

Special Action Team on Affordable Rental Housing
Report to the Twenty-Ninth Hawaii State Legislature
Regular Session of 2018



Prepared pursuant to Act 127, Session Laws of Hawaii 2016

OFFICE OF PLANNING
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM
STATE OF HAWAII

Honolulu, Hawaii
December 2017

Special Action Team Roster

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KAUAI COUNTY

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Kauai County Housing Agency

STATE SENATE

The Honorable Will Espero, Chair Senate
Committee on Housing

STATE HOUSE OF REPRESENTATIVES

The Honorable Mark Hashem Member, House
Committee on Housing

AFFORDABLE HOUSING ADVOCACY

Rev. Bob Nakata
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NON-PROFIT DEVELOPERS

Keith Kato, Executive Director
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FOR PROFIT DEVELOPERS

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1 Introduction

This report describes the activities of the Special Action Team on Affordable Rental Housing (Special Action Team) and its accomplishments for calendar year 2017. The Special Action Team was established by Act 127, Session Laws of Hawaii 2016, to recommend actions to increase the supply of rental housing, particularly rental housing affordable to low- and moderate-income families. The Special Action Team is comprised of State agencies (Office of Planning, Hawaii Housing Finance & Development Corporation, Hawaii Public Housing Authority, and Hawaii Community Development Authority), and includes representatives from the four Counties, the State Senate, State House of Representatives, non-profit and for-profit housing developers, and affordable housing advocacy groups. This report fulfills the statutory requirement that the Special Action Team report annually to the legislature of its findings, recommendations and progress with its ten-year plan no later than twenty days prior to the convening of the 2018 regular session.

Following passage of Act 127 in June 2016, the Special Action Team held meetings from August 2016 through December 2017. During calendar year 2017, it held monthly meetings focused on making recommendations to increase affordable rental housing for low- and moderate-income families and developing the ten-year plan.

1.1 Act 127, Session Laws of Hawaii 2016

On June 29, 2016, Governor David Ige signed into law Act 127, Session Laws of Hawaii (SLH) 2016 (SB2561 SD2 HD1 CD1). Act 127 established the goal for State government, by itself or jointly with other parties, to develop or vest the development of at least 22,500 affordable rental housing units, ready for occupancy between January 1, 2017, and December 31, 2026. Act 127 also established a temporary Special Action Team (Special Action Team) to recommend actions to increase the supply of rental housing, particularly rental housing affordable to low- and moderate-income families.

1.2 Purpose of Act 127 and Special Action Team

Hawaii has had an affordable housing crisis for decades. In 1970, nearly 50 years ago, the Hawaii State Legislature, recognizing the importance of affordable housing to the fabric of our society, enacted Act 105, SLH 1970 to address a severe shortfall of affordable housing that existed at that time for lower and middle-income residents. Half a century later, a critical shortage of affordable housing not only continues to exist, it has grown to crisis proportions. The March 2015 State Department of Business and Economic Development (DBEDT) report, *Measuring Housing Demand in Hawaii: 2015-2025* (DBEDT Housing Demand Report), projects that the State will require 64,693 housing units to meet projected housing demand

Housing Demand by AMI, 2015-2025

AMI	Units	Percent of Total
Less than 80%	43,828	68
80% to 140%	13,669	21
More than 140%	7,196	11
TOTAL	64,963	100

between 2015 and 2025 (p. 3). The *Hawaii Housing Planning Study 2016* (HHPS 2016) estimates that of this total, 68% (43,828) units will be needed for households earning 80% or less of the Area Median Income (AMI), contrasted with 11% of units (7,196) that will be needed for households earning over 140% of AMI (p. 36). Therefore, an affordable rental housing unit goal was established.

