The Senate
Ka ʻAha Kenekoa

STATE CAPITOL
HONOLULU, HAWAIʻI 96813

August 9, 2023

Mr. Gary Mackler, Chair
Hawaii Housing Finance and Development Corporation
677 Queen Street, Number 300
Honolulu, Hawaii 96813

Dear Mr. Mackler,

I urge the board to support a public hearing on HHFDC's proposed QAP amendments so that it can receive testimony from as broad a cross section of the public as possible. In particular, I believe that the proposed QAP amendments must be extensively modified to ensure that the taxpayer receives the best possible deal.

Pursuant to Section 42 of the Internal Revenue Code, the Hawaii Housing Finance and Development Corporation (HHFDC) assigns Low-Income Housing Tax Credits (LIHTC) to developers based on a Qualified Allocation Plan (QAP). In consultation with developers and other stakeholders, HHFDC has proposed amendments to Hawaii's 2024 Qualified Allocation Plan. According to HHFDC, these amendments will better align with its values of supporting projects that are ready to proceed, government-backed, and take into account the efficiency and reasonableness of development costs. HHFDC's proposed changes include overall policy amendments, minimum threshold alterations, and adjustments to the QAP selection criteria. In amending the QAP selection criteria in particular, HHFDC:

- Revised the project feasibility criteria to include three sections: reasonableness of development costs, readiness to proceed, and tenant services and amenities.
- Reduced the number of points awarded to applicants that agree to a lower developer fee.
- Reduced the amount of points allocated to an applicant that receives rental assistance subsidies for the first time.
- Increased by one point the award for applicants that have received state or local government support.
- Modified the criteria for points awarded to projects proximate to transit.
- Created a penalty for applicants that have failed to meet current or past terms.

I believe these amendments fall far short of the best deal–and in some cases, are counterproductive–for taxpayers and the low income residents of Hawaii who so desperately

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need stable, inexpensive housing. As HHFDC is acutely aware, the state of Hawaii is facing a severe housing shortage. A 2019 DBEDT study found that, in order to keep up with demand, 50,000 housing units need to be built in the next five years. But Hawaii has only been building at a rate of 2,000 units per year, far lower than the 10,000 necessary to house its residents. As a result of limited housing options coupled with sky-high demand, median prices for a single-family home on Oahu are more than $1,150,000 and condominium prices have risen to a median price of $515,000. The high cost of living in Hawaii has resulted in population decline for seven consecutive years and more Native Hawaiians living outside Hawaii than in Hawaii. The State needs to take responsibility by implementing creative, bold solutions to the housing shortage that ensure the security and prosperity of Hawaii's residents for generations to come.

The Low-Income Housing Tax Credit (LIHTC) program was created through the Tax Reform Act of 1986 and has been the backbone of all new affordable housing construction nationwide for the last 37 years. LIHTC provides for federal tax credits for the acquisition, rehabilitation, or construction of affordable housing.

The reality is that LIHTC funding is currently a handout of taxpayer dollars to developers; the tax credits are not loans and are never repaid. The taxpayer pays for 30 to 70 percent of a project through these tax credits, but owns zero. The developer pays for zero, but owns 100 percent of a project. On top of the ownership interest, the developer is paid a developer fee averaging 15 percent. Thus, the developer makes a guaranteed profit *and* obtains full ownership of a taxpayer-paid, market-priced apartment building after affordability periods expire. Often, tenants petition the state to buy the project back, which means the taxpayer pays for a project twice–an unjust and absurd outcome.

The State is unable to leverage any capital gain in LIHTC projects to develop more housing in the future. Instead, the funds disappear into developer's pockets, who have no incentive to use their profits to build more affordable housing. As a result, LIHTC requires billions of dollars in federal funding annually, creating buildings that offer low rents only in the short term and which in the long term unjustly enrich developer-owners.

In addition, developers often return to the state for gap financing from the Rental Housing Revolving Fund (RHRF). Currently, there are over 80 projects with 6,774 units with affordability expiration dates ranging from 2024 to 2084 that have received RHRF financing. Only 3 of these projects (432 units) are affordable in perpetuity. For the state to buy all of the expiring projects at $400,000 per unit, it would cost the state over $2.5 billion today. Why should so many taxpayer subsidies be granted to private housing developers, who realize a windfall of profits after the expiration of affordability periods despite undertaking zero risk?

Certain changes to the way in which LIHTC is administered will make the program more efficient and sustainable for housing development. Hawaii's current Qualified Allocation Plan awards a maximum of one hundred twenty points to developers' affordable housing project applications. Applications with the most points, ranked based on a number of different criteria, are awarded the tax credits.

