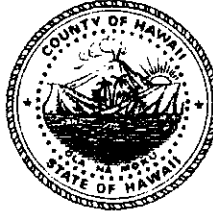


Harry Kim
Mayor



Dixie Kaetsu
Managing Director

Barbara Kossow
Deputy Managing Director

County of Hawai'i

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August 1, 2007

The Honorable Pete Hoffmann, Chairman
and Members of the County Council
County of Hawai'i
Hilo, Hawai'i 96720

2007 AUG 2 PM 2:10

Re: Veto Message – Bill 112 Relating to Affordable Housing

Dear Chairman Hoffmann and Council Members:

Pursuant to Section 3-12 of the Hawai'i County Charter, I am disapproving Bill 112 and returning it to you.

Please understand that the hardest part of taking this action is that there was a failure to communicate concerns to the Council while this bill was being considered. I apologize for the untimeliness of this action.

Before going into specifics on why I cannot approve this bill, I must acknowledge the hard work and dedication of Planning Director Chris Yuen as well as members of the County Council who have been working so hard to address our island's lack of affordable housing. The Council's willingness to work with the administration and your commitment to address this critical and important issue of housing is greatly appreciated and respected.

The principle expressed in Bill 112, that all developers and landowners who plan to make use of their land should help in mitigating our housing crisis, is a very important one, and my support for innovative methods to obtain the participation of landowners and developers of land that is already zoned with no affordable housing conditions has not wavered. The bill as presently drafted, however, would have unintended negative consequences that call into question its equity and fairness. Knowing this, I cannot approve this bill. While an argument may be offered that any shortcomings can be addressed in follow-up legislation, there are no guarantees that this will be done in a timely manner. This leaves the possibility that Bill 112 could remain law in its present form, which in my mind is unacceptable.

A commitment is made to you that the administration will work with the Council and the community to prepare and submit a new bill on this issue in the near future that fixes the perceived problems with Bill 112 and accomplishes the goal of obtaining assistance from all landowners and developers of land in addressing the shortage of affordable housing, including those with land that is already zoned with no affordable housing requirements.

Comm. No. 465.10
Ref. To: Council
Ref. Date AUG 2, 2007

August 1, 2007

The Honorable Pete Hoffmann and Council Members

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Please know that the disapproval of Bill 112 is very difficult for several reasons. First, it is difficult because I fully support what this bill is trying to do. Second, this is a bill that was prepared and submitted by my administration. I accept the blame for this situation because of the neglect to ensure that certain necessary provisions were attached to the bill.

The specific concerns that lead me to feel that this action is necessary are:

- Bill 112 provides no process by which a developer or landowner can request full or partial relief from the housing requirement such as a reduction in the requirement, alternatives to the requirement or a waiver of the requirement.
- Bill 112 does not take into consideration or provide a means to credit developers who have voluntarily provided affordable housing for the County of Hawai'i. This specifically applies to projects that are developed in phases.
- Bill 112 does not consider familial transfers of property. For example:
 - Parents own a parcel of land and want to subdivide to give each child a lot. If the lots in the subdivision are smaller than five acres in size, the subdivision will be subject to the affordable housing requirement.
 - Parents own a parcel of land and want to subdivide to give each of their children a lot, but in order to pay for the required subdivision improvements, they will need to sell some lots to pay for such improvements. If the lots in the subdivision are smaller than five acres in size, the subdivision will be subject to the affordable housing requirement.
- There may be situations in which a developer has not yet received tentative approval (a case in which the affordable housing requirement would apply) but has vested property rights. This bill has no provision to address this.
- There are ongoing developments that are under way at various stages and have a build-out schedule of several years. There needs to be a fair way to address these developments to ensure that they remain viable as these large developments are relied on to build infrastructure such as water, sewer systems, roadways and drainage systems for the benefit of the community at large.
- It has always been the goal and policy of this administration to ensure that whenever any major policy changes are pursued, a forum of some sort is to be conducted to allow those who would be affected an opportunity to air their concerns. This was not done on this issue.

If this veto is upheld, it is requested that members of the Council work with the Planning Department, Office of Housing and Community Development, and the community to craft a bill that will meet the concerns stated above, and help achieve the goal of a bill that would

August 1, 2007

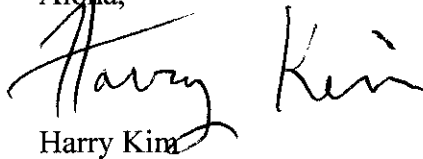
The Honorable Pete Hoffmann and Council Members

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accomplish the goal of obtaining assistance from all landowners and developers of land in addressing the shortage of affordable housing, including those with land that is already zoned with no affordable housing requirements.

I hope you understand how difficult it is for me to veto this bill, and will commit to continue to work with us to make Hawai'i County a better and more affordable place to live.

Aloha,

A handwritten signature in cursive script that reads "Harry Kim". The signature is written in black ink and is positioned to the right of the word "Aloha,".

Harry Kim
MAYOR