

COUNCIL OF THE COUNTY OF MAUI
AFFORDABLE HOUSING COMMITTEE

March 22, 2019

**Committee
Report No. _____**

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

Chair and Members:

Your Affordable Housing Committee, having met on February 27, 2019, makes reference to County Communication 19-56, from the Acting Director of Housing and Human Concerns, transmitting a proposed resolution entitled "AUTHORIZING THE DIRECTOR OF THE DEPARTMENT OF HOUSING AND HUMAN CONCERNS TO MODIFY THE REQUIREMENTS OF CHAPTER 2.96, MAUI COUNTY CODE, IN RELATION TO THE COUNTY'S PURCHASE OPTIONS FOR THE KAIWAHINE PROJECT AND ACKNOWLEDGING THAT TWO OF THE UNITS IN THE PROJECT WILL BE MANAGER'S UNITS."

The purpose of the proposed resolution is to authorize the Director of Housing and Human Concerns to waive the requirements of Chapter 2.96, Maui County Code, on the County's purchase rights for the 120-unit Kaiwahine Village affordable-housing project in Kihei and to authorize two of the project's units be for resident managers.

Your Committee notes the Council approved the project by resolution in 2011, under Chapter 201H, Hawaii Revised Statutes, and subsequently modified the approval by resolutions in 2016 and 2018. Chapter 201H projects are subject to the County's Residential Workforce Policy, Chapter 2.96, Maui County Code. Chapter 2.96 imposes a 30-year affordability requirement, reflected in a deed restriction, and establishes the County's right to buy a project when the deed restriction expires. Chapter 2.96 also provides that the Director may waive any of the chapter's requirements with the Council's approval by resolution.

The Housing Administrator from the Department of Housing and Human Concerns informed your Committee the project has a 65-year deed restriction imposed by the State Hawaii Housing Finance & Development Corporation. This State requirement is inconsistent with

COUNCIL OF THE COUNTY OF MAUI

AFFORDABLE HOUSING COMMITTEE

Page 2

**Committee
Report No.** _____

the County's possible purchase after only 30 years. The resolution, therefore, would allow the Director to waive the County's 30-year purchase rights.

Your Committee was advised good property-management practice favors having two managers' units within the project. Managers' units would not be deed restricted.

Your Committee determined adoption of the resolution would further the Council's policy objective of having Kaiwahine Village be a successful affordable-housing project.

Your Committee voted 6-0 to recommend adoption of the resolution and filing of the communication. Committee Chair Kama, Vice-Chair Molina, and members Hokama, Rawlins-Fernandez, Sinenci, and Sugimura voted "aye." Committee member Lee was excused.

Your Committee is in receipt of a revised proposed resolution, entitled "AUTHORIZING THE DIRECTOR OF THE DEPARTMENT OF HOUSING AND HUMAN CONCERNS TO WAIVE THE REQUIREMENTS OF CHAPTER 2.96, MAUI COUNTY CODE, IN RELATION TO THE COUNTY'S PURCHASE OPTIONS FOR THE KAIWAHINE PROJECT AND ACKNOWLEDGING THAT TWO OF THE UNITS IN THE PROJECT WILL BE MANAGER'S UNITS," approved as to form and legality by the Department of the Corporation Counsel, incorporating nonsubstantive revisions.

Your Affordable Housing Committee RECOMMENDS the following:

1. That Resolution _____, as revised herein and attached hereto, entitled "AUTHORIZING THE DIRECTOR OF THE DEPARTMENT OF HOUSING AND HUMAN CONCERNS TO WAIVE THE REQUIREMENTS OF CHAPTER 2.96, MAUI COUNTY CODE, IN RELATION TO THE COUNTY'S PURCHASE OPTIONS FOR THE KAIWAHINE PROJECT AND ACKNOWLEDGING THAT TWO OF THE UNITS IN THE PROJECT WILL BE MANAGER'S UNITS," be ADOPTED; and

COUNCIL OF THE COUNTY OF MAUI
AFFORDABLE HOUSING COMMITTEE

Page 3

**Committee
Report No.** _____

2. That County Communication 19-56 be FILED.

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



TASHA KAMA, Chair

ah:cr:19016aa:ldm

Resolution

No. _____

AUTHORIZING THE DIRECTOR OF THE DEPARTMENT OF HOUSING AND HUMAN CONCERNS TO WAIVE THE REQUIREMENTS OF CHAPTER 2.96, MAUI COUNTY CODE, IN RELATION TO THE COUNTY'S PURCHASE OPTIONS FOR THE KAIWAHINE PROJECT AND ACKNOWLEDGING THAT TWO OF THE UNITS IN THE PROJECT WILL BE MANAGER'S UNITS

WHEREAS, Resolution 11-23 approved with modifications the Kaiwahine Village project ("Project"); and

WHEREAS, Resolution 16-32 approved a two-year time extension to the construction initiation date imposed by Modification 4 of Resolution 11-23, with construction to begin by March 18, 2018, and be completed by March 18, 2021; and

WHEREAS, Resolution 18-25 authorized a variation from the plans and specifications approved in Resolution 11-236 to allow the one hundred and twenty residential workforce housing units in the Project to be rental units approved a time extension with construction to begin by September 30, 2018, and be completed by September 30, 2021; and

WHEREAS, Resolution 18-25 did not specify that two of the one hundred and twenty units in the Project will be utilized by resident, on-site managers to help ensure the efficient management of the Project; and

WHEREAS, Section 2.96.070(B)(2)(a), Maui County Code, requires that the owner grant the County a first right to purchase the development from owner in the event the owner decides to sell during the deed restricted period; and

WHEREAS, Section 2.96.070(B)(3), Maui County Code, requires that within ninety days of the expiration of the thirty year deed restricted period, the owner shall offer to sell the Project to the County at a price determined by the owner; and

WHEREAS, owner is unable to comply with these requirements allowing the County the first right to purchase as they are in conflict with various agreements that were necessary to finance the project; and

Resolution No. _____

WHEREAS, the owner is willing to comply with Section 2.96.070(B)(2)(b), Maui County Code, requiring that any new owner during the deed restricted period is required to comply with the deed restrictions; and

WHEREAS, in accordance with Section 2.96.030(D), Maui County Code, the Director of the Department of Housing and Human Concerns is requesting that the requirements of Sections 2.96.070(B)(2)(a) and (B)(3), Maui County Code, be waived; now, therefore;

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

1. The Council acknowledges that two of the one hundred and twenty units in the Project will be utilized by resident, on-site managers, which two units will not be subject to affordability restrictions; and
2. The Council authorizes the Director of the Department of Housing and Human Concerns to waive the requirements of Sections 2.96.070(B)(2)(a) and (B)(3), Maui County Code, provided that the Project is subject to a sixty-five year deed restriction (to be recorded promptly after adoption of this resolution) and the requirements of Section 2.96.070(B)(2)(b); and
3. All other requirements of Resolutions 11-23 and 18-25 remain in full force and effect; and
4. That certified copies of this resolution shall be transmitted to the Department of Housing and Human Concerns and the owners of the Project, A0578 Kihei, L.P., a Hawaii limited partnership, and A0688 Kihei, L.P., a Hawaii limited partnership.

APPROVED AS TO FORM
AND LEGALITY:



JEFFREY MEOKA
Deputy Corporation Counsel
County of Maui

2011-0108

2019-03-05 Resolution for Manager's Units