

Housing and Land Use Committee (2025-2027) on 2025-05-14 9:00 AM

Meeting Time: 05-14-25 09:00

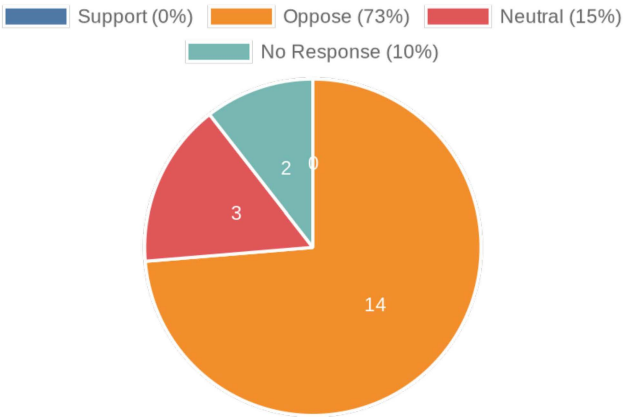
eComments Report

Meetings	Meeting Time	Agenda Items	Comments	Support	Oppose	Neutral
Housing and Land Use Committee (2025-2027) on 2025-05-14 9:00 AM	05-14-25 09:00	2	19	0	14	3

Sentiments for All Meetings

The following graphs display sentiments for comments that have location data. Only locations of users who have commented will be shown.

Overall Sentiment



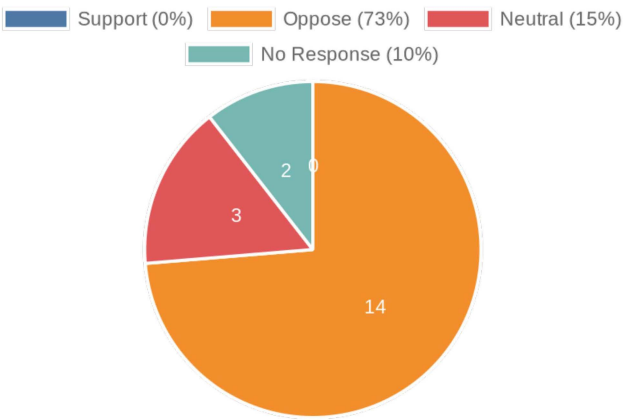
Housing and Land Use Committee (2025-2027) on 2025-05-14 9:00 AM
05-14-25 09:00

Agenda Name	Comments	Support	Oppose	Neutral
A G E N D A	2	0	2	0
HLU-6 Bill 40 (2025) BILL 40 (2025), AMENDING CHAPTERS 2.96, 2.97, AND 3.44, MAUI COUNTY CODE, ON RESIDENTIAL WORKFORCE HOUSING UNITS (HLU-6)	17	0	12	3

Sentiments for All Agenda Items

The following graphs display sentiments for comments that have location data. Only locations of users who have commented will be shown.

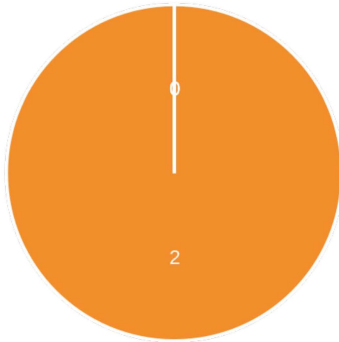
Overall Sentiment



Agenda Item: eComments for A G E N D A

Overall Sentiment

Support (0%) Oppose (100%) Neutral (0%)
No Response (0%)



Stan Franco

Location:

Submitted At: 10:31am 05-14-25

Sorry, but I did not know how to unmute my computer audio. I just wanted to say that we should not change the preference requirement from long-term length of residence to 3 years. We talk about wanting to keep our kupuna and their family on Maui, but we continue to not give priority to our long time residents. For me, I have history with 2.96 including asking then Council member Danny Mateo to talk to us at Tasha Kama's church in Wailuku about inclusionary zoning and I support this bill. It required 50% of the homes for individuals and families making from 80% to 140% of AMI. Then a subcommittee of the Council met and decided to recommend to the full Council the change from 50% to 25%. And now the effective rate is 20%. I have heard over and over again that 2.96 has not created affordable homes for our residents and I agree. Yet we continue to tweak the provisions of this law. The Maui Housing Plan determined that 85% of the homes needed for our long time residents should be for folks with incomes from 0 to 80%. Presently, we do not have any law to require homes be built for the majority of our local people. I ask that you focus your efforts on our long term residents and their kids and grandkids. In conclusion, I ask that you maintain the language in Bill 111 to give preference to long-time residents and not for folks that only have been here for 3 years.

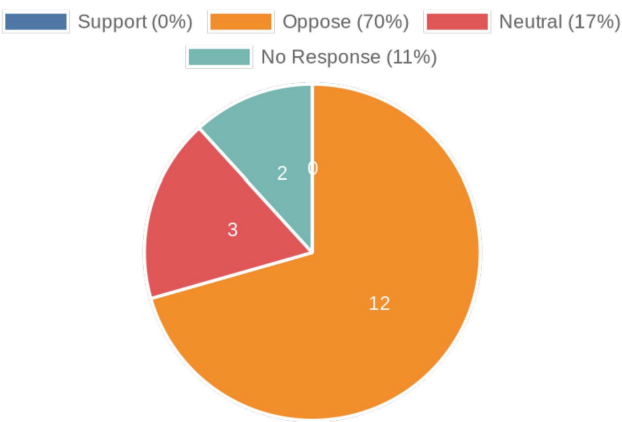
Guest User

Location:

Submitted At: 9:05am 05-14-25

Aloha, my name is Janice Hill, 55 year-Maui resident. I am against amendment 40. Mayor Bissen ran on Kama_aina Prosperity. This change gives Malihini more privilege contributing to the injustice of luxury home priorities over residential needs in approving developments like Wailea 670! Why?

Overall Sentiment



James Langford

Location:
Submitted At: 10:13am 05-14-25
...

Scroll ID: LCT-HLU-B40-ATTACH-LEDGER-2025-05-14
Title: Attachment Ledger & Charter Integrity Matrix — Bill 40 (2025) CD1

Filed By: James RCS Langford • 12 Stones Global Inc.
Charter Anchor: Article VI (Land) | Article XIII (Economic Trust) | Article XIV (RAIS Integrity)

PURPOSE
This ledger catalogs every primary record in the HLU-6 docket for Bill 40 (2025) and maps each item to the relevant 12 Stones Charter clause, RAIS event code, and required follow-up. Once approved, the ledger will be exported to the Civic Portal and hashed to the RAIS chain.

ATTACHMENT MATRIX

#	Doc Date	Legistar / Source	RAIS Event ID	One-Line Summary	Charter Link	Action Status
1	**03-18-25**	Corr. to Corp Counsel	`RAIS-HLU6-01`	Seeks legal opinion on expanding County purchase power.	Art VI §6.3 (a)	Logged
2	**03-20-25**	Housing Memo (Chair)	`RAIS-HLU6-02`	Dept. Housing lists 1,842 deed-restricted units at risk.	Art VI §6.2 (c)	Logged
3	**03-20-25**	Resource-Person Letters	`RAIS-HLU6-03`	Realtors & lenders urge 30-yr covenants.	Art XIII	Summarized
4	**03-20-25**	Public Testimonies	`RAIS-HLU6-04`	~68 % oppose bill; key fears: rent caps, power-grab.		

