Terry Taplin
Councilmember District 2

REVISED
AGENDA MATERIAL
for Supplemental Packet 2

Meeting Date: **June 17, 2021**

Item Number: **3**

Item Description: **Resolution Recognizing Housing as Human Right; Referring to City Manager Several Measures to Begin Developing Social Housing in the City of Berkeley**

Submitted by: **Councilmember Taplin**

The referral has been amended to explicitly include potential funding for a Local Operating Subsidy Program (LOSP) within the scope of the requested study. Additionally, non-substantive background changes have been made to reflect recent changes to similar proposals in the State of Hawaii.

Berkeley City Councilmember
Terry Taplin
District 2

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ACTION CALENDAR
DATE: 2/23/21

To: Honorable Mayor and Members of the City Council

From: Councilmember Terry Taplin, Mayor Jesse Arreguín (co-sponsor), Councilmember Harrison (co-sponsor), Councilmember Hahn (co-sponsor)

Subject: Resolution Recognizing Housing as Human Right; Referring to City Manager Several Measures to Begin Developing Social Housing in the City of Berkeley.

RECOMMENDATION

Adopt a resolution recognizing housing as a human right; refer to the City Manager's office several measures to begin developing social housing in the City of Berkeley. Measures shall include, but not be limited to:

1. Study and report to council on development potential, including density bonuses, for mixed-income housing development starting with the city-owned parcels at 1011 University Ave, and seek information through an RFI or other process on the potential for cross-subsidized limited-equity leasehold and rental models or other social housing development models;
2. Study and return to council a report and, if feasible, a proposal for a Reparative Justice Revolving Loan Fund with affirmative racial justice and anti-displacement goals in coordination with the city's Small Sites Program, including, but not limited to:
    - a. Providing low-interest loans for tenants, nonprofits, limited-equity co-operatives, and community land trusts to acquire real property; support Low Income Housing Tax Credit (LIHTC) funding; develop and/or maintain mixed-income and permanently affordable housing;
    - ~~a.~~b. Funding a Local Operating Subsidies Program to provide permanently affordable housing for Very Low and Extremely Low Income households;
    - ~~b.~~c. Leveraging local funds with state and regional partnerships through the Bay Area Housing Finance Agency (BAHFA) with the Association of Bay Area Governments (ABAG), Berkeley Housing Authority, Berkeley Unified School District (BUSD) and BART;
    - ~~c.~~d. Consider best practices from other agencies and other partnership opportunities;
3. Establish a publicly available, user-friendly data dashboard potentially using third-party data visualization tools for monitoring Housing Justice Indicators in the city including, but not limited to:

a. State certification of city's Housing Element and progress toward RHNA goals for each income tier in annual Housing Pipeline Reports;
b. Housing Element compliance with Affirmatively Furthering Fair Housing (AFFH) rule pursuant to California Government Code Section 65583 and Chapter 15, Section 8899.50 of Division 1 of Title 2, presented with, at a minimum:~~;~~
    - Citywide and regional affordability as defined by median rents and home prices as share of one-third of the City of Berkeley and Alameda County's median household income in most recent American Community Survey data;
    - Local funding and open BMR housing application slots available to meet housing needs of Moderate, Low-, Very Low-, and Extremely Low-Income households;
    - Anti-displacement metrics using UC Berkeley Displacement Project data and tracking successful applications to affordable housing units in the city using Local Preference policy;
    - Geographic considerations including historic redlining and segregation; Sensitive Communities and High Displacement Risk Areas identified in the 2019 CASA Compact by the Metropolitan Transportation Commission (MTC); and access to economic opportunity as measured by State of California Tax Credit Allocation Committee (TCAC) Opportunity Area Maps;
    - Any other considerations relevant to AFFH compliance and reparative housing justice.

BACKGROUND

A Human ~~Guaranteeing Adequate Housing: Global and Local Comparison~~Right to Housing vs. Property Rights

International law has recognized a right to adequate housing since the 1948 Universal Declaration of Human Rights and the 1966 International Covenant on Economic, Social and Cultural Rights, establishing freedoms and entitlements that include security of tenure, privacy, affordability, freedom of movement and non-discriminatory access.[1] By definition, the City of Berkeley has not affirmed this right for at least 1,000 homeless residents, with 813 unsheltered according to the 2019 Homeless Point-in-Time Count in Alameda County.[2] To obtain secure homeownership, the city's December 2020 median home price of $1.39 million would require an income over three times as high as Berkeley's 2018 median household income of $80,000.[3] Meanwhile, the state of California leads the nation in its share of the homeless

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[1] Office of the United Nations High Commissioner for Human Rights. (2009). *Fact Sheet No. 21: The Right to Adequate Housing. (Rev. 1).* United Nations: Geneva. Retrieved from https://www.ohchr.org/documents/publications/fs21_rev_1_housing_en.pdf

[2] https://everyonehome.org/wp-content/uploads/2019/07/ExecutiveSummary_Alameda2019-1.pdf

[3] https://www.zillow.com/berkeley-ca/home-values/

population[4]; over half the state's renters and a third of its homeowners are excessively cost-burdened, paying over 30% of their income for housing; and more than two-thirds of Californians facing excessive housing costs are people of color.[5] According to the California Budget & Policy Center, "Poor housing quality, living in a low-income neighborhood, overcrowding, moving frequently, and homelessness are all associated with adverse health outcomes."[6]

Housing is financialized to an extreme degree that is incompatible with material needs of the general population. Public policy in California and the United States privileges legal rights to financial asset appreciation over a right to humane living standards in sanitary and secure housing.

In urban areas throughout the world, other nations with lower rates of homelessness and housing insecurity provide adequate housing for their citizens through various policies that address housing as public infrastructure. Housing systems are administered in varying degrees of "decommodification,"[7] ensuring a minimum standard of living through the welfare state above what individuals can obtain through the private market. Different governments approach decommodification of housing to some degree through strategies for subsidizing the supply channel by providing low-cost housing, or the demand channel by supporting consumer purchasing power. Socialization of land rents also emerges as a key strategy for maintaining equitable housing security outcomes in response to sudden exogenous shocks (e.g. supply shocks from natural disasters or demand shocks from public health measures suppressing consumption).

In two case studies, the cities of Vienna and Singapore own and operate public housing development corporations that retain some amount of land title in the common trust in order to stabilize the housing market—either by restricting ownership to leases, or encouraging low-cost rentals and developing on public land holdings. Both also retain a "reserve supply" of land and/or development rights to stabilize housing affordability through recessionary demand shocks. These cities are able to provide housing to any citizen at an affordable cost regardless of their income, effectively reinvesting revenues from higher-income households to subsidize housing for lower incomes. In Tokyo, while housing is more commodified, Japanese federal

[4] Passy, J. (2019). Nearly half of the U.S.'s homeless population live in one state: California. *MarketWatch*. Retrieved from https://www.marketwatch.com/story/this-state-is-home-to-nearly-half-of-all-people-living-on-the-streets-in-the-us-2019-09-18#

[5] Kimberlin, S. (2017). Californians in All Parts of the State Pay More Than They Can Afford for Housing. *California Budget & Policy Center.* Retrieved from https://calbudgetcenter.org/resources/californians-parts-state-pay-can-afford-housing/

[6] Ramos-Yamamoto, A. (2019). Advancing Health Equity: How State Policymakers Can Increase Opportunities for All Californians to Be Healthy. *California Budget & Policy Center.* Retrieved from https://calbudgetcenter.org/blog/advancing-health-equity-how-state-policymakers-can-increase-opportunities-for-all-californians-to-be-healthy/

[7] Esping-Andersen, G. (1990). *The Three Worlds of Welfare Capitalism.* Princeton, NJ: Princeton University Press. p. 21-23.

land-use policy treats housing essentially as a non-durable consumer good, prioritizing its utility as shelter over its ~~capacity to increase financial wealth~~potential as a speculative asset.[8]

Vienna and Singapore rank 1st and 25th on the 2019 Mercer Quality of life ranking, respectively, above any city in the United States. Vienna has held the top position for the past ten years.[9]

The United States has tended toward the extreme opposite end in the spectrum of housing commodification. Modern economic policy and property rights have treated housing primarily as means to a guarantee for growing financial asset wealth and enforce a white supremacist caste system.
~~Housing is commodified to an extreme degree that is incompatible with material needs of the general population.~~
Subsidies for both supply and demand channels have been historically insufficient while support for American asset wealth primarily in white communities has been more robust and resilient. This has widened the racial wealth gap between white and Black households, and ultimately proved incompatible with universal housing security.

The Great Recession of 2008 effected an abjectly cruel transfer of wealth from lower-income Black homeowners[10] targeted with predatory subprime loans to private equity firms[11] buying up large portfolios of "distressed" properties before the economy recovered. This longstanding pattern of usury and community displacement further has further excluded people of color from the fruits of economic recovery and deepens the racial wealth gap. We risk repeating this process in the current COVID-19 depression, as renters and low-income homeowners face an unprecedented homelessness crisis due to job losses during the pandemic, while relatively affluent cities like Berkeley see median home prices continue to rise.

Local, state and federal governments alike have made routine practice of devaluing or outright destroying black asset wealth for the benefit of more affluent, exclusively white communities, most visibly through usurious redlining and destructive "urban renewal."[12] Fundamentally, the government has devoted more resources in absolute terms to protecting the right to capital gains of property owners, at the expense of

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[8] Karlinsky, S. et al. (2020). From Copenhagen to Tokyo: Learning from International Housing Delivery Systems. *SPUR Regional Strategy Briefing Paper*. Retrieved from https://www.spur.org/publications/white-paper/2020-08-06/copenhagen-tokyo.

[9] Mercer. (2019). Quality of life city ranking. Retrieved from https://mobilityexchange.mercer.com/insights/quality-of-living-rankings

[10] White, G.B. (2015). The Recession's Racial Slant. *The Atlantic*. Retrieved from https://www.theatlantic.com/business/archive/2015/06/black-recession-housing-race/396725/

[11] Warren, E. & Fife, C. (2020). Families see a looming catastrophe. Private equity firms see dollar signs. *The Washington Post*. Retrieved from https://www.washingtonpost.com/opinions/2020/08/06/nation-is-facing-housing-crisis-private-equity-firms-just-see-dollar-signs/

[12] Baradaran, M. (2017). *The Color of Money: Black Banks and the Racial Wealth Gap.* Cambridge, MA: Harvard University Press. p. 141.

adequate housing and any right to basic living standards for Black people. After a brief wartime period in which public housing was conceived to sustain middle-class households U.S. public housing developments in the mid-20th century were notoriously racially segregated poverty traps located far from public services and economic opportunity, starved of operational funds and "destined to fail."[13]

The inequities of our current housing crisis are rooted in histories of Jim Crow segregation, mortgage guarantees of the New Deal era, and deflationary policy of the late 1970s. Where neighborhoods were once segregated explicitly by racial covenants and *de jure* statutes, government mortgage guarantees sublimated this segregation into self-reinforcing actuarial assessments promulgated by the Home Owners Loan Corporation (HOLC) and Federal Housing Administration (FHA), established under President Franklin Roosevelt. This practice known as "redlining" infamously denied mortgage credit to primarily Black and Latinx neighborhoods throughout the country, giving more affluent white neighborhoods exclusive access to risk-free mortgage credit while trapping communities of color in poverty. According to UC Berkeley's Urban Displacement Project, neighborhoods that were once redlined are now at greater risk of gentrification and displacement.[14]

The United States and other anglophone countries further commodified housing in order to provide welfare through asset ownership to compensate for stagnation in real purchasing power.[15] In response to high inflation of the 1970s, the Federal Reserve drastically raised interest rates beginning in 1978, triggering a period of deflation that boosted asset prices while suppressing real wages and economic growth. With accompanying deregulation of the financial sector, housing became "financialized" as a special asset class attracting a rush of speculative capital, because it retained the imprimatur of government mortgage guarantees while enjoying fewer capital controls, practically guaranteeing that household asset wealth would outpace low inflation and stagnating wages.[16] A growing body of research strongly suggests that financialization of housing has intensified business cycle volatility and deepened periodic recessions, as "consumption became more correlated with housing wealth."[17]

In California, voters passed Proposition 13 in 1978, further entrenching wealth inequality with constitutional caps on property tax rates and assessments. Data from 2016 shows that property owners in the state's wealthiest municipalities such as Palo Alto and Beverly Hills enjoy some of the lowest effective property tax rates, while lower-income inland cities such as Beaumont, Lancaster and Palmdale pay the

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[13] Perry-Brown, N. (2020). *How public housing was destined to fail.* Greater Greater Washington. Retrieved from https://ggwash.org/view/78164/how-public-housing-was-destined-to-fail

[14] The Legacy of Redlining. (2018). Retrieved from https://www.urbandisplacement.org/redlining

[15] Adkins, L. et al. (2019). Class in the 21st century: Asset inflation and the new logic of inequality. *Environment and Planning A: Economy and Space.* doi.org/10.1177/0308518X19873673

[16] Feygin, Y. (2021). The Deflationary Bloc. *Phenomenal World*. Retrieved from https://phenomenalworld.org/analysis/deflation-inflation.

[17] Ryan-Collins, J., et al. (2017). *Rethinking the Economics of Land and Housing.* London, UK: New Economics Foundation.

highest.[18] According to a 2020 study by the Urban Institute, the current property tax system and the lack of "split-roll" assessment also incentivizes underutilization of commercial property and may suppress housing supply.[19]

Berkeley pioneered other methods of guaranteeing housing price inflation: single-family zoning was first established in the Elmwood and Claremont neighborhoods to sustain real estate values and exclude racial minorities. The Mason-McDuffie Company developed residential neighborhoods in Berkeley with racial covenants in property deeds preventing lease or sale to anyone of "African or Mongolian descent," and lobbied for restrictive zoning in 1916 to protect against "disastrous effects of uncontrolled development"[20]—the implied "disastrous effects" being stable prices and an influx of Black and Chinese residents.

Restrictive zoning reduces multifamily development, constrains supply and enforces a high price floor on dwelling units in high-cost land [21]. A 2015 study by the nonpartisan Legislative Analyst Office found that growth control policies increased home prices by 3-5%.[22] Correspondingly, emerging research from UC Berkeley finds evidence that new market-rate development in San Francisco lowered rents by 2% on parcels within 100 meters and reduced displacement risk for renters in that area by 17%,[23] while a 2016 study by UC Berkeley's Urban Displacement Project found that affordable housing has double the effect of mitigating displacement as market-rate housing.[24] According to a 2001 study on homelessness in California, "rather modest improvements in the affordability of rental housing or its availability can substantially reduce the incidence of homelessness in the United States."[25]

Exclusionary zoning effectively limits where and to what extent these effects can occur, maintaining the spatial segregation of redlining after the latter practice was outlawed by the 1968 Fair Housing Act. In a study of 197 metropolitan areas in the

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[18] McLaughlin, R. (2016). Prop 13: Winners and Losers from America's Legendary Property Tax Revolt. *Trulia.* Retrieved from https://www.trulia.com/research/prop-13/

[19] Greene, S. et al. (2020). Housing and Land-Use Implications of Split-Roll Property Tax Reform in California. *Urban Institute.* Retrieved from https://www.urban.org/sites/default/files/publication/102883/housing-and-land-use-implications-of-split-roll-property-tax-reform-in-ca_1.pdf

[20] Lory, Maya Tulip. (2013). A History of Racial Segregation, 1878–1960. *The Concord Review.* Retrieved from *http://www.schoolinfosystem.org/pdf/2014/06/04SegregationinCA24-2.pdf*

[21] Murray, C. & Schuetz, J. (2019). Is California's Apartment Market Broken? The Relationship Between Zoning, Rents, and Multifamily Development. *UC Berkeley Terner Center for Housing Innovation.* (2019).

[22] Legislative Analyst Office. (2015). California's High Housing Costs: Causes and Consequences. Retrieved from https://lao.ca.gov/reports/2015/finance/housing-costs/housing-costs.pdf

[23] Pennington, K. (2021). Does Building New Housing Cause Displacement?: The Supply and Demand Effects of Construction in San Francisco. *Working Paper.* Retrieved from https://www.dropbox.com/s/oplls6utgf7z6ih/Pennington_JMP.pdf?dl=0.

[24] Zuk, M. & Chapple, K. (2016). Housing Production, Filtering and Displacement: Untangling the Relationships. *Institute of Governmental Studies Research Brief*. Berkeley, CA: UC Berkeley IGS. Retrieved from https://www.urbandisplacement.org/sites/default/files/images/udp_research_brief_052316.pdf

[25] Quigley, J.M. (2001). Homeless in America, Homeless in California. *The Review of Economics and Statistics*. 83(1): 37–51.

United States, UC Merced political scientist Jessica Trounstine has found that restrictive land use policies predicted sustained racial segregation in cities between 1970 and 2006, while larger, sustained white minorities were predictive of cities' resistance to new residential development.[26] Research from UC Berkeley's Othering and Belonging Institute finds that single-family zoning in the Bay Area is strongly correlated with high-resource, high-opportunity, and highly segregated communities.[27] Karen Chapple, Director of UC Berkeley's Urban Displacement Project, stated in a February 25, 2019 letter to the Berkeley City Council, "the Urban Displacement Project has established a direct connection between the neighborhood designations by the Home Owners Loan Corporation (HOLC), and 75% of today's exclusionary areas in the East Bay...Thus, this historic legacy, compounded by Berkeley's early exclusionary zoning practices, continues to shape housing opportunity and perpetuate inequities today." These inequitable distributions of access to housing and asset appreciation has historically perpetuated and remains a primary factor in country's the racial wealth gap.[28]

The ~~highly commodified political economy~~financialized political economy of housing in the United States is enforced by a doctrine of strong property rights for protecting ~~capital gains from asset inflation (~~asset inflation colloquially referred to as "financialization" or "commodification") over rights to material well-being, perpetuating a permanent affordability crisis for most workers who did not already own their homes. This fundamental conflict of moral values and economic rights came into stark display in early 2020, when the group Moms 4 Housing occupied a vacant home in West Oakland owned by Wedgewood Inc., a private equity firm that flipped houses nationwide. In the early hours of January 14, 2020, Alameda County sheriff's deputies enforced an eviction order with guns and armored cars on display, arresting four members of the group who had previously been homeless or housing insecure. On January 20, Oakland Mayor Libby Schaaf and Governor Newsom announced a deal with Wedgewood to sell the house to the Oakland Community Land Trust, and offer first right of refusal to the land trust for its property portfolio in Oakland for permanently affordable housing.[29]

This political value statement, backed by a real transfer of wealth and rights of secure tenure, does not need to be an *ad hoc* bartering between the sweat equity of community organizers, the bully pulpit of elected officials, and the real physical danger

[26] Trounstine, J. (2020). The Geography of Inequality: How Land Use Regulation Produces Segregation. *American Political Science Review*. Cambridge: Cambridge University Press.

[27] Menendian, S., et al. (2020). Single Family Zoning in the Bay Area: Characteristics of Exclusionary Communities. *UC Berkeley Othering & Belonging Institute.* Retrieved from https://belonging.berkeley.edu/single-family-zoning-san-francisco-bay-area

[28] Darity Jr, W. et al. (2018). What We Get Wrong About the Racial Wealth Gap. *Samuel DuBois Cook Center on Social Equity.* Durham, NC: Duke University. Retrieved from https://socialequity.duke.edu/wp-content/uploads/2020/01/what-we-get-wrong.pdf

[29] La Ganga, M. L. (2020). Evicted Oakland moms will get their house back after a deal with Redondo Beach company. *Los Angeles Times.* Retrieved from https://www.latimes.com/california/story/2020-01-20/homeless-moms-4-housing-oakland-wedgewood-properties-deal

of tactical civil disobedience. These values can instead be operationalized as part of the baseline administration of public services. In response to the Moms 4 Housing success, the state legislature passed SB-1079 by Senator Nancy Skinner (D-Berkeley) in September of 2020, authorizing fines of from $2,000 to $5,000 per day on buyers of foreclosed homes left vacant for over 90 days; banning bundled sales of foreclosed houses; and giving tenants, nonprofits, and community land trusts 45 days to match the final highest bid for the property.

Aligning public financing with more inclusive land-use regulations can offer a path to automating these sorts of progressive, reparative distributions of material well-being and housing security at a broader scale.

~~Automatic Stabilizers~~Social Housing, Housing Elements, and Automatic Stabilizers

The COVID-19 recession has demonstrated the federal government's capacity to quickly respond to sudden shocks, as well as its tragic shortcomings. Through state law, municipalities in California have a much more limited and delayed feedback loop to provide services for the public's needs.

President Joseph R. Biden's 2020 campaign platform included massive increases to federal funding for public housing and the Section 8 housing voucher program.[30] If the new ~~presidential~~ Congress and administration can increase housing subsidies through both supply and demand channels to more closely meet present and future needs, the City of Berkeley would have more resources to proactively ensure adequate, stable, and non-discriminatory housing is further guaranteed.

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Economists have proposed "automatic stabilizers" to respond to recessions with increased urgency since the Obama Administration's stimulus efforts following the Great Recession were hamstrung by partisan gridlock in Congress. Federal Reserve economist Claudia Sahm developed the "Sahm rule" for defining the onset of a recession with a specific threshold of sustained unemployment, and a proposal in which this rule could trigger automatic stimulus payments "to broadly support aggregate demand in a recession."[31] In her testimony on January 19, 2021 at a confirmation hearing for her appointment to Treasury Secretary, former Federal Reserve chair Janet Yellen stated: "Our current system needs both updating and expansion… Designing and implementing a modern and effective system of automatic stabilizers is an important step to take now, so that we can minimize the negative impacts of any future recessions."[32]

[30] Biden, J. (2020). The Biden Plan for Investing in our Communities Through Housing. Retrieved from https://joebiden.com/housing/

[31] Sahm, C. (2019). Direct Stimulus Payments to Individuals. *The Hamilton Project.* Retrieved from https://www.hamiltonproject.org/assets/files/Sahm_web_20190506.pdf

[32] Yellen, J. (2021). Hearing to Consider the Anticipated Nomination of the Honorable Janet L. Yellen to Secretary of the Treasury. *U.S. Senate Committee on Finance*. Retrieved from

Issuing stimulus payments automatically and universally to households rather than negotiating periodically in partisan politics could prevent widespread poverty among the least fortunate and also blunt a recession's severity by sustaining consumer demand—stabilizing both material conditions for lower-income households, and consumption writ large. Analogous benchmarks can be operationalized to "stabilize" housing security in the city throughout business cycles and state planning certification periods. For example, urban planner Alain Bertaud has proposed automating updates to land-use policy as a function of land values to programmatically enforce widespread housing affordability.[33] Through a more complex process involving state and local jurisdictions, California's housing element process now requires cities to submit compliant Housing Elements to the Department of Housing and Community Development (HCD) with a General Plan that adequately zones for sufficient residential capacity to meet their Regional Housing Needs Allocation (RHNA) housing production goals and comply with the Affirmatively Furthering Fair Housing rule. State law therefore offers a framework for "automating" or at least actively monitoring progress toward discrete housing justice outcomes.

~~President Joseph R. Biden's 2020 campaign platform included massive increases to federal funding for public housing and the Section 8 housing voucher program.[34] If the new presidential administration can increase housing subsidies through both supply and demand channels to more closely meet present and future needs, the City of Berkeley would have more resources to proactively ensure adequate, stable, and non-discriminatory housing is further guaranteed.~~

Municipal Housing Development and Socialization of Land Rents

Mixed-income municipal housing development has distinct global variants, and is already currently being explored in the United States. ~~In California, AB-387 also known as "the Social Housing Act of 2021" by Assemblymembers Lee (D-San Jose) and Wicks (D-Oakland), sets forth the intent to "establish the California Housing Authority for the purpose of developing mixed-income rental and limited equity homeownership housing and mixed-use developments to address the shortage of affordable homes for low and moderate-income households." (See Attachment 4.) Importantly, state revenue bonds for infrastructure projects do not require voter approval.~~

The state legislature of Hawaii is considering a state-led housing development proposal known as ALOHA Homes, modeled after Singapore's Housing and Development Board (HDB). In Singapore, the resale market for 99-year home leases

https://www.finance.senate.gov/imo/media/doc/Dr%20Janet%20Yellen%20Senate%20Finance%20Committee%20QFRs%2001%2021%202021.pdf

[33] Bertaud, A. (2018). *Order Without Design: How Markets Shape Cities.* Cambridge, MA: The MIT Press.

~~[34] Biden, J. (2020). The Biden Plan for Investing in our Communities Through Housing. Retrieved from https://joebiden.com/housing/~~

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are regulated to ensure long-term affordability with assistance to help households exchange their leasehold equity for larger or smaller units throughout the lease term to adapt to changing needs as family members age. Over 80% of Singaporeans live in HDB housing developments.

SB1 by State Senator Stanley Chang (D-Honolulu) would establish a program within the state's housing finance agency to use existing and newly-acquired state lands near public transit to develop high-density housing, "priced at the minimum levels necessary to ensure that the development is revenue-neutral for the State and counties." ~~.~~ (See Attachment 2.) Under Senate Bill 24 (2021)[35], t~~T~~he state would be authorized to sell ~~housing units~~leasehold condominiums on 99-year terms restricted to owner-occupied use for Hawaii residents who do not own any other real property ~~at cost to residents on 99-year leases~~. The agency would establish a dedicated revolving fund to provide low-cost loans to support long-term affordability, property maintenance and development. By leasing public land for development while retaining title in the public trust, public agencies can ensure that a proportionate degree of real estate value increased by public investment can in turn be recaptured for the public benefit.

In the most aggressive implementation strategy, Senate Bill 737 (2021)[36] would require at least 100,000 new homes to be built at Aloha Stadium, with at least 80% sold or rented at prices affordable to households earning no more than 80% of the Area Median Income.

~~In Singapore, the resale market for 99-year home leases are regulated to ensure long-term affordability with assistance to help households exchange their leasehold equity for larger or smaller units throughout the lease term to adapt to changing needs as family members age. Over 80% of Singaporeans live in HDB housing developments.~~

In Austria, over 60% of Vienna's residents live in social housing, consisting of roughly 200,000 municipally-owned housing units and 220,000 nonprofit-owned units. For non-citizens, a minimum of five years' residency is required to apply for a social housing unit, and subsidized units must be for a household's primary residence. Public investments for construction, property management, and preservation of the social housing stock are subsidized by a federal income tax and the state's general fund, as well as a revolving loan fund managed by the Vienna Housing Fund. The Vienna Housing Fund operates as a community-owned nonprofit land bank, established by Social Democrats in the 1920s with large investments in public land in response to a housing shortage following the First World War. The self-sustaining nonprofit entity acquires existing housing or develops new projects with the aim of long-term affordability.

The Vienna Housing Fund is a major entity developing thousands of new housing units every year, while buying and selling real property on the open market. It maintains a two-year reserve of land to stabilize its property portfolio throughout real

[35] https://www.capitol.hawaii.gov/session2021/bills/SB24_.htm
[36] https://www.capitol.hawaii.gov/session2021/bills/SB737_.htm

estate market cycles. The Vienna Housing Fund collaborates with the municipal government and nonprofit housing developers to provide affordable housing on public land via low-interest loans for new developments[37], with loan payments reinvested into a revolving loan fund for future loans and subsidies.

Vienna also indirectly subsidizes private development by arranging land transfers and low-interest loans with private firms through a competitive bidding process, in which a jury panel evaluates applicants' projects based on criteria for design, sustainability, and affordability. The city rents a portion of the units at affordable rents to lower-income residents, but means-testing is only applied at the initial move-in. Effectively, Vienna's social housing program subsidizes affordable affordable housing through the supply channel rather than the demand channel (i.e. by subsidizing tenants themselves). Unlike Singapore, the city of Vienna's land-use planning promotes rentals over private homeownership, but similarly favors community longevity, recreational facilities, and supportive services. In 2016, the Social Democratic Party of Austria introduced the "wohnbauoffensive"[38]—an initiative to streamline construction and permitting to increase housing production by 30%.

