

MINUTES

of the

COUNCIL OF THE COUNTY OF MAUI

November 3, 2017

THE REGULAR MEETING OF THE COUNCIL OF THE COUNTY OF MAUI, STATE OF HAWAII, WAS HELD IN THE COUNCIL CHAMBER, KALANA O MAUI BUILDING, WAILUKU, HAWAII, ON FRIDAY, NOVEMBER 3, 2017, BEGINNING AT 9:05 A.M., WITH CHAIR MICHAEL B. WHITE PRESIDING.

CHAIR WHITE: This meeting of the Council of the County of Maui shall please come to order.

Mr. Clerk, please call the roll.

ROLL CALL

PRESENT: COUNCILMEMBERS ALIKA ATAY, ELEANORA COCHRAN, S. STACY CRIVELLO, G. RIKI HOKAMA, KELLY T. KING, YUKI LEI K. SUGIMURA, VICE-CHAIR ROBERT CARROLL, AND CHAIR MICHAEL B. WHITE.

EXCUSED: COUNCILMEMBER DONALD S. GUZMAN.

COUNTY CLERK DENNIS A. MATEO: Mr. Chair, there are eight Members "present", one "excused". A quorum is present to conduct the business of the Council.

CHAIR WHITE: Thank you, Mr. Clerk.

And for opening remarks this morning, we have Member King.

OPENING REMARKS

The opening remarks were offered by Councilmember Kelly T. King.

CHAIR WHITE: Thank you, Ms. King.

Members and the audience, will you please rise and join me in the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

The Members of the Council, and others in attendance, rose and recited the Pledge of Allegiance.

CHAIR WHITE: Thank you. And please make sure that your phones and other noisemaking devices are placed on the silent mode. And let's proceed with the agenda.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, proceeding with presentation of testimony on agenda items. We have established limited interactive communication that enables individuals from Hana, Lanai, and Molokai, to provide testimony from our District Offices.

Individuals who wish to offer testimony from Hana, Lanai, and Molokai should now sign up at the District Office staff. And individuals who wish to offer testimony in the chamber, please sign up at the desk located on the eighth-floor lobby just outside the chamber door. Testimony at all locations is limited to three minutes on items listed on today's agenda.

And when testifying, please state your name and the name of any organization that you may represent.

Hana Office, please identify yourself and introduce your first testifier.

MS. DAWN LONO: Good morning, Chair. This is Dawn Lono at the Hana Office and there is no one waiting to testify.

COUNTY CLERK: Thank you.

Lanai Office, please identify yourself and introduce your first testifier.

MS. DENISE FERNANDEZ: Good morning, Chair. This is Denise Fernandez on Lanai, and there is no one waiting to testify.

COUNTY CLERK: Thank you.

Molokai Office, please identify yourself and introduce your first testifier.

MS. TINA THOMPSON: Good morning. This is Tina Thompson from the Molokai District Office and there is no one waiting to testify.

COUNTY CLERK: Thank you.

Mr. Chair, we have 22 individuals who have signed up to provide testimony in the chamber this morning. The first person to testify in the chamber is Dennis Fitzpatrick, testifying on Committee Report 17-150. To be followed by Autumn Ness.

PRESENTATION OF WRITTEN OR ORAL TESTIMONY

MR. DENNIS FITZPATRICK (testifying on Committee Report 17-150):

Thank you, Council. I sent testimony to Council, written testimony through Council Services over the internet. But, I'm here to testify about the proposal about apartment condos in resort areas being possibly taxed as short-term rentals.

I've owned my apartment in my complex since 1986. It's always been in a long-term rental. We've provided reasonable rents for tenants over the years. Some have been able to save enough money to buy their own places. Currently, we have a nurse from the hospital in our unit.

In our complex, there was never a problem. There was no such thing as vacation rentals by owners or anything like that when we purchased. So, we were last, listed as apartment condos, cause we had a property Upcountry that we get our homeowners exemption from.

What I read in the newspaper was this possibly could raise my taxes 48 percent. I feel this is very unfair, especially since over the years, three or four Mayors and many, many Councils have asked us to keep affordable housing for people. I have done that. Even though in 1995, Vacation Rental By Owners were established. And, and I think in 2007, Airbnb was established. That's when we started having problems in our complex. Many owners of the 110 owners switched to those availability. And I did some research through the New York Times and they said that there's more apartments and more rooms available in those two services than there are the five major hotel chains in the world combined. That's where the problem is.

Now, I'm going to be maybe taxed at their resort level. Well, if that's the case, I have two options: pass it on to my tenant, which, you know, I don't know if you guys know, but many in this community are struggling to survive and keep a roof over their head. And many in our complex have gotten what I think greedy, and their mainland representatives who've come and buy the units, stay two weeks, and take the money and run.

I did research on our complex and the average vacation rental gets anywhere from 3,200 to 4,000 a month. I get, I use to get \$800 a month. So, now if this passes and I have, I have to pay the taxes they do, what options do I have? Pass it on to the tenant who can barely get by already? Or become one of the vacation rental owners, and take the money and run?

I've always felt like putting back in the community. Some of you know me for quite some time, and I have done quite a lot. But to me, if this passes you, you worry about homelessness. What do you think is going to happen? Owners like myself are eventually going to probably either switch or just keep the apartment for their families. Or I'm not sure what their options may be, or sell. So, you think homelessness is a problem now. It's going to get way, way worse if you put such a proposal on owners like myself who have bought their condos as investments.

I, when I read in the paper the article recently about this, I was really amazed that that would even be a thought after all these years, after 34 years of, oh I bought my condo in '86, so after 31 years of being taxed as an apartment condo, I'm now going to be taxed as a possible vacation rental by owner by timeshare, or I mean not timeshare, or other ways.

This to me is very unfair. I bought my unit and it's been under the same code for thirty something years. Now, I don't know who came up with the idea to tax the apartment condos, but you know what's going to happen is these owners are going to have to make tough choices, and I'm one of them, you know. And I can tell you the Mayors through the years and the many Councils through the years asked that we provide housing--

COUNTY CLERK: Three minutes.

MR. FITZPATRICK: --for people. I'll end on testimony and say I hope you review this. I hope you continue the apartment condo tax structure, and realize that homeowners that provide housing for people are going to be having to make some tough choices if you pass that and count us as vacation rentals. We are not vacation rentals. Thank you for your time.

CHAIR WHITE: Thank you, Mr. Fitzpatrick.

Any need for clarification, Members?

Ms. King.

COUNCILMEMBER KING: Thank you. Thank you for being here, Mr. Fitzpatrick. Can you come back to the podium? Sorry.

CHAIR WHITE: Mr. Fitzpatrick.

MR. FITZPATRICK: Oh, I haven't testified in a long time, so.

COUNCILMEMBER KING: That's okay. I wasn't, I wasn't here. I was out last week, or the week when we approved this, so I didn't hear your testimony but, previous. But I wanted to ask you, the way that this is written where it exempts units occupied by transient tenants for periods of less than six consecutive months. Do you feel that that would protect you against this tax or?

MR. FITZPATRICK: Most of the time it would. But there has been instances where the tenants, I don't do long-term leases, I do month to month in case I have to evict or whatever, which I've never had to. But most of the tenants have told me they're going to stay for long-term, but there might have been a couple along the years that left after four months or something like that. So, 100 percent of the time I'm not exactly sure. But, we've always followed the law, you know. And I've always paid my taxes the way the Council's and the taxations.

Two of the things that have always amazed me is through the years my taxes have gone up, obviously that's part of the process, but we were always told oh we never raised our taxes, no, but we just raised the assessments, that raised my taxes. Then the next year, we raised this tax structure or the amounts paid, and so that raises my taxes. So, taxes keep going up even though people get the assumption that nothing's done.

And to me, when I'm charged as a, the same tax as a timeshare, or vacation rental, or whatever, that ain't right.

COUNCILMEMBER KING: Okay. I just wanted to, I just wanted to address that, because I do have that concern about folks who are, you know, leasing or renting units to our residents. And you know, appreciate it if you can do an affordable rental. So, thank you.

MR. FITZPATRICK: Okay. But as I say, I don't do leases. I always, and that said specifically leases in it, what I read so.

CHAIR WHITE: Thank you, Mr. Fitzpatrick.

MR. FITZPATRICK: Okay. Thank you.

CHAIR WHITE: Appreciate your being here this morning.

MR. FITZPATRICK: Thank you.

CHAIR WHITE: Mr. Clerk, next testifier.

COUNTY CLERK: Next testifier is Autumn Ness, testifying on County Communication 17-434. To be followed by Susan Thomson.

MS. AUTUMN NESS (testifying on County Communication No. 17-434):

Good morning, Council. My name is Autumn Ness. I'm here speaking in support of County Communication 17-434, amendments to the terms of affordability in County Code 2.96. Even though it's only here for Committee referral, I wanted to show my support and ask that the Committee Chair consider scheduling this matter so it can be discussed. And hopefully an acceptable form of this bill can be passed sooner than later.

We struggled for a really long time trying to figure out how to make our affordable units affordable for longer terms, so that we can actually start to increase the inventory of affordable homes that are available to our workforce, instead of just building one and losing them off the backend.

Concerns about the ability of the homeowner to build equity and the legality of deed restrictions that are actually forever were valid things we had to address. But, I think the bill that's on the agenda today does a good job of accomplishing this goal while addressing the concerns of the real estate and the finance community.

Please note that this is not a flat affordable in perpetuity idea. This bill includes a formula that manages the appreciation of an affordable home in a way that allows the homeowner to build equity and use their home as a conservative investment, but also keeps the resale price lower than market-rate homes. The bigger the original subsidy of the home, the slower the appreciation is. And the formula also allows for a higher

share of the appreciation to go to the homeowner the longer they own the home. Also, the bill allows for a broad list of capital improvements on the home to be added to the resale price, up to 10 percent of the cost of the home to maintain incentive to make appropriate upgrades to the unit.

This is not a radical idea. You guys, especially, are painfully aware of the collective time, energy, and money it takes to create one affordable home. They don't come easy. And after all that hard work, under our current 2.96 requirements, they end up dropping out of our affordable housing inventory pool after 5, 8, or 10 years, which ironically is probably less time than it took to build the unit in the first place.

Communities all over the U.S. are pushing for longer affordability restrictions to their affordable units. These longer affordability requirements are creating a dual housing market, a second more affordable pool of housing that can be traded among local residents and are insulated from market forces. They're totally separate from investment or speculation property market. These pool of homes are an entirely different animal, and I think should not be managed in the same way as investment properties.

I will say these long-term deed restrictions that are in this bill make way more sense for homes that are on the lower end of the price scale for homes that are built for buyers at the 50 to 100 percent AMI brackets, which I think our affordable housing subsidy should concentrate more on, but that's a conversation for a different day.

I've submitted to the Council a packet of articles about long-term affordability in other communities. None of these solutions in these packets fit what we need to do here or match the, what's in the bill exactly. But, they illustrate that there are a lot of different ways to ensure long-term affordability.

COUNTY CLERK: Three minutes.

MS. NESS: And, could I please just finish?

CHAIR WHITE: No. Please, no conclude.

MS. NESS: No, okay. Anyway, I don't think the formula in the bill matters as much as passing the bill in some way, shape, or form. And I would appreciate having the discussion. Thank you.

CHAIR WHITE: Thank you, Ms. Ness.

Members, any need for clarification?

Seeing none, Mr. Clerk.

COUNTY CLERK: Next testifier is Susan Thomson, testifying on Committee Report 17-151.
To be followed by Eve Hogan.

MS. SUSAN THOMSON (testifying on Committee Report 17-151):

Good morning, Councilmembers. My name is Susan Thomson, and I own a two-bedroom, two-bath condo at Pacific Shores in Kihei. I currently choose to rent my condo long-term, and have two wonderful tenants who work full-time here on Maui. They have mentioned to me several times how difficult it is to find anything to rent long-term.

I am very concerned about the proposed property tax changes, especially the bill that would classify condominiums units at their highest and best use regardless of actual use.

Owners at Pacific Shores are allowed to do short-term rentals. However, I prefer not to do this. I want to support our community and offer a long-term rental for someone who lives here, but not be able to afford to purchase a home or condo.

By making this change to put all condominiums that are approved for short-term rental into one category, the increase in an owner's property taxes will be so dramatic that those who choose to rent long-term will be forced to either evict their tenants, sell, or go to short-term rental to make enough money to pay for the increase in the taxes.

Where are these evicted long-term tenants going to go? What will their options be? It's already hard enough to find housing. Will doing this increase the homeless population even more? These proposed changes will discourage anyone from providing a long-term rental simply because they just can't afford it.

I respectfully ask you today to leave the property tax categories as designations "actual use". If a unit is being used for short-term rental, tax that unit accordingly. However, if a unit is being rented long-term, please support that owner by taxing the owner's condo at a lower rate.

In 2017, the Maui economy is good; job unemployment is low, and property values are back to pre-recession levels. As you consider these changes, please think of the Maui residents who work so hard to be able to pay their taxes. I really appreciate you giving me the time today to speak on this important issue.

CHAIR WHITE: Thank you, Ms. Thomson.

Members, any need for clarification?

Ms. King.

COUNCILMEMBER KING: Thank you, Chair. Does, same question that I had previously. Do you have, would you not qualify under the exemption for units that lease six months or more?

MS. THOMSON: Well, I'm not clear on that. But my understanding that the part of the changes that there's, the exemption would be is, I mean maybe you can clarify it, a 10 year exemption where you have to apply and apply it to your title and commit to 10 years and, is that what you're talking about?

COUNCILMEMBER KING: Well, no. The, the bill actually exempts, you know, the tax is applies for, for units except those that are, that are, are renting or leasing for periods of more than six months, six consecutive months.

MS. THOMSON: Well, that would apply to me in the apartment. But, you know, where the complex is, you know, there's short-term available. So, my understanding it would just be put into, they're all going to be in the same category and then you have to get an exemption for if you want to do long-term, which is unrealistic, because, you know, to commit to 10 years doesn't make any sense. And so, that's my understanding of it. Maybe I'm not totally clear but.

COUNCILMEMBER KING: Okay.

MS. THOMSON: But, I, but I do want to keep the long-term. I do not want to move mine to short-term rental.

COUNCILMEMBER KING: Okay. Thank you for that. I appreciate that. We all appreciate it.

CHAIR WHITE: Ms., Ms. Thomson, I have a question for you as well. Do you currently file for a dedication for, to operate a long-term rental?

MS. THOMSON: No. I just, you know, it's, I, it has a apartment designation on the form.

CHAIR WHITE: Right.

MS. THOMSON: That's what I do.

CHAIR WHITE: Okay.

MS THOMSON: That's six months or more, yea.

CHAIR WHITE: Right, right. Thank you.

Any other need for clarification, Members? Seeing none.

MS. THOMSON: Can I just say one more thing? I've had many people ask me why I don't do short-term rental, because I can. And I, and I tell them I don't want to do that.

CHAIR WHITE: I, I'm sorry, you can only respond to questions we ask. Thank you very much.

MS. THOMSON: Okay. Thank you.

CHAIR WHITE: And, and please bear with us. We are going to keep people at the three-minute, because we've got a significant number of testifiers this morning.

Please proceed, Mr. Clerk.

COUNTY CLERK: Eve Hogan, testifying on Committee Reports 17-150 and 151. To be followed by Brian Moto.

MS. EVE HOGAN (testifying on Committee Reports 17-150 and 17-151):

Good morning, Council. I'm Eve Hogan. I'm a member of the Ag Working Group. And I own the Sacred Garden Upcountry, and Sacred Garden Retreat, which is a short-term vacation rental. And I, this is my fifth day in a row being in Wailuku meeting with all of you, either on the phone or in person, along with Sydney Smith.

And, aside from discussing the specifics of these bills, I want to point out something that you may not realize. Many of you don't know what these bills mean, just like we don't. We came to talk to several of you on the phone and in person, and every single person had more questions for us than answers, and different perceptions of what the

bills meant. Was it just under the house site? Was it the whole property? What was the impact on ag? How does this work? Was the six month thing, the two month thing, you know?

I would really love to beg of you to take this back to Committee, and make sure that you go down the row and see what each of your perceptions of these bills are that make a huge difference to all of us because I don't think you're on the same page. Humbly and respectfully request that you take this back to Committee.

Sydney Smith did some math, I submitted to you, on what would happen to Annette Niles if she took her farm into vacation rental. She would have an increase of 650 percent in her tax. My property, which has already endured a 300, I'm sorry, a 3,300 percent increase from when I bought it in 2000 from what it was taxed at, at 2011 would incur another 35 percent increase if you lumped agricultural vacation rentals into the same category as all these other ones.

So, and again, I'm not a detail girl. I'm just came to you guys for answers and found that there were more questions than answers. So, please take this back to Committee.

CHAIR WHITE: Thank you, Ms. Hogan.

Members, any need for clarification? Seeing none--

MS. HOGAN: Thank you.

CHAIR WHITE: --appreciate you being here this morning.

Mr. Clerk.

COUNTY CLERK: Next testifier is Brian Moto, testifying on behalf of Catholic Charities Hawaii, on Bill No. 89. To be followed by Amy Bond.

MR. BRIAN MOTO, CATHOLIC CHARITIES HAWAII [testifying on Bill No. 89 (2017)]:

Good morning, Chair Mike White and Members of the Council. My name is Brian Moto. I am here in my capacity as Chairman of the Maui Advisory Board of Catholic Charities Hawaii, and as a member of the Corporate Board of Directors of Catholic Charities Hawaii. I speak in support of Bill No. 89, amending the Residential Workforce Housing Policy to promote the development of new low-income rental housing for the needy.

I thank the County Council for passing this bill at first reading two weeks ago. I also thank Councilmember Stacy Crivello, and the Members of the Housing, Human Services, and Transportation Committee, who worked on this bill and recommended its passage. Thanks and acknowledgements also go to the Department of Housing and Human Concerns, County's attorneys, and Council Services staff for the many hours spent preparing and refining the bill.

Council Chair and Members, I now urge you to pass Bill No. 89 on second and final reading. Your approval will help make Catholic Charities' Kahului Lani Senior Rental Housing Project a reality. Your vote will provide many low-income and very low-income seniors with decent homes, and access to social services provided by Catholic Charities Hawaii. Thank you.

CHAIR WHITE: Thank you, Mr. Moto.

Members, any need for clarification? Seeing none, thank you for being here this morning.

Mr. Clerk.

COUNTY CLERK: Next testifier is Amy Bond, testifying on Committee Report 17-150. To be followed by Stephen Kealoha.

MS. AMY BOND (testifying on Committee Report 17-150):

Good morning. Yes, I'm here to testify in regards to the short-term rental home tax classification change that's proposed. I am a permit holder of a short-term rental home. I am a resident of Maui. The business supports my family, I have three little boys. I originally started the business, that could not, I wasn't going to be able to keep the house unless I tried to do something, and so, because I went through a divorce. And so, I decided to do that to be able to keep the property, which I got to do, which was wonderful.

I just wanted to say that in regards to switching the tax classification to short-term rental home, a new tax classification, or to hotel/resort, I feel that although it is a business and it's commercial, that is not a hotel or a resort. I feel like these businesses are more like a commercialized residential use. I feel like that if you guys do decide to put it in a new tax classification that it should be much lower than hotel/resort, because we only have the density of renting two people per bedroom. So, I can rent to six people versus a hotel/resort or a condominium. They have a higher density. They allow more people.

Also, I can't have a restaurant or I'm not a concierge, I don't sell, I don't have a gift shop. I'm just renting three bedrooms. So, I just think that because these, this law is so new and the permitting process is pretty new still with an, only four years old for the current permitting process that there needs to be a little bit more thought put into things and possibly just more consideration. And also realize that even though there's a lot of bed and breakfast and those people get the commercialized residential tax class and they also get their home exemption that a lot of short-term rental homes are owned by people that do live here. And we work very hard to make sure that all of our visitors get the same kind of aloha that the bed and breakfast do.

If I had a cottage on my property, I would definitely try and accommodate living there to be able to do a bed and breakfast. But, I didn't have that option, I only have one structure. So, that being said, I just wish that you could go and go back to the drawing board and just also think about these considerations. Thank you.

CHAIR WHITE: Thank you very much.

Members, any need for clarification?

COUNCILMEMBER KING: Just a quick question.

CHAIR WHITE: Ms. King.

COUNCILMEMBER KING: So, thank you. Ms. Bond, so you, you actually don't live in your, the house that you rent out?

MS. BOND: No. I'm a short-term rental home and not--

COUNCILMEMBER KING: Okay. But, it's in a residential area?

MS. BOND: Yes, it is. It's in Kihei.

COUNCILMEMBER KING: Okay. Thank you, Chair.

CHAIR WHITE: Any others? Thank you for being here this morning.

Mr. Clerk.

COUNTY CLERK: Next testifier is Stephen Kealoha, Vice-Chairman, Catholic Charities Maui Advisory Board, testifying on Bill 89. To be followed by Scott Teruya.

MR. STEPHEN KEALOHA, CATHOLIC CHARITIES HAWAII [testifying on Bill No. 89 (2017)]:

Good morning, Chairman White--

CHAIR WHITE: Good morning.

MR. KEALOHA: --and Honorable Members of the County Council. I'm Stephen Kealoha, and I represent Catholic Charities Hawaii as the Vice-Chairman of the Maui Advisory Board. I am testifying today in support of Bill 89 for an ordinance amending Chapter 2.96 pertaining to housing credits.

As I have previously testified on this matter, the availability of housing credits provides a valuable and critical component that incentivizes the development of affordable housing for our community. We are probably all in agreement with the fact that as a community, we struggle to adequately fulfill our housing needs. And anything that we can do to enhance the availability of subsidized housing in a major way helps tremendously. Our proposed 164-unit Kahului Lani development that will provide 100 percent affordable rental homes for our kupuna is one such project that you are already aware of.

Government exists for many purposes, but none, but one of the most important is to help those who are least able to help themselves. In the October 22, 2017 edition of the Maui News, Chairman Mike White's op-ed pertaining to this bill on housing credits states, "the affordable housing crisis won't be solved instantly, but we must keep chipping away at the issue and continue to assist residents in finding their own special place to all home". I couldn't agree more. And I know you all support meaningful efforts in this regard.

One of Catholic Charities four core values is social justice. It calls for us to be a community of hope that works to achieve the common good, and advocates on behalf of those with the greatest need. So, in this context, I sincerely thank you for your past support. And I humbly ask for your continued declaration of a favorable vote on Bill 89 today. Mahalo.

CHAIR WHITE: Thank you, Mr. Kealoha.

Members, any need for clarification? Seeing none, appreciate your being here this morning.

MR. KEALOHA: Thank you.

CHAIR WHITE: Mr. Clerk.

COUNTY CLERK: Next testifier is Scott Teruya, Real Property Tax Administrator, testifying on Committee Reports 17-150 and 151. To be followed by Christopher Smith.

MR. SCOTT TERUYA, REAL PROPERTY TAX ADMINISTRATOR (testifying on Committee Report 17-150 and 17-151):

Thank you, Chairman and Members of the Committee. Scott Teruya, Administrator for Real Property Assessment Division. Today I'm here to provide some public testimony to help clarify the intent of BF-79 and BF-45, also known as Committee Report 17-150 and 151.

BF-79 proposes to create a new classification called short-term rental for properties that occupied by tenants under six months in duration, while hotel and resort will be comprised of the hotels.

The proposal has no impact on bed and breakfast operations currently in the commercialized residential classification. It also has no impact on properties classified as homeowner. The proposal also doesn't change how properties are valued, how agricultural lands are assessed, and does not establish tax or tax rates at this time.

The proposed bill, as we presented, was simply to add a new classification for properties occupied by tenants in one, under 180 days in duration. Under the proposal, only hotels will be on, in the hotel/resort classification. Again, we just tried to create a new bucket for all those for uniformity, for similar uses that can be grouped together and classified similarly. Again, this measure was for streamlining operations so that all taxes of all properties in this category are taxed together.

In relation to BF-45, the proposal aimed for uniformity and consistency for the tax code. There's always talk about cleaning up the tax code, and this was what BF-45 was to achieve. This was proposed to eliminate the inconsistencies. Currently, there are two ways of classifying property; one for non-condominiumized, and the other for condominiumized.

This proposal repeals the County Code so owners would not be able to attest their actual use. It will revert to how we currently classify 75 percent of the remaining parcels based on their highest and best use.

In this bill, there is also an opportunity to dedicate for long-term rental.

I would have any questions, but I'm glad to provide testimony regarding this matter.
Thank you, Chair.

CHAIR WHITE: Okay. Thank you, Mr. Teruya.

Members, any need for clarification?

COUNCILMEMBER KING: Chair.

CHAIR WHITE: I'm sure Mr. Teruya will--

COUNCILMEMBER KING: Chair, we'll be, we'll have an opportunity to ask questions later?

CHAIR WHITE: You'll be around later if there are questions during discussion? Thank you.

COUNCILMEMBER KING: Okay, thank you.

CHAIR WHITE: Mr. Clerk.

COUNTY CLERK: Next testifier is Christopher Smith, testifying on Committee Report 17-150.
To be followed by Debbie von Tempsky.

MR. CHRISTOPHER SMITH (testifying on Committee Report 17-150):

Hello. My name is Christopher Smith, and I live at 106 Halelo Street in Lahaina. First and foremost, I wanted to thank the Councilmembers for their service. I grew up in a family surrounded by people who dedicate their service to the government, and I think it's something that not a lot of people give you credit for that you deserve.

With that being said, I, I'm here today to ask you to please vote against BF-79, 17-50 *[sic]*, the classification, because I believe that it buckets people in one category that might not necessarily be accurate. And I think it's important to remain accurate in the laws of the Maui County.

So, without going into a longer story, I would just appreciate that you vote against it. And I believe that by classifying certain people in ways which you can't generate ancillary revenue or income, it puts an undue burden on them. With that being said, I'd like to give my time back to the Councilmembers. And thank you.

CHAIR WHITE: Thank you.

Members, any need for clarification? Seeing none, appreciate your being here this morning.

Mr. Clerk.

COUNTY CLERK: Next testifier is Debbie von Tempsky, on behalf of Kupeke Beach House LLC, testifying on Committee Report 17-150. To be followed by Paul Laub.

MS. DEBBIE VON TEMPSKY (testifying on Committee Report 17-150):

Good morning, Councilmembers and Mike White. My name is Debbie von Tempsky. My family operates a short-term rental home on Molokai. Our family has owned the property since 1968. We have lived on the island of Maui for six generations, and Molokai for three of them. My sister's family is of Hawaiian decent. My parents moved to Molokai in 1952 in their twenties.

We have operated the vacation rental home for four years now. We employ a part-time cleaner, yard man, a bug man, and coconut tree trimmers, as well as my sister being the manager. Our home is rented on a average of one week per month. Our occupancy is relatively low and slow.

Molokai is off the beaten path. The guests that go there are mostly families that are looking for a new experience of Hawaii. Our occupancy, no wait, Molokai is, many of our guests like to go there to relax and cook their own food, clean plastic off the beaches and fishponds, and learn about the Hawaiian culture.

I am here because I am opposed to bill BF-79, which is Committee Report 17-150. It doesn't make sense to create a new tax clarification, or classification right now. The tax rate will not change much for nearly 11,000 condo operators. It will change the rate for 220 STV *[sic]* permit holders. It will go up from their current commercial rate to a new rate of 30 percent or higher. It sounds like it would not make much of a difference. But that's my point, the margin would be too small to mess with it. There's nothing wrong with the current way the STVH permit properties are taxed without making a whole new classification.

You must understand that STVH permits operate much like a County special use permit. Much of the application, and many of the applications and forms are very similar. These permits are not a given like condos are. They can be taken away at

any time. The STVH permit is very difficult to get in the first place. The rules are very strict. They are regulated by safety and, for safety and liability reasons. The permit is reviewed--

COUNTY CLERK: Three minutes.

MS. VON TEMPSKY: --and can be renewed on Maui every five years for a fee. But, on Molokai, the permitting is much stricter being that you have to renew--

CHAIR WHITE: Ms.--

MS. VON TEMPSKY: --every year and pay double the fees that Maui pays. Please consider all permits--

CHAIR WHITE: Ms., yea.

MS. VON TEMPSKY: --in County of Maui.

CHAIR WHITE: Thank you very much. I couldn't quite hear the Clerk say three minutes, but I thought I did. Thank you very much.

Any need for clarification, Members?

MS. VON TEMPSKY: I'm not finished.

CHAIR WHITE: Thank you for being here this morning.

MS. VON TEMPSKY: Oh shoot. Okay.

CHAIR WHITE: Mr. Clerk.

COUNTY CLERK: Paul Laub, testifying on Committee Report 17-151. To be followed by Kim Tempo.

MR. PAUL LAUB (testifying on Committee Report 17-151):

Aloha mai kakou o Paul Laub kou inoa. And the first thing that I wanted to ask about was since we had the hearing for the budget on the second day of the storm, and there was, the notice was out don't drive on the road because the lights were out, and the lights were out not just on the road lights but in Lahaina. And phoning in, they weren't

sure if they were going to have the meeting. May I recommend that that meeting be re-held so that adequate people could come and testify?