1.3 Special Action Team Members

The Special Action Team is comprised of 13 representatives from State and County government, the State Senate and House of Representatives, non-profit and for-profit housing developers, and affordable advocacy groups. Act 127 designated 11 representatives shown at left; County representatives are appointed by the Mayor of each County; a representative from the State Senate appointed by the Senate President; a representative from the State House of Representatives, appointed by the Speaker of the House; and three public members appointed by the Governor representing non-profit housing developers, for-profit housing developers, and affordable housing advocacy groups. The Executive Directors of the Hawaii Community Development Authority (HCDA) and Hawaii Public Housing Authority (HPHA) were added to the Special Action Team pursuant to Act 96, SLH 2017, effective July 1, 2017. A representative from the Governor’s Office also regularly attends the Special Action Team meetings to offer the perspective of the Governor’s Housing Stakeholder Working Group and the actions the administration is undertaking regarding affordable housing that complements the work of the Special Action Team. Pursuant to the Act, the Special Action Team will terminate on December 31, 2019; however, the Chair and members may represent themselves as the Chair or member after this date when testifying or commenting on actions or recommendations of the Special Action Team.

SPECIAL ACTION TEAM MEMBERS

Director, Office of Planning
(Chair)
Executive Director, Hawaii
Housing Finance and
Development Corporation
Executive Director, Hawaii
Community Development
Authority
Executive Director, Hawaii
Public Housing Authority
State Senate
State House of Representatives
City and County of Honolulu
County of Hawaii
County of Kauai
County of Maui
Non-profit Housing Developers
For-profit Housing Developers
Affordable Housing Advocacy

1.4 Special Action Team Duties

The Special Action Team was established by Act 127 to recommend short- and long-term actions to increase the supply of rental housing, particularly rental housing affordable to low- and moderate-income families, to achieve the goal established in the Act to develop 22,500 new units of affordable rental housing ready for occupancy by December 31, 2026.

The duties of the Special Action Team are to:

- (1) Increase the supply of rental housing.
- (2) Establish performance measures and timelines for the development of affordable rental housing units for the increments of area median incomes listed in Act 127.
- (3) Address and make recommendations to reconcile public interests that compete against and restrict development of rental housing.
- (4) Develop a ten-year plan for incorporation into the State Housing Functional Plan (SHFP) that identifies State, County, and private parcels of land suitable for affordable units.
- (5) Submit legislation in the 2017 session proposing an update of the Hawaii State Planning Act to include the SHFP.
- (6) Submit annual reports to the Legislature for 2017, 2018, and 2019 regular sessions.

1.5 Special Action Team Meetings

The Special Action Team met monthly during 2017 to perform its duties under Act 127. It held eight regular meetings on Oahu, two Neighbor Island (Hawaii and Maui) meetings combined with site tours arranged by the Housing Administrators and Directors, and two special workshops.

Regular meetings of the Special Action Team were held on:

- January 13, 2017
- February 24, 2017
- May 24, 2017
- July 26, 2017
- October 27, 2017
- December 13, 2017

Neighbor Island site tours and meetings were held on:

- June 23, 2017 (Hawaii)
- August 25, 2017 (Maui)

Workshops were held on:

- April 28, 2017
- September 22, 2017

During each monthly meeting, the Special Action Team called on the expertise of its members and guest presenters to address challenges and obstacles delaying or obstructing the development of affordable rental housing and to explore legislative and other means at the State and County levels to accelerate its production. The Special Action Team also worked to coordinate information

with the Hawaii Interagency Council on Homelessness, as required by Act 127, as well as the Hawaii Interagency Council for Transit-Oriented Development.

2 2017 Activities and Accomplishments

2.1 Legislation

The Act mandates that the Special Action Team submit legislation proposing an update to the Hawaii State Planning Act (Chapter 226, HRS), to include an update to the State Housing Functional Plan (SHFP), no later than 20 days prior to the reconvening of the regular session of 2017. The Special Action Team drafted proposed amendments to Sections 226-19 and 226-106, Chapter 225, HRS, to prioritize housing opportunities for extremely low- to above moderate-income households; and to Section 226-56, Chapter 226, HRS to simplify the process of the lead State agencies' obligations to comply with the statute's requirement that the functional plans be updated periodically. These amendments passed on July 5, 2017 with Act 82, SLH 2017. With the guidance of the Special Action Team, HHFDC revised the SHFP and a copy can be found at https://dbedt.hawaii.gov/hhfdc/files/2017/03/Housing_2017.pdf.

