

## **FREQUENTLY ASKED QUESTIONS ABOUT AFFORDABLE HOUSING PROJECTS PROCESSED UNDER SECTION 201H-38, HAWAII REVISED STATUTES**

1. *What is Section 201H-38, Hawaii Revised Statutes (HRS)?*

Section 201H-38, HRS, was enacted into law to provide a process whereby an affordable housing project may be granted exemptions from any statutes, ordinances and rules of any governmental agency relating to planning, zoning and construction standards that do not negatively affect the health and safety of the general public. Prior to this law, the exemption power was contained in Chapter 201G, HRS, Chapter 201E, HRS, and Chapter 359G, HRS before that. The City and County of Honolulu Department of Planning and Permitting (DPP) administers this law.

2. *What type of exemptions are usually allowed for a Section 201H-38, HRS project?*

Typical exemptions have included Development (or Sustainable Community) Plan designations and zoning district requirements (e.g., allowing an apartment building in a residential district), parking requirements (e.g., providing fewer stalls than required by the Land Use Ordinance), relief from park dedication requirements, and subdivision requirements (e.g., street design, and overhead utilities instead of underground utilities in a rural area). Additional building height or density exemptions are also typical requests.

3. *What projects are eligible for Section 201H-38, HRS exemptions?*

Affordable housing projects are eligible if at least half (50 percent) of the units are made affordable to income target groups established by City rules, based on guidelines provided by the U.S. Department of Housing and Urban Development (HUD). The target groups are defined as a percentage (usually 80-140 percent) of the median income for Honolulu as determined by HUD.

Projects must contain at least 50 dwelling units. Projects which are developed only for persons with special living needs are not subject to this requirement. Nonprofit housing organizations which solely develop projects for lower-income purchasers or renters must contain at least 20 dwelling units, or is lower, must obtain a waiver from DPP.

4. *What is the Section 201H-38, HRS process?*

A developer must submit an application to the DPP and satisfy processing requirements before the application will be accepted. For example, if a project cannot be approved for connection to the public sewer system and no acceptable alternative is proposed, the project will not be accepted for processing. The developer must provide evidence of site control, preliminary plans and a list of all the exemptions sought from various development standards.

Once accepted for processing by the DPP, the plans and requested exemptions are routed to various City agencies for review. Usually, the developer must modify the plans to address agency concerns, after which the DPP will submit the Section 201H-38, HRS application to the City Council in the form of a resolution, along with its recommendation. The resolution will be assigned to an appropriate City Council committee. This committee will first review the request and then recommend approval, approval with modifications, or disapproval of the exemption request. The resolution is then forwarded to the City Council for a vote. By law, the City Council has 45 days from the date the DPP submits the application to the City Council to act on the matter. If the City Council does not act on the request within 45 days, the exemptions are automatically approved.

5. *What information does a developer need to provide to the DPP in the Section 201H-38, HRS application?*

The developer will need the following items for Section 201H-38, HRS exemption project:

- Evidence of ownership or control of the property;
- Preliminary plans, outline specifications, and projected sales prices or rents for the different dwelling unit types;
- Preliminary environmental and planning studies;
- Neighborhood Board minutes demonstrating that residents in the area have been notified of the project;
- Evidence of construction financing;
- Preliminary approval to connect to the City wastewater system; and
- Evidence that the project is not located in a floodplain or tsunami hazard area.

6. *What are the benefits to the developer of a Section 201H-38, HRS project versus a non-201H-38 project?*

Once the application requirements are met, requested exemptions may be granted by the City Council within 45 days from the date of application. Conventional projects may otherwise have to go through a development plan amendment and/or rezoning process, which can take many months of review and approval by City agencies and the City Council. Developers can also seek relief from development requirements and exactions which can add costs to the project (e.g., parking, park dedication).

7. *How does the general public benefit from Section 201H-38, HRS projects?*

The construction of affordable housing units is facilitated and expedited.

8. *What are the opportunities for public input?*

The public may provide input on the project on numerous occasions. The developer must make a presentation notifying the Neighborhood Board of the area affected by the project. Public testimony may be made in writing or in person at the City Council meetings and hearings.