district projects seeking bonus height or density, or both.
 - Provides that for IPD-T projects, PD-T projects, or TOD special district projects seeking bonus height or density, or both, any affordable dwelling units being provided as a community benefit to justify increased height or density, or both, may be counted to satisfy the base affordable housing requirements for IPD-T, PD-T, or TOD special district projects.
 - Establishes two options for providing for-sale on-site affordable dwelling units.
 - Adjusts the affordable housing requirement percentage amounts.
 - Adds options relating to payment of an in-lieu fee or the provision of improved land as options to satisfy the affordable housing requirement.
 - Provides that for IPD-T projects, PD-T projects, or TOD special district projects seeking bonus height or density, or both, an in-lieu fee can only be used to satisfy the portion of the base affordable housing requirements applicable to those projects that are in excess of the affordable housing requirements that otherwise apply to all areas.
- H. Adds Section __-1.4(d), relating to the payment of an in-lieu fee as a way to satisfy the affordable housing requirement. Payment of an in-lieu fee for projects with more than 25 dwelling units must be approved by the council.

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- I. Adds Section __-1.4(e), relating to the provision of improved land as a way to satisfy the affordable housing requirement.
- J. In Section __-1.5 ("Affordability period"), with regard to for-sale affordable dwelling units, establishes two affordability periods. Affordable dwelling units sold during the first 120-day affordability period must remain affordable for a period of 30 years after the date when the unit is initially sold to a qualified buyer. Affordable dwelling units sold thereafter during the second affordability period must remain affordable for a period of 10 years after the date when the unit is initially sold to a qualified buyer.
- K. Adds a new Section __-1.6, which establishes four marketing periods that apply to for-rental and for-sale affordable dwelling units. All affordable dwelling units must be rented or sold at prices affordable to households earning the percentage of the AMI specified in Table __-1.4; provided that:
 - During the first 120-day marketing period, affordable dwelling units must be marketed, and rented or sold to households earning the percentage of the AMI specified in Table __-1.4;
 - During the second 120-day marketing period, affordable dwelling units may be marketed, and rented or sold to households earning the percentage of the AMI that is 20 percent higher than the percentage of the AMI specified in the first marketing period, provided that the percentage of the AMI cannot exceed 140 percent;
 - During the third 120-day marketing period, affordable dwelling units may be marketed, and rented or sold to households earning the percentage of the AMI that is 20 percent higher than the percentage of the AMI specified in the second marketing period, provided that the percentage of the AMI cannot exceed 140 percent; and
 - During the last marketing period, affordable dwelling units may be marketed, and rented or sold to households earning 140 percent and below of the AMI.

Renumbers subsequent sections.

- L. Adds Section __-1.7, which requires the deposit of in-lieu fees collected into a special account within the general fund, and restricts the use thereof. Renumbers subsequent sections.

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- M. In renumbered Section ___-1.11(c)(3), provides that affordable rental dwelling units will be subject to annual monitoring by a private compliance monitoring service, the fees for which will be paid by the owner of affordable rental dwelling unit directly to the private compliance monitoring service.
- N. In renumbered Section ___-1.12 ("Rules"), provides that at a minimum, the DPP Director shall adopt administrative rules to:
 - (1) Regulate the resale of affordable dwelling units under Section ___-1.5 to ensure the units remain within the same AMI range, as adjusted from time-to-time;
 - (2) Regulate the resale of affordable dwelling units under Section ___-1.6 to ensure the units remain within the same AMI range, as adjusted from time-to-time; and
 - (3) Establish an affordable housing compliance monitoring program, to be administered by a third party, to manage and implement the for-rental and for-sale affordable dwelling units created in compliance with the ordinance, for purposes of ensuring compliance with affordability requirements and periods. In addition, requires that at a minimum, the affordable housing compliance monitoring program must address the performance of certain functions set forth in the ordinance.
- O. Adds a new SECTION 3 to the bill, which provides that no later than five years after the effective date of the ordinance, the director shall submit to the Council a status report assessing the effectiveness of the ordinance in creating new affordable dwelling units in the City, and the efficiency of the affordable housing compliance monitoring program in administering the requirements of the ordinance.