Other legislation introduced by other parties related to the work of and discussed by the Special Action Team during the 2017 regular session include:

Act 96, SLH 2017 (SB715 SD2 HD1 CD1). Act 96 expands the membership of the Special Action Team to include the Executive Directors of the HCDA and HPHA, effective July 1, 2017.

Act 159, SLH 2017 (SB1244 SD2 HD2 CD1). Act 159 authorizes qualified nonprofit housing trusts to repurchase affordable units developed with government assistance when a government entity waives its right of first refusal to repurchase the unit. It also authorizes Counties to waive a right of first refusal to repurchase a privately-developed affordable housing unit that has been held pursuant to a unilateral agreement or similar instrument. The intent of Act 159 is to create a pool of affordable housing units that will remain permanently affordable.

Act 54, SLH 2017 (HB1179 HD2 SD2 CD1). Act 54 expands the type of rental housing projects that can be certified by HHFDC for exemption from general excise taxes (GET). It also allows the terms of HRS Chapter 201H-36(a)(5) prevailing wages to be deemed the prevailing wages for compliance with HRS Chapter 104 for the construction of certain rental housing.

During 2017, the Special Action Team discussed potential legislation to be introduced in the 2018 regular session with various entities. The following proposed legislation is the result of the work of the Governor's Housing

Stakeholder’s Group, and was drafted by HHFDC for inclusion in the 2018 DBEDT legislative package:

- A proposed bill to amend Act 54, SLH 2017 to expand the GET exemption to include gross rents as well as construction costs, and extend the Act’s sunset date out to ten years.
- A proposed bill to remove the \$38 million cap on the disposition of conveyance taxes dedicated for deposit into the Rental Housing Revolving Fund (RHRF).
- A proposed bill amending HRS Section 201H-38 to expedite County district boundary amendments for parcels of 15-acres or less, as well as HCDA approvals of affordable housing projects processed under 201H.
- A proposed bill removing the at-risk and passive activity loss rule to the State Low-Income Housing Tax Credit (LIHTC).

Looking forward to future administrative amendments, the Special Action Team has been discussing the possibility of legislation to streamline the review by the Disability and Communications Access Board (DCAB) and the State Historical Preservation Division review. The Governor’s Housing Stakeholders Group is also discussing these topics.

2.2 Ten-Year Plan

During the past year, the Special Action Team began its work on the Ten-Year Plan required under Section 7€ of Act 127, SLH 2016. Act 127 mandates that a ten-year plan be developed that identifies State, County, and private parcels of land suitable for affordable housing units, to be incorporated into the SHFP. In identifying parcels of land, the Act requires that the following be considered:

- Estimated number of units the parcel can sustain;
- Infrastructure challenges in developing units; and
- Estimated cost to develop the units and address the infrastructure challenges.

During 2017, the Special Action Team completed two key initiatives to produce the Ten-Year Plan: Affordable Rental Housing Inventories and Tier Tables, described in more detail in the following subsections.

The next step is to convene State and County planning teams to evaluate Tier 1 State, County, and private lands for such factors as infrastructure availability and capacity, physical and environmental constraints, necessary entitlements, and proximity to public services. Led by each County’s representative on the Special Action Team, the planning teams will develop lists of Tier 1 lands with the greatest potential for affordable housing development ready for occupancy by December 31, 2026. The planning teams will weed out parcels that are not suitable in the short term, such as those with long-term encumbrances (e.g., long-term leases or

buildings that are being used and there are no current plans to demolish or repurpose them). The three public members on the Special Action Team (representing nonprofit developers, for-profit developers, and affordable housing advocacy groups) will assist the efforts of each County team. The lists of parcels will be included in the Ten-Year-Plan to be submitted to the legislature no later than April 1, 2018.

