

COUNCIL OF THE COUNTY OF MAUI
HOUSING, HUMAN SERVICES, AND
TRANSPORTATION COMMITTEE

December 1, 2017

Committee
Report No. 17-178

Resolution amended.

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Housing, Human Services, and Transportation Committee, having met on November 16, 2017, makes reference to County Communication 16-133, from the Director of Housing and Human Concerns, transmitting a document entitled "Low Income Housing Tax Credit Project for Sale under a Qualified Contract Request in Accordance with Section 42(h)(6) of the Internal Revenue Code."

Your Committee notes the Council's Housing, Human Services, and Transportation Committee (2015-2017 Council term) met on this matter on December 1, 2016. The Committee recommended the item be referred to the Council for the 2017-2019 Council term. At its meeting of January 2, 2017, the Council referred the item to your Committee (County Communication 17-2).

By correspondence dated November 8, 2017, the Department of the Corporation Counsel transmitted a proposed resolution entitled "URGING THE GOVERNOR OF THE STATE OF HAWAII AND THE HAWAII STATE LEGISLATURE TO SUPPORT AFFORDABLE HOUSING AT FRONT STREET APARTMENTS." The purpose of the proposed resolution is to urge the Governor and the Hawaii State Legislature to support affordable housing at Front Street Apartments, consisting of 142 affordable housing units, located adjacent to Kenui Street and Wainee Street, Lahaina, Maui, Hawaii, and situated on property identified by tax map key (2) 4-5-003:013.

Your Committee notes 26 individuals testified in support of the proposed resolution, the majority of whom are residents of the Front Street Apartments project. No one testified in opposition.

COUNCIL OF THE COUNTY OF MAUI

**HOUSING, HUMAN SERVICES, AND
TRANSPORTATION COMMITTEE**

Page 2

**Committee
Report No. 17-178**

Your Committee notes the Front Street Apartments project was developed under the Low Income Housing Tax Credit program as provided for in Section 42 of the Internal Revenue Code ("IRC"). Under the program, investors in low-income housing receive tax credits as an incentive to provide affordable rental housing to tenants at lower than market rates. For Front Street Apartments, the extended low-income housing commitment was for a period of 50 years ending December 31, 2051.

Despite the 50-year commitment, termination of the extended use period is possible under procedures set forth in Section 42(h)(6), IRC. After the fourteenth year of the compliance period, the owner submitted a written request to the Hawaii Housing Finance & Development Corporation ("HHFDC") asking the agency to find a buyer to acquire the owner's interest at the "Qualified Contract Price." After an owner's request to sell is made, the Qualified Contract Price is calculated in accordance with IRC provisions which may exceed the fair market value of the project. For Front Street Apartments, the Qualified Contract Price was calculated at \$15,395,813 and the appraised value was \$8,710,000.

Your Committee notes the HHFDC was unable to identify a buyer within the qualified contract period which expired after one year on August 4, 2016. Front Street Apartments is now operating under a three-year period following the termination of the affordability commitment. The owner is prohibited from increasing the gross rent of low-income units except as allowed under Section 42, IRC, and may not evict or terminate the tenancy of low-income tenants without good cause. Your Committee notes this three-year period is a window of opportunity during which the State Legislature may act to secure the long-term affordability of Front Street Apartments and find a remedy to address the tenants' housing situation.

By correspondence dated November 16, 2017, the Acting Director of Finance confirmed that, in addition to tax credits, Front Street Apartments received a subsidy from the County in the form of real property tax

COUNCIL OF THE COUNTY OF MAUI
HOUSING, HUMAN SERVICES, AND
TRANSPORTATION COMMITTEE

Page 3

Committee
Report No. 17-178

exemptions for the years 2001 through 2017. This subsidy totaled \$2,103,662.52 in tax relief to the owners for this period.

Your Committee fully supports the State Legislature's efforts to introduce legislation to resolve the affordability of Front Street Apartments.