PROPOSED CD2 TO BILL 58 (2017) CD1 (Submitted by Councilmember Pine) –
The CD1 (OCS2018-0293/3/21/2018 2:54 PM) makes the following amendments:

- A. In SECTION 1 of the bill: (1) adds reference to payment of an in-lieu fee or the provision of improved land as options to satisfy the affordable housing requirement; and (2) clarifies that for-rental affordable units must remain affordable for at least 30 years, and for-sale affordable units must remain affordable for varying periods based on the percentage of the total number of dwelling units in the principal project being provided.

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- B. In Section __-1.1 ("Purpose"): (1) adds reference to payment of an in-lieu fee or the provision of improved land as options to satisfy the affordable housing requirement, and (2) removes reference to the affordability period.
- C. In Section __-1.2 ("Definitions"): (1) adds new definitions for "common entrance," "first marketing period," "gap financing," "hotel," "HUD AMI income limit," "interim planned development-transit project" or "IPD-T project," "planned development-transit project" or "PD-T project.," "second marketing period," "substantial rehabilitation," and "third marketing period;" and (2) includes "time share unit" as a term that has the same meaning as defined in ROH Section 21-10.1.
- D. In Section __-1.2 ("Definitions"), revises the definition of "rail transit station area" to clarify that "draft neighborhood TOD plan" means the most current version of the plan then under consideration by the department of planning and permitting or the council at the time an application for a principal project is submitted to the department and accepted as complete, commencing with the first public review draft released by the director of planning and permitting to the community for review and comment. Council committee drafts of a plan are deemed under consideration by the council after they have been placed on a full council agenda for public hearing or adoption. Council floor drafts of a plan are deemed under consideration by the council after the council has amended the plan to the floor draft version.
- E. In Section __-1.3 ("Applicability"), provides that the affordable housing requirement applies to projects involving new construction of ten or more total for-sale dwelling units or the conversion of hotels, offices, or rental units into multifamily dwellings containing ten or more total for-sale dwelling units. Also deletes applicability of the affordable housing requirement to the substantial rehabilitation of ten or more dwelling units.
- F. In Section __-1.3(b), adds new subdivisions (10) and (11) to exclude the following from applicability of the affordable housing requirement, respectively:
- Time share units; or

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- Any development for which: (1) at least 75 percent of the total number of dwelling units in the development are sold to households earning 120 percent and below of the AMI; or (2) all of the dwelling units in the development are sold to households earning no more than the HUD AMI income limit, and at least 20 percent of those units are sold to households earning 100 percent and below of the AMI.

G. In Table __-1.4:

- Categorizes projects as: (1) IPD-T projects, PD-T projects, or TOD special district projects seeking bonus height or density, or both; or (2) all areas, excluding IPD-T projects, PD-T projects, or TOD special district projects seeking bonus height or density, or both.
- Provides that for IPD-T projects, PD-T projects, or TOD special district projects seeking bonus height or density, or both, any affordable dwelling units being provided as a community benefit to justify increased height or density, or both, must be in addition to the base affordable housing requirements for IPD-T, PD-T, or TOD special district projects.
- Establishes three options for providing for-sale affordable dwelling units with varying affordable housing requirement percentage amounts, based on the length of the affordability period.
- Adjusts the affordable housing requirement percentage amounts for off-site for-sale affordable housing based on whether the affordable units are located within or outside of the rail transit station area or development plan area in which the principal project is located.
- Adds options relating to payment of an in-lieu fee or the provision of improved land to satisfy the affordable housing requirement.
- Provides that for IPD-T projects, PD-T projects, or TOD special district projects seeking bonus height or density, or both, an in-lieu fee can only be used to satisfy the portion of the base affordable housing requirements applicable to those projects that are in excess of the affordable housing requirements that otherwise apply to all areas.

H. In Section __-1.4(b), relating to on-site production, requires that affordable units and market-rate units in the same multifamily dwelling must share common entrances.