2.2.1 Affordable Rental Housing Inventories and Priority Projects

The development of Affordable Rental Housing Inventories was a critical step in formulating objectives to meet the goal set forth in Act 127. The lack of precise and reliable information about affordable rental projects meeting the parameters of Act 127, as well as projected affordable housing projects, estimated numbers of units, and the AMI categories they are intended to serve, were major impediments to establishing effective objectives.

The Special Action Team developed base inventories capturing all known affordable rental projects projected or under construction for each County, broken down by the AMI categories designated in the Act, as a method of measuring progress toward meeting the goal of 22,500 new affordable rental units by December 31, 2026. The steps taken to populate inventories were:

- 1) Start with the list of affordable rental units from the Governor's August 2016 *State of Hawaii Housing Plan*, which included projects in HHFDC's pipeline.
- 2) Add all affordable rental projects known to the Counties and State housing agencies.
- 3) Verify that the units shown in the "Act 127 Unit Count" on the inventories meet the Act's parameters (i.e., that all construction entitlements are received on or after January 1, 2017, and the units are ready for occupancy between January 1, 2017 and December 31, 2026—or, in this case, as of the date of this report). Projected projects that do not meet this criteria remain on the inventories as "Projected Unit Counts."

These projects are being closely tracked by the Special Action Team, and the base inventories are updated periodically as the Special Action Team receives new information.

2.2.2 Tier Tables

The Special Action Team collaborated with OP's GIS Division and County housing and planning agencies to develop maps identifying all State, County, and private parcels sorted into tiers of development suitability and readiness. The steps taken to develop the maps and layers involved the following:

- 1) Develop a scoring system assigning points to criteria based on factors identified by the Special Action Team and refined by the characteristics of each County.

- 2) Divide parcels into three tiers based on the points assigned:
- Tier 1: lands being the most suitable and readily available for near-term development.
 - Tier 2 lands being suitable for development in the mid- to long-term.
 - Tier 3, lands encompassing the remaining tiers, those least suitable for development.

The underlying assumption of the Special Action Team’s consideration of suitable land included factors such as state land use district (SLUD) and County zoning for residential development; proximity to infrastructure (e.g. water and sewer connections and system capacity, power and roads), and potential environmental concerns, that directly relate to the cost and time of development.

2.3 Special Action Team Recommendations to Increase Affordable Rental Housing

2.3.1 Use of Public Lands

- For Tier 1 public lands held for non-residential purposes, evaluate the current revenue vs. future revenue potential to transfer underutilized State lands by Executive Order to HHFDC as the State’s housing arm. Target completion: December 2018.
- Coordinate efforts with the Transit-Oriented Development (TOD) Council, established under Act 130, SLH 2016, charged with facilitating the acquisition and funding of affordable rental TOD projects on State and County land.
- Support the policy in the February 2017 SHFP regarding the coordination of housing-related information systems which are currently maintained by individual public and private agencies.
- Examine the feasibility of establishing community land trusts that could be used by the State and Counties as an economically sustainable strategy to acquire lands for affordable housing.

2.3.2 Infrastructure

- Coordinate with the TOD Council in the assessment of infrastructure requirements for State TOD projects.
- Leverage private, federal, State, and County funds for infrastructure capacity building. Examine the feasibility of tax increment financing (TIF) and community facility district (CFD) bonds.

2.3.3 Funding

- Create incentives to encourage the development of rental housing for extremely-low income households, i.e., those earning 30% AMI and below.
- Encourage increased use of public-private partnerships and for mixed-use

developments that include affordable rental housing.

- Efficiently utilize existing federal, State and County financing programs, including LIHTC, Hula Mae Multifamily Revenue Bonds, and RHRF programs.
- Explore the feasibility of innovative financing mechanisms, including community land trusts, federal grant programs, private grants and donations, and public land equity programs.
- Evaluate the effectiveness of in-lieu fees based on the Special Action Team's research indicating that the effect of such policies has been insignificant.
- Increase by the Counties of the use of State Private Activity Bonds for multi-family housing.
- The Counties should consider real property tax exemptions for moderately- or substantially-rehabilitated privately-owned rental properties that are rented to low-income households.