But if, since we're here, the first thing that I think, I gave you guys all this paper and you'll see in yellow there, the change of land class to "commercial" for 2014. And that's because the, the Department of Finance felt that it should have been hotel classification. However, this has been adjudicated, this is Res judicata. This went before the board, and they said no. Now, I thought it should be commercial/residential myself. They said no this is residential. And so, they made all of these people who appealed, me included, as commercial. So, that's where we are today. So, to try us again after a Res judicata, it's called double-jeopardy. And that's against public policy. It's already been decided.

So, since it's against public policy, there, there is a possibility that if you wanted to tax all the new ones, then the old ones would be grandfathered in to commercial. But, I don't see this as beneficial. I see nothing positive about changing this classification. Everything is good now. It's not broken. No need fix. So, let, let's keep it as commercial.

Now, actually, for those of you who are familiar with the history, this is in, kind of in violation of King Kamehameha's Law of the Splintered Paddle, where once, you know, you're at home and everything is established, you can't be, you can't be imposed upon by a higher authority. Read it if you haven't had the chance to read it. It's quite interesting. And that, essentially, is my testimony. May I help anybody? And one more thing, on the last page is the, some of the list of things that separate condos from short-term rentals. It's, it's like ducks and oranges.

May I ask a question?

CHAIR WHITE: Does that conclude your testimony? Members, any need for clarification? Seeing none, thank you for being here this morning.

MR. LAUB: Mahalo nui loa.

CHAIR WHITE: Mr. Clerk.

COUNTY CLERK: Next testifier is Kim Tempo, testifying on Bill 89. To be followed by Tom Croly.

MS. KIM TEMPO [testifying on Bill No. 89 (2017)]:

Aloha and good morning, Council and Chair.

CHAIR WHITE: Good morning.

MS. TEMPO: My name is Kim Tempo. I promise I'll try not to cry today as I did last time. I'm just very nervous. I am here to testify on Bill 89. It is very close to my heart as most of you know. I do outreach with the homeless, and I do work with them on social security and vital documents.

But I'm not here representing any agency. I'm here to represent myself. I'm citizen of, a community member of Maui County. I do see homeless a lot. And what hurts my heart is knowing that a lot of these are our own local people; working families and kupuna. What hurts my heart more, I have five sons. Three live in the mainland. They have all told me they are afraid to come home, because they cannot afford to live in their own homeland. Culturally as a people, you know, that we are not the most populous people now. The majority of our own people live in the mainland, because they cannot afford to live home here.

So, I implore you, please, look at Bill 89, and please help us pass the credits, so that we can keep our kupuna and our keiki home here, and keep our culture alive. That is very important to us. We are a dying people. So, please help us. Thank you very much.

CHAIR WHITE: Thank you, Ms. Tempo.

Members, any need for clarification? Thank you for being here this morning.

MS. TEMPO: Thank you.

CHAIR WHITE: Mr. Clerk.

COUNTY CLERK: Next testifier is Tom Croly, testifying on Committee Report 17-149, 150, and 151. To be followed by Mark McDonald.

MR. TOM CROLY (testifying on Committee Reports 17-149, 17-150, and 17-151):

Aloha, Chair. Aloha, Council. Tom Croly, speaking on my own behalf today. Beginning with Committee Report 149, this was something that I came and spoke out

in favor of at Committee because I hoped that it would create 50 affordable housing units.

When I went home and I did the math on that particular proposal and said okay, \$8 million to buy the property, you get 50 lots, that works out to about \$160,000 per lot. And then you have to sell them based on, on what it says in here. It worked out to where the builder would have to build these homes for \$150 per square foot. So, first you're asking him to buy the, the land for \$8 million. Then you're asking him to build these homes for \$150 per square foot. And that assumes no profit for the builder.

Unfortunately, if you've priced building things on Maui today, I don't think there's anyone that's going to respond to this RFP, you know, positively. It just showed me that we have to do so much more if we're really going to create affordable housing. That, that, that just the idea that, gee, you can buy these lots for a little bit less than what they would sell on the open market for. These lots would probably sell \$240,000 on the open market, and we give them to you for 160. And then we saddle a guy with, you have to sell them affordably and we're not going to give you any credits.

And then that relates to, to number 89, where we really need to be able to create these housing credits as an incentive so that people can build things. But, we even have to be more creative than that if we're going to truly build affordable housing. So, that's, that's my testimony on, on 149.

I'm just, I'm sorry to see that that's not going to go anywhere; that, that, that RFP, I doubt. I mean, you can put it through, but I doubt you're going to get a builder who is going to jump right on that and say, sure, I'll build you 50 homes for about half of what it actually costs me to build them. And then sell them, unless there's just some billionaire builder out there who's going to do it out of the, out of the goodness of his heart to take the loss.

Moving onto the second item that I want to speak about, which is Committee Report 150. And, I did speak at, at the public hearing on this. But, I do ask you to send this back to Committee for a couple of reasons. Number one, I think that it was rushed out of Committee. It, it took place on a day where, as you've already heard, some of the testifiers couldn't make it here because up till just 15 minutes before that Committee meeting was supposed to start, we weren't sure we were going to have quorum. We weren't even sure there was going to be a meeting. But, it did get out of Committee and I don't think that the item achieved equity, consistency, or fairness.

There's a lot that goes into our tax code. It's not simple. And if you just boil it down to one use that someone's able to make of a residential home, and say that is the equivalent of the zoning rights that are given in another category. In, in this case

apartment category, for example. It's just not fair to, to put them into the same, same classification.

And while, technically, all you're doing is creating a new bucket, okay. That bucket contains, currently, 25 percent of your tax base. The folks who, who currently make short-term rental use of their condominium units make up 25 percent of your tax base. There's no way you're going to be able to set a lower tax rate for those folks or anyone else that you put into that bucket. So, let's not kid ourselves. What we're saying is we're taking the short-term rental home permit holders out of the commercial classification where they, where they were designated previously, and we're putting them in with the hotel rate. And we're splitting that hotel rate off so the hotels will have one and the condos will have another.

But, it is the condos that have been carrying the load in that, in that category. It is the condos that make up 80 percent of the value in the hotel tax classification. So, make no doubt that we're talking about raising the, the taxation on the people who have come forward and done the right thing. They've come forward, jumped through all the hoops, been granted this permit, yet they still have to compete against the people that won't. And that's my biggest fear about this particular measure is that it's going to result in fewer people wanting to do the right thing. Cause they see these people who did the right thing, and they see them get treated poorly. And then they say, why should I? And they don't. And that's a battle that I've been fighting for a long time now, and this, this measure just doesn't help with that in any way, shape, or form.

I do believe that there are a number of inequities that we could talk about, but this isn't the place to do Committee work, at Council. So, I would urge you to send this back to Committee. We can talk about it in Committee some more--

COUNTY CLERK: Three minutes.

MR. CROLY: --and, and come up with something better.

Moving on to Committee Report 151. I also gave testimony about 151. And again, the fear here is this measure affects 2699 property owners who currently own condominiums in units and buildings where short-term rental is allowed, but they're not making short-term rental use, or at least that's what they're attesting to.

Some of those people are, are, as you've already heard, renting those units long-term. While there is a provision that's been put in here that would allow them to file a, something with, on the deed of their property with the State and then be put into a classification that would allow them to get the apartment rate, it's very punitive. It, it has a rollback if they change that within 10 years, and then they have to pay those

back taxes. And as you already heard, there's a lot of people that aren't going to go through those hoops.

However, I can tell you who will. The guys who will are the guys that you actually are trying to get this money out of. The guy with the \$5 million oceanfront condo, he'll have his lawyer jump through those hoops. And he'll get his place set up as, as long-term residential even though he's just going to use it as a second home. And you're not going to know any difference, because he'll, he'll set up a lease with, with someone that he knows and say, yea, they live there. And, and that guy is going to save \$50,000 in his taxes and it's worth it to him.

So, this measure has not been fully vetted. It's not been thought through. It will, it will hurt people who are renting long-term right now in a, in a magnitude far greater than any of the short-term rentals that are out there. So, so again, I urge you to take this measure back to Committee. I believe that this measure can be saved. I believe that an exemption could be created that the County administers, and not the, the having to file something with the State. I believe that, that, that you can achieve the objective of this measure, however, I don't think that we've gone about it in the right way here. Thank you.

CHAIR WHITE: Thank you, Mr. Croly.

Members, any need for clarification? Thank you.

Mr. Clerk.

COUNTY CLERK: Next testifier is Mark McDonald, testifying on Committee Report 17-150. To be followed by Rosemary Robbins.

MR. MARK MCDONALD (testifying on Committee Report 17-150):

Good morning, Chairman White, County Councilmembers. My name is Mark McDonald. We own a home on Puunoa Beach, also known as Baby Beach in Lahaina. It's a permitted short-term rental home. We lived on Maui full-time for several years until our son and daughter graduated from Lahainaluna and went off to the mainland to college. We and our children, our grandchildren now, use the home whenever we can, and that's one of the reasons, many reasons why we don't sell the home or rent it long-term.

I'm here to provide testimony to respectfully ask that you keep the tax classification as commercial and not short-term rental. The commercial tax rate for licensed short-term

rental is considerably higher than what we use to pay as a residential rate. And I think to increase it to presumably a hotel rate or higher without having the benefits of being a hotel wouldn't be fair.

There's over 10,000, apparently, hotel-zoned condominium units that are presently paying the, the hotel rate and would probably increase, increase their rates 200 and some short-term rental units. So, we'd be looking at a presumably much higher tax rate on that.

Hotel zoning, as was mentioned before provides more density and allows people to generate more revenue with a lot of different services and things that we can't, can't do as a rental. Short-term rentals are limited to having two people per bedroom that can stay in the home. If a guest is at our home and has some friends staying somewhere else on Maui, they can't even invite them over for lunch without violating the rules of the occupancy of the home.

Further, and important, I think, is to, hotel or condo zoning can be sold to a new owner without having to jump through any hoops or have any expenditures applying for a new permit, which could be denied if it's within 500 feet of an existing short-term rental. So, that has more value as a hotel, by far, than as a short-term rental.

As you know in the past that Maui County was concerned about vacation rentals being unlicensed and unregulated. So, we were encouraged to go in to get a license which we complied with and we were among the first to apply for and obtain a license. We got West Maui license number 2. So, we were, tried to be proactive and be on top of it. So, once we did that, you know, our, our expenses went up, our annual fees, our tax classification changed to commercial, which, which we accepted. You know, it's not a straight residential use although it's, it's a mix, so that's probably fair. But, to change it to a hotel zoning without the benefits of that seems unfair.

There's still several people that remain unlicensed because they don't want to comply with the, the rules and the extra expenses. And it seems like there's not a lot of risk of the existing rules being enforced against them.

So, it, if we were to sell our home, a new owner wouldn't be able to rent it, as I said, without being able to, to get a permit, which they may not be able to get, or even legally honor the bookings that we have.

COUNTY CLERK: Three minutes.

MR. MCDONALD: We'd have to cancel our bookings. Anyway, I just want to say that we comply with all the rules and ask you to, respectfully ask you to not change the tax classification. Thank you very much.

CHAIR WHITE: Thank you, Mr. McDonald.

MR. MCDONALD: Thank you.

CHAIR WHITE: Members, any need for clarification. Seeing none, thank you for being here this morning.

Mr. Clerk.

COUNTY CLERK: Next testifier is Angelia Crim, testifying on Committee Report 17-150.

CHAIR WHITE: I thought you had called Rosemary Robbins.

COUNTY CLERK: Oh, excuse me, Mr. Chair. Rosemary Robbins was the next testify, I'm sorry, I pulled you out of order. Rosemary Robbins.

CHAIR WHITE: Followed by Ms. Crim.

COUNTY CLERK: Correct.

MS. ROSEMARY ROBBINS (testifying on Committee Report 17-149):

Good morning, everybody. Rosemary Robbins. I heard several people this morning speaking in behalf of Bill 89. And, I'm certainly in accord with the intent of all of that.

But, I'm here this morning to speak on Committee Report 17-149. All of those have to do with housing for the houseless for whatever causes. Right now I'm presuming that most of us under this ceiling today have a roof over our head. So, when we take a look at page 4 of this morning's agenda, Committee Report 17-149, this has to do with the Fairway housing. And testimony has been given at this microphone before.

On page 1 of 17-149, it talks about a settlement agreement between the County and VP&PK LLC. And when we looked over at that, we discovered that testimony had been given here previously. And in that testimony, it said that water meters and drainage improvements are needed. It also says that regarding adequate review of the development of the lots needs to be re-examined.

Somebody who's really swift with the computers got a hold of this for me, and it talks about this outfit, VP&PK. And it says that this was identified by the Secretary of State and has a file number of 29903. This file was last updated on May 14, 2013. And it was formed in 2004.

There are people who have a lot of questions as to was this a fly by night outfit just in order to be able to get this done. I don't do any of that kind of research, it's not in my field. But, it does make us realize that the people who are going to be going in there, like all the rest of us, need to be living in healthful situations. And, it's been given at this microphone earlier in this season that there were surrounding lots to those that had been used--

COUNTY CLERK: Three minutes.

MS. ROBBINS: --as a garbage disposal.

CHAIR WHITE: Thank you very much for your testimony this morning.

MS. ROBBINS: You're welcome.

CHAIR WHITE: Members, any need for clarification? Seeing none, thank you for being here.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, next testifier is Angelia Crim, to be followed by Margit Tolman. Ms. Crim will be testifying on Committee Report 17-150.

MS. ANGELIA CRIM (testifying on Committee Report 17-150):

Good morning, Council. Thank you for the opportunity to testify this morning. I'm testifying regarding the CR 17-150, asking that it be sent back to Committee.

I live in West Maui, and I own a permitted short-term rental home. I missed the opportunity to testify last time due to the storm we had Sunday night into Monday. All the traffic lights were out, by the time I made it over, testimony was done. I'm sure I'm not the only person that was delayed or missed the opportunity, as other people have commented this morning.

I stayed for the discussion. It was clear and disappointing to me that the Councilmembers did not seem to understand the unique differences between short-

term vacation homes and other short-term rentals, nor the additional restrictions placed on short-term homes as everyone voted to pass, except for Mr. White.

This is very important to me as a 17-year resident of Maui, and five years of Kauai. Am I local yet? This is my livelihood. Please do not pass this further. As I stated, I own a short-term home, paying taxes, property taxes, GET taxes, TAT taxes, State income taxes, insurance, permits, electricity, cable, phone, cleaning, garbage collection, gardening, pool, maintenance, décor, furnishings, etc., etc., etc. I alone carry all the expense of a short-term vacation home, as every other owner would also.

Short-term homes have already seen a 25 percent hike or more in their property taxes. If pushed into the same rate that condos currently pay, this would be a total of 60 percent tax increase post permit. In other words, what we enjoyed as a homeowner and what we're paying now, plus an additional raise, would push it up to close to 60 percent increase. Not a great incentive for people to become legal . . . illegal homes.

To classify my short-term rental home the same as a condo would be unfair. To operate a legal short-term rental home, owners must apply for a permit at significant investment in time, expense, inspections, and stress, which must be renewed. It can be revoked at any time, and it is non-transferrable. Short-term rental homes have restrictions, condos do not include. I'm sorry, short-term rental homes have restrictions, condos do not; including not even inviting grandma over to see the grandkids.

COUNTY CLERK: Three minutes.

CHAIR WHITE: Please provide a concluding remark.

MS. CRIM: Okay. All I can say is that it is going to be a significant increase. It's not an incentive. I think one thing we should focus on is trying to incent and encourage illegal homes to become legal. And by them observing the legal homes, time after time being more tax, more tax, and whatever, making the process harder and harder.

CHAIR WHITE: Thank you.

MS. CRIM: It's just discouraging--

CHAIR WHITE: Thank you. Thank you so much for your testimony this morning.

Members, any need for clarification?

MS. CRIM: Please read the rest of my testimony, I think everyone has a copy.

CHAIR WHITE: Yes, we do. Thank you very much.

Mr. Clerk.

COUNTY CLERK: Next testifier is Margit Thompson *[sic]*, testifying on Committee Report 17-150. To be followed by Thelma Akita-Kealoha.

MS. MARGIT TOLMAN (testifying on Committee Report 17-150):

Good morning. Good morning, Chair Mike White.

CHAIR WHITE: Good morning.

MS. TOLMAN: Good morning, County Councilmember. I really appreciate your service. My name is Tolman, it's T-O-L-M-A-N, just to correct on the record. I am here to uphold the proposed new tax category for short-term rental homes, which will result in unreasonable high property taxes, loss of jobs in the service industry, and rental opportunities for caretakers.

I moved to Maui in 1989, and have been a small business owner in the visitor industry. In 2004, my husband and I bought our neighbor's property as our retirement investment. In 2013, we applied for the short-term rental license and we kept the home and cottage in long-term use.

We needed, in 2016, employee housing. My employee lost her house opportunity because it was sold. She paid at that time \$1,000 rent. She's a single mother. There was no place on Maui she could go. The license gave us a great opportunity. We were able to combine short-term and long-term use on one property. The extra income of the short-term rental provides a 40 percent discount on the long-term rental.

With this proposed change of the property tax classification and the expected increase in taxes, we will not be able to cover additional costs. My property tax for a simple home and cottage in Haiku on half an acre would drop, jump to more than \$600 a month. This is half of my net rent income of the short-term rental. Returning the license will increase the rent. Increasing the short-term rental potential will reduce the long-term rentals on the property. Either way, it will be one of the tenants who will be affected.

With the STR license, our tax category changed from residential to commercial at 25 percent increase. At that time, it was understood STR's are not hotel or resorts.

The commercial category offered a rate just between residential and hotel/resort. The rate was the determined factor and the decision everybody agreed to.

The proposed new tax category will be an additional 30 percent increase in taxes for STR homes. The rate is not established yet. I understand that. However--

COUNTY CLERK: Three minutes.

MS. TOLMAN: --it will be not lower than the tax rate condos are paying right now which is 9.37 per thousand in value.

CHAIR WHITE: Please conclude.

MS. TOLMAN: I'd like to ask you to review this proposed bill and send it back to Committee.

CHAIR WHITE: Thank you very much.

MS. TOLMAN: I understand the tax classifications can be more streamlined, but it should be fair and not overseen.

CHAIR WHITE: Thank you, Ms. Tolman.

MS. TOLMAN: Thank you very much.

CHAIR WHITE: Members, any need for clarification? Seeing none, thank you for being here this morning.

Mr. Clerk.

COUNTY CLERK: Next testifier is Thelma Akita-Kealoha, testifying on Bill 89, on behalf of Catholic Charities Hawaii. To be followed by Vernon Altman.

MS. THELMA AKITA-KEALOHA, CATHOLIC CHARITIES HAWAII [testifying on Bill No. 89 (2017)]:

Aloha and good morning, Council Chair, County Councilmembers. Thank you for allowing me to be here. You guys must be getting tired of seeing me come up here. I'm running out of things to say. I'm here today for Bill No. 89, "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96, MAUI COUNTY CODE, RELATING TO RESIDENTIAL WORKFORCE HOUSING".

I, I want to also thank you folks and show my appreciation for all of the hard work that you folks have been putting in. I, I really appreciate it. I do also want to say that I feel that this bill will really help us build affordable housing. And yes, Catholic Charities does stand to gain from this, because it will allow us to build affordable and subsidized housing. However, I, I did want to say that this bill is not about Catholic Charities Hawaii, it's about providing housing.

And whether that's workforce housing, affordable housing, subsidized housing; it's housing for our community. It's housing for the people that live here, that work here, that have families here on Maui. It's about the non-profit developers, and maybe some for-profit developers who care about Maui and want to be able to provide housing for our residents that live here.

And earlier you heard Kim talk about, you know, having family that keep moving away. And the reason why they're moving away is cause they can't afford to live here. And not just cannot afford to live here, they cannot afford to buy homes. And you know, some of them can't even afford to rent homes. And when you're raising a family it's even more expensive.

I'm sure you folks have heard all of these things plenty of times. And then I know that I'm preaching to the choir. I, also, again want to tell you how much I appreciate all the work that went into, you know, passing this out of Committee Chair Stacy's Committee, passing the first reading and now going onto the second reading.

No one could ever say that your job as various Chairs and County Councilmembers is easy. And again, I really appreciate your work and your dedication. Right now, rents are at an all-time high. Landlords have long lists of people who are looking for rentals. And there are concerns that vacation rentals are taking rental units away from the people that are living and working on Maui.

The other day, the other day, I was driving down from Pukalani, and I saw right by the stoplight coming down from Haleakala Highway, a big sign that said "shared room for rent, \$1,000". \$1,000; how can people afford a room to share for \$1,000.

COUNTY CLERK: Three minutes.

MS. AKITA-KEALOHA: Thank you. Anyway, I want to conclude by saying that I hope that you do pass Bill No. 89. And I thank you for your time, your hard work, and allowing me to come forward. Thank you.

CHAIR WHITE: Thank you very much for being here this morning.

Members, any need for clarification? Seeing none, thank you.

Mr. Clerk.

COUNTY CLERK: Next testifier is Vernon Altman, testifying on Committee Report 17-150.
To be followed by Margaret McIntyre.

MR. VERNON ALTMAN (testifying on Committee Report 17-150):

Good morning. Thank you for having me here. I'm Vernon Altman, and I own a short-term rental property at 1498 Halama Street in Kihei. And, we've occupied that partially for ourselves, but also for short-term rental purposes.

We're very happy to have this home available in the market. It's, it's not a great investment I should say, looking back over. It's been an okay investment. But, it does provide a service that's quite unique to people that are visiting Hawaii. It gives homes, a homelike environment as opposed to a hotel environment, and that's what they're looking for.

Our home competes with other quality homes around the world, really. We're advertised in magazines that, that are of that kind. And so, people look at Hawaii, and they look at our place, and they'll look at other locations, and consider the trade-off, and they'll make their decisions. Prominent in their decisions is price. I mean, certainly Hawaii is, is unequaled in so many things, but when it comes to price, that is sometimes a stopper, and they may go elsewhere.

The unfortunate aspect of what you're considering now with the tax increase is that it will make us less competitive on the world scene. It will make us less competitive on the local scene for people that want short-term rentals. And so, it's a, it's a problem for us as investors, but it's also a problem in the economy. We provide a lot of jobs, as people have testified earlier; a lot of jobs on the island, both directly related to the house and its upkeep and maintenance but also, to the, to the restaurants and the various places they choose to go on the island. So, it's, economically, it's very powerful.

My concern is that if you continue to raise the taxes, people like me, I'm not saying I would do this, I've been quite law-abiding and have, and have, and as have been our renters, but people may consider, number one, selling their house and just getting out of this market altogether. Or they may choose to have it reclassified and then rent illegally. There's a lot of illegal rentals on this island now. And, and I don't believe Maui has the resources to track them all down. I think there are, there are clever ways

people can get around that. And I would suggest, actually, instead of considering raising the rents, that you consider making the process of renting short-term easier, so that more people enter it and as opposed to going around the rules.

COUNTY CLERK: Three minutes.

CHAIR WHITE: Thank you very much.

MR. ALTMAN: That's really all I have. Thank you.

CHAIR WHITE: Okay. Thank you very much for being here this morning, Mr. Altman.

Members, any need for clarification? Seeing none, I appreciate your coming.

Mr. Clerk.

COUNTY CLERK: Next testifier is Margaret McIntyre, testifying on Committee Report 17-150. To be followed by Cynthia Koziolas.

MS. MARGARET MCINTYRE (testifying on Committee Report 17-150):

Council, thank you for having me here this morning. I just want to add my voice to wanting to oppose this change of the tax bracket for short-term vacation rentals. I have a short-term vacation rental in Kuau. And we bought this property long time ago. I am a U.S. citizen. I'm a Hawaiian resident. I actually come from New Zealand, so coming here is like coming to a warm version of home. I'm very attached to it.

We have, I just wanted to say that, you know, we've always been legal. Initially we had a cottage that was, that we paid, we've always paid our taxes. And then we built a little house next door and we now have a property beside us that has a house and a cottage that is legally permitted.

All the people we employ pay taxes. They, we don't, we, so we're always supporting this. And we've always complied with all requests from the County. And we strongly adhere, and you know, we're in a very tight little neighborhood. We strongly adhere to the quiet hours requirement in the neighborhood. So, we, you know, we, and we're thoughtful about parking and all the usual requirements. Actually, our neighbors make more noise than we do, when local people are there.

Now, unlike my parents' generation, there is no pension scheme for us, and this is our retirement income, and there are a lot of expenses associated with it. But, it's very

satisfying having a place that can, that where people can come who are looking for the more Hawaiian experience. And, and the guests that we have are very thoughtful. We are very careful about making sure that we have people there that would be thoughtful about how they interact in the neighborhood.

So, we bring business to people who do the maintenance. Obviously, business to Paia and the local things. Most other people have said more eloquently things about the hotel zoning and the differences and the fact that we don't have the benefits that, that hotel zoning has, such as, you know, we have a permit so it's not something that is transferrable and then there's all the other benefits coming from that higher zoning.

I think I just would like to respectfully say that I want to oppose this and ask that you have a further look at it. And, and yep, I think that's it for now. But, thank you so much. And, appreciate your time.

CHAIR WHITE: Thank you, Ms. McIntyre.

Members, any need for clarification? Thank you for coming.

Mr. Clerk.

COUNTY CLERK: Next testifier is Cynthia Koziolas, to be followed by Zandra Amaral-Crouse.

MS. CYNTHIA KOZIOLAS (testifying on Committee Report 17-150):

Good morning, Chair--

CHAIR WHITE: Good morning.

MS. KOZIOLAS: --and Vice-Chair, and Councilmembers. I'm going to read what I wrote just to, for time sake. It has been more than two and a half years.

CHAIR WHITE: Can you speak in front of the mic?

MS. KOZIOLAS: Oh, okay.

CHAIR WHITE: There you go.

MS. KOZIOLAS: It has been more than two and a half years since I started the process to set up my home to be a legal short-term vacation rental. I'm 61 years old, and my

husband is 60. After over 20 years providing mental health services in non-profit organizations on Maui, I'm now working part-time in private practice as a psychotherapist, licensed marriage family therapist. And my husband is the administrator for his business.

After meeting all the 26 steps of Maui County's requirement, processing fees and permit fees, we were happily granted an STRH permit on November of 2016. Since my husband and I were not sure if we were going to be granted the permit, we did not start investing as fiercely until then by purchasing new appliances, hiring help for improvements, a landscaper, and many myriad more expenses from our savings and credit line.

We are now planning to start renting our vacation rental on November 20 of this year, one year after the permit was granted; making sure that all the details are ready for guests to feel comfortable and enjoy a safe and enjoyable stay on Maui.

Meanwhile, our property taxes went from \$1,200 residential category to \$5,000 commercial for this year without seeing any income. The renewal for the permit submitted this September required processing fees and permit fees as well. I am gladly absorbing these costs, envisioning and hoping that endeavor will be successful and help with our retirement in the near future, and contribute to our community collecting the transient accommodations tax and general excise tax having, you know, cleaners, plumbers, bug exterminators, handyman, landscapers, and real estate management, as well as purchasing staples locally for the day to day business upkeep.

When I heard of the possible change in property tax category grouping, grouping STRH with condominiums, I was very discouraged since it meant even higher expenses. In my view, it is like lumping apples with oranges. Owners of condominiums do not have to go through the process I described above to operate, with less restrictive occupancy requirements, having the capacity to sell their condos with the right to rent as short-term. STRH permits is not transferrable on sale of the property.

COUNTY CLERK: Three minutes.

MS. KOZIOLAS: Okay. Nor a requirement of one million dollars naming Maui County on their home.

CHAIR WHITE: Please provide a concluding remark.

MS. KOZIOLAS: Sure. I will ask you in not rewarding the non-permitted illegal vacation rentals . . . property, you know, and all the taxes. But, I ask you rather to consider leaving the homes of the STRH permit holders at the present category. And that this

will encourage non-permitted vacation rentals to contribute to, to the community with property taxes that will help with homelessness and shelter, and sheltering people. Aloha.

CHAIR WHITE: Thank you very much for your testimony this morning.

MS. KOZIOLAS: Thank you.

CHAIR WHITE: Mr. Clerk.

COUNTY CLERK: Next testifier is Zandra Amaral Crouse, followed by Pat Borge.

MS. ZANDRA AMARAL CROUSE (testifying on County Communication No. 17-434):

Aloha kakahiaka kou mau aloha. I'm going to get Danny Mateo get my last name right yet. It's Crouse as in "house". Aloha kakahiaka, Zandra Amaral Crouse. Aloha Council Chair and Councilmembers. I am Zandra Amaral Crouse, principal broker and owner of Hawaii `Aina Hawaii ZEE Properties.

I stand before you in support of placing the item CCM 431 or PAF 16-183 in the appropriate Committee. And I humbly ask that the Chair of this respective Committee schedule this item soon in order to start dialogue.

There are many case studies online within and outside of the United States in respect to this issue. These that are online are models that we can learn from. I know each and every one of you on this Council are very passionate about accessibility to affordable homes for our local families. I am not standing before you to say I am for or against this bill, agree or disagree what's in, within it. What I am here is, is to put it into Committee, have the Chair place it with any part of the agenda item, having opening this topic of, for conversation with the local people and the views and guidance of our Council.

And I believe that this is a great look at looking at alternatives. And I know you all have worked very hard, some of you like Riki who's been on the Council has done this for ages. But, I believe that this one communication would be an alternative to affordable housing, and that open up the discussion.