In California, AB-387 also known as "the Social Housing Act of 2021" by Assemblymembers Lee (D-San Jose) and Wicks (D-Oakland), sets forth the intent to "establish the California Housing Authority for the purpose of developing mixed-income rental and limited equity homeownership housing and mixed-use developments to address the shortage of affordable homes for low and moderate-income households." (See Attachment 4.) Importantly, state revenue bonds for infrastructure projects do not require voter approval.

There are ~~also~~ already examples in present-day California of revolving funds for community land reinvestment that sustain communities across the state. In Palm Springs, the Agua Caliente Band of Cahuilla Indians own and lease land to nearly 20,000 people and businesses in a non-contiguous checkerboard arrangement, with up to 99-year leases for residential development.[39] At a larger scale, University of California and California State University systems develop and manage large portfolios of student housing across the state. The universities own tens of thousands of rental beds and dwelling units in urban, suburban and rural jurisdictions. Each UC campus prepares and implements a capital management plan to develop property for rental housing—plans which include revolving reinvestments in their existing

[37] Wohnpartner Wien. (2019). Vienna Social Housing – Tools of Success. Retrieved from https://socialhousing.wien/fileadmin/user_upload/20190325_Einlagebla__tter_Gesamt_Englisch.pdf

[38] Stadt Wien Press service. (2016). "More, faster, cheaper and sustainable" – the City of Vienna is launching an additional housing offensive. Retrieved from https://www.wien.gv.at/presse/2016/02/17/mehr-schneller-preiswert-und-nachhaltig-stadt-wien-startet-eine-zusaetzliche-wohnbau-offensive

[39] Murphy, R. (2016). Half of Palm Springs sits on rented land. What happens if the leases end? *Desert Sun.* Retrieved from https://www.desertsun.com/story/money/real-estate/2016/09/22/palm-springs-agua-caliente-land-lease/87944598/.

portfolio.[40] In Berkeley and neighboring jurisdictions, BART is planning for housing development on BART property by leasing land to private and nonprofit developers, using the land-lease model as leverage to achieve the agency's goal of 35% Below Market-Rate housing systemwide.[41] The Berkeley Unified School District is also exploring the potential to develop workforce housing on its properties.[42]

RATIONALE FOR RECOMMENDATION

Homelessness and housing insecurity are the result of deliberate but diffuse policy choices. The feasibility of permanently guaranteeing housing security in Berkeley remains unknown, but our community nevertheless recognizes the imperative to make different policy choices to that end. The City of Berkeley can build on the precedents and procedures established in state law, affirm housing as a human right, and enforce concrete goals toward reparative housing justice as a permanent mandate of our municipal public service.

Public housing development corporations in California could make both short-term and permanent impacts on housing affordability, construction sector employment, and other equity-based outcomes, while operating under standard land-use planning processes already being streamlined under state law.

Moreover, the ability to remain revenue-neutral with rents from a broader range of incomes offers the opportunity to fund a Local Operating Subsidy Program (LOSP)[43] to provide ongoing funding for deeper affordability in deed-restricted housing. The City and County of San Francisco established such a program in 2004, providing its first grants for 100% supportive housing in 2006 with a focus on covering operating deficits for supportive housing in Low Income Housing Tax Credit (LIHTC) projects.[44]

Recent state legislation such as SB-35 (2017) and SB-330 (2019) already reform municipal land-use authority to support housing production within measurable benchmarks, limiting local discretion in permitting and zoning according to standards set by the Regional Housing Need Allocation (RHNA) process, the Housing

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[40] University of California. (2019). Capital Financial Plan 2019-25. Retrieved from https://ucop.edu/capital-planning/_files/capital/201925/2019-25-cfp.pdf

[41] BART Board of Directors. (2016). Transit-Oriented Development Performance Measures and Targets. Retrieved from https://www.bart.gov/sites/default/files/docs/B-%20TOD%20Performance%20Targets%202040%20Adopted%2012-1-16_0.pdf

[42] Doocy, S. (2018). School District Employee Housing in California. *UC Berkeley Terner Center for Housing Innovation.* Retrieved from https://ternercenter.berkeley.edu/research-and-policy/school-district-employee-housing-in-california/

[43] https://www.localhousingsolutions.org/act/housing-policy-library/operating-subsidies-for-affordable-housing-developments-overview/operating-subsidies-for-affordable-housing-developments/

[44] https://sfmohcd.org/sites/default/files/Documents/MOH/Asset%20Management/LOSP%20Policies%20Procedures%20Manual.pdf

Accountability Act (HAA), and the state Housing Element process.[45] The state legislature has also moved to increase affordable housing financing for municipalities by establishing the Bay Area Housing Finance Authority (BAHFA) in 2019; and in Senate Constitutional Amendment 2 (2021) by Sen. Ben Allen (D-Santa Monica), proposing removal of the state constitutional requirement for local referendum approval "low-rent" housing with more than 50% of its funding from the local jurisdiction. State law under AB-686 (2018) also requires cities to meet the goals of the Obama Administration's Affirmatively Furthering Fair Housing rule under the 1968 Fair Housing Act in their housing elements and general plans.

Under California Government Code Section 65583(c), state Housing Element law now requires in part:[46]

> *A program that sets forth a schedule of actions during the planning period, each with a timeline for implementation…that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, the utilization of appropriate federal and state financing and subsidy programs when available…*

This subsection requires the program to include, for AFFH compliance:

> *…an assessment of fair housing in the jurisdiction that shall include all of the following components:*
>
> *(i) A summary of fair housing issues in the jurisdiction and an assessment of the jurisdiction's fair housing enforcement and fair housing outreach capacity.*
>
> *(ii) An analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, racially or ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs within the jurisdiction, including displacement risk.*
>
> *(iii) An assessment of the contributing factors for the fair housing issues identified under clause (ii).*
>
> *(iv) An identification of the jurisdiction's fair housing priorities and goals, giving highest priority to those factors identified in clause (iii) that limit or deny fair housing choice or access to opportunity, or negatively impact fair housing or civil rights compliance, and identifying the metrics and milestones for determining what fair housing results will be achieved.*
>
> *(v) Strategies and actions to implement those priorities and goals, which may include, but are not limited to, enhancing mobility strategies and encouraging development of new affordable housing in areas of*

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[45] Elmendorf, C. et al. (2020). Superintending Local Constraints on Housing Development: How California Can Do It Better. *UC Davis Legal Studies Research Paper Series.*

[46] https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=65583

opportunity, as well as place-based strategies to encourage community revitalization, including preservation of existing affordable housing, and protecting existing residents from displacement.

However, when municipalities have been out of compliance, the Housing Element framework until recently has been ultimately held accountable by private right of action. For example, nonprofit advocates successfully sued the cities of Pleasanton[47] after it failed to produce a state-compliant Housing Element. But rather than a positive guarantee to universal housing security, enforcement through private right of action puts the onus on the coordination of constituencies who are by definition with less housing security and less able to assert their diffuse legal rights and entitlements through state and local jurisdictions.

This adversarial legal environment is inconsistent with a public commitment to universal fair housing. ~~There exists no legal liability for the public sector's ability to guarantee adequate housing.~~ To the extent that a municipal government chooses to take on universal entitlements and freedoms to housing as a moral, not legal obligation, it must also devote its real assets to meet this obligation and balance the moral ledger.

In Hawaii, Sen. Chang has opted for a more direct route with accompanying legislation to permit higher density for state-owned housing developments. Senate Bill 3 (2021)[48] proposes, in part:

(a) Every development or redevelopment plan for any state property located within one-half mile of any station along a rail transit system shall have no:

(1) Limit on the height of any building;

(2) Limit on the floor area ratio;

(3) Restrictions against retail tenants at ground level;

(4) Required setbacks;

(5) Required number of parking spots;

(6) Limitations on housing density less than two hundred and fifty units per acre;

Senate Bill 12 (2021) exhorts even more directly: "the Hawaii housing finance and development corporation and the Hawaii public housing authority shall: (1) Effectively accommodate the housing needs of Hawaii's people. (2) Stimulate and promote

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[47] Urban Habitat Program v. City of Pleasanton. No. A118327. Court of Appeal, First District, Division 2, California. (2008).

[48] https://www.capitol.hawaii.gov/session2021/bills/SB3_.htm

feasible approaches that increase affordable rental and for sale housing choices for extremely low-, very low-, lower-, moderate-, and above moderate-income households."[49] Senate Bill 1338 would establish an "office of the housing advocate" in the Governor's office.[50]

Local governments can coordinate state authority within their communities and amplify their resources to improve housing outcomes through more inclusive land-use regulations, and an expanded authority as lender and lessor of last resort.

However, the United Nations Office of the High Commissioner for Human Rights (OHCHR) specifies that the right to adequate housing "clearly does not oblige the Government to construct a nation's entire housing stock." [51]

> *Rather, the right to adequate housing covers measures that are needed to prevent homelessness, prohibit forced evictions, address discrimination, focus on the most vulnerable and marginalized groups, ensure security of tenure to all, and guarantee that everyone's housing is adequate. These measures can require intervention from the Government at various levels: legislative, administrative, policy or spending priorities. It can be implemented through an enabling approach to shelter where the Government, rather than playing the role of housing provider, becomes the facilitator of the actions of all participants in the production and improvement of shelter.*

To that end, the City of Berkeley could proactively affirm housing as a human right according to measurable parameters of cost-burden and non-discriminatory access, as well as broader historical data and actionable moral commitments to restorative justice. Rather than *retroactive* enforcement of state housing mandates through private right of action, the City's administrative departments should continuously monitor the availability, adequacy, and equitable distribution of housing as publicly available Housing Justice Indicators, reevaluating policy tools including public investment and planning and development goals as needed to *proactively* guarantee housing as a basic right. A publicly available, user-friendly data dashboard of Housing Justice Indicators could maintain accountability of the City's civic institutions in meeting this mandate.

~~Vienna's 2016 "wohnbauoffensive" reforms, considered analogously with the Berkeley City Council's 2019 referral for a Missing Middle Report[52], are both essentially *ad hoc* responses to an immediate crisis, recognizing that inequitable land-use planning should be reformed to actively promote economic justice. Regular administrative oversight could be implemented to more quickly intervene in these inequities and further prevent material harm to vulnerable communities.~~ The City Manager's office

[49] https://www.capitol.hawaii.gov/session2021/bills/SB12_SD1_.htm

[50] https://www.capitol.hawaii.gov/session2021/bills/SB1338_.htm

[51] See footnote 1.

~~[52] https://www.cityofberkeley.info/Clerk/City_Council/2019/04_Apr/Documents/2019-04-23_Item_32_Missing_Middle_Report.aspx~~

has already recommended a strategic focus on streamlining and reforming land use policy to enable a greater scale of housing production in its 1000 Person Plan to Address Homelessness:[53]

> *4. Continue to implement changes to Berkeley's Land Use, Zoning, and Development Review Requirements for new housing with an eye towards alleviating homelessness. If present economic trends continue, the pace with which new housing is currently being built in Berkeley will likely not allow for a declining annual homeless population. Berkeley should continue to streamline development approval processes and reform local policies to help increase the overall supply of housing available, including affordable housing mandated by inclusionary policies.*

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~~The calibration of housing stability policy should continuously operate within transparent parameters of community engagement and historical data, so that a pilot program can begin from the outset with a concretely-defined goal of affirmatively redressing racial inequities in wealth, opportunity, health and educational outcomes.~~ State and regional agency projects such as the state's Tax Credit Allocation Committee (TCAC) Opportunity Area Maps and the 2019 CASA Compact[54] by the Metropolitan Transportation Commission (MTC) have established best practices for measuring and mapping economic opportunity, racial segregation, transit access, environmental health, and other positive outcomes for developing policy recommendations.

Why Social Housing?

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~~An "automatic stabilizer" paradigm with (a) a revolving land equity fund financing Reparative Housing Justice goals, and (b) periodic empirical review of land-use policy by the Planning Department, could quickly quantify unmet needs for housing security. Developing and implementing responses to needs in the community codified and expeditious administrative process, just as automated stimulus payments could quickly reduce material deprivation during business cycle downturns. Unlike stimulus payments, however, restorative housing justice should be a permanent goal of city service administration.~~

Public development entities enjoy the benefit of longer-term financial horizons that help produce more stable housing outcomes. Unhindered by the fiduciary duty to produce short-term positive returns for private investors, public housing development agencies are not obligated to cease production and layoff construction workers during recessions.

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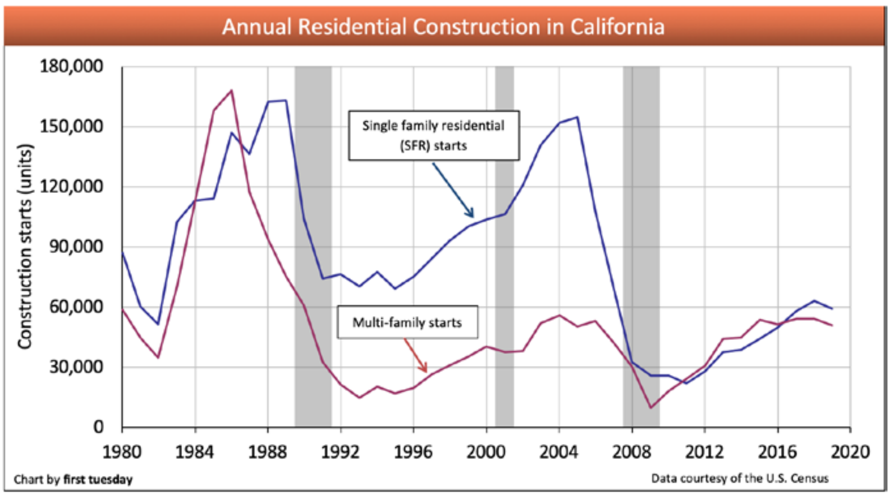
[53] https://www.cityofberkeley.info/Clerk/City_Council/2019/02_Feb/Documents/2019-02-26_Item_20_Referral_Response__1000_Person_Plan.aspx

[54] Metropolitan Transportation Commission. (2018). Racial Equity Analysis for the CASA Compact. Retrieved from https://mtc.ca.gov/sites/default/files/Racial_Equity_Analysis_for_the_CASA_Compact.pdf

The private market has been incapable of meeting the need for shelter in California across business cycles. Private capital bids up the costs of inputs during upcycles, but financing dries up during recessions as investors flee the volatile market. Recovery in the construction sector is sluggish, but demand for shelter does not disappear. Construction rates collapsed after the Great Recession of 2008, but as of 2020, they had barely recovered to rates of the previous recession of 2001.[55]



Even i~~I~~n a crudely Keynesian paradigm, these downturns are precisely when the public sector should step in to sustain housing development to meet the need for shelter, sustain employment, and boost aggregate demand. Unfortunately, California's housing market volatility limits the state and local government's resources when they are needed the most. For instance, California's construction workforce in 2017 lagged below its historic peak in 2006, equivalent to the size of the workforce at the start of the economic recovery in 2011.[56] In contrast, Vienna's social housing program also stabilizes employment in the region by employing 20,000 workers in the building trades.

Compounding this structural deficit, state and local funding sources for affordable housing are pro-cyclical and likelier to see a decline in revenues during economic downturns. Berkeley's inclusionary zoning and Affordable Housing Mitigation Fee produce Below Market-Rate homes or revenues for the Housing Trust Fund

[55] The slowing trend in California construction costs. (2019). first tuesday Journal. Retrieved from https://journal.firsttuesday.us/the-rising-trend-in-california-construction-starts/17939/

[56] Littlehale, S. (2019). Rebuilding California: The Golden State's Housing Workforce Reckoning. *Smart Cities Prevail.* Retrieved from https://www.smartcitiesprevail.org/wp-content/uploads/2019/01/SCP_HousingReport.0118_2.pdf

contingent on “value capture” policies that rely on the willingness of private capital to invest in the value. The Low Income Housing Tax Credit program (LIHTC), the linchpin of affordable housing financing in the United States, relies on the incentive of corporate tax liability by providing tax credits to large corporations and financial institutions in exchange for equity in low-income housing projects within a finite time horizon. Reductions in corporate profits during recessions and cuts to the corporate tax rate have both reduced the value of these tax credits periodically.[57]

At the same time, highly leveraged private equity firms that specialize in liquidation of large portfolios or “asset stripping” benefit from volatile recessions that displace lower-income homeowners primarily in communities of color with less liquid capital to sustain riskier mortgage debt. Poorer households, primarily Black and Latinx residents, are more likely to end up trapped in cycles of poverty and homelessness, suffering for the benefit of wealthier and whiter financial institutions.

The Vienna Housing Fund offers a model for building wealth in the local community and affirmatively redressing the historic inequities intensified by cyclical volatility. By providing a revolving low-interest loan fund for tenants, nonprofits, limited equity cooperatives and Community Land Trusts, the City could plan for optimizing housing ~~decommodification~~ subsidies and development to meet concrete benchmarks in material outcomes: eliminating involuntary displacement, repairing wealth inequities in communities of color, and ~~maintaining~~ targeting market price parity with regional incomes.

Rather than bearing 100% of project costs independently, a municipal fund could seek to partner with state and regional mechanisms for land value redistribution, such as Transit Value Capture Districts (TVCDs)[58] or Enhanced Infrastructure Finance Districts (EIFDs), which have been studied or proposed for financing affordable housing and other capital costs at BART stations.

As a countercyclical policy to sustain affordable housing financing across market cycles, a municipal revolving loan fund could provide loan guarantees or bridge loans to LIHTC developments to ensure their completion. As a reparative anti-displacement policy, a revolving loan fund could reinforce the city’s Local Preference policy for affordable housing included in the Adeline Corridor Specific Plan by providing favorable loan terms to community land trusts, tenant acquisitions, and nonprofit affordable housing developments that prioritize the return of formerly displaced residents from low-income communities of color. The loan fund can also seek matching funds from the newly-established Bay Area Housing Finance Authority (BAHFA), in direct partnership with the MTC and Association of Bay Area

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[57] Scally, C. et al. (2018). The Low-Income Housing Tax Credits: Past Achievements, Future Challenges. *Urban Institute*. Retrieved from https://www.urban.org/sites/default/files/publication/98761/lihtc_past_achievements_future_challenges_finalized_1.pdf.

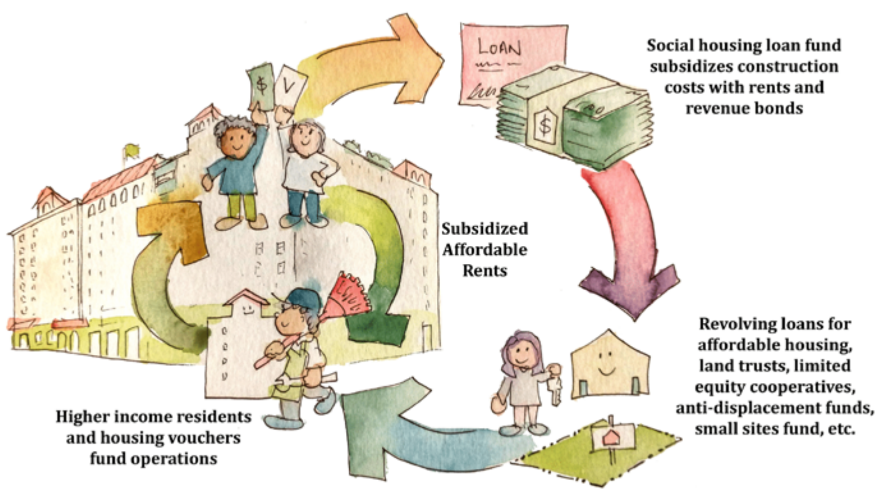
[58] Sagehorn, D. & Hawn, J. (2020). Transit Value Capture for California. *Common Ground California.* Retrieved from http://cacommonground.org/pdf/2020-12_Transit_Value_Capture.pdf

Governments (ABAG). In order to provide more housing security across the economic spectrum, a municipal revolving loan fund can consider more generous loan renegotiation terms or loan forgiveness, including the option of paying loans back to the fund in equity stakes.

The City of Berkeley is fortunate to not find itself in the same conditions as a bombed-out postwar Vienna, which made the consolidation of a large public land portfolio for the Vienna Housing Fund tragically inexpensive. However, Berkeley is blessed with a robust and growing tax base. Initially, such a loan fund may start small, with ~~seed capital from the city's Small Sites Program and/or~~grants from the City and/or bootstrapped with Berkeley's existing real property portfolio, but over time it would be able to draw upon its growing portfolio of assets to self-finance operating costs while investing in new affordable housing projects.[59]

How Social Housing Could Work in Berkeley

Berkeley Social Housing Agency Conceptual Diagram



DISCLAIMER: This is not a development proposal, picture is for illustrative purposes only.
- State Density Bonus applied on base zoning at 1011 University Avenue
- Ministerial approval for buildings where 50% or more of the units are Below Market Rate

[59] Baxamusa, M. (2020). A New Model for Housing Finance: Public and Private Sectors Working Together to Build Affordability. *Routledge Focus.* p. 123.

Illustration courtesy of Alfred Twu

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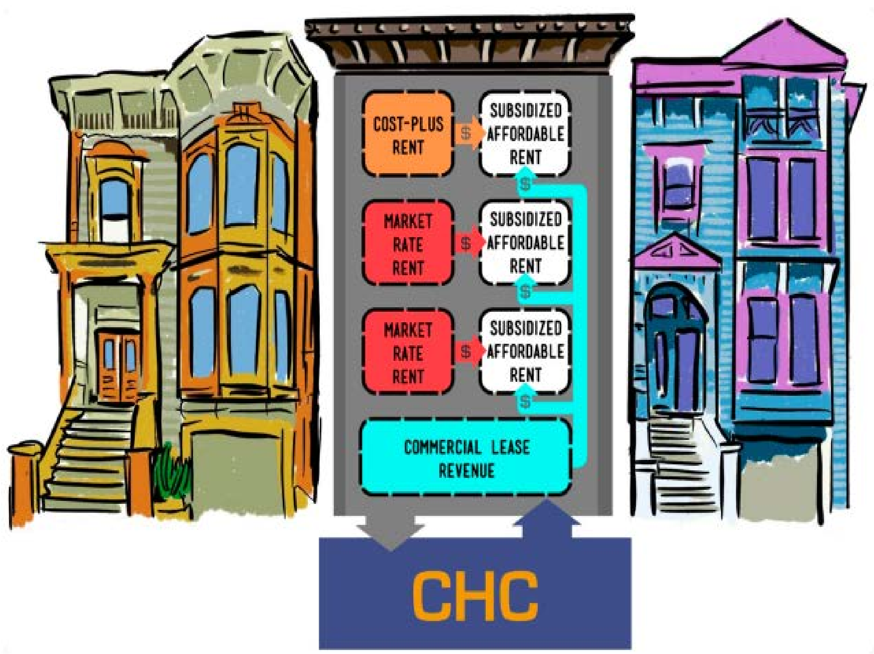
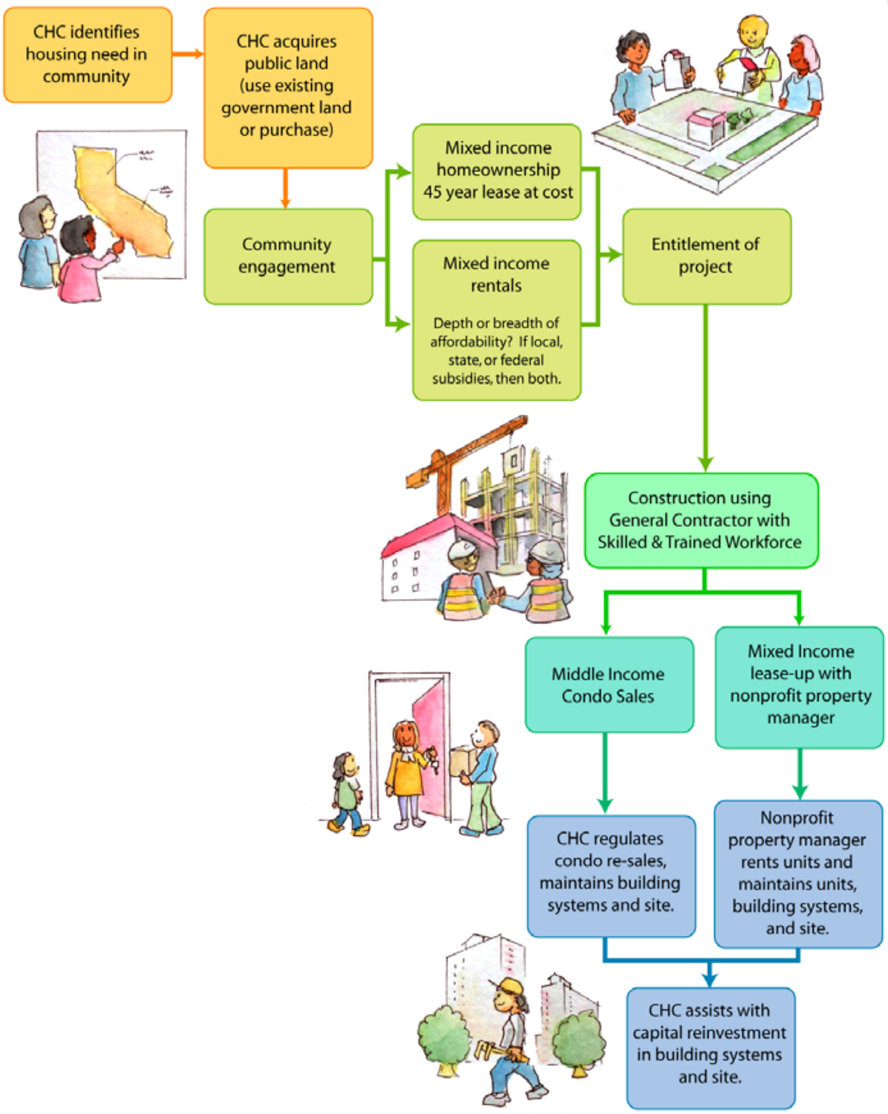
Conceptual Diagram~~s~~ for a California Housing Corporation (CHC)



Cross-subsidization allows the rents of more affluent residents to defray the construction and operating costs for the benefit of lower-income residents



Designs by Mark Mollineaux and Alfred Twu[60]

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[60] East Bay For Everyone. (2021). California Housing Corporation: The Case for a Public Housing Developer. Retrieved from https://eastbayforeveryone.org/socialhousing/

ALTERNATIVES CONSIDERED

The Berkeley City Council and the city's voters have taken clear steps to invest in housing security and affordable housing production. To the extent that the City is already developing and implementing affordable housing policies, the feasibility of these policy tools would not be mutually exclusive with other public investments and reforms currently underway.