This past 2023 legislative session, I introduced Senate Bill 858, a proposal to alter the LIHTC Qualified Allocation Plan. The Senate passed Senate Resolution 132, urging HHFDC to revise the prioritization and evaluation and ranking criteria for its allocation of Low-Income Housing Tax Credits as well as awards from the Rental Housing Revolving Fund, and the Legislature adopted Senate Concurrent Resolution 54, urging the HHFDC to promote supportive housing in the state's LIHTC program. All of these measures are attached for your convenience.

I strongly urge HHFDC to consider the following amendments to the QAP:

- Despite HHFDC claiming its mission aligns with supporting state and local government projects, its proposed 2024 QAP amendments only increase the relevant application criteria by one point. Instead, HHFDC should amend Section III(D) to award a maximum of twenty percent of the points to applications that plan to develop:
    - A State- or county-owned project;
    - A project in which the State or county is an equity partner;
    - A project in which ownership is conveyed to the State or county at a definite time; or,
    - An organization obliged to use all financial surpluses generated by the project to construct more owner- or renter-occupied housing.
- Amend Section III(D) to award a maximum of ten percent of points to applications that demonstrate a record of early loan repayment or that request a shorter repayment term.
- Amend Section III(B)(12) to adopt Washington State's Office of Housing Developer Fee Schedule in order to cap development fees for both 9% and 4% LIHTC at:
    - 12% for projects under one million dollars
    - 7.5% for projects costing between one million and six million dollars
    - 5% for projects costing between six million and twelve million dollars
    - 2.5% or seven-hundred and fifty thousand dollars (whichever is less) for projects costing over twelve million dollars
- Maintain the criteria of 0-7 points (as opposed to 0-3 points) for the ratio of developer fee as a percentage of total project cost under Section II(D)(3).
- Create selection criteria under Section III(D) to promote the development of supportive housing, including but not limited to prioritization of special needs tenants and the "vacant unit rule."

These proposed amendments would ensure that the profits from LIHTC projects are used to build more housing, instead of disappearing into developers' pockets. It would also ensure that LIHTC buildings remain affordable forever, as the State is not a profit-making business. As a result, the state will more efficiently and effectively utilize its resources by subsidizing housing development that can grow in value and ensures the recycling of financing to keep developing more housing. This will guarantee long-term affordability for project residents as well as fairness in where resident's taxpayer dollars are going.

I strongly urge the board to conduct a public hearing on these QAP amendments and solicit testimony from the general public. I believe the proposals I outline above will find broad public support, and that the QAP amendments in their current form will be unpopular. Thank you for the opportunity to provide testimony.

Very truly yours,

Stanley Chang
Senator, District 9
Chair, Committee on Housing

Enclosures (3)
- SB858 (2023)
- SR132 (2023)
- SCR54 (2023)

SB858 (2023)

THE SENATE
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

S.B. NO. 858 S.D. 1

A BILL FOR AN ACT

RELATING TO HOUSING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that the United States Department of Housing and Urban Development encourages the development of affordable housing through multiple programs, making state-owned development projects more user-friendly to the private sector. In general, because state-owned development projects are located on parcels already owned by the state, it excludes the cost of land from the development cost equation, creating an attractive incentive for private developers to partner with the state to develop and redevelop state-owned projects. This incentive better positions public housing agencies to access the private capital and financing necessary to revitalize state-owned development projects, deliver more affordable housing to satisfy current demand, and benefit the most disadvantaged residents of the state. More importantly, this also allows the state to ensure that every new affordable housing unit that is built will remain affordable in perpetuity.

The legislature further finds that there is a nationwide precedence for states to prioritize the allocation of federal housing incentives to government agencies. Many housing finance agencies give priority, provide set-asides, and award nine and four per cent low-income housing tax credits to state-owned development projects. For example, the Alaska housing finance agency has allocated all the state's nine per cent low-income housing tax credits to its public housing agency for a prioritized redevelopment project in Anchorage.

The legislature notes that Hawaii housing finance and development corporation has been designated as the agency responsible for the administration of the federal and state low-income housing tax credit program in the State. The regulations that govern this program are contained in section 42 of the Internal Revenue Code. The low-income housing tax credit program uses a point system to facilitate project ranking based on the established evaluation criteria. States have discretion over the point system and rating criteria used to score and evaluate applications of projects for allocation of the tax credit.