In regards to 17-150 and 151, all I say is I humbly ask, as I sat there listening to the people from Kihei and West Maui, I know many of them had interest to be here to testify before you when this was put on the agenda. But, we all know the storm prevented

that from happening. So, I humbly ask, put it back into Committee and get stuff from them.

And regarding bill, Communication 89 for Catholic Charities, again, you know me, I support affordable homes. My agency deals predominantly, only with local homebuyers, which takes us three to five years to get them into a home. And I work with these different agencies, and they help. So, I humbly ask, on behalf of my children, my mo`opuna, and my great-mo`opuna, and the local people of Maui County, help us help them. And I know it is your passion. And these things, guys, I say because I know you are just, I know you are fair. And I know that you have the same passions that every testifier that came before you have. Mahalo.

CHAIR WHITE: Members, any need for clarification?

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Zandra, so what was the first item that you spoke about? I'm sorry, I didn't get what the Clerk said.

MS. AMARAL CROUSE: That was Ella's *[sic]*, CC, CC 17-434.

COUNCILMEMBER SUGIMURA: Thank you.

MS. AMARAL CROUSE: You're welcome.

CHAIR WHITE: Okay. Thank you very much for being here.

MS. AMARAL CROUSE: You're welcome. Thank you.

CHAIR WHITE: Mr. Clerk.

Oh, I'm sorry, Members, we're going to take our morning break. Please be back in your seats at 10:45. We're in recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 10:33 A.M., AND WAS RECONVENED AT 10:44 A.M., WITH ALL MEMBERS PRESENT, EXCEPT MEMBERS ATAY, COCHRAN, GUZMAN, AND KING, EXCUSED.)

CHAIR WHITE: This meeting shall please come back to order.

Mr. Clerk, let's proceed with testimony.

COUNTY CLERK: Next testifier is Pat Borge, testifying on Committee Report 17-150. To be followed by Joy Gerry.

MR. PAT BORGE (testifying on Committee Report 17-150):

Hi, Good morning, Mr. Chair--

CHAIR WHITE: Good morning.

(Councilmembers Cochran and King returned to the meeting at 10:45 a.m.)

MR. BORGE --Councilmembers. My name is Pat Borge. As far as this, I support this bill, as I feel it's about, it's about time that this, that we look at the taxes of this short-term rentals. Cause I do believe, and I've been following this issue from day one when they first made the ordinance. And I want to congratulate Mr. Hokama here for trying to get this bill through.

And it's about time, because I remember when I rented my house. Well, first of all, I want to God bless the guys who rented long-term, because you helping the situation on this island, because we need affordable housing and we need rental units. And I've been dealing with tourists for over 40 years. And I look at the hotel situation where the people that stay at the hotel, they have their beaches, their swimming pool and what have you. Most of them will stay in that zone area; Wailea Resort, Kaanapali.

But when you get into the short-term rentals, these people out there in the rain forest, they're all over the island. So, they have a lot of impact on our infrastructure. They use our parks more so than somebody from the hotel. So, I feel that they should be paying the same taxes as the hotel or whatever. But, their taxes should be raised, because if you want to run business here on Maui, it's a business. You can call it whatever you like, short-term rental, B&B's; it's a hotel. And I always said, you look in Webster's Dictionary, what's the definition of hotel? If you supply food, lodging, and everything else, that's a hotel, period.

So, why every time we're going to raise the tax I seen these guys come forward every time crying foul, you guys are picking on me, this and that. It's a bunch of bull. You come to Maui, a lot of these people came to Maui because of these B&B and short-term rental issue. That's how they make their money.

And what about this LLC? LLC, who the hell is LLC, you know? In the meantime, the local people are suffering, you know what I mean? And I, I look at this, I get so frustrated, because when I was running long-term rental, I was paying more taxes than

the person above me that had a B&B. How's that? So, what I did was I raised my rent so the tenant had to pay more rent. You know, and that's how it works. That's, that's not fair. It's not, it's not fair, you know.

So, hopefully, with this bill, by putting everybody together and, and then come up with a better bracket as far as taxation. So, I support it wholeheartedly and I hope it's a first step of trying to get equal taxation for everybody on this island. And like I said, I run a business, you run a business on this island, you got to pay your taxes. And that's the way it works. And, I want to thank everybody. Like I said, I've been following this issue from day one when they first did the ordinance.

COUNTY CLERK: Three minutes.

MR. BORGE: For me, personally, I don't care for B&B's and short-term rentals in residential areas, period. They don't belong there. That's why you have neighbors against neighbors.

CHAIR WHITE: Mr. Borge, can you provide--

MR. BORGE: Thank you very much, and God bless all you guys.

CHAIR WHITE: Thank you very much for your testimony.

MR. BORGE: Thank you.

CHAIR WHITE: Members, any need for clarification?

Seeing none, Mr. Clerk.

COUNTY CLERK: Next testifier is Joy Gerry, testifying on Committee Report 17-150. To be followed by Greg Mebel.

(Councilmember Atay returned to the meeting at 10:48 a.m.)

MS. JOY GERRY (testifying on Committee Report 17-150):

Hi. My name is Joy Gerry. I do have a short-term rental. It's 720 square feet. It's a two-bedroom, one-bath. It rents for 165 a night. I'm not a hotel or a condominium. I don't have a pool, a jacuzzi, parking, restaurant, or I should say valet parking, a restaurant, or any other amenities. I'm renting a furnished house, sometimes short-term, sometimes a month or longer.

I have emailed the Councilmembers each time there is an issue on the short-term rentals. I've testified before. I'm lucky if I get one or two responses from the Councilmembers. And I'm not asking for special favors from the Council. I'm not asking for anything but fairness.

The BF-79 is a very unfair bill, comparing a single-house to a condominium or a hotel and not, with no benefits that a condominium or a hotel are allowed, and taxes, so we can't continue to rent our property out in the way that works for us. You don't know me. You don't know what is going on in my life. And please don't just categorize all short-term rentals and tax us beyond our ability to pay. Put your personal agenda or dislike of short-term rentals aside, and do what is fair.

If you think about it for just a moment, I think you'll see the hypocrisy of this tax increase on the short-term rental permit holders who have complied with the County of Maui and have become legal. The ideal situation would be to make it easier for short-term rentals to be legalized and, so that the majority would not be illegal. And then it would increase tax revenues across the board.

We've worked really hard for over a decade trying to establish a viable licensing enforcement and fair tax rate. I just ask the Councilmembers to please not reverse, hinder, and punish all the hard work and progress that the short-term rental industry has gained. Thank you.

CHAIR WHITE: Thank you for your testimony.

Members, any need for clarification? Thank you for being here this morning.

Mr. Clerk.

COUNTY CLERK: Next testifier is Greg Mebel, testifying on Committee Report 17-150. To be followed by Tyrone Spellman.

MR. GREG MEBEL (testifying on Committee Report 17-150):

Thank you, Councilmembers. Greg Mebel. I'm not going to reiterate everything that was said today, because a lot of it has been said over and over. We were the third short-term rental in Paia. Just as I've said before, it's a, it's a plantation-style home; three-bedrooms.

But, what I'm, one thing that I do want to reiterate is, is generally if we're going to raise taxes, so I'm testifying on BF-79 and 17-150. If we raise taxes in this category, I think what happens here is that all the people who are thinking about being part of this program bail out. They, they look at all of these changes, and they can't make a decision about whether they should be part of this program or not, because it's always changing. There were a few people who literally just got their permits, and they made their decisions and now it's changing again.

So, this program that we have in Maui County, it's years ahead of the rest of the counties in our State. Everyone did the hard work here. There were no short-term rentals. They were, there was a prohibition. Prohibition did not work. We came up with a program. Everybody did a lot of hard work to come up with this program, which put us ahead of all the other counties. In Oahu, right now, they're just starting to talk about this stuff.

However, if we shun people out of this program, we end up getting less tax revenue from short-term rental owners, and we have less regulation for those people. They're not going to disappear. Prohibition does not work; we already tried that. So, I urge you to vote against this proposal. Let's let this program work for a little while. Let's see how it goes. Obviously, there are people here who have testified who are condo owners, who are short-term rental owners, and neither of them want to be in the same tax classification.

In any case, again, I don't want to reiterate what has been said. But, thank you for your service and thank you for listening to us today.

CHAIR WHITE: Thank you, Mr. Mebel.

Members, any need for clarification?

COUNCILMEMBER KING: I just have a quick question, Chair.

CHAIR WHITE: Yes, Ms. King.

COUNCILMEMBER KING: Thank you. Thank you for being here. Would you be in favor of raising, of stricter enforcement on the illegal STR's and raising the, the violation fees?

MR. MEBEL: Yea. Yea, I mean, I think part of a program being effective is, is going to be making all parts of it effective, you know.

COUNCILMEMBER KING: Okay. Thank you.

COUNCILMEMBER COCHRAN: Chair.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, thank you for being here. So, when you mentioned you don't think people will want to participate in this program and they will bail out. What do you mean by that?

MR. MEBEL: So, everyone comes up for a renewal. And as some people testified, there's a lot of people who, you know, there's a bunch of fees and obstacles and hurdles to, to renew. So, most people do that. Like I said, when this program came, we were number three, and we have plenty of friends who did the, who did the same thing.

However, some people just "A. Won't renew". And other people will look at, okay, how's it going for everybody else? Okay, what do I have to pay on top of, you know, what I'm already paying? Okay, can I even make a decision on this? You know, is this, how can I make a decision on it if it's constantly changing? You know what I mean? So, I think that for some of those people, they might say, hey you know what, this is, I'd rather just try and operate, you know. I'm not saying that I would or anyone here would.

But, I'm trying to tell it like it is that that's the calculus that goes around in people's heads, that says, hey, you know what, I have this property. I have plenty of rights around my property, this, these are arbitrary rules that say, hey, you know what, this person can rent for five months, and that person can rent for six months, and this person's tax is that, and that person's tax is this. So, all those things are being, because it's long-term versus short-term, so all these things are being weighed in people's heads and they're trying to decide what to do.

CHAIR WHITE: I think, I think you've answered the question. Thank you, Mr. Mebel.

MR. MEBEL: Okay. Sorry.

CHAIR WHITE: Do you have another question?

COUNCILMEMBER COCHRAN: So, I guess, I know you're not going to say people are just not going to renew and just continue business as usual to collect income. But, bailing out, I was thinking you, people will just decide to not be, yea, short-term rental and either sell the home, move away, and or flip it into long-term, which this local housing needs. That's what I was picturing a bailing out meant. But, you're saying otherwise.

MR. MEBEL: I mean, I'm not going to say that what you're saying could never happen. Clearly it could. But, there are people who, I would say, hey, I'm speaking for other people, again, not for myself, we're, we're in this program, but would say, hey, you know what, why shouldn't I rent my home? You know what I mean? Or maybe they would do it for four months, five months, and they would still be penalized.

CHAIR WHITE: Any further need for clarification? Thank you for being here this morning.

MR. MEBEL: Sure.

CHAIR WHITE: Mr. Clerk.

COUNTY CLERK: Next testifier is Tyrone Spellman, testifying on Bill 89. To be followed by Allyson Mattox.

MR. TYRONE SPELLMAN [testifying on Bill No. 89 (2017)]:

Good morning, Council Chair Mike White--

CHAIR WHITE: Good morning.

MR. SPELLMAN: --and Councilmembers. My name is Tyrone Spellman. I'm here to testify on behalf of Bill 89, "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96, MAUI COUNTY CODE, RELATING TO RESIDENTIAL WORKFORCE HOUSING POLICY".

Personally, I would like to commend the Council in passing the reading on October 20. And since then, I've been reflecting on my community and my responsibility in our community. I know that what we do here today will go beyond my years, our years in our community. In building this senior citizen affordable housing project, this will be a testament that will be rooted in our community for those who will come after us and knowing we, knowing that we were a loving, giving, caring, and intelligent community that knew the needs of its community citizens and acted upon those needs collectively and responsibly.

Catholic Charities has taken the torch through the community, and has lit it with its community citizens. It is before the Council, and now the Council has the responsible voting power to light those 164-units for our community senior citizens. The light should never dim, nor should it ever go out for the lives of our citizens. So, it's a, subsidized housing is their only light in living a normal life. We have that responsibility this morning, and this should echo in our generations that will come after us. Please pass this bill.

CHAIR WHITE: Thank you very much, Mr. Spellman.

Members, any need for clarification? Thank you for being here this morning.

MR. SPELLMAN: Thank you.

CHAIR WHITE: Mr. Clerk.

COUNTY CLERK: Mr. Chair, the final individual that have signed up to provide testimony in the chamber this morning is Allyson Mattox, testifying on Committee Report 17-150.

(Councilmember King was excused from the meeting at 10:59 a.m.)

MS. ALLYSON MATTOX (testifying on Committee Report 17-150):

Good morning, Councilmembers, Chairman White. I'm a 21-year resident of Maui. I have a small business that serves the visitor industry. And I did apply two years ago for an STRH permit. I have a small cottage next, located next door to my home that my daughter and I run. Went to the effort and expense to acquire that permit, and I'm happy to do that. It was actually an okay process. It was 104-pages application, but it was doable and they, I felt that the County did a great job.

Our commercial tax rate that we're currently paying, I feel is appropriate. My place runs for about \$99 a night. And after paying, you know, TAT, everything else that everyone's doing, which is fine, the margins are quite low. I feel that we do have strict requirements that everyone's spoke on here already. We cannot have extra services. We cannot have retail, concierge, everything that the condos actually have additional income streams to offset their property taxes.

(Councilmember King returned to the meeting at 11:00 a.m.)

MS. MATTOX: We have very low margins, also, due to all of the illegal operators. There were no illegal operators for a short period of time. But I get a daily message from Airbnb and VRBO's stating that my rates are 40 percent too high, because I am building in everything that we pay. So, that is still a problem. I know that's not what we're talking about here today, but you know, we want to pay our fair share.

I feel that commercial is appropriate for what we're doing. I feel that condominiums do need, maybe, their own bucket, but that's, really doesn't have anything to do with STRH. So, I implore you to go back to Committee, if that's what needs to be done to

leave STRH out of the bucket. And that's it. I thank you for your service, your time, cause I know you've spent a lot of work to get to where we are today.

CHAIR WHITE: Thank you very much.

Members, any need for clarification?

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Can, can I just ask you?

MS. MATTOX: Yes.

COUNCILMEMBER SUGIMURA: Do you do that condo, concierge--

MS. MATTOX: Magazine. Yea.

COUNCILMEMBER SUGIMURA: That's you. I'm glad to meet you in person.

MS. MATTOX: For 20 years, yea, yea.

COUNCILMEMBER SUGIMURA: Congratulations. Thank you. So sorry, it's not on the, just curious. Thank you.

CHAIR WHITE: I've got a quick question for you.

MS. MATTOX: Okay.

CHAIR WHITE: You mentioned that you, you pay the TAT and the GET. And it sounded like you deduct that from your rate rather than adding it.

MS. MATTOX: You have to, because Airbnb will not collect taxes. So, in order to set a rate if you don't want your one rate to be much higher than the other, no one's going to book you. So, you're eating that, I have to eat the 13 percent just to get the people in the door, which, you know, it's part of the formula. And, you know, where we are in Haiku, it's like they're comparing me against a \$60 a night or maybe, I don't know who those people are.

And I know we do periodically get an email saying, hey, where's your permit number, and I have mine there. But, it's got, it must be too much work. You know, there aren't enough people allocated. Because I think if, if the visitor industry who is, are complying, we're, you know, for lack of a better term like bounty hunter, like turn people

in, there, there's a lot of people operating illegally unfortunately. And I'm seeing it. Any--

CHAIR WHITE: Yea, I just wanted to confirm that, because I've heard from another operator who goes through Airbnb that she has to eat the taxes, because she can't, there's no way to add it on.

MS. MATTOX: I mean, you could raise your rate. But then, one rate's here and one rate's there--

CHAIR WHITE: Right.

MS. MATTOX: --and it's just, it's difficult. But, you know, those aren't really your issue. It's, you know, we're covering the taxes.

CHAIR WHITE: Well, it is. It is impacting our TAT.

MS. MATTOX: Yea, I just, I feel like condo and us, it's just, it's very, very different, so.

CHAIR WHITE: Okay. Thank you.

Members, any other need for clarification?

COUNCILMEMBER HOKAMA: No, Chairman, not, not for the gentlewoman. I appreciate her comments. But, are you telling us that Airbnb is promoting illegal businesses?

CHAIR WHITE: I think that's relatively well known.

COUNCILMEMBER HOKAMA: Because, that's what I'm hearing that, you know, these legal operators are now being impacted by the illegals because entities like Airbnb is pushing them to reduce rates who have gone through a process are now legal operators. So, I understand their bitch, cause they're the ones could bitch to me.

CHAIR WHITE: A big problem.

COUNCILMEMBER HOKAMA: You know, and I think it's short-sighted of the State Legislature to deal with entities that will not do it appropriately for this State.

CHAIR WHITE: Well, and at, what, the day, a day or two ago, the Governor reached an agreement with Airbnb to collect the taxes, but the details of the agreement are not, not yet public. So, we will be watching for that because it's, it's a significant impact, because, well, we need to just deal with this in the discussion period, but.

COUNCILMEMBER HOKAMA: Yea, my apologies, Chair.

CHAIR WHITE: No, it's alright. The, it is a significant issue because they are facilitating illegal activity and making it very difficult. Because, if for example the, the agreement does not include Airbnb having to identify where those units are and who those owners are, then we have no way of knowing whether they're permitted or whether they're paying property tax at the rate they should be. And so, it's a, it's a significant problem.

So, I believe, Mr. Clerk, we're at the end or do we have another?

COUNTY CLERK: Mr. Clerk. Mr. Chair, I'm sorry, we have two additional individuals who have signed up this morning. Catherine Clark, testifying on Committee Report 17-150 and 17-151. To be followed by Magdalena Pu`u-Wood.

MS. CATHERINE CLARK (testifying on Committee Reports 17-150 and 17-151):

Aloha, Councilmembers.

CHAIR WHITE: Good morning.

MS. CLARK: My name is Catherine Clark, and today I'm here on my own behalf.

If you're not just out to slap the hand of the small group of short-term rental homeowners, and truly want to clean up the tax code, then let's scrap everything and really clean it up. If the intent is to put similar uses together as Mr. Teruya said, I think we're leaving some out. Examples: There's a property zoned hotel in Kihei with short-term rental cottages paying homeowner. There's a celebrity with a conditional permit for a B&B, doesn't live on the property, doesn't operate the B&B, but they're getting a tax discount. Yes, a lowering of their tax, because they have the permit.

You have hundreds, and some people say thousands, of non-permitted short-term rental homes, paying no increase in tax and no permit fees; no insurance for the County. There are a number of grandfathered single-family homes operating as short-term rentals, again, with no increase in tax. These are homes in residential zoning that were operating prior to 1991. These homes also pass the rental rate, rate onto a new buyer.

If hundreds of single-family homes located in the apartment district that are not condos, but allowed to do short-term rental because they were built prior to 1989, yet, none are

classified as anything other than apartment. These single-family homes also pass on that right to rent to a new buyer.

With all of this out there, and the short-term single-family rental home market, is it really fair to increase the tax on this group of 200 homes that came forth to comply and do the right thing? Where is the level of competitive playing field? If you really want to clean up the tax system, then let's get everybody on the same page. Then and only then will it really be fair.

At the Committee meeting, we heard that the rate could be lower. Really? If the bulk of the new short-term rental classification is condos, do you see the rate being lower than the current hotel or resort rate? I really don't.

I'm also curious, and this is just curiosity, how you're going to determine if a condo property employs 20 or more people. I know of several condos that definitely do. So, will some condos be in the short-term rental category and others in the hotel category? The short-term rental homes are not like condos and they're not like hotels. BF-79 is not ready, and we ask that you return it to Committee.

And I also have testimony on BF-45. This is the first time that I'm going to testify on something other than short-term rentals. I was shocked to read this item. In a community with a serious lack of affordable housing, condos can provide a large number of affordable places to live. Would you personally dedicate your condo as a long-term rental for 10 years in order to get the apartment rate? And then at the conclusion of the 10-year period, you need to sign up for another 10 years; not one or more, making it, you know, 11 or 12 years. But, what if I'm ready to retire and move into my unit?

And let's go further. What if at the eight-year mark, my husband dies and I need to live in my condo because I can't care for my single-family home? Or maybe I need to sell it. Let's assume my condo has a value of 700,000, which is mid-range in the current market, I would then need to pay back tax at the higher rate retroactive to the time it was dedicated as a long-term rental, plus a 10 percent penalty. This would be approximately \$20,000. This is despite the fact that I provided a long-term rental for eight years, making less than I would if I rented short-term. Sorry, I'm just not seeing the incentive to rent long-term.

Is this going to entice any condo owners away from short-term and into long-term? Why would they? When we have such a need for long-term rentals, shouldn't changes to the tax code make it more attractive to rent long-term? I would've expected that a unit offered up for even one-year as a long-term rental would be viewed with appreciation. If you can have a short-term rental rate, why not a long-term rental rate?

Why not make it so attractive that renting long-term becomes an appealing option. And if I can only offer my condo for rent for a few years, isn't that better than not offering it to the long-term market at all?

After all, the single-family homes that rent long-term do not need to dedicate their rental for 10 years. They're \$5.54 per thousand, even less than the current apartment rate. Where is the fairness in that? With one stroke of the pen, it's going to be extremely difficult to convince an entire lodging category to rent long-term. Thank you.

CHAIR WHITE: Thank you, Ms. Clark.

Members, any need for clarification? Seeing none, thank you for being here this morning.

Mr. Clerk.

COUNTY CLERK: Next testifier is Magdalena Pu`u-Wood, testifying on County Communication 17-434 and Committee Report 17-150.

MS. MAGDALENA PU'U-WOOD (testifying on County Communication No. 17-434 and Committee Report 17-150):

Aloha mai nou. (*Spoke in Hawaiian*). I am a Pu`u wahine; that is my bloodline. I come from Ka`u and `Ihikapalaumaewa nei, which is the ancient name for Maui, Molokai, and Kahoolawe. I testify on these two items as a kanaka looking towards the future.

I appreciate the time and the diligence of Ms. Elle Cochran for 17-434. This bill, I am very much in support of it. I feel like it fixes a lot of the problems, and it aids. We talk about affordable housing, and the things that we don't have is affordable housing. What is affordable in perpetuity? A lot of us don't know, because we don't have it.

We're lost in a time where we chase the dollar instead of the people's needs that we look at and we diligently malama. We're not doing that. And I feel that in this time with, with this bill, the integrity of the Council, we have a positive path to make, to make way for our children, to know that when our time comes our babies are going to be taken [*sic*] care of. Our mo`opuna's, they're going to be all good. They won't have to really worry. And that's it for that one. Moving on.

Testifying on 17-150. So, for these short-term rentals, I feel that this is a positive move. And I know a lot of people aren't going to agree with me, but that's the people that do have the short-term rentals. Honestly, you would be exempt from this taxation if you

would rent longer than six months. Why is that difficult? And there is saying that, okay, what if, what if the renter no good, gotta, gotta go ahead and cut their line. Well then go ahead and move through the, through the regular procedures to evict them.

But, honestly these short-term rentals which don't even come close to renting out an occupancy for even close to six months, that is where we're losing our homes to the people that are from here. We are aiding more to the foreigners that come here, that have all that wealth in everything. With these short-term rentals we've lost our beaches, we've lost our access, and we've lost our homes for the families. There's people that don't even know where they're going to stay tonight. And we've been dealing with homeless issues in everything.

And the thing that hurts is, I hear so much of this is unfair. Me, as kanaka maoli, the oiwi native to this aina, I have to come to the realization and acceptance at 29 I will never have a place of my own. I will never be able to afford. And my children, with this ordinance, this sets in place that my children could possibly have the future to have a place of their own.

You know, if, if a lot of you guys want to get technical with I am, I am in disbelief that this is happening, this is unfair, well, we are still in a time where we are illegally occupied. We are illegally occupied nation. Our kanawai's, our kuleana rights as kanaka maoli are not being followed. They're being cast and put on the side. We have lost our lands. We have lost our rights. And if you want to get technical, it states in the kanawai's that no land is to be sold to a non-Hawaiian.

So, honestly, this is not the cream on the cake. I feel like this is politely saying that if you want to go ahead and operate it as a commercialized residential or a short-term dwelling for less than six months of occupation, why is it a hard thing to understand that you got to pay more taxes, because you're running this like a business. A lot of, a lot of us people, we are sacrificing and thinking hard.

COUNTY CLERK: Three minutes.

MS. PU'U-WOOD: It's like, okay, do I really want electricity and water, or do I want to have transportation because my truck needs to be fixed?

CHAIR WHITE: Please conclude your remarks. Thank you for being here this morning.

MS. PU'U-WOOD: I support this bill. I apologize if I have offended anybody, and you guys have a blessed day. Thank you.

CHAIR WHITE: Thank you.

Members, any need for clarification? Seeing none, thank you.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, there is no further individuals signed up to provide testimony in the chamber. And there's no individuals waiting to testify in the District Offices. If there's any individual in the Council chamber who would like to offer testimony at this time, please proceed to the testimony lectern.

Mr. Chair, there is no further individuals in the District Offices nor the chamber who wish to offer testimony.

CHAIR WHITE: Thank you, Mr. Clerk.

Members, we have received a significant amount of written testimony. Without objection, we'll receive it into the record.

MEMBERS VOICED NO OBJECTION.

THERE BEING NO OBJECTION, WRITTEN TESTIMONY RECEIVED FROM THE FOLLOWING WERE MADE A PART OF THE RECORD OF THIS MEETING:

1. Dennis Fitzpatrick;
2. Autumn Ness;
3. Susan Thomson;
4. Eve Hogan;
5. Debbie von Tempsky;
6. Paul Laub;
7. Angelica Crim;
8. Greg Mebel;
9. Lisa Darcy;
10. William Greenleaf;
11. Keith Webster, Faith Action for Community Equity;
12. Father Gary Colton;
13. Maude L. Cumming, Family Life Center, Inc.;
14. Lena Staton;
15. Erika Lechuga DiSalvo;
16. Russell and Elizabeth Evans;

17. Mark A. Marchello;
18. Annie and Chris McNeil;
19. Joy and Don Nelson;
20. Helene and Paul Orsulak;
21. AJ Palmeira;
22. Jordan E. Hart, Chris Hart & Partners; and
23. Kamana`opono M. Crabbe, Office of Hawaiian Affairs.

CHAIR WHITE: Thank you. And, without objection, we will close public testimony.

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: So ordered.

Mr. Clerk, let's proceed.

COUNTY CLERK: Mr. Chair, proceeding with the minutes.

MINUTES

The minutes of the Council of the County of Maui's regular meetings of August 22, 2017, September 8, 2017, and September 22, 2017, were presented at this time.

CHAIR WHITE: Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair.

I MOVE THAT THE MINUTES OF THE REGULAR MEETING OF
AUGUST 22, 2017, THE REGULAR MEETING OF
SEPTEMBER 8, 2017, AND THE REGULAR MEETING OF
SEPTEMBER 22, 2017 BE APPROVED.

COUNCILMEMBER CRIVELLO:

SECOND.

CHAIR WHITE: We have a motion from Mr. Carroll, and a second from Ms. Crivello.

Mr. Carroll.

VICE-CHAIR CARROLL: No discussion.

CHAIR WHITE: Thank you.

Members, any discussion on the minutes for these three meetings? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,
CRIVELLO, HOKAMA, KING, SUGIMURA,
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER GUZMAN.

CHAIR WHITE: Measure passes with eight "ayes", and one "excused"; Mr. Guzman.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, proceeding with county communications.

COUNTY COMMUNICATIONS

NO. 17-422 - RICHARD MINATOYA, DEPUTY PROSECUTING ATTORNEY,
(dated October 12, 2017)

Informing of the intent to expend \$34,710.05 in State Forfeiture Funds to reimburse previous years expenditures for travel and training.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, with no objections, I would request Communication 423 and 424 also be brought up by the Clerk.

CHAIR WHITE: Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you. So ordered.

Mr. Clerk.

NO. 17-423 - JOHN D. KIM, PROSECUTING ATTORNEY,
(dated October 19, 2017)

Informing of the intent to expend \$3,440.78 in Forfeiture Funds to reimburse travel related expenditures incurred in June of Fiscal Year 2017.

NO. 17-424 - TEENA M. RASMUSSEN, ECONOMIC DEVELOPMENT DIRECTOR,
(dated October 20, 2017)

Transmitting three contracts from the State of Hawaii, Workforce Development Council noting Program Year 2017 Workforce Innovation and Opportunity Act allocations in the amount of \$539,033.

CHAIR WHITE: Thank you, Mr. Clerk.

Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, MOVE TO FILE COMMUNICATIONS AS READ BY
THE CLERK.

COUNCILMEMBER CRIVELLO:

I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Hokama, and a second from Ms. Crivello.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, these are only required notifications to Council. There's no additional action required by us. Thank you.

CHAIR WHITE: Thank you.

Members, any discussion?

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And so, I have a question, but I mean I don't think we have Prosecuting Attorney's Office here. But, perhaps Mr. Kushi knows the answer.