ENVIRONMENTAL AND CLIMATE IMPACTS

Mixed-income housing development adjacent to frequent, reliable public transit and walkable street infrastructure can further the goals of the City's 2017 Climate Action Plan Update[61], which include:

> ***Goal 4. Increase compact development patterns (especially along transit corridors)***
> *Encouraging sustainable modes of travel such as cycling, walking, and public transit, is fundamentally tied to compact development patterns and the mix of land uses near transit hubs and jobs. For example, evidence shows that people who live near transit drive between 20% and 40% less than those who do not.*

The City's 2018 Greenhouse Gas Inventory found that transportation accounted for 60% of Berkeley's greenhouse gas (GHG) emissions.[62] According to a 2018 Progress Report from the California Air Resources Board: "Even if the share of new car sales that are [zero-emission electric vehicles] grows nearly 10-fold from today, California would still need to reduce VMT [Vehicle Miles Traveled] per capita 25 percent to achieve the necessary reductions for 2030."[63] A 2019 report by the United Nations' International Resource Panel (IRP) emphasizes curbing suburban sprawl as a strategy to curb GHG emissions in urban areas that can also enhance the material outcomes provided by public services: "Optimizing densities and reducing sprawl also improves the sharing of resources (e.g. shared walls and roofs in apartment blocks) and reduces the distances that need to be covered by infrastructure networks (e.g. shorter pipes), allowing for savings in the materials and costs associated with service provision."[64]

Critically, though, economic integration is vital to promoting an absolute reduction in per capita VMT. Mixed-income development providing transit-accessible housing

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[61] https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Energy_and_Sustainable_Development/2017-12-07%20WS%20Item%2001%20Climate%20Action%20Plan%20Update.pdf

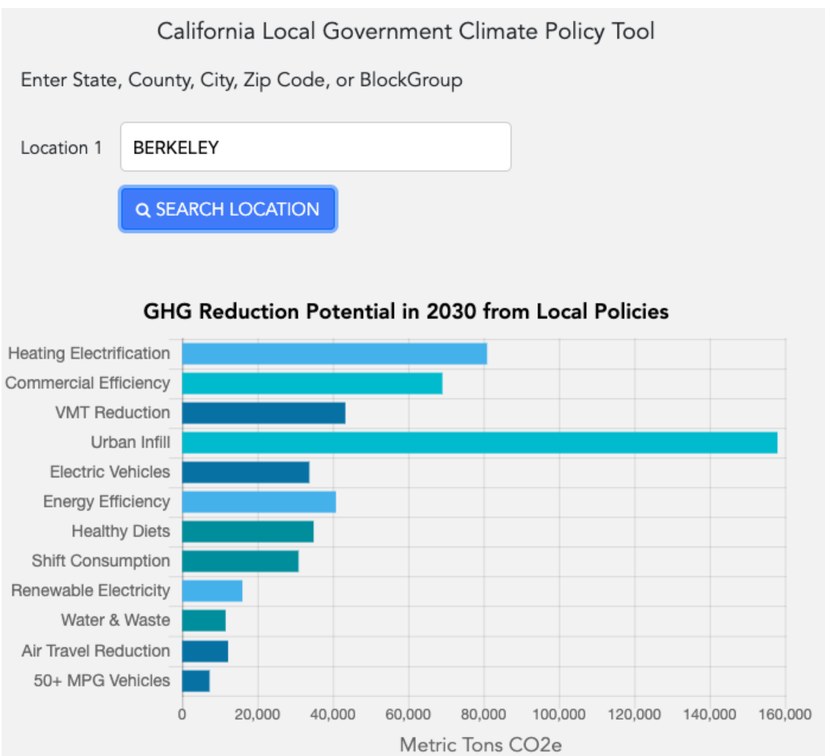
[62] https://www.cityofberkeley.info/Clerk/City_Council/2020/07_Jul/Documents/2020-07-21_Special_Item_05_Climate_Action_Plan_pdf.aspx

[63] https://ww2.arb.ca.gov/sites/default/files/2018-11/Final2018Report_SB150_112618_02_Report.pdf

[64] United Nations IRP. (2019). The Weight of Cities: Resource Requirements of Future Urbanization. Retrieved from https://www.resourcepanel.org/reports/weight-cities

security across the entire economic spectrum should maximize the potential for both reducing the carbon footprints of affluent, higher-emission households, and preventing the displacement of poorer, lower-emission households to higher-VMT suburban areas with larger per capita carbon footprints.

While research from UC Berkeley[65] has found that wealthier households see larger emissions reductions from living in denser urban areas, a recent study of displacement and gentrification in Seattle also found significant increases in GHG emissions when lower-income households were displaced to outer suburbs with higher VMT land-use patterns and longer commutes.[66] Notably, the same UC Berkeley study evaluates emission reduction potentials of a suite of municipal public policies in 700 California cities. Using the modeling from this study, the California Local Government Policy Tool from the Cool Climate Network shows that urban infill development offers the greatest potential for mitigating Berkeley's GHG emissions.



[65] Jones et al. (2018). Carbon Footprint Planning: Quantifying Local and State Mitigation Opportunities for 700 California Cities. *Urban Planning.* 3(2). DOI: 10.17645/up.v3i2.1218
[66] Rice et al. (2020). Contradictions of the Climate-Friendly City: New Perspectives on Eco-Gentrification and Housing Justice. *International Journal of Urban and Regional Research.* 44(1):145-165.

This tool projects GHG reductions based on default assumptions of total policy adoption rate by 2050. If the urban infill policy were adopted at 35%, or half the default assumed rate, it would reduce GHG emissions by roughly 80,000 metric tons of CO2e by 2030, roughly equivalent to the emissions reduction potential from VMT reduction and heating electrification. With the passage of Ordinance No. 7,672 in 2019, Berkeley Municipal Code Chapter 12.80 prohibits natural gas infrastructure in new buildings in the City of Berkeley. GHG reductions enabled by heating electrification would thus be maximized under this proposal regardless of urban infill policy.

FISCAL IMPACTS

TBD.—Staff time on financial feasibility study. The City Manager's office has projected a $12.7 million annual cost to achieve strategic goals enumerated in the 1000 Person Plan to End Homelessness by 2023, but the costs of reforming land use to affirmatively further housing justice remains unquantified. Because such a pilot program would aim to include a broader range of income levels and larger projects, project costs may ultimately not be comparable to the Small Sites Program. Feasibility study should aim for a long-term self-sustaining fiscal structure for Reparative Justice Revolving Loan Fund and identify hard costs of gathering, monitoring and planning policy directives in response to Housing Justice Indicators. A budget referral should only proceed following a feasibility study to identify policy and funding goals for monitoring progress toward benchmarks.

CONTACT

Councilmember Terry Taplin (District 2), 510-983-7120, ttaplin@cityofberkeley.info

ATTACHMENTS/SUPPORTING MATERIALS

1. Resolution
2. Senate Bill 1 SD2 (2021), State Senate of Hawaii
3. ALOHA Homes Feasibility Study (2021), Hawai'i Housing Finance and Development Corporation
4. Assembly Bill 387 (2021), State Assembly of California

RESOLUTION NO. ##,###-N.S.

RECOGNIZING HOUSING AS HUMAN RIGHT~~, REFERRING CITY MANAGER TO STUDY FINANCIAL FEASIBILITY OF MUNICIPAL HOUSING DEVELOPMENT PILOT PROGRAM TO ADMINISTER AUTOMATIC STABILIZERS FOR GUARANTEEING ADEQUATE HOUSING~~

WHEREAS, the United Nations has recognized housing as a human right in the 1948 Universal Declaration of Human Rights and the 1966 International Covenant on Economic, Social and Cultural Rights; and,

WHEREAS, the right to adequate housing includes freedoms such as protection against forced evictions and arbitrary destruction of housing; right to privacy; non-discriminatory choice of residence, and freedom of movement; and,

WHEREAS, the right to adequate housing includes entitlements such as security of tenure, restitution, equal and non-discriminatory access, and civic participation; and,

WHEREAS, the City of Berkeley has failed to affirm these freedoms and entitlements for its homeless residents, including 813 unsheltered identified in the 2019 Alameda County point-in-time count; and,

WHEREAS, the state of California and its local and regional governments have failed to affirm these freedoms and entitlements for at least 53% of renters who endure excessive cost-burdens, defined as paying over 30% of income for housing, according to the 2017 American Community Survey; and,

WHEREAS, cities around the world including Vienna and Singapore deliver better housing security and quality of life outcomes for their citizens with robust public housing development programs that reinvest revenues from mixed-income housing and real assets to fund operational costs and capital projects; and,

WHEREAS, histories of Jim Crow segregation endure in racial discrimination in mortgage credit and exclusionary land-use policies maintain disproportionate cost burdens and housing insecurity on Black people and low-income communities of color in the United States; and,

WHEREAS, the Berkeley City Council authorized a Missing Middle Report in 2019 on unanimous consent to study reforms to its land-use policies to enable more affordable times of housing construction, transit-oriented development, and racial and economic inclusion; and,

WHEREAS, the Berkeley City Council authorized a Local Preference policy for affordable housing when it passed the Adeline Corridor Specific Plan in 2020 to enable reparative housing security for low-income communities of color bearing the brunt of displacement and gentrification in Berkeley; and, WHEREAS, the voters of the City of Berkeley authorized large increases in local funding for affordable housing in 2018 with the overwhelming passage of Measures O and P; and,

WHEREAS, a 2017 Analysis of City-Owned Property for Potential for Housing Development by Berkeley's Health, Housing and Community Services Department identified several publicly owned parcels that would require zoning changes and further study for affordable housing production;

NOW THEREFORE, BE IT RESOLVED, that the City of Berkeley recognizes adequate housing as a human right, with recognition of attendant freedoms and entitlements as enumerated by the United Nations;

BE IT FURTHER RESOLVED, that the Berkeley City Council refers to the City Manager's office several measures to begin developing social housing in the City of Berkeley. Measures shall include, but not be limited to:

1. Study and report to council on development potential, including density bonuses, for mixed-income housing development starting with the city-owned parcels at 1011 University Ave, and seek information through an RFI or other process on the potential for cross-subsidized limited-equity leasehold and rental models or other social housing development models;
2. Study and return to council a report and, if feasible, a proposal for a Reparative Justice Revolving Loan Fund with affirmative racial justice and anti-displacement goals in coordination with the city's Small Sites Program, including, but not limited to:
    a. Providing low-interest loans for tenants, nonprofits, limited-equity co-operatives, and community land trusts to acquire real property; support Low Income Housing Tax Credit (LIHTC) funding; develop and/or maintain mixed-income and permanently affordable housing;
    b. Funding a Local Operating Subsidies Program to provide permanently affordable housing for Very Low and Extremely Low Income households;
    c. Leveraging local funds with state and regional partnerships through the Bay Area Housing Finance Agency (BAHFA) with the Association of Bay Area Governments (ABAG), Berkeley Housing Authority, Berkeley Unified School District (BUSD) and BART;
    d. Consider best practices from other agencies and other partnership opportunities;
3. Establish a publicly available, user-friendly data dashboard potentially using third-party data visualization tools for monitoring Housing Justice Indicators in the city including, but not limited to:
    a. State certification of city's Housing Element and progress toward RHNA goals for each income tier in annual Housing Pipeline Reports;
    b. Housing Element compliance with Affirmatively Furthering Fair Housing (AFFH) rule pursuant to California Government Code Section 65583 and Chapter 15, Section 8899.50 of Division 1 of Title 2, presented with, at a minimum:

- Citywide and regional affordability as defined by median rents and home prices as share of one-third of the City of Berkeley and Alameda County's median household income in most recent American Community Survey data;
- Local funding and open BMR housing application slots available to meet housing needs of Moderate, Low-, Very Low-, and Extremely Low-Income households;
- Anti-displacement metrics using UC Berkeley Displacement Project data and tracking successful applications to affordable housing units in the city using Local Preference policy;
- Geographic considerations including historic redlining and segregation; Sensitive Communities and High Displacement Risk Areas identified in the 2019 CASA Compact by the Metropolitan Transportation Commission (MTC); and access to economic opportunity as measured by State of California Tax Credit Allocation Committee (TCAC) Opportunity Area Maps;
- Any other considerations relevant to AFFH compliance and reparative housing justice.

~~the City Manager to study the financial feasibility of a municipal housing development pilot program administering automatic stabilizers to guarantee adequate housing security in Berkeley, with regular community input and periodic monitoring of socioeconomic indicators;~~

~~BE IT FURTHER RESOLVED, that the pilot program's feasibility study shall include, but not be limited to,~~
~~Feasibility study of public lands suitable mixed-income transit-oriented housing development identified in 2017 Analysis of City-Owned Lands and zoning changes needed for affordable housing at listed sites to address all income categories in upcoming Regional Housing Needs Allocation (RHNA) cycle;~~
~~Pilot program to establish a Reparative Justice Revolving Loan Fund with affirmative racial justice and anti-displacement goals, providing low-interest loans for tenants, nonprofits, limited-equity co-operatives, and community land trusts to acquire, develop, and/or maintain permanently affordable housing.~~
~~Pilot program to establish publicly available, user-friendly data dashboard monitoring Housing Justice Indicators in the city including, but not limited to, (a) health and safety standards, (b) affordability, (c) stability, and (d) discrimination and disparate impacts under US Department of Housing and Urban Development's Affirmatively Furthering Fair Housing (AFFH) rule; aligning Indicators with thresholds for corrective actions including land-use policy review and fiscal analysis.~~
~~State and regional partnerships with the California Department of Housing and Community Development, the Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG), UC Berkeley, and Bay Area Rapid Transit to develop fiscally resilient mixed-income housing and community reinvestment through land held in public trust and/or limited-equity cooperatives and community land trusts.~~

THE SENATE
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

S.B. NO. 1 S.D. 2

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 cost and availability of housing in the State are significant challenges facing Hawaii residents. Although Hawaii has the tenth highest median wage nationally, living expenses are two-thirds higher than the rest of the nation, with the cost of housing being a major contributing factor. According to the Honolulu Board of Realtors, by November 2020, the median price for a single-family home on Oahu had risen to $872,500, while the median price for condominiums on Oahu had risen to $420,000. With a simple mortgage calculator and using conservative assumptions on interest rates and down payment amounts, a household needs to earn almost $170,000 annually to afford to buy a median-priced home on Oahu in 2020, making homeownership out of reach for many of Hawaii's residents, especially first-time buyers.

Because of the many barriers hindering the production of new housing, such as geographic limitations, lack of major infrastructure, construction costs, and government regulation, the State and housing developers have not been able to produce enough housing for Hawaii residents. According to a 2015 report from the department of business, economic development, and tourism, the projected long-run estimate of demand for total new housing in Hawaii is between 64,700 to 66,000 for the 2015 to 2025 period. The legislature has responded through the passage of various legislation. During the regular session of 2016, the legislature passed a bill enacted as Act 127, Session Laws of Hawaii 2016, that, among other things, established a goal of developing or vesting the development of at least 22,500 affordable rental housing units ready for occupancy by the end of 2026. During the regular session of 2017, the legislature passed a bill enacted as Act 54, Session Laws of Hawaii 2017, to expand the types of rental housing projects that can be exempt from general excise tax, thereby encouraging the development of rental housing projects targeted for occupancy by households at or below the one hundred forty per cent area median income level. During the regular session of 2018, the legislature passed a bill enacted as Act 39, Session Laws of Hawaii 2018, that, among other things, provides an estimated total value of $570,000,000 to address Hawaii's affordable rental housing crisis and is expected to generate more than 25,000 affordable units by the year 2030.

Despite these efforts, the amount of new construction of housing, especially for low- to middle-income families, continues to be inadequate, as the supply of housing remains constrained while demand for housing increases. This lack of supply leads to higher housing prices and rents for households of all income levels, leaving all tenants with less disposable income, increasing the personal stress on buyers and renters, and exacerbating overcrowding and homelessness. Given these consequences, the lack of affordable housing requires the concentrated attention of state government at the highest level.

The legislature further finds that Singapore faced a housing crisis in the 1940s through 1960s but was subsequently able to provide nearly one million residential units for its citizens. The housing and development board -- the government entity responsible for the rapid increase in housing development -- plans, develops, and constructs the housing units, including commercial, recreational, and social amenities. The result is that units built by the housing and development board house eighty per cent of the resident population and that, overall, ninety per cent of the resident population are owners of their units. Through government loans, subsidies, and grants and the use of money saved through a government-run mandatory savings program, residents are able to purchase residential units at an affordable price, including options to upgrade to a better living environment in the future.

The legislature further finds that, with Honolulu's construction of an elevated rail transit system, the State has an opportunity to enhance Oahu's urban environment and increase the quality of life for residents by increasing the affordable housing inventory and eliminating the need for personal automobiles, among other public benefits. As the largest landowner of properties along the transit line, with approximately two thousand acres under the jurisdiction of various departments, the State must be proactive in establishing a unified vision and approach toward redevelopment of its properties to maximize the benefits of state lands available for redevelopment.

The purpose of this Act is to:

(1) End the housing shortage in Hawaii;

(2) Establish the ALOHA homes program to facilitate the creation of low-cost leasehold homes for sale to Hawaii residents on state-owned land near public transit stations; and

(3) Authorize the Hawaii housing finance and development corporation to sell the leasehold interest in residential condominium units located on state lands for lease terms of ninety-nine years.

SECTION 2. Chapter 201H, Hawaii Revised Statutes, is amended by adding two new subparts to part II to be appropriately designated and to read as follows:

"B. ALOHA Homes Program

§201H-A Definitions. As used in this subpart, the following terms have the following meanings, unless the context indicates a different meaning or intent:

"ALOHA" means affordable, locally owned homes for all.

"ALOHA home" means a residential unit within an urban redevelopment site.

"Commercial project" means an undertaking involving commercial or light industrial development, which includes a mixed-use development where commercial or light industrial facilities may be built into, adjacent to, under, or above residential units.

"Multipurpose project" means a project consisting of any combination of a commercial project, redevelopment project, or residential project.

"Owner-occupied residential use" means any use currently permitted in existing residential zones consistent with owner occupancy, but shall not mean renting or subleasing by the owner of an ALOHA home to any tenant or sublessee of any kind.

"Project" means a specific work or improvement, including real and personal properties, or any interest therein, acquired, owned, constructed, reconstructed, rehabilitated, or improved by the corporation, including a commercial project, redevelopment project, or residential project.

"Public agency" means any office, department, board, commission, bureau, division, public corporation agency, or instrumentality of the federal, state, or county government.

"Public facilities" includes streets, utility and service corridors, and utility lines where applicable, sufficient to adequately service developable improvements in an urban redevelopment site, sites for schools, parks, parking garages, sidewalks, pedestrian ways, and other community facilities. "Public facilities" also includes public highways, as defined in section 264-1, storm drainage systems, water systems, street lighting systems, off-street parking facilities, sanitary sewerage systems, facilities to address climate change and sea level rise, as well as the land required for these facilities. "Public facilities" also includes any facility owned and operated by a public agency and having a useful life of at least five years.

"Public transit station" means:

(1) A station connected to a locally preferred alternative for a mass transit project; or

(2) For the city and county of Honolulu, a station of the Honolulu rail transit system.

"Redevelopment project" means an undertaking for the acquisition, clearance, replanning, reconstruction, and rehabilitation, or a combination of these and other methods, of an area for a residential project, for an incidental commercial project, and for other facilities incidental or appurtenant thereto, pursuant to and in accordance with this subpart. The term "acquisition, clearance, replanning, reconstruction, and rehabilitation" includes renewal, redevelopment, conservation, restoration, or improvement, or any combination thereof.

"Residential project" means a project or that portion of a multipurpose project, including residential dwelling units, designed and intended for the purpose of providing housing and any facilities as may be incidental or appurtenant thereto.

§201H-B ALOHA homes program. There is established the ALOHA homes program for the purpose of providing low-cost, high-density leasehold homes for sale to Hawaii residents on state-owned lands within a one-mile radius of a public transit station.

§201H-C Urban redevelopment sites; established; boundaries. There shall be established urban redevelopment sites that shall include all state-owned land within a one-mile radius of a public transit station in a county having a population greater than five hundred thousand.

§201H-D Rules; guidelines. (a) The corporation shall establish rules pursuant to chapter 91 on health, safety, building, planning, zoning, and land use, which shall supersede all other inconsistent ordinances and rules relating to the use, zoning, planning, and development of land and construction thereon. Rules adopted under this section shall follow existing laws, rules, ordinances, and regulations as closely as is consistent with standards meeting minimum requirements of good design, pleasant amenities, health, safety, and coordinated development. The corporation may provide that lands within urban redevelopment sites shall not be developed beyond existing uses or that improvements thereon shall not be demolished or substantially reconstructed or provide other restrictions on the use of the lands.

(b) The following shall be the principles generally governing the corporation's action in urban redevelopment sites:

(1) The program seeks to produce enough housing to meet housing demand;

(2) Each development may include facilities to replace any facilities that must be removed for the development's construction;

(3) Developments shall endeavor to be revenue-neutral to the State and counties, and all revenues generated shall be used for the purposes of this subpart;

(4) The corporation shall consider the infrastructure burden of each development and the impact of the

development on the education system, and any mitigation actions, prior to construction;

(5) The corporation may build infrastructure beyond what exists in any development under this subpart and may sell the infrastructure capacity to private sector developers;

(6) The corporation may build common area facilities for any development undertaken pursuant to this subpart, which shall be paid through the sales of ALOHA homes units;

(7) Developments shall result in communities that permit an appropriate land mixture of residential, commercial, and other uses. In view of the innovative nature of the mixed use approach, urban design policies shall be established for the public and private sectors in the proper development of urban redevelopment sites; provided that any of the corporation's proposed actions in urban redevelopment sites that are subject to chapter 343 shall comply with chapter 343 and any federal environmental requirements; provided further that the corporation

may engage in any studies or coordinative activities permitted in this subpart that affect areas lying outside urban redevelopment sites where the corporation, in its discretion, decides that those activities are necessary to implement the intent of this subpart. The studies or coordinative activities shall be limited to facility systems, resident and industrial relocation, and other activities engaged in with the counties and appropriate state agencies. The corporation may engage in construction activities outside of urban redevelopment sites; provided that the construction relates to infrastructure development or residential or business relocation activities; provided further that the construction shall comply with the general plan, development plan, ordinances, and rules of the county in which the urban redevelopment site is located;

(8) Activities shall be located so as to provide primary reliance on public transportation and pedestrian and bicycle facilities for internal circulation within urban redevelopment sites or designated subareas;

(9) Where compatible, land use activities within urban redevelopment sites, to the greatest possible extent, shall be mixed horizontally within blocks or other land areas and vertically as integral units of multi-purpose structures;

(10) Development shall prioritize maximizing density; provided that development may require a mixture of densities, building types, and configurations in accordance with appropriate urban design guidelines and vertical and horizontal integration of residents of varying incomes, ages, and family groups that reflect the diversity of Hawaii.

(11) Development shall provide necessary community facilities, such as parks, community meeting places, child care centers, schools, educational facilities, libraries, and other services, within and adjacent to residential development; provided that any school that is provided by the corporation as a necessary community facility shall be exempt from school size requirements as calculated by recent school site area averages pursuant to section 302A-1602;

(12) Public facilities within urban redevelopment sites shall be planned, located, and developed so as to support the redevelopment policies for the sites established by this subpart and plans and rules adopted pursuant to it;

(13) Development shall be designed, to the extent possible, to minimize traffic, parking, the use of private automobiles, and noise;

(14) Development shall be subject to chapter 104;

(15) On-site and off-site infrastructure funded by the State or county, as applicable, shall be brought to the development site; provided that the State and respective county may be reimbursed for its infrastructure contributions with proceeds from the sale of ALOHA homes; and

(16) Development shall include the establishment of a building operating and maintenance program, together with the funding to cover its cost.

(c) ALOHA homes within urban redevelopment sites shall not be advertised for rent, rented, or used for any purpose other than owner-occupied residential use; provided that the corporation, by rule, shall establish penalties for violations of this subsection, up to and including forced sale of an ALOHA home.

(d) The design and development contracts for ALOHA homes shall be subject to chapter 103D.

(e) The corporation shall, in the interest of revenue-neutrality, recoup expenses through the sales of the leasehold interest of ALOHA homes and other revenue sources, including the leasing of commercial space.

§201H-E Sale of the leasehold interest of ALOHA homes; rules; guidelines. (a) The corporation shall adopt rules, pursuant to chapter 91, for the sale of the leasehold interest of ALOHA homes under its control within urban redevelopment sites; provided that each lease shall be for a term of ninety-nine years. The rules shall include the following requirements for an eligible buyer or owner of an ALOHA home within an urban redevelopment site:

(1) The person shall be a qualified resident as defined in section 201H-32;

(2) The person shall not use the ALOHA home for any purpose other than owner-occupied residential use; and

(3) The person, or the person's spouse, or any other person intending to live with the eligible buyer or owner, shall not own any other real property, including any residential and non-residential property, beneficial ownership of trusts, and co-ownership or fractional ownership, while owning an ALOHA home in an urban redevelopment site; provided that an eligible buyer may own real property up to six months after closing on the purchase of an ALOHA home; provided further that an owner of an ALOHA home in the process of selling the ALOHA home may own other real property up to six months prior to closing on the sale of the ALOHA home to an eligible buyer;

provided that the rules under this subsection shall not include any requirements or limitations related to an individual's income or any preferences to first-time home buyers. The rules shall include strict enforcement of owner-occupancy, including a prohibition on renting or subleasing an ALOHA home to any tenant or sublessee. Enforcement of the owner-occupancy condition may include requirements for the use of facial recognition, fingerprint authorization, or retina scan technologies, in-person verification of owner-occupants, and prevention of access to all unauthorized persons. The corporation may also establish rules for a minimum number of days residents must be physically present on the premises and a maximum number of days non-residents may have access to the premises.

(b) The median ALOHA homes within urban redevelopment sites shall be priced at the minimum levels necessary to ensure that the development is revenue-neutral for the State and counties. The median ALOHA homes price shall be adjusted annually for inflation, as determined by the Bureau of Labor Statistics Consumer Price Index for urban Hawaii.

(c) The corporation shall establish waitlists for each residential development for eligible buyers to determine the order in which ALOHA homes shall be sold. Waitlist priorities may include:

(1) School, college, or university affiliation if the residential property is a redeveloped school, college, or university;

(2) Proximity of an eligible buyer's existing residence to an ALOHA home within the urban redevelopment site; and

(3) Other criteria based on the impact that the development has on the eligible buyer.

(d) ALOHA homes within urban redevelopment sites shall be sold only to eligible buyers.

(e) An owner of an ALOHA home may sell the ALOHA home; provided that the corporation shall have the right of first refusal to purchase the ALOHA home at a price that is determined by the corporation using the price at which the owner purchased the ALOHA home as the cost basis, adjusted for inflation, as determined by the department of business, economic development, and tourism using the Consumer Price Index for All Urban Consumers for Honolulu, and may include a percentage of the appreciation, if any, in value of the unit based on an appraisal obtained by the corporation. If the corporation does not exercise its right to purchase the ALOHA home, the ALOHA home may be sold by the owner to an eligible buyer; provided that the corporation shall retain seventy-five per cent of all profits from the sale, net of closing and financing costs, using the price at which the owner purchased the ALOHA home, plus documented capital improvements, as the cost basis. Upon the death of the owner of an ALOHA home, the ALOHA home may be transferred to the deceased's heir by devise or as any other real property under existing law.

(f) Any ALOHA home developed and sold under this subpart shall not be subject to sections 201H-47, 201H-49, 201H-50, and 201H-51.

§201H-F Use of public lands; acquisition of state lands. (a) If state lands under the control and management of other public agencies are required by the corporation for the purposes of this subpart, the agency having the control and management of those required lands, upon request by the corporation and with the approval of the governor, may convey or lease those lands to the corporation, upon terms and conditions as may be agreed to by the parties.

(b) Notwithstanding the foregoing, no public lands shall be conveyed or leased to the corporation pursuant to this section if the conveyance or lease would impair any covenant between the State or any county or any department or board thereof and the holders of bonds issued by the State or that county, department, or board.

§201H-G Acquisition of real property from a county. Notwithstanding the provision of any law or charter, any county, by resolution of its county council, may, without public auction, sealed bids, or public notice, sell, lease, grant, or convey to the corporation any real property owned by the county that the corporation certifies to be necessary for the purposes of this subpart. The sale, lease, grant, or conveyance shall be made with or without consideration and upon terms and conditions as may be agreed upon by the county and the corporation. Certification shall be evidenced by a formal request from the corporation. Before the sale, lease, grant, or conveyance may be made to the corporation, a public hearing shall be held by the county council to consider the same. Notice of the hearing shall be published at least six days before the date set for the hearing in the publication and in the manner as may be designated by the county council.

§201H-H Condemnation of real property. The corporation, upon making a finding that it is necessary to acquire any real property for its immediate or future use for the purposes of this subpart, may acquire the property, including property already devoted to a public use, by condemnation pursuant to chapter 101. The property shall not thereafter be taken for any other public use without the consent of the corporation. No award of compensation shall be increased by reason of any increase in the value of real property caused by the designation of the urban redevelopment site or plan adopted pursuant to a designation, or the actual or proposed acquisition, use, or disposition of any other real property by the corporation.

§201H-I Construction contracts. The construction contracts for ALOHA homes shall be subject to chapter 103D.