Tax credits are grants, not loans. When the State allocates the tax credit to a developer, it does not receive an ownership interest in return. Any profits generated by a housing project stay with the developer, who is not required to use the profits to build additional housing. In addition, the State often purchases low-income housing development projects from the developer after the affordability period ends to guarantee tenant stability. In these cases, taxpayers have paid for the project twice.

The legislature additionally finds that it would be in the best interest of the State to consider Vienna's Limited-Profit Housing Act of 1979 as a model to sustainably finance the construction of affordable housing in the State. Currently, over sixty per cent of the city's population lives in income blind, well-maintained, innovatively constructed and designed public housing that has no income restrictions. Limited-profit housing operates on a cost-recovery as opposed to a subsidized basis. Any profits generated are used to build more housing, which means that each new public housing project built enables the creation of more housing. As a result of this system, there is an annual production of over seventeen thousand units, which comprises thirty per cent of their national total, with little to no new taxpayer money added.

Accordingly, the purpose of this Act is to require the Hawaii housing finance and development corporation to:

(1) Prioritize the allocation of low-income housing tax credits to state-owned development projects;

(2) Award additional points to developers that convey ownership of the proposed housing to the State or an organization that is obligated to use all financial surpluses generated by the project to construct more housing;

(3) Not award additional points projects with developer fees that are under twelve per cent; and

(4) Prioritize applicants who have demonstrated accelerated full repayment into the rental housing revolving fund of past rental housing revolving fund loans.

SECTION 2. Section 201H-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The corporation is designated as a state housing credit agency to carry out section 42(h) (with respect to limitation on aggregate credit allowable with respect to a project located in a state) of the Internal Revenue Code of 1986, as amended. As a state housing credit agency, the corporation shall [~~determine~~]:

(1) Determine the eligibility basis for a qualified low-income building[~~, make~~];

(2) Make the allocation of housing credit dollar amounts within the State[~~, and determine~~]; provided that priority be given to development projects that will be owned by the State, whether outright or through a right of first refusal and purchase option; and

(3) Determine the portion of the State's housing credit ceiling set aside for projects involving qualified nonprofit organizations. The corporation shall file any certifications and annual reports required by section 42 (with respect to low-income housing credit) of the Internal Revenue Code of 1986, as amended."

SECTION 3. With respect to the qualified allocation plan and the criteria point system therein developed by the Hawaii housing and finance development corporation in accordance with section 42 of the Internal Revenue Code of 1986, as amended, beginning with calendar year 2024, the corporation shall:

(1) Add a new criteria category that allows for up to twenty per cent of the maximum one hundred twenty points on the application criteria point system to be allocated to projects offering to convey ownership of the finished project to the State or an organization obliged to use all financial surpluses generated by the project to construct more housing;

(2) Not award additional points for developer fees that are under twelve per cent; and

(3) Prioritize applicants who have demonstrated accelerated full repayment into the rental housing revolving fund of past rental housing revolving fund loans.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

Report Title:
Hawaii Housing Finance and Development Corporation; Low-Income Housing Tax Credit Program; Qualified Allocation Plan

Description:
Requires the Hawaii Housing Finance and Development Corporation to: prioritize the allocation of low-income housing tax credits to state-owned development projects; amend the Low-Income Housing Tax Credit Qualified Allocation Plan to allow up to twenty per cent of the maximum one hundred twenty points on the application criteria point system to be allocated to projects offering to convey ownership of the completed project to the State or an organization obliged to use all financial surpluses generated by the project to construct more housing; not award additional points for developer fees that are under twelve per cent; and prioritize applicants who have demonstrated accelerated full repayment into the rental housing revolving fund of past rental housing revolving fund loans. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

SR 132 (2023)

THE SENATE
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

S.R. NO. 132

MAR 10 2023

SENATE RESOLUTION

URGING THE HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION TO REVISE THE PRIORITIZATION AND EVALUATION AND RANKING CRITERIA FOR ITS ALLOCATION OF LOW-INCOME HOUSING TAX CREDITS AND AWARDS FROM THE RENTAL HOUSING REVOLVING FUND.