Your Committee recommended a nonsubstantive revision to the proposed resolution allowing certified copies to be sent to the Executive Director of the HHFDC.

Your Committee voted 5-0 to recommend adoption of the revised proposed resolution. Committee Chair Crivello, Vice-Chair Carroll, and members Atay, King, and White voted "aye." Committee members Guzman and Hokama were excused.

Your Committee is in receipt of a revised proposed resolution, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended nonsubstantive revision.

Your Housing, Human Services, and Transportation Committee **RECOMMENDS** that Resolution 17-168, attached hereto, entitled "URGING THE GOVERNOR OF THE STATE OF HAWAII AND THE HAWAII STATE LEGISLATURE TO SUPPORT AFFORDABLE HOUSING AT FRONT STREET APARTMENTS," be **ADOPTED**.

COUNCIL OF THE COUNTY OF MAUI
**HOUSING, HUMAN SERVICES, AND
TRANSPORTATION COMMITTEE**

Page 4

**Committee
Report No. 17-178**

This report is submitted in accordance with Rule 8 of the Rules of the Council.



STACY CRIVELLO, Chair

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Resolution

No. 17-168

URGING THE GOVERNOR OF THE STATE OF HAWAII AND THE HAWAII STATE LEGISLATURE TO SUPPORT AFFORDABLE HOUSING AT FRONT STREET APARTMENTS

WHEREAS, Front Street Apartments located adjacent to Kenue Street and Wainee Street, Lahaina, Maui, Hawaii consists of 142 affordable housing units and related structures, totaling six buildings on 8.538 acres of land, and situated on property identified by tax map key (2) 4-5-003:013; and

WHEREAS, in addition to certain exemptions and waivers provided by the County, the State of Hawaii and Federal governments provided more than \$1.5 million in tax credits to develop Front Street Apartments; and

WHEREAS, Front Street Apartments was intended to remain affordable for 50 years, according to an Affordability Commitment expiring on December 31, 2051; and

WHEREAS, a loophole in the Internal Revenue Service tax code allows for owner, Front Street Affordable Housing Partners, to sell the complex after 15 years, thereby removing Front Street Apartments from the affordable rental market; and

WHEREAS, West Maui, including Lahaina, has the highest average rents in the County, and currently provides an insufficient number of low-income housing for the area, causing many West Maui residents to move or travel outside of the region, further contributing to increased traffic congestion, and burdening roadways and infrastructure; and

WHEREAS, an estimated 75 to 80 percent of Front Street Apartment tenants are employed, but will be unable to afford rent if the complex is sold, while the remaining 15 to 20 percent of tenants are disabled or retired and living on fixed incomes; and

WHEREAS, Maui County, as a whole, is experiencing an increase in homelessness and there is a continual struggle to provide affordable housing units for residents; and

Resolution No. 17-168

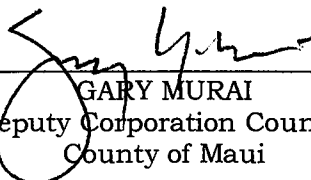
WHEREAS, over the next 10 years, Maui alone is in need of 13,949 affordable units, or over 1,000 affordable units per year, in order to meet the community's growing demands for affordable housing; and

WHEREAS, the removal of Front Street Apartments from the affordable rental unit inventory will exacerbate the affordable housing crisis on Maui and in our State; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it does hereby urge the Governor of the State of Hawaii and the Hawaii State Legislature to support affordable housing at Front Street Apartments; and
2. That certified copies of this Resolution be transmitted to the Governor of the State of Hawaii; the President of the State Senate; the Speaker of the State House of Representatives; the County's delegation to the State Legislature; the Mayor of the County of Maui; the Corporation Counsel; the Director of Housing and Human Concerns; and the Executive Director of the Hawaii Housing Finance & Development Corporation.

APPROVED AS TO FORM AND LEGALITY



GARY MURAI
Deputy Corporation Counsel
County of Maui

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