§201H-J Lease of projects. Notwithstanding any law to the contrary, the corporation, without recourse to public auction or public notice for sealed bids, may lease for a term not exceeding sixty-five years all or any portion of the real or personal property constituting a commercial project to any person, upon terms and conditions as may be approved by the corporation; provided that all revenues generated from the lease shall be used to support the purpose of the ALOHA homes program.

§201H-K Dedication for public facilities as condition to development. The corporation shall establish rules requiring dedication for public facilities of land or facilities by developers as a condition of developing real property within urban redevelopment sites. Where state and county public facilities dedication laws, ordinances, or rules differ, the provision for greater dedication shall prevail.

§201H-L ALOHA homes revolving fund. There is established the ALOHA homes revolving fund into which all receipts and revenues of the corporation pursuant to this subpart shall be deposited. Proceeds from the fund shall be used for the purposes of this subpart.

§201H-M Expenditures of ALOHA homes revolving fund under the corporation exempt from appropriation and allotment. Except as to administrative expenditures, and except as otherwise provided by law, expenditures from the ALOHA homes revolving fund administered by the corporation may be made by the corporation without appropriation or allotment of the legislature; provided that no expenditure shall be made from and no obligation shall be incurred against the ALOHA homes revolving fund in excess of the amount standing to the credit of the fund or for any purpose for which the fund may not lawfully be expended. Nothing in sections 37-31 to 37-41 shall require the proceeds of the ALOHA homes revolving fund administered by the corporation to be reappropriated annually.

§201H-N Assistance by state and county agencies. Any state or county agency may render services for the purposes of this subpart upon request of the corporation.

§201H-O Lands no longer needed. Lands acquired by the corporation from another government agency that are no longer needed for the ALOHA homes program by the corporation shall be returned to the previous owner of those lands. Lands acquired by the corporation from a private party that are owned by the corporation and designated for the ALOHA homes program but are subsequently no longer needed for the ALOHA homes program shall be retained by the corporation.

§201H-P Rules. The corporation may adopt rules pursuant to chapter 91 that are necessary for the purposes of this subpart.

C. Leasehold Condominiums on State Lands

§201H-Q Leasehold condominiums on state lands. (a) The corporation may sell leasehold units in condominiums organized pursuant to chapter 514B and developed under this subpart on state land to a qualified resident, as defined in section 201H-32.

(b) The term of the lease may be for ninety-nine years; provided that the corporation may extend or modify the fixed rental period of the lease or extend the term of the lease.

(c) The sale of leasehold units shall be subject to sections 201H-47, 201H-49, and 201H-50, except for units sold at fair market value.

(d) The powers conferred upon the corporation by this section shall be in addition and supplemental to the powers conferred by any other law, and nothing in this section shall be construed as limiting any powers, rights, privileges, or immunities so conferred."

SECTION 3. Chapter 237, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"<u>**§237-**</u> <u>**Exemption of sale of leasehold interest for ALOHA home units.**</u> <u>In addition to the amounts exempt under section 237-24, this chapter shall not apply to amounts received from the sale of a leasehold interest in an ALOHA home under chapter 201H, part II, subpart B.</u>"

SECTION 4. Section 171-2, Hawaii Revised Statutes, is amended to read as follows:

"**§171-2 Definition of public lands.** "Public lands" means all lands or interest therein in the State classed as government or crown lands previous to August 15, 1895, or acquired or reserved by the government upon or subsequent to that date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or in any other manner; including lands accreted after May 20, 2003, and not otherwise awarded, submerged lands, and lands beneath tidal waters that are suitable for reclamation, together with reclaimed lands that have been given the status of public lands under this chapter, except:

(1) Lands designated in section 203 of the Hawaiian Homes Commission Act, 1920, as amended;

(2) Lands set aside pursuant to law for the use of the United States;

(3) Lands being used for roads and streets;

(4) Lands to which the United States relinquished the absolute fee and ownership under section 91 of the Hawaiian Organic Act prior to the admission of Hawaii as a state of the United States unless subsequently placed under the control of the board of land and natural resources and given the status of public lands

in accordance with the state constitution, the Hawaiian Homes Commission Act, 1920, as amended, or other laws;

(5) Lands to which the University of Hawaii holds title;

(6) Lands that are set aside by the governor to the Hawaii housing finance and development corporation; lands leased to the Hawaii housing finance and development corporation by any department or agency of the State; or lands to which the Hawaii housing finance and development corporation in its corporate capacity holds title;

(7) Lands to which the Hawaii community development authority in its corporate capacity holds title;

(8) Lands set aside by the governor to the Hawaii public housing authority or lands to which the Hawaii public housing authority in its corporate capacity holds title;

(9) Lands to which the department of agriculture holds title by way of foreclosure, voluntary surrender, or otherwise, to recover moneys loaned or to recover debts otherwise owed the department under chapter 167;

(10) Lands that are set aside by the governor to the Aloha Tower development corporation; lands leased to the Aloha Tower development corporation by any department or agency of the State; or lands to which the Aloha Tower development corporation holds title in its corporate capacity;

(11) Lands that are set aside by the governor to the agribusiness development corporation; lands leased to the agribusiness development corporation by any department or agency of the State; or lands to which the agribusiness development corporation in its corporate capacity holds title;

(12) Lands to which the Hawaii technology development corporation in its corporate capacity holds title; and

(13) Lands to which the department of education holds title;

provided that, except as otherwise limited under federal law and except for state land used as an airport as defined in section 262-1, public lands shall include the air rights over any portion of state land upon which a county mass transit project is developed after July 11, 2005."

SECTION 5. Section 171-64.7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) This section applies to all lands or interest therein owned or under the control of state departments and agencies classed as government or crown lands previous to August 15, 1895, or acquired or reserved by the government upon or subsequent to that date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or any other manner, including accreted lands not otherwise awarded, submerged lands, and lands beneath tidal waters that are suitable for reclamation, together with reclaimed lands that have been given the status of public lands under this chapter, including:

(1) Land set aside pursuant to law for the use of the United States;

(2) Land to which the United States relinquished the absolute fee and ownership under section 91 of the Organic Act prior to the admission of Hawaii as a state of the United States;

(3) Land to which the University of Hawaii holds title;

(4) Land <u>that is set aside by the governor to the Hawaii housing finance and development corporation; land</u>

leased to the Hawaii housing finance and development corporation by any department or agency of the State; or land to which the Hawaii housing finance and development corporation in its corporate capacity holds title;

(5) Land to which the department of agriculture holds title by way of foreclosure, voluntary surrender, or otherwise, to recover moneys loaned or to recover debts otherwise owed the department under chapter 167;

(6) Land that is set aside by the governor to the Aloha Tower development corporation; or land to which the Aloha Tower development corporation holds title in its corporate capacity;

(7) Land that is set aside by the governor to the agribusiness development corporation; or land to which the agribusiness development corporation in its corporate capacity holds title;

(8) Land to which the Hawaii technology development corporation in its corporate capacity holds title;

(9) Land to which the department of education holds title; and

(10) Land to which the Hawaii public housing authority in its corporate capacity holds title."

SECTION 6. Chapter 201H, Hawaii Revised Statutes, part II is amended by designating sections 201H-31 to 201H-70 as subpart A and inserting a title before section 201H-31 to read as follows:

"<u>A. General Provisions</u>"

SECTION 7. Section 302A-1603, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The following shall be exempt from this section:

(1) Any form of housing permanently excluding school-aged children, with the necessary covenants or declarations of restrictions recorded on the property;

(2) Any form of housing that is or will be paying the transient accommodations tax under chapter 237D;

(3) All nonresidential development; [~~and~~]

(4) Any development with an executed education contribution agreement or other like document with the agency for the contribution of school sites or payment of fees for school land or school construction[~~.~~]<u>; and</u>

(5) Any form of development by the Hawaii housing finance and development corporation pursuant to chapter 201H, part II, subpart B."

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of $ or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 to be deposited into the ALOHA homes revolving fund established pursuant to section 201H-L, Hawaii Revised Statutes.

SECTION 9. There is appropriated out of the ALOHA homes revolving fund established pursuant to section 201H-L, Hawaii Revised Statutes, the sum of $ or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 for the purposes for which the revolving fund is established.

The sums appropriated shall be expended by the Hawaii housing finance and development corporation for the purposes of this Act.

SECTION 10. There is appropriated out of the general revenues of the State of Hawaii the sum of $ or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 to fund one full-time equivalent (1.0 FTE) program manager position, one full-time equivalent (1.0 FTE) compliance specialist position, and one full-time equivalent (1.0 FTE) fiscal clerk position within the Hawaii housing finance and development corporation for the ALOHA homes program.

The sums appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this Act.

SECTION 11. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 13. This Act shall take effect on July 1, 2050.

S.B. NO. 1 S.D. 2

Report Title:
HHFDC; Affordable Housing; ALOHA Homes; Public Land Exemptions; Appropriation

Description:
Establishes the ALOHA homes program to develop low-cost homes on state-owned and county-owned land in urban redevelopment sites to be sold in leasehold by the Hawaii housing finance and development corporation (HHFDC) to qualified residents. Exempts certain land from the definition of public lands. Requires HHFDC to gain legislative approval before disposing of certain lands. Provides for the disposition of lands acquired by HHFDC but no longer needed for the ALOHA homes program. Appropriates moneys. Effective 7/1/2050. (SD2)

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

ALOHA Homes Implementation Study

PREPARED FOR

HAWAI‘I HOUSING FINANCE AND DEVELOPMENT CORPORATION
(HHFDC)

PREPARED BY

ALOHA Homes Implementation Study

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Executive Summary

One of the defining public policy issues of our day is the inadequacy of housing for Hawai‘i’s families. The cost of housing is most often cited as the motivation for out-migration of families seeking better economic opportunities in other states and as a primary cause for our high rate of homelessness.

The ALOHA Homes Implementation Study aims to ascertain the feasibility of implementing the proposed ALOHA Homes program and, if feasible, formulate an implementation plan. As part of our research we evaluated key components of the Singapore leasehold housing model to see which could be applied in Hawai’i. Singapore was chosen as an inspiration for the ALOHA Homes bill because it has successfully provided high quality and affordable housing for its more than 5 million citizens, and virtually eliminated homelessness.

In our approach, we did not simply comment on the viability of the Singapore model but sought to provide solutions that could work in Hawai‘i. Our research team met with housing experts from developers, to manufacturers, to administrators, to policy problem-solvers in order to assemble best-practices and lessons learned applicable to Hawai‘i’s unique circumstances. And we asked local consumers, who represent the target group for ALOHA Homes purchases, to weigh in on a proposed affordable leasehold model.

We found that many of the provisions proposed in the ALOHA Homes model would have the potential to address housing needs of middle-income earners that are currently priced out of the housing market and have very limited opportunities for homeownership.

In our analysis we found several key components of the Singapore model that would not be currently feasible in Hawai‘i. Notable among these are:

- **Government structure:** Singapore has a highly centralized government with extensive land use authority and limited opportunities for citizen input in development decisions.
- **Cost of Construction:** Singapore is able to build housing and infrastructure at costs that are less than half the costs in Hawai'i, in large part because the construction workforce is dominated by nonunionized immigrant laborers.
- **Significant mortgage subsidies for lower-income residents:** Singapore ensures widespread affordability by reducing the home price for residents with lower incomes. These subsidies aim to keep monthly housing costs at approximately 22% of a resident’s income.

The above elements of the Singapore model make some aspects of the current ALOHA Homes bill infeasible or not recommended for Hawai‘i. Our findings indicate that other aspects proposed for the ALOHA Homes model which would not be recommended for other reasons.

Key components of the ALOHA Homes bill which are **infeasible** include:

1) **Constructing a 2 bedroom/2 bathroom home for $300,000.**
   Analysis: Our research indicates a feasible price to be approximately $400,000.

2) **Minimum Density of 250 homes per acre.**
Analysis: Due to our government, social, and political structure, imposing a requirement that does not account for local needs or geographic variation would likely be an empty mandate.

3) **Delivering housing to low- and middle-income earners without State Subsidy.**
Analysis: Even at a low price of $400,000, assuming a subsidy of State lands and district-wide infrastructure, house payments would be affordable to households earning approximately $80,000 a year, or 80% of area median income for Honolulu.[1] Households with lower incomes would need further mortgage subsidies to make home purchases affordable.

Key components of the ALOHA Homes bill which are feasible, but **not a best practice** for maximizing long-term affordability include:

1) **Five-year affordability period.** Owner can sell at market price after five years, and will share 75 percent of the equity with the housing agency. The home is no longer affordable to future buyers.

   Analysis: Singapore allows a sale at maximum price to qualified buyers after five years, without losing affordability because the government structure enables constant replacement of affordable homes and public land acquisition. This does not apply to Hawaiʻi or other places we researched with high citizen engagement in land use decisions.

2) **No income restriction.** A person at any income level can purchase an ALOHA home, even though in Singapore there are income restrictions for purchasing new and subsidized homes.

   Analysis: Every jurisdiction in the U.S. with below-market housing has an income limit. European cities also generally have income limits, with Helsinki having a low-income preference instead of limit.

Other main program areas which need further consideration before implementation include:

1) **Stewardship**: Successful below-market housing programs require management, generally from a non-profit or other third-party organization. The State would need to find a partner.
2) **Infrastructure Funding:** Significant public investment in infrastructure is needed to enable housing construction in TOD areas at the prices proposed in this study. The public sector must take a much larger role in this area.
3) **State land contribution/Lease end game issues:** The ALOHA Homes Implementation Study proposes a 99-year lease but does not address what happens at the end of the lease term. In Singapore, the government does not extend the lease period but instead re-houses people as the property generally declines in value when the remaining lease period is shorter than 40 years. It is not clear if this would also be the plan for ALOHA Homes.

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[1] Assumptions: 3% down payment, 30-year mortgage loan at 3% interest, HOA $350/month, no PMI, homeowner's insurance $500. HUD Honolulu Household 100% AMI 2020 is $101,600

We continue to gather important stakeholder feedback on this issue, but it is clear the use of public lands for residential leasehold ownership is controversial with important legal, political, and financial considerations.

Although some parts of the ALOHA Homes proposal are currently infeasible, the lack of affordable housing is also unsustainable for too many Hawaiʻi residents. The scarcity of affordable homeownership opportunities for local residents who are earning average or even above-average wages is a frustrating and demoralizing experience, as voiced by one focus group participant- “I’ve been saving up for years, but it’s just not enough.” Some people when faced with this reality decide to limit their aspirations and give up on homeownership, while some others move to other states. During our focus group interviews it was striking how many people when presented with the prices and requirements of the leasehold program described in this study responded by saying they felt hopeful. They wanted to be kept informed of program progress and wanted to know where and when the housing would be built.

A state-supported affordable leasehold housing program, that addresses the above obstacles, could fulfill an important housing need for Hawai'i.

Methodology of Study

Project Team

The ALOHA Homes Implementation Study was commissioned by the Hawaiʻi Housing Finance and Development Corporation (HHFDC), the primary agency responsible for overseeing affordable housing finance and development in Hawaiʻi. The study was conducted by the Hawaiʻi Appleseed Center for Law & Economic Justice. The study team included:

- Kenna Stormogipson (Policy and Data Analyst, Hawaiʻi Budget and Policy Center)
- Williamson Chang, JD (Legal Analyst, UHM William S. Richardson School of Law)
- Dave Freudenberger (Public Finance Consultant, Goodwin Consulting Group)
- Charles Long (Developer and author of "Finance for Real Estate Development")
- Dennis Silva (Planner, Hawaiʻi Planning LLC)
- Jessica Sato (Freelance Designer)
- Abbey Seitz (Community Planner)
- Steven Miao, (Research Assistant, Hawaiʻi Budget and Policy Center)
- Jacob Heberle (Summer Intern, Hawaiʻi Appleseed)
- Arjuna Heim (Fall Intern, Hawaiʻi Appleseed)

The team members listed above represent a project team with local and regional expertise in housing policy, real estate finances, legal analysis, state housing policy and urban development.

Review of Relevant Housing Studies and Programs

The project team reviewed relevant housing studies and programs to document best practices in the design, distribution and management of affordable housing, both locally and abroad. The team's greatest focus was on public housing and "social housing" programs in Singapore, Vienna and Helsinki. These programs were given most attention because they are state-supported, effective housing delivery systems that provide affordable home-ownership and rental opportunities to low- and middle-income residents. Lessons learned from these publicly supported programs are included throughout the study. In addition to reviewing existing literature and publications about various public housing programs, the project team interviewed government officials from the model jurisdictions when possible.

Local Stakeholder Interviews and Focus Groups

To ensure that this study was centered on local knowledge, the project team conducted more than 30 local stakeholder interviews. Stakeholders represented government agencies, academic institutions, nonprofit organizations, community groups, and private developers that are involved in affordable housing in Hawaiʻi. Collectively, they provided details about the challenges of and opportunities for different affordable housing delivery systems, addressing costs, community engagement, government accountability and equity concerns. The full list of stakeholders who were interviewed is included in Appendix A.

The project team also gathered input from local residents about a potential ALOHA Homes Program through four one-on-one interviews and four focus groups. Each focus group was held via video conference, lasted approximately 1.5 hours, and included an average of four participants. In total, there were 18 participants. The names of focus group participants engaged in this study are not provided to protect their privacy. Key input from stakeholder interviews and focus groups is referenced throughout the study.

Description of ALOHA Homes Concept

Program History

The proposed ALOHA Homes Program was first championed by State Senator Stanley Chang (District 9), who represents the area stretching from Diamond Head to Hawaiʻi Kai. As chairman of the Senate Committee on Housing since 2019, Senator Chang has focused much of his attention on ending Hawaiʻi's housing shortage. He is particularly inspired by the affordable housing model of Singapore, a city-state at the southern tip of Malaysia where it is estimated that over 90 percent of the city's 5.5 million people are homeowners.[2]

[2] Phang, S. and Helble, M., (2016). Housing Policies In Singapore. ADBI Working Paper 559. Tokyo: Asian Development Bank Institute. Available: http://www.adb.org/publications/housing-policies-singapore/

In early 2019, Senator Chang introduced [Senate Bill 1] ("ALOHA Homes Bill").[3] While the ALOHA Homes Bill did not ultimately pass, the state approved legislation to study provisions in the bill in Act 167 (Session Laws of Hawai'i 2019). As part of Act 167, HHFDC is required to "to study and formulate a plan to implement an ALOHA Homes program to provide low-cost, high-density leasehold homes for sale to Hawai'i residents on state-owned lands within a one-half mile radius of a public transit station."[4] This study is a result of this Act 167 requirement, and our goal is to provide data and analysis to help the State of Hawai'i implement an affordable leasehold ownership program.

The Original Vision for the ALOHA Homes Program

State Senator Stanley Chang envisioned the ALOHA Homes Program to be based on the following principles, as outlined in the ALOHA Homes Bill:

- **Housing should be affordable for Hawai'i residents** with incomes at or below 80 percent of the area median income (AMI).[5] This means a two-bedroom unit could cost no more than approximately $300,000.
- **Down payments should be nonrestrictive for potential homeowners at 3 percent or less** so that the down payment for a two-bedroom unit would be approximately $9,000 or less.
- **99-year leasehold tenure** for sales of residential condominiums on state land.
- **Housing should be revenue-neutral for the state** and all expenses should be recouped through the sale of the leasehold interest on ALOHA Homes and other revenue sources.
- **Housing should be high-density residential** to support future transit-oriented development (TOD) on O'ahu. The ALOHA Homes Bill defined "high-density" as an area that has at least 250 dwelling units per acre. This density is the same as "801 South Street," two mid-priced condominium towers built in downtown Honolulu between 2015 and 2017. These two towers have a density of roughly 250 homes per acre, with 46 stories reaching 400 feet high. The relatively affordable price of these two towers was due in part to their density, which allowed more apartments to fit on a parcel of land.
- **Housing should be part of mixed land-use communities**, accommodating both residential and commercial uses to promote walkable and livable neighborhoods.
- **Housing should be sited near community amenities** such as parks, community meeting places, childcare centers, schools, educational facilities and libraries.
- **Housing should be owner-occupied** to ensure local residents have the opportunity to build equity and have more control over their housing than they would as renters.
- **Housing should be sited in urban development areas,** to promote smart and sustainable growth in Hawai'i. The ALOHA Homes Bill defined "urban development sites" as state and county land within county-designated TOD areas or within a half-mile radius of a public transit station in a county that has a population greater than 500,000.
- **There should be no first-time homebuyer or income limits on potential homeowners**, to promote neighborhoods that integrate residents with a variety of incomes and ages.

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[3] Senate Bill 1, S.D. 2. (2019). Related to Housing. Available here: https://www.capitol.hawaii.gov/session2019/bills/SB1_SD2_.pdf

[4] Act 167 (H.B. No. 820, H.D. 1, S.D. 1, C.D. 1). (Session Laws of Hawai'i 2019). Related to Housing. Available here: https://www.capitol.hawaii.gov/session2019/bills/GM1269_.PDF

[5] Eighty percent of Hawai'i's area median income for a family of four in 2020 was $96,400, according to DBEDT. Available: https://dbedt.hawaii.gov/hcda/annual-ami-stats/

- **Homeowners would not own any other real property** to prevent people from using the program primarily as a form of real estate investment. Anyone who currently owns property would be required to sell that property within six months of purchasing a below-market home. This clause emphasizes that the primary purpose of the program is to provide affordable housing and that wealth or equity building is secondary.
- **There would be waitlist preferences** to prioritize people who are affected by the new development, such as local area residents. The program would also prioritize residents affiliated with a school or university if housing is built on land owned by the school or university.
- **Restricted resale to eligible buyers** would ensure that the units are affordable long-term. Home sales would be restricted to buyers who meet the eligibility requirements as outlined above, including to local residents who own no other property.
- **Equity sharing** would provide a fair profit, but not a windfall to the owner who resells a unit. The owner has two options:
    1. The owner can sell the home back to the public agency for the original purchase price plus inflation for Honolulu as determined by the Consumer Price Index.
    2. If the agency does not exercise the right to purchase the home, the owner may sell the property to another qualified buyer at market price and keep 25 percent of the profit, while the public agency would retain 75 percent of the gain.

  This equity share provision emphasizes that the purpose of the program is to provide and maintain a supply of affordable housing for local residents. While some profit for the owner is acceptable, it is not the main goal of the program.

Differences Between the ALOHA Homes Program and the Singapore Model

Although similar, there are key differences between Singapore's Housing and Development Board (HDB) approach to affordable housing and the original vision for the ALOHA Homes Program:

- **Singapore allows less citizen oversight and community involvement**. Generally speaking, the Singaporean government designed HDB with minimal citizen oversight or community involvement. Although the ALOHA Homes Bill does not currently outline any community involvement process, HHFDC must comply with numerous state rules and regulations designed to promote transparency and protect the public interest. Some examples of this include HRS §91 rulemaking procedures, which require agencies to provide the public access to information on and opportunities to inspect and provide input on agency laws and procedures.[6]

  Hawai'i's Sunshine Laws also require meetings of the HHFDC board to be conducted as "openly as possible." In contrast, Singapore is one of a minority of countries that does not have "Freedom of Information" laws, for citizens to request government data,[7] and in general

[6] Hawaiʻi Revised Statutes (HRS) §91-2, Title 8, Public Proceedings and Records, Chapter 91 Administrative Procedure. Available at: https://files.hawaii.gov/dcca/oah/hrs/hrs_oah_91.pdf
[7] Freedominfo.org A total 119 countries have Freedom of Information laws, but not Singapore.

the level of transparency and public involvement in land use planning in Singapore is much lower than in Hawaiʻi.

- **Singapore provides income-based subsidies for first-time buyers.** HDB provides income-based subsidies amounting to 20-25 percent of a person's income in order to ensure that mortgages are affordable. For example, a person earning $2,000 per month would receive a subsidy to reduce their mortgage payment to $450 a month, but a person earning $4,000 a month would pay a $900 monthly mortgage for the same home. Homeownership is made affordable for everyone because initial home prices are based partly on income, not just on the cost of building the home. The ALOHA Homes Bill does not include mortgage subsidies based on income. Instead, it emphasizes that the program is revenue-neutral for the state and the price of the homes is based on the cost of building the units.

- **Singapore has strict eligibility requirements for purchasers of new homes.** Purchasing new affordable housing with 99-year leases in Singapore is heavily regulated by residency, ethnicity, age and income requirements. Singapore eligibility restrictions include:

    - **Minimum age:** A married couple must be at least 21-years-old while the minimum age for a single person is 35-years-old.

    - **Income Restrictions:** Income limits apply to people purchasing a new HDB home. Although top income earners are excluded from the new construction program, there are no income restrictions on the secondary resale market.

    - **Strict Ethnic Quotas:** Singapore supports racial integration through its "Ethnic Integration Policy," which sets quotas for HDB blocks and neighborhoods for the city's major ethnic groups: Malay, Chinese and Indian/Others. The racial quotas are updated periodically to ensure they continue to reflect Singapore's demographics. For example, in 1989 the permissible proportion of HDB apartments for Malays was up to 22 percent in any given neighborhood and 25 percent within an HDB block.[8] These ethnic quotas also apply to the secondary resale market.

    None of the above restrictions apply to ALOHA Homes.

- **The Singapore model is entirely state financed:** The Singapore housing model is entirely financed by the state. No outside funders or investors are involved in building housing. The ALOHA Homes model does not explicitly identify its financing strategy, but says the program must be "revenue-neutral." In Singapore, the housing program is not revenue-neutral, but instead receives considerable subsidies from the government to ensure that almost every working Singapore resident can afford their first home purchase. A 2019 presentation by HDB for the World Bank highlights that affordability is made possible through "generous subsidies

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[8] Koo, A. (2020, August 12). "HDBGuide To Understanding HDB Ethnic Integration Policy (EIP) And Singapore Permanent Resident (SPR) Quota." Dollars and Sense. Available at: https://dollarsandsense.sg/guide-understanding-hdb-ethnic-integration-policy-eip-singapore-permanent-resident-spr-quota/

and concessionary loans."[9] These subsidies include not only a reduction in the price of the home, but also government issued mortgages with 2.6 percent interest, and down payment support through a government savings account.

In Singapore, subsidies are provided because housing is considered a right of citizenship, much like education and healthcare. As a fundamental right, the government develops tens of thousands of homes a year (15,800 homes in 2018) so that the affordable housing supply meets residents' needs and no citizen is left homeless.

- **Singapore's 37 percent payroll tax helps with down payment:** The Singapore government has a mandatory savings plan similar to social security in the United States, in which every employee and employer contributes a portion of a worker's wages towards a government-managed savings account. The employee contributes 20 percent from each paycheck and the employer puts in 17 percent. The total 37 percent goes to the Central Provident Fund. This wage-based (i.e. payroll) tax is three times the U.S. Social Security tax of 12.4 percent (with 6.2 percent from employees and 6.2 percent from employers).

  In Singapore, approximately 62 percent of a person's Central Provident Fund savings is set aside to be used for a down payment, educational or other personal investments. According to HDB program documents,[10] it takes the average worker three years to accumulate mandatory savings sufficient for a down payment.

  The ALOHA Homes proposal does not create a mandatory payroll tax or propose a specific mechanism for helping residents acquire a down payment.

As is evident from the above description, the ALOHA Homes proposal was inspired by the Singapore model but differs significantly in key areas of program design, including owner qualifications, project financing and approval, and mandates and subsidies for leasehold buyers.

Intended Goals of the ALOHA Homes Program

As outlined in the 2019 ALOHA Homes Bill, the intended goals of the ALOHA Homes Program envisioned by Senator Chang are to:

1) End the housing shortage in Hawaiʻi;
2) Facilitate development of affordable leasehold homes on state land near future transit stations;
3) Authorize HHFDC to sell residential units as 99-year leasehold properties; and
4) Develop an ALOHA Homes demonstration project by July 1, 2025.