2.3.4 Regulation and Permitting

- Streamline or reduce barriers in the review by the Disability and Communications Access Board and State Housing Preservation Division review.
- Re-evaluate the formula for computing transportation impact fees for roadway improvement and construction.
- Reduce or re-evaluate Department of Education impact fees.
- Encourage all departments to consider the effect on the cost of construction of affordable housing when considering the amendment or implementation of new policies, such as those regulating wastewater systems, solar or photovoltaic hot water heaters, and impact fees and other exactions.
- Eliminate prevailing wage requirements for affordable housing.
- Pursuant to SCR 143, SLH 2017, HHFDC is examining ways to revise regulatory and procurement systems to allow for faster expenditure of funds to support residential development, including the increase of infrastructure capacity.
- Re-evaluate the requirements for parking spaces.
- Consider appropriate proactive upzoning.
- Align inclusionary zoning regulations with State agencies.
- Adopt uniform policies among the Counties to regulate vacation rental units and strengthen compliance and enforcement of regulations.
- Encourage all departments to consider the effect on the cost of construction of affordable housing when considering the amendment or implementation of new policies, such as building codes, impact and dedication fees, and other exactions.
- Promote predictability and reliance in land use matters by supporting existing residential zoning and approved housing projects.

- Analyze County housing policies, infrastructure availability, affordable housing requirements on new developments, and potentially burdensome regulatory and permitting requirements.

2.3.5 Preservation of Existing Housing Stock

- Support the coordination of HPHA's internal tracking system of federal funding contracts, compliance, and expiration with a statewide housing information system.
- Examine the impact of existing State statutes and County ordinances controlling the conversion of rental units into condominiums.
- Explore the cost effectiveness of acquisition and rehabilitation in comparison with new construction.

3 Performance Measures and Timelines

The Act requires the Special Action Team to establish performance measures and timelines for the development of affordable rental housing units for households in the following AMIs:

- 30% or less AMI
- More than 30% but not more than 50% AMI
- More than 60% but not more than 80% AMI
- More than 80% but not more than 100% AMI
- More than 100% but not more than 120% AMI
- More than 120% but not more than 140% AMI

The first step the Special Action Team took to establish performance measures and timelines was to use the Affordable Rental Housing Inventories to determine the number of units under development, as evidenced by a building permit for vertical construction, as shown in the table in the attached exhibit. The table was then used to prepare charts showing the flat annual growth that would be necessary to meet the Act's affordable rental housing goal, by County and AMI, over the ten-year period from 2016-2026. The County and AMI percentages were arrived at by applying the County percentage of the whole in the DBEDT Housing Demand Study and the AMI percentage in the HHPS 2016. Because, at this point in time, the actual number of units that can be counted under the Act is zero (since the units shown in the table have been issued building permits, but are not yet completed and occupied), figures representing one-tenth of the goal have been applied to Year One to set a baseline for calculating growth. The table and charts are attached as Exhibit A.

4 Special Action Team Budget

The 2017 Legislature did not appropriate funding for the Special Action Team for FY2017-2018. Unexpended FY2016-2017 funds were carried over and used for airfare and ground transportation to enable Neighbor Island members to attend Special Action Team meetings through December 2017. At this time no meetings are scheduled for 2018. The Special Action Team recommends that the 2018 Legislature appropriate \$10,000 to the State's operating budget for FY2019, which is needed for the Special Action Team to complete and track implementation of the Ten-Year Plan.

Exhibit A – Performance Measures and Timelines

Table of Affordable Rental Units under Development

AMI		< 30%	30% - 50%	50% - 60%	60% - 80%	80% - 120%	120% - 140%	140%+	Total
STATEWIDE		13	125	49	0	0	0	0	187
40%	Honolulu	13	65	49	0	0	0	0	127
22%	Maui	0	60	0	0	0	0	0	60
30%	Hawaii	0	0	0	0	0	0	0	0
8%	Kauai	0	0	0	0	0	0	0	0

County and AMI Charts, Years 1 through 10