WHEREAS, the Hawaii Housing Finance and Development Corporation has been designated as the agency responsible for the administration of the federal and state Low-Income Housing Tax Credit Program; and

WHEREAS, the Low-Income Housing Tax Credit Program uses a point system to facilitate project rankings based on established evaluation criteria; and

WHEREAS, states have discretion over the point system and rating criteria used to score and evaluate project applications for allocation of the tax credits; and

WHEREAS, when the State allocates the tax credit to a developer, the State does not, in return, receive an ownership interest in the development; and

WHEREAS, the State often purchases low-income housing development projects from developers after the required affordability period ends to guarantee tenant stability, resulting in taxpayers paying for projects twice; and

WHEREAS, any profits generated by a housing project stay with the project's developer; and

WHEREAS, unlike certain models similar to Vienna's Limited-Profit Housing Act of 1979, developers in Hawaii are not required to use profits generated by a housing project to build additional housing, and no appropriate incentive exists to require developers to construct additional projects after the completion of a housing project; and

WHEREAS, the development of affordable housing on land already owned by the State creates attractive incentives for private developers to partner with the State to develop or redevelop the state-owned projects, as they exclude the high cost of land from the development cost equation; and

WHEREAS, affordable housing projects on state-owned land also allow the State to ensure that every new affordable housing unit remains affordable in perpetuity, thus increasing the supply of affordable housing; and

WHEREAS, it is in the best interests of the State to modify the evaluation criteria for the Low-Income Housing Tax Credit Program to prioritize the allocation of credits to state-owned development projects and award additional points to developers obligated to use all financial surpluses generated by the project to construct more housing to help the State meet its existing and future housing supply demands; and

WHEREAS, the Rental Housing Revolving Fund is a fund administered by the Hawaii Housing Finance and Development Corporation to provide loans or grants for the development, construction, and rehabilitation of rental housing units; and

WHEREAS, developers often take decades to repay loans, and grants do not have be repaid, resulting in the Rental Housing Revolving Fund relying upon legislative appropriations to replenish the Fund; and

WHEREAS, the Legislature appropriates millions of dollars to the Rental Housing Revolving Fund annually, which is an unsustainable burden for the State to shoulder; and

WHEREAS, the Rental Housing Revolving Fund also uses a point system to facilitate project ranking of applicants based on established evaluation criteria, and the State has discretion over the point system and rating criteria used to score and evaluate applications used to award funds; and

WHEREAS, it is further in the State's best interest to amend the priority for which moneys in the Rental Housing Revolving Fund are to be used, to incentivize developers that are awarded a loan or grant to use the profits to build additional housing to ensure the necessary future supply of housing in the State; now, therefore,

BE IT RESOLVED by the Senate of the Thirty-second Legislature of the State of Hawaii, Regular Session of 2023, that the Hawaii Housing Finance and Development Corporation is urged to revise the Low-Income Housing Tax Credit Program's Qualified Allocation Plan to prioritize the development of projects that will be owned by the State, whether outright or through a right of first refusal and purchase option; and

BE IT FURTHER RESOLVED that, with respect to the Qualified Allocation Plan and the criteria point system developed by the Hawaii Housing Finance and Development Corporation, the Corporation is further urged to:

(1) Add a new criteria category that allows for up to twenty percent of the maximum one hundred twenty points on the application criteria point system to be allocated to projects offering to convey ownership of the finished project to the State or an organization obliged to use all financial surpluses generated by the project to construct housing;

(2) Not award additional points for developer fees that are under twelve percent; and

(3) Prioritize applicants who have demonstrated accelerated full repayment into the Rental Housing Revolving Fund of past Rental Housing Revolving Fund loans; and

BE IT FURTHER RESOLVED that the Hawaii Housing Finance and Development Corporation, in its awarding of funds from the Rental Housing Revolving Fund, is urged to prioritize projects that are owned by the State or an organization obliged to use all financial surpluses generated by the project to construct additional housing; and

BE IT FURTHER RESOLVED that the Hawaii Housing Finance and Development Corporation is requested to amend its administrative rules relating to the Rental Housing Revolving Fund to:

(1) Add a new criteria category that allows for up to twenty percent of the maximum two hundred fifty points on the application criteria point system to be allocated to proposed projects owned by the State or an organization obliged to use all financial surplus generated by the project to construct housing; and

(2) Prioritize applicants who have demonstrated accelerated full repayment of past state housing loans; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be transmitted to the Executive Director of the Hawaii Housing Finance and Development Corporation.

OFFERED BY: ______________________

SCR 54 (2023)

THE SENATE
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

S.C.R. NO. 54

MAR 09 2023

SENATE CONCURRENT RESOLUTION

URGING THE HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION TO PROMOTE SUPPORTIVE HOUSING IN THE STATE'S LOW-INCOME HOUSING TAX CREDIT PROGRAM.