[9] April 2019 presentation to the World Bank, "Affordable Housing Financing and Delivery in Singapore" by Ms. Sia Tze Ming, Deputy Director Housing & Development Board, Singapore.
[10]IBID

Feasibility of Key ALOHA Homes Components

Why the Singapore Housing Model Cannot Be Replicated in Hawaiʻi

Styles of Governance

Singapore: One source[11] notes that Singapore enjoys political stability, honest and effective government, and successful economic policies but "is also known for its limited tolerance for opposition or criticism." Though Singapore does have elections, the People's Action Party has been in power since independence in 1965 and, by most accounts, is in little danger of being unseated in the near future. With no dissenting opinions from rival political parties or the public, Singapore's top-down, unified style of government has allowed its Housing & Development Board to construct public housing at a scale uncommon in most democratic nations.

Hawaiʻi: Though Hawaiʻi's voters and elected officials are heavily Democratic-leaning, there is much disagreement about public spending and state-run programs. Community sentiment, especially about housing policy, can be sharply divided and strongly expressed. Because developing an adequate supply of affordable housing requires a significant and sustained public infrastructure investment, access to developable land, and community approval, it is difficult to imagine Hawaiʻi replicating Singapore's speed and scale of development.

Labor Unions and Wages

Singapore: Singapore's access to abundant, cheap, migrant labor has allowed it to build housing at a low cost. Singapore is one of the world's biggest net importers of migrant labor,[12] with workers coming primarily from Malaysia, Bangladesh, Nepal, India, China and other Asian nations. Legal constraints keep migrant workers from organizing for better wages and conditions. As a result, Singapore's migrant construction workers earn notoriously low wages—approximately $5–20 per hour.[13]

Hawaiʻi: Hawaiʻi leads the nation in union membership, with 23.1 percent of the state's workers in labor unions. Political support for unions is strong.[14] These unions allow workers to negotiate for higher compensation and better working conditions through the power of collective bargaining.[15] In contrast to Singapore's poorly-paid migrant laborers, Hawaiʻi's construction workers earn an average of $33 per hour.[16]

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[11] http://factsanddetails.com/southeast-asia/Singapore

[12] Sacco, M. (2016, February 16)."What Does Singapore Owe Its Migrant Workers?" Carnegie Council for Ethics in International Affairs. Available at: https://www.carnegiecouncil.org/publications/ethics_online/0114

[13] Kirk, M. (2015, June 9)."The Peculiar Inequality of Singapore's Famed Public Housing." Bloomberg CityLab. Available at: https://www.bloomberg.com/news/articles/2015-06-09/for-migrant-workers-in-singapore-it-s-build-high-live

[14] Sauter, M. (2019, April 10). "Hawaii, New York are strongest states for unions, S. Carolina and N. Carolina are weakest." USA Today. Available at: https://www.usatoday.com/story/money/2019/04/10/hawaii-new-york-strongest-states-trade-unions-north-carolina-south-carolina-weakest/39305975/

[15] Sauter (2019)

[16] Bureau of Labor Statistics (2019), https://www.bls.gov/oes/

Construction Costs

Singapore: The average cost for constructing a standard mid-rise or high-rise condominium in Singapore is $125–150 per square foot.[17]

Hawaiʻi: The average cost to construct the same kind of multifamily dwelling in Hawaiʻi is approximately $275–400 per square foot, more than double Singapore's cost of construction.[18] Duplicating Singapore's cost of construction would require construction wages that are not possible or desirable for Hawaiʻi workers.

Models That Can Work in Hawaiʻi

After determining that several aspects of the Singapore model cannot be replicated in Hawaiʻi, our project team looked at examples of affordable housing programs in Helsinki and Vienna to explore other options that Hawaiʻi might draw from. These two places are known for their exceptional affordable housing policies and, similar to Hawaiʻi, they have very strong unions, a high cost of construction, and a robust process to engage citizens in planning decisions. Their projects also deal with a high degree of NIMBYism (Not In My Back Yard), which is prominent in Hawaiʻi's development processes.

Vienna, Austria

Cost of construction: $250–300 per gross square foot[19]

Union labor representation: Trade unions are politically influential in Austria, particularly in Vienna.[20] Across Austria, there are an estimated 1.4 million employees who are trade union members, the majority of whom reside in Vienna.[21] The Austrian Trade Union Federation provides various benefits to its members, such as negotiation of collective agreements, safeguarding of social standards and fair wages, and legal services.[22]

Citizen engagement in land use decisions: Vienna has a long history of civic engagement in community planning, and it continues to guide urban development today. For example, to overcome recent opposition to city transit service initiatives and other car-free amenities, officials brought residents into the decision-making process by providing community groups and neighborhood associations with small grants ($5,000) to plan and finance public-space improvement projects.[23]

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[17] 2019, "Singapore: Quarterly Construction Cost Review" Arcadis SIngapore Pte Ltd.
[18] Based on pro-forma analysis of local projects and interviews with Hawai'i builders and developers
[19] Interview with Kurt Pachinger, Vienna City Administrator, Office of the Executive City Councillor for Housing, Housing Construction, Urban Renewal and Women's Issues
[20] Federal Ministry, Republic of Austria Website. (2020). "Representation of employees". Available at: https://www.migration.gv.at/en/living-and-working-in-austria/working/representation-of-employees/
[21] Federal Ministry, Republic of Austria Website (2020)
[22] Federal Ministry, Republic of Austria Website (2020)
[23] Federal Ministry, Republic of Austria Website (2020)

Public housing rent as a percentage of income: 18–22 percent[24]

City liveability, housing access: In both 2018 and 2019, Vienna was named the world's most "liveable city" on the Global Liveability Index.[25] This prestigious ranking is due in part to residents' bountiful access to affordable housing and transportation. According to Bloomberg CityLab, Vienna—a city with approximately 2 million residents—experiences an annual increase of about 25,000 residents and adds approximately 13,000 new units of housing each year to accommodate them.[26] Strict land-use regulations have focused growth in existing urban neighborhoods, as opposed to suburban sprawl. Population growth is further supplemented by parks and public spaces and, today, more than half of the city is dedicated to green space.[27]

Helsinki, Finland

Cost of construction: $325–400 per gross square foot[28]

Union labor representation: Trade unions are exceptionally strong in Finland, where 59 percent of the working population are members.[29] The average salary for a construction worker in Finland is $54,500 a year or $31 per hour, very similar to Hawai'i's $33 per hour.[30]

Citizen engagement in land use decisions: Finland has high citizen engagement in land-use decisions and consequently, it is very difficult to add affordable housing to older neighborhoods. Instead the government housing development agency focuses on incorporating affordable housing into new neighborhoods.[31]

Public housing rent as a percentage of income: 18–28 percent[32]

City liveability, housing access: In 2017, Helsinki was ranked as the second most liveable city in Europe, following Vienna.[33] One of the main reasons for this high ranking is a successful housing policy which has ensured affordable housing for almost all residents and virtually eliminated homelessness.[34]

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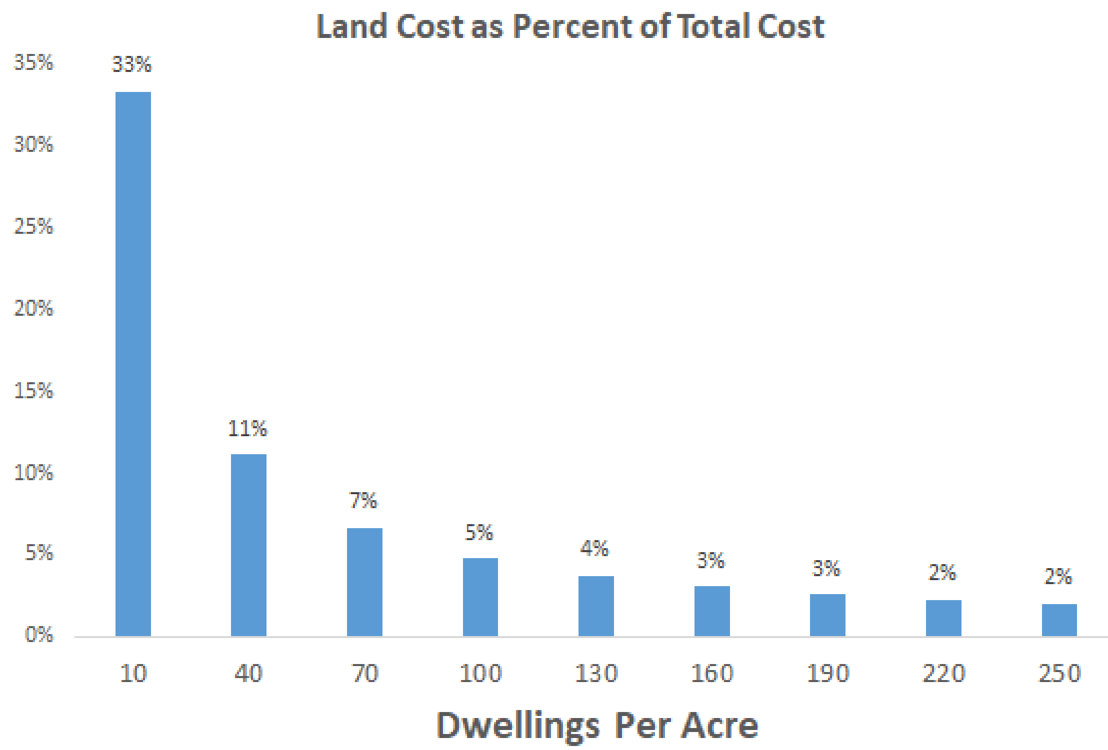
[24] 2019 Presentation for "Boston Initiative on Cities: Global Innovations in Urban Housing Conference April 2019," by Eva Bauer of Austrian Federation of Limited Profit Housing Associations
[25] https://www.eiu.com/topic/liveability
[26] Dudley, D. (2019, October 29). Secrets of the World's Most Livable City. Bloomberg CityLab. Available at: https://www.bloomberg.com/news/articles/2019-10-29/here-s-why-vienna-tops-most-livable-cities-lists.
[27] Dudley (2019)
[28] Interview with Housing Finance and Development Centre of Finland, pro-forma of recent project
[29] Construction & Labor Workers, Finland | 2020/21 (averagesalarysurvey.com)
[30] https://julkaisut.valtioneuvosto.fi
[31] 2020 Interview with Jarmo Linden, Director, Housing Finance and Development Centre of Finland
[32] Jan 2020, Presentation of Housing Finance and Development Centre of Finland "Role of ARA in Social Housing and in Actions to Reduce Homelessness in Finland." Average Finish income from www.statista.com
[33] https://www.eiu.com/n/campaigns/the-global-liveability-report-2017
[34] 2020, "The Role of Social Housing and Actions to Reduce Homelessness in Finland." presentation by The Housing Finance and Development Centre of Finland.

Summary: Although Vienna and Helsinki are farther away from Hawaiʻi than Singapore by location, these cities face many of the social, political, and cost constraints to building new housing that are common in Hawaiʻi. In many ways, compared to the Singapore model, housing policies in Vienna and Helsinki are more relevant to Hawaiʻi.

Case studies of Vienna and Helsinki further demonstrate that building new housing is expensive and requires significant community buy-in and participation. For these reasons, best practices from these two municipalities are included when evaluating various components of the ALOHA Homes proposal.

Feasibility of ALOHA Homes Components

High-Density: At Least 250 Units Per Acre



The more dwelling units built per acre, the less impact additional density has on overall costs. Assumptions: $2 million per acre land cost and construction costs constant $400,000 per unit.

One approach to cost savings is density, although savings diminish as density increases. The more homes that can be built on a specific parcel, the greater the savings in land costs. For example, if a 1-acre parcel is worth $2 million and five homes are built, the land cost for each home is $400,000. However, if 10 homes are built on that same parcel, the land cost per home drops to $200,000, which could translate into significantly lower prices per home.

If the average cost to build a 1,000 square foot home is about $400,000, there are significant savings when the density is increased from 10 homes to 40 homes, or even to 70 homes, but the savings greatly diminish after 130 homes per acre.

Density should fit local community needs. In most of the TOD areas on Oʻahu, mid-rise developments would blend in with the surrounding community. The ʻIwilei, Chinatown and Downtown station areas may have higher density since this is the most urbanized area in the state and is the Central Business District (CBD). The Downtown TOD Neighborhood Plan states: "Develop new housing of varied types, including affordable, family-friendly and mixed-income, to allow a range of household types." Higher density in the Downtown Honolulu CBD fits with the character of the surrounding district, while a mid-rise of between 100 to 200 homes per acre would be appropriate in areas further from the CBD.

Sense of community: We learned from discussions with developers that projects with high density can lack a sense of community and be less attractive to long-term residents. One developer recounted how a project of 120 homes per acre leased up much more quickly than another project of almost 200 homes per acre in the same neighborhood.

Conclusion: At least 250 homes per acre is only appropriate for some areas. For many TOD areas, a lower density would achieve cost savings, retain a sense of community, and fit the surrounding community.

Public Land Contribution in Transit Oriented Areas

Public land contribution is key: One important practice in all three jurisdictions studied—Helsinki, Vienna and Singapore—is that public land is used for affordable housing. As a result of their investments and long-term vision, each city builds enough quality housing to reasonably match demands. Rents meet affordability standards of no more than 18–26 percent of residents' incomes. In addition, each jurisdiction has virtually eliminated homelessness.

Use of public lands for long-term affordability: All three jurisdictions use public lands as a way to maintain affordability.

Singapore creates a constant supply of HDB flats to keep prices stable: In Singapore, the government is able to consistently build enough new homes to meet demand. They acquire land and develop train stations, public infrastructure, and other amenities as needed for the new developments. Due to the continual supply of new HDB flats, these public sector homes—which make up about 80 percent of the housing market—have maintained relatively stable prices. Resale prices for HDB flats ended 2020 slightly lower than at the beginning of 2013.[35] Of course, this ability to add public infrastructure and housing as needed is very difficult in places with less central government control and a high degree of citizen involvement in land-use decisions.

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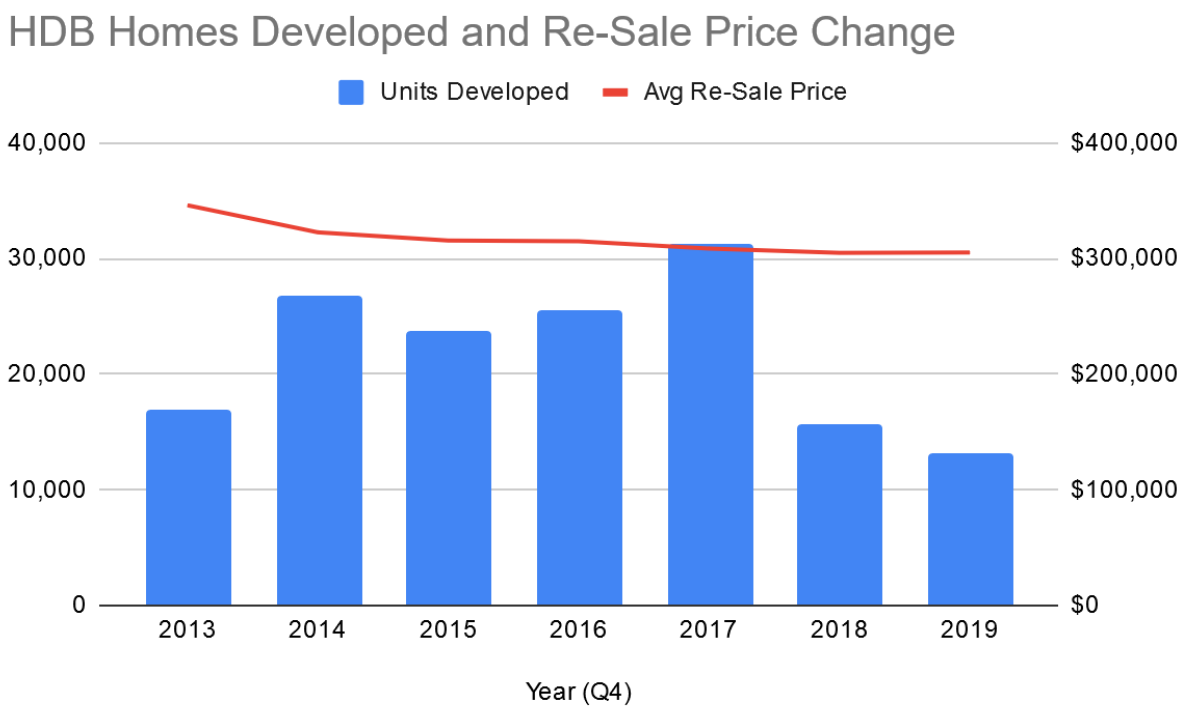
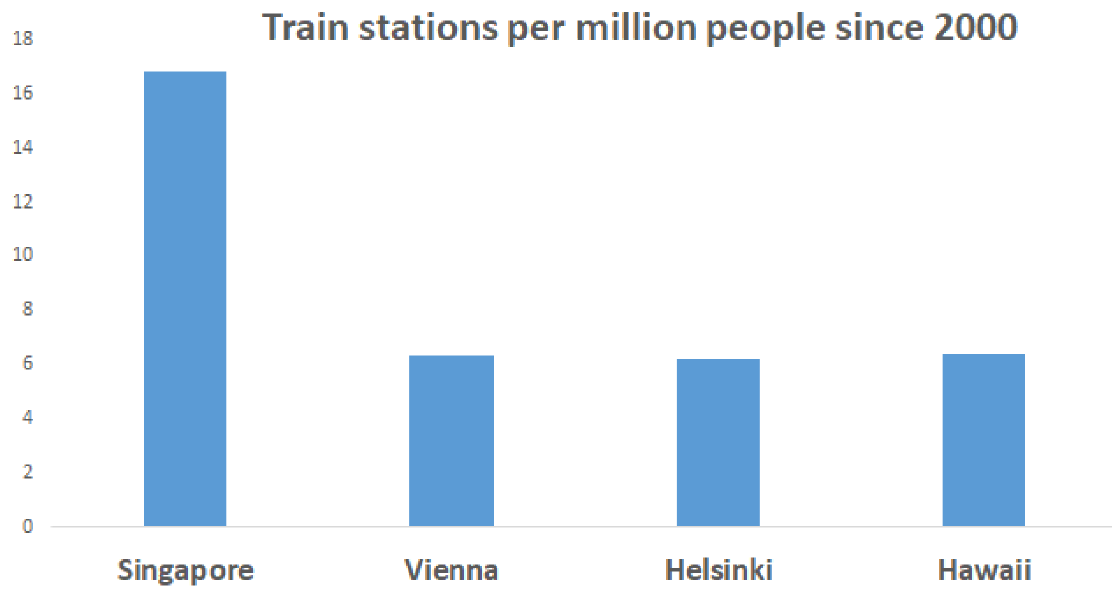
[35] Housing Development Board Data https://www.hdb.gov.sg/residential/buying-a-flat/resale/getting-started/resale-statistics



Helsinki and Vienna use price controls to maintain long-term affordability. The government and political structure of Vienna and Helsinki make the process of acquiring new developable land with public infrastructure and transportation more difficult and time intensive. For example, Singapore has added 122 stations to its public transit system since 2000,[36] whereas Helsinki has only added 8 and Vienna has added 12. [37]

As a comparison, Hawai‘i is about to complete nine stations of a rail system that has been discussed and planned for over 50 years. The amount of time, resources, and citizen consensus required in Hawai‘i for major construction projects is more similar to Vienna and Helsinki than to Singapore.

[36]https://landtransportguru.net/singapore-rail-timeline/
[37] https://en.wikipedia.org/wiki/Helsinki_Metro#1982_onwards:_In_service, https://en.wikipedia.org/wiki/Wien_Hauptbahnhof



Vienna and Helsinki both preserve the affordability of state supported housing by setting price limits. Price increases in rental and for-sale homes that receive government subsidies are generally limited to inflation plus the cost of improvements. The use of public land, financing, and long-term price controls ensures that every new development maintains a significant supply of affordable housing.

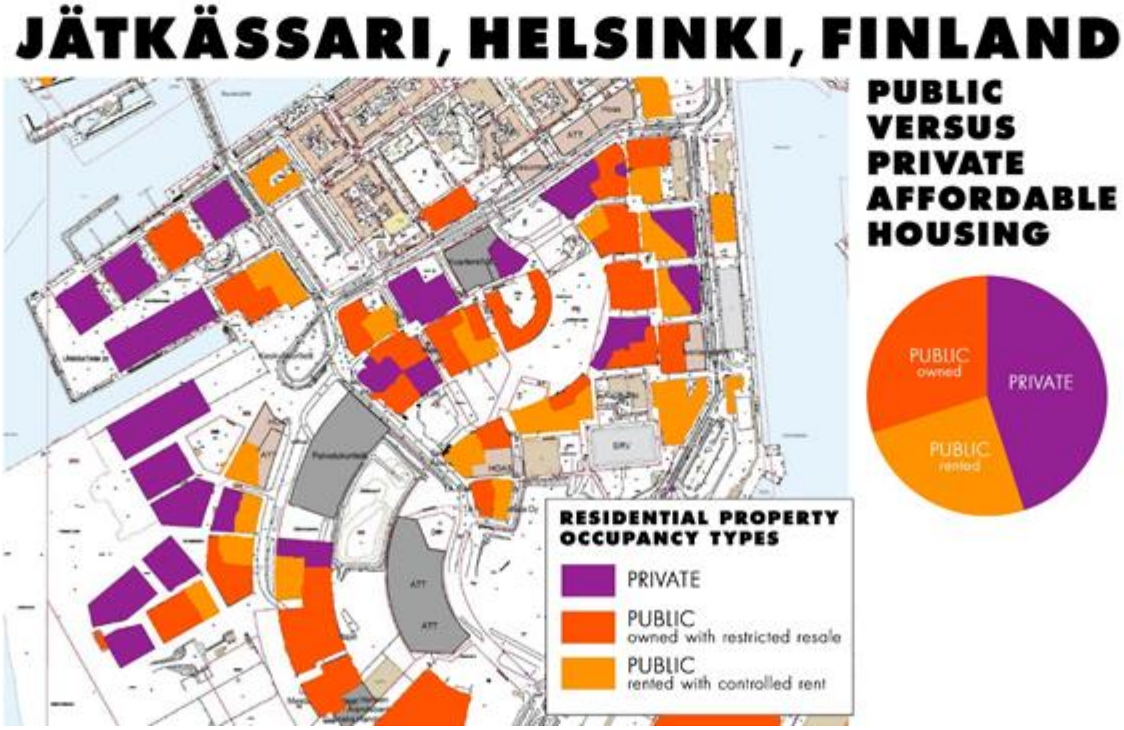
Case Study: Planning for affordability: Jätkäsaari in Helsinki, Finland

A newly developed waterfront neighborhood in Helsinki provides an excellent example of planning for affordability. Jätkäsaari was an old industrial waterfront neighborhood similar to Honolulu's Kaka'ako neighborhood. In 2010, Helsinki began efforts to transform the area into residential and commercial uses. As part of the development process, the Helsinki planning department purchased most of the land area, and between 2008 and 2019 the city invested more than $275 million in Jätkäsaari, with another $240 million budgeted for future development. The planning department sold about 45 percent of the land to the private market, and reserved the remaining land area for publicly-funded housing and other public purposes.

After the land-use decisions had been made, the municipality financed the construction of 60 new apartment buildings that were a mix of rental housing and shared equity ownership with restricted resale prices. Once construction is completed, it is estimated that Jätkäsaari will be home to 21,000 residents and offer jobs to 6,000 people.[38]

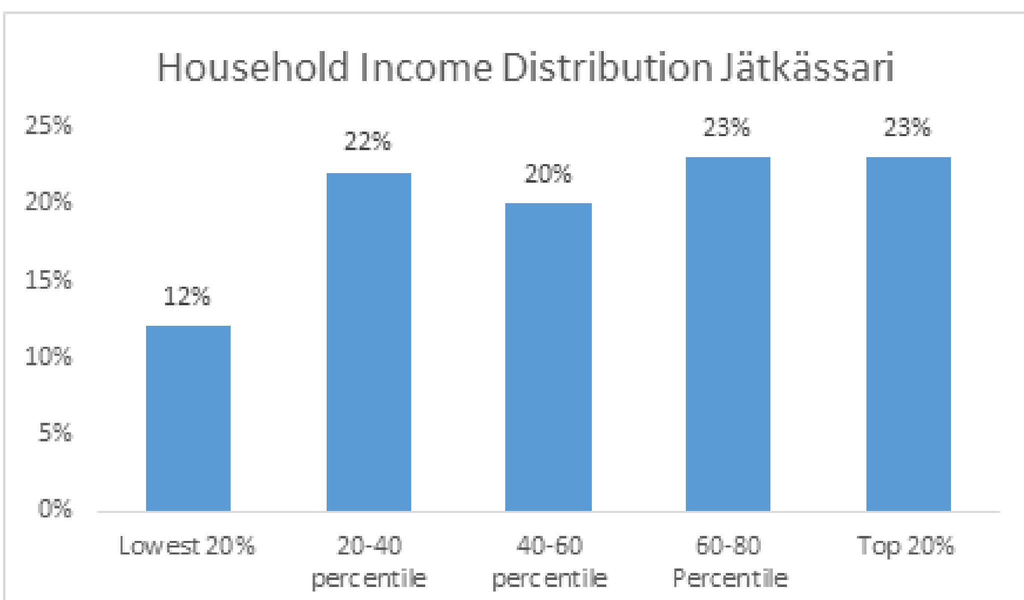
To create a more equitable neighborhood, the public and private housing developments were integrated throughout the area.

[38] Helsinki Municipal Website. (2020). Jätkäsaari. Available at: https://www.uuttahelsinkia.fi/fi/jatkasaari



This map by housing type clearly shows how Helsinki has planned for long-term affordability: more than half of the land and residential homes are publicly supported and will remain affordable for the life of the building.

Not only will this neighborhood maintain affordable housing, but it also ensures income diversity of residents by developing a mix of private housing and state subsidized rental and for-sale properties. Jätkäsaari is not a poor neighborhood or a wealthy neighborhood: it is a mixed neighborhood where the percentage of households in the various income quartiles is remarkably evenly distributed.



Vienna uses similar land-use and pricing strategies to maintain housing affordability.

"What makes Vienna unique is that you cannot tell how much someone earns simply by looking at their home address." −Kathrin Gaál, Vienna's Councilor of Housing [39]

Although Singapore, Vienna and Helsinki employ different strategies to maintain affordable pricing, all three use a combination of public land and publicly-funded infrastructure as the starting point.

Public Lands in Transit-Oriented Development Areas: A Tremendous Opportunity
The State of Hawaiʻi is the largest landowner along the new 21-station rail system being built on Oʻahu. Between various state agencies, there are approximately 2,000 acres of land within a half a mile of the rail line.[40] Additionally, state and county land near bus transit corridors on neighbor islands offer opportunities for transit-oriented development and affordable housing.[41] For example, Maui is developing a new bus transit hub on state lands, with the opportunity to build affordable housing on more than 5 acres of adjacent state lands. University of Hilo in Hawaiʻi County, has land which could be used for student housing, and Kauaʻi is developing affordable housing on county lands at Lima Ola in ʻEleʻele.

Buyer Restrictions

The ALOHA Homes Bill proposes several restrictions related to the home purchaser. The following is the analysis of each restriction based on best practices from other jurisdictions.

Buyer owns no other real property. Home is primarily a place to live.

Purpose: When it takes considerable public resources to develop affordable housing, it is important that housing be **primarily** developed as a place for residents to live, not a wealth building vehicle. Restricting ownership to buyers with no other property supports the concept that housing is an essential human need and an important public purpose. Permitting the purchase of these units as second homes rather than as a primary residence, would subvert the purpose of public investment in housing as well as allowing a buyer to use them as investment vehicles.

