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TESTIMONY

**HHT-27 A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96 & 3.35
MAUI COUNTY CODE, RELATING TO THE RESIDENTIAL WORKFORCE
HOUSING POLICY AND AFFORDABLE HOUSING FUND**

Aloha Chair Crivello and members. My name is Lawrence Carnicelli, submitting testimony as the Government Affairs Director for the REALTORS Association of Maui on HHT-27. I also come today as a published author and requested expert speaker on the subject of inclusionary zoning and shared appreciation.

I will start by saying we are in favor of the stated intent of this measure; building and protecting our workforce housing as well as preserving the workforce housing fund. However, what this bill does is reality is four things: 1) Moves all workforce housing into a deed restricted perpetuity model. 2) Moves resale of workforce housing into a market rate shared appreciation model. 3) Adds the cost of certain improvements to the purchase price. 4) Creates a resale escrow/sales type procedure. Each of these items sounds wonderful on the surface and has wonderful intent. However, a lack of understanding has left each of them with potentially fatal flaws.

Affects and Consequences of these four changes:

- 1) The deed restricted perpetuity model of affordable housing has two major hurdles. First, the deed restriction creates a difficulty for low income buyers to get a loan. Contrary to some belief, buyers can get a loan. However, the number of lenders and the types of loan products is diminished greatly. Thus increasing their interest rate and defeating the purpose of affordability. Next issue is blight. Forever is a long time and homes that are deed restricted without any incentive for upkeep will end up in disrepair.
- 2) This bill mixes the perpetuity model with a cross of shared appreciation. The flaw here is that the measure ties the resale price to appreciation thus pricing the resale of these "affordable" homes out of the real workforce housing range. This is also in conflict with other parts of the code that say resale must be tied to AMI. Using the land trust shared appreciation formula does not work because they do not factor in the cost of the land which appreciates while the buildings depreciate over time.
- 3) By adding the cost of improvements onto the resale price we, again, move the sales price out of "affordable" range. Additionally, the homeowner gets a double-dip on this by getting the value in the appraisal and also getting the cost of the improvement in addition.
- 4) The resale escrow type mechanism used in this bill has a lack of congruence with Hawaii state standards and practice for real estate transactions.

Due to these oversights and unintended I feel that the committee should consider an alternative methodology in finding a solution.

There is no silver bullet solution. There is no one way that will fix the problems we have with our failed workforce housing ordinance. Therefore it is imperative that we do no additional harm to this flailing statue and we understand the consequences of any changes. I have several suggestions that could still accomplish the stated goals without the same collateral damage.

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Alternate Solutions that Work

- 1) **Stewardship!** If you study the different programs around the country the successful ones all share one thing in common... Organizational Stewardship. Period. We could make the greatest bill in the world but if we do not have people managing these properties the program will eventually perish. This is a necessary and indispensable part to any changes we make to 2.96. The lack of stewardship in our program is not the fault of the department or individuals in the department but the lack of organization and structure. This could be accomplished as simply as a board or commission, a new department, or even a dedicated person.
- 2) **Recapture!** I have never heard anyone speak about this very essential and under noticed tool at our disposal. Recapture is a mechanism that allows for the 'subsidized' portion of the property to remain in the Housing Fund in perpetuity (even after the property has 'left the program' 10, 20, 30 years from now). To oversimplify it... is a quiet second mortgage on the property for the amount of the subsidized portion. This would run with the land and allows for the funds to return to the Housing Fund after the home is sold at fair market value. This mechanism removes the windfall payoff while still allowing for the homeowner to keep their appreciation. If managed properly this fund would eventually be self-sustaining.
- 3) **Shared Equity!** There are a few ways to do this. None are a silver bullet. However, there are formulas that can keep the home in affordability, allow for proper upkeep and maintenance while still allowing for the benefit of homeowner appreciation.
- 4) **Preservation of Affordability!** The National Association of REALTORS® statistics show that the average homeowner stays in their home for 10 years (up from 6 years previously). This means that if we leave the home affordable for 10 years only one low income family will get to enjoy the fruits of that home. However, if we were to move the threshold to 30 years we could potentially be helping 3 families with one home... and with "recapture" the subsidy would go back into the fund for yet another home for 3 more families.

I would recommend that the committee file this bill and use a collaborative method to review and make upgrades to 2.96 as is required in the code. My suggestion would be a group of 10 people consisting of a community land trust member, small non-profit developer, large developer, realtor, escrow and title officer, lender, Housing Director and two HHT Committee members be formed. Their task would be to draft a bill, not do another study or make suggestions but to draft actual collaborative legislation that considers all of the nuances of inclusionary zoning programs and shared equity homeownership.

Thank you for the opportunity to testify.