Art XIV | Sentiment tagged |
5	**03-20-25**	eComments Report	`RAIS-HLU6-05`	Digital tally mirrors live testimony (65 % oppose).	Art XIV	Parsed _
6	**03-24-25**	Follow-up to Corp Counsel	`RAIS-HLU6-06`	Requests clarification on escrow audit trail.	Art XIV §14.1 (d)	Await reply
7	**03-25-25**	Follow-up to Housing	`RAIS-HLU6-07`	Asks for expiring-covenant map by moku region.	Art VI	Data pending
8	**04-01-25**	Opinion from Corp Counsel	`RAIS-HLU6-08`	Confirms Council may delegate acquisition authority.	Art VI §6.3	Logged _
9	**04-10-25**	Housing Data Upload	`RAIS-HLU6-09`	CSV of at-risk units w/ deed expiry dates.	Art VI	Imported
10	**05-07-25**	Amendment Summary CD1	`RAIS-HLU6-10`	Adds 7-yr credit shelf life; 30/50-yr deed terms.	Art VI & XIII	Synced _

(Sources: Legistar master file & PDFs :contentReference[oaicite:0]{index=0})

_. GAP FLAGS

RAIS ID	Gap	Recommended Fix	Owner	Due
02	Missing GIS layer of expiring units	Housing to export shapefile	Dept. Housing	05-21-25
04-05	No structured sentiment metadata	Run sentiment NLP & attach JSON	Data Team	05-16-25
06	Escrow audit protocol undefined	Insert RAIS webhook clause in bill text	Council Floor	05-17-25

_. CHARTER CONFORMITY SCORE

Overall compliance (post-CD1): ****A-****

Pending fixes (rent-cap clause, RAIS webhook) will raise score to ****A****.

_. NEXT STEPS (48 hrs)

1. ****File Floor Amendments**** (rent cap, right-of-first-refusal, RAIS logging).
2. ****Publish this ledger**** to Civic Portal _ `/docs/HLU6_B40_charter_ledger.pdf`.
3. ****Push RAIS hashes**** (`hash256.json`) to chain node `g13-Integrity`.

Prepared & certified under the Jubilee Law Scroll.

— ****James RCS Langford****, Executive Director

12 Stones Global Inc. (501(c)(3) EIN 92-1334520)

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## Guest User

Location:

Submitted At: 9:54am 05-14-25

Aloha Chair and Members of the Maui County Council,

My name is Ke\_mailani Yamane, and I am submitting this testimony in strong opposition to Bill 40, which seeks to amend Bill 111 and reduce the residency requirement for workforce housing eligibility on Maui from 10 years to just 3 years.

Bill 111 was passed with one purpose: to protect long-term Maui residents—including Native Hawaiians and multi-generational local families—from being pushed out of their homeland by skyrocketing real estate prices and outside interests. To dismantle these protections now, amid a worsening housing crisis, is not only irresponsible but a betrayal of our community's trust.

Let me be clear: three years is not enough.

Maui is one of the most desirable places in the world to live. Reducing the residency requirement will flood the workforce housing lottery with newer residents who, while important members of our community, have not endured the same generational struggle to remain here. Bill 40 would make it even harder for kama\_\_ina—those who were born and raised here, who have family and cultural ties to this land—to access housing.

According to the University of Hawai'i Economic Research Organization (UHERO), the median single-family home price on Maui exceeded \$1.4 million in 2023. In contrast, the average annual salary in Maui County is around \$61,420 (U.S. Bureau of Labor Statistics, 2023). That's roughly 23 times the median income, far beyond the federal definition of "affordable housing."

Let's be real: we had a housing crisis before the Lahaina fires. After the fires, that crisis turned into a full-blown emergency. Thousands were displaced, and many remain in temporary housing with no path to permanent residence on the island.

Native Hawaiians are among the most displaced populations in the state. A 2020 report by the Office of Hawaiian Affairs (OHA) and Kamehameha Schools found that nearly half of Native Hawaiians now live outside of Hawai'i, primarily because of the high cost of living and lack of housing. Bill 111 was a necessary step toward preventing that same displacement from continuing on Maui.

To weaken it now with Bill 40 would accelerate the erasure of Native Hawaiians and long-time local residents from the very place we call home.

Workforce housing was intended to support Maui's workers—teachers, firefighters, hotel and restaurant staff, lifeguards, flight attendants, cultural practitioners—who grew up here and are raising the next generation here. These are the people who keep our community functioning, and they are being priced out and pushed out.

To allow people who have only lived here for three years equal access to limited workforce housing ignores the reality that our supply is not nearly enough. The current 10-year residency requirement helps ensure that housing goes to those who have spent their lives contributing to this community, and who face the greatest risk of displacement.

I urge you to reject Bill 40. We cannot afford to give up the little ground we've gained. If Maui is to remain Maui, it must remain home to its people—not just a postcard for those who can afford it.

Mahalo for your time and consideration.

Respectfully,  
Ke\_\_mailani Yamane

**Guest User**

Location:

Submitted At: 9:52am 05-14-25

Aloha Chair and Committee Members,

On behalf of Maui Nui Resiliency Hui, mahalo for your many meetings, public discussions, and the countless hours you've devoted to strengthening Maui's Residential Workforce Housing Policy. Your work reflects the urgency of a growing crisis—the displacement of our people from their ancestral home.

We are writing in support of several provisions in Bill 40, which take important steps to protect affordable housing for the long-term benefit of our community. We especially support:

- \_\_ The extension of deed restrictions to 99 years on County-owned land, to keep affordable housing affordable for generations;
- \_\_ The phasing out of residential workforce housing credits, which have long been exploited as loopholes;
- \_\_ Promoting owner-occupancy and long term rentals with rent control to help families build generational wealth; and
- \_\_ The removal of unnecessary bureaucratic barriers that delay County acquisition of workforce housing units.

These are great steps forward and we know we can do even better.

## **Bill 111 Must Be Incorporated – Prioritize Longtime Residents**

We cannot talk about protecting kama\_\_ina housing without acknowledging Bill 111, passed in 2021, which created a weighted lottery system prioritizing longtime Maui residents. This policy was a breakthrough, modeled after anti-displacement measures used in cities like Washington, D.C. and provided a legal and equitable way to ensure that generational families and those who've called Maui home the longest aren't pushed to the back of the line.

Bill 40, as currently written, erases these hard-won protections. Instead of upholding the weighting system, it tosses longtime Maui County families into a disenfranchising pool with others after only 3 years of residency. That means our k\_puna, who have lived here their entire lives, now compete equally with someone who just moved here 3 years ago. That means our keiki, born and raised here, face the same odds as a buyer from the continent who landed here in 2021.

That is not housing justice. That is a betrayal.

We've all waited patiently for Bill 111 to be enacted while the DHHC bifurcation was carried out and now, before its development, it is proposed for removal. This is a huge disservice to our community. It deserves a chance to thrive like we do. Lahaina Community Land Trust is already implementing a similar system. It's possible. It's legal. It's urgent.

### **Our Ask: Strengthen Bill 40 with the Protections of Bill 111**

We respectfully urge this Committee to incorporate certain language and to uphold the main intent of Bill 111 into Bill 40. If deadlines are the issue, set new ones. If administrative capacity is lacking, build it. But do not erase the most community supported policy we've seen in years without even giving it a chance.

This is a moment of truth for Maui County: Will we prioritize our own people or will we open the door wider to speculative development and quiet displacement?

Every year, more families are priced out, bought out, and pushed out. Bill 40 is a chance to take a stand. But only if it protects not just housing units but the people those homes are meant for.