Analysis: Provision is recommended. Limiting the amount of wealth generation from publicly subsidized housing is important for the long-term viability of a housing program. Restricting ownership as proposed is a standard requirement for most publicly-supported for-sale housing. Most jurisdictions in the United States include such a requirement for below-market for-sale housing offered under inclusionary zoning policies (See Appendix B for examples from other U.S. jurisdictions). Singapore, which has the largest owner-occupied public housing system in the world,

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[39] 02/15/2019 "Vienna's Affordable Housing Paradise," by Adam Forrest, Huffington Post www.huffpost.com
[40] http://planning.hawaii.gov/lud/state-tod/
[41] State Office of Planning and Hawaii Housing Finance and Development Corporation. (2018). State Strategic Plan for Transit-Oriented Development. Available at: https://planning.hawaii.gov/wp-content/uploads/State-TOD-Strategic-Plan_Dec-2017-Rev-Aug-2018.pdf

also has strict prohibitions about owning other property. Notably, Helsinki had a below-market homeownership program called HITAS, which allowed people to own other property. As purchasers increasingly used the program to build wealth by owning multiple homes, HITAS became unpopular and was considered a waste of public resources. It was discontinued in 2020.[42]

Hawai'i considerations for fractional ownership of homestead and other properties: In Hawai'i, many residents have fractional ownership as a partial interest in a family owned property. These properties have significant cultural and family value but partial owners typically cannot use them as homes for themselves. Moreover, it can be difficult to divest from some partial ownership structures. It is, therefore, important to recognize and accommodate partial ownership of less than 50 percent when establishing restrictions to purchase state-sponsored housing.

<u>Hawai'i Resident Requirement</u>

Purpose: It is appropriate that the benefits of programs supported by state and local tax dollars are restricted to local residents. A failure to include such constraints could incentivize out-of-town residents to move Hawai'i for the benefit of affordable housing in such a desirable location.

Case Study: San Diego, CA

As part of their inclusionary zoning program, San Diego offers below-market for-sale homes to people up to 120 percent of area median income. Initially their program did not have a residency requirement, which prompted a significant number of applications from out-of-state residents. Since this was not the intended purpose of the program, the San Diego Housing Commission updated the rules in 2017 to **require two years of residency** in San Diego County, verified by three years of tax returns.[43] The policy has remained in place since then.

Legal Considerations: Durational-Residency Requirements Could Be Challenged

A durational-residency requirement for a public benefit which requires that a person live in a place for a certain length of time has generally been found by the courts to limit the "constitutional right to travel from one State another." The right to travel has been interpreted to refer to not just entering and exiting another State but to the right to be treated like other citizens of that State.

For example, a California law attempted to limit welfare benefits for newly-arrived residents to the amount paid by their previous state of residence for their first twelve months in California, at which point they were entitled to benefits at the California rate. In Saenz v. Roe (526 U.S. 489, 119 S.Ct. 1518, 143 L.Ed.2d 689 (1999)), the U.S. Supreme Court invalidated California's restriction.

However, courts have made an exception to the general rule of disallowing durational-residency requirements for "portable" benefits that a nonresident could obtain and take out of the state. (See, for example, Martinez v. Bynum, 461 U.S. 321, 332–33, 103 S.Ct. 1838, 75 L.Ed.2d 879 (1983)). In-state tuition requirements are an important example of a "portable" benefit.

[42] https://finrepo.fi/en/news-helsinki-is-going-to-close-hitas-system
[43] https://www.sdhc.org/housing-opportunities/affordable-for-sale-housing/

> “The state can establish such reasonable criteria for in-state [college tuition] status as to make virtually certain that students who are not, in fact, bona fide residents of the State, but who have come there solely for educational purposes, cannot take advantage of the in-state rates.” Vlandis v. Kline, 412 U.S. 441, 453–54, 93 S.Ct. 2230, 37 L.Ed.2d 63 (1973)

Applicability to ALOHA Homes: One could argue that homeownership is a portable benefit as compared to renting. An owner builds equity in their home, which translates into a profit that can be taken out of state when the owner sells. However, before the sale of the home the benefit is not portable since it requires the owner to live in the home. Whether ownership is considered a portable benefit similar to college tuition or a non-portable benefit more similar to welfare has not yet been decided by the courts.

Analysis: The most conservative legal approach would be to require no specific length of time for residency but simply that a person be a current Hawaiʻi resident. Moreover, applicants to the ALOHA homes program would need to be on a pre-approved buyer list before construction begins. They would likely be waiting at least two years before construction is completed and they own a home. This reduces the likelihood that a person would establish residency in Hawaiʻi just for this program.

Recommendation: A current resident provision is likely to be sufficient to dissuade out-of-state residents from moving to Hawaiʻi just for this program. However, the requirement could be amended as a durational-residency requirement later if warranted.

<u>Defining “Resident” by Voting Record</u>

Description: The ALOHA homes bill states that a person “voting in the most recent primary or general election shall be an indication of residency in the State; provided further that not voting in any primary or general election creates a rebuttable presumption of non-residency.”

Purpose: This measure would disqualify non-voters from participating in the program and would presumably reward residents who do vote.

Legal Concerns: Voting is not a standard definition of residency and could be considered discriminatory. At the very least, it would discriminate against legal residents who are noncitizens and citizens who choose not to vote for personal or religious reasons.

The Hawai'i Supreme Court has adopted a common definition: ‘[a]ny person who occupies a dwelling within the State, has a present intent to remain within the State for a period of time, and manifests the genuineness of that intent by establishing an ongoing physical presence within the State together with indicia that his presence within the State is something other than merely transitory in nature.’” (Citizens for Equitable & Responsible Gov't v. Cty. of Hawaii, 108 Haw. 318, 323, 120 P.3d 217, 222 (2005).

Analysis: A standard definition of “resident” is someone who can demonstrate an intention to stay in Hawai’i, which can be shown with a driver’s license, completed voter registration, or rental agreements with a Hawai’i address etc.

Recommendation: Using a standard definition of “resident” will prevent legal challenges and still achieve goals of the program.

Income restrictions

Purpose: Having no income restrictions for buyers could make the program more popular among people who would not otherwise qualify. It would also support the idea that housing is a right which everyone is allowed to access.

Analysis: Not a best practice. A constrained housing supply requires prioritizing access, and higher income earners have options in the private market.

Our survey of affordable housing policies for for-sale homes shows that, to the extent the public is subsidizing the home, income limits and preferences are typically imposed. Even Singapore has income restrictions for who can qualify for their “new flat” program. As of 2019 the income limit was $9,000 per month for a couple and $4,500 for a single person in Singapore. An exception is Finland, where lower-income applicants have preferences but there is no set income limit.

Generally, the lesser the amount of affordable housing available, the stricter the income requirements. Places with large proportions of State-supported public housing, such as Singapore, Vienna and Finland, have relatively high income thresholds because there is enough housing to accommodate need. For example, Vienna’s income limits allow 80 percent of the population to buy state-supported homes. At the same time, they ensure that about 79 percent of the housing stock is affordable, with 50 percent owned directly by the City and 29 percent subject to rent control. However, in places without enough affordable housing to meet the demand, income requirements are stricter to ensure that housing is going to people with the greatest needs.

Factors to Consider when determining income limits:

1. **Benefits of mixed income neighborhoods**
   Good policy encourages mixed-income neighborhoods and discourages income segregation, which has forged many divisions and unequal access to opportunity.
2. **Income limits high enough to qualify for a mortgage**
   Where a publicly-supported project is designed to recoup the cost of units built, income limits for buyers must be high enough so that they can qualify for mortgages. For example, a one-bedroom affordable home at $290,000 would still cost approximately $1,800 a month in

housing costs, which would require a yearly salary of about $65,000 or about 80 percent AMI for Honolulu[44].

3. **Income limits high enough that public workers can qualify: 140% AMI**
   A state supported housing program should be available to teachers, police, firefighters and other public workers. An income limit of 120 percent AMI would disqualify many households with public sector workers. For example, the average teacher salary in Hawai'i for 2019 was $65,800 [45], so a household with two teachers would earn $131,600 which is approximately 130 percent of the area median income for Honolulu. A limit of 140 percent AMI would include most public sector households.

4. **Offering opportunity to those with greatest need.**
   Honolulu has a scarcity of affordable housing so publicly-supported housing should be allocated at least partly on the basis of need. This could be achieved by having preferences for qualified buyers who are lower-income for a portion of the homes.

Recommendation: Income limit of 140% AMI with some preferences for lower-income residents. Set an upper income limit of 140 percent AMI, with a goal of having some percentage of homes occupied by people earning 100 percent AMI and below. Lower-income residents could be provided a preference in a lottery system.

First-time Homebuyer

Purpose: The purpose of this provision is to allow more residents to access the program, including residents who have previously owned property or currently own property but would consider selling to purchase an affordable home.

Analysis: Many affordable for-sale programs do not require that a person be a first-time homebuyer, but do require that the person not own another home at the time of purchase.

Recommendation: First-time home buyer provision is not necessary. A first-time homebuyer provision could exclude people who previously owned property and are now priced out of private market ownership. The more important provision is that a person not own another home.

Owner Occupancy Enforcement

Owner-occupancy compliance has been a major concern with affordable housing units.

To address the potential of creating a "black market" of illegal rental units, we have examined two options for enforcing owner-compliance:

[44] https://www.huduser.gov
[45] January 2020, "Hawai'i Teachers Compensation Study and Recommendations" prepared for Hawaii Department of Education, pg. 42

1. **Biometric security systems**
   Using iris, facial, or fingerprint scans to verify identities
2. **Stewardship specialist(s)**
   Employing full- and part- time staff to monitor compliance

Biometric System

Benefits: Secure and Modern.
By requiring a retinal, facial, or fingerprint scan upon entry, a biometric system provides a highly secure form of owner occupancy enforcement. An automatic record is maintained of all entries to a home, which could have security benefits as well.

Focus Group Concerns: Privacy, Flexibility for Guests, and System Maintenance.
Though biometric systems are reliable, both providers and focus group participants raised concerns about privacy. While receiving quotes for biometric systems, the concern of whether biometrics have received the "sign off" was raised. Providers noted that tenant pushback is common with biometric systems and wondered if there are precedents for using them in owner-occupied housing. This apprehension was echoed by participants in our focus groups. While acknowledging that biometrics would ensure owner-occupancy, some participants expressed discomfort about having their data saved. Focus group participants also raised concerns about the effects of biometric systems on visiting friends or family members and about the overall flexibility of the system. Lastly, informants raised questions about the system's performance during power outage or internet disruption, and what type of maintenance it would require.

Costs: $1,500–$2,800 for installation, on-going supervision and maintenance.
Quotes for biometric systems range between $400 to $600 per housing unit,exclusive of the cost to have a contractor install wiring or an internet connection and integrate it into a system.. Installation raises the price to $1,500 to $2,800 per unit[46]. The system would also require staff to provide on-going oversight, manage connectivity problems, and enter system updates for guests and new residents.

Stewardship Specialist: Most common enforcement method
Affordable housing departments across the United States most commonly employ staff to manage enforcement. The Champlain Housing Trust in Vermont serves as one of the largest and most successful land trusts in the country. The Trust employs a staff of five to manage their inventory of more than 630 homes and enforce occupancy rules. The service is financed by monthly charges to each home, similar to an HOA fee. The Champlain Trust team handles not just owner-occupancy requirements but also compliance with re-sale restrictions, re-financing requests and disputes that may arise between owners. Enforcement is based on random checks and annual audits. The success of the Champlain Land Trust and many others is due to the stewardship specialist role and to adjusting the size of the team as the housing inventory grows.

Benefits: Flexible, Human Enforcement, Includes other services.
A stewardship approach would more easily accommodate guests or other changes in unit occupancy. It also makes enforcement feel less invasive than a high-tech approach. Lastly, a steward specialist helps with all aspects of the leasehold agreement including resales and conflicts between occupants.

[46] Based on quote from Fulcrum Biometrics, Iris Id 2020

Concerns: Human error, less predictable: Unlike biometric systems, the stewardship specialist system is human-operated and managed. This can lead to a higher margin for error and a greater variability in the quality of services, depending on the skill and training of the staff.

Costs: **$50–$75 monthly fee per home.** A stewardship specialist program is supported by monthly homeowner fees also referred to as “ground lease fees,” since they are used to ensure compliance with lease terms such as owner-occupancy. Many stewardship programs also use a software program called “HomeKeeper,” which has a one-time set-up fee of $3,500 and an annual cost of approximately $3,000.

Recommendation: We recommend a Stewardship approach.
While both owner occupancy enforcement methods have their benefits, a stewardship specialist would provide more services, including managing the resale process and dealing with lease disputes. This allows the position to be much more involved in the overall program and invested in its long-term success. When paired with substantial fines for breaking owner-occupancy rules, the stewardship model has proven to be effective for many below-market for-sale programs.

99-Year Leases and Use of State Lands

Affordable Housing on State Lands and Length of Lease Terms

The issues of affordable housing development and length of lease terms on State lands—crown and government lands of the Hawaiian Kingdom which had been designated as “ceded” to the Republic of Hawaiʻi and then the United States before being conveyed to the State of Hawaiʻi—are complex on many grounds: legal, financial, and moral. Additional engagement with key stakeholders is necessary to accurately convey the key perspectives on these issues. The study will be supplemented in a few weeks once the authors have gathered the necessary input.

Five Year Affordability Period

Purpose: The intent of this provision is to give the buyer an incentive to maximize the resale price by maintaining the home, and it prevents any incentive for a “black market” because the new buyer will be purchasing the unit at market price instead of a discounted price.

Example: The current ALOHA Homes bill states:

> *“If the corporation does not exercise its right to purchase the ALOHA home, the ALOHA home may be sold by the owner to an eligible buyer; provided that the corporation shall retain seventy-five per cent of all profits from the sale net of closing and financing costs, using the price at which the owner purchased the ALOHA home, plus documented capital improvements, as the cost basis.”*

2010: Discount Purchase Price: **$300,000** by qualified buyer. Market Price = **$400,000**

2020: Market Selling Price: **$590,000 (**4% yr increase) Total Equity Gains: **$290,000**
Buyer Equity: **$72,500** (25%) Agency Equity**: $217,500**

2020: Selling Price for next buyer: **$590,000**

Several Concerns:

Home no longer affordable after first buyer.
In the above illustration, the affordable home is only affordable to the first buyer and any future buyers will be paying market price for the home. In this case, the affordability is lost to all subsequent buyers and the benefits of the public program accrue only to the first buyer.

Equity gained by the agency is not sufficient to replace the home.
In this example, the agency has gained $217,500 from the sale, far less than the cost to replace the home that was lost. Not only will the agency need to pay for new construction, but it will need to undertake a new planning and permitting process and invest in the development of a new site.

Replacing the lost home is lengthy and costly, and unlikely to be in the same location.
The main downside of this model is that the affordable homes lost are **usually not replaced** in a meaningful timeframe. Providing affordable housing in desirable locations requires significant resources and often takes years -even decades - of planning, so it is both costly and difficult to replace units once lost. In addition, the State would have to continually provide new funding, which is not always feasible. Even if the agency gets funds to replace the homes at some point, completion is likely to be years or even decades later… if ever.

Case Study: Kakaʻako. Affordable homes lost have yet to be replaced.
From 2008–2019 Kaka'ako developed to 7,300 for-sale condominiums, of which 1,872 (26 percent) were priced below market rates. Most of those homes were required to remain affordable for only two to five years. As a result, today only 637 homes (9 percent) are still under an affordable price requirement. **By 2025 only 3 percent of for-sale homes will be under an affordability restriction,** and, without any new additions, by 2035 there will be no homes available at below-market prices.

Best Practices: Long term affordability periods.
Over the past few years, the trend in high-cost cities and counties across the U.S. is to extend the affordability period, with many requiring that the home stay affordable for the duration of the lease period. In San Diego, a below market home must stay affordable for 55 years, while in San Francisco, Washington D.C., and New York City, the affordability period is the life of the building.

Recommendation:
Maintain affordability for all subsequent buyers by restricting the resale price.
If the state invests funds to accomplish the public purpose of giving less-affluent people the opportunity to own their own homes, state policy should safeguard the supply of these homes so they'll be available to working families for years to come. We recommend that the sales price of affordable units be restricted so that subsequent buyers can purchase a home at the same area median income level as their predecessors. This way the home stays in the affordable pool, and the neighborhood maintains its affordability.

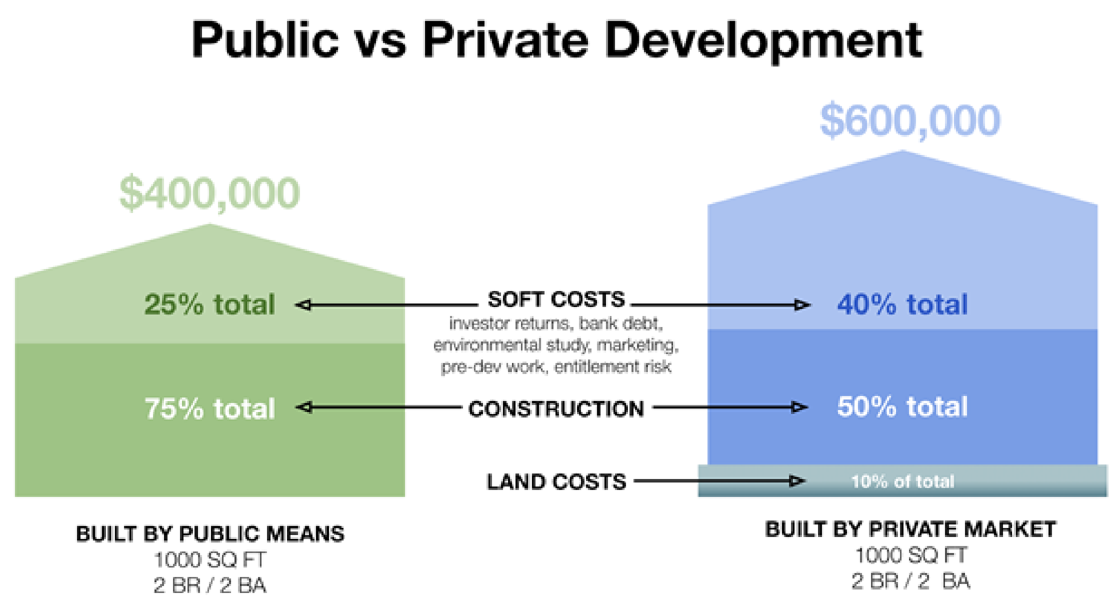
With this recommendation, the price appreciation is limited and will likely be lower than market price appreciation (unless the market price drops). However, the owners still enjoy significant equity gains that accrue as the owner pays down the mortgage—not to mention the security of owning one's home. See Appendix C for models of gains made with equity sharing based on CPI. This model does not provide funds back to the agency, but it also does not require the agency to replace the home and it maintains affordable housing in that same neighborhood.

Analysis of Key Cost Savings Approaches

Estimated Cost is Significantly Below Market Prices

HOME TYPE	**AVERAGE MARKET PRICE** for all condos, Honolulu metro area only, 2019	**STATE-SUPPORTED HOUSING COST RANGE** for mid- to high-rise buildings	**SQUARE FOOTAGE**	**STATE-SUPPORTED APPROXIMATE COST**	**SAVINGS**
1bd / 1ba	$395,000	$280,000–$325,000	600	$300,000	**24%**
2bd / 2ba	$569,000	$385,000–$425,000	830	$405,000	**30%**
3bd / 2ba	$744,000	$460,000–$530,000	1,000	$500,000	**33%**

These savings arise from two main sources: State land contributions and reductions in all expenses that are not direct costs for vertical construction.



Reducing all soft costs besides vertical construction is a best practice.

State-Supported Financing

The complexity and difficulty in securing financing contributes significantly to project delays and the overall cost of affordable housing.. Providing low-cost financing in a timely and straightforward manner would increase competition for projects and reduce development costs.

All three jurisdictions we researched provide access to low-cost funding to reduce the costs of affordable housing, as noted below:

> **Helsinki, Finland:** Government-backed construction loans at 1 percent interest for 40 years
> **Vienna, Austria:** Construction loans at 1 percent interest for 35 years.
> **Singapore:** The Housing Development Board pays construction companies directly to build housing so no loans are needed.

After researching several financial tools, we recommend the following approach to minimize project financing costs and reduce risk for developers and the State.

1. **DURF for pre-development costs. The Dwelling Unit Revolving Fund (DURF) is** extremely flexible and could be used to cover pre-development costs such as due diligence, master planning, and a programmatic EIS.

2. **Streamline Entitlement: Environmental Impact Statements/Environmental Assessments.** Completing an EIS or an EA can add one to two years to a project timeline. In fact, this work can be done most efficiently if carried out directly by the State.

3. **Buyer Pipeline & Pre-Sales of Homes:** Ensuring a pipeline of qualified buyers and pre-sales is key to minimizing financial risk to the State and to developers. Every developer of lower-income for-sale housing emphasized the importance of programs that ready prospective buyers to take on a mortgage, for which an average of two years is needed. In addition to

buyers needing preparation, there is also likely a pool of *middle-income* buyers already mortgage qualified should a pilot project be developed.

4. **Issue taxable mortgage revenue bonds for construction.** These bonds affect the state budget less than general obligation (GO) bonds. The interest rate is currently 3–4%.

   Fewer competing interests: Unlike GO bonds, taxable mortgage revenue bonds are not backed by the full faith and credit of the State of Hawai'i. They are, instead, secured by a pledge of mortgage payments and a deed of trust in the building. In this way, financing with mortgage revenue bonds does not compete with all the other State interests that are paid for with GO bonds, such as roads and schools, and are not a private activity bond.

   Easy to sell bonds for affordable housing: Bonds backed by affordable housing projects in high cost areas such as Hawaiʻi are relatively easy to sell because investors know there is significant demand for below-market housing, and there is little risk that homes will go unsold. Catalyst Housing Group in California has partnered with local jurisdictions and the California Community Housing Authority to sell over $550 million of limited obligation mortgage revenue bonds since 2017.[47] Currently, there are many times more buyers than available bonds and as a result the interest rate on these bonds is expected to continue to drop as this becomes a more common way to finance affordable housing for middle-income earners.

   Efficient and straightforward: HHFDC could serve as the issuing authority for these bonds, which could be issued on a project-by-project basis. Since these bonds would not likely have to go through a complex budgetary or allocation process, they could be issued quickly, and that agility would reduce the time to secure project financing. The marginally higher interest rate cost compared to tax-exempt bonds is trivial.

   Stand-alone financing or combined with other tools in the toolbox: A taxable mortgage revenue bond structured with a 3-year, interest-only, bullet maturity would act like a construction loan. It could fund all of the project costs or be combined with other sources of public or private financing, such as funding from nonprofit lenders or commercial banks offering community-based financing programs.

   Bond issue example: Appendix D presents a high-level sample analysis of a 3-year taxable mortgage revenue bond. It would include two years of capitalized interest, which would allow debt service on the bonds to be fully covered for 2-½ of the three years, creating a real cash-flow advantage not available with many other sources of financing. At the end of the 3-year term only a small amount of debt service would remain, and it could be funded by the developer and rolled into the permanent financing, or, more likely, added to each homeowner's individual mortgage. With an average coupon of 3.5 percent, and an underwriter's discount and total issuance costs amounting to 2 percent of the bond issue, this form of financing would appear superior to many forms of private construction loans with higher rates and similar fees.

[47] Dec. 2020 Interview with Jordan Moss, founder of Catalyst Housing Group

Community Lending Options: Taxable municipal bonds could also be used in combination with commercial construction loans. Many banks have programs that are designed for community investment and would fund affordable housing construction. We spoke with several local banks that would be interested in partnering on this type of project.

Non-Profit Options: Many nonprofit lenders also have products designed to support affordable housing. Hawaiian Community Assets, among others, has funded affordable housing construction loans.

Off-Site Infrastructure part of District Plan

Off-Site Infrastructure Costs:

Individual Projects Paying for Off-Site Infrastructure is Inefficient and Drives Up Costs:

"Off-site" infrastructure costs are those not directly situated on the project site. It is more cost efficient and effective to have these costs paid for not by each project but as a publicly-supported district-wide infrastructure investment. Relieving developers of these requirements would allow them to be selected for what they do best: delivering housing. In fact, this is what all three jurisdictions—Vienna, Helsinki, and Singapore—do. There, the government has created the plan and put in the necessary backbone—roads, sewers, water and electrical services—before developers start building houses. These elements of the planned neighborhood are fairly standard and do not require much creative design. This model allows housing developers to compete on cost and design for the parts that customers will actually experience, such as the layout of the apartments and common area amenities. Also, when the public sector assumes the costs of basic infrastructure, the overall cost of building affordable housing is lower and homes can be sold at a lower price.

Public Infrastructure Investment best supports affordable housing in areas with public land

Market rate housing is affected less by savings in off-site infrastructure cost because its price is largely determined by the market, not by the cost to build. However, there are many places where even market rate housing cannot be built due to lack of infrastructure, and if the public sector provided the infrastructure, more houses would be built. This could lead to a reduction in price, although market rate housing would still not likely be as affordable as a publicly-supported housing project where the price is determined by the cost of building.

Two main ways for the public to pay for district infrastructure: GET or Property Assessment (Community Facilities District)

A July 2020 planning and implementation study prepared for the TOD Council[48] assessed various options to pay for infrastructure needed in TOD areas, and concluded that using General Excise Tax (GET) funding was preferable to other proposals. The study recommended that the State increase the GET rate by .01 percent on economic activity in the newly-developed area. It would dedicate the

[48] July 2020, "State Transit-Oriented Development Planning and Implementation Project for the Island of O 'ahu" Prepared for Office of Planning and Prepared by PBR Hawaii.

resulting revenue collected over 10 years to pay for state-supported infrastructure costs. In addition to GET, 30 percent of future property tax revenue from developed areas would be used to cover the costs.

We recommend considering a CFD model: More Equitable and can provide enough revenue

Although we appreciate that the authors of this study felt it was more politically feasible to use an increase in GET to pay for infrastructure, we believe that a Community Facilities District (CFD) model is more appropriate. In fact, such an approach might be more feasible since the COVID-19 pandemic recession has imposed new constraints on the State budget. The 2020 study *assumed a pre-COVID economy* when the State budget was not facing a $2 billion budget shortfall, tourism was strong, and unemployment low. Additionally, the impacts of COVID have revealed a deeply inequitable economy: single family home prices keep increasing, while low- and middle-income workers are struggling with lost jobs and earnings.

Property assessments are a better tax: Can be adjusted to be progressive.

Property tax assessments tend to be progressive in nature (that is, wealthy households pay the most and low-income households pay the least) because the higher the value of the home, the larger the tax amount. The homeowner's exemption of $100,000 (or more) makes these taxes more progressive because it disproportionately benefits households in lower priced homes. In many Hawaiʻi counties, property taxes are becoming more progressive with increased rates for **non-owner occupants** and marginally higher rates for more expensive homes. [49]

Community Facilities District Approach is a Targeted Tax: Only properties in improvement areas are impacted, not the entire island. Also, permanently affordable homes can be exempted.

Another advantage of a CFD approach for infrastructure is that the added tax can be targeted to new developments that benefit from the public improvements. The tax can also be crafted to largely exempt affordable homes, while remaining in place for *market priced homes*.

Based on data from the July 2020 study for the TOD council here is an example of how a CFD can pay for district-wide infrastructure:

Iwilei-Kapalama TOD Plan Projections for Phase I and II:[50]

Number of Homes to be Constructed between 2020- 2039: **16,661**
Public Housing (HPHA projects): 3,800
DHHL: 500
HHFDC (Liliha Civic Center): 200
Market Priced Homes: **12,161**

[49] See Maui County Property Tax Rates: https://www.mauicounty.gov/DocumentCenter/View/122028/2020-Tax-Rate
[50] "State Transit Oriented Development Planning and Implementation Project for the Island of Oahu" July 2020

Number of affordable homes, according to Honolulu County guidelines (15%) – 1,824
Number of private homes sold at market prices: **10,337**

Using the above housing projections, an assessment could be implemented on the market rate property which would generate enough revenue to pay for both market rate and affordable housing.