The first two items, these are forfeiture funds, I understand. And it, but it does state in the first paragraph of both memos that these obtained through Department's enforcement efforts and must be used only for law enforcement purposes and not to supplant the law enforcement resources of the local agency. So, I'm just trying to correlate if this is a proper use of the money for travel to conferences?

CHAIR WHITE: Corporation Counsel.

FIRST DEPUTY CORPORATION COUNSEL EDWARD KUSHI, JR.: Mr. Chair and Member Cochran, I don't know. You should ask JD Kim.

COUNCILMEMBER COCHRAN: Okay. Yea, so maybe Mr. Hokama knows.

COUNCILMEMBER HOKAMA: Chairman, I can just share for the Members information this morning that the Prosecutor's, like the Department of Police, is very strict on the parameters by Federal requirements on what can and cannot be used with this forfeiture funds. And therefore, what is before us is within the parameters as allowed by Federal guidance.

CHAIR WHITE: Okay. Thank you.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Okay.

CHAIR WHITE: Okay. Any further discussion? All those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,
CRIVELLO, HOKAMA, KING, SUGIMURA,
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER GUZMAN.

CHAIR WHITE: Measure passes with eight "ayes", and one "excused".

Mr. Clerk.

NO. 17-425 - MARK R. WALKER, ACTING DIRECTOR OF FINANCE,
(dated October 18, 2017)

Transmitting 59 contracts/grants for September 2017.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you.

I MOVE TO FILE COUNTY COMMUNICATION 17-425, EXCEPT FOR THE FOLLOWING CONTRACTS TO BE REFERRED TO BUDGET AND FINANCE FOR FINANCE REVIEW AND ACCOUNTABILITY; THAT WOULD BE CONTRACT C6315, UNDER GARTNER AS THE VENDOR REGARDING THE HUMAN CAPITAL MANAGEMENT SYSTEM IMPLEMENTATION PROJECT; AND THE C6320, BY CITYGATE ASSOCIATES, WHICH IS AGAIN THE PERFORMANCE AND FISCAL AUDIT OF THE DEPARTMENT OF FIRE AND PUBLIC SAFETY.

I'm open to other standing Committee Chairs for consideration regarding this communication. Thank you.

CHAIR WHITE: Thank you.

COUNCILMEMBER CRIVELLO: Chair.

CHAIR WHITE: Other recommendations or requests?

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you.

IF THERE ARE NO OBJECTIONS, I WOULD REQUEST TO HAVE THE FOLLOWING CONTRACTS AND GRANTS REFERRED TO THE HHT, HOUSING AND HUMAN SERVICES, AND TRANSPORTATION; G4362-1, RELATING TO THE TIME EXTENSION FOR KA HALE A KE OLA'S RENTAL ASSISTANCE PROGRAM; G4363-1, RELATING TO THE TIME EXTENSION FOR KA HALE A KE OLA'S CENTRAL AND WESTSIDE OPERATIONS AND STEP UP PROGRAM; G4551, RELATING TO THE FABMAC AFFORDABLE HOUSING PROJECT; AND M1028, RELATING TO HALE MAHAOLU'S PROPERTY MANAGER SERVICES FOR THE KOMOHANA HALE AFFORDABLE HOUSING PROJECT.

CHAIR WHITE: Okay. Mr. Clerk, did you get all those?

COUNTY CLERK: Got it.

CHAIR WHITE: Okay. Any other requests. Okay, with the--

COUNTY CLERK: We need a second.

CHAIR WHITE: Oh, I'm sorry.

COUNCILMEMBER CRIVELLO:

I SECOND THE MOTION, CHAIR.

CHAIR WHITE: Okay, thank you.

We have a motion from Mr. Hokama, and a second from Ms. Crivello.

And the bills listed will be referred to the appropriate Committee. Any further discussion? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,
CRIVELLO, HOKAMA, KING, SUGIMURA,
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER GUZMAN.

CHAIR WHITE: Measure passes with eight "ayes", and one "excused".

Mr. Clerk.

NO. 17-426 - KEITH A. REGAN, ACTING MAYOR,
(dated October 18, 2017)

Informing of a vacancy on the Maui County Arborist Committee due to the resignation of Casey Foster on October 13, 2017.

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Chair, with your approval, could I also ask for the next item to be read by the Clerk also; 17-427?

CHAIR WHITE: Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: So ordered.

Mr. Clerk.

NO. 17-427 - KEITH A. REGAN, ACTING MAYOR,
(dated October 18, 2017)

Informing of the appointment of Hanna Mounce and Chris Haynes to the Maui County Arborist Committee.

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. I wanted the two items pulled up together because they are related to the same--

CHAIR WHITE: We need a motion first.

COUNCILMEMBER SUGIMURA: Oh, I'm sorry.

CHAIR WHITE: Thank you.

COUNCILMEMBER SUGIMURA:

I'D LIKE TO ASK FOR A MOTION TO FILE COUNTY
COMMUNICATION 17-426 AND 17-427.

COUNCILMEMBER CRIVELLO:

SECOND.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR WHITE: We have a motion from Ms. Sugimura, and a second from Ms. Crivello.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you. I got ahead of myself. So, I wanted the two items brought up together because they are related to the same Committee; the Maui County Arborist Committee. I'd like to first thank Casey Foster from the Committee, who sent in their resignation October 13, and mahalo him for his time served on this Committee.

And the next item on County Communication 17-427. As the Council may know, according to Section 12.24A.030, Maui County Code, the Members are just notified of actions that happens within the Maui County Arborist Committee, and therefore, we do not appoint or remove members. So, this is only for our information only.

And, we have been notified of the appointments of Hanna Mounce and Chris Haynes to the Maui County Arborist Committee, and that in the next Council meeting, we will be receiving communication from the Mayor regarding the resignation of Mark Dobbertin who was on this Committee and has resigned. So, that will be the two vacancies that we will be fulfilling. So, thank you very much. I'd like to thank Mr. Mounce and Mr. Haynes for volunteering of their time served, because we all know how important this is. So, thank you, Members.

CHAIR WHITE: Thank you, Ms. Sugimura.

Any further discussion, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,
CRIVELLO, HOKAMA, KING, SUGIMURA,
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER GUZMAN.

CHAIR WHITE: Measure passes with eight "ayes", and one "excused".

Mr. Clerk.

NO. 17-428 - DAVID TAYLOR, DIRECTOR OF WATER SUPPLY,
(dated October 17, 2017)

Transmitting the State of Hawaii's Commission on Water Resources Management water use reports for August 2017 for all registered well reporters in the County of Maui.

CHAIR WHITE: Mr. Atay.

COUNCILMEMBER ATAY:

MR. CHAIR, I MOVE TO FILE COUNTY COMMUNICATION
17-428.

COUNCILMEMBER COCHRAN:

MR. CHAIR, I SECOND THE MOTION.

CHAIR WHITE: We have a motion from Mr. Atay, and a second from Ms. Cochran.

Mr. Atay.

COUNCILMEMBER ATAY: Mr. Chair, this report is strictly informational. There's no Council action needed. Appreciate the receipt of the information, and respectfully request that this communication be filed.

CHAIR WHITE: Thank you.

Members, any further discussion? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,
CRIVELLO, HOKAMA, KING, SUGIMURA,
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER GUZMAN.

CHAIR WHITE: Measure passes with eight "ayes", and one "excused".

Mr. Clerk.

NO. 17-429 - ROBERT CARROLL, CHAIR, LAND USE COMMITTEE,
(dated October 26, 2017)

Transmitting proposed amendments to the resolution entitled "APPROVING WITH MODIFICATIONS THE INDEPENDENT DEVELOPMENT OF THE 100 PERCENT AFFORDABLE HANA HOUSING PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES", attached to Committee Report No. 17-154.

CHAIR WHITE: Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair. May I request that County Communication 17-429 be taken out of order and considered when Committee Report 17-154 is called by the Clerk?

CHAIR WHITE: Members, any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: So ordered. Thank you, Mr. Carroll.

(THE PROPOSED RESOLUTION ATTACHED TO COMMITTEE REPORT NO. 17-154 WAS AMENDED AND ADOPTED LATER IN THE MEETING AND ASSIGNED RESOLUTION NO. 17-159. COUNTY COMMUNICATION NO. 17-429 WAS THEN FILED. See pages 103 through 118 for discussion and action.)

CHAIR WHITE: Mr. Clerk.

COUNTY CLERK: Mr. Chair, the following communications are being recommended to be referred to the following committees.

NO. 17-430 - MARK R. WALKER, ACTING DIRECTOR OF FINANCE,
(dated October 16, 2017)

Transmitting a report of short-term investments for the quarter ended September 30, 2017.

The recommended action is that County Communication No. 17-430 be referred to the Budget and Finance Committee.

NO. 17-431 - MARK R. WALKER, ACTING DIRECTOR OF FINANCE,
(dated October 19, 2017)

Reporting on transfers/loans from the General Fund and Department of Water Supply Revenue Fund to the 2017 Proposed General Obligation Bond Fund as of September 30, 2017.

The recommended action is that County Communication No. 17-431 be referred to the Budget and Finance Committee.

NO. 17-432 - LYNN A.S. ARAKI-REGAN, BUDGET DIRECTOR,
(dated October 25, 2017)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2018 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO APPENDIX B, REVENUES – FEES, RATES, ASSESSMENTS AND TAXES, DEPARTMENT OF PLANNING, GENERAL FUND, CHARGES FOR CURRENT SERVICES, FEES – DEPARTMENT OF PLANNING".

The recommended action is that County Communication No. 17-432 be referred to the Budget and Finance Committee.

NO. 17-433 - LANCE T. TAGUCHI, COUNTY AUDITOR,
(dated October 27, 2017)

Transmitting Audit Report No. 15-02, "Audit of Premium Pay/Overtime of the Department of Fire and Public Safety."

The recommended action is that County Communication No. 17-433 be referred to the Budget and Finance Committee.

NO. 17-434 - ELLE COCHRAN, COUNCILMEMBER,
(dated October 16, 2017)

Transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTERS 2.96 AND 3.35, MAUI COUNTY CODE, RELATING TO THE RESIDENTIAL WORKFORCE HOUSING POLICY AND AFFORDABLE HOUSING FUND".

The recommended action is that County Communication No. 17-434 be referred to the Housing, Human Services, and Transportation Committee.

NO. 17-435 - YUKI LEI K. SUGIMURA, COUNCILMEMBER,
(dated October 26, 2017)

Relating to the Blue Zones Project.

The recommended action is that County Communication No. 17-435 be referred to the Housing, Human Services, and Transportation Committee.

NO. 17-436 - KA'ALA BUENCONSEJO, DIRECTOR OF PARKS AND RECREATION, (dated October 16, 2017)

Transmitting the following:

1. A proposed resolution entitled "AUTHORIZING A GRANT OF A LEASE OF COUNTY RECREATIONAL SPACE TO HAWAIIAN KAMALI'I INC.";
2. A proposed resolution entitled "AUTHORIZING A GRANT OF A LEASE OF COUNTY RECREATIONAL SPACE TO NA KAI EWALU CANOE CLUB"; and
3. A copy of Hawaiian Kamali'i Inc.'s existing extended lease.

The recommended action is that County Communication No. 17-436 be referred to the Parks, Recreation, Energy, and Legal Affairs Committee.

NO. 17-437 - TEENA M. RASMUSSEN, DIRECTOR OF ECONOMIC DEVELOPMENT, (dated October 17, 2017)

Transmitting the Office of Economic Development Grant Performance Report for Fiscal Year 2016.

The recommended action is that County Communication No. 17-437 be referred to the Policy, Economic Development, and Agriculture Committee.

NO. 17-438 - YUKI LEI K. SUGIMURA, COUNCILMEMBER, (dated October 25, 2017)

Relating to "Enterprise Zones (EZ) Program".

The recommended action is that County Communication No. 17-438 be referred to the Policy, Economic Development, and Agriculture Committee.

NO. 17-439 - DAVID TAYLOR, DIRECTOR OF WATER SUPPLY, (dated October 23, 2017)

Relating to the Upcountry Water Service Priority List.

The recommended action is that County Communication No. 17-439 be referred to the Water Resources Committee.

CHAIR WHITE: Thank you, Mr. Clerk.

Members, are there any objections to the referrals as read by the Clerk?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Thank you.

Mr. Clerk.

COUNTY CLERK: Okay. Mr. Chair, could I get a brief recess?

CHAIR WHITE: Yes. Recess at the call of the Chair.

(THE MEETING WAS RECESSED BY THE CHAIR AT 11:31 A.M., AND WAS RECONVENED AT 11:34 A.M., WITH ALL MEMBERS PRESENT, EXCEPT MEMBER GUZMAN, EXCUSED.)

CHAIR WHITE: This meeting shall please come back to order.

Mr. Clerk.

COUNTY CLERK: Mr. Chair, proceeding with Committee Reports.

COMMITTEE REPORTS

COMMITTEE REPORT
NO. 17-149 - BUDGET AND FINANCE COMMITTEE:

Recommending that Resolution 17-155, 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.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT COMMITTEE REPORT 17-149,
WITH ITS RECOMMENDATIONS, BE ADOPTED.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR WHITE: We have a motion from Mr. Hokama, and a second from Ms. Sugimura.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, your Committee is recommending consideration of a resolution this morning that will put out to the Administration a RFP proposal. Your Committee had an original proposal that upon review, a lot of the advocates for better pricing and other considerations made their case. So, I've revised it, presented it to Committee, the Committee supported it. We've had testimony about it this morning.

Well, Chairman, we're going to put to bed once and for all; either what the advocates say can work, or we're going to find out through this process it cannot work. But, one way or another we're going to get an answer. And then, we move on and then go from there on up the results of this RFP in trying to achieve the affordabilities that those that advocate for is trying to achieve. So, for me, Chairman, it's our attempt to see if it can work or not work. Thank you.

CHAIR WHITE: Thank you.

Any further discussion, Members, on this item?

COUNCILMEMBER KING: Chair. No, I have some--

CHAIR WHITE: Ms. King.

COUNCILMEMBER KING: --just a couple of questions, because I was out that day of this meeting and maybe Mr. Hokama can answer. One was the reference to single family homes that do, is there a potential for building duplexes on those? Would they qualify under the description in the resolution?

COUNCILMEMBER HOKAMA: I'm not too sure, Chairman. All I can say is, regardless of what is built on the lot, it must conform and comply with the CC&R's of the subdivision, regardless of who owns the property. So, if it's allowed, it'll, it'll be within the CC&R's provisions whether you can or cannot be allowed, Chairman. Thank you.

COUNCILMEMBER KING: Okay, well, and then the other, I guess, follow up to that, is whether, was there any discussion about potential changes in CC&R's, because when we had the, the president--

COUNCILMEMBER HOKAMA: No, there was no discussion on that, Chairman. And that's not within the Committee's purview.

COUNCILMEMBER KING: Okay. I do know that when we had the, one of the people that's, that's involved in chairing the Homeowner's Association did say that they would work with the County to, and be flexible on the CC&R's.

But then the other question I have is, so if this doesn't work, does it come back to Council if we get no responses to the RFP?

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: We would await for a communication from the Administration on the results, and if they have any recommendations regarding the disposition of the property, Chairman.

COUNCILMEMBER KING: Okay, so, but what is the authority of if we pass this out? Is there an authority for, does it now stay in the hands of the Mayor to make decisions, or does it come back to Council if we get no response?

COUNCILMEMBER HOKAMA: Council has final authority, Chairman, by Charter on any disposition of County assets. So, regardless of what the Administration decides, whether we sell, retain, that is a policy decision made by Council.

COUNCILMEMBER KING: Okay. Thank you.

CHAIR WHITE: Any further discussion, Members?

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, I too was not here at this, the decision of this moving out. But, I, I do appreciate, the TIG had worked a lot on this particular item also, and I appreciate a lot of the new inputs that I do see here in the "WHEREAS". And keeping it in the low income, low, low and not being able to flip them out of after certain calendar days. And, I mean, there's some really awesome, I think, positive changes that were put into this existing reso. And so, I, I really appreciate all that work that went into, I think, just the overall reason why we're here at, in this predicament at all, having ownership of these lots and how we got them. I, that always is a hard thing to swallow and accept.

But again, we have to take care of what we have at hand. And I think at this juncture, this is the best opportunity we do have, and we'll see how it goes. And, looking forward to passing this to see, as Mr. Hokama mentioned, if it's a go or not. And, we'll just take it from there if it isn't. So, I appreciate the Committee's work on this. And, I'm here to support it today. Thank you.

CHAIR WHITE: Thank you, Ms. Cochran.

Any further discussion, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,
CRIVELLO, HOKAMA, KING, SUGIMURA,
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER GUZMAN.

CHAIR WHITE: Measure passes with eight "ayes", and one "excused".

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION NO. 17-155.

COMMITTEE REPORT

NO. 17-150 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 91 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, TO CLASSIFY REAL PROPERTY USED AS SHORT-TERM RENTAL HOMES OR TRANSIENT VACATION RENTALS AS 'SHORT-TERM RENTAL' FOR TAX VALUATION PURPOSES," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 17-359, from Councilmember Riki Hokama, be FILED.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT COMMITTEE REPORT 17-150,
WITH ITS RECOMMENDATIONS, BE ADOPTED.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR WHITE: We have a motion from Mr. Hokama, and a second from Ms. Sugimura.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, we, your Committee worked with the Department of Finance and our Real Property Tax Division to try and again bring proposals before the Council that we believe are reasonable steps to bring improvements to our overall tax system.

We've heard various testimonies, and again until the Mayor submits a budget, we have, it's going to be difficult for us to understand what is our revenue requirements. Take for instance last budget. We reduced the Mayor's proposal, including his proposed rates. Again, depending upon the needs of the community, what we're facing, because for our community, you know, we're going to be honest. The unions are back at the table negotiating again. There's potential for increased expenses and cost to this County as an employer regarding retirement benefits, regarding health benefits. So yes, Chairman, we are looking at ways. We are presenting one today that we believe is a, prudent to be brought forth before the Council.

And part of the issues that we've heard this morning is, again, the permits. But, what is permits, Chairman? Permits is to allow a non-legal activity in an area that is not zoned properly for it. That is the permit; allowing a non-activity, permit activity to be done. And, that's part of our difficulty now, because we have gone along and bastardized our own zoning categories. Cause now we exempt our permitted uses, and put non-permitted uses in our categories.

You know, Chairman, it's a bigger issue than what we make it to be, I mean, than we may realize it to be. And for me, this is one step that we should be considering and taking, okay. And, you know, it's interesting cause I find it kind of ironic in certain portions of our agenda cause we have Bill 89 to talk about later, and in comparison to Committee Report 150 and 151.

So, for me, Chairman, this is one way I am going to look at in trying to address, and I'm going to talk the way I've been talked to in the community, okay. This an island issue. We are going to find an island solution for island people, okay. And some of the things I've heard is not the island way. The locals get it, Chairman, okay. And you've heard some of them, we are not to use housing as a tool to hold down our main host residents and our culture. You've heard it. It's like a commercial genocide of our own, where our own cannot even live in our own homes, in our own islands, in our own lands. Something's wrong when the local people are not the beneficiaries, okay. So, I'm going to say it like how they've talked to me out in the community, Chairman, cause they want local answers to local problems for local people. Thank you.

CHAIR WHITE: Members any further discussion on this item?

Ms. King.

COUNCILMEMBER KING: Chair, are we going to ask Mr. Teruya to come forward as a resource?

COUNCILMEMBER HOKAMA: He's available.

CHAIR WHITE: If you have questions for Mr. Teruya, I'm--

COUNCILMEMBER KING: Well, I'm not sure if it's him or, I mean, I have questions about enforcement and the petition process, so I'm not sure who that would--

CHAIR WHITE: That would not be Mr. Teruya with respect to these permits. That would be the Planning Department.

COUNCILMEMBER KING: Okay. And, we don't have anyone from Planning here?

CHAIR WHITE: No.

COUNCILMEMBER KING: Okay. Well, I, I just want to say, you know, I wasn't in the Committee discussion. I read the bill. I do have some, some concerns that I don't know how we're moving on enforcement of the illegal STR's. And I do understand that this bill could engender a huge increase in illegality and people that decide not to go through the permitted process because, you know, perhaps they can operate for years without being found out like it, like what's currently going on.

I don't personally want to encourage and make an easier process to have more STR's, because I do think that those are, that the more STR's we have, the less long-term

rentals we have. So, I see it as a problem. I see it as a related problem. But, I'm not sure, I'm not ready to, to approve of this until I see more detail or, and how it relates to, to the actual petition process, and how it relates to what we're doing for enforcement, which I think is on future agendas.

It's not, it hasn't been, I don't, I've seen, I think I've seen that the RFP went out for the funding that, to expend the funding that we've put into the budget. But I haven't seen any, any follow-up as far as if it's been responded to. And I, I do think we need to make a step in incentivizing long-term rentals. I think that's really important. But, I'm not sure that I'm ready to jump on this bill, because I'm not, I, I see the other side of things as being many more illegal and unpermitted STR's because of what I've heard today. So, I don't, I just, I can't support it at this time because of that reason. Thank you.

CHAIR WHITE: Thank you, Ms. King.

Any further discussion?

COUNCILMEMBER COCHRAN: Chair.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Yea, thank you. And I, I mean the enforcement aspect is huge and so, thankfully the money got pushed out of Budget this past, and, it is now in the hands of the Planning Department and that RFP process.

But, I think it would be helpful if Mr. Teruya maybe can reiterate or reconfirm about the existing commercial residential, hotel, and timeshare classifications, or Mr. Hokama, that this isn't targeting that, if I'm correct. So, because a lot of the testimony this morning was, I want to stay commercial residential and I believe they are, but if maybe we can get clarification on that.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Yea, Chairman, I would ask that, if the Members don't object, to allow Mr. Teruya to come forward as a resource and bring some clarification. Some of the concerns that my colleague, Ms. King, just brought up is as it relates to 151, Committee Report, instead of 150. And so, maybe Mr. Teruya can bring some clarity if there's no objection to him coming to the floor to respond to Members' questions.

CHAIR WHITE: Any objections, Members?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Mr. Teruya, please join us.

COUNCILMEMBER HOKAMA: And again, Chairman, 150 is to create the class only. The main purpose of 150 is to just create the class.

Mr. Teruya, thank you for joining. You've heard the ladies' concerns, questions. So, if the Chair would allow Mr. Teruya to give comment.

REAL PROPERTY ASSESSMENT ADMINISTRATOR SCOTT TERUYA: Chairman.

CHAIR WHITE: Please proceed.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Thank you, Chairman. Scott Teruya, Administrator for the Real Property Assessment Division. I believe we're on CR 17-150, regards to short-term rental bill, also relating to BF-90, 79, I'm sorry, Chairman.

The bill is, Mr. Hokama, you are correct, this bill simply addresses the issue of adding the category called short-term rental to, to the, a new classification and further defines hotel/resort classification, to define, further to stick the real hotels into this classification. It has nothing to do with the other items regarding BF-45, Chairman.

In, maybe response to some of the questions that Councilmembers had, again, it does not affect homeowners. It does not affect commercialized residential. It does not affect how we value properties. It does not affect tax rates or proposed taxes. It is merely, and I would like to say simply, but it, it adds a new category called short-term rentals, so that we have responded or listened to a lot of public testimony over many years about how they're not like a hotel. So, this was a proposal to put similar uses into this new bucket or category called short-term rentals, Chairman.

CHAIR WHITE: Any other questions for Mr. Teruya?

Ms. King.

COUNCILMEMBER KING: Thank you, Chair. So the, I mean, there is a reference to residential in here because it says "classified real property as short-term rental for tax valuation purposes, for lodging and dwelling units occupied by transient tenants for periods of less than six consecutive months, including properties granted a short-term rental home permit, transient vacation rental permit, or conditional permit allowing transient vacation rental use". So, those would be, those would be properties in residential areas that have those permits?

CHAIR WHITE: Mr. Teruya.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman. That is correct. It, it includes all properties that have the ability to do short-term rental according to the tax code, less than six months in nature. Whether somebody has a short-term rental permit to occupy or do that activity whether it's on residential, whether it's on agriculture, whether it's on rural, those are special use permits that affect somebody's, or the land's or the property's ability to do something. All those entitlements to do activities less than six months in duration in our Code said that it is currently in hotel/resort, or it could be in commercial.

So, I'm, what we're trying to do is we're trying to create this new class for all of these like uses to be in this classification.

COUNCILMEMBER KING: Okay.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: That is what the proposal is.

COUNCILMEMBER KING: Okay, so when you, when you create that classification, what, is there a rate attached to that?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman.

CHAIR WHITE: Go ahead.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: At this time, we are only simply creating the classification. The rate associated with that classification has yet to be determined first by the Mayor and then secondly by this Council.

COUNCILMEMBER KING: Okay, and then--

REAL PROPERTY ASSESSMENT ADMINISTRATOR: And that occurs in, after certification in May and June.

COUNCILMEMBER KING: Okay, thanks for clarifying that. So then, so then the, the authority to put somebody in that classification rests, is attached to their activity, whether they're under six months or over six months. Is that correct?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman. First of all, it's by zoning. If you have the hotel zoning, then yes, that allows you to do short-term rental activity, and other uses. And the others include a conditional permit. That would be another

trigger. As I mentioned, although B&B's are a short-term rental, it is very clear that they shall remain in commercialized residential. Yea.

COUNCILMEMBER KING: Okay. So, but then for the other ones that are, that have a permit for a short-term rental, I mean, they're, I'm just trying to clarify that there has to be a verification of that activity, is that correct, in order to be in this classification?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman.

CHAIR WHITE: Go ahead.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Again, it's by zoning and by anything that affects a property's ability to do short-term rental, which is--

COUNCILMEMBER KING: Okay, so if you're zoned residential, even though you have a permit to do short-term rental that does, this doesn't affect you?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman.

CHAIR WHITE: Go ahead.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: The zoning of residential is trumped by a conditional permit to do something else. A conditional permit allows for short-term rental, therefore, that is another thing that affects a property's ability to use. So, the short-term rental permit or a conditional permit is the entitlement to do short-term rental, which is less than 180 days, therefore, falling into this new category that is trying to be proposed.

COUNCILMEMBER KING: Okay. So, that's what I'm trying to get. It's not just related to your actual zoning. So, it's related to the activity that is happening per whatever permit or conditional use permit we're giving out. So, that, that's my main concern is that that, then that, that becomes an enforcement issue because you have to know who has these permits in the various zoning areas. And, and that's, and that's where I, I guess that's why I wish we had the Planning Department here. Because, I don't know, does that create additional work for the enforcement branch, which I think is our Planning Department?

CHAIR WHITE: Well--

COUNCILMEMBER KING: Or is that, is that just--

CHAIR WHITE: The Council has provided them with two additional enforcement officers.

COUNCILMEMBER KING: Okay.

CHAIR WHITE: I don't know exactly how those funds have been used.

COUNCILMEMBER HOKAMA: And, money. And, money.

COUNCILMEMBER KING: Okay.

CHAIR WHITE: And money, right.

COUNCILMEMBER KING: Okay, I think that's, that answered my questions. Thank you, Chair.

CHAIR WHITE: Okay. Further discussion, Members?

COUNCILMEMBER COCHRAN: And, Chair, question.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Just real quickly. Sorry, not for Mr. Teruya, but, thank you for, for him for coming down to clarify the category issue here.

But, I did just reach out to Mr. Spence, or a little bit ago, and he, the RFP is closing very shortly. And, hopefully by the end of the month, they'll be the, it'll be publicly and officially announced. So, it's just, so it's soon it'll happen, we need to get it going. But it's going to happen so, fairly, fairly soon. Thank you.

CHAIR WHITE: Thank you, Ms. Cochran.

The Chair will not support this measure. As I mentioned in Committee, I still feel that we have not, and the State has not done their job to control illegal use. And there are, in my belief, many, many, many more illegal units being utilized than there are permitted units being utilized. And we have, we have asked those with the threat of not proceeding with, with the threat of enforcement action, and fines and so forth.

We have encouraged people to come forward and, and apply for permits. We've capped them in, in each area of the County. We can go back and, and reduce those caps if that's the, you know, the desire of the body. We can do things to adjust the permitting.

I'm very, very bothered by the fact that we have organizations like Airbnb that are simply making it very easy to put your, put a room in your house or your whole house on the market for whatever rate you want to put it at, collecting no TAT, no GET, and paying no more than homeowner or residential property tax rates. And, we won't know about it until, as Ms. Cochran mentioned, the, the enforcement, the enforcement opportunity that she brought to the Council and we've moved it out of Budget was for a, for a company like one that's called Host Compliance.

Host Compliance uses various algorithms to identify the location and/or the ownership of individual units that are being advertised on the web. We have made it in Maui County illegal, or if you are operating, if you are advertising on the internet for a short-term rental, you are in fact operating. You are seen to be in operation. If you don't have a permit, you are in violation of that. And, until we are able to put this Host Compliance process in place, and until we can get a better sense of what Airbnb's agreement is with the State of Hawaii, I'm just very uncomfortable adding an additional challenge to the folks that we have asked to go through all the hoops. And, we've done that as a body, and they have followed the rules as we outlined them.

