

COUNCIL OF THE COUNTY OF MAUI

BUDGET AND FINANCE COMMITTEE

November 3, 2017

**Committee
Report No.** _____

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

Chair and Members:

Your Budget and Finance Committee, having met on March 28, 2017, June 13, 2017, and October 24, 2017, makes reference to County Communication 17-115, from the Director of Finance, transmitting a proposed resolution entitled "RESOLUTION AUTHORIZING THE DISPOSAL OF THE LOTS COMPRISING THE FAIRWAYS AT MAUI LANI BY PUBLIC AUCTION."

The purpose of the proposed resolution is to authorize the disposition of 51 County-owned lots in the Fairways at Maui Lani subdivision ("Fairways"), through bulk sale by public auction, at an upset price of \$9,817,500. The lots are identified for real property tax purposes as tax map keys (2) 3-8-036:001 through 051, and comprise 50 residential lots and one drainage lot.

By correspondence dated March 20, 2017, the Department of the Corporation Counsel transmitted a revised proposed resolution, approved as to form and legality, to incorporate four roadway lots at the Fairways, identified for real property tax purposes as tax map keys (2) 3-8-096:001 through 055, for a total of 55 lots. The revised proposed resolution also corrected the tax map key numbers.

According to the revised proposed resolution, the sale proceeds shall first be used to satisfy any outstanding real property taxes, with the remainder deposited in the County's Affordable Housing Fund for Council appropriation by ordinance.

Your Committee notes the 55 Fairways lots and three residential lots within the Sandhills Estates subdivision were acquired by the County through the Mutual Release and Settlement Agreement with VP&PK (ML), LLC in 2011 for \$11,750,000.

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At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a further revised proposed resolution, entitled "AUTHORIZING THE DISPOSAL OF THE LOTS COMPRISING THE FAIRWAYS AT MAUI LANI BY PUBLIC AUCTION," approved as to form and legality, incorporating a nonsubstantive revision.

Your Committee notes Section 3.44.020, Maui County Code ("MCC"), authorizes the disposition of County-owned real property in fee simple by resolution. Section 3.44.030, MCC, provides the disposition of the property shall be by public auction.

The Deputy Director of Finance said a task force was formed by Mayor Arakawa to review options and make recommendations to the County Administration and Maui County Council on the most appropriate and economically beneficial disposition of the 55 Fairways lots and the three Sandhills Estates lots.

He said ACM Consultants, Inc. performed an appraisal of the 55 Fairways lots and the three Sandhills Estates lots. The appraisal report dated January 2, 2017, provides the estimated market value of the lots, as of December 15, 2016, under various scenarios, including the proposed bulk sale.

The Deputy Director noted the appraisal for the 55 lots used three different scenarios: 1) individual lot market value; 2) market value assuming a bulk sale of all 55 lots; and 3) market value of a bulk sale, assuming the lots are sold in ten-lot increments. The bulk sale option appeared to be an option with less risk than the other options evaluated.

He said the three Sandhills Estates lots were valued individually and their disposition is not included in the proposed resolution.

Your Committee received testimony on a variety of potential uses of the property. Your Committee requested your Housing, Human Services, and Transportation Committee further explore options relating to the development or sale of the Fairways lots and provide a recommendation to your Budget and Finance Committee no later than September 30, 2017.

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Your Committee notes your Housing, Human Services, and Transportation Committee met to discuss options for the property. Although your Budget and Finance Committee did not receive a recommendation, the discussion and testimony proved useful in drafting an alternate proposal.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a proposed resolution entitled "URGING THE MAYOR TO ISSUE A REQUEST FOR PROPOSALS FOR THE SALE OF THE FAIRWAYS AT MAUI LANI LOTS AT A DISCOUNTED PRICE WITH AFFORDABILITY RESTRICTIONS." The purpose of the proposed resolution is to urge the Mayor to issue a request for proposals to sell the 55 Fairways lots at a discounted price of \$8,000,000 with affordability restrictions. Your Committee noted the Council must still authorize the disposition of real property by resolution pursuant to Section 3.44.020, MCC.

A representative from the Department of Finance said the carrying costs for the Fairways lots amount to approximately \$230,000 through March 2017 and such amount increases approximately \$40,000 per year. Carrying costs for the 55 Fairways lots include: monthly homeowner association fees of \$3,200; monthly water meter fees for two irrigation meters of \$100, and landscaping costs.

Your Committee noted the lots would be sold as is. Your Committee further noted existing Maui Lani covenants, conditions, and restrictions ("CC&Rs") apply to the lots and compliance with those CC&Rs is required. The Acting Director of Finance said the lots are ready for development; however, water meters and drainage improvements are needed.

Your Committee expressed concerns regarding adequate review of the development of the lots. The Acting Director said the Department of Public Works would provide that review as part of the normal building permit process. A Deputy Corporation Counsel said the burden of due diligence will fall upon the purchasers as part of the acquisition.

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Your Committee discussed the time frame within which the affordable homes would be built. Your Committee expressed concern about internal delays that may be caused by County bureaucracy in the issuing of permits and approvals. To address this concern, your Committee amended the proposed resolution to include a requirement that construction begin within 24 months of closing of the sale of the property.

Your Committee also expressed concerns regarding whether the person or entity selected through the request for proposals process is in good standing with the County or is a party to pending litigation. The Deputy Corporation Counsel said if anything in the resolution is against public procurement law, it will not be incorporated into the request for proposals.

