

# Resolution

No. 25-16

APPROVING EXEMPTIONS FROM AND MODIFICATIONS TO THE REQUIREMENTS OF SECTION 3.35.070, MAUI COUNTY CODE, FOR AIKANAHA RESIDENCES PHASE I AND II, IN THE WAIKAPU COUNTRY TOWN DISTRICT

WHEREAS, on June 5, 2024, the Maui County Council adopted Ordinance No. 5657 Bill 60, CD1, FC1 (2024) (“Fiscal Year 2025 Budget”), appropriating up to \$14,000,000 for two loans from the Affordable Housing Fund for the development of the Aikanaha Residences Phase I and II (the “Project”); and

WHEREAS, Aikanaha Partners LP, a Hawaii limited partnership, the developer of the Project has requested certain exemptions from and modifications to the requirements of section 3.35.070, Maui County Code (“MCC”); and

WHEREAS, in accordance with Section 3.35.070, MCC, a grant or loan agreement for the distribution of funds must contain certain conditions and restrictions, unless otherwise approved by the Council by Resolution; and

WHEREAS, the proposed exemptions and modifications are attached and incorporated as Exhibit 1; and

WHEREAS, in accordance with Section 4-1 of the Revised Charter of the County of Maui (1983), as amended, the Council is authorized to act by resolution; now, therefore,

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

1. Aikanaha Residences Phase I and II, being developed by Aikanaha Partners LP, a Hawaii limited partnership, is granted exemptions from and modifications to the requirements of Section 3.35.070, Maui County Code, as established on Exhibit 1; and

2. The Mayor or his designee are authorized to execute any documents and take all necessary actions to effectuate the intent of this Resolution; and
3. That certified copies of this resolution must be transmitted to the Finance Director, the Director of Housing, and Aikanaha Partners LP, a Hawaii limited partnership.

APPROVED AS TO FORM  
AND LEGALITY:



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KRISTINA C. TOSHIKIYO  
Deputy Corporation Counsel  
County of Maui  
LF 2024-0788  
2024-11-26 Aikanaha Ch. 3.35 Resolution

## **EXHIBIT 1**

1. An exemption from Section 3.35.070.A.1, Maui County Code (“MCC”), requiring that, “[t]itle to any real property must be held in perpetuity by the grantee or borrower unless conveyed to the County or to a qualified nonprofit or community land trust.”
2. An exemption from Section 3.35.070.A.3, MCC, requiring that, “[t]he project must not be sold, exchanged, divested, or converted to other uses that are inconsistent with the purposes set forth in this chapter without the prior approval of the council by resolution.”
3. An exemption from Section 3.35.070.A.4, MCC, requiring that, “if the grantee or borrower dissolves or is adjudicated bankrupt, title to any real property that has been funded or improved by a grant or loan issued from the fund must be conveyed to the County or to a qualified nonprofit or community land trust as approved by the council by resolution.”
4. An exemption from the provisions of Section 3.35.070.B.1, MCC, requiring that the County loan, “[b]e secured by a first mortgage lien in favor of the County or, subject to council approval by resolution, be secured by a second mortgage lien in favor of the County[,]” so that the loan must instead be secured by a subordinate, junior lien, in favor of the County.
5. Authorizing the modification of the provisions of Section 3.35.070.B.1, MCC, requiring that the loan, “[i]nclude an interest rate set at three percent per annum[,]” to allow the interest rate for the loan to be set at 0.25 percent per annum.
6. An exemption from Section 3.35.070, MCC, requiring that:  

“If a borrower defaults or the project is not serving the affordable housing needs as set forth in this chapter, the following may be required of the borrower:

  1. Forfeit the land or property to the County.
  2. Full repayment of the principal balance at an annual interest rate equal to two times the prime rate at the time of default.”

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Charles R. Lee". The signature is written in black ink and is positioned above a horizontal line.

Upon the request of the Mayor.