## **Highlights & Recommended Amendments to Strengthen Bill 40 (Please see proposed bill with incorporated amendments):**

- 1. Incorporate Bill 111:** Prioritize longtime residents by length of residency in the selection process. Do not eliminate this essential protection.
- 2. Clarify AMI Categories:** Include Area Median Income (AMI) ranges directly within each section where "very low," "low," "moderate," or "above moderate" is referenced, so readers do not have to refer back to definitions in Section 2.96.
- 3. Equity in Housing Credits:** Require that any housing credit issued be used for the same income group for which it was received. This was a recommendation by a prior Deputy Director and ensures fairness across income levels.
- 4. Phase Out Housing Credits Entirely:** We support this long-overdue reform. Housing credits have enabled speculative gaming of the system for far too long.
- 5. Support Longer Deed Restrictions:** We support increasing deed-restriction periods and are especially in favor of the 99-year restriction for ownership units on County-owned lands.
- 6. Foreclosure Safeguards:** Consider adding a right to purchase provision during foreclosure, so that the County or a qualified nonprofit may purchase the property and preserve it as workforce housing.
- 7. Owner-Occupancy in Perpetuity or Long-Term Rental with Rent Control:** Section 4 is especially important—we support restricting units to either permanent owner-occupancy or long-term rentals with enforceable rent control to prevent market rate creep.
- 8. Use Unit Size, Not Household Size, for Rent Caps:** Replace "for a family of 4" with "by unit size" when referencing 100% AMI. HUD rental charts are based on unit size, not household size, and this will better achieve the objective of capping rents appropriately.
- 9. Annual Reporting on Exemptions:** Clarify what use is allowed under the "various hardships or circumstances" exemptions from ownership units requirements. Do they allow STRs? Leaving units vacant? Second-home use? Require annual reporting on all granted exemptions to protect the integrity of the policy.
- 10. County First Right to Purchase:** Any units that remain unsold should be offered to the County or a local nonprofit before being listed at market price or sold to nonresidents.

## **Final Thought**

Housing is not a commodity; it is the foundation of our future. If we are serious about resilience, about justice, and about keeping local lands in local hands, we must center our policies around the people who built this community. Please include these amendments, especially certain provisions of Bill 111, in the final version of Bill 40. Our future depends on it.  
Mahalo for your time, your leadership, and your continued commitment to housing justice.  
Please see the emailed proposed amendments.

Mahalo,  
Kai Nishiki & Sarah Freistat-Pajimola, Executive Directors,  
Maui Nui Resiliency Hui

Building a future where kama\_\_ina can live, work, and thrive in their homeland.

**Guest User**

Location:

Submitted At: 9:30am 05-14-25

"Subject: Strongly Oppose Bill 40 without amendments to include provisions of Bill 111.

Aloha Maui County Council Members,

This is to **STRONGLY OPPOSE** Bill 40 which could gut protections that prioritize affordable housing for longtime kama\_\_ina. This bill is to be heard tomorrow, Wednesday 5/14/2025 at 9 am.

Up until 2021, anyone could move to Maui, call themselves a resident, and get into the affordable housing lottery. There were no weights given to long-time Maui residents.

In 2021, the County Council passed Bill 111, creating a weighted lottery that prioritized residents for affordable housing based on how long they've lived in Maui County.

That meant that k\_puna who have lived on Maui their entire lives, would get weighted in the lottery over someone who has just moved here. Bill 111 was modeled after anti-displacement policies in Washington D.C. and was lauded as a creative way to prioritize our residents, while still being in compliance with fair housing laws.

Since 2021, we have been patiently waiting for that law to go into effect.....but on Wednesday, Council Member Tasha Kama\_s bill will attempt to **UNDO** those protections, before our community has even had a chance to benefit. Her bill (Bill 40) will erase Bill 111, and instead, prioritize anyone who has lived in Maui County for over 3 years.

That puts our k\_puna back in a random pool with everyone else.

That puts our young families, born and raised on Maui, back into a random pool with someone who moved here 3 years ago.

Bill 111 is **THE** answer to the problem we know so well. Affordable housing project gets built....."affordable for **WHO?**" people ask. Bill 111 is the **ONLY** thing that puts long time residents in the front of the line.

**IF** the deadline is the issue, then include a new deadline in Bill 40 with the same language, and **GET TO WORK PUTTING OUR PEOPLE FIRST.**

Melissa Glennon

**Maui Nui Resiliency Hui Nishiki-Pajimola**

Location:

Submitted At: 9:04am 05-14-25

Aloha, Please see the attached bill offering amendments to Bill 40 CD1 (2025) to prioritize residential workforce housing based on length of residency and temporarily continue the current process of developer managed wait list until the Department of Housing informs the Council that it is ready to run a County wait list and lottery, something we wholeheartedly support and beseech the Housing Department to work towards expeditiously.

Mahalo, Maui Nui Resiliency Hui

**Guest User**

Location:

Submitted At: 7:15am 05-14-25

Aloha Maui County Council Members,

This is to **STRONGLY OPPOSE** Bill 40 which could gut protections that prioritize affordable housing for longtime kama\_\_ina. This bill is to be heard tomorrow, Wednesday 5/14/2025 at 9 am.

Up until 2021, anyone could move to Maui, call themselves a resident, and get into the affordable housing lottery. There were no weights given to long-time Maui residents.

In 2021, the County Council passed Bill 111, creating a weighted lottery that prioritized residents for affordable housing based on how long they've lived in Maui County.

That meant that k\_puna who have lived on Maui their entire lives, would get weighted in the lottery over someone who has just moved here. Bill 111 was modeled after anti-displacement policies in Washington D.C. and was lauded as a creative way to prioritize our residents, while still being in compliance with fair housing laws.

Since 2021, we have been patiently waiting for that law to go into effect.....but on Wednesday, Council Member Tasha Kama\_s bill will attempt to UNDO those protections, before our community has even had a chance to benefit. Her bill (Bill 40) will erase Bill 111, and instead, prioritize anyone who has lived in Maui County for over 3 years.

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Bill 111 is THE answer to the problem we know so well. Affordable housing project gets built....."affordable for WHO?" people ask. Bill 111 is the ONLY thing that puts long time residents in the front of the line.

IF the deadline is the issue, then include a new deadline in Bill 40 with the same language, and GET TO WORK PUTTING OUR PEOPLE FIRST.

Thank you!

Sincerely, Rochelle Coop

88-280-2666

7 Hoolai st. Makawao HI. 96768

### **Guest User**

Location:

Submitted At: 7:14am 05-14-25

Aloha,

Please reject Bill 40 and these attempts to replace Bill 111 with a weaker bill. It is past time for Bill 111 to be implemented with a county-run lottery list prioritizing residents by years of residency.

This proposal is short sighted and puts developers wants above our community's needs.

If you want to support a common sense lottery list, then use these resources to implement Bill 111.

The key differences are:

- Bill 40 allows developers to continue controlling the lottery list (manipulating the process).
- Bill 40 treats residents of 3 years with the same priority as residents of 30 years. Pushing K\_puna and generational families to the back of the line behind recent transplants to Maui County.

This bill is a waste of time when we have a better bill sitting on the shelf for 4 years just waiting to be implemented.

Please reject Bill 40 and get to work on implementing Bill 111.

Mahalo,

Stacey Alapai

### **Guest User**

Location:

Submitted At: 4:21am 05-14-25

Aloha Maui County Council Members,

This is to **STRONGLY OPPOSE** Bill 40 which could gut protections that prioritize affordable housing for longtime kama\_\_ina. This bill is to be heard tomorrow, Wednesday 5/14/2025 at 9 am.

Up until 2021, anyone could move to Maui, call themselves a resident, and get into the affordable housing lottery. There were no weights given to long-time Maui residents.

In 2021, the County Council passed Bill 111, creating a weighted lottery that prioritized residents for affordable housing based on how long they've lived in Maui County.

That meant that k\_puna who have lived on Maui their entire lives, would get weighted in the lottery over someone

who has just moved here. Bill 111 was modeled after anti-displacement policies in Washington D.C. and was lauded as a creative way to prioritize our residents, while still being in compliance with fair housing laws. Since 2021, we have been patiently waiting for that law to go into effect.....but on Wednesday, Council Member Tasha Kama\_s bill will attempt to UNDO those protections, before our community has even had a chance to benefit. Her bill (Bill 40) will erase Bill 111, and instead, prioritize anyone who has lived in Maui County for over 3 years.

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Bill 111 is THE answer to the problem we know so well. Affordable housing project gets built....."affordable for WHO?" people ask. Bill 111 is the ONLY thing that puts long time residents in the front of the line.

IF the deadline is the issue, then include a new deadline in Bill 40 with the same language, and GET TO WORK PUTTING OUR PEOPLE FIRST.