So, I'm, I appreciate the work that has gone into this. And I appreciate the desire for everyone to be on a level playing field, but I don't believe the remainder of the playing field, this has nothing to do with Mr. Teruya or Mr. Hokama's efforts in this regard, but because we have not been able to do a good job of enforcement, there is no level playing field. And, and until we can level it out, this Chair simply can't, can't support this measure.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. I have a question for Mr. Teruya, actually. Mr. Teruya, so, and perhaps Mr. Hokama too. But, the, the, these measures today, are, is there like a, they can wait. I think you said that you're going to, I don't know, put it into effect, I mean, because we have to, there still needs to be rates set for the new categories. Or, and so that's in April, did you say April, May, or something? So, I mean, technically, this could be postponed for a little bit. And then, or do you need it, is there a certain deadline because people need to start filing for this year for next year's tax, taxation categories and what have you?

CHAIR WHITE: Mr. Teruya.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Thank you, Chairman. Ms. Cochran, the, the simple answer is it needs to be done prior to the end of this year in order for it to take effect effectively January 1, of '18 for the new calendar or assessment year, correct.

COUNCILMEMBER COCHRAN: Okay. Alright. And, Chair, sorry. And a follow-up with your comments, which I, I agree, I think that's the end that's the bigger picture and the bigger animal that's out there. And, and I get it; this is another prong so to speak. So, I think if this is to it, I think it's like kind of a hard, cause we have all those what you're talking about, the illegals and everything we haven't quite gotten a handle on. And those ought to be in this new category if it is to pass. But, we won't even have that list or know them because they're just illegally out there floating around doing what they do.

So, I think it's kind of like, for me in my eyes, as I'm vetting, vetting things through right now that better we go with what was proposed during Budget to, to get the illegals and get that true finite number, and see where we're at. And, then better get a handle prior to creating the bucket at this time, not knowing what we're going to put in the bucket, really. So, thank you.

CHAIR WHITE: I'll, I'll add to another issue, is that there are those that are operating, I'm told, that aren't advertising on the internet. They advertise in Europe, call a phone number, and you book directly with the owner who I believe in some cases lives in Germany. And, they are instructed when you run into people in town, you tell them you're, you're friends of mine. So, we, we have so much underhanded, under the radar things going on. And one of these, one of these units that operates this way has nine rooms. And it's not a, it's not a B&B; it's an STR.

And, so I, anyway, Ms. King.

COUNCILMEMBER KING: Chair, thank you. Yea, I still have a hard time thinking that we would ever want all of the illegal STR's to become legal, because that doesn't solve the problem of taking these back into long-term rentals. We want to encourage long-term rentals. And, and I think the key to that is enforcement of the, what's happening illegally.

The other issue I have, and maybe Mr. Teruya can comment, is if there's an urgency to get this done before the end of the year to classify people, how are you going to classify people? How long does it take for somebody who, who is doing something that's more than six months to get that exemption or to put, you know, how, I mean, I, I'm not sure what the timeframe is for--

CHAIR WHITE: No, that's, that's the next bill.

COUNCILMEMBER KING: Right, but I mean we're, we're putting in classification. Somebody has to be in that classification. There has to be a process for putting people in that classification. And that's what I'm not, I don't, you know, I'm not comfortable that there's

a process that's going to address some of the concerns of people who are doing long-term that, that shouldn't be in this classification, because it's going to take them a while to go through the process of proving what they're doing, and that they are renting long-term.

CHAIR WHITE: I, it's the Chair's understanding that the people who will end up in that classification are the legal operators at this point. And the, and the, those who are renting on a short-term basis, the condos throughout the resort areas in Kihei, Makena, Wailea, Kapalua, and Kaanapali.

COUNCILMEMBER KING: But. Right, but we heard from a couple of people who are in that short-term rental zoning, or maybe even have a permit who have decided to rent out long-term so, you know.

CHAIR WHITE: Again, that's, that's the next bill.

COUNCILMEMBER KING: Okay. So that, anyway that's, that's another area where I have some discomfort as far as the, if we create this classification what will be the process of deciding who goes in and who doesn't. So, thank you.

CHAIR WHITE: Right. Any further discussion, Members?

COUNCILMEMBER ATAY: Chair.

CHAIR WHITE: Ms. Crivello, followed by Mr. Atay.

COUNCILMEMBER CRIVELLO: So, if I understand this right, Mr. Teruya, if, if there is an owner for a long-term residential use, they would file whatever is required of them to be dedicated as such. And, that becomes of a different, it's, it's not into this bucket?

CHAIR WHITE: Mr. Teruya.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Thank you, Chairman. As proposed, again, that is the next bill, but, I will answer it. It is a residential long-term dedication and it would run with the property, and it will be classified as apartment as proposed in the Code, in the proposed bill.

COUNCILMEMBER CRIVELLO: Okay. So, I'm trying to, I've listened to what you are saying, Chair, and I'm trying to understand. I think an enforcement is of a different, differs from the actual classification that we, we want to do. I think it's our part and the responsible Department that have not been doing our job as far as enforcements.

Somebody let, allowed this to happen in the residential areas, and it's just not right. But, it's happening and it's been happening for many, many years I guess, I don't know.

But, I think too if we're going to start the classification, it, it will put them in the category that, for the, for what they're actually providing for their short-term rental or what have you. So, I'm, I'm just trying to see how you correlate not supporting the classification, and to the enforcement. I, I don't, I see it.

CHAIR WHITE: If you're asking for my personal reaction, a person who operates a condo in the Whaler in Kaanapali can do so forever. Never had to apply for a permit, they never had to go through all the hoops, they don't have, they don't have to carry insurance that covers the County. There are a lot of things that they simply don't have to do. So, to say that those are equal to a short-term rental that has to go through permitting, the permit's not transferrable. And they're required to have insurance, they're required to do a lot of things that people within the resort area who own a condominium simply don't have to do.

So, you know, we all have different perspectives.

COUNCILMEMBER CRIVELLO: I'm just trying, sorry, just trying to get a clarification--

CHAIR WHITE: I just, I just have a concern that we're--

COUNCILMEMBER CRIVELLO: --a better understanding.

CHAIR WHITE: --we're not being terribly fair to the folks who we've asked to jump through all these hoops with, with permits that are very fragile.

So, Mr. Atay.

COUNCILMEMBER ATAY: Chair, thank you. Yea, I seem to have a different philosophy of position. I come from the position not waiting for the State to help us with our enforcement. I come from the position of home rule, take the initiative to enforce.

We did, our staff did meet with Planning Department inquiring about the status of short-term rentals or the lack of enforcement. And, we did a random check. We pulled three, and we found that there's close to a million dollars in fines. And so, sometimes we ask why, why don't you pursue this?

I think Council has assisted, has already committed in the budget with the funding of this Host Compliance entity. And, I think we've supported with increasing enforcement staffing. We've made that step, you know, to support the legal entities, and to go after

the illegal entities. It's just a matter of now setting that time to do it. And our, getting our, our litigation teams on board and assisting the Planning Department of enforcement of going after it, you know. The enforcement division has done their work, it's just that there's a lot of stacks that now has to be transferred through the litigation side.

I can see where Mr. Teruya's position is in the timing because of the, the end of the year deadline, so that if we implement this to calendar year '18, we need this in place. And, if we don't, then we got to wait another year, till '19, for us to address this.

I think we got to take this position of be aggressive, exercise our home rule, and enforce, and stop the illegals. And, I think the next bill, that was my inquiry, was creating long-term exemptions. If people are in, in this line of business and they're committing, we, we, that's the next side is how do we look at that? But, I would, I would support this.

CHAIR WHITE: Yea, to respond to your not wanting to wait for the State, I think we all totally agree. The, the challenge that the State is creating for us is their willing to collect the tax without identifying the units from which those taxes are being collected. So, there, my understanding of the, of Airbnb's intention is to act like a plan manager for timeshare. Well, timeshares are all in one place. We know where the domicile is. And, so, it's not a mystery that we need to solve.

But, the State, if they're, if this agreement does not include the identification of the units, it's not providing us the ability to enforce easily. So, I think this Host Compliance process will provide us with that information. And, I agree with you, we need to, we need to keep at it. And, we need to properly fund it, because there are significant, not just losses to us in revenues, but there's significant problems because they're operating in the neighborhoods where they're not permitted and I think we all want to stop that.

Any further discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,
CRIVELLO, HOKAMA, SUGIMURA, AND
VICE-CHAIR CARROLL.

CHAIR WHITE: Those opposed say "no".

NOES: COUNCILMEMBER KING AND CHAIR WHITE.

EXCUSED: COUNCILMEMBER GUZMAN.

CHAIR WHITE: Measure passes with six "ayes", and two "noes"; myself and Ms. King.

Members, we will take our lunch break. Please be back here at 1:40. We're in recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 12:11 P.M., AND WAS RECONVENED AT 1:45 P.M., WITH ALL MEMBERS PRESENT, EXCEPT MEMBER GUZMAN, EXCUSED.)

CHAIR WHITE: This meeting will please come back to order. Mr. Clerk, may we proceed with the agenda.

COUNTY CLERK: Chair, relative to Committee Report 17-150, for the record, BILL NO. 91 (2017).

COMMITTEE REPORT
NO. 17-151 - BUDGET AND FINANCE COMMITTEE:

Recommending the following:

1. That Bill 92 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 3.48, MAUI COUNTY CODE, RELATING TO REAL PROPERTY TAX," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 17-147, from Councilmember Riki Hokama, be FILED.

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE THAT COMMITTEE REPORT 17-151,
WITH ITS RECOMMENDATIONS, BE ADOPTED.

COUNCILMEMBER SUGIMURA:

SECOND.

CHAIR WHITE: We have a motion from Mr. Hokama, and a second from Ms. Sugimura, I believe, or was it Crivello? Okay, Sugimura.

Mr. Hokama.

COUNCILMEMBER HOKAMA: They sound alike. Excuse me. Chairman, I would, at this time ask if there's no objections, I, if Members have questions, Mr. Teruya has also made himself available to give clarification on this proposal. And again, one of the things, if you notice, Members, I do have a proposed amendment for consideration at the appropriate time, whereby we're making it clear on the date and when this would be effective by if Council chooses to make this effective for 2018 tax year. Thank you, Chairman.

CHAIR WHITE: Members, any objections to having Mr. Teruya come and join us?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: Okay. Mr. Teruya.

COUNCILMEMBER HOKAMA: Chairman, thank you for allowing Mr. Teruya. I know there was some comment earlier about the concerns regarding the length of the dedication for long-term residential use, and the benefits you could achieve for that dedication.

I can tell you, during the break, I did check, that is how we do all other dedications in this County, whether it's an ag dedication or what, we do it very consistent and in the same manner. So, I just share that with the Members, that what is being proposed is no different from what we already have in place in the Code for other components regarding this area. Thank you, Mr. Chairman.

CHAIR WHITE: Members, questions for Mr. Teruya?

I, the Chair would just make the observation that many of the testifiers brought up the idea that we, we need to incentivize the long-term rentals. I would just point out that the case for dedication on ag properties that is, you know, other than switching from one prop to another there's not a lot of, not a lot of other options with which to use your property. But, in the, in the case of many of these units, the availability to use it as a short-term rental is, is there for many, many of these units. So, Mr. Teruya, would you like to add some perspective?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Thank you, Chairman. Just maybe to refresh the Members' memory, this BF-45, is to repeal the existing 3.48.305(C), where you attest your use, and to only have one form of classification, which is based on highest and best use. Also, in the bill is to allow for an option for long-term residential dedication. So, just to be clear as to what the bill entails in this. Thank you, Chairman.

CHAIR WHITE: Okay. Further questions?

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, Chair, so, Chair you brought up the question, I think I heard testifiers talk about if they have an ag property, but yet they have a short-term vacation rental. So, what happens in that case? I think it was Eve Hogan who testified about that, I remember.

CHAIR WHITE: Mr. Teruya.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Thank you, Chairman. Let me back up a little. First of all, when you receive ag, or you have a dedication or you receive agricultural use or if you requested it, and you are granted, that affects your valuation for your agricultural portion. Your classification is based on your highest and best use. I'm assuming that if you have received a conditional permit to operate a short-term rental, your classification would be accordingly. I, I believe right now that they could be in commercial because that was the current Code.

You just passed BF-79, which would say that you will now be in the short-term rental classification. That is different from valuation. So, I'm, I'm hoping we can separate the two, that valuation is one thing but classification is another as well. So, I'm not sure if that clarifies the question, Mr. Chair.

COUNCILMEMBER SUGIMURA: So, Chair. So, in that example, what would the highest and best use be, or classification versus valuation?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Thank you, Chair. Remember, the classification is based on the parcels highest and best use. In the event that you receive a special use permit, that overrides your zoning. Otherwise, you wouldn't get the special use permit, you'd just do the short-term rental. So, you got the special use permit, so that is the classification as passed previously. And, if it goes through the final reading, then it would be classified as short-term rental.

CHAIR WHITE: Okay. Other questions for Mr. Teruya.

Ms. King.

COUNCILMEMBER KING: Thank you, Chair. So, Mr. Teruya, we talked earlier about how we're trying to make this one, one zoning, one rate, but actually we, we also have avenues to get a special use permit, so we, it's not necessarily that cut and dried.

And then in the, in the proposed ordinance, there's a clause "C." that says, "If any owner desires to have their unit classified as 'apartment,' the owner shall petition the director of finance and declare in the petition that if the petition is approved, the owner shall use the unit for long-term residential use." So, is that considered a special, as a conditional use permit? What is that, if you're, if you're kind of going back to residential from being zoned, you know, vacation or, or condominium?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman.

CHAIR WHITE: Go ahead.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: 'I'll, I'll take it so far. I'm not sure if you wanted to have Corporation Counsel discuss this.

COUNCILMEMBER KING: Whatever you, whatever you feel more comfortable.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: But, for this, in this case, this is your exemption to, for example, this is saying that you can petition for this classification; that is what this is for. Similar to like the, any other dedication. In 3.48.365, I believe, for parcels in the County, you can dedicate for a residential use. So, in this case, this dedication is your exempt, your exception to what the fact. So, you can apply for and be granted, then you would be placed into this, this classification.

COUNCILMEMBER KING: Okay, so do you, can you, do you know, know what the process is for that, and how long it takes?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman.

CHAIR WHITE: Go ahead.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: The process is, first of all, we're going to have to create the dedication paperwork or the form. You fill it out and apply for prior to December 1, for this calendar year, if the amendment is to go through. It does not take long other than maybe a site inspection if needed. Because, ultimately what we're doing is in the, in this amendment in 3, the proposal in 3.70, it says that you need a recorded lease. So, we will just need to verify with the lease that it exists. And basically, that is what determines whether or not it should be valid or not.

COUNCILMEMBER KING: Okay. But, just, you know, understanding, you know, how long some of these processes take. I mean some things that seem like simple permits could be on the books for two years before they actually get up to the top. So, and I'm not, I don't know how to anticipate how many people, but I, you know, we had some people

come before us today who have a, who have, are in condominiums but are doing long-term rentals and would like to continue. So, I'm assuming people will start coming out and trying to petition. So, are we talking about, you know, are they going to be able to get it done before the, before they get classified STR, or is it going to take into the next year? Do we know that? Do we have a good understanding what that process would be?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman.

CHAIR WHITE: Please proceed.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Your guess would be as good as mine. I, we won't know until people apply. We would, if we didn't get to it prior to mailing of the notices, it would surprise me. And that's why the language in, in the Code, moving forward is the deadline is September 1, cause normally we should be able to finish it prior to the end of the year. But, because the filing period has already passed, Mr. Hokama, I believe, has a friendly amendment to amend it to December 31, of this year because the date has already passed us.

How much people apply? I really couldn't answer that. We will do the best that we can in, in processing of the applications, obviously. But, I don't believe at this time that it's significant where we would know that whether or not we would get it processed prior to sending out the notices.

COUNCILMEMBER KING: Okay. And, maybe you can't answer this question. But, is there a, is there a comfort level that we're going to be getting people who truly want to do long-term rentals, who are applying for this, or petitioning for this dedication versus people who? So, in, in just, in talking to people in the real estate, you know, industry, there's a feeling that a lot of people would just like write leases and re-lease to their son if he's an adult person. And so, is there anything in place to make sure that we are actually engendering the needed long-term rentals for our residents and for people who, you know, who are looking for, you know, honestly looking for a long-term rental here?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman.

CHAIR WHITE: Go ahead.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: That I, that I can't answer. I don't know, until we actually get the actual applications, I could report back to the Council what is, what we're actually finding. But, at this time I, it would be a guess for me to answer your question right now.

COUNCILMEMBER KING: Okay. Yea, I would just, I just still have an uneasy feeling about whether this is really going to be effective to the goal of creating more long-term rentals. Thank you, Chair.

CHAIR WHITE: Thank you.

Mr. Teruya, I know you've given us numbers in the past. I don't remember whether these were, the numbers were specific to this issue. But, do you have, in the condominium arena, do you have the number of condominiums that are currently on short-term rental, the number that are currently taxed at apartment and you're aware that they are long-term rental, and how many are vacant and how many are homeowner?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman, I'm sorry. I can probably get staff to research that, but at the time, I don't have that handy.

CHAIR WHITE: Okay. I know you gave us a number of, oh no, it may have been Housing and Human Concerns that gave us the number of vacant units that I believe that might have been across single-family homes and condominiums.

So, my, my concern is that we don't know how many are in long-term rentals now. If, if for instance there's three to four thousand, or five thousand across the County, are we going to be able to get the word out to all of them in time to meet this December 31 deadline? And I'll also have some, some concerns about how much of a process that might be for them. Do you have any sense how many are in long-term rental, as we're going down this road?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman, first of all, if, if when we do, if we are able to get the amount of parcels that are claiming apartment, we wouldn't know whether or not they're in long-term rental or they're just sitting idle. So, even with, with the research that we come back with, it wouldn't identify how many are in long-term rental.

CHAIR WHITE: Okay. But, you would be able to identify the number that are, are short-term rental and then you'd be able to combine the long-term rental with the vacant?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman, I'd be more than happy to research that if that's the request. That's not a problem for us.

CHAIR WHITE: Okay. And you would also be able to identify how many are homeowners in that category?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Yes, that's correct.

CHAIR WHITE: Okay. Thank you.

Members, other questions for Mr. Teruya?

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And so, I'm trying to, I wasn't at the, this Committee, so I'm, but I'm going off the report, Committee Report right now, checking on the notes there. And I guess, you're stating that should we do this, it'll alleviate your Department, I guess it'll make it simpler streamlining, I guess, the real property tax process for condominium units is one positive, I guess, result on your behalf, should this move forward. And if you can just state in more detail how that is to be accomplished, and or I guess why the streamlining of sorts.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman.

CHAIR WHITE: Go ahead.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: When we first drafted this ordinance, amendment, the intent was to streamline operations to have only one land classification system. And, and we're not the only people who do this. Two of the counties do it this way, two of the counties did it the other way. It was to bring one classification system, and that was the intent for streamline purposes.

When we first drafted this, there was not the thought of including the residential long-term dedication. It came out of Committee that requested it, so it was added into.

I'm not saying this is a loophole, but it's just, it's another wrench in the system because we had hoped for one, one way of doing it. If you chose to do something lesser than the, than the highest and best use, that is really your, your choice.

But, now that it's in, it is in, I thought it would be a lot easier for our clerks to spend more time on other enforcement programs within real property. But, we really don't know if this will bring more work now that we have residential dedications. I don't, I don't know. Like I said, I won't know that until the actual filings come in and be able to tell you how much more time it's taking for us.

But, the initial proposal was not to include for the long-term residential use. But, it is in there now and it is what it is. So, so I'm not certain if that comment is still valid whether it'll free up the time for the staff.

COUNCILMEMBER COCHRAN: Okay. And, a follow-up, Chair.

CHAIR WHITE: Sure.

COUNCILMEMBER COCHRAN: And so you, I guess it was also determined at the time that 500 of the 2,700 condominium units currently classified lower than highest best use, will generate \$6 million of the anticipated 8.3 million. So, does that still stand true, or so now you're questioning those figures too? There's a question, I mean, with the figures?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman.

CHAIR WHITE: Go ahead.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: That, that is true. Our initial estimation was based on what their proposed, did without the revisions. That would have a slight impact on it, there's no doubt. But, I couldn't tell you until we actually run the program. But, there is definitely that possibility. But, like I mentioned before, that is potentially provided. Everything stays the same; tax rates stays the same. There's a lot of what if's too for the valuation stay the same. If valuations go up and tax rates go down, there's no impact. If valuations go up and rates stay the same, then taxes go up.

So, there's a lot of different missing pieces that we still don't know yet. We haven't even come up with our, finish our valuations yet. So, it's very premature to talk about taxes, because first, we haven't set values. We don't even know rates for the new classification. And so, you know, without those two in combination, you cannot really say that taxes will go up until all of those things come to you at certification.

COUNCILMEMBER COCHRAN: Okay. Very good. And, lastly, Chair, it states that this relates to classification of land and building as pertains to planned developments where TVR's are permitted, and to condominium property regimes. So, what comes to my mind in particular that would then be like Puamana, right? So, this is to address them in what way then?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman.

CHAIR WHITE: Go ahead.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Unless Corporation Counsel says I'm wrong, I believe Puamana is able to do this residential dedication as well, so that they can apply for similar to all the others in this condo classification, the long term residential use as if somebody is claiming it. So, they would be afforded a similar situation where they can dedicate for long-term rental use.

COUNCILMEMBER COCHRAN: Okay. Okay. Alright, thank you, Chair.

CHAIR WHITE: Ms. King.

COUNCILMEMBER KING: If, if there's an HOA that has in their CC&R's, that there's no short-term rentals, does that automatically put that entire condominium or all those units into this? Or does each individual unit still has to come, still have to come out and get dedicated?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman.

CHAIR WHITE: Go ahead.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: It's my, in my opinion, if the CC&R says you cannot rent short-term rental, I would put that foremost that you would not be able to, and that you would probably be in apartment.

COUNCILMEMBER KING: Okay. So, then that would apply to the entire, like I'm thinking about Southpointe or some place that probably will never be a hotel, and has in their CC&R's. But, but then that, that obligates them to keep that in their CC&R's for 10 years if they get that designation for the entire place?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman.

CHAIR WHITE: Go ahead.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: I, I would agree. I mean, if you are telling me that the CC&R's prohibits that, we wouldn't, we wouldn't need any request to ask because it wouldn't be allowable.

COUNCILMEMBER KING: Okay, so then you would just, it would, you wouldn't even need an application, or you would just need one application, or how would that work?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman.

CHAIR WHITE: Go ahead.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: In that situation, there's no dedication needed, because you can't even do it.

COUNCILMEMBER KING: Okay, so you're going to look at CC&R's as a ruling guideline for HOA's.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman. I would agree. And, I would say it would probably be a Planning issue, not a Real Property Tax issue at that time.

COUNCILMEMBER KING: Okay, so, so you would agree, but it's not your decision is what you're telling me?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman. I would, I would say that that would be the guidelines. If it is not, if it is restriction from CC&R's, then that would be the highest and best use; would not be short-term rental. So, it would be something other than whatever that is. And, if it is a violation, that it would be a violation to the Planning Department, not to the Real Property Tax Office.

COUNCILMEMBER KING: Okay. Thank you.

CHAIR WHITE: Mr. Teruya, the, just to make it clear in other people's minds, does this apply to apartment complexes on Sandhill for example?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman, it does not apply to an apartment complex with one, one parcel. If it was condominiumized, then it would have application, but other than that no.

The apartment, if it stands on one parcel, and the zoning is the zoning, the zoning would regulate whether or not it is a permissible use or not.

CHAIR WHITE: If, if the units are condominiumized, does that, does this law apply to Sandhills as well?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman, first of all, we would probably have to identify whether or not it is an allowable use or not to do short-term rental in the complex. If it is allowable, then it would be, highest and best, would be short-term rental. If it is not allowable by zoning, then it would be in apartment.

CHAIR WHITE: Thank you.

COUNCILMEMBER SUGIMURA: So. I have a question.

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, just thinking of the testifiers, may I ask the Department, one of the testifiers says he, he rents long-term but he does it month to month. So, what happens with that kind of situation? I, you know, I've heard of that kind of situations where people are just afraid of having to, I, I don't know why they do it, but I would imagine some kind of legal, you know, determination. But, what happens in those kinds of situations? It is one of the possibilities.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman.

CHAIR WHITE: Mr. Teruya.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: The Real Property Tax Code identifies anything less than six months in nature is considered short-term rental; that's by our definition. If that definition change, then it would change. But, as of, as of we stand now, any duration less than six months in nature is considered short-term rental according to the Code.

CHAIR WHITE: But, to your question, if the, if the individual put forth a, a dedication, would it matter if he was, if his contract actually was month to month?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman, maybe I might need to defer to Corporation Counsel here, but I believe that the proposed ordinance reads that a lease shall be recorded for a period of one year or more. That is my understanding. And, I could be wrong, but I can defer to the written proposed bill.

CHAIR WHITE: Okay. Thank you. Further questions, Members?

I think there's still some, still some questions unanswered as to what the impact is and how many. I can see that by increasing the tax, we may push some of the vacant units to, to long-term rental. We may push some of the vacant units to short-term rentals. And, I still have concerns over whether the, the long-term rentals will be incentivized to get out of that business and go into short-term.

But, so, if there are no more questions, Mr. Hokama, you want to make a motion?

COUNCILMEMBER HOKAMA: I was awaiting, you know, understand the need for the Members to digest it and be able to come up with some questions from Mr. Teruya if they have need for clarification.

CHAIR WHITE: Again, Members, as I said, you know, what we are proposing is various steps in trying to make some adjustments and improvements over time, okay. And, we've heard all kinds of comments and testimony. And, my thing is we try to make the adjusts as times change, and the environment changes. I wish it was like the old days, as one testifier said, cause if we were, then only Hawaiians own land today and we wouldn't be here. Simple. Okay, but that's not the reality.

So, we do what we can to, again, try and address how all these components work in this County and why we have situations whereby as the Managing Director told me on Tuesday, if I recall correctly, is information that have 17,000 plus units for short-term on this County of which we know the majority is illegal. 17,000 units. Imagine if just half was for long-term where our resident base would be with 8,000 units for long-term rental?

So, we hear about everybody nodding their heads, as I saw this morning, about the affordability, the need for our residents to have homes, and yet here we are talking about 17,000 illegal. Well, I take that back. I think we need to commend those that have gone through the process and have made themselves legal. I think they have a good bitch before us regarding enforcement, our inability to get those that are illegal to either conform or for us to go and punish them sufficiently, so it hurts for either compliance or stop, or ask for the right zoning. They don't need one permit. They can ask for zoning that allows short-term rentals. And, if we did it right, why would we need Bill 89? We would have been able to provide, we don't need things like 89 if we did it right.

So, for me, Members, you know, again, I see this as a one component to a major issue, and we got to take it one step at a time. And, this is not the first meeting we had on this. When we posted it for Tuesday, that was our either third or fourth meeting already on this item. So, don't tell me people didn't have an opportunity to ask a question, participate, okay. I'm tired of that excuse. We do it openly. We allow additional testimony after the meeting. So, don't tell me there was no ability for input.

And, don't come to Council and tell me I don't understand what's going on. It's all our responsibility to know what happens in standing Committees. And, I expect us to conduct the business and not for the Council and not the Committee this afternoon. We got to make decisions. So, eh, vote it up, vote it down. Our standing Committee is making a recommendation of improvement. Get the cojones and make a vote. I'm

tired of everybody complaining, and when we make proposals nothing happens. Do our job in these seats, or give it up to somebody who will.

So I have a motion to amend as I have to all Members, dated November 3.

CHAIR WHITE: I don't believe we have a motion on the floor.

COUNCILMEMBER HOKAMA: We have a motion. Then how did we have discussion?

CHAIR WHITE: Go ahead. My mistake.

COUNCILMEMBER HOKAMA:

I MOVE TO AMEND CR 17-151, SECTION 3.48.305, AS STATED IN THE MEMO TO ALL MEMBERS; THE MOTION IS TO AMEND SECTION 3.48.370(H) BY INSERTING THE PHRASE "FOR THE TAX YEAR BEGINNING JANUARY 1, 2018, THE PETITION SHALL BE FILED WITH THE DIRECTOR OF FINANCE BY DECEMBER 31, 2017." AND THAT'S MY MOTION TO AMEND.

COUNCILMEMBER CRIVELLO:

SECOND.

CHAIR WHITE: We have a motion from Mr. Hokama, and a second from Ms. Crivello.

Mr. Hokama.

COUNCILMEMBER HOKAMA: Thank you, Chairman. Again, Members, if you believe this is something worthy to move forward, then to allow the Department to implement for the, the calendar year beginning January 1, 2018. As Mr. Teruya has noted, the current Code deadline is September 30, 31, excuse me, September 1, I stand corrected. That has come and gone.

So, I was thinking that if we would consider, then, allowing to extend the deadline for this year to December 31, if we should move this out and allow the property owners an opportunity to file, if that's something this body would like to do. And so, that is why I have proposed this amendment. If this is something, then it's very clear, for this year, we're going to extend the deadline and allow property owners to file, if you believe that is, so. And, again, like every other tax year, until we do certain actions, we can only

guess what will be the actual appeals amount or any other concerns, until we take certain actions.

So, I'll leave it up to the eight of us this afternoon to make that decision. Thank you, Mr. Chairman.

CHAIR WHITE: Thank you.

Further discussion, Members?

COUNCILMEMBER SUGIMURA: I have a question.

