

# REQUEST FOR LEGAL SERVICES

**Date:** November 7, 2022  
**From:** Gabe Johnson, Chair  
Affordable Housing Committee

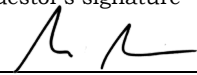
TRANSMITTAL

**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Mimi DesJardins, Esq.

**Subject:** BILL 103, CD1 (2022), RELATING TO RESIDENTIAL WORKFORCE DEED RESTRICTIONS AND RESALE (AH-31)

**Background Data:** Please see attached proposed Bill 103, CD1 (2022). Please submit response to ah.committee@mauicounty.us with reference to AH-31.

**Work Requested:** ☒ FOR APPROVAL AS TO FORM AND LEGALITY  
☐ OTHER:

|                                                                                                                            |                                                                                                                                 |
|----------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|
| Requestor's signature<br><br>Gabe Johnson | Contact Person<br><u>Kasie Apo Takayama or Richard E. Mitchell</u><br>(Telephone Extension: <u>7665 or 7662, respectively</u> ) |
|----------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|

☐ ROUTINE (WITHIN 15 WORKING DAYS) ☐ RUSH (WITHIN 5 WORKING DAYS)  
☐ PRIORITY (WITHIN 10 WORKING DAYS) ☐ URGENT (WITHIN 3 WORKING DAYS)

☒ SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): November 9, 2022 at 4:30 p.m.

REASON: For posting on the November 18, 2022, Council meeting agenda.

## FOR CORPORATION COUNSEL'S RESPONSE

|              |                |     |
|--------------|----------------|-----|
| ASSIGNED TO: | ASSIGNMENT NO. | BY: |
|--------------|----------------|-----|

TO REQUESTOR: ☐ APPROVED ☐ DISAPPROVED ☐ OTHER (SEE COMMENTS BELOW)  
☐ RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DEPARTMENT OF THE CORPORATION COUNSEL

Date \_\_\_\_\_

By \_\_\_\_\_  
(Rev. 7/03)

ah:ltr:031acc03:pmg

Attachment

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

BILL NO. 103, CD1 (2022)

A BILL FOR AN ORDINANCE AMENDING SECTION 2.96.060, MAUI COUNTY  
CODE, RELATING TO RESIDENTIAL WORKFORCE HOUSING DEED  
RESTRICTIONS AND RESALE

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

SECTION 1. This Ordinance's purpose is to amend the residential workforce housing deed restrictions to require units be sold to owner-occupants in perpetuity and to increase the time period for all other restrictions.

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

B. Deed restrictions.

1. The unit must be owner-occupied in perpetuity.

[1.] 2. The ownership units within each income group [shall] will be subject to [the] all other deed restrictions contained in this section for the following periods:

- a. “Below-moderate income,” [ten] twenty years.
- b. “Moderate income,” [eight] twenty years.
- c. “Above-moderate income,” [five] twenty years.

[2.] 3. For the [deed-restricted period,] respective periods identified in subsection (B)(2), 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] must be available to the County for a period of ninety days from receipt of written notice from the owner.

[d.] c. Upon sale of the unit, the deed restrictions [shall] will remain in full force and effect for the remainder of the [deed-restricted period] respective periods identified in subsection (B)(2) that commenced at the time of the initial sale.

[e.] d. 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, or financial hardship. In cases of financial hardship, a waiver may be granted only once and for a maximum of two years. To be granted any waiver, the owner must provide the unit as a long-term rental at or below the income-qualified category designated for the unit at time of purchase.

[f.] e. Resale. The maximum resale price [shall] will 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] 25 percent of the difference between the two appraisals [shall] will be added to the owner's purchase price.

[g.] f. 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 the sales price. [h.] g. The restrictions contained in subparagraphs [2a through 2g] 2b through 2f [above shall] do not apply in situations of foreclosure.

C. Sales price [-] of dwelling units. The sales price of a new dwelling unit [shall] will be established by the department based on current HUD price guidelines.”

SECTION 3. 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 4. This Ordinance takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

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MIMI DESJARDINS  
Department of the Corporation Counsel  
County of Maui

ah:misc:031abill02:ans

INTRODUCED BY:

*Tamara M. Paltin*

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TAMARA PALTIN