Mahalo

M. Elizabeth May  
VP General Manager  
AAAAA Rent A Space  
3600 Lower Honoapiilani Rd.  
Lahaina HI 96761  
Office (808) 669-5200  
Fax (808) 669-7041  
Cell (808) 721-5909  
www.5aspace.com

Sent from my iPhone

**Guest User**

Location:

Submitted At: 8:43pm 05-13-25

Aloha Maui County HLU Committee & Council Members,

Bill 40 threatens to undo the progress of Bill 111, which was designed to address a critical need in our community. For decades, longtime Maui residents have faced increasing challenges to secure affordable housing due to rising property values and an influx of non-resident buyers. Bill 111 represented hope—a way to ensure that those who have built their lives and contributed to the fabric of our community are not displaced. It is essential to uphold measures that prioritize housing for residents who have deep roots in Maui County, rather than paving the way for policies that cater to external interests. Let us stand together to protect the spirit and sustainability of our island community by resisting Bill 40 and advocating for the full implementation of Bill 111.

Mahalo,  
Kelcy A

**Guest User**

Location:

Submitted At: 8:25pm 05-13-25

Aloha HLU Chair and Committee members,

I write in Strong Opposition to Bill 40 that guts protections for longtime residents in the affordable housing lottery list. This housing should be prioritized for those who have been longstanding members of and contributors to Maui County. Three years is nothing compared to the people who have called Maui County home for all or most of their lives; the families with generational ties. As a resident of over ten years, I understand the need to prioritize those who have been here before me.

Thank you for your consideration, and for supporting actions like Bill 111 that puts longtime residents first.

Jen Cox  
Upcountry Maui resident since 2011

**Guest User**

Location:  
Submitted At: 8:02pm 05-13-25

Aloha,

From what I understand, up until 2021, anyone could move to Maui, call themselves a resident, and get into the affordable housing lottery. There were no weights given to long-time Maui residents.

In 2021, the County Council passed Bill 111, creating a weighted lottery that prioritized residents for affordable housing based on how long they've lived in Maui County.

That meant that k\_puna who have lived on Maui their entire lives, would get weighted in the lottery over someone who has just moved here. Bill 111 was modeled after anti-displacement policies in Washington D.C. and was lauded as a creative way to prioritize our residents, while still being in compliance with fair housing laws.

This is the intent and outcome I'm looking for: priority to long-term residents.

No on Bill 40. Find a way to implement Bill 111.

Mahalo,  
Sarah Tomastik  
96753 since 2017

**HLU Committee**

Location:  
Submitted At: 7:19pm 05-13-25

Testimony received from HLU Committee

**Dale A Chappell**

Location:  
Submitted At: 6:28pm 05-13-25

Aloha Maui County HLU Committee & Council Members,

This is to STRONGLY OPPOSE Bill 40 which could gut protections that prioritize affordable housing for longtime kama\_\_ina. This bill is to be heard tomorrow, Wednesday 5/14/2025 at 9 am. Please show empathy and ethics toward those already living here a long time.

Thank you.

**Guest User**

Location:  
Submitted At: 6:19pm 05-13-25

I Strongly Oppose Bill 40 without amendments to include provisions of Bill 111.

In 2021, the County Council passed Bill 111, creating a weighted lottery that prioritized residents for affordable housing based on how long they've lived in Maui County.

That meant that k\_puna who have lived on Maui their entire lives, would get weighted in the lottery over someone who has just moved here. Bill 111 was modeled after anti-displacement policies in Washington D.C. and was

lauded as a creative way to prioritize our residents, while still being in compliance with fair housing laws. Since 2021, we have been patiently waiting for that law to go into effect.....but on Wednesday, Council Member Tasha Kama\_s bill will attempt to UNDO those protections, before our community has even had a chance to benefit. Her bill (Bill 40) will erase Bill 111, and instead, prioritize anyone who has lived in Maui County for over 3 years.

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Bill 111 is THE answer to the problem we know so well. Affordable housing project gets built....."affordable for WHO?" people ask. Bill 111 is the ONLY thing that puts long time residents in the front of the line.

IF the deadline is the issue, then include a new deadline in Bill 40 with the same language, and GET TO WORK PUTTING OUR PEOPLE FIRST.

Most sincerely and mahalo for your time,  
Deva Ann Chappell

Maui resident 43 yrs

#### **Guest User**

Location:

Submitted At: 12:37pm 05-13-25

Aloha Maui County HLU Committee & Council Members,

This is to STRONGLY OPPOSE Bill 40 which could gut protections that prioritize affordable housing for longtime kama\_\_ina. This bill is to be heard tomorrow, Wednesday 5/14/2025 at 9 am.

Up until 2021, anyone could move to Maui, call themselves a resident, and get into the affordable housing lottery. There were no weights given to long-time Maui residents.

In 2021, the County Council passed Bill 111, creating a weighted lottery that prioritized residents for affordable housing based on how long they've lived in Maui County.

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IF the deadline is the issue, then include a new deadline in Bill 40 with the same language, and GET TO WORK PUTTING OUR PEOPLE FIRST.

Mahalo,

Joseph Kohn MD

Founder, We Are One, Inc. - [www.WeAreOne.cc](http://www.WeAreOne.cc) - WAO

493 Pio Dr Apt 209  
Wailuku, HI 96793-2641  
808-359-6605  
Joseph@WeAreOne.cc  
www.WeAreOne.cc

**Stan Franco**

Location:

Submitted At: 12:20pm 05-13-25

No to Bill 40. The Maui County Council has already passed legislation to make affordable housing a priority to local residents by the length of time living and working on Maui. This makes sense to me and this change to a 3 year period does not help our longtime residents. Every Council member promised to make affordable homes a priority and as soon as they are elected they redo legislation already done to make that promise a reality. Why?

**Jonathan Helton**

Location:

Submitted At: 11:42am 05-13-25

Please see attached.

ORDINANCE NO. \_\_\_\_\_

BILL NO. 40, CD1 (2025)

A BILL FOR AN ORDINANCE AMENDING CHAPTERS 2.96, 2.97, AND 3.44,  
MAUI COUNTY CODE, ON RESIDENTIAL WORKFORCE HOUSING UNITS

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. The Council finds that the Residential Workforce Housing Policy is not meeting the needs of Maui County residents. Therefore, this Ordinance's purposes are to:

1. Adjust the policy to promote retention of units available for owner occupancy.
2. Expedite the County's acquisition of Residential Workforce Housing units by exempting their purchase from the requirement of Council approval.
3. Increase the deed-restriction period for ownership units to preserve their benefit to the community.
4. Make other refinements to foster the production and protection of the County's residential workforce housing units.

SECTION 2. Section 2.96.040, Maui County Code, is amended by amending Subsection C to read as follows:

"C. Income group distribution.

1. Unless an exemption is granted by the director, the percentage of ownership units within each income group [shall] must be as follows:

a. Thirty percent of the ownership units [shall be] for “below-moderate income” residents (80-100 percent AMI).

b. [Fifty] Forty percent of the ownership units [shall be] for “moderate income” residents (100-120 percent AMI).

c. [Twenty] Thirty percent of the ownership units [shall be] for “above-moderate income” residents (120-140 percent AMI).

2. Unless an exemption is granted by the director, the percentage of rental units within each income group [shall] must be as follows:

a. One-third of the rental units [shall be] for “very low income” (50 percent and below AMI) and “low income” (50-80 percent AMI) residents.

b. One-third of the rental units [shall be] for “below-moderate income” residents (80-100 percent AMI).

c. One-third of the rental units [shall be] for “moderate income” residents (100-120 percent AMI).”

SECTION 3. Section 2.96.050, Maui County Code, is amended to read as follows:

**“2.96.050 Residential workforce housing credits.** A. Credits may be issued by the director, upon request by the developer, [provided that:] subject to the following:

1. Each residential workforce housing unit constructed in the development [shall] must be encumbered by a recorded deed restriction that meets the requirements of this chapter.

2. Each residential workforce housing unit [shall] must be sold or rented to an [income eligible] income-eligible individual.