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- I. In Section __-1.4(c), relating to the off-site production of affordable dwelling units, provides that: (1) off-site for-rental affordable housing must be located within the the same rail transit station area or development plan area as the principal project, provided that the DPP director shall have the discretion to allow the satisfaction of off-site production in other areas of the city; and (2) off-site for-sale affordable housing may be located within or outside of the relevant rail transit station area or development plan area in which the principal project is located, in accordance with the required percentage amounts in Table __-1.4.
- J. Adds Section __-1.4(d), relating to the payment of an in-lieu fee as a way to satisfy the affordable housing requirement. Payment of an in-lieu fee for projects with more than 25 dwelling units must be approved by the council.
- K. Adds Section __-1.4(e), relating to the conveyance of improved land as a way to satisfy the affordable housing requirement.
- L. In Section __-1.5 ("Affordability period"), with regard to for-sale affordable dwelling units, provides that the units must remain affordable for not less than the period specified in Table __-1.4 based on the applicable percentage of the total number of dwelling units in the principal project being provided as affordable dwelling units.
- M. Adds a new Section __-1.6, which establishes four marketing periods that apply to for-rental and for-sale affordable dwelling units. All affordable dwelling units must be rented or sold at prices affordable to households earning the percentage of the AMI specified in Table __-1.4; provided that:
 - During the first 120-day marketing period, affordable dwelling units must be marketed, and rented or sold to households earning the percentage of the AMI specified in Table __-1.4;
 - During the second 120-day marketing period, affordable dwelling units may be marketed, and rented or sold to households earning the percentage of the AMI that is 20 percent higher than the percentage of the AMI specified in the first marketing period, provided that the percentage of the AMI cannot exceed the HUD AMI income limit;

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- During the third 120-day marketing period, affordable dwelling units may be marketed, and rented or sold to households earning the percentage of the AMI that is 20 percent higher than the percentage of the AMI specified in the second marketing period, provided that the percentage of the AMI cannot exceed the HUD AMI income limit; and
 - During the last marketing period, affordable dwelling units may be marketed, and rented or sold to households earning not more than the HUD AMI income limit.
- N. Adds a new Section __-1.7, which requires the deposit of in-lieu fees collected into a special account within the general fund, and restricts the use thereof. Renumbers subsequent sections.
- O. In renumbered Section __-1.11(c)(3), provides that affordable rental dwelling units will be subject to annual monitoring by a private compliance monitoring service, the fees for which will be paid by the owner of affordable rental dwelling unit directly to the private compliance monitoring service.
- P. In renumbered Section __-1.12 ("Rules"), provides that at a minimum, the DPP Director shall adopt administrative rules to:
- (1) Regulate the resale of affordable dwelling units under Section __-1.5 to ensure the units remain within the same AMI range, as adjusted from time-to-time; and
 - (2) Establish an affordable housing compliance monitoring program, to be administered by a third party, to manage and implement the for-rental and for-sale affordable dwelling units created in compliance with the ordinance, for purposes of ensuring compliance with affordability requirements and periods. In addition, requires that at a minimum, the affordable housing compliance monitoring program must address the performance of certain functions set forth in the ordinance.
- Q. Adds a new SECTION 3 to the bill, which provides that no later than five years after the effective date of the ordinance, the director shall submit to the Council a status report assessing the effectiveness of the ordinance in creating new affordable dwelling units in the City, and the efficiency of the affordable housing compliance monitoring program in administering the requirements of the ordinance. Renumbers subsequent bill sections.

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Administration/Others

Kathy Sokugawa, Acting Director, Department of Planning and Permitting
(DPP)
Harrison Rue, Transit-Oriented Development Administrator. DPP

Administrator Rue testified that the DPP supports moving the Bill forward.

