

Report to the 2023 Hawaii State Legislature:

Pursuant to Act 305, Session Laws of Hawaii 2022, Relating to Housing

Prepared by:

Hawaii Housing Finance and Development Corporation

Department of Business, Economic Development, and Tourism

and

Hawaii Public Housing Authority

Department of Human Services



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INTRODUCTION

Act 305, Session Laws of Hawaii 2022, also known as the Yes In My Back Yard Act, established a working group on affordable housing co-chaired by the executive directors of the Hawaii Housing Finance and Development Corporation (HHFDC) and the Hawaii Public Housing Authority (HPHA) that shall meet annually to:

1. Foster increased inter-agency coordination on housing and zoning issues.
2. Raise public awareness of the ongoing efforts by the State and counties to reduce barriers to affordable housing development.
3. Propose legislation.

In addition to the two co-chairs, the working group is comprised of ten members:

1. The chairpersons of the respective standing committees on housing of the Senate and House of Representatives.
2. The executive director of the Land Use Commission (LUC).
3. The executive director of the Office of Planning and Sustainable Development (OPSD).
4. The executive director of the Hawaii Community Development Authority (HCDA).
5. Representatives from each county agency having authority over zoning.
6. Other relevant stakeholders as recommended by the working group.¹

SUMMARY OF WORKING GROUP ACTIVITIES

On August 9, 2022, HHFDC and HPHA sent invitation letters to inform stakeholders of the working group's formation.

On September 28, 2022, the working group held its kickoff meeting. A presentation was made to the group about the objectives of the bill and the composition of the group. An online survey was introduced to help identify opportunities to reduce barriers to affordable housing development and address related matters. The survey contained the following questions designed to solicit input on various topics specified in Act 305:

1. What opportunities should be considered to reduce barriers to affordable housing development?
2. What measures adopted last year have the most potential to increase opportunities to develop housing?

¹ The co-chairs have invited the Hawaii Business Roundtable to participate in the working group.

3. What opportunities should this group consider for public outreach to inform residents of our efforts?
4. What is the feasibility of:
 - a. allowing multi-family housing development in retail and commercial zones?
 - b. promoting a range of housing types in areas zoned for single-family homes?
 - c. reducing minimum lot size for housing uses?
 - d. streamlining county processes that affect housing development?
 - e. establishing density bonuses?
 - f. utilizing vacant or underutilized county land for affordable housing development?
 - g. converting office units and commercial spaces into apartments and other multi-family residential spaces?
 - h. streamlining state processes that affect housing development?
 - i. utilizing financing programs to more efficiently develop affordable housing?
5. What are developers' most pressing challenges with obtaining building permits?
6. What are developers' most pressing challenges with obtaining sewer permits?
7. What are developers' most pressing challenges with obtaining water permits?
8. What are developers' most pressing challenges with the Land Use Commission?
9. What are developers' most pressing challenges with the State Historic Preservation Division?
10. What are developers' most pressing challenges with the Commission on Water Resource Management?

On October 11, 2022, the first working group meeting was convened, at which time survey results were shared and discussed. At the conclusion of the meeting, stakeholders were asked to select their top-five focus areas that the group should focus on at the second meeting. To assist in this endeavor, stakeholders were sent an online survey with the following categories to select from:

1. State land use district amendments.
2. Zoning ordinances.
3. State historic preservation review.
4. Permitting.

5. Exemptions from county requirements.
6. Infrastructure.
7. Vacant and underutilized lands.
8. Environmental review.
9. Housing policies.
10. Financing.
11. Capacity
12. Prevailing wages.

On November 15, 2022, the working group held its second meeting. Stakeholders were presented with the results with the prioritized focus areas for further consideration:

1. Infrastructure (9 votes).
2. Zoning ordinances (7 votes).
3. Housing Policies (4 votes).
4. State land use district amendments (4 votes).
5. Exemptions from county requirements (3 votes).
6. Financing (3 votes).
7. Vacant and underutilized lands (3 votes).
8. Environmental review, State historic preservation review, and permitting (2 votes each).

Discussions were held to determine what potential opportunities should be researched and analyzed with the assistance of a consultant.

DISCUSSIONS

Salient features of the second working group meeting discussions are summarized below.

1. *Infrastructure.* The Hawaii Interagency Council for Transit-Oriented Development (TOD Council) meets monthly to look at innovative ways to finance common area infrastructure so that costs can be shared equitably between public and private landowners. This is necessary to reduce the reluctance of public or private landowners being the first to pay for the infrastructure. Because the TOD Council is already meeting to discuss this issue, interested parties can join their meetings.

Also, there is a need for collaboration and coordination within each county, and between the State and the counties, to ensure that infrastructure is built in a strategic and coordinated fashion.

2. *Zoning ordinances.* Much of the discussion focused on the use of 'by-right' approval on housing projects. County representatives indicated there is apprehension towards the acceptance of a 'by-right' ministerial process by their county councils because it limits the ability of councils to address community concerns.
3. *Housing policies.* There is a need to evaluate county housing policies to ensure that they are effective in terms of supporting affordable housing production. For example, the effectiveness of the inclusionary zoning policy is unknown and should be assessed to determine if it is effective in generating affordable housing.
4. *State land use district amendments.* There are different perspectives among stakeholders regarding changes to the land use boundary amendment process. This is a complex issue, which will require further research and discussion.
5. *Exemptions from county requirements.* Affordable housing projects are provided with varying degrees of exemptions from county standards such as those relating to density, height, setbacks, and sidewalks. Various fee waivers are also available. County representatives indicated that, while exemptions help to reduce construction costs, they must be balanced with meeting public safety standards and other considerations.
6. *Financing.* HHFDC clarified that its current project evaluation criteria encourage financing to nonprofit organizations.
7. *Vacant and underutilized public lands.* The issue with developing on vacant and underutilized lands involves the availability of infrastructure as the constraint on development.
8. *Other topics: Cultural Resources Commission (CRC).* The question is whether its presence produces a dual-layered process (considering State review by the State Historic Preservation Division) or helps to streamline the overall review. All counties have their version of the CRC and generally use them in a supportive role for input to their planning commission's decision process.

NEXT STEPS

Act 305 provided \$100,000 of general funds to support the working group activities. However, due to the current 10% budget execution policy restriction, only \$90,000 is available. To assist the working group with evaluating opportunities to reduce barriers to affordable housing production, HHFDC initially reached out to the University of Hawaii at Manoa (UH) for consulting services. UH eventually determined that the relevant personnel to be involved lacked current capacity to perform the needed work.

HHFDC is currently negotiating with a community planning firm with expertise in entitlement and development processes to assist with research and analysis needed to support the working group. A contract is expected to be executed in January 2023.

Additional funds will be required to conduct all the research and analysis necessary to produce a complete report. Unless additional funding is available, the scope of work will be prioritized based on the discussions as outline in the section above.

The third working group meeting will be convened to continue discussions once certain research and analysis have been completed by the consultant.

CLOSING

The community of housing stakeholders – HHFDC, HPHA, chairpersons of Senate and House of Representatives housing committees, LUC, OPSD, HCDA, and representatives from county planning departments – are committed to working together to provide recommendations to reduce barriers to housing production in Hawaii.

Thank you for the opportunity to provide this update.