3. Credits may only be issued for each residential workforce housing unit sold or rented to an [income eligible] income-eligible individual in the appropriate income group, [that] which is in excess of the residential workforce housing requirement [set forth] in section 2.96.040[, provided]; except that[,] for those developments [comprised] composed of [one hundred] 100 percent residential workforce housing units, only [seventy-five] 75 percent of the residential workforce housing units sold or rented to [income eligible] income-eligible individuals [shall] will be eligible for credits[. Further provided that,]; and developments [comprised] composed of

[one hundred] 100 percent residential workforce housing units that are to be rented to households whose gross annual family income is [sixty] 60 percent or less of the area median income as established by HUD, or as adjusted by the department for [Hana,] Hāna, [Lanai,] Lānaʻi, and Molokai, [shall] will be eligible for credits for each residential workforce housing unit constructed.

4. Notwithstanding the foregoing, for those developments developed [pursuant to] under chapter 201H, [Hawaii] Hawaiʻi Revised Statutes, only those developments [comprised] composed of [one hundred] 100 percent residential workforce housing units [shall] will be eligible to receive credits. Credits may only be issued for those residential workforce housing units sold or rented to [income eligible] income-eligible individuals in the appropriate income groups, in excess of [fifty] 50 percent of the total number of residential workforce housing units constructed.

B. The credit may be used in any community plan area.

C. The credit may satisfy the requirement for any type of unit constructed.

D. The credit may only satisfy the requirement for a unit within any the same income group for which it was received.

E. The credit may be used for a future development[,] but may not be used for an affordable housing or residential workforce housing unit owed at the time the credit is given.

F. The number of credits issued [shall] must be [set forth] in the residential workforce housing agreement.

G. Residential workforce housing credits may not be issued or used after January 1, 2050."

SECTION 4. Section 2.96.060, Maui County Code, is amended to read as follows:

**"2.96.060 Residential workforce housing restrictions—ownership units. A. Timing of completion.**

1. Residential workforce housing units [shall] must be made available for occupancy either before or concurrently with market rate units at the same ratio required of the development.

2. Certificates of occupancy [shall] may not be issued [and/or] and final inspections [shall] may not be passed for the market rate units unless certificates of occupancy are issued [and/or] and final inspections are passed for the residential workforce housing units concurrently or sooner.

B. Deed restrictions.

1. [The] Multifamily or two-family ownership units within each income group [shall be] are subject to the deed restrictions contained in this section for the following periods:

a. "Below-moderate income[.]" (80-100 percent AMI): [ten] 12 years.

b. "Moderate income[.]" (100-120 percent AMI): [eight] 10 years.

c. "Above-moderate income[.]" (120-140 percent AMI): [five] eight years.

2. Single-family ownership units within each income group are subject to the deed restrictions contained in this section for the following periods:

a. "Below-moderate income" (80-100 percent AMI): 15 years.

b. "Moderate income" (100-120 percent AMI): 12 years.

c. "Above-moderate income" (120-140 percent AMI): 10 years.

3. Ownership units on County-owned land will be subject to deed restrictions for 99 years.

[2.] 4. For the deed-restricted period, the following [shall] apply:

[a. The unit must be owner-occupied.

b.] a. The owner must notify the department upon a decision to sell.

[c.] b. Upon the owner's decision to sell, the County [shall have] has the first option to purchase the unit from the owner; [said] the option [shall] will be available to the County for a period of [ninety] 60 days from receipt of written notice from the owner.

[d.] c. Upon sale of the unit, the deed restrictions [shall] remain in full force and effect for the remainder of the deed-restricted period that [commenced] began at the time of the initial sale.

[e. Under special circumstances an owner of a residential workforce housing unit may appeal to the department for a waiver of the owner-occupancy deed restriction; these circumstances would include, but are not limited to, assignment to active military duty or short-term contracts for off-island employment.

f. Resale. The] d. The department must set the maximum resale price [shall be established by the department] using the following guidelines:

i. An appraisal of the property [shall be] is required before occupancy.

ii. A second appraisal [shall be] is required upon a decision to sell the unit.

iii. Twenty-five percent of the difference between the two appraisals [shall] must be added to the owner's purchase price.

[g.] e. An owner of a residential workforce housing unit that is being resold must sell the unit to an income-qualified household and notify the department of the sale. The department [shall] must [verify] approve the sales price.

[h.] f. ~~The restrictions [contained] in subparagraphs [2a] 4a through [2g above shall] 4e do not apply i~~ In situations of foreclosure, the County has the first option to purchase the unit from the mortgage holder; the option will be available to the County for a period of 60 days from receipt of written notice from the mortgage holder.

C. Ownership units must be occupied by the owner in perpetuity or used in perpetuity as a long-term rental under section 3.48.466, with rent no more than HUD's current affordable rent guidelines for a family of four by unit size at 100 percent of the area median income, not including utilities and without income restrictions, unless the director finds the requirement would cause undue hardship, including one or more of the following:

1. The owner is assigned to active military duty.
2. The owner has medical needs requiring relocation.
3. The owner is experiencing domestic violence and requires relocation.
4. The owner is temporarily employed outside of the County.

The director shall submit an annual report to the Council for any discretionary exemptions approved in this section.

[C.] D. Sales price—dwelling units.

1. The sales price of a new dwelling unit must be established by the department using the current HUD area median income for Maui County and adjusted for very low, low, below moderate, moderate, above moderate, and gap income ranges. The sales price must be calculated using estimated total housing costs capped at 31 percent of gross annual income within each range when a developer receives direct County subsidies in accordance with section 3.35.040. Total housing costs include principal, interest, real property taxes, homeowner's insurance, mortgage insurance, and homeowner's association dues.

2. The sales price must be calculated using only principal and interest capped at 28 percent of gross annual income within each range when a developer does not receive direct County subsidies.

3. The department must create a program within the homeowner programs revolving fund to ensure affordability of units for buyers of workforce housing in projects that have been priced according to [section 2.96.060(C)(2).] paragraph (D)(2). Subsidies from this program must be used to subsidize qualified buyers in an amount necessary [such] so that a recipient's final estimated total housing cost does not exceed 31 percent of their household income. Subsidies from this program may be in the form of loans, grants, deferred mortgage payments, or any other mechanism the council finds appropriate. Any proposed subsidy to a homebuyer from this program must be administered in accordance with chapter 3.34.

4. The council may authorize a waiver of any provision of this chapter by resolution approved by two-thirds of its members.”

SECTION 5. Section 2.96.080, Maui County Code, is amended by amending Subsection A to read as follows:

“A. Before final subdivision approval or issuance of a building permit, the developer [shall enter into] must execute a residential workforce housing agreement that [sets forth] details the [detailed] terms and conditions of compliance with the residential workforce housing policy, including [but not limited to]:

1. Sales or rental periods for the residential workforce housing units, which specify procedures for the release of units from the residential workforce housing requirements should units not be sold or rented following the expiration of the sales or rental periods[;].

2. Identification of the number, type, and location of units[;].

3. Designation of units for specific income [and/or] or special housing target groups[;].

4. Marketing process for the residential workforce housing units[;].

5. Eligibility of income-qualified households[;].

6. Provision for residential workforce housing credits, as applicable[;], until January 1, 2050.

7. Payment of in-lieu fees or provision of in-lieu land[; and].

8. Resale restrictions, which may include buy-back provisions, shared equity, and encumbrances.”

SECTION 6. Section 2.96.090, Maui County Code, is amended as follows:

1. By amending subsection B to read:

“B. Eligibility criteria. [In order to] To be eligible for a residential workforce housing unit **and be placed on the waitlist**, an applicant must meet the following criteria[.], as verified by the developer or its representative unless otherwise stated:

1. Be a citizen of the United States or a permanent resident alien who is a resident of the County.

2. Be [eighteen] 18 years of age or older.

3. Have a gross annual family income (not to include the income of minors) [which] that does not exceed [one hundred forty] 140 percent of the County's area median income as established by HUD, or as adjusted by the department, for [Hana,] Hāna, [Lanai,] Lāna‘i, and Molokai. Initial determination for compliance with the maximum gross annual family income provision [shall] must be made by the developer[, its partner, or its management company] or its representative for the initial sale of residential workforce housing units[,] based on [the basis of] the information [provided on] in the ownership application. The ownership application will be completed when a specific unit is being considered. Final determination for compliance with the maximum gross annual family income provision [shall] will be made by the prospective lender at the time the applicant's income verification data is received.

