
HOUSE CONCURRENT RESOLUTION

REQUESTING THE AUDITOR TO EXAMINE UPCOMING CONDOMINIUM LEASEHOLD EXPIRATIONS AND THEIR IMPACT ON THE AVAILABILITY OF REPLACEMENT AND AFFORDABLE HOUSING FOR HAWAII RESIDENTS.

WHEREAS, the availability of affordable housing has reached a state of crisis in Hawaii, where the average statewide median price of a single-family and multi-family dwelling is over \$600,000 and \$300,000, respectively; and

WHEREAS, the Hawaii Housing Policy Study (2006) found that about 34 percent of Hawaii households pay 30 percent or more of their household income on housing costs, compared with the national average of 22 percent for housing costs; and

WHEREAS, over the years, leasehold condominium and co-operative units have remained relatively affordable for many Hawaii residents; and

WHEREAS, in 2007, the first long-term leasehold agreements for approximately 18,700 condominium and co-operative housing units statewide began to expire; and

WHEREAS, these 18,700 leasehold units are situated in approximately 540 condominium and co-operative projects throughout the state, impacting over 63,000 units that are owner-occupied, leased, or rentals; and

WHEREAS, within the next 30 years, the expiration of existing leases for over 8,000 leasehold condominium and co-operative units could result in reversion of these units back to the fee owner, leaving thousands of residents without a place to live - many of whom are elderly residents; and

WHEREAS, Act 307, Session Laws of Hawaii 1967, codified as Chapter 516, Hawaii Revised Statutes, and administered by the Hawaii Housing Finance and Development Corporation, allows lessees of long-term leasehold interests in single-family residential development tracts to purchase the fee interest of their residential lots where

the State of Hawaii would condemn the fee interest, paying the fee owner fair compensation for the fee interest and selling the acquired fee interest to the leasehold homeowner; and

WHEREAS, after years of contentious litigation, leasehold conversion for single-family residences was upheld by the United State Supreme Court in 1984, when the Court held in *Hawaii Housing Authority v. Midkiff*, that Act 307 did not violate the United States Constitution; and

WHEREAS, shortly thereafter, in *Hawaii Housing Authority v. Lyman*, the Supreme Court of Hawaii also found that Act 307 did not violate the Hawaii State Constitution; and

WHEREAS, as a result, over the last 25 years, the number of leasehold single-family residences fell from a high of approximately 28,000 to 4,600, providing affordable housing opportunities for thousands of Hawaii residents; and

WHEREAS, in 1991, the Honolulu City Council adopted ordinance 91-95, which granted multi-family residential leaseholders the right to purchase the fee simple interest in their units in a condemnation procedure similar to that of Chapter 516, Hawaii Revised Statutes; however, in 2002, the City and County of Honolulu repealed Chapter 38, Revised Ordinances of Honolulu, which provided for leasehold conversion of condominium units; and

WHEREAS, the counties of Hawaii, Kauai, and Maui currently do not have leasehold conversion provisions for multi-family units, leaving no county or state mechanism to address the expiration of leasehold condominium and co-operative units; and

WHEREAS, over the next 30 years, about half of over 18,700 long-term leasehold condominium units could revert back to fee owners, leaving thousands of Hawaii residents in need of alternative housing; and

WHEREAS, the displacement of hundreds of lessees each year could dramatically impact the affordable housing crisis in Hawaii; and

WHEREAS, the State of Hawaii must anticipate the short- and long-term impact of leasehold conversion of condominium and co-operative units on the availability of affordable housing for Hawaii's residents; now therefore,

BE IT RESOLVED by the House of Representatives of the Twenty-fourth Legislature of the State of Hawaii, Regular Session of 2008, the Senate concurring, that the Auditor is requested to examine the issue of upcoming condominium lease expirations and its impact on the availability of replacement and affordable housing for Hawaii residents; and

BE IT FURTHER RESOLVED that the Auditor is requested to provide

data of the loss of affordable housing stock due to leasehold expirations, including examining the current status of residential leaseholds in condominiums and co-operatives; and

BE IT FURTHER RESOLVED that the study provide a range of alternatives, options and solutions to address the upcoming leasehold expirations, including exploring ways to expand the state's affordable housing stock that may be associated with these expiring condominium leases; and

BE IT FURTHER RESOLVED that part of the study, the Auditor shall consult with stakeholders, experts and impacted entities and individuals such as lessors, lessees, large and small fee owners, condominium and co-operative associations, affordable housing specialists, and real estate professionals to provide input and recommendations on addressing the condominium leasehold expirations; and

BE IT FURTHER RESOLVED that the Auditor is requested to report its findings and recommendations to the Legislature no later than 20 days prior to the convening of the Regular Session of 2009; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Auditor, the Director of the Hawaii Housing Finance and Development Corporation, and the Governor.