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, my question is, so this will take care of this year, or this next tax, 2018. So, what happens after that? So, then it would go back to September of 2018 for January 1, 2019?

CHAIR WHITE: Mr. Teruya.

COUNCILMEMBER SUGIMURA: Cause this is an exception year.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Thank you, Chair. Exactly as you mentioned. It is an exception year. This, this filing period of December 31 deadline is for this, is for the upcoming year. After that, after this year, it would go back to September 1 of all following years after that point. Thank you, Chair.

COUNCILMEMBER SUGIMURA: Okay.

CHAIR WHITE: Any further discussion? All those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,
CRIVELLO, HOKAMA, KING, SUGIMURA,
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER GUZMAN.

CHAIR WHITE: Measure passes with eight "ayes", and zero "noes".

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, on the main motion, as amended, thank you, Members. And again, Members, like most tax things we do, we do annual reviews, like with the upcoming budget that we await Mayor Arakawa to submit for his last budget proposal. Council always has the ability to revise and adjust every year. And so, I would say, like anything else, unless it's prohibited by the Charter, and this is not, Council has the authority to make those annual adjustments as it, as we see how it's impacted our community.

And so, I just remind the Members that this is one body. I think, for those of us from last term and this term, can see we're pretty much expedite the people's business before our Committees and the Council. We take couple of weeks. But, we don't take months and we don't take years. So, I think if there's something came up, this body have enough confidence to the referral of the Chairman and our Members that we can take action for corrective measures in a responsible manner. Thank you, Chairman.

CHAIR WHITE: Members, further discussion?

Ms. King.

COUNCILMEMBER KING: Chair, I'm not in favor of this bill, because there are a lot of unanswered questions, and it would probably would've been good to have Planning here. But, about process, we're trying to streamline something. We don't know if it's actually going to add more work on top of that.

But, the bottom line is that we don't tax illegal activity; we only tax legal activity. So, correct me if I'm wrong, but we only tax those who are permitted and legal. We can't tax the activity that we don't know about, or the illegal activity that we even know about. So, to me this is not going to necessarily solve the problem at hand, which I think is enforcement. You know, that's going to, cutting down the number of illegal, illegal short-term rentals is what's going to be, I mean, if the goal, and I understand there are other goals here, but for me, the main, the bottom line is we're trying to create more long-term rentals and more housing. And, and so that's why I'm not really ready to, to pass this myself, because I don't see that that this is moving in that direction.

I understand the need to streamline. And I understand some Members desires to consolidate zoning codes. But, to me the benefits have not been shown for this bill. So, thank you.

CHAIR WHITE: Mr. Teruya, care to respond?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chair, I can understand the concern. I know, I mean, this is not a easy topic to deal with. And, and definitely not one that's going to go all one way anyway. One, one thing that this does do for the Department is we have, annually, a requirement for the AOA's to submit information to the Department as to what the units are doing. We never get 100 percent compliance and there's a lot of people who don't turn in any. There are some AOA's that are afraid of turning in certain things of what, what they're doing. And, we don't get 100 percent compliance. So, in a lot of projects, this is helping us get to the bottom of the chase on some of these units.

And, you don't see that before you right now. But, we, we have our own difficulty for what we are doing, doing the current process of attesting the use for all 22,000 condominiums in the project. We do get a lot of compliance, but we do believe we have a lot of difficulties as well. This will aide having one system and one underlying guide, guidance as to how to classify land. So, in that sense, the Department will be, probably, just be glad to do that. Whether it creates another shift to work, I'm not sure. And, I think as Mr. Hokama said, that we should have follow-up for this Committee as to what, what are we seeing as a result of the ordinance impact. Thank you, Chair.

COUNCILMEMBER KING: Okay, so, Chair, if I may? Just, I, I think what I'm hearing is that you are going to tax people regardless of what their actual activity is if they're in certain zones and they don't respond. Is that what the intent is?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman.

COUNCILMEMBER KING: So, you can get--

CHAIR WHITE: Go ahead.

COUNCILMEMBER KING: --you can get a response from, you're hoping to get more responses that way?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: This, this amendment, this proposed bill was to get rid of the act, the attesting of your use, and be based on highest and best use. So, some people attest a lower use. This is not an option now, yea. So, and some, like I mentioned just now, some projects never let us know what they're doing. And, that's what I said is there's certain things that will help the Department in moving forward for these projects.

COUNCILMEMBER KING: Okay. Well, you know, I really appreciate your explanation of, you know, I understand why you're doing it. I just don't have a personal comfort level, and a lot of it has to do with the fact that I don't agree with that term of highest and best use. And, I know everything's based on economics, but we're all talking about the need for housing and, and affordable housing. And so, to me, the highest and best, the best use we can make of these units is long-term rentals, so we can house our own citizens. But, we don't look at it that way.

So, that's part of the issue I have too, is I don't think that's the main goal of this, which is okay for, for your Department. I understand you, you're addressing your Department needs, and I understand you're trying to streamline some processes. But, to me, I think we need to be focusing on enforcement so we don't have tens of thousands of illegal short-term rentals that should be available to our own residents here. Thank you, Chair.

CHAIR WHITE: Mr. Teruya, how do you plan, or do you plan to send a, a mailer out to any of the, the taxpayers advising them of the need to dedicate if they're going to continue to provide long-term rentals?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman, well, there's, there's several different ways. Obviously, we would try to do a public announcement. Or, I see Maui News up there to be able to do the press release. I'm not sure if everybody, I'm sure not everybody watches, but I'm not, other than public outreach, we would notify in the Maui News as to that's the best thing we can do. I'm not sure if there's any recommendation on how to go about there and do the outreach program. But, I'll be open to any suggestions you have.

COUNCILMEMBER SUGIMURA: Chair.

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, could I ask Department another question? I, just through working with the Real Property Tax and going to, like Kula Community Association, they presented their compliance department. And hearing the concerns of our fellow Members, the real property tax has a pretty good enforcement section, and what they're doing. And, is this something that you will be sending out inspectors to check out when people say they have a, you know, short-term rental or whatever the application is? Do you send out your inspectors, Mr. Teruya, or will you?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman.

CHAIR WHITE: Go ahead.

REAL PROPERTY ASSESSMENT ADMINISTRATOR: I, I, if needed to. I don't think we would have the need to send out inspectors unless it escalates to that level. The biggest, the biggest challenge will be to identify the correct zoning for projects. I don't believe that to do the actual underlying zoning and classification is going to be difficult for us. I believe it's not going to be difficult for us. But, there are going to be times where our information may not be, be updated. It could be incorrect. There could be change in zoning that maybe we never did get the paperwork. And that, and those things happen.

I assure you there is the appeal process for every individual that receives their notice. So, that would probably be the first thing that I would maybe remind everyone, is that you have an appeal process; that if the classification is incorrect, you have every right to file an appeal. And, it may not even need to get to the appeal level. I mean, if we agree and that it is incorrect, we would change it.

So, I, I assure you that there is due process in this, in the process of classification. And, like I mentioned before, our information was only as good as we have. Like I mentioned, if the zoning is incorrect, it's incorrect. I mean, we don't try to make mistakes, but if they do come up, then we'll correct them and at not the price of the taxpayer. If it's our, it's our error, that we will correct it and adjust accordingly.

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR WHITE: Any further questions, Members?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Not a question, Chairman, just a comment about the motion before us. I would agree we don't tax illegal use. What we should be doing is penalizing and collecting appropriate fines for illegal use, okay. And, it is something Council has recommended to the voting base, to increase the level of fines and penalties, so that we could consider appropriate penalties for those that choose to break our laws, okay.

The community chose not to allow Council to increase, through the Charter, our penalties, okay. So, our maximum penalty, dollar amount, is the same dollar amount from the 1960's, okay. And, for some entities it's manini money. So, they'll pay a

penalty and a fine because it's not worth doing it the right way, okay. That is not who we are as a people, Chairman. How do we get around our laws? What kind of society is that for an island? Nobody believes in shame anymore, embarrassment, not only of your family, but of our community; that we look at ways of breaking the law than conforming because we choose not to agree?

You know, Chairman, it may be the bigger ethical question, but for me on this, we doing it without, within the limitations that people have given us. So now we know the dollar amount cannot be an influence, because it's so small people are ignoring the financial penalties.

While I agree with the testifiers who are legal, we need to do something. And, I am going to look at ways, Chairman, to incentivize those that have done it right, and see what kind of support we can give them. And, I'm definitely going to find the biggest hammer I can to smash those that choose to do it the wrong way, cause we don't need that influence in our island society. Thank you.

CHAIR WHITE: Couldn't agree with you more on the, on the penalty side of it.

I know Mr. Teruya has mentioned in the past that the County has the ability to go back. For example, if somebody is, is getting taxed at the homeowner rate and has the homeowner exemption, if we find that they're in violation of that because they don't live here, then, Mr. Teruya, I believe we have the ability to go back five years and collect back taxes on that for the difference between the residential rate and the homeowner rate with exemptions. Is that correct?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman, I believe we do have the authority to go back current plus four. And, just to clarify, your, your response, it will, it'll be to collect the taxes, not only from homeowner to residential, but homeowner to whatever the underlying class is. So, I mean, if you're in the hotel zone, it could go all the way to, to that plus penalties and interest. So, we do have that ability to adjust our taxes and apply penalties and interest as accordingly.

CHAIR WHITE: And, if we were to identify, or you have said in the past that we are not able to set a, or we are not able to tax an illegal use. So, just to use the comparison between a, a legal short-term rental and an illegal short-term rental, one may be at the, at the residential rate, the other is at the commercial rate at this point in time.

And, I believe you said, before us, in the past, that we can't, we can't go back and collect the differential in taxes plus penalties in that case, because the use is illegal. Is that, am I recalling that correctly?

REAL PROPERTY ASSESSMENT ADMINISTRATOR: Chairman, I believe, I would defer to Corporation Counsel, but I believe Corporation Counsel would agree that we are not going to be taxing or classifying properties based on the illegal use.

CHAIR WHITE: Corp. Counsel, do you have a, an opinion on that? Please introduce yourself, Mr. Ueoka.

DEPUTY CORPORATION COUNSEL JEFFREY UEOKA: Thank you, Chair. Jeff Ueoka, Deputy Corporation Counsel. Mr. Teruya was correct. We have regularly advised them that real property taxes, we can't classify illegal uses and tax them accordingly. Thank you.

CHAIR WHITE: So, if we were to say that the short-term rental is a legal use, but that particular one is not being, is not permitted. Can they then be charged that tax rate?

DEPUTY CORPORATION COUNSEL: Thank you, Chair. We would probably say no, because that's, they wouldn't fit into that classification cause that is technically not their highest and best use, because they don't have the proper permitting. The proper avenue for, would be a penalty on there. I believe it would be a Planning . . . type matter.

CHAIR WHITE: Right.

DEPUTY CORPORATION COUNSEL: Thank you, Chair.

CHAIR WHITE: Okay. So, we're limited to the \$1,000 a day fine that Mr. Hokama mentioned? Okay, thank you.

Any further discussion on this item, Members? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,
CRIVELLO, HOKAMA, SUGIMURA,
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: COUNCILMEMBER KING.

EXCUSED: COUNCILMEMBER GUZMAN.

CHAIR WHITE: Measure passes with seven "ayes", one "no", and one "excused".

Mr. Clerk.

COUNTY CLERK: Mr. Chair, for the record, BILL NO. 92 (2017).

COMMITTEE REPORT
NO. 17-152 - HOUSING, HUMAN SERVICES, AND TRANSPORTATION
COMMITTEE:

Recommending the following:

1. That Bill 93 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96, MAUI COUNTY CODE, RELATING TO THE RESIDENTIAL WORKFORCE HOUSING RESTRICTIONS," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 17-166, from the Director of Housing and Human Concerns, be FILED.

CHAIR WHITE: Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 17-152.

VICE-CHAIR CARROLL:

SECOND.

CHAIR WHITE: We have a motion from Ms. Crivello, and a second from Mr. Carroll.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. Your Housing, Human Services, and Transportation Committee met on August 17, 2017, October 5, 2017, and October 19, 2017, to consider a revised proposed bill amending the County's Residential Workforce Housing Policy, Chapter 2.96 of the Maui County Code.

The revised proposed bill amends the deed restriction and application selection process provisions for ownership units under the County's Residential Workforce Housing Policy.

The revised proposed bill also moves language currently under Section 2.96.090(D)(6), Maui County Code, Selection Priority, and places it under Section 2.96.060(B)(2), Maui County Code, Deed Restrictions, as it relates to requiring the owner of a residential workforce housing unit to sell the unit to an income-qualified household and to notify the Department of Housing and Human Concerns of the sale.

Your Committee discussed that deleting language referring to the "owner's purchase price" and to instead use the appraised value, which is typically higher, to eliminate a potential windfall when a residential workforce housing unit is sold.

Your Committee voted 6-0, to recommend passage of the revised proposed bill on first reading, and filing of the communication. I respectfully ask for the Council's support. Thank you, Chair.

CHAIR WHITE: Thank you.

Members, any further discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,
CRIVELLO, HOKAMA, KING, SUGIMURA,
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER GUZMAN.

CHAIR WHITE: Measure passes with eight "ayes", and one "excused".

Mr. Clerk.

COUNTY CLERK: Mr. Chair, for the record, BILL NO. 93 (2017).

COMMITTEE REPORT
NO. 17-153 - INFRASTRUCTURE AND ENVIRONMENTAL MANAGEMENT
COMMITTEE:

Recommending the following:

1. That Bill 94 (2017), entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTERS 16.18B, 16.20B, AND 16.26B, MAUI COUNTY CODE, RELATING TO FEES" be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 17-362, from the Director of Public Works, be FILED.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATION IN COMMITTEE
REPORT 17-153.

COUNCILMEMBER KING:

SECOND.

CHAIR WHITE: We have a motion from Ms. Cochran, and a second from Ms. King.

Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. This matter was considered at the IEM Committee on October 16, 2017, and it involves the amendment of sections of the Electrical, Plumbing, and Building Codes, to remove specific fee amounts assessed by the Department of Public Works, and instead refers, referred the fees to be established in the annual budget ordinance.

And, without this amendment, there is confusion caused by conflicting fee amounts set out in the Codes and the annual budget ordinance. So, at this time, your Committee recommends passage of the bill at this first reading and filing of the communication. So, I look forward to support. Thank you, Chair.

CHAIR WHITE: Thank you, Ms. Cochran.

Members, any further discussion? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,
CRIVELLO, HOKAMA, KING, SUGIMURA,
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER GUZMAN.

CHAIR WHITE: Measure passes with eight "ayes", and one "excused".

Mr. Clerk.

COUNTY CLERK: Mr. Chair, for the record, BILL NO. 94 (2017).

COMMITTEE REPORT

NO. 17-154 - LAND USE COMMITTEE:

Recommending the following:

1. That Resolution 17-159, entitled "APPROVING WITH MODIFICATIONS THE INDEPENDENT DEVELOPMENT OF THE 100 PERCENT AFFORDABLE HANA HOUSING PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES," be ADOPTED;
2. That the proposed resolution, entitled "APPROVING THE INDEPENDENT DEVELOPMENT OF THE 100 PERCENT AFFORDABLE HANA HOUSING PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES," be FILED; and
3. That the proposed resolution, entitled "DISAPPROVING THE INDEPENDENT DEVELOPMENT OF THE 100 PERCENT AFFORDABLE HANA HOUSING PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES," be FILED.

COUNTY CLERK: In addition, Mr. Chair, we're also calling up County Communication 17-249 [sic] from the Chair of the Land Use Committee.

NO. 17-429 - ROBERT CARROLL, CHAIR, LAND USE COMMITTEE,
(dated October 26, 2017)

Transmitting proposed amendments to the resolution entitled "APPROVING WITH MODIFICATIONS THE INDEPENDENT DEVELOPMENT OF THE 100 PERCENT AFFORDABLE HANA HOUSING PROJECT PURSUANT TO SECTION 201H-38, HAWAII REVISED STATUTES", attached to Committee Report No. 17-154.

CHAIR WHITE: Okay, and that was County Communication 17-429, not 249.

COUNTY CLERK: Excuse me. Correct.

CHAIR WHITE: Just for the record. Okay. Thank you.

Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 17-154.

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR WHITE: We have a motion from Mr. Carroll, and I believe a second from Mr. Hokama.

Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair.

I MOVE TO AMEND EXHIBIT "B", EXEMPTIONS F.5 AND F.6 [SIC], BY INSERTING AT THE END OF EACH EXEMPTION THE FOLLOWING SENTENCE: "A TYPICAL ROADWAY CROSS-SECTION IS ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE AS EXHIBIT "B-1." AND BY ATTACHING A NEW EXHIBIT "B-1," A COPY WHICH

IS ATTACHED; AND, FURTHER, TO AMEND EXHIBIT "B" BY STRIKING EXEMPTIONS F.12 AND F.14, RELATING TO SECTIONS 18.20.260, MAUI COUNTY CODE, CERTIFICATION, AND 18.40.010, MAUI COUNTY CODE, ACCEPTANCE GUIDELINES, RESPECTIVELY, AND RENUMBERING THE EXISTING EXEMPTIONS F.13 ACCORDINGLY; AND TO FILE COUNTY COMMUNICATION 17-429.

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR WHITE: We have a motion from Mr. Carroll, and a second from Mr. Hokama.

Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair. I'd like to refer the Members to the correspondence dated October 20, 2017 [sic] from Chris Hart & Partners, Inc., which I requested the Clerk distribute at the meeting today. The correspondence Mr. Hart provided a diagram of the roadway cross-section requested by your Land Use Committee at its meeting, October 18, 2017.

He also stated the following discussion with the Department of Public Works, exemption F.14 and F.16, which has since been renumbered to F.12 and F.14, should be removed from the proposed exemption list.

I would also note the roadway cross-section was transmitted to Public Works, and Deputy Director advised that their Department had no objection to the cross-section provided by Mr. Hart. I ask the Members' support of the proposed amendment. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Carroll.

Members, any questions on the amendment?

Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: Where's, sorry, I'm trying to make sure I'm on the right page, and the dates, cause it's not really, and numbers aren't really adding up. Is, is there Amendment Summary Form?

CHAIR WHITE: Yea, it's the one--

COUNCILMEMBER COCHRAN: Yea, this transmittal here, 10/25, no, I don't have that one.
Yea, the Chris Hart transmittal page, is that what you're holding up Chair?

CHAIR WHITE: Yea, that's the transmittal page that is attached to that.

COUNCILMEMBER COCHRAN: Dated October 25?

CHAIR WHITE: Correct.

COUNCILMEMBER COCHRAN: And then, okay, I thought I heard October 20, transmittal.

And then, at the very bottom it says where Department wants the exemptions determined F.14 and F.16 be removed. But, I thought I heard Mr. Carroll say F.12 and F.16. So, I don't, I was just wanting clarifica, I'm hearing different things.

CHAIR WHITE: Mr. Carroll, did you hear the question?

VICE-CHAIR CARROLL: I don't really understand the question. Could you repeat the question please?

COUNCILMEMBER COCHRAN: Yea, I think in the, in the motion currently, to remove F.12, is that right, and F.16? Is that what I heard? I'm just--

CHAIR WHITE: Mr. Carroll, the, the attachment that Chris Hart & Partners.

VICE-CHAIR CARROLL: F.12, F.14 are the new--

CHAIR WHITE: You know what, let's, let's take a--

VICE-CHAIR CARROLL: --are the new--

CHAIR WHITE: --take a quick recess.

COUNCILMEMBER COCHRAN: Okay.

(THE MEETING WAS RECESSED BY THE CHAIR AT 2:42 P.M., AND WAS RECONVENED AT 2:46 P.M., WITH ALL MEMBERS PRESENT, EXCEPT MEMBER GUZMAN, EXCUSED.)

CHAIR WHITE: We're back in session. This meeting will come back into order.

Ms. Cochran, would you like to have the applicant come down and explain the, the changes?

COUNCILMEMBER COCHRAN: Yes, please.

CHAIR WHITE: Okay, thank you. Mr. Hart--

VICE-CHAIR CARROLL: Chair, could I make one comment first?

CHAIR WHITE: Sure.

VICE-CHAIR CARROLL: In order, unintentionally to confuse things, I said F.5 and F.6. It's F.5 and F.9, and my apologies. Thank you.

CHAIR WHITE: Okay. Mr. Hart, would you please join us.

MR. JORDAN HART: Good afternoon, Chair and Members. My name is Jordan Hart of Chris Hart & Partners. And so, I believe the item we're referring to is the Land Use Committee's transmittal to the Council, which outlines these changes. These items were discussed during the Committee's meeting in Hana. And so, we have no objection to them.

There was further correspondence between Public Works and our office, as well as our office and the Land Use Committee. Suffice to say, these pertain to the County's acceptance of the rural standard roadway. Basically, we had included exemption items that would facilitate County's acceptance of those roadway improvements. And so, those items, those exemption items are proposed to be removed from the exemption list.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Okay. Yea, thank you. I recall the discussion, and saw your exhibits.

I have an, can I ask another question though, of the applicant?

CHAIR WHITE: If it's on this amendment?

COUNCILMEMBER COCHRAN: Yea, no, no it's not.

CHAIR WHITE: Otherwise I'd like to get, take care of the amendment first.

COUNCILMEMBER COCHRAN: Yea, okay, okay.

COUNCILMEMBER KING: Chair, Chair.

CHAIR WHITE: Any further questions or comments on the amendment?

COUNCILMEMBER KING: Yea, I just have a quick question. Because the letter says, your response talks about F.14 and F.16, but it doesn't look like there is an F.16 on this attachment. Did the numbers change, maybe?

LEGISLATIVE ATTORNEY CARLA NAKATA: Mr. Chair. Mr. Chair, staff would just note that F.12 and F.14 are the new numbering in the, of the exemptions that were previously F.14 and F.16.

COUNCILMEMBER KING: Oh okay. Alright. Well that answers my question. Thank you.

CHAIR WHITE: Thank you.

COUNCILMEMBER KING: Thank you for being here.

CHAIR WHITE: Any further discussion on the amendment? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,
CRIVELLO, HOKAMA, KING, SUGIMURA,
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER GUZMAN.

CHAIR WHITE: Measure passes with eight "ayes", and one "excused".

Mr. Carroll.

VICE-CHAIR CARROLL: And back to the main motion, Mr. Chair. Your Committee met in Hana, October 18, 2017, excuse me, to consider this Chapter 201H, Hawaii Revised Statutes project.

The proposed project will provide 25 affordable single-family lots with a potential of an ohana unit for 22 of those lots. The property is comprised of 7.226 acres at 4356 Hana Highway, Hana, Maui, Hawaii, identified for property tax key purposes as portion of tax key map key (2) 1-3-004:001 ("property"), and is west of Kawaipapa Stream and mauka of Hana Highway, between Hana High School and Hana town.

Your Committee notes that the proposed lots will be a minimum of 10,000 square feet in size and priced as follows: 5 lots below 80 percent area median income or AMI, 8 lots at 80 to 100 percent of the AMI, 4 lots at 101 to 120 percent of AMI, and 8 lots at 121 to 140 percent of the AMI.

Your Committee notes the matter of the State Land Use Boundary Amendment for the property was transmitted separately, and is covered by the next Committee Report on today's Council agenda, CR 17-155.

At its meeting, your Committee received testimony from 25 individuals, most of whom are residents of Hana who support the project. Community members spoke of the urgent need for affordable housing and of multiple generations living under one roof, in some cases, in tents. Your Committee also heard from Habitat for Humanity, which has committed to acquiring 12 of the lots for development through sweat-equity, the sweat-equity program.

Your Committee revised the proposed exemptions for the project. Your Committee notes the proposed resolution requires the developer to start construction of the project within four years of the adoption of this resolution. Your Committee added a modification to the project to prohibit short-term vacation rentals and bed and breakfast uses within the project.

Your Committee voted 8-0 to recommend adoption of the proposed resolution approving the project with modifications, and filing of the two remaining resolutions.

After your Committee met in Hana on October 18, an email dated October 20, 2017, from Anita Manzano at the Office of Hawaiian Affairs was received by your Committee. I've asked the Clerk to distribute these copies of this email with the attached correspondence dated October 17, from CEO of OHA to the Members. Unfortunately, because the correspondence did not have the project name or item number attached to it, it was only identified this morning in a documented, as a document related to the Hana 201H project and brought to my attention shortly before this meeting convened.

I felt it important to bring this information to the attention of the Members in case they feel it alters the perspective on the project. I also provided a copy of the project consultant this morning. This is the first time the project consultant had an opportunity to see the correspondence as neither he nor Mr. Hoeffken were copied on the correspondence.

Mr. Chair, I would note that the correspondence dated October 17, in response to SHPD's correspondence three and a half years earlier, dated March 1, 2014. I would also note pages 5 and 6 of the final environmental assessment provided to your Committee as Appendix A to the application states that the draft EA was published with the Office of Environmental Quality Control on April 8, 2016, and transmitted to OHA for review and comment. OHA did not respond.

I do not know the reason this response has come to us late in the day. I did contact SHPD this morning upon being notified, and we tried shortly before we came back to the meeting after lunch. We didn't receive a return call. But, as far as the Committee knows, SHPD has not changed the recommendation. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Carroll

Any further discussion?

COUNCILMEMBER ATAY: Chair.

CHAIR WHITE: Mr. Atay.

COUNCILMEMBER ATAY: I'd like to comment. I don't know who to ask for the interpretation of this, this letter or communication from the Office of Hawaiian Affairs with, like the second to the last paragraph where it says "OHA is requesting that SHPD rescind their March 13, March 31, 2014 letter approving the AIS report, assess these twenty-one sites as significant under Criteria E, and provide OHA and native Hawaiian organizations their rightful opportunity to consult about mitigation measures for these sites". So, what does this, what does this mean, and where are we at right now in this process?

CHAIR WHITE: A question I can't answer.

Mr. Hart.

VICE-CHAIR CARROLL: Chair, as I have read, we received this this morning. We have never received anything before this from OHA. And as far as I know, from SHPD, they

have not answered, they have not called, they have not rescinded their decision of approval that we have from them. And that's where we're at right now. But, as far as, as Chair, SHPD, who makes the final recommendation, their recommendation still stands.

CHAIR WHITE: The Chair's recollection is that the sites that were noted were on parts of the 72-acre parcel but I don't believe, I don't recall whether there were any in the--

VICE-CHAIR CARROLL: Chair, could I call the applicant forward, because I believe there were several sites on there that they had made, they had taken care of that to make sure they weren't disturbed.

CHAIR WHITE: Mr. Hart.

MR. HART: Chair and Members, my name is Jordan Hart of Chris Hart & Partners. So, if I could, I just wouldn't mind going through the timeline of the project a little bit, and then talking about where we're at now, because I think it'll help to answer the questions that are being asked.

So, Councilmember Carroll mentioned the draft EA being published in 2016, transmitted to OHA, including the AIS as it is now, as well as the Cultural Impact Assessment Report. The Cultural Impact Assessment Report discusses the findings of the archaeological inventory survey, and the interviewees that our cultural consultant did their interviews were, with, were obtained from the OHA Maui office. So, then the final EA with, with the SHPD acceptance letter was published in June of 2017 and a copy was transmitted to OHA with some comments.

We did discuss all of the sites during our, our project meeting on September 26 in Hana, as well as during the Council Land Use Committee meetings, meeting in Hana, where we went over each of the sites. The Committee did hear, you know, 27 public testifiers in favor of the project, and none against the project.

As far as where we are now, I would presume that our position is consistent with Councilmember Carroll, that the agency at hand is SHPD. Their recommendation is for approval. I also would say that SHPD is a reviewing agency on grading permits. And so, before the project can initiate grading, this would need to be resolved, whether they assert that their position remains the same or they change their position and additional archaeological work or preservation is necessary by the applicant. But, in the context of it, a 201H application, which we are here to talk about and we did a significant amount of research, including correspondence directly with OHA, I would request that we receive approval of this project, because SHPD still has the reviewing

authority for the grading permit. And, the Council's approval of the 201H or the DBA have no bearing on their decision-making for that grading permit application.

CHAIR WHITE: Mr. Carroll, any--

VICE-CHAIR CARROLL: Thank you, Chair. As the applicant has stated, there is still the oversight done on the project for the, any historical sites. I would still recommend that we pass this out because it does have that oversight. I would never in my own community pass out anything that I wasn't comfortable with it being double and triple checked on.

However, if we didn't pass this out today, we've literally would lose our affordable housing. So, I would hope the Members would go over the Chair's recommendation and we will follow through and make sure we work with the applicant. But, that is where we stand right now. Thank you, Chair.

CHAIR WHITE: Thank you.

Members, any further discussion?

Ms. King.

COUNCILMEMBER KING: Thank you, Chair. So, my recollection when we were out in Hana was that they showed us archaeological sites, but none of them were in the area that the lots, where the lot in question were at. Is that correct?

MR. HART: A point of clarification. There are sites that are in the project area. But, those sites had been identified for no further work. And, SHPD had upheld that recommendation. And so, this OHA letter is requesting reconsideration of those sites. And so, what I was trying to say a moment ago is that that's fine; that discussion between OHA and SHPD can continue. And SHPD can either uphold their existing position or they can change their position. And, that can be done before we're issued a grading permit for this project.