4. Have assets that do not exceed [one hundred forty] 140 percent of the County's area median income as established by HUD, or as adjusted by the department, for [Hana,] Hāna, [Lanai,] Lāna‘i, and Molokai. Assets [shall] include all cash, securities, stocks, bonds, and real property, with the understanding that assets being used for the down payment or closing costs [shall] are not [be] included in the asset calculation. Real property [shall be] is valued at fair market value less liabilities on [such real] the property.

5. For [a period of] three years before the submittal of the ownership application, have not had an interest of [fifty] 50 percent or more in real property in fee or leasehold in the United States, where the unit or land is [deemed] suitable for dwelling purposes, unless the applicant is selling an affordable unit and purchasing a different affordable unit that

is more appropriate for the applicant's family size[.] or the director approves a waiver of this requirement.

6. Pre-qualify for a loan with the applicant's choice of lender.

[7. Developer, its partner, or its management company shall verify that each applicant meets the requirements of eligibility set forth herein.]”

2. By amending Subsection D to read:

“D. Selection priority.

1. ~~[Residents] To the extent permitted by law, residents of the County for three or more years Residents~~ on the wait list [shall] will receive first priority for the available units. ~~Residents of the County for less than three years will receive second priority.~~ Nonresidents on the wait list may purchase a residential workforce housing unit once the wait list has been exhausted of all residents.

2. The developer[, its partner, or its management company] or its representative may will manage the lottery process do a mass mailing of housing applications to applicants on using the resident project wait list.

3. The developer or its representative must conduct a random lottery of qualified applicants. To the extent permitted by law the applicants selected by lottery must then be ranked by the total length of time each has been a resident of the county. The housing units must then be offered in the order of the established ranking The residential workforce housing units must be offered to residents of the County for three or more years in the order in which their names were drawn in the lottery, [provided that] if there is a unit available in the income group for which they qualify. Residential workforce housing units must then be offered to residents of the County for less than three years in the order in which their names were drawn in the lottery, if there is a unit available in the income group for which they qualify. Once the wait list has been exhausted of all residents, Nnonresidents will be offered residential workforce housing units in the order in which their names were drawn in the lottery.

4. [In the event that] If units are not sold within the first [ninety] 90 days after they are offered for sale, and the developer has made a [good faith] good-faith effort, as determined by the director, to contact and qualify applicants on the wait list, the sale of remaining units [shall] must be conducted as follows:

a. For the next [ninety-day] 90-day period, units [shall] must be offered for sale to the next-higher income preference group, at the original sales price. For example, units targeted for families earning up to [one hundred twenty] 120 percent of the median income may be sold to families earning up to [one hundred forty] 140 percent of the median income. All other eligibility criteria [shall] apply.

b. Units [shall] must be offered to the next higher income group every [ninety] 90 days until the units are sold or there are no more income groups available.

c. Any units that remain unsold must first be offered to the County for purchase at the original sales price.

d. Units [shall] must then be offered to nonresidents on the wait list in the order in which their names were drawn in the lottery, for the next [ninety-day] 90-day period, [provided that as long as] if the applicant's income is within the residential workforce housing income groups.

e. Any units that remain unsold may be offered at market rate without deed restrictions. Upon the sale of the unit, the County [shall] must receive [fifty] 50 percent of the difference between the original sales price of the unit and the actual market rate sales price, for deposit into the affordable housing fund. In this event, the developer [shall still be deemed to] will have satisfied the requirement for producing a residential workforce housing unit."

SECTION 7. Section 2.97.090, Maui County Code, is amended to read as follows:

**"2.97.090 [Deed restrictions] Restrictions for projects with fee simple units.** Units sold in fee simple [shall be] are subject to deed restrictions [set forth] in subsection [2.96.060(B)(2) of this title] 2.96.060(B)(4) for [ten] 12 years [commencing upon] from the closing of the sale. Units sold in fee simple are also subject to the owner-occupancy requirement in subsection 2.96.060(C)."

SECTION 8. Section 2.97.110, Maui County Code, is amended to read as follows:

**“2.97.110 Residential workforce housing credits.** Credits for residential workforce housing may be issued for eligible projects under section 2.96.050 [of this title.] until January 1, 2050.”

SECTION 9. Section 3.44.015, Maui County Code, is amended by amending Subsection C to read as follows:

“C. The director may acquire property[; except that in]. In the case of real property with a purchase price that exceeds \$250,000, the council [may] must authorize the acquisition by resolution[; except that]. The requirement of council approval [is not required for] does not apply to the purchase of [housing]:

1. Residential workforce housing units; or
2. Housing units for \$500,000 or less in accordance with repurchase options and other buy-back provisions granted to the County [as follows:] under either:

[1.] a. Deed [restriction] restrictions in a County housing project that secured final subdivision approval or certificate of occupancy [prior to] before January 1, 1999[.]; or

[2. Agreement] b. An agreement that was executed by and between the County and the developer of a housing project [prior to] before January 1, 1999, under a County housing program.”

SECTION 10. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 11. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

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Department of the Corporation Counsel  
County of Maui

hlu:misc:006abill01:jgk

May 14, 2025, 9 a.m.

Council Chamber, Kalana O Maui Building

**To: Maui County Council, Housing and Land Use Committee**

**Tasha Kama, Chair**

**Nohelani U'u-Hodgins, Vice Chair**

**From: Grassroot Institute of Hawaii**

**Joe Kent, Executive Vice President**

RE: Bill 40 (2025) — RELATING TO RESIDENTIAL WORKFORCE HOUSING UNITS

Aloha Chair Kama, Vice Chair U'u-Hodgins and other members of the Committee,

The Grassroot Institute of Hawaii offers **comments on — and an amendment to —** [Bill 40, CD1 \(2025\)](#), which would make changes to the County's affordable housing deed-restriction rules.

Maui's deed-restriction rules mandate that anyone who buys an affordable home must sell it at an affordable price if the sale is made during the deed-restriction period.

For Maui County, that price is the amount the owner paid for the home plus 25% of the difference between the home's value when the owner bought it and when it was to be sold. Once the deed-restricted period ends, the owners are free to sell their homes for whatever price they like.

The current rules require a deed restriction of 10 years for below-moderate-income buyers, eight years for moderate-income buyers and five years for above-moderate-income buyers.

Bill 40 (2025) would replace these rules with two categories: Multifamily and single-family.

The deed restrictions for two-family and multifamily dwellings would be 12 years for below-moderate-income buyers, 10 years for moderate income and eight years for above-moderate income families.

For single-family dwellings, the deed restrictions would be 15 years for below-moderate income, 12 years for moderate income and 10 years for above-moderate income families.

Meanwhile, projects built on county-owned land would be subject to 99-year deed restrictions.

Grassroot understands the good intentions behind these proposed changes, but believes that any increases in the deed-restriction periods could lower the desirability of new affordable housing units. In addition, if residents are less likely to purchase deed-restricted housing, this could result in fewer homes being constructed.

The fact is, many families see housing as a way to climb the economic ladder, and placing longer restrictions on their ability to capitalize on their most valuable asset would be a big reason for them to look elsewhere for housing.

History bears this out. Project builders in Honolulu with 30-year deed restrictions have had trouble selling their units.<sup>1</sup> On Maui, units in the Hale Kaiola project took much longer to sell than expected because many potential buyers were not interested in the accompanying 20-year restrictions.<sup>2</sup>

For families that would like to move to a bigger home to accommodate a growing family, long deed restrictions could present a major barrier. With the sales price limited, moving might be impossible.

