

‘Monster homes’ measure nears final vote

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“Blatant violation of city ordinances should not be tolerated, and unfortunately some monster home developers have been getting away with building homes that are out of character with surrounding neighborhoods.”

Esther Kia‘aina

Council vice chair, in a written statement

As a means of cracking down on those who would build so-called “monster homes” on Oahu, a 2023 measure meant to prohibit giving false statements to city planners proposes a new set of penalties be given to violators.

As drafted, Bill 44 would allow penalties to “persons having a history of making false statements” — defined as those who have been criminally convicted of making a false or fictitious claim.

Co-introduced by Council Chair Tommy Waters and Council member Tyler Dos Santos-Tam, the bill's penalties include:

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>> A two-year moratorium on building permit applications.

>> Increased building permit and plan review fees.

>> A temporary certificate of occupancy, wherein the city Department of Planning and Permitting can conduct additional inspections to ensure that the construction is in accordance with building permits.



Moreover, Bill 44 would also impose civil fines of up to \$3,000 for a discovered violation as well as a civil fine of \$3,000 per day for each day the violation persists.

The Council's Committee on Executive Matters and Legal Affairs on Tuesday recommended that Bill 44 be sent to the full Council for a final reading later this month.

Tuesday's vote came just as the city Building Board of Appeals is expected to issue a ruling today regarding Honolulu resident Christy Zeng Lei and the possible revocation of a building permit at 3615 Sierra Drive above Kaimuki, which the city alleges is a monster home.

According to DPP, Lei, developer of the project, provided incorrect information on her permit application.

Lei, who has been criticized for monster home development in the past, allegedly misrepresented the project's building density and violated the thresholds established for setbacks, rear and side yards, and the number of bathrooms, among other things, the city says. DPP chose to revoke Lei's permit as a result.

Lei, however, is appealing that decision, the city says.

"Regardless of what happens tomorrow, this case highlights an important issue: monster home developers often lie on their building permits. Why? Because it's profitable. Building 19 bathrooms and 21 bedrooms makes these people a lot of money," Dos Santos-Tam said Thursday in a written statement. "We can't just sit on our hands and let this keep happening. That's why we passed this bill. It says that, if you've been



convicted of lying on a building permit before — if you are clearly a bad actor — we're going to make it very difficult for you to build here again.”

For her part, Council Vice Chair Esther Kia'aina said she also wants to see monster home builders punished under Bill 44.

“Blatant violation of city ordinances should not be tolerated, and unfortunately some monster home developers have been getting away with building homes that are out of character with surrounding neighborhoods,” said Kia'aina in a written statement. “This bill is a step in the right direction, but more can be done, and I look forward to discussing further solutions at the City Council, including Bill 52 (2023), which increases fines for monster home developers.”

The Council's debate over Bill 44 began in 2023.

In July the Council learned that existing state laws — in particular, Hawaii Revised Statutes 710-1063, which deals with unsworn falsifications to authorities — could preempt or



eliminate the power of the proposed city measure with regard to lying to city officials, namely DPP inspectors.

Waters said at the time he wanted to hear more information on the city's ability to add on the requirement that homes be demolished if found to be in violation, "and figure out the legality of that before we actually pass this out."

And he reminded Council members that Bill 44 might be preempted by existing state law with regard to the crime of lying to public officials.

"Those are things that I think are important because ... we want to get this right," Waters had said. "We want to make sure the tools we give to DPP are actually workable tools. It just gives us another bite at the apple if we don't rush it."

Later, DPP Director Dawn Takeuchi Apuna said her department had "no position" on Bill 44, due to the measure's possible preemption by state law.

But Waters asked whether DPP ever enforced HRS 710-1063 and prosecuted anyone for the misdemeanor crime of lying to public officials, including to city building inspectors.

"Not during the current administration, and I don't think so prior to that, but I'm not sure," Takeuchi Apuna replied.

In response, Waters said, "Even though we say it's a crime, if we're not actually prosecuting it, it's not going to be a deterrent."



Then, he added, “All we need to do is demolish one home, and it’s going to wake people up and they’re going to think, ‘Oh my God!’ If we make them take it down, I think that’s going to have the desired effect and stop people from doing this.”

On Thursday, Richmond Luzar, policy and communications director for Dos Santos-Tam, told the Honolulu Star-Advertiser that Bill 44 was revised so that it did not conflict with state law.

“Basically, the bill had previously been written to establish its own criminal penalties, which was essentially redundant because it duplicated existing state law,” he said. “But the bill was amended so that Chapter 710 became a trigger; so if somebody is convicted under that chapter it triggers additional penalties that DPP can impose.”

Meantime, the prior call to see monster homes demolished under Bill 44 was also jettisoned.

“It didn’t fit very well to include demolition, in terms of the ordinance,” Luzar said, noting that the Council might consider demolishing monster homes in future legislation. “But not in this bill.”

The full Council is expected to vote on Bill 44 at its Feb. 28 meeting.

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