WHEREAS, supportive housing combines affordable housing with access to services to help special-needs populations live more stable and productive lives; and

WHEREAS, supportive housing has been demonstrated to decrease high use of emergency services and public systems, generating significant cost savings to taxpayers; and

WHEREAS, according to studies from the Hawaii Pathways Project and City and County of Honolulu's Housing First Program, supportive housing not only benefited individuals with improved housing retention, health, and quality of life but also lowered crime rates and reduced burdens and costs on already stretched public systems; and

WHEREAS, the low-income housing tax credit program is a major financing tool for the construction or rehabilitation of low-income rental units; and

WHEREAS, as the State's low-income housing tax credit administrator, the Hawaii Housing Finance and Development Corporation developed a Qualified Allocation Plan, which sets forth criteria to evaluate and allocate the low-income housing tax credit to projects that meet the housing needs of the people of the State; and

WHEREAS, the Qualified Allocation Plan uses a point system to rank projects based on the established evaluation criteria, and up to two points are provided to projects that serve tenants with special housing needs; and

WHEREAS, however, occupancy of these special-needs housing units is restricted to special-needs tenants for the duration of the committed affordability period, which often extends beyond the low-income housing tax credit compliance period; and

WHEREAS, moreover, special-needs housing units must be occupied at all times by a special-needs tenant and must remain vacant until a special-needs tenant occupies the unit, regardless of whether there is a waitlist for the project for the other remaining units; and

WHEREAS, given the dearth of supportive housing units in low-income housing tax credit projects, these restrictions appear to hinder the provision of low-rent housing for special-needs populations; and

WHEREAS, amending the Qualified Allocation Plan could reduce development risks and encourage developers to build supportive housing; and

WHEREAS, the Qualified Allocation Plan could be amended to allow:

(1) Developers to exert their best efforts to restrict the supportive housing units for special-needs tenants for the duration of the committed affordability period or low-income housing tax credit compliance period; and

(2) For the application of a vacant-unit rule that would allow developers to rent a supportive housing unit to an income-eligible tenant after making reasonable attempts to rent the unit, or the next available unit, to a special-needs tenant; now, therefore,

BE IT RESOLVED by the Senate of the Thirty-second Legislature of the State of Hawaii, Regular Session of 2023, the House of Representatives concurring, that the Hawaii Housing Finance and Development Corporation is urged to promote supportive housing in the State's low-income housing tax credit program; and

S.C.R. NO. 54

BE IT FURTHER RESOLVED that the Hawaii Housing Finance and Development Corporation is urged to amend the 2023-2024 Qualified Application Plan for the low-income housing tax credit program to facilitate supportive housing development; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Chairperson of the Board of Directors and Executive Director of the Hawaii Housing Finance and Development Corporation.

OFFERED BY: ____________________

By Request

JOSH GREEN, M.D.
GOVERNOR
KE KIAʻĀINA

HAKIM OUANSAFI
EXECUTIVE DIRECTOR

BARBARA E. ARASHIRO
EXECUTIVE ASSISTANT

STATE OF HAWAII
KA MOKUʻĀINA O HAWAIʻI
HAWAII PUBLIC HOUSING AUTHORITY
1002 NORTH SCHOOL STREET
POST OFFICE BOX 17907
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IN REPLY PLEASE REFER TO:

23:OED/

Statement of
Hakim Ouansafi
Hawaii Public Housing Authority
Before the

HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
REGULAR BOARD OF DIRECTORS MEETING

Thursday, August 10, 2023
9:00 am
677 Queen Street, Suite 300, Boardroom
Honolulu, Hawaii 96813

In consideration of
Agenda Items III.M. & III.N.

Aloha Chair Mackler, Vice-Chair Reimann, and Members of the HHFDC Board of Directors. On behalf of the Hawaii Public Housing Authority (HPHA), we thank you for the opportunity to provide testimony concerning Agenda Items III.M. & III.N. – Approval of an extension to the Issuance of Hula Mae Multi-Family Tax-Exempt Revenue Bonds and an extension to the Rental Housing Revolving Fund Letter of Intent for the HPHA School Street Redevelopment Phase 1A.

As you know, the first phase of the HPHA's 800-unit School Street Senior Affordable housing project plans to deliver 250 units of desperately needed elderly affordable rental units, and these units would remain affordable housing rental units in perpetuity.

The proposed development, when fully built out, is envisioned to be a cohesive community that combines residential and ancillary retail uses in a location convenient to nearby Downtown Honolulu's Primary Urban Center and existing concentrations of retail, commercial and medical facilities. All residential units will be designed and built as affordable senior rental housing, which will be targeted to senior households whose incomes are between 30% and 60% of AMI.

This project is important for the community and the state as it will not only help alleviate the desperate need for affordable housing but will also generate hundreds of jobs during construction. I thank you for the opportunity to testify and humbly request that the HHFDC Board of Directors approve these For Action items.