Likewise, using your home to take out a loan to start a business could mean jumping through a number of legal hoops.

Meanwhile, Maui requires that 25% of units in certain new developments be so-called affordable housing, meaning homebuilders essentially must sell these units at a loss. They make up the difference by shifting the cost to the buyers of the so-called market-rate homes, which increases the prices of those homes — and this situation could be aggravated if deed restrictions are lengthened.

As to the amendments, Grassroot believes the county's equity-sharing rules should be changed to include the value of any improvements homeowners might make to their homes. [Chapter 2.96.060\(B\)\(2\)\(f\)\(iii\)](#) should be amended to state:

Twenty-five percent of the difference between the two appraisals shall be added to the owner's purchase price[.]; provided that the value of any improvements made to the property during the deed-restricted period shall be appraised separately and added to the maximum resale price of the property at their full value.

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<sup>1</sup> Andrew Gomes, [“State agency helps reduce purchase prices of hard-to-sell units,”](#) Honolulu Star-Advertiser, Oct. 14, 2024.

<sup>2</sup> Misty Griffiths, [presentation to the Maui County Housing and Land Use Committee](#), Jan. 24, 2024.

Research has shown that deed restrictions can discourage “necessary and efficient improvements,”<sup>3</sup> and this amendment would allow homeowners to realize the gains from any improvements they made to their homes during the deed-restricted period, such as a new fence or lanai.

Grassroot does appreciate that Bill 40, CD1 (2025) would expand on the situations in which owner-occupancy is not required for deed-restricted homes. Maui County’s Code already allows for rentals in the case of active military duty or short-term contracts for off-island employment.

Bill 40, CD1 (2025) would add exemptions for those with medical needs who must relocate and for those forced to relocate because of domestic violence. It would also allow deed-restricted homes to be used as long-term affordable rentals.

Grassroot suggests adding the following exemption:

5. The owner is deceased and the property has been transferred by will, intestate succession, or operation of law to a new owner; or the ownership of the property is subject to a court dispute arising from intestate succession.

Finally, Grassroot suggests that any new housing project subject to Maui County’s affordable housing mandate be given some sort of density bonus, permitting fee waiver or priority permitting to offset the cost of building new affordable units.

An incentive-based “carrot” approach would more likely encourage the construction of more housing units than the current mandatory “stick.”

Grassroot would welcome further discussion on how to make Maui’s housing more abundant and affordable.

Thank you for the opportunity to testify.

Joe Kent  
Executive Vice President  
Grassroot Institute of Hawaii

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<sup>3</sup> Jack Feiyang Chen, “[Deed Restrictions and Affordable Home Ownership](#),” John M. Olin Fellow’s Discussion Paper Series, Discussion Paper No. 95, May 23, 2023, pp. 23-24.

## HLU Committee

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**From:** Maui Nui Resiliency Hui <mauinuirh@gmail.com>  
**Sent:** Tuesday, May 13, 2025 6:53 PM  
**To:** HLU Committee  
**Subject:** Bill 40 CD1 (2025) -Proposed Amendments  
**Attachments:** MNRH Suggested Amendments- Bill 40 CD1 (2025) .pdf

You don't often get email from mauinuirh@gmail.com. [Learn why this is important](#)

Aloha Chair and HLU Committee members,

Please find our proposed amendments for your consideration. While we plan to offer oral testimony during the meeting, we wanted to ensure the committee has an opportunity to review these suggested changes in advance.

Mahalo for your time,  
Kai Nishiki & Sarah Freistat Pajimola, Executive Directors,  
Maui Nui Resiliency Hui

ORDINANCE NO. \_\_\_\_\_

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3. Credits may only be issued for each residential workforce housing unit sold or rented to an [income eligible] income-eligible individual in the appropriate income group, [that] which is in excess of the residential workforce housing requirement [set forth] in section 2.96.040[, provided]; except that[,] for those developments [comprised] composed of [one hundred] 100 percent residential workforce housing units, only [seventy-five] 75 percent of the residential workforce housing units sold or rented to [income eligible] income-eligible individuals [shall] will be eligible for credits[. Further provided that,]; and developments [comprised] composed of

[one hundred] 100 percent residential workforce housing units that are to be rented to households whose gross annual family income is [sixty] 60 percent or less of the area median income as established by HUD, or as adjusted by the department for [Hana,] Hāna, [Lanai,] Lānaʻi, and Molokai, [shall] will be eligible for credits for each residential workforce housing unit constructed.

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B. The credit may be used in any community plan area.

C. The credit may satisfy the requirement for any type of unit constructed.

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E. The credit may be used for a future development[,] but may not be used for an affordable housing or residential workforce housing unit owed at the time the credit is given.

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b. "Moderate income~~[,]~~" (100-120 percent AMI): ~~[eight]~~ 10 years.

c. "Above-moderate income~~[,]~~" (120-140 percent AMI): ~~[five]~~ eight years.

2. Single-family ownership units within each income group are subject to the deed restrictions contained in this section for the following periods:

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3. Ownership units on County-owned land will be subject to deed restrictions for 99 years.

~~[2.]~~ 4. For the deed-restricted period, the following ~~[shall]~~ apply:

~~[a.~~ The unit must be owner-occupied.

~~b.])~~ a. The owner must notify the department upon a decision to sell.

~~[c.]~~ b. Upon the owner's decision to sell, the County ~~[shall have]~~ has the first option to purchase the unit from the owner; ~~[said]~~ the option ~~[shall]~~ will be available to the County for a period of ~~[ninety]~~ 60 days from receipt of written notice from the owner.

~~[d.]~~ c. Upon sale of the unit, the deed restrictions ~~[shall]~~ remain in full force and effect for the remainder of the deed-restricted period that ~~[commenced]~~ began at the time of the initial sale.

e. Under special circumstances an owner of a residential workforce housing unit may appeal to the department for a waiver of the owner-occupancy deed restriction; these circumstances would include, but are not limited to, assignment to active military duty or short-term contracts for off-island employment.

f. Resale. ~~The]~~ d. The department must set the maximum resale price [shall be established by the department] using the following guidelines:

i. An appraisal of the property ~~[shall be]~~ is required before occupancy.

ii. A second appraisal [shall be] is required upon a decision to sell the unit.

iii. Twenty-five percent of the difference between the two appraisals [shall] must be added to the owner's purchase price.

[g.] e. An owner of a residential workforce housing unit that is being resold must sell the unit to an income-qualified household and notify the department of the sale. The department [shall] must [verify] approve the sales price.

[h.] f. ~~The restrictions [contained] in subparagraphs [2a] 4a through [2g above shall] 4e do not apply i~~In situations of foreclosure, the County has the first option to purchase the unit from the mortgage holder; the option will be available to the County for a period of 60 days from receipt of written notice from the mortgage holder.

C. Ownership units must be occupied by the owner in perpetuity or used in perpetuity as a long-term rental under section 3.48.466, with rent no more than HUD's current affordable rent guidelines ~~for a family of four by unit size~~ at 100 percent of the area median income, not including utilities and without income restrictions, unless the director finds the requirement would cause undue hardship, including one or more of the following:

1. The owner is assigned to active military duty.
2. The owner has medical needs requiring relocation.
3. The owner is experiencing domestic violence and requires relocation.
4. The owner is temporarily employed outside of the County.

The director shall submit an annual report to the Council for any discretionary exemptions approved in this section.

[C.] D. Sales price—dwelling units.

1. The sales price of a new dwelling unit must be established by the department using the current HUD area median income for Maui County and adjusted for very low, low, below moderate, moderate, above moderate, and gap income ranges. The sales price must be calculated using estimated total housing costs capped at 31 percent of gross annual income within each range when a developer receives direct County subsidies in accordance with section 3.35.040. Total housing costs include principal, interest, real property taxes, homeowner's insurance, mortgage insurance, and homeowner's association dues.

2. The sales price must be calculated using only principal and interest capped at 28 percent of gross annual income within each range when a developer does not receive direct County subsidies.