Your Committee further amended the proposed resolution to require a construction bond to ensure the affordable homes would be completed satisfactorily and on a timely basis.

The Deputy Corporation Counsel said the deed restrictions and workforce housing agreement will be relied upon to enforce the affordable housing terms and the development of these homes will not satisfy any workforce housing obligations.

The Deputy Corporation Counsel explained the way in which the discounted price per affordable home was calculated. The Deputy Corporation Counsel said the purpose of the discount method is to benefit the homeowner and not the developer. Your Committee noted the \$8,000,000 discount price is a proposed price and that a higher amount may be accepted.

Your Committee voted 7-0 to recommend adoption of the revised proposed resolution to urge the Mayor to issue a request for proposals for the sale of the Fairways lots. Committee Chair Hokama, Vice-Chair White, and members Atay, Carroll, Crivello, Guzman, and Sugimura voted "aye." Committee members Cochran and King were excused.

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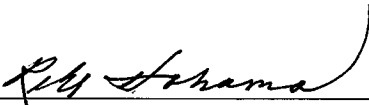
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Your Committee is in receipt of a further revised proposed resolution, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Budget and Finance Committee RECOMMENDS that Resolution _____, as revised herein and attached hereto, entitled "URGING THE MAYOR TO ISSUE A REQUEST FOR PROPOSALS FOR THE SALE OF THE FAIRWAYS AT MAUI LANI LOTS AT A DISCOUNTED PRICE WITH AFFORDABILITY RESTRICTIONS," be ADOPTED.

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



RIKI HOKAMA, Chair

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Resolution

No. _____

URGING THE MAYOR TO ISSUE A REQUEST FOR PROPOSALS FOR THE SALE OF THE FAIRWAYS AT MAUI LANI LOTS AT A DISCOUNTED PRICE WITH AFFORDABILITY RESTRICTIONS

WHEREAS, the County of Maui is the owner of fifty-five lots located within the Fairways at Maui Lani subdivision and identified as tax map keys (2) 3-8-096:001 through 055, hereinafter collectively referred to as the "Fairways"; and

WHEREAS, the fifty-five lots are comprised of fifty residential lots, four roadway lots, and one drainage lot; and

WHEREAS, under current zoning and the Master Covenants, Conditions, and Restrictions of the Maui Lani Community Association ("CC&Rs"), one single-family dwelling unit with a minimum house size of 1,100 square feet may be constructed on each of the fifty residential lots; and

WHEREAS, the Council proposes that the Mayor sell the Fairways for EIGHT MILLION DOLLARS (\$8,000,000), a price discounted from the upset price of NINE MILLION EIGHT HUNDRED SEVENTEEN THOUSAND FIVE HUNDRED DOLLARS (\$9,817,500) initially proposed for the sale of the lots under a bulk sale by the Maui Lani Task Force, provided that certain restrictions are set forth in the Request for Proposals ("RFP"); and

WHEREAS, the RFP shall require the successful bidder to construct single-family dwelling units with a minimum living area of 1,100 square feet and at least two bedrooms, on each of the Fairways residential lots; and

WHEREAS, the RFP shall require that construction of the dwelling units commences within twenty-four months from the close of the sale of the property; and

WHEREAS, the RFP shall require the developer to place a construction bond with the County to ensure timely performance of construction; and

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WHEREAS, the RFP shall require that the successful bidder to comply with conditions of zoning and land use approvals, Maui County Code ("MCC") requirements, the CC&RS, and any other laws, agreements, or conditions that apply to the Fairways lots; and

WHEREAS, the RFP shall require that twenty-five of the single-family dwelling units should be sold to buyers who are very-low income and low income as defined by Chapter 2.96, MCC, for a total price not to exceed TWO HUNDRED NINETY THOUSAND FOUR HUNDRED FIFTY DOLLARS (\$290,450) including land, building, and improvements; and

WHEREAS, the RFP shall require that twenty-five of the single-family dwelling units should be sold to buyers who are below-moderate income as defined by Chapter 2.96, MCC, for a total price not to exceed THREE HUNDRED SEVENTY-TWO THOUSAND FIFTY DOLLARS (\$372,050) including land, building, and improvements; and

WHEREAS, the RFP shall further require that all units be sold to very-low income, low income, and below-moderate income buyers, regardless of the amount of time the units are offered for sale; and

WHEREAS, the RFP shall specify that qualifying residential workforce housing units constructed and sold in excess of the requirements of Chapter 2.96, MCC, shall not be eligible for residential workforce housing credits; and

WHEREAS, the RFP shall clearly state that the project is required to comply with Chapter 2.96, MCC; now, therefore,

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

1. That it does hereby urge the Mayor to issue a Request for Proposals for the sale of the lots comprising the Fairways at Maui Lani in accordance with terms set forth in this resolution;
2. Nothing in this resolution shall be construed to be a satisfaction of the requirements of Chapter 3.44, MCC; and

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3. That certified copies of this resolution be transmitted to the Mayor, the Director of Finance, and the Director of Housing and Human Concerns.

APPROVED AS TO FORM AND LEGALITY:



JEFFREY UEOKA
Deputy Corporation Counsel
County of Maui

2017-0093

BF-41 2017-10-25 Reso Fairways at Maui Lani