But, what I was trying to say in context is that we did consult with OHA through the EA process. We did do cultural interviews with individuals who we receive referrals from OHA to interview them. The cultural sites were discussed in those interviews, and we didn't receive negative comment about what was being proposed in our EA or in our public meeting or public hearing out in Hana.

COUNCILMEMBER KING: Okay, until today. So, were they, they were out there on September 26, meeting?

MR. HART: We had approximately, there was something like 63 people signed in, and estimated 75 people in attendance during our community meeting.

COUNCILMEMBER KING: Okay. And this is the first you heard of the pushback?

MR. HART: This is. And if I might say, if you read this letter, what OHA is saying to, to SHPD is they disagree with SHPD's determination and method for obtaining their determination. Basically, what they're trying to say is that they should be consulted and native Hawaiian groups should be consulted.

Now, I'm not SHPD and I'm not trying to defend SHPD, but as far as explaining how we arrived here without this comment to date, I did talk about the correspondence and the consultation that we did do as part of the application process which did include OHA, and which did include culturally knowledgeable community members from Hana.

COUNCILMEMBER KING: Okay. Alright. Thank you, Chair.

CHAIR WHITE: What was the date of the EIS?

MR. HART: The final EA was published with the finding of no significant impact on June 2 of 2017.

CHAIR WHITE: It was a 2016 number.

MR. HART: That was the draft EA.

CHAIR WHITE: Okay.

MR. HART: Which did include the cultural impact assessment report, which discussed the findings of the archaeological inventory survey, so.

CHAIR WHITE: So, that was transmitted to OHA at that time?

MR. HART: Right, it was, yes. And another thing that, that Councilmember Carroll did mention is that they're actually, they're actually commenting on an even older SHPD letter. I believe it's three years old. They're not actually commenting on the EA, or the 201H, or the DBA; that's part of how this was, you know, didn't come to the top of the pile immediately, they're commenting on.

CHAIR WHITE: You know I--

MR. HART: It's a little bit of a inter-agency debate that it pertains to our project. But, anyway.

CHAIR WHITE: Yea, I, I find it a little bit hard to understand why, after receiving the, the EA with the assessment attached back in 2016, and then they're asking us to go back to a 2014 letter and withdraw or that SHPD should be withdrawing their decision on that. I, you know, to get this a day or two ahead of time is just, to me, irresponsible.

MR. HART: I, I would like to reiterate. In order to obtain the grading permit, SHPD is a commenting agency on that grading permit. So, you know, this issue would be addressed. We, we have time after the approval of the 201H, and there's timeframes on the DBA, we have time to address this before we're given a grading permit to do this work.

CHAIR WHITE: Thank you.

Members, any further questions for Mr.--

COUNCILMEMBER ATAY: Chair.

CHAIR WHITE: --Mr. Hart.

Mr. Atay.

COUNCILMEMBER ATAY: Thank you, Mr. Hart. I just want to doublecheck. Did you guys get a comment from the Aha Moku Council of Hana?

MR. HART: We did not.

COUNCILMEMBER ATAY: Okay. Because, Aha Moku Council is recognized by the State of Hawaii on the body part. I want to address Chair. So, I'm sitting here and I'm thinking more the reason why we got to go against this 201H process, cause the time is so short. And so, maybe possibly even the Office of Hawaiian Affairs could write for us to lobby for us to, to either lengthen the time or get rid of this process.

CHAIR WHITE: That's right. But, of course, they're back in 2016. So, that's, but I, I totally agree with you.

COUNCILMEMBER ATAY: No. For the project, you know, like Member Carroll, I'm 100 percent know the issues and the needs in that community. And, this, this ninth inning letter comes in, I will not allow this to stall and eliminate housing opportunities for the people of that area. However, this is the issue of this, this timeline

of speeding us up to make hasty decisions on this 201H process. More we must, you know, go on HSAC level to say change it.

CHAIR WHITE: Right. Thank you, Mr. Atay.

COUNCILMEMBER COCHRAN: Chair.

CHAIR WHITE: Yes, Ms. Cochran.

COUNCILMEMBER COCHRAN: Yea, thank you. So, this letter comes from this Ms. Susan Lebo, Archaeological Branch Chief. Is this the same Branch Chief back in the, your original EA, draft EA's or whatever, do you recall? Is this the same person?

MR. HART: I'd have to double-check. I believe it's to Susan Lebo from OHA. But, I can't recall. I'd, I'd have to double-check the chief at the time we got our approval.

COUNCILMEMBER COCHRAN: Okay. Well, I mean cause I'm thinking perhaps there was someone else, and then she steps in and took a look and, yea, unfortunately really last minute here to send in her comments. But, you know, that doesn't, the whole thing about SHPD being grading authority and all that, I mean, having gone through my sand mining issue, that doesn't give me a level of confidence and comfort at this point too.

And, the whole archaeological section of the EA had me quite confused also, and thought how they could determine it, the criteria and that they did, and having been up there too, and seeing existing walls and what have you, it's quite, it's quite extensive and quite beautiful. And it'd be a shame for it to be determined no, not to preserve in place or what have you. So, this letter is actually sitting quite strongly with me, but it's unfortunate on the timing at this time. So, thank you.

CHAIR WHITE: Thank you, Ms. Cochran.

COUNCILMEMBER ATAY: Chair.

CHAIR WHITE: Mr. Atay.

COUNCILMEMBER ATAY: Can, can there be a process where we can approve this, but to protect, you know, I mean, any of these, you know, like what they're saying is for them they believe that some of these sites, these ancient sites are important and worthy. And so, that's why they're asking SHPD to rescind their letter. But, can we, what if we were to approve this with conditions?

CHAIR WHITE: Well we, this is first reading. So, we'll have a second reading in, on the 17th.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, I, I want to support this in that, support the project. And, just by going through the, what, 11 meetings on learning about SHPD and, and the burial council, and the requirements of it, I think that when you go through your process, you're probably going to have an archaeologist on site, and follow the AIS as is required. So, I think you're going to be really careful. I'm, I'm and truly with all the Hawaiian cultural aspects of Hana and being the place that it is, I'm sure you're going to be very careful of this and respectful. But, but yea, I agree with everyone that it's kind of difficult to have this coming in at this point at the, at the time when.

And, and because you did your EA, and you had the draft EA, you had your EA, and going through, you know, the many levels of approval that you did, it was very beneficial I think, to try to get input as often as possible rather than just appearing before Council and trying to get your 201H and surprise attacks from many levels. So, thank you very much for doing the long haul really is what you did. So, thank you.

CHAIR WHITE: And, and before you respond, Mr. Atay, I misspoke. This is a resolution. So, this is, this is the final.

Mr. Hart.

MR. HART: Thank you.

CHAIR WHITE: Okay, thank you.

Any further discussion or questions?

COUNCILMEMBER ATAY: So, going back, being that it's a resolution, going back to my earlier question then, can we approve this with conditions of making sure these ancient sites are protected? Or, or, it's kind of like OHA's asking to not recognize SHPD's letter and stating that there are 20-something sites that are ancient and should be protected. How do we, how do we move forward?

CHAIR WHITE: I believe, Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair. Me and Alike both share the same concerns about getting it done and making sure the protectants are in place. But, I will say the people that are making this project and working on the project are Hana people. I think

that makes a big difference, because that's our backyard, and we have our own people actually over there working. There are protections that are built in, as I said, you I can't even get a grading permit until they address the protections for anything that was identified, which already have been identified and forwarded.

So, I don't like it any better than anyone else, but I feel certain that we can do this project in the right way, and I would encourage the Members to pass it out. Thank you.

CHAIR WHITE: Thank you, Mr. Carroll.

Any further discussion, Members?

COUNCILMEMBER COCHRAN: Chair.

CHAIR WHITE: Yea, Ms. Cochran.

COUNCILMEMBER COCHRAN: So, so, Chair, it is, this is the time and opportunity now for a condition, correct? So, I'm wondering, this letter, I personally would like to have this letter addressed in some way, shape, or form. And so, as I'm hearing Mr. Carroll say the SHPD conversation will happen when, you know, the grading and all that stuff comes into play. But, and again, it's unfortunate that there hasn't been a response and how come only now?

And, but I want to hear because this, what they're bringing up really rings, resonates with me strongly, because when I went through the entire EA, I was questioning how they determined it, what they did, and not to preserve in place or anything of that sorts. So, now this letter comes at the final, you know, eleventh hour and it's stating just what I was thinking. And so, I'd like to have some kind of response in why.

And then hearing Aha Moku or, and others, who else, other Hawaiian entities, you know, were not consulted and vetted? I, I understand all the people came and, and we were there, and everyone wants housing. And, it's not about that, but it is about something that once it's bulldozed and gone and crushed, it's gone forever. And so, we've been losing way too many cultural sites, way too many. And, just, if we can make sure this has been, is done, you know, properly and protected and all that, great. But, I want to have some kind of guarantee and some condition that states such at this time.

CHAIR WHITE: Well, I think the SHPD is going to have to do it, is going to have to answer to this at the time of the grading permit, or prior to the grading permit. So, I think that's the appropriate place to put it.

I don't know whether if we make, make an addition to the resolution, whether we have to put it off again. And, I don't know what the timeframe limitation is.

Let's, let's take a quick recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 3:11 A.M., AND WAS RECONVENED AT 3:30 A.M., WITH ALL MEMBERS PRESENT, EXCEPT MEMBER GUZMAN, EXCUSED.)

CHAIR WHITE: This meeting will please come back to order.

Members, Ms. Cochran is working on an amendment, so we're going to move this to the end of the calendar. And, we'll continue with the remainder of our agenda.

(THE PROPOSED RESOLUTION ATTACHED TO COMMITTEE REPORT NO. 17-154 WAS AMENDED AND ADOPTED LATER IN THE MEETING AND ASSIGNED RESOLUTION NO. 17-159. COUNTY COMMUNICATION NO. 17-429 WAS THEN FILED. See pages 136 through 161 for discussion and action.)

CHAIR WHITE: Mr. Clerk.

COMMITTEE REPORT
NO. 17-155 - LAND USE COMMITTEE:

Recommending the following:

1. That Bill 95 (2017), entitled "A BILL FOR AN ORDINANCE TO AMEND THE STATE LAND USE DISTRICT CLASSIFICATION FROM AGRICULTURAL DISTRICT TO RURAL DISTRICT (CONDITIONAL BOUNDARY AMENDMENT) FOR PROPERTY SITUATED AT 4356 HANA HIGHWAY, HANA, MAUI, HAWAII, TAX MAP KEY NO. (2) 1-3-004:001 (POR.), CONTAINING A TOTAL OF 7.226 ACRES," be PASSED ON FIRST READING and be ORDERED TO PRINT;
2. That the County Clerk RECORD the unilateral agreement; and
3. That County Communication 17-397, from Council Chair Mike White, be FILED.

CHAIR WHITE: Thank you, Mr. Clerk.

Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 17-155.

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR WHITE: We have a motion from Mr. Carroll, and a second from Mr. Hokama.

Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair. Your Committee also met in Hana on a proposed District Boundary Amendment relating to the 201H project known as the 100 Percent Hana Affordable Housing Project . . . which we were previously discussing.

The purpose of the proposed bill is to grant a request from GTH Land Company LLC, known as GTH Land Company, Inc., for a District Boundary Amendment from Agricultural District to Rural District for the same 7.226 acres upon which 201H project will be developed. As it relates to the proposed District Boundary Amendment, the developer proposed, and your Committee separately recommended approval of the exemption from provisions relating to certain applications and procedural requirements.

Your Committee has received an, an executed unilateral agreement binding the landowners and the developer to the seven conditions recommended by your Committee. I ask the Members' support. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Carroll.

Members, further discussion on this item?

COUNCILMEMBER KING: Chair, is this, is this part of the previous item, or did we take it up separately?

CHAIR WHITE: Yea, this is, the previous one was a reso requiring one reading. This is linked to that same project, but this is a bill, so it requires two readings.

COUNCILMEMBER KING: Oh, okay.

CHAIR WHITE: Any further discussion? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,
CRIVELLO, HOKAMA, KING, SUGIMURA,
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER GUZMAN.

CHAIR WHITE: Measure passes with eight "ayes", and one "excused".

Mr. Clerk.

COUNTY CLERK: Mr. Chair, for the record, BILL NO. 95 (2016) *[sic]*.

COMMITTEE REPORT
NO. 17-156 - PARKS, RECREATION, ENERGY, AND LEGAL AFFAIRS
COMMITTEE:

Recommending that Bill 96 (2017), entitled "A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII DEPARTMENT OF DEFENSE, THE NATIONAL CEMETERY ADMINISTRATION OF THE U.S. DEPARTMENT OF VETERANS AFFAIRS, THE STATE HISTORIC PRESERVATION DIVISION OF THE DEPARTMENT OF LAND AND NATURAL RESOURCES, AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION TO SET FORTH GUIDELINES TO MAINTAIN THE MAUI VETERANS CEMETERY AT 'SHRINE STATUS'", be PASSED ON FIRST READING and be ORDERED TO PRINT.

CHAIR WHITE: Ms. King.

COUNCILMEMBER KING:

I MOVE TO ADOPT THE RECOMMENDATION IN COMMITTEE
REPORT 17-156.

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR WHITE: We have a motion from Ms. King, and a second from Mr. Hokama.

Ms. King.

COUNCILMEMBER KING: Thank you, Chair. Your Committee met on October 3, 2017 and October 17, 2017, to consider a proposed bill to authorize the Mayor to enter into an intergovernmental agreement with the various named entities read by the Clerk in the form of a Memorandum of Agreement attached thereto as Exhibit "1", to set forth guidelines to maintain the Maui Veterans Cemetery in Makawao, Maui, Hawaii, at Shrine Status.

Your Committee received a copy of the Complaint filed on April 21, 2015, in The Makawao Cemetery Association, Inc. v. The Office of Veteran Services, Department of Defense, et al., Civil 15-1-0209(2). The action by The Makawao Cemetery Association, Inc. is to enforce easements and covenants alleged to exist on the Maui Veterans Cemetery land.

A Deputy Corporate Counsel said, with respect to the County, the complaint relates to how the Department of Public Works will maintain and operate the Maui Veterans Cemetery on behalf of the State. The Maui Veterans Cemetery and the Makawao Cemetery are both on Baldwin Avenue in Makawao and are adjacent to one another. She said the cemeteries share a lot that is used for parking and access purposes. When the Maui Veterans Cemetery planned to expand, there was a proposal to alter the shared lot, which led to the litigation.

The Director of Public Works reported to the State Department of Defense, reported the State Department of Defense scored the cemetery in September 2014 to see if it met Shrine Status, and the cemetery received a score of 53 percent. In order to achieve Shrine Status, the cemetery needs to score about 80 percent. He said some of the factors that are considered include recordkeeping, chain-of-custody requirements, the way the grave markers are lined, settlement of the ground, weed control, and the status of equipment and paint on buildings.

Your Committee reviewed the proposed Memorandum of Agreement and requested that timeframe from preparation of a ground management plan be expanded from three months to six months. With this revision and revisions related to, relating to attachments to the MOA, your Committee voted 5-0 to recommend passage of the

revised proposed bill. I ask for the Council's support of your Committee's recommendation. Thank you.

CHAIR WHITE: Thank you, Ms. King.

Members, any further discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,
CRIVELLO, HOKAMA, KING, SUGIMURA,
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER GUZMAN.

CHAIR WHITE: Measure passes with eight "ayes", and one "excused".

Mr. Clerk.

COUNTY CLERK: Mr. Chair, for the record, BILL NO. 96 (2017).

COMMITTEE REPORT
NO. 17-157 - PARKS, RECREATION, ENERGY, AND LEGAL AFFAIRS
COMMITTEE:

Recommending that Resolution 17-156, entitled "AUTHORIZING SETTLEMENT OF DUKIE RACADIO V. COUNTY OF MAUI, ET AL., CIVIL NO. 14-1-0451(2)," be ADOPTED.

CHAIR WHITE: Thank you, Mr. Clerk.

Ms. King.

COUNCILMEMBER KING:

I MOVE TO ADOPT THE RECOMMENDATION IN COMMITTEE
REPORT 17-157.

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR WHITE: We have a motion from Ms. King, and a second from Mr. Hokama.

Ms. King.

COUNCILMEMBER KING: Chair, your Committee met on October 17, 2017, to consider a proposed resolution authorizing settlement of the case read by the Clerk.

The Complaint alleges disability discrimination relating to Dukie J. Racadio's termination as a police officer on or about December 31, 2013.

Last term, the Council authorized settlement by Resolution 16-2, and the Council this term authorized settlement by Resolution 17-95.

A Deputy Corporate Counsel said that the case was brought by a former Maui police officer, alleging disability discrimination based on a medical condition. The lawsuit has been pending for some time and trial is scheduled for November 6, 2017. The Deputy said the mediator has presented a final settlement offer from Mr. Racadio. He requested the opportunity to present the offer in an executive meeting.

Following an executive meeting, your Committee voted 5-0 to recommend adoption of the proposed resolution. I ask for the Council's support of your Committee's recommendation. Mahalo.

CHAIR WHITE: Thank you, Ms. King.

Members, any further discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,
CRIVELLO, HOKAMA, KING, SUGIMURA,
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER GUZMAN.

CHAIR WHITE: Measure passes with eight "ayes", and one "excused".

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 17-156.

COMMITTEE REPORT
NO. 17-158 - POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE
COMMITTEE:

Recommending that Resolution 17-157, entitled "RELATING TO THE APPOINTMENT OF ALALANI HILL AS THE NATIVE HAWAIIAN TRADITIONAL AND CUSTOMARY PRACTICES EXPERT TO THE MAUI PLANNING COMMISSION," be ADOPTED.

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair.

(Councilmember Cochran was excused from the meeting at 3:38 p.m.)

COUNCILMEMBER SUGIMURA:

I MOVE TO ADOPT RECOMMENDATIONS IN COMMITTEE REPORT 17-158.

COUNCILMEMBER CRIVELLO:

SECOND.

CHAIR WHITE: We have a motion from Ms. Sugimura, and a second from Ms. Crivello.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. Your Policy, Economic Development, Agriculture Committee, we met on October 16, to consider the Mayor's nomination of Alalani Hill as a native Hawaiian cultural and customary practices expert to the Maui Planning Commission for a term to expire March 31, 2018, to fill a vacancy due to the resignation of Doreen Canto.

The Council's deadline to approve or disapprove the nomination is November 6, 2017, or the nomination will be deemed approved.

Your Committee interviewed the nominee. She noted her background and training in native Hawaiian cultural practices and her commitment to serving the, the community.

A representative of the Mayor's Office said Ms. Hill resides in Kihei and will provide geographical and gender balance, as well, on the Commission.

Your Committee voted 8-1 to recommend approval. I respectfully ask for the Council's approval. Thank you, Chair.

CHAIR WHITE: Thank you.

Members, any discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, CRIVELLO, HOKAMA,
KING, SUGIMURA, VICE-CHAIR CARROLL, AND
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND GUZMAN.

CHAIR WHITE: Measure passes with seven "ayes", two "excused"; Ms. Cochran and Mr. Guzman.

Mr. Clerk.

COUNTY CLERK: For the record, RESOLUTION 17-157.

COMMITTEE REPORT

NO. 17-159 - POLICY, ECONOMIC DEVELOPMENT, AND AGRICULTURE
COMMITTEE:

Recommending that Resolution 17-158, entitled "APPROVING PROPOSALS FOR INCLUSION IN THE 2018 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE," be ADOPTED.

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you.

I MOVE TO ADOPT THE RECOMMENDATIONS IN
COMMITTEE REPORT 17-159.

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR WHITE: We have a motion from Ms. Sugimura, and a second from Mr. Hokama.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. Your Policy, Economic Development, Agriculture Committee met on October 16, 2017, to consider proposals for the 2018 Hawaii State Association of Counties Legislative Package.

There are a total of 17 proposals, two were already approved by the Maui County Council. Ten proposals were carryovers from the 2017 HSAC Legislative Package, and five are new proposals submitted by the County of Kauai.

Only those proposals approved by all four councils will be included in the 2018 HSAC Legislative Package for introducing, introduction to the State Legislature.

Your Committee recognized the merit of these proposals and voted 7-0 to recommend adoption. Thank you, Chair.

CHAIR WHITE: Thank you.

Members, any further discussion on this item?

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Yes, Chair. I just want to note that Kauai did not fully support all of this amendments here.

Also, need to recognize that the item 11 has to be rewritten to, to fit in with the new session that's coming in.

CHAIR WHITE: Thank you.

COUNCILMEMBER SUGIMURA: Chair.

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER CRIVELLO: So, I wonder how we call this. I don't think this is the final package that came from the HSAC Committee. So, my question is, are we, what I'm hearing is that we're pushing to accept all of this as the 2018 Hawaii State Legislative Package, or our recommendation, Maui County?

CHAIR WHITE: Well, it's, it's our, our vote on the package. If the other counties do not pass each of the ones that are there, then the, it's moot; that item drops out. So, the Chair is not interested in going through and, and making motions to take--

COUNCILMEMBER CRIVELLO: That's fine, Chair.

CHAIR WHITE: --take out. So, I think we'll just vote on it as is. If they haven't passed other councils, then they simply get dropped.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: Thank you, Chair. Good questions and good discussions. So, that tort liability bill, which is what Member Crivello brings up, Section 663-1.52, Hawaii Revised Statutes was repealed on June 30, as we know, as it relates to our lifeguards. And, what our Committee is going to do, realizing the importance of this bill to our County and the County lifeguards, cause they still talk to us about it, that we will be, my Committee will be working to have this introduced at the November 17 Council meeting for inclusion in the Maui County Legislative Package. So, that's how we're making this justification because our Committee did note before today, way before today that there was this puka, basically.

CHAIR WHITE: Right.

COUNCILMEMBER SUGIMURA: So, we're going to take care of that, as well as, I think the other reference that Member Crivello's making is also to that TAT regarding the telemarketers. So, that, that was another one.

So, I think the way that my Committee Reports, reports out is that we are actually approving what the four counties approved. So, those that I've mentioned we'll be handling kind of separately. But, it is in the package.

CHAIR WHITE: Right, and HSAC has the ability, executive committee, as they see bills come up from wherever in the legislative process to identify them as bills that we would support. And, so, that's, that's, I'm assuming how it will be dealt with with respect to the lifeguard, because that's, that is an issue that everyone's going to be focusing on. And, so, appreciate your explanation.

COUNCILMEMBER SUGIMURA: Okay. Thank you.

COUNCILMEMBER KING: Chair.

CHAIR WHITE: Yes, Ms. King.

COUNCILMEMBER KING: Thank you. I'm still confused though. There's, it sounds like we have two bills in this package that aren't right, aren't the way we really want them to be, or aren't the way HSAC wants them to be.

CHAIR WHITE: Well, there's one, one that is, was picked up from last year's packet. So, it was to basically say we want you to extend the law. Unfortunately, that law is now gone. So, that bill is not appropriately drafted.

COUNCILMEMBER KING: Okay, so we're pulling it out of this package?

CHAIR WHITE: No, I, I don't want to get into amending the package, because it's, it's just going to get, it's going to get dropped out anyway, cause it's, it's inaccurate.

COUNCILMEMBER KING: Okay. Is this, this one applies statewide right, concept?

CHAIR WHITE: If the other counties have passed all of the ones on that list and I don't believe they have.

So, okay, any further discussion? All those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, CRIVELLO, HOKAMA,
KING, SUGIMURA, VICE-CHAIR CARROLL, AND
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND GUZMAN.

CHAIR WHITE: Measure passes with seven "ayes", and two "excused"; Members Cochran and Guzman.

Mr. Clerk.

COUNTY CLERK: For the record, excuse me, RESOLUTION 17-158.

Mr. Chair, proceeding with ordinances for second and final reading.

ORDINANCES

ORDINANCE NO. _____
BILL NO. 86 (2017)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE
COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL
AGREEMENT AMENDING THE MEMORANDUM OF AGREEMENT FOR
LIFEGUARD SERVICES BETWEEN THE STATE OF HAWAII AND THE COUNTY
OF MAUI FOR MAKENA BEACH PARK

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA:

CHAIRMAN, I MOVE SAID BILL READ BY THE CLERK FOR
FINAL READING.

COUNCILMEMBER KING:

SECOND.

CHAIR WHITE: We have a motion from Mr. Hokama, and a second from Ms. King.

Mr. Hokama.

COUNCILMEMBER HOKAMA: What can I say about this one, Chairman? Well, to be very concise, again, the County, in my opinion, is bailing out the State of Hawaii in their responsibilities of areas that is under their jurisdiction. Again, they put forward a agreement to this County that is old, that the current term we're approving for today

has already expired, and that our fire, our ocean safety employees once again, statewide with our sister counties, are placed in a uncomfortable situation, which is not fair, nor to the tax base of this County that is now paying additional costs because of the State's inability to perform.

So, what can we say, Chair? This County continues to provide for the community's benefit even if it is the State's responsibility. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama.

I would just add to that that we're fronting the money.

COUNCILMEMBER HOKAMA: Correct.

CHAIR WHITE: Until this, this agreement gets signed. And then we're, I believe the agreement allots, allows them to pay us in four separate payments as opposed to one lump sum as in year's past. So, it's just another one of those things that we see as irresponsible on the State's part.

Any further discussion on this item? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, CRIVELLO, HOKAMA,
KING, SUGIMURA, VICE-CHAIR CARROLL, AND
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND GUZMAN.

CHAIR WHITE: Measure passes with seven "ayes", two "excused".

Mr. Clerk.

ORDINANCE NO. _____
BILL NO. 87 (2017)

A BILL FOR AN ORDINANCE AMENDING
THE FISCAL YEAR 2018 BUDGET FOR THE COUNTY OF MAUI
AS IT PERTAINS TO APPENDIX A, PART I, GRANT REVENUE -
SCHEDULE OF GRANTS BY DEPARTMENTS AND PROGRAMS,
DEPARTMENT OF PUBLIC WORKS
(STATE OF HAWAII DEPARTMENT OF HEALTH)

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: With no objections, Chairman, I request Bill 88 come forward at this time.

CHAIR WHITE: Any objections?

MEMBERS VOICED NO OBJECTION.

CHAIR WHITE: So ordered.

Mr. Clerk.

ORDINANCE NO. _____
BILL NO. 88 (2017)

A BILL FOR AN ORDINANCE AMENDING APPENDIX A
OF THE FISCAL YEAR 2018 BUDGET FOR THE COUNTY OF MAUI
AS IT PERTAINS TO PART II, SPECIAL PURPOSE REVENUES –
SCHEDULE OF REVOLVING/SPECIAL FUNDS FOR FISCAL YEAR 2018,
HAWAIIAN CULTURAL RESTORATION REVOLVING FUND

CHAIR WHITE: Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, thank you.

I MOVE THAT BILLS 87, 88 (2017) PASS SECOND AND FINAL
READING.

COUNCILMEMBER KING:

SECOND.

CHAIR WHITE: We have a motion from Mr. Hokama, and a second from Ms. King.

Mr. Hokama.

COUNCILMEMBER HOKAMA: No further discussion, Chairman.

CHAIR WHITE: Members, any discussion on this item, these items? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, CRIVELLO, HOKAMA,
KING, SUGIMURA, VICE-CHAIR CARROLL, AND
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND GUZMAN.

CHAIR WHITE: Measures passes with seven "ayes", and two "excused".

Mr. Clerk.

ORDINANCE NO. _____
BILL NO. 89 (2017)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96, MAUI COUNTY
CODE, RELATING TO RESIDENTIAL WORKFORCE HOUSING POLICY

CHAIR WHITE: Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair.

I MOVE TO PASS BILL 89 (2017) ON SECOND AND FINAL
READING.

VICE-CHAIR CARROLL:

SECOND.

CHAIR WHITE: We have a motion from Ms. Crivello, with a second from Mr. Carroll.

Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. Your Housing, Human Services, and Transportation Committee met on October 20, 2017, to consider a proposed bill to establish rental credits for residential workforce housing rental units.

The bill also includes a process for maintaining the required distribution of workforce housing rentals among appropriate income groups, an annual recertification of tenants meeting income guidelines, and processes to address graduated income tenants and vacancies of units.

I respectfully ask for the Council's full support of Bill 89 (2017). Thank you, Chair.

CHAIR WHITE: Thank you.

Members, any further discussion?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, again, thank you. I speak in support of the motion before the Members this afternoon, Chairman. Quickly, I know we've had a long day, but I want to thank Ms. Crivello. Under her leadership, her Committee did push out something that we needed to consider during this current situation with our residents; housing inventory, competition to affordability, as well as attitude.

And when I say attitude, Chairman, who is our priority? Is it the visitor or is it the resident? When we talk housing, it should be about the resident, okay. When we talk housing, it's about the resident, not the visitor. We need to remember that. And, I, you know, I thank the Committee, the Council for, you know, bringing this out forward, because again, this is one step of a cure, Chairman. But, the problem is a lot bigger than, as we've discussed throughout this whole day, and the impacts of whether it be a B&B, a short-term, a hotel room, an apartment, a condo, anything that takes away from housing, we need to very much think hard. Because, again, what are we, what is our priority? It should always be our residents first. Thank you, Chairman.

CHAIR WHITE: Thank you, Mr. Hokama.