The following individuals testified:

1. Peter Lee, Hawaiian Laborers-Employers Cooperation and Education Trust (LECET) (comments)
2. Khara Jabola-Carolus, Hawaii State Commission on the Status of Women (support)
3. Jeff Gilbreath, Executive Director, Hawaiian Community Assets (support)
4. Gavin Thornton, Co-Executive Director, Hawaii Appleseed Center for Law and Economic Justice (comments)
5. Catherine Graham, Co-Chair, Housing Now Coalition, Faith Action for Community Equity (FACE) (comments)
6. George Massengale, Hawaii Habitat for Humanity (comments)
7. Dr. Daniela Minerbi (support)
8. Kathleen Algire, Director of Public Policy and Advocacy, Young Women's Christian Association (YWCA) Oahu (support)
9. Kevin Carney, EAH Housing (comments)
10. Jean Lilley, Executive Director, Hawaii Habitat for Humanity (support)
11. Kathryn Inouye, Kobayashi Group (comments)
12. Deja Ostrowski, Office of Hawaiian Affairs (comments)
13. Frank Orrell (oppose)
14. Chris Deuchar (comments)
15. Brett MacNaughton, The MacNaughton Group, Inc. (oppose)
16. Steven Kothenbeutel, Vice President, Avalon Development (comments)
17. Harry Saunders, Castle & Cooke, Hawaii (comments)
18. Timothy Tzu (support)

In response to Committee Chair Pine's request for a graph explaining the difference among the related bills, Administrator Rue stated that the DPP would be preparing fact sheets on the bills.

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In response to Committee members, Acting Director Sokugawa and Administrator Rue reported the following information:

- The Bill was developed by researching existing policies locally and nationally. The Department sought to develop a broader policy to incorporate the Transit-Oriented Development (TOD) areas.
- The phased-in approach would allow time for the market to adapt and to ensure that the policies in are place.
- The passage of the Waipahu TOD plan has stirred interest from a developer and several property owners.
- The Bill includes shared-appreciation which would allow the units to be maintained as affordable longer.
- The Department supports in-lieu fees as an option for developers.
- The in-lieu fees option has not yet been used and would require Council approval for the use and determination of the fee rate.
- Mandating expeditious policies for permitting would require equitability to ensure that people who are not in the priority group are not excluded.

Committee Chair Pine recommended amending the Bill to the CD2.

Committee Member Ozawa noted that he has concerns with the Bill and would work on addressing them with proposed amendments.

Committee Member Manahan expressed concern that the in-lieu fees may have negative impacts along the TOD areas where work force housing would be important.

Committee Chair Pine recommended further amending the Bill to remove the in-lieu fees.

Bill 58 (2017), CD1 amended to CD2 and reported out for passage on third reading.

AYES: KOBAYASHI, OZAWA, MANAHAN, PINE – 4.
NOES: None.
EXCUSED: FUKUNAGA – 1.

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CD2 TO BILL 58 (2017), CD1 (Submitted by Councilmember Pine) – The CD2 (OCS2018-0320/3/27/2018 5:02 PM) makes the following amendments:

- A. In SECTION 1 of the bill: (1) adds reference to the provision of improved land as an option to satisfy the affordable housing requirement; and (2) clarifies that for-rental affordable units must remain affordable for at least 30 years, and for-sale affordable units must remain affordable for varying periods based on the percentage of the total number of dwelling units in the principal project being provided.
- B. In Section __-1.1 ("Purpose"): (1) adds reference to the provision of improved land as an option to satisfy the affordable housing requirement, and (2) removes reference to the affordability period.
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- F. In Section __-1.3(b), adds new subdivisions (10) and (11) to exclude the following from applicability of the affordable housing requirement, respectively:
- Time share units; or
 - Any development for which: (1) at least 75 percent of the total number of dwelling units in the development are sold to households earning 120 percent and below of the AMI; or (2) all of the dwelling units in the development are sold to households earning no more than the HUD AMI income limit, and at least 20 percent of those units are sold to households earning 100 percent and below of the AMI.
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 - Provides that for IPD-T projects, PD-T projects, or TOD special district projects seeking bonus height or density, or both, any affordable dwelling units being provided as a community benefit to justify increased height or density, or both, must be in addition to the base affordable housing requirements for IPD-T, PD-T, or TOD special district projects.
 - Establishes three options for providing for-sale affordable dwelling units with varying affordable housing requirement percentage amounts, based on the length of the affordability period.
 - Adjusts the affordable housing requirement percentage amounts for off-site for-sale affordable housing based on whether the affordable units are located within or outside of the rail transit station area or development plan area in which the principal project is located.
 - Adds an option relating to the conveyance of improved land to satisfy the affordable housing requirement.
- H. In Section __-1.4(b), relating to on-site production, requires that affordable units and market-rate units in the same multifamily dwelling must share common entrances.