3. The department must create a program within the homeowner programs revolving fund to ensure affordability of units for buyers of workforce housing in projects that have been priced according to [section 2.96.060(C)(2).] paragraph (D)(2). Subsidies from this program must be used to subsidize qualified buyers in an amount necessary [such] so that a recipient's final estimated total housing cost does not exceed 31 percent of their household income. Subsidies from this program may be in the form of loans, grants, deferred mortgage payments, or any other mechanism the council finds appropriate. Any proposed subsidy to a homebuyer from this program must be administered in accordance with chapter 3.34.

4. The council may authorize a waiver of any provision of this chapter by resolution approved by two-thirds of its members.”

SECTION 5. Section 2.96.080, Maui County Code, is amended by amending Subsection A to read as follows:

“A. Before final subdivision approval or issuance of a building permit, the developer [shall enter into] must execute a residential workforce housing agreement that [sets forth] details the [detailed] terms and conditions of compliance with the residential workforce housing policy, including [but not limited to]:

1. Sales or rental periods for the residential workforce housing units, which specify procedures for the release of units from the residential workforce housing requirements should units not be sold or rented following the expiration of the sales or rental periods[;].

2. Identification of the number, type, and location of units[;].

3. Designation of units for specific income [and/or] or special housing target groups[;].

4. Marketing process for the residential workforce housing units[;].

5. Eligibility of income-qualified households[;].

6. Provision for residential workforce housing credits, as applicable[;], until January 1, 2050.

7. Payment of in-lieu fees or provision of in-lieu land[; and].

8. Resale restrictions, which may include buy-back provisions, shared equity, and encumbrances.”

SECTION 6. Section 2.96.090, Maui County Code, is amended as follows:

1. By amending subsection B to read:

“B. Eligibility criteria. [In order to] To be eligible for a residential workforce housing unit and be placed on the waitlist, an applicant must meet the following criteria[.], as verified by the developer or its representative unless otherwise stated:

1. Be a citizen of the United States or a permanent resident alien who is a resident of the County.

2. Be [eighteen] 18 years of age or older.

3. Have a gross annual family income (not to include the income of minors) [which] that does not exceed [one hundred forty] 140 percent of the County's area median income as established by HUD, or as adjusted by the department, for [Hana,] Hāna, [Lanai,] Lāna‘i, and Molokai. Initial determination for compliance with the maximum gross annual family income provision [shall] must be made by the developer[, its partner, or its management company] or its representative for the initial sale of residential workforce housing units[, ] based on [the basis of] the information [provided on] in the ownership application. The ownership application will be completed when a specific unit is being considered. Final determination for compliance with the maximum gross annual family income provision [shall] will be made by the prospective lender at the time the applicant's income verification data is received.

4. Have assets that do not exceed [one hundred forty] 140 percent of the County's area median income as established by HUD, or as adjusted by the department, for [Hana,] Hāna, [Lanai,] Lāna‘i, and Molokai. Assets [shall] include all cash, securities, stocks, bonds, and real property, with the understanding that assets being used for the down payment or closing costs [shall] are not [be] included in the asset calculation. Real property [shall be] is valued at fair market value less liabilities on [such real] the property.

5. For [a period of] three years before the submittal of the ownership application, have not had an interest of [fifty] 50 percent or more in real property in fee or leasehold in the United States, where the unit or land is [deemed] suitable for dwelling purposes, unless the applicant is selling an affordable unit and purchasing a different affordable unit that

is more appropriate for the applicant's family size[.] or the director approves a waiver of this requirement.

6. Pre-qualify for a loan with the applicant's choice of lender.

[7. Developer, its partner, or its management company shall verify that each applicant meets the requirements of eligibility set forth herein.]”

2. By amending Subsection D to read:

“D. Selection priority.

1. ~~[Residents] To the extent permitted by law, residents of the County for three or more years Residents~~ on the wait list [shall] will receive first priority for the available units. ~~Residents of the County for less than three years will receive second priority.~~ Nonresidents on the wait list may purchase a residential workforce housing unit once the wait list has been exhausted of all residents.

2. The developer[, its partner, or its management company] or its representative ~~may will manage the lottery process do a mass mailing of housing applications to applicants on using~~ the resident project wait list.

3. The developer or its representative must conduct a random lottery of qualified applicants. To the extent permitted by law the applicants selected by lottery must then be ranked by the total length of time each has been a resident of the county. The housing units must then be offered in the order of the established ranking ~~The residential workforce housing units must be offered to residents of the County for three or more years in the order in which their names were drawn in the lottery, [provided that] if there is a unit available in the income group for which they qualify. Residential workforce housing units must then be offered to residents of the County for less than three years in the order in which their names were drawn in the lottery, if there is a unit available in the income group for which they qualify. Once the wait list has been exhausted of all residents, N~~nonresidents will be offered residential workforce housing units in the order in which their names were drawn in the lottery.

4. [In the event that] If units are not sold within the first [ninety] 90 days after they are offered for sale, and the developer has made a [good faith] good-faith effort, as determined by the director, to contact and qualify applicants on the wait list, the sale of remaining units [shall] must be conducted as follows:

a. For the next ~~[ninety-day]~~ 90-day period, units ~~[shall]~~ must be offered for sale to the next-higher income preference group, at the original sales price. For example, units targeted for families earning up to ~~[one hundred twenty]~~ 120 percent of the median income may be sold to families earning up to ~~[one hundred forty]~~ 140 percent of the median income. All other eligibility criteria ~~[shall]~~ apply.

b. Units ~~[shall]~~ must be offered to the next higher income group every ~~[ninety]~~ 90 days until the units are sold or there are no more income groups available.

c. Any units that remain unsold must first be offered to the County for purchase at the original sales price.

d. Units ~~[shall]~~ must then be offered to nonresidents on the wait list in the order in which their names were drawn in the lottery, for the next ~~[ninety-day]~~ 90-day period, ~~[provided that as long as]~~ if the applicant's income is within the residential workforce housing income groups.

e. Any units that remain unsold may be offered at market rate without deed restrictions. Upon the sale of the unit, the County ~~[shall]~~ must receive ~~[fifty]~~ 50 percent of the difference between the original sales price of the unit and the actual market rate sales price, for deposit into the affordable housing fund. In this event, the developer ~~[shall still be deemed to]~~ will have satisfied the requirement for producing a residential workforce housing unit.”

SECTION 7. Section 2.97.090, Maui County Code, is amended to read as follows:

**“2.97.090 [Deed restrictions] Restrictions for projects with fee simple units.** Units sold in fee simple ~~[shall be]~~ are subject to deed restrictions ~~[set forth]~~ in subsection ~~[2.96.060(B)(2) of this title]~~ 2.96.060(B)(4) for ~~[ten]~~ 12 years ~~[commencing upon]~~ from the closing of the sale. Units sold in fee simple are also subject to the owner-occupancy requirement in subsection 2.96.060(C).”

SECTION 8. Section 2.97.110, Maui County Code, is amended to read as follows:

**“2.97.110 Residential workforce housing credits.** Credits for residential workforce housing may be issued for eligible projects under section 2.96.050 [of this title.] until January 1, 2050.”

SECTION 9. Section 3.44.015, Maui County Code, is amended by amending Subsection C to read as follows:

“C. The director may acquire property[; except that in]. In the case of real property with a purchase price that exceeds \$250,000, the council [may] must authorize the acquisition by resolution[; except that]. The requirement of council approval [is not required for] does not apply to the purchase of [housing]:

1. Residential workforce housing units; or

2. Housing units for \$500,000 or less in accordance with repurchase options and other buy-back provisions granted to the County [as follows:] under either:

[1.] a. Deed [restriction] restrictions in a County housing project that secured final subdivision approval or certificate of occupancy [prior to] before January 1, 1999[.]; or

[2. Agreement] b. An agreement that was executed by and between the County and the developer of a housing project [prior to] before January 1, 1999, under a County housing program.”

SECTION 10. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 11. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

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Department of the Corporation Counsel  
County of Maui

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