Infrastructure Investment Needed for IK:[51]
Phase I: $235 million Phase II: $227 million **Total: $512 million**

Based on some general assumptions, the following CFD assessments on *market rate homes* would produce funding adequate to support infrastructure investment needs.[52]

Assessed Value	Current RPT Rate	Honolulu Infrastructure Tax	Total RPT Rate + CFD
0-500k	0.35%	0.5%	0.85%
500k- $1M	0.35	1%	1.35%

Assumptions:
Annual CFD special tax revenues, in current dollars, would amount to $33 million, assuming an average private market home value of $569,000. Depending on future property value increases (we assumed 1–2 percent per year), the number of people claiming a homeowner's exemption, and the timing of infrastructure requirements, ***this additional CFD revenue could generate approximately $500M in net bond proceeds available to fund infrastructure***. These CFD tax rate assumptions may be considered high, and lower CFD special tax rates would produce less funds, but that may be compensated for if private market home prices are higher than assumed in this simple example.

In this way, a Community Facilities District assessment on private market properties could subsidize the infrastructure costs needed for all homes, including the long-term affordable rental and for-sale.

Construction Methods

Our analysis determined that hard cost management for a state-supported affordable housing program should be ***the same*** as for market rate housing. We looked at three hard cost approaches and present our findings below:

- **Factory-built / Modular**: Savings begin only at an initial order of 4,000–5,000 homes

  Our interview with Factory OS indicated that, at this time, the only way modular construction of multi-story homes could save costs in Hawaiʻi would be if shipping costs were eliminated by having a factory built on Oʻahu. In order for Factory OS to recover the costs of building a factory in Hawaiʻi, the state would need to approve and fund orders for 1,000–1,500 homes per year for four to five years.

[51] Pg. 87-88 of "State Transit Oriented Development Planning and Implementation Project for the Island of Oahu" July 2020
[52] Assumptions: Average price for 2bd condo in Honolulu Metro area in 2019: $569,000, property value increase of 1.5% per year, no home-owners exemption.

At this time, with the concept of state-supported for-sale homes being a new approach to delivering affordable housing, it would be unwise to “guarantee” such a large order of homes. Funding a pilot project and testing the viability of the model should be the first priority. At a later time, if the price of a modular unit comes down, and the state-supported ownership housing model has proven effective, it could make sense to follow this route.

- **Artificial Intelligence (AI) Design**: Savings of 1–3%

  According to two contractors who use Artificial Intelligence and Design, savings related to AI use are about 3–5 percent of hard construction costs or 1.5–2.5% of total project costs. Although it is not a significant amount of the final cost, it is one advancement that the state can take advantage of by providing financing for larger projects. While construction companies use this technology to gain a competitive edge over other companies, the State can directly pass these savings onto the buyer.

- **Limited Do-It-Yourself (DIY) Construction or “Shell Housing”** 5–10% savings

  We interviewed several developers that have used sweat equity models in mid-rise dwellings, who report what future residents could have some significant savings by doing some of the finishing work themselves. Work that could be completed in a mid-rise includes installing floors, painting walls, hanging kitchen cabinets, and installing light and plumbing fixtures. Cost savings of even *just 5–10% would be significant* and especially if could be applied towards a down payment, as has sometimes been the case with Self-Help housing.

Streamlined Entitlement: Environmental Assessment

In TOD areas, the development of affordable housing and mixed-use developments could be expedited by the implementation of Programmatic Environmental Impact Statements (EIS) for regional areas. Further, there was a 2019 amendment to the Hawai'i Administrative Rules (HAR) regarding the waiver of an Environmental Assessment (EA) when developing affordable housing. An EA for each parcel adds significant time and costs to any development project. One way to save costs is for the state to complete a Programmatic EIS in TOD areas.

The utilization of the following HAR sections could expedite the development of affordable housing in TOD areas.

EA Waiver for affordable housing.

As stated in Hawai'i Administrative Rules:

“§11-200.1-15 General types of actions eligible for exemption:
(c) The following general types of actions are eligible for exemption:

(10) New construction of affordable housing, where affordable housing is defined by the controlling law applicable for the state or county proposing agency or approving agency, that meets the following:

(A) Has the use of state or county lands or funds or is within Waikiki as the sole triggers for compliance with chapter 343, HRS;
(B) As proposed conforms with the existing state urban land use classification;

(C) As proposed is consistent with the existing county zoning classification that allows housing; and
(D) As proposed does not require variances for shoreline setbacks or siting in an environmentally sensitive area, as stated in section 11-200 .1-13 (b) (11)."

The above HAR can be used to expedite the development of affordable housing. The EA completion and process ranges from 8-12 months; hence, the waiver of an EA expedites the development process by approximately one year.

Programmatic EIS can be used in instances requiring a "larger total undertaking." If the project or a series of projects within an area sited for future development is proposed and the approving agency determines that the "larger total undertaking" requires an Environmental Impact Statement (EIS), the following HAR section can be implemented: Section 11-200.1-10.

> **Example: Aloha Stadium.** A recent mixed-use development in a TOD area implementing the HAR section stated above is the New Aloha Stadium Entertainment District (NASED) EIS. This multi-phased project is utilizing this HAR provision to complete their EIS requirement and process. The NASED project is essentially a Programmatic EIS as it's a large-scale development to be completed in phases.

Recommendation: To achieve cost savings, an ALOHA Homes project should qualify for an EA waiver or be included as part of a larger programmatic EIS.

Developer Fees

Developer Fees and Overhead at 4–6% of Project Costs.
This housing delivery model significantly reduces risks and costs for the developer, which can translate into a lower development fee still being an attractive level of compensation. In a model where the State is providing construction loan financing, in the form of taxable mortgage revenue bonds supported by a mortgage interest in the property (not a private activity bond), and where entitlements and permits have been streamlined, the developer assumes less risk. For the purposes of our sample pro-forma, we have used a middle number of a 5% developer fee. A few relevant comparisons include:

1. In places with a similar housing delivery model, such as Finland, the developer fees are 4 percent.
2. Some non-profit developers in Hawaiʻi complete projects with a 3–5 percent developer fee.
3. Lastly, average LIHTC projects have developer fees and overhead largely in the 6–8 percent range, so 4–6 percent seems reasonable for a project with less risk and lower upfront costs.

Hard Construction Costs

For affordable housing, costs of $325–375 per sq ft of leasable area is achievable.

Based on our interviews with local industry experts including both construction companies and developers, the actual costs of vertical concrete construction in TOD areas with land well-suited for housing is $260–$300 per gross square foot. For an affordable housing project with limited amenities, the common areas, not including parking, are about 20 percent of the total constructed space. This translates into a cost of roughly $325–$375 per square foot of leasable space for the project. In addition to having fewer amenities, affordable housing can use less expensive construction methods such as tunnel form construction employed by Hawaii Dredging. For affordable housing construction of sound quality but not luxury, we estimate that a hard cost of $350 per square foot of leasable space is reasonable and accurate.[53] These hard costs are lower than what is found in typical LIHTC projects for two reasons:

1. The conditions on construction and compliance with LIHTC requirements adds to the cost.
2. An extended pre-development process often results from complicated financing structures and circumstances.

Parking Separated from Housing Cost

Best Practice: Unbundling parking from the cost of housing. The cost for a parking stall can range from $25,000 to $40,000. In Vienna and Helsinki parking is always unbundled and one parking structure is often shared by multiple buildings. High cost jurisdictions such as San Francisco, New York and Seattle are increasingly separating the cost of parking from the cost of housing. Especially in areas near transit this is becoming standard practice.Parking becomes an option that homeowners can pay for with a monthly fee instead of automatically being incorporated into the purchase. To finance parking sometimes a developer will partner with a private parking operator that owns, operates and maintains the structure. In TOD areas where there are other transit options some people would choose to own fewer cars or choose a car sharing option, such as the Hawaii Hui Car Share program where you can reserve cars for personal use. [54]

Focus Group Results: Residents are receptive as long as parking is available. When presented with the option to separate the cost of parking in order to lower the purchase price of a home, our focus group participants agreed it would be good to have a choice. The main concern was ensuring enough parking for those who wanted to pay for it.

Development Model to Increase Competition

We recommend the following for a development model: **Two-step RFQ/RFP process with third-party verification of financial documents**

To encourage competition among developers and to reduce costs for the state, it is recommended that proposals undergo a two-step vetting process and that in the final proposal developers be required to submit their pro-forma for third-party verification.

1. **Create a two-step process in which developers** first submit qualifications. Invite no more than three developers to submit a more detailed RFP. This is the process in use by the New Aloha Stadium Redevelopment Authority to maximize competition and initial interest in a project. However, expect detailed plans from only the top contenders.

[53] Based on interviews with several local developers and construction contractors.
[54] www.drivehui.com

2. **Engage private consultants to provide third-party analysis** of private development pro-formas as a prerequisite for the contribution of publicly-owned land. This helps to build trust in the process through accountability and transparency. This is a common practice in many jurisdictions and the cost—about $20,000—is minimal compared to the cost of the overall project. Additionally, the developer can wrap the cost into the overall project budget if a development agreement is executed.

Benefits of Implementation: Ownership Opportunities for 80%–140% AMI

This model provides a pathway to ownership for people earning average and above-average wages, but who can still not afford to purchase in the private market. Based on the recent Hawai‘i Housing Planning Study, there are approximately 5,000 households in the 80%-140% who would like to purchase a home.[55]

Leasehold ownership, even with shared-equity, offers significant benefits over rental housing.

There are long-lasting benefits of a leasehold ownership model when compared to rental housing. Some of these include:

1) **Greater stability and control over lease terms:** Leasehold owners, as members of the housing association, can set rules for the building, priorities for common area spaces and determine the schedule for maintenance of the building.
2) **Sense of Ownership, Improved well-being:** In the words of one focus group participant, “Owning a home would make me feel like more of a community member, more of a citizen.” Numerous studies have shown that homeowners are more likely to be invested in their local community and that there are significant health and educational improvements for homeowners. [56],[57]
3) **Inheritance: Transfer property to children.** Under a long-term leasehold model, a property can be passed down from parents to their children in the same way as fee simple. The ability to transfer property and equity to future generations is a significant benefit over renting.
4) **Financial Gains: Price stability, wealth generation, and tax benefits.** With a fixed 30-year mortgage, a person’s monthly housing costs are more stable over time, and not subject to annual increases that are allowable for most rental agreements. Also, even in a shared-equity model where the resale price is restricted, an owner can build up significant gains just by paying down their mortgage and benefiting from inflationary increases in home value. Lastly, tax benefits through the mortgage-interest deduction program amount to thousands of dollars in savings every year for homeowners. For residents with an income range of

[55] 2019, “Hawai‘i Housing Planning Study”
[56] 2016, “Beneficial impacts of homeownership: A research summary”, Habitat for Humanity
[57] May 2012, “Homeownership and Civic Engagement in Low-Income Urban Neighborhoods: A longitudinal analysis.” Maturuk, Lindblad, Quercia Volume: 48 Issue 5

$60,000 to $90,000, who would most likely take advantage of this program, the savings would be approximately $2,500-$3,000 a year for the first five years of a mortgage.[58]

None of the above advantages are available to renters.

Demand for State Supported Leasehold Housing: Focus Group Insights

After determining what a feasible price would be for this type of housing, we conducted focus groups to see if there would be interest in this housing model and what the concerns would be.

Methodology: To conduct the focus groups, we sent out messages via text and social media to the general public through our website and partner organizations including local unions. Over a period of four weeks over 160 people completed our survey. Ultimately,18 people participated in either a one-on-one session or a group conversation.

We initially screened for people who had enough household or individual income to potentially qualify for a mortgage with our price assumptions. However, because approximately 66% percent of respondents would not be able to income qualify, we held one focus group with low-income participants to gauge interest in a rent-to-own model supported by low-income tax credits (LIHTC). This rent-to-own model is one of the few pathways to ownership for those below 80 percent of the area median income, and is something the state can facilitate through the existing LIHTC program. Because the ALOHA Homes model does not expressly contemplate a rent-to-own option, we conducted only one focus group with lower-income participants. Fourteen of our 18 focus group participants were income qualified.

Focus Groups' Key Input

- **Leaseholds: hesitation at first, receptive after learning details.**
  Generally speaking, participants did not fully understand the limits and benefits of leasehold properties prior to participating in the focus groups. The focus group facilitator explained that leasing was a way to cut down costs, because "you don't pay for the land, you only pay for the building." While many participants were initially apprehensive about the idea of engaging in a leasehold agreement, most were open to it after better understanding the financial benefits of leaseholds.

  Given the stigma of leasehold properties for many focus group participants, it was important to make a clear distinction between private-market leaseholds, and state-provided leaseholds, which offer a public benefit, and in some cases, operate similar to a public land trust.

- **Importance of pricing: low-monthly costs key to program interest.**

[58] Assumptions: 30 yr mortgage with 3% interest rate. Federal effective tax rate of 12%, Hawai'i rate of 7%.

Program participants who were initially very skeptical of a leasehold program became interested after being presented with monthly costs, including homeowners association (HOA) fees that are similar to market-rate rental prices. Even participants who strongly preferred fee simple ownership were interested in this option as an intermediate ownership strategy or a stepping stone. “I would do this for the next five years or so,” said one participant who was initially very skeptical. Three participants expressed concern that HOA fees would increase over time and wanted assurance that there were sufficient funds for maintenance.

- **Down payment assistance and mortgage readiness: critical for access.**
  For most focus group participants, down payments were the greatest barrier to owning a property. Access to a lower down payment (3 percent or less) and potential down payment assistance was an important benefit to almost everyone. For some, it was the most attractive aspect of the entire program. Moreover, some participants indicated that financial literacy and mortgage readiness programs would be of great benefit to them, as they face credit score and debt barriers to receiving bank loans.

- **Shared equity: initial confusion, strong support after explanation.**
  Similar to leaseholds, most participants did not fully understand the concept of shared equity prior to participating in the focus groups. The focus group facilitator used graphics to explain the concept, and the financial trade-offs of keeping housing affordable over the long-term. Once explained, participants almost unanimously supported the concept of shared equity. As one participant stated, “If I receive help buying a place, it only makes sense that I don’t make a lot of money if I sell the place.” Moreover, most participants felt it would be unfair for people to sell affordable units at market-rate value, at any time after the initial purchase.

- **99 yr lease vs 65 yr lease lengths.**
  The main benefit people cited for longer leases was being able to pass the home onto their children.

- **Preferences and set-asides: Set asides perceived to be more fair.**
  Focus group participants generally supported both preferences and set-asides for special groups in need of housing. However, some participants were hesitant about the idea of preferences because they thought “everyone should be equal.”

  Notably, even the participants who were against preferences were in support of housing set-asides. A set-aside felt more fair to participants who were opposed to some applications receiving preference over others.

- **Sweat equity: highly popular option, 94% support.**
  Nearly all focus group participants were in support of the sweat equity model and expressed interest in engaging in such a program if it could help reduce the cost of the home and the down payment. They also expressed interest in the fact that sweat equity would help create community among residents and provide homeowners with useful home maintenance skills. As one participant noted, “This [sweat equity] is a great way to solidify tenants’ commitment.”

- **Future resident involvement in planning: strong interest, once a month is feasible.**
  Focus group participants believed future residents should be involved in the planning of the ALOHA Homes Program and the eventual design of affordable housing units. Many participants also expressed interest in participating themselves. However, there was some disagreement over the preferred frequency of involvement. Some participants indicated they would be interested in meeting on a monthly basis for about a year, while others said they would only participate a few times a year.

- **Housing amenities: gathering space desired, low HOA fees is priority.**
  While focus group participants expressed a desire for amenities, such as recreation rooms and communal spaces with grills, there were few amenities which participants indicated would “make-or-break” their involvement in the ALOHA Homes Program. Instead, participants preferred lower HOA fees and fewer amenities. However, many participants indicated that having laundry machines within their own unit was critical; they would not live in a housing complex with shared laundry machines. Moreover, there was a general interest in having access to gardens or open green spaces.

- **Parking: support separating from cost of housing, concern there will be enough.**
  The focus group facilitator began the discussion about parking by sharing information about how parking increases tenants’ mortgages. Many participants were surprised to learn the high costs associated with parking. Although participants generally desired the availability of parking, some participants were open to the idea of having a “one-car-family.” Others were open to not having parking, pending the availability of other transit options. Participants were particularly interested in the option of separating parking from the cost of housing by paying a separate monthly fee of approximately $160 per stall in exchange for a lower mortgage. Participants appreciated the option to not have parking included in the cost of the mortgage.

- **Owner-occupancy enforcement: concerns with high-tech, management preferred.**
  Focus group participants universally agreed that owner-occupancy must be a requirement of the ALOHA Homes Program and that it should be strictly enforced, including with high fines for residents who break the rules. Some participants, particularly single-women, felt this was important for ensuring safety.

  Generally, participants were not in favor of technological solutions such as face-scanning and fingerprinting, as they felt it was an invasion of privacy, could be difficult to accommodate guests and was susceptible to technological error. As one participant put it, “I can’t even get my fob to work sometimes.” Participants were more in favor of solutions that involved a property manager enforcing the rules. They felt that the residents themselves should have an active role in monitoring and identifying tenants who are illegally renting their units. Lastly, participants expressed a need for flexibility in some cases where family and friends are visiting for extended periods.

- **Potential Pilot Project: Liliha Civic Center**
  In order to make the program more tangible and relatable we suggested the Liliha Civic Center as a potential pilot project site. This site was selected because it is close to downtown

Honolulu, is nearby a future rail station and already has plans for affordable housing. Most participants were very interested in this location, with several commenting that it would save them significant time spent in their cars commuting to work. Some people were so enthusiastic that they asked when the project would start and to be kept informed of any progress.

- **Strong support for state-operated affordable leasehold housing.**
  While there was disagreement over some of the potential elements of the ALOHA Homes program, focus group participants were generally supportive of the State pursuing this effort and felt that it was the responsibility of the State to provide affordable housing opportunities to its residents. Several participants expressed frustration that current properties being built were not affordable to local residents and one noted that "even the supposedly 'affordable' homes are not really affordable."

  Given the lack of affordable homeownership programs in Hawaiʻi, focus group participants felt that many of their family members, friends and colleagues would be interested in this new and innovative opportunity. As one participant from Kauaʻi said, "I would actually move to Honolulu for this program."

Conclusion:
There is likely high demand among local residents for leasehold affordable housing at the prices that are currently feasible with this model, especially if it is coupled with down payment assistance programs. Concerns that emerged about the model were the potential for HOA prices to increase, possible limits in being able to pass the property onto one's children, and ensuring that the property be well-maintained and managed in the future.

The interest in affordable homeownership opportunities, even with shared equity and a restricted-resale price, mirrors the experiences in other high cost places shared with our research team. In San Francisco, there are 20 approved applications for every available below-market home, even with a permanent resale price restriction.[59] Other interviews with land trusts and local governments affirmed that ownership opportunities priced at least 25 percent below market have strong demand even with resale price and buyer restrictions.[60]

Other Affordable Leasehold Program Considerations

State Land Contributions are Key: Mission Alignment of State Agencies

For this housing delivery model to be successful, it is critical that land is contributed at a minimal cost. Otherwise, the housing will require further subsidies in order to be affordable at 80–140 percent of area median income. It is also crucial that the housing projects are part of a larger mixed-use area plan where market rate housing and commercial properties can help subsidize the affordable homes.

[59] Interview with San Francisco Mayor's Office of Housing and Community Development
[60] Interviews with Grounded Solutions Network and several Community Land Trusts

Although the state has significant land holdings in TOD areas, the land is often owned by different state agencies whose missions do not include affordable housing. For example, the Department of Education must prioritize education goals and the Department of Accounting and General Services must provide office space for state agencies. However, for affordable housing to be built near rail or other transportation hubs, some of the lands controlled by these departments should be repurposed for housing.

The difficulty is determining which lands should be used for affordable housing, and then facilitating the transfer of development rights to an agency such as HHFDC or HCDA which can deliver the affordable housing. Also, landowning agencies which do not have housing missions, such as the Department of Education, should be compensated for their contribution of land towards affordable housing. Otherwise the goal of affordable housing will always be competing with the primary mission of other agencies. A land contribution can and should be a win-win.

Fortunately, the process of bringing agencies together to create a plan for affordable housing in TOD areas has already been started by the Hawaii Interagency Council for Transit Oriented Development. Created in 2016, the council has encouraged agency collaboration and has initiated important planning efforts for TOD areas. However, it does not have the authority to implement an affordable housing plan or the structure necessary to hold agencies accountable for moving a plan forward. To assist the TOD council and the state in reaching the goals of affordable housing, the following actions are recommended:

1. **Establish a TOD subcabinet under the governor's executive office.** The subcabinet would be responsible for advising the governor and guiding the planning and coordination of state agency TOD implementation. The governor should regularly attend TOD subcabinet meetings to assess progress towards housing goals and offer assistance with obstacles that emerge. To demonstrate that affordable housing is a top priority for the state, the governor must be visibly involved in ensuring that benchmarks are reached.
2. **Create the position of Director of Affordable Housing, who would report directly to the governor and ensure that progress is being made across departments and agencies.** The director would create a set of housing goals and report on progress towards them regularly to the governor. This position would emphasize the importance of affordable housing and require greater accountability from the state in progressing toward its goals.
3. **Support funding for the TOD council and the Director of Affordable Housing to provide seed money for planning efforts and hiring consultants as needed.** Even an annual budget of $1–2 million for affordable housing planning and implementation efforts would create efficiencies in how hundreds of millions of state and county dollars are spent, and ensure that affordability is prioritized in future development plans.

Expanding the availability of affordable housing will depend on many agencies collaborating and working together towards this common purpose. Unfortunately, collaboration cannot be mandated or simply passed into law. Instead, it needs to be incentivized by providing resources and plans that advance affordable housing goals, compensating non-housing agencies that contribute land, and by continuous assessment of progress. There are no short-cuts to effective collaboration, or to achieving long-range, ambitious goals such as providing quality affordable housing to Hawai‘i residents.

Mortgage Assistance: Down Payment Support and Mortgage Readiness

Down payment support is one of the most referenced hurdles for people trying to purchase a home. According to the Hawai'i Housing Planning Study of 2019, when researchers asked people for their top reasons for not buying a home, the overall price of the house was the response for 56 percent of respondents, followed by the down payment for 31 percent.[61]

This data aligns with our focus group research, which indicated that **the ability to obtain a 3 percent down payment** and other forms assistance such as grant or matched savings programs, was a significant benefit to interested residents. All of our focus group participants could afford the monthly house payments at our projected sales prices; it was simply the down payment and loan qualification requirements that would prevent homeownership.

Savings & Down Payment Programs in Hawaiʻi:

Hawaiian Community Assets (HCA) provides a MATCH Savings Program. HCA matches savings for individuals to put towards an identified savings goal. HCA also provides micro loans of up to $10,000 that a buyer can put toward a down payment.

Local Banks: 3% down payment options. We spoke with three local lenders and all offered mortgage products with a 3% down payment.[62]

Department of Hawaiian Home Lands: Pilot program.
As of December 2020, the Department of Hawaiian Home Lands (DHHL) approved a pilot program for down payment assistance to help those on the housing waitlist to make payments toward fee-simple residences not situated on Hawaiian Home Lands. By accepting this assistance, the applicant is removed from the list. Should the fee-simple property be sold, DHHL has first right of refusal. It is anticipated that applicants would have to pay for some portion of the down payment, but it is not yet clear how much.

PMI is not required for some below-market mortgages.
Private Mortgage Insurance (PMI) is required in most mortgages where the borrower contributes less than 20% for the down payment. Both Freddie Mac and Fannie Mae have adjustable or cancelable PMI based on the loan-to-market value amount achieved by the borrower. Other municipalities that provide below market housing suggested that this provision can be used to waive PMI if a home is sold for more than 20% below market, because the mortgage loan is already 80% loan to value without a down payment.

Future Resident Engagement in Planning and Design

Best Practice: Vienna, Helsinki and other European cities are adopting the practice. Involving future residents in project planning adds value to a project and creates a sense of community.

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[61] 2019 “Hawaiʻi Housing Planning Study” prepared for HHFDC
[62] Interviews with Bank of Hawaii, Central Pacific Bank, and American Savings Bank

Over the past few decades, standards have increased for how future residents can be involved in the design and management of affordable housing projects. Below are some case studies:

Local Case Study: Community Involvement in Puʻuhonua O Waiʻanae

With a community of nearly 250 people, Puʻuhonua O Waiʻanae is one of the oldest and most established houseless encampments on Oʻahu.[63] Although the residents are technically houseless, Puʻuhonua O Waiʻanae is an established village on 19.5 acres of land, where residents grow their own food, share resources with one another, engage in community services, and plan community events.[64] Puʻuhonua O Waiʻanae is organized into sections of 20 to 25 people, forming "communities within the community." Each section is appointed a village "captain" to help enforce rules and settle disputes.

In 2020, Puʻuhonua O Waiʻanae succeeded in raising $1.5 million in private donations to purchase a 20-acre parcel of land in Waiʻanae Valley to relocate their village. The initial design concept for the new village included a cluster of tiny homes based on the village sections, and shared spaces at the center of the community, including restrooms, kitchens, cooking areas and gardens.

Village residents were then invited to participate in design charrettes to provide input on the design of proposed community spaces and the homes. Once the relocation site was selected and purchased, organizers and future residents began site visits, clearing rubbish, and building relationships with neighbors of the future village, establishing a sense of responsibility for the land before the building starts. Moreover, the selected design of the homes, A-frame structures, is simple enough to install that residents can actively participate in the process once construction begins. The simple design, communal kitchens and bathrooms, and villagers' demonstrated ability to perform functions like groundskeeping and security, help keep development and operating costs down- savings that will be passed on to residents in the form of rents below $300 per household.

International Case Studies: Co-Determination in Vienna, Participation model in Helsinki

Vienna has a long history of government-sponsored housing. Today, 62 percent of residents in the city live in public housing.[65] The developers of public housing actively engage future tenants through a process of "co-determination." Through this process, residents can provide input on housing design, as well as on the use of and decoration of communal areas. The level of collected input varies by development, with some projects allowing residents to choose a floor plan, while others allow input on only common areas.

Helsinki multi-family housing developers are working with buyers during pre-construction to get design input especially for amenities and community spaces. Meeting with future occupants is seen by some developers as a way to add value to a project and have residents help with resource

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[63] Friedheim, N. (2018, September 30). "This Waianae Homeless Camp Is Going Legit". Honolulu Civil Beat. Available at: https://www.civilbeat.org/2018/09/this-waianae-homeless-camp-is-going-legit/

[64] HCA. (2020). "Affordable Housing Development Training" Webinar. Available at: https://www.dropbox.com/s/cs0dk5ofixdyvfd/Affordable%20Housing%20Development%20Training%20-%20Nov%202020.mp4?dl=0

[65] Dudley (2020)

choices: should we have less parking and more car sharing options? How should communal space be used? Involving future occupants in these conversations can create better design and also save on project costs.[66]

International Case Study: Senakw Development in Vancouver

In January, 2020, Squamish Nation members approved the construction of a new district, called Sedakw, in Vancouver that would house 11 towers with 6,000 total dwelling units for more than 10,000 residents.[67] The future development sits on 11.7 acres of former railway lands within one of Canada's smallest First Nations reserves.

Since Sedakw is on federal land and not city land, the planners of the future development have the flexibility to work outside of Vancouver's design standards. While the city typically mandates one parking stall per unit, only 10 percent of Sedakw apartments will include parking. Sedakw buildings will also forgo the podium-and-tower design that has become iconic in Vancouver.[68] Instead, the apartments will be slender high-rises with a density of 500 units per acre, on par with the density in cities such as Hong Kong.

The future Sedakw development challenges the notion that indigenious communities must be low-density, rural, and located on the outskirts of cities. Revery Architecture, the architecture firm responsible for the Sedakw design, worked with members of the Squamish Nation to ensure the design paid tribute to the site's history and relationship to the natural environment. For example, apartments near the Burrard Street Bridge, have been designed to emulate the feeling of entering a forest.[69]

Lessons for the ALOHA Homes Program

- Engage future residents early: Consider ways for future residents to become involved with project design before construction begins. This builds a sense of community and adds value.
- Dense, urban design can still pay tribute to the area's history and natural environment.