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- I. In Section ___-1.4(c), relating to the off-site production of affordable dwelling units, provides that: (1) off-site for-rental affordable housing must be located within the the same rail transit station area or development plan area as the principal project, provided that the DPP director shall have the discretion to allow the satisfaction of off-site production in other areas of the city; and (2) off-site for-sale affordable housing may be located within or outside of the relevant rail transit station area or development plan area in which the principal project is located, in accordance with the required percentage amounts in Table ___-1.4.
- J. Adds Section ___-1.4(d), relating to the conveyance of improved land as a way to satisfy the affordable housing requirement.
- K. In Section ___-1.5 ("Affordability period"), with regard to for-sale affordable dwelling units, provides that the units must remain affordable for not less than the period specified in Table ___-1.4 based on the applicable percentage of the total number of dwelling units in the principal project being provided as affordable dwelling units.
- L. Adds a new Section ___-1.6, which establishes four marketing periods that apply to for-rental and for-sale affordable dwelling units. All affordable dwelling units must be rented or sold at prices affordable to households earning the percentage of the AMI specified in Table ___-1.4; provided that:
 - During the first 120-day marketing period, affordable dwelling units must be marketed, and rented or sold to households earning the percentage of the AMI specified in Table ___-1.4;
 - During the second 120-day marketing period, affordable dwelling units may be marketed, and rented or sold to households earning the percentage of the AMI that is 20 percent higher than the percentage of the AMI specified in the first marketing period, provided that the percentage of the AMI cannot exceed the HUD AMI income limit;
 - During the third 120-day marketing period, affordable dwelling units may be marketed, and rented or sold to households earning the percentage of the AMI that is 20 percent higher than the percentage of the AMI specified in the second marketing period, provided that the percentage of the AMI cannot exceed the HUD AMI income limit; and

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- During the last marketing period, affordable dwelling units may be marketed, and rented or sold to households earning not more than the HUD AMI income limit.

Renumbers subsequent sections.

- M. In renumbered Section ___-1.10(c)(3), provides that affordable rental dwelling units will be subject to annual monitoring by a private compliance monitoring service, the fees for which will be paid by the owner of affordable rental dwelling unit directly to the private compliance monitoring service.
- N. In renumbered Section ___-1.11 ("Rules"), provides that at a minimum, the DPP Director shall adopt administrative rules to:
- (1) Regulate the resale of affordable dwelling units under Section ___-1.5 to ensure the units remain within the same AMI range, as adjusted from time-to-time; and
 - (2) Establish an affordable housing compliance monitoring program, to be administered by a third party, to manage and implement the for-rental and for-sale affordable dwelling units created in compliance with the ordinance, for purposes of ensuring compliance with affordability requirements and periods. In addition, requires that at a minimum, the affordable housing compliance monitoring program must address the performance of certain functions set forth in the ordinance.
- O. Adds a new SECTION 3 to the bill, to amend Ordinance 18-1 relating to affordable housing initiatives, to correct a citation to an ordinance section.
- P. Adds a new SECTION 4 to the bill, which provides that no later than five years after the effective date of the ordinance, the director shall submit to the Council a status report assessing the effectiveness of the ordinance in creating new affordable dwelling units in the City, and the efficiency of the affordable housing compliance monitoring program in administering the requirements of the ordinance. Renumbers subsequent bill sections.
- Q. Revises renumbered SECTION 7 of the bill to provide that SECTION 3 of the ordinance will be repealed on June 30, 2027.
- R. Makes miscellaneous technical and nonsubstantive amendments.

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Related communication:

M-181 Additional Testimony on Bill 58 (2017), CD1

ADJOURNMENT

There being no further business, the meeting was adjourned at 10:17 a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Glen I. Takahashi', with a long horizontal flourish extending to the right.

GLEN I. TAKAHASHI
City Clerk

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DATE APPROVED

May 3, 2018