Cost Recovery Principle: State Funding is Recycled

One advantage of an ownership model for affordable housing is that state funding for the project can be recovered and recycled for another project when new residents secure mortgages that cover the costs of development. Note that this is for the cost of the building only and not for all the offsite infrastructure, community-wide amenities, and other costs that go into a larger community plan. However, recycling the money for just the vertical construction costs helps create a sustainable path to expanding affordable homeownership in Hawaiʻi.

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[66] New York Times (2020, October 14th) "Helsinki makes sustainability a guiding principle for development", by Dorn Townsend Available at: https://www.nytimes.com/2020/10/14/todaysinyt/helsinki-makes-sustainability-a-guiding-principle-for-development.html

[67] Halliday, M. (2020, January 3). "The bold new plan for an Indigenous-led development in Vancouver." The Guardian (Cities). Available at: https://www.theguardian.com/cities/2020/jan/03/the-bold-new-plan-for-an-indigenous-led-development-in-vancouver

[68] Halliday (2020)

[69] Halliday (2020)

Proposed Action Items

Legislative

Most of the tools needed to implement this model for affordable home-ownership already exist within current state laws and administrative rules.

Community Facility Districts for Infrastructure Financing

One area that might require some legislative change is allowing the state to be re-paid for infrastructure investments through Community Facilities Districts implemented by the counties. In this arrangement the state would put in the initial bond funding and the counties would repay the bond financing with increased property assessments in the various improvement districts. Further research is needed to assess whether this arrangement would require any changes in the HRS or if it simply requires a memorandum of understanding between the state and the county.

Affordable Housing Facilitator

Access to affordable housing is such a key issue for Hawaiʻi residents that it deserves high level attention and direct communication with the Governor's Office. This position would coordinate efforts across multiple agencies and work towards a long-term strategic plan.

Taxable Mortgage Revenue Bonds

This financing tool could be used by HHFDC to provide low-cost and efficient construction financing on a project-by-project basis without impacting the state budget or the private activity bond cap. Further legal research is being conducted to determine if the current HRS 201H provisions for Taxable Mortgage Securities Programs are sufficient for the purposes of financing affordable leasehold housing.

Lease end game issues

We are awaiting further input from important stakeholders and will amend this section.

Leadership

A new leasehold housing program would require high-level state leadership to facilitate negotiation and collaboration between multiple state agencies and departments. Although each department has a separate mission, there are ways for all stakeholders to benefit from providing affordable housing to Hawaiʻi residents.

Conclusion

In more than 5,000 households in Hawai'i, there are residents earning good wages, who want to purchase a home but find prices to be out of reach. We spoke with some of these residents—teachers, hotel workers, even real estate agents—and they all believe the state should play a role in expanding affordable ownership opportunities.This study provides an initial blueprint for one way to accomplish this without impacting general fund revenue.The model does require a state subsidy in the form of land use and access to expedited entitlements and financing. It also requires negotiation and collaboration across departments.

Adopting a leasehold ownership model faces significant obstacles and will not be easy. If it was, it would have been done already. As a case in point:

In 1970 the Hawaiʻi legislature passed Act 105 for the purpose of enabling the Hawaiʻi Housing Authority to develop affordable ownership opportunities. The act stated:

> "The legislature has also determined that decent shelter and the responsibility of home ownership contributes to the pride and dignity of man and makes him a greater asset to the community and that lack of decent shelter and the *responsibility of home ownership* contributes to harmful frustration in our community. The home is the basic source of shelter and security in society, and the center of our society which provides the basis for the development of our future citizens. **Frustration in the basic necessity of decent shelter, in the satisfaction of the basic drive in man to provide a decent home for his family, provokes an unrest in our community that is harmful to the overall fiber of our society."**

For more than fifty years the Hawaiʻi legislature has struggled to provide home-ownership opportunities to lower- and middle-income residents. The problem is arguably more pressing now than ever before: Hawaiʻi's population has declined each of the past four years, and one of the main reasons is the cost of housing. While the ALOHA Homes model needs work, the concept of affordable leasehold housing has great potential to fulfill an important housing need for local residents.

Appendix A: Interviewees

Local Developers and Construction Companies
Hawaiʻi Dredging
Albert C. Kobayashi Inc.
Stanford Carr
Hawaiʻi Island Community Development Corporation
Alaka'i Development
Mark Development Inc.
Self-Help Housing
Artspace
Hunt Co. Hawaiʻi
Ahe Group

Local Government
Office of Planning
OHA
DHHL
City and County of Honolulu, Planning Department
City and County of Hawaiʻi, Planning Department

Local Housing Organization
LURF
BIA

Lenders
Bank of Hawaiʻi
American Savings Bank
Central Pacific Bank
Hawaiʻi Community Assets

Financial Consultants
UH Office of Budget and Finance
280CapMarkets

Other Housing Organizations and Agencies
City of Burlington Department of Planning and Zoning
Portland Housing Bureau
San Diego Housing Commission
City and County of San Francisco
DC Department of Housing and Community Development
Champlain Housing Trust
Na Hale O Maui Land Trust
Grounded Solutions
ARA - Housing Finance and Development Centre of Finland
Habitat for Humanity NYC, Habitat for Humanity Maui
Catalyst Housing Group
Factory OS
Center for Budget and Policy Priorities

Interviewed People

Jonathan Huskey - Deputy Director for State Campaign Communications, Center for Budget and Policy Priorities
Bernie Bergmann - State Data and Campaigns Senior Manager, Center for Budget and Policy Priorities
Claudia Shay - Executive Director, Self-Help Housing
Craig Watase - President, Mark Development Inc.
Jarmo Linden - Director, The Housing Finance and Development Centre of Finland
Jeremy McComber - Development Manager, Hawaii Island Community Development Corporation
Keith Kato - Executive Director, Hawaii Island Community Development Corporation
Jon Wallenstrom - Principal, Alaka’i Development
Greg Handberg - Senior Vice President, Artspace
Naomi Chu - Vice President of Asset Management, Artspace
Juliana Bernal - Project Manager, Habitat for Humanity NYC
Kevin Brown - President, Factory OS
Paul Silen - Vice President - Commercial Division, Hawaiian Dredging
Stanford Carr - President, Stanford Carr Development
Paul Kay - Executive Vice President & COO, Hunt Development Group - Hawai‘i Division
Thomas Lee - Senior Vice President of Development, Hunt Development Group - Hawai‘i Division
Sharon Gi - Vice President of Development, Hunt Development Group - Hawai‘i Division
Steve Colón - President, Hunt Development Group - Hawai‘i Division
Ruby - Planner, Office of Planning (Honolulu)
Jeff Weiss - Hunt Development Group
Dwight Mitsunaga - President, Building Industry Association
Dean Uchida - President, Building Industry Association
Jessica Leorna - CEO of Building Industry Association
Sherri Dodson - Executive Director, Habitat for Humanity Maui
Jenee Gaynor - Capacity Building Manager, Grounded Solutions
Robert Leuchs - Director of Homeownership Center, Champlain Land Trust
Kalbert Young - Vice President and and Chief Financial Officer, UH Office of Budget and Finance
Jordan Moss - Founder, Catalyst Housing Group
Shelly Tanaka - Vice President, John Child & Company
Roberta Hsu - Project Manager, Albert C. Kobayashi Inc.
Michael Young - Vice President, Albert C. Kobayashi Inc.
Tom Lockard - Managing Director, Head of Investment Banking, 280CapMarkets (Originations Head, Co-Founder)
Catherine Lee - 280securities
Jessica Conner - Senior Policy and Planning Coordinator, Portland Housing Bureau
Dory Van Bockel - Program Manager, Development Incentives Team, Portland Housing Bureau
Gene Bulmash - Inclusionary Zoning Manager, DC’s Department of Housing and Community Development
Todd Rawlings - Housing Program Manager, City of Burlington Department of Planning and Zoning
David White - Director of Planning and Zoning, City of Burlington Department of Planning and Zoning
Rusty Rasmussen - SVP, Division Manager, Central Pacific Bank
Sujata Raman - Vice President, Single-Family Housing Finance - San Diego Housing Commission
Maria Benjamin - San Francisco housing department

Appendix B: Other Jurisdictions

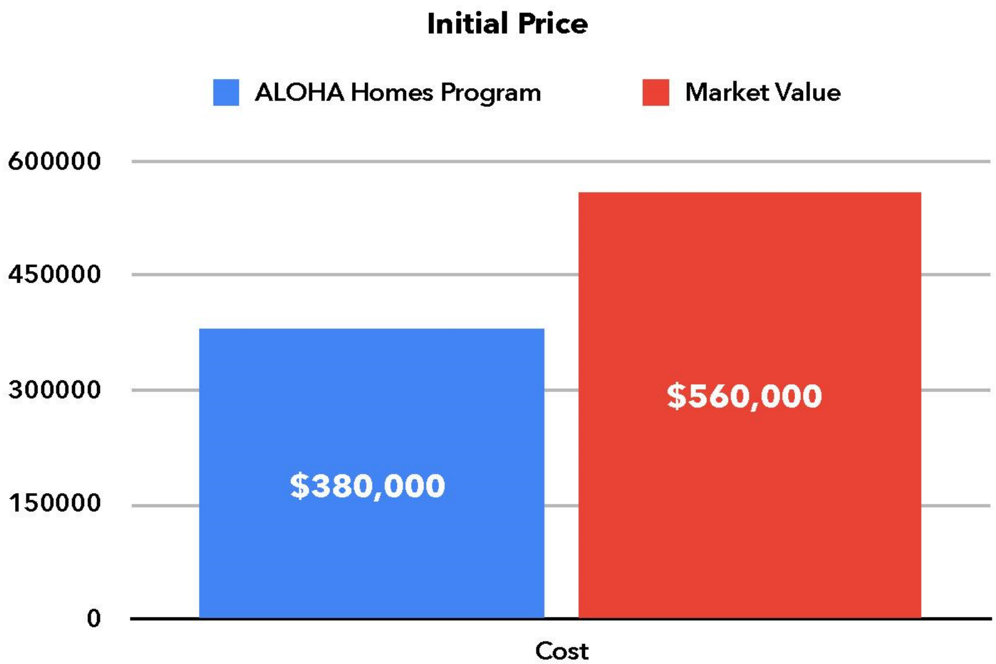
	Washington DC	Portland, OR	San Francisco, CA	San Diego, CA
Managed by	Department of Housing and Community Development	Portland Housing Bureau	Mayor's Office of Housing and Community Development	San Diego Housing Commission
AMI Range	50–80%	60–80%	80–130%	100–120%
% Units Affordable	8–10%	10–20%	12%	20%
Affordability Period	Life of the building	99 years	Life of the building	45–55 years
Owner-occupancy	Yes	Yes		Yes
Residency Requirement	Current Resident	Current resident	Current Resident	Live/work 2 years
Own Other Property	No other residential	No liquid assets > $20,000	No residential	No other property

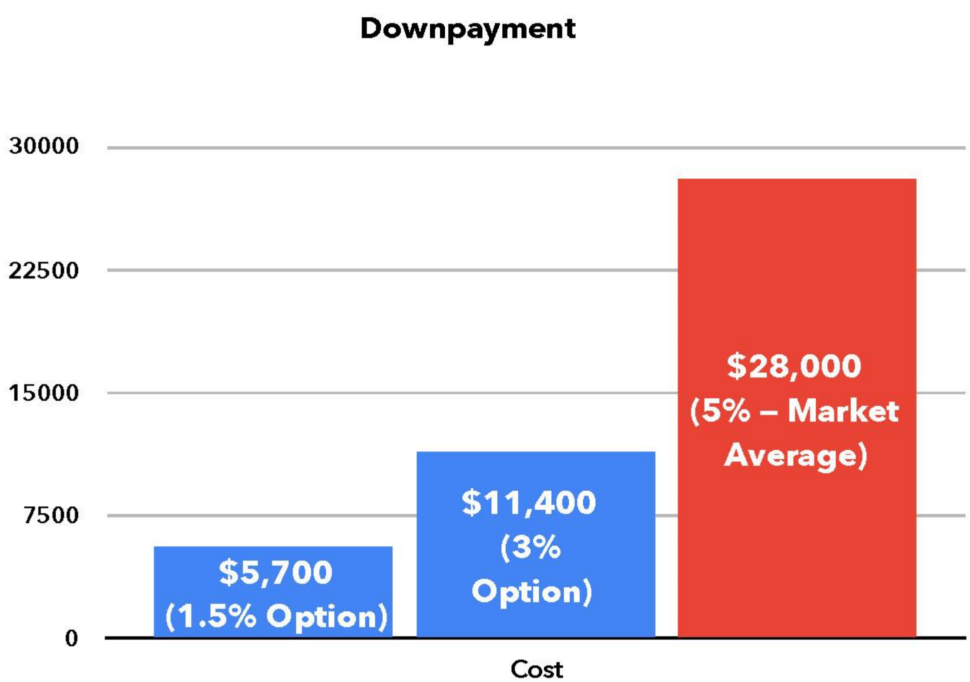
	Aspens, CO	Naples, FL (Collier County)	Boston, MA	New York, NY
Managed by	Aspen Pitkin County Housing Authority		City of Boston	New York City Department of Housing Preservation and Development
AMI Range	<205%	80–150%	Varies, <100%	80–130%
Affordability Period	Property Unique	15 years	50 years	Max 40 years
Owner-occupancy	Yes		Yes	Yes
Residency Requirement	Work full-time in Pitkin County or 75% of Income	Yes	Preference	Resident, Local area preference
Own Other Property	No residential			

Other Requirements	Occupy unit at least 9 months out of the year		Preferences (depending on unit) for Veterans, senior citizens, first time homebuyers, approved professional artists, Boston residents	Sell to income-qualifying buyers at 2% appreciation

Appendix C: Equity Share Model

Cost Difference: Affordable versus Market Rate (FOR SALE)
(Two-Bedroom, Two-Bath Units)

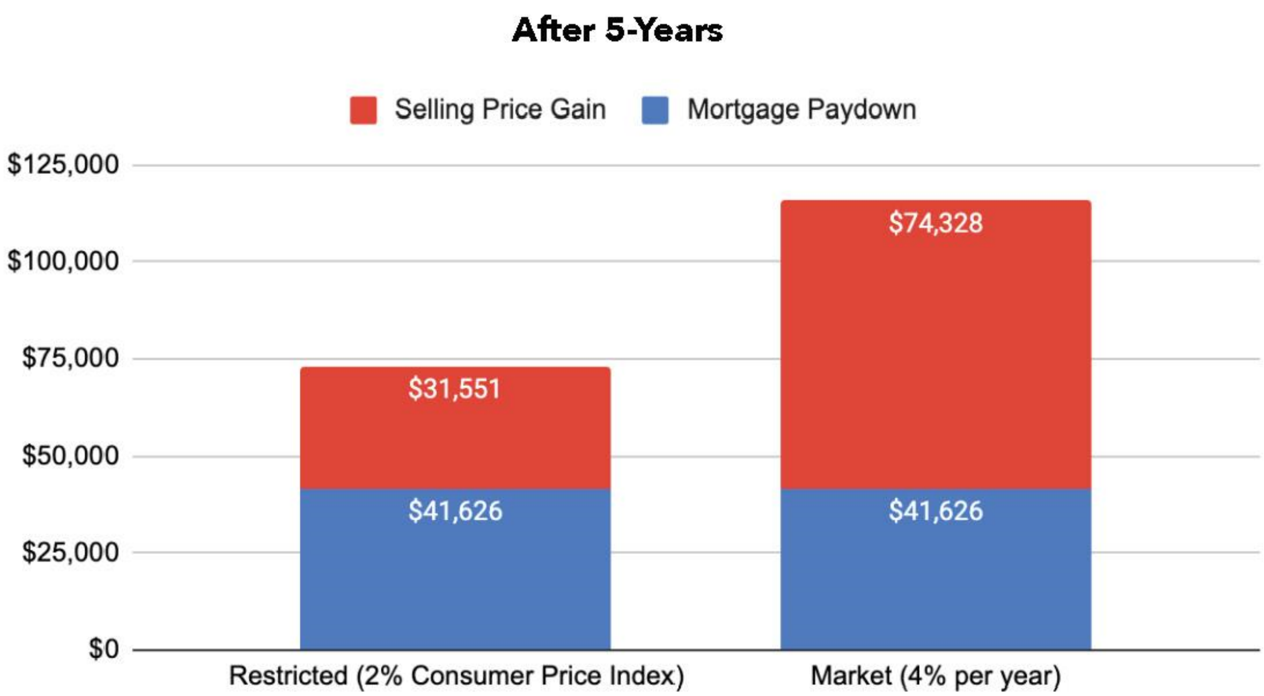


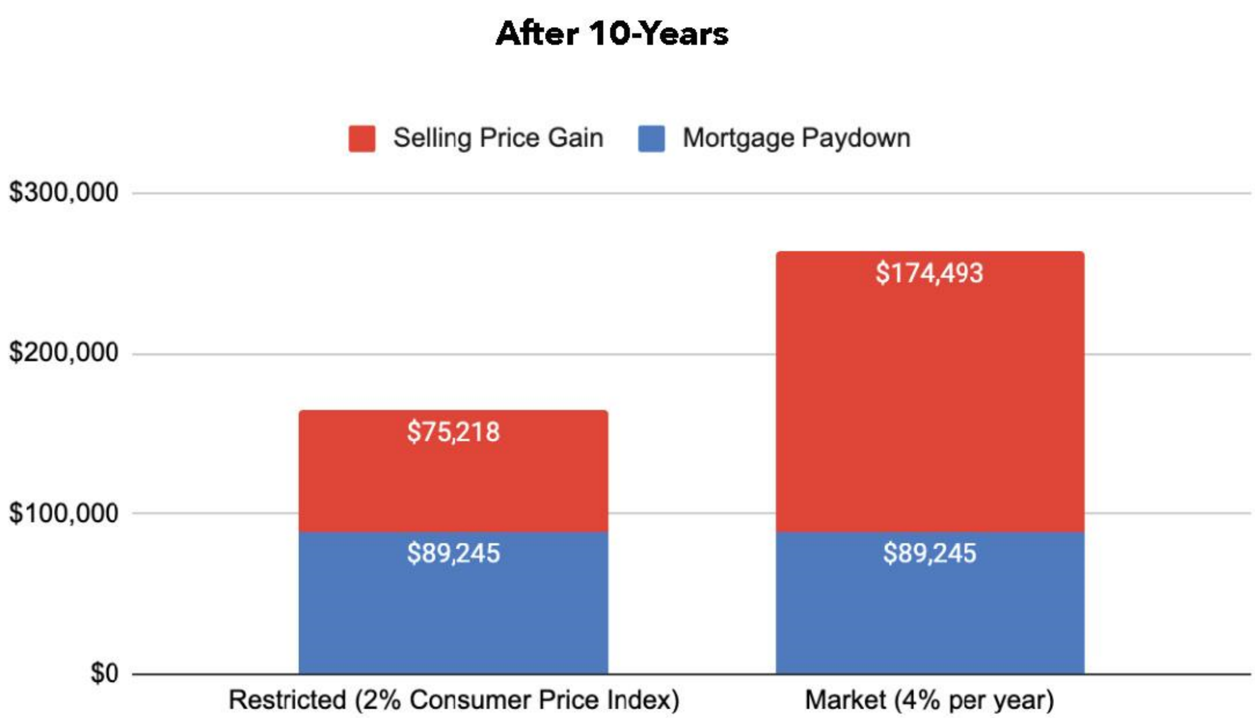


Mortgage Payments: Affordable Leasehold $380,000 vs. Market Rate $570,000

2 Bed/ 2 bath: Affordable Leasehold $380,000 vs. Market Rate Rental

Equity-Share Difference: Affordable versus Market Rate (FOR SALE)
(Two-Bedroom, Two-Bath Units)





Appendix D: Hawai‘i Three-Year Taxable Bonds

TABLE OF CONTENTS

Hawaii Housing Authority
Hawaii Housing Finance Authority, Mortgage Revenue Bonds, Series 2021 (3-Year)

SOURCES AND USES OF FUNDS

Hawaii Housing Authority
Hawaii Housing Finance Authority, Mortgage Revenue Bonds, Series 2021 (3-Year)

Sources:	
Bond Proceeds:	
Par Amount	50,000,000.00
	50,000,000.00
Uses:	
Project Fund Deposits:	
Project Fund	44,883,811.81
Other Fund Deposits:	
Capitalized Interest Fund	4,116,188.19
Delivery Date Expenses:	
Cost of Issuance	500,000.00
Underwriter's Discount	500,000.00
	1,000,000.00
	50,000,000.00

Notes:
Cost of Issuance includes market study, appraisal, Financial Advisor, Bond Counsel, Disclosure Counsel, Issuer Fees, HOA Counsel, Trustee, Environmental Assessment, Construction Manager Consultant
30 months of capitalized interest
2023 bullet maturity

BOND SUMMARY STATISTICS

Hawaii Housing Authority
Hawaii Housing Finance Authority, Mortgage Revenue Bonds, Series 2021 (3-Year)

Dated Date	12/16/2020
Delivery Date	12/16/2020
Last Maturity	12/01/2023
Arbitrage Yield	3.470403%
True Interest Cost (TIC)	3.831217%
Net Interest Cost (NIC)	3.808028%
All-In TIC	4.196439%
Average Coupon	3.470000%
Average Life (years)	2.958
Duration of Issue (years)	2.836
Par Amount	50,000,000.00
Bond Proceeds	50,000,000.00
Total Interest	5,132,708.33
Net Interest	5,632,708.33
Total Debt Service	55,132,708.33
Maximum Annual Debt Service	51,735,000.00
Average Annual Debt Service	18,636,408.45
Underwriter's Fees (per $1000)	
Average Takedown	
Other Fee	10.000000
Total Underwriter's Discount	10.000000
Bid Price	99.000000

Bond Component	*Par Value*	*Price*	*Average Coupon*	*Average Life*
Bond Component	50,000,000.00	100.000	3.470%	2.958
	50,000,000.00			2.958

	TIC	All-In TIC	Arbitrage Yield
Par Value	50,000,000.00	50,000,000.00	50,000,000.00
+ Accrued Interest			
+ Premium (Discount)			
- Underwriter's Discount	-500,000.00	-500,000.00	
- Cost of Issuance Expense		-500,000.00	
- Other Amounts			
Target Value	49,500,000.00	49,000,000.00	50,000,000.00
Target Date	12/16/2020	12/16/2020	12/16/2020
Yield	3.831217%	4.196439%	3.470403%

BOND PRICING

Hawaii Housing Authority
Hawaii Housing Finance Authority, Mortgage Revenue Bonds, Series 2021 (3-Year)

Bond Component	***Maturity Date***	***Amount***	***Rate***	***Yield***	***Price***
Bond Component:					
	12/01/2023	50,000,000	3.470%	3.470%	100.000
		50,000,000			

Dated Date	12/16/2020	
Delivery Date	12/16/2020	
First Coupon	06/01/2021	
Par Amount	50,000,000.00	
Original Issue Discount		
Production	50,000,000.00	100.000000%
Underwriter's Discount	-500,000.00	-1.000000%
Purchase Price	49,500,000.00	99.000000%
Accrued Interest		
Net Proceeds	49,500,000.00	

BOND DEBT SERVICE

Hawaii Housing Authority
Hawaii Housing Finance Authority, Mortgage Revenue Bonds, Series 2021 (3-Year)

Period Ending	*Principal*	*Coupon*	*Interest*	*Debt Service*
12/01/2021			1,662,708.33	1,662,708.33
12/01/2022			1,735,000.00	1,735,000.00
12/01/2023	50,000,000	3.470%	1,735,000.00	51,735,000.00
	50,000,000		5,132,708.33	55,132,708.33

BOND SOLUTION

Hawaii Housing Authority
Hawaii Housing Finance Authority, Mortgage Revenue Bonds, Series 2021 (3-Year)

Period Ending	*Proposed Principal*	*Proposed Debt Service*	*Total Adj Debt Service*
12/01/2021		1,662,708	1,662,708
12/01/2022		1,735,000	1,735,000
12/01/2023	50,000,000	51,735,000	51,735,000
	50,000,000	55,132,708	55,132,708

NET DEBT SERVICE

Hawaii Housing Authority
Hawaii Housing Finance Authority, Mortgage Revenue Bonds, Series 2021 (3-Year)

Period Ending	*Total Debt Service*	*Capitalized Interest Fund*	*Net Debt Service*
12/01/2021	1,662,708.33	1,662,708.33	
12/01/2022	1,735,000.00	1,735,000.00	
12/01/2023	51,735,000.00	934,972.22	50,800,027.78
	55,132,708.33	4,332,680.55	50,800,027.78

Appendix E:

Mid-Rise / High-Rise Building on 1.5 Acres- With Parking

Type	# Homes	Area (gross sq sf per home)	Total Sq Ft	Parking Stalls	Site Sq Ft
2 Bedroom / 2 Bath Unit	150	830	124,500	120	65,340

Project Costs

	Basis	Explanation	Cost	Per Home	Per Sq Ft
Due Diligence, Entitlements, Etc.	Estimate	Reduced since State will complete a portion	$250,000	$1,667	$2
Environmental Assessment	Not Applicable	State conducts analysis			
Off-Site Infrastructure	$3,000	Part of District Wide Plan ($3000 per home estimate)	$450,000	$3,000	
Land and Closing Costs/Commissions	Not Applicable	State/County contributes land			
On-Site Infrastructure, Site Prep, Etc (per site sq	$10	Recent HI pro formas	$653,400	$4,356	$5
Vertical Construction GMP (per bldg sq ft)	$350	Input from HI developer cntractors	$43,575,000	$290,500	$350
Parking Structure (per stall)	$35,000	Traditional Parking Structure	$4,200,000	$28,000	$34
Hard Cost Contingency	5%	Average contigency for LIHTC and other projects	$2,388,750	$15,925	$19
Permits and Fees	Estimate	Reduction or exemption for most fees	$510,000	$3,400	$4
Design and Engineering	4% of hard costs	Work with general/subs from start; standardization	$2,006,550	$13,377	$16
Developer Fee (5%) includes overhead	5% of subtotal	Less than typical due to lower risk and State financing	$2,898,422	$19,323	$23
Construction Management and Inspection	2% of hard costs	Fee seen in other pro-formas	$1,003,275	$6,689	$8
Taxes	Exempt	GET, RPT, and other tax exemptions			
Legal	set fee per project	Using State lawyers/consultants where possible	$200,000	$1,333	$2
Insurance	1% of hard costs	Lower premiums if State supports/guarantees	$501,638	$3,344	$4
Homebuyer Preparation and Pre-Sales	Set Fee per unit	High demand; Developer non-profit for pipeline	$750,000	$5,000	$6
Construction Loan Origination Fee	1.5% of funding	Recent HI pro formas	$677,211	$4,515	$5
Construction Interest- 100%	4% of hard costs	Low-Cost Financing through Revenue Bonds	$802,620	$5,351	$6
Subtotal			$60,866,865	$405,779	$489
Additional Contingency	3% of subtotal		$1,826,006	$12,173	$15
TOTAL COST			**$62,692,871**	**$417,952**	**$504**

ASSEMBLY BILL No. 387

Introduced by Assembly Member Lee
(Coauthor: Assembly Member Wicks)

February 2, 2021

An act relating to housing.

legislative counsel's digest

AB 387, as introduced, Lee. Social Housing Act of 2021.

Existing law establishes the Department of Housing and Community Development and sets forth its powers and duties. Existing law establishes various programs providing assistance for, among other things, emergency housing, multifamily housing, farmworker housing, homeownership for very low and low-income households, and downpayment assistance for first-time homebuyers.

This bill would declare the intent of the Legislature to subsequently amend this bill to include provisions that would enact the Social Housing Act of 2021 to establish the California Housing Authority for the purpose of developing mixed-income rental and limited equity homeownership housing and mixed-use developments to address the shortage of affordable homes for low and moderate-income households.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to subsequently amend this measure to include provisions that would enact the Social Housing Act of 2021 to establish the California Housing

Authority for the purpose of developing mixed-income rental and limited equity homeownership housing and mixed-use developments to address the shortage of affordable homes for low and moderate-income households.