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, I too would like to commend the Committee and Ms. Crivello for putting this together. We've been hearing great testimony as to why it's important. And, I think that we have a housing shortage, but the commendation for this is creative policy thinking. And, I think that it's something really that we need, rental credits. And, I hope that we start seeing our housing situation get better with just these bits of improvements we've been seeing coming out of the Housing Committee. So, congratulations to everybody, and I hope we all support this. Thank you.

CHAIR WHITE: Thank you.

Any further discussion? Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, CRIVELLO, HOKAMA,
KING, SUGIMURA, VICE-CHAIR CARROLL, AND
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND GUZMAN.

CHAIR WHITE: Measure passes with seven "ayes", and two "excused".

Mr. Clerk.

ORDINANCE NO. _____
BILL NO. 90 (2017)

A BILL FOR AN ORDINANCE TO TRANSFER A CONDITIONAL PERMIT
FROM SOUTH MAUI BUSINESS PARK PARTNERS TO WAILEA GOLF LLC
FOR THE CONTINUED OPERATION OF A PARKING LOT WITHIN THE
A-2 APARTMENT DISTRICT ON PROPERTY IDENTIFIED AS TAX MAP KEY
NUMBER (2) 2-1-008:141, WAILEA, KIHEI, MAUI, HAWAII

CHAIR WHITE: Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair.

I MOVE TO PASS BILL 90 (2017) ON SECOND AND FINAL
READING.

COUNCILMEMBER HOKAMA:

SECOND.

CHAIR WHITE: We have a motion from Mr. Carroll, with a second from Mr. Hokama.

Mr. Carroll.

VICE-CHAIR CARROLL: Thank you, Chair. Bill 90 would grant a transfer of the Conditional Permit authorized by Ordinance 2829 from South Maui Business Park Partners to Wailea Golf LLC, for the operation of an off-site parking lot located at 0 Wailea Ike Drive for the Wailea Tennis Center. I ask for the Council's support of Bill 90. Thank you, Chair.

CHAIR WHITE: Thank you, Mr. Carroll.

Members, any further discussion?

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: No.

CHAIR WHITE: Oh okay. I'm sorry.

Seeing none, all those in favor please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, CRIVELLO, HOKAMA,
KING, SUGIMURA, VICE-CHAIR CARROLL, AND
CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBERS COCHRAN AND GUZMAN.

CHAIR WHITE: Measure passes with seven "ayes", and two "excused".

DISCUSSION AND ACTION RELATING TO
COMMITTEE REPORT NO. 17-154

CHAIR WHITE: Members, that brings us back to Committee Report 17-154. And, we'll take a brief recess to locate the amendment.

(THE MEETING WAS RECESSED BY THE CHAIR AT 3:54 P.M., AND WAS RECONVENED AT 3:58 P.M., WITH ALL MEMBERS PRESENT, EXCEPT MEMBER GUZMAN, EXCUSED.)

CHAIR WHITE: This meeting will please come back to order.

Members, we have a motion on the floor. And, we'll go to Ms. Cochran, who has a proposed amendment for your consideration.

COUNCILMEMBER COCHRAN: Thank you. Thank you very much. Yes. Thank you very much. And, Members, sorry. But, I, so I want to make an amendment.

I MOVE TO AMEND EXHIBIT "C" OF THE RESOLUTION APPROVING THE PROJECT WITH MODIFICATIONS BY INSERTING A NEW MODIFICATION, NEW MODIFICATIONS NUMBERED "2." AND "3." TO READ AS FOLLOWS:

"2. THE DEVELOPER WILL CONSULT WITH THE HANA AHA MOKU COUNCIL, WHO WILL DETERMINE WHETHER DATA RECOVERY AND PRESERVATION IS APPROPRIATE FOR THE SITES LISTED WITHIN THE PROJECT AREA."

"3. THE DEVELOPER SHALL IMPLEMENT THE MITIGATION MEASURES DETERMINED BY THE HANA AHA MOKU COUNCIL FOR THESE SITES."

COUNCILMEMBER KING:

SECOND.

COUNCILMEMBER COCHRAN: Thank you.

COUNCILMEMBER KING:

SECOND.

CHAIR WHITE: Members, I think it would be fair for us to hear from the, the applicant, without objection.

MEMBERS VOICED NO OBJECTION.

COUNCILMEMBER KING: Did he record the second?

COUNCILMEMBER COCHRAN: Did you record the second?

MR. GABRIEL HOFFKEN Good afternoon, Chair. Good afternoon, Council. Thanks for meeting with us today. I really appreciate it.

CHAIR WHITE: State your name for the record please?

MR. HOFFKEN: My name is Gabriel Hoeffken. I am the manager of GTH Land Company, and I am the son of Tom Hoeffken who is the landowner and who has been the champion of this project.

While I totally understand the importance of cultural preservation, archaeological preservation, at this late date, after we have gone through the entire process, we have done all the things that have been asked of us, we have gone through the SHPD process, we have had a cultural survey done. OHA had gotten many, many, many different notices of what we were doing, what was going on. They got, I mean, the letter is from something in 2014, which is not that recent. I just feel that it's a burden on my heart to have additional conditions placed upon us after all that we've been through.

And, I don't know, I mean, maybe working with the Hana Aha Moku Council will be easy and not cost anything, be nearly free, and not slow us down, and not cost us any money, or maybe it will. And at this late date, for me to agree to things that I don't know how it's going to affect our bottom line, cause we don't have much money in the project. I mean, basically, we're trying to get this done on a shoestring budget so we can make it 100 percent affordable, so we can do the things that we said we were going to do from the beginning of the project.

And, I just, you know, the other problem that I see is, you know, it's two State agencies that have a disagreement. We don't have any control over that. The County Council

doesn't have any control of that. To go and put us in a situation where we're at their whim at the last hour is, is unreasonable and it's unfair.

And, I have to say I am not for these amendments. I feel like, you know, everybody had ample opportunity to, to make their claims known before this. Additionally, if there was concern from the Hana community, we did go in front of Hana Advisory Committee, these things could have been brought up then. We could have addressed it then. To make it an issue this late is just not fair. And, you know, I wish I could say we could appease everybody and make everything okay, but I just, I cannot in good conscience say that.

But, I really do appreciate all the work you've done. I know you guys have put in a lot of effort. I know you guys all came to Hana, which is not an easy thing to do, and I am very thankful for that. But, yea, I cannot, I cannot back these amendments.

CHAIR WHITE: Mr. Carroll. Mr. Carroll, since this is your item, any comments?

VICE-CHAIR CARROLL: Thank you, Chair. I have no further questions for him. I don't know if anybody has any further questions, and I'd like to have the floor again.

CHAIR WHITE: Anybody have any questions?

Ms. Sugimura.

COUNCILMEMBER SUGIMURA: I just want to say thank you for your honesty. That must've been hard to say, and you had to probably think about that. But, I understand the timing. And, and you're right, I think you did a lot of community outreach. I think even, you know, from what I heard from the Hana community, you were well received. So, thank you very much.

CHAIR WHITE: Ms. Crivello.

COUNCILMEMBER CRIVELLO: I have a question. Say we, we pass these conditions. Do you see it as a delay? Have you ever talked with the Hana Aha Moku group? Were they ever consulted? Are you--

MR. HOEFFKEN: I'm not familiar with the group. You know, we either, yea, I know nothing about them.

COUNCILMEMBER CRIVELLO: So, so your AIS identified these, these sites, right? And, you've also recognized where these sites are? Okay. May I ask what would be your intention to protect these sites?

MR. HOEFFKEN: I don't know right now. Off the top of my head, it could be right in the middle of someone's property where they need to build a house. The, the project is very tight. So, the reason I can't just blanket say everything is going to be okay, is if it's in the middle of someone's lot and it's going to make it impossible to, to build a house there, and then all of a sudden I lose a couple lots, well now my project's underfunded by the, the, those lots.

So, if I, you know, if I've got to move things around to where I fall under 10,000 square feet, that's not allowed. You know, I might be able to get 9 or 8,000 square feet, but if it moves things in a particular way, I can't know what the, what the impact of this is right now.

COUNCILMEMBER CRIVELLO: If I may, Chair. I, I guess my question is, because it's recognized that they are significant identifications of, of Hawaiian cultural ancient sites.

MR. HOEFFKEN: I don't, I'm not familiar exactly with what these sites are.

MR. HART: Chair.

COUNCILMEMBER CRIVELLO: Yea, Chair. Mr. Hart, is that okay? Chair.

CHAIR WHITE: Yes, Mr. Hart.

MR. HART: Jordan Hart, Chris Hart & Partners. I could reply to that question. So, basically, the sites that we're talking about, which are within the project area were sites that were determined; first recommended by the archaeologist after they excavated them and mapped them out, and then they provided their report to SHPD, and then they provided recommendations that they feel that they had done all the research that was necessary.

And, SHPD's recommendation was that they agreed that those sites had been explored to the extent it was necessary. There are sites that are mauka of the project area that are for preservation. And, there is a preservation plan that was prepared and submitted to SHPD. So, these sites that are in the project area that we're talking about now, those were intended for no further work, so it was anticipated that they would be removed as part of the development of the project site.

COUNCILMEMBER CRIVELLO: Removed from, from the project site? And, where would--

MR. HART: That's correct.

COUNCILMEMBER CRIVELLO: What type, what type of archeological sites are there that they're able to remove it?

MR. HART: There were, there was some habitation sites. There were some agricultural features, basically those types of sites were in the, in the project area. There was a list of all of them that we went through in our meeting in Hana on September 26, as well as in the Council Land Use Committee meeting in Hana as well. And, I could get that list and go over them again here now.

So, the sites that are in the project area are, let's read their numbers for the record: 6548 is a complex of four walls, 6550 is an agricultural terrace, and 6551 is a historic habitation and agricultural complex. And so, these sites were all part of the archaeological inventory survey. They were designated as significance criteria of D, which means that a site would, would or has yielded information about pre or post contact history. And so, they were analyzed, documented, and then those recommendations were made to SHPD. And, SHPD agreed with that determination. So, the OHA letter is saying that they disagree with how SHPD made that determination. And, that's what we're talking about right now.

But, they were thoroughly analyzed, documented. And, they were proposed to be removed. As part of the development of the project, we did present that to the community. That was in the original draft EA from 2016, which was sent to OHA and sent to everyone and so on. So, this is what has been proposed from the beginning of the project.

COUNCILMEMBER CRIVELLO: Okay. My personal is that I have concerns about moving it. I see more as an attempt to protect it and, and see how you still can utilize portions of, of the land without making a complete, how do you remove the habitation or walls that have been there that are ancient? So, that's my concern.

And, for me, as I, I hope you can find some means of working towards preserving it. And, and perhaps making a living, a living story for the community, and tell the story of those times, and not have to infringe anything further on the developer. And, maybe you can collaborate that with Aha Moku or and your community or your clients that probably will, will be anxious to build there.

But, I, I just have a question or concern how we would uproot what is significantly the story of my ancestors. That's why, I don't know how much acreage there is and how much it involves. But, I would think it would be more costly to, to remove it and displace it.

MR. HART: Just a point of clarification. When I said remove, what I meant by that is the State Historic Preservation had reviewed the archaeological study and concluded that they could be removed as far as completely, like, basically the term is demolished. Like, they're going to be graded over as part of the development of the project.

Now, I understand that this happens quite regularly. And, all sites are analyzed. Some sites are more significant than others. And these sites were analyzed and assessed, and this is the conclusion of them. So, as far as relocation, a relocation process would be extremely costly. And that's what Gabe was talking about as far as asking him to factor that into his pro forma right now as far as this unknown action and the repercussions of it, you know, please answer me today. You know, we got this letter this morning when we walked out of the elevator, so he's not able to provide that.

COUNCILMEMBER CRIVELLO: And I, and I can appreciate that because that's not something that you can just go ahead and agree, and not recognize. And, I understand about the, how much it will involve with your development. Thank you.

CHAIR WHITE: Members, further discussion?

Mr. Atay.

COUNCILMEMBER ATAY: Chair, talk about tidal wave go up and down. You know, in support, I know the palu or the bait for this community waiting well over 40 years of a housing development be built on the east side of Maui in Hana; that's the palu, that's the bait. We have families living inter-generationally under the roof. Some houses having 18, 21, 24 individuals residing there. And so, we looking for better habitation for these families; that's the palu.

But, we get kuleana as gatekeepers. And, there's reasons why there's requirements of cultural impact surveys. There's requirements of environmental impacts studies. This property, how many acres?

MR. HART: 72, approximately.

COUNCILMEMBER ATAY: 72, or 7.2?

MR. HART: Oh, the project area?

COUNCILMEMBER ATAY: No, the property. The one tax map key property.

MR. HART: Yea, it's 72.

COUNCILMEMBER ATAY: 72 acres. So, knowing that the need to develop these homes is there, knowing that cultural ancient sites are there, the goal or objective would be not to eliminate our past, not to bulldoze and eliminate our people's history.

On that acreage of 72 acres, can that subdivision plan be reconfigured so that you can get your house, and the ancient sites still remain?

MR. HOEFFKEN: I'll try and answer that as best as I can. I don't think I'll have a great answer. So, basically, like I had mentioned previously, we followed the process and the procedure that is outlined in law. We based our, our subdivision map, the boundaries. We tried to contain it within the interim land area, so that we would be kind of within the, the idea of, of more dense housing area in there. We did not, we tried not to go into the agricultural area as much as possible.

I don't know what impact trying to preserve these sites will have on, on the whole project right now. It's impossible to know. We found this out today. Had we known, you know, in the beginning, had SHPD said, hey we want you guys to try and preserve these sites, or data recovery these sites from the very beginning, we could have got a quote for that. We could have found out how much it was going to cost. It would have been part of our budget. And, if we decided we want to preserve them and space, we could've gone and potentially moved the boundary of the project over into the agricultural area so we could keep the, the quantity the same and not affect the budget that much.

But, you know, I, at this late date, you know, we did everything that we were supposed to do. We followed all the protocols and it, I just don't know. I don't know what, what it would do. I mean, we can definitely try, but I don't know if it's in the middle of the road. I don't know if it's in, somewhere that needs to be a drainage area. The project site is fairly small, and it was not engineered with these constraints in mind.

COUNCILMEMBER ATAY: But the agricultural area that you're trying to avoid, what kind agricultural activity is going on now?

MR. HART: Currently, there's not. This is Jordan Hart, Chris Hart & Partners. Currently, there's no ag. He's talking about land use designations, not actual physical activity.

The one other thing I would say is, you know, there's a procedural consideration as far as redesigning the project right now. We did do an environmental assessment. We have the 201H going. Like what, how does it work when you change the boundaries of that in the middle of the process? So, those are complex issues to, to respond to right now. We would need to consult with Corporation Counsel and Council Services on the implications of that.

COUNCILMEMBER ATAY: I'm just, I'm just trying to see if this can be worked. Because I also have the kuleana of protecting our past. So, as I sit right now, I was yes. I going no, unless you can, in the 70 acres that you have to work with, redesign and, and put your homes in another seven acres.

MR. HART: Sure.

COUNCILMEMBER ATAY: If no can, no can.

MR. HART: And, I understand what you're saying. So, we'll, obviously, we'll have to get through this meeting and, and go back to have a discussion about that.

But, one thing I want to say is, you know, this is becoming this big controversy all of a sudden. But, we were out in Hana. You know, we did hear from the Hana community. We did do an EA. We did hear from everybody who had a chance to, to provide comments. So, you know, a letter like this adds a lot of uncertainty at the eleventh hour. But, we did do a thorough process. And, and you know, the Council did hear from the community as far as what they were concerned about. And, we did go over these sites with the community in our presentation. And so, I feel like this was discussed.

And, I, it's unfortunate that we got a letter from OHA, you know, calling out SHPD on the way that they're doing things. But, this applicant did do everything they could, and they did make everyone aware of what they were doing. And, the Hana community is aware of it. They talked to his dad about it all the time and ask him, you know, what's going on with this project. So, it's not as if this is some, you know, secret process that's been done in a box and all of a sudden we're getting called out by OHA. This has been very public.

So, I recognize your concerns, and we'll, all I can say is that we'll have to huddle up after this and, and see what we can recommend in that context.

COUNCILMEMBER ATAY: Chair, one last question. So, so for me, before I cast my vote, knowing the care of our ancient sites, and my goal and objective is to let them be remained. Knowing that, are you willing or unwilling to make adjustments of fitting your subdivision and not damaging and destroying ancient sites?

MR. HART: Sure. So, so what I was trying to explain a moment ago is, is we would have to consult with Corporation Counsel and Council Services about what do you do about changing the boundaries of a project that we already, we already did an environmental assessment, we already filed a 201H application, we're in the 201H process. Can we

just change everything right now? And, and if we can do that, then we can start to discuss it. But, I think we even need to know, you know, whether or not that's feasible before.

COUNCILMEMBER ATAY: Okay.

CHAIR WHITE: I think it's very possible that they would have to start the process, not just the 201H process, but the entire review process, because you're talking about land that has not been under, not been evaluated through the environmental assessment process.

I think, you know, I think the question that comes to me is to Mr. Hokama's point; this is not visitor housing. This is housing for people who are living in Hana, and could very well be descendants of the folks that lived in the hailes. So, they're two habitation structures, and one agricultural berm, or wall, or something to that sort.

I, the thought that comes to me is, you know, we want to preserve things where it makes sense to preserve. But, if we have a parcel that has the opportunity to provide a new house, can we let the, let the person who buys that lot decide whether they want and how they want to deal with that feature, because it may have been one of their ancestors' habitats. Do they want to malama that site? Or do they want to replace it with a house that is significantly different than what was there.

And, I certainly understand Mr. Atay's point, but I think for me, it's very, very late in the process for us to throw, throw another curve when you've followed all the regulations. And I, I know better than most how time consuming, tedious and expensive it is. So, I think, for me, this should be a lesson for OHA that if you're going to interject yourself, you should do so when you get the EA, the draft EA, or when you get the letter from, from SHPD, and not wait until we're in a 201H. We've got a timeframe we need to respond to.

COUNCILMEMBER COCHRAN: Chair.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Yea, thank you, Chair. And so, thank you for this opportunity. Yea, but also looking at the date of this letter from OHA dated October 17, it's now November 3, so this came to this County and perhaps it got misfiled or something got overlooked, so it only got to us today. So, for me, things don't happen just accidentally. I think there's a reason why this could have been lost in the shuffle and we never even seen it. But, it came about and it's here on the table. And, this is what triggered my thought to do these modifications.

And, one curious sentence that was brought up by the applicant is a burden on his heart. You know, that, what about the burden on the heart of the people and the culture, and the, all these pre-contact dated sites that up above, yea, he fails to mention that this whole lot was, was assessed? He's got 12 acres that he's mining, and crushing, and hauling out of there. So, you know, he knows where these four sites are. I know where these four sites are. I just looked at the binder. This guy owns the property, of course he knows where it's at.

So, I, you know, this is, and Aha Moku, consulting with Aha Moku is a process and it is the law; they are law. So, to say that you vetted out through everybody in Hana, and yet you also stand there and say, you did, you don't know who Aha Moku is, you never talked to them, you don't know. Well, to me that process wasn't thoroughly done and properly done. And so, this is why I think this, this letter appeared seemingly out of the blue. But no, there's a reason why it's sitting in front of us, and a reason why I'm here trying to push forward these modifications at this time the way I am.

And, I don't, yea, a burden on your heart. I think there's a huge burden on the Hawaiian people's hearts for many, many generations. And, this is another one that would just wipe them off the face of the earth. So, I'm looking for support on this. I think it's, yea, things don't always, we get stuff thrown at us all day long. And we're going to have to deal with the challenges and the obstacles, and this is just one of them.

And, for me, if you stand by wanting to protect and preserve, and be the pono, the right person and developer, then this should not be an issue. Speak with the Council, the Council will determine and work together and take care of it. So, I'm standing by these modifications and feel it's not going to be a huge burden on you to fulfill and complete. Thank you, Chair.

MR. HART: Chair, if I may. I really would like to address that.

CHAIR WHITE: Mr. Hart.

MR. HART: You know, we met with each of the Councilmembers in preparation for this project, and one of the things that we explained is that, you know, we represent larger clients, much larger clients. They have investors, insurance companies, and things like that. But, you know, Tom's Backhoe Service, which is operated by Gabe and his father is a medium-size civil contracting company. They specialize in doing a lot of civil work out in Hana, where they do mine from their gravel mine, where they have a special use permit to do that, and they use that on projects; including intending to use this on this project.

And, when he's talking about a heavy heart, like, you can't just get curveballs like this doing your own family development and not be in jeopardy of being financially crushed. So, when he's talking about a heavy heart, he's talking about the legitimate prospect of having this whole thing that him and his father have been working on to provide 100 percent affordable housing to people in Hana come collapsing around their ears.

So, you know, I recognize that you're talking about cultural concerns, and we respect cultural concerns. And we did go through a thorough process, and the agencies who were supposed to provide us with approvals of the work that we did, did give us those approvals. Now, you have another agency questioning whether or not the agency who's in authority did it the right way. We acknowledge that's going on. But, as far as Gabe, and his father, and us at Chris Hart & Partners, we take this really seriously and we did try to do a very good job, and we did consult with the community.

We know who Aha Moku is. We've met with Aha Moku on other projects. This project, this EA wasn't distributed to Aha Moku; that was an oversight. And, we wouldn't be talking about the things in the same way we are right now if it had gone to them, but it didn't. And, it wasn't to be evasive, it was just, that's been a issue that's being more prominent in the last couple of years. And, we've been at this project for several years now. So, I do want to address those things. And, I thank you for your comments. And, thank you, Chair.

CHAIR WHITE: Any further discussion on the amendment?

Mr. Carroll

VICE-CHAIR CARROLL: Thank you, Chair. Always a difficult subject. I was with the Hana Cultural Center and Museum for many years, and we did many studies with Bishop Museum and other organizations. Not every site that we identify as a cultural site is worth preserving. We don't preserve every site, and for good reason.

You have the walls, you have some areas that, unless you are somebody over there that can identify where it was more a village or you had something out, you have isolated sites, it's very difficult. A lot of the sites are not ancient too. We have some that go back maybe a 100 years or so, 150 years, because there was a lot talking to our kupuna and our older people. Even my wife's grandfather that went up there and used to go over there and clear a place and raise sweet potato and taro. It's not ancient. This area over here is just by the river and it's going up.

I have always fought to preserve sites that worth, are worth preserving to preserve the culture, the Hawaiian culture of the Hawaiian people. But, not every site is. If we ever tried to do that, every three-foot wall, we would have to go over there and walk around it.

We seem to be ignoring the fact that these sites were declared nonsubstantial. They were declared, well, you know, that these sites aren't worth preserving. OHA come up with, came up with a letter, and that letter was not received until after the meeting in Hana; that's when it was received. I was disturbed too, that we didn't get it at that time. And, of course, we came across, when we do that last minute, we went through every paper that somebody found that. If we had found it earlier, I don't know if it would have made too much difference at the meeting today.

However, there will always be disagreements. And, this over here, in particular, I am disturbed, because OHA decided that, well, I'd like to look at it now. Not that the site is worth preserving, but they'd like to look at it, maybe. In other words, they don't trust the people that made the determination that it was nonsubstantive and we didn't need to preserve the particular place. It's always a problem, and nobody wants to go over there and say we're not preserving the Hawaiian culture, even if it's something that really, really, we don't want to focus on. We want to focus on certain areas that we can actually preserve for not just our ancestors and now, but for posterity. And, that's what we want to focus on, and that's what we do.

We have an area above, well, I'm not even going to say, where we have really a substantial cultural site; substantial. And, we just don't talk about it. We leave it over there. There's artifacts and everything else, because we don't have the funding to go over there and do the, what needs to be done to make that a permanent site for restoration. But, we have many sites like this that do have small places. There were several places on above on the project, but they said, yea, those should be preserved. But, on the site over there, it was determined that they didn't need to.

We do have the reports that we have, and that's a matter of, well, let's say we go over there and postpone this. Well, of course at this point in time, we could actually, good intention or not, we could actually kill this project. And, all, as strong as I am for preserving the culture, I don't feel that this is preserving the culture. This is not preserving the culture. This is a very isolated site. There's nothing over there that we're going to be able to keep. It's, it's already just falling all apart. There's one place where you can see where there was four walls. There was another place where you can see was leveled out; somebody was planting.

I would hope at this late date that we can go with the recommendations that were given to, to the applicant that we have before us today. In that light, the first part over here, developer will consult with Hana Aha Moku Council to determine where data recovered preservation is appropriate the sites listed in the project area. I have no problem with that; that's good. We can go work with them. But, the developers who'll implement mitigation measures determined by the site, that could hold, that's, that's just an open, open thing over there that's, that could just kill the project right there, because how long it might take them to determine that, well, I want to talk to somebody else's, that's or how we're going to go about it. That could tie things up forever. And already the determination has been made that these sites were nonsubstantial. So, in light of that, I cannot support the resolution on the floor.

CHAIR WHITE: The amendment.

COUNCILMEMBER ATAY: Chair.

CHAIR WHITE: Mr. Atay.

COUNCILMEMBER ATAY: I, I don't want to address the developer. I want to address the body. And, the current amendment, you know, how we got to this current amendment is that we got a letter, well, we got a determination from a State agency, SHPD, and, you know, our relationship, or my relationship with them has, go with one eyebrow up in light of recent other issues pertaining to decisions, and judgements, and statements, pertaining to our iwi kupuna sand resources from SHPD.

And then, we get a letter, although it's a eleventh hour letter, it comes from the agency, the State agency that is in charge of overseeing all things Hawaiian. That's their job. That's their kuleana to say we in charge of representing the Hawaiian people, and we intervening now.

So, we have two supposed State agencies conflicting against one another. This amendment is trying to help the developer and help the community see a housing development still happen with this vote with an amendment to have that still go forward; amendment asking that Members of the Hana community, which are recognized by the State as a body, the Hana Aha Moku Council who are all residents from that Moku, to also assist in helping this housing development happen provided they ensure that these ancient sites are protected. That's what this amendment is.

And for this, I will support seeing this project move forward. But, if the developer doesn't want to do this, then, and if we don't move this forward, then the palu is the palu and it ain't going to happen.

CHAIR WHITE: Thank you, Mr. Atay.

Further discussions, Members, on the amendment?

Ms. Crivello. Turn your microphone.

COUNCILMEMBER CRIVELLO: Thank you, Chair. Again, we come to conflicting determinations. So, OHA has a kuleana in, for intervening, as my colleague mentioned. This was 2014; the letter was dated, goes back to 2014. I do believe that there can be some litigating processes that can possibly preserve what they identify. And perhaps OHA can contribute to the cost of an, an archeological complete survey and what it would take to mitigate. Because, you would need the experts to make that kind of determination on the, on the mitigation, because I don't think the developer would know exactly where.

Okay, so, my ancestors are from Hana. And, also those that are before us today, those are their ancestors. And so, how do we provide for our families today? I always believe that come from the time of my ancestors ohana, that's the basic fundamentals of our, of who we are; ohana. And, we, what I saw in Hana and what I, not, does not necessarily mean only during our Council meeting, we know that there are people that are hurting for homes. And yea, this is probably palu that we throwing out, yea.

I don't think there's a, I don't think the developer really would like to go forward if we had to put out this mitigations upon them. But, we also have to take all that into consideration. And, but, I support this project because I want to see the next generation, the next families. I don't want to see them disappear from the face of this earth. That's what's happening. We kill the spirits of who we are. Cause what, what's the first thing? The fabric of the family get all busted up cause no more hale, no more place, no more home. You know, they, what they going do is sleep in their cars, they pile up aunty's house, pile up uncle's house. And, and that's the way you get all the impacts that come with it.

So, tough, tough, tough, because you have an agency who's fully responsible to identify that SHPD. They've failed the developer. OHA, who comes in two, three years after, or even as we talk story with the community, where are they to help us to identify and do that? So, I think we should throw this gorilla back on their back, meaning the State agencies. And, I don't know how many days we have to, so that this 201H will still be alive for the developer. But, how, how may we have these State agencies make clear identification, because the identification is based on the AIS, on the EA? And, also the SHPD made their determination. So, it's a battle who we're going to listen.

I have not made an actual site visit to be able to, to feel it so, I don't know. But, there's two sides that we have to take care of; that of the story of our ancestors. You know, and our ancestors wants to make sure that their, the next generation is taken cared of. So, what do we do? I throw that out. I throw that out. What do you do? What's going to do about these 25 families who's anxious, all came before us? They weren't malihini; they were kama`aina. They were of the land. They were Hana families. So, what do we do? Shall we have them decide? You know what, if they from there, they're going to feel the mana not supposed to build or not; they would know. So, tough one.

COUNCILMEMBER ATAY: What's the drop date?

COUNCILMEMBER CRIVELLO: Yea, what's the drop date?

CHAIR WHITE: Ms. Sugimura.

COUNCILMEMBER SUGIMURA: So, I guess the, I was thinking the same thing as Member Crivello was asking, like what are, what does Corp. Counsel have to say about this in terms of 201H, the process, and the impact, and the date? And, I hear what the developer saying; they have to kind of redo their whole project. I don't know how feasible that is, but, or may have to. So, I'm just wondering what Corp. Counsel.

CHAIR WHITE: Mr. Kushi.

FIRST DEPUTY CORPORATION COUNSEL: I'm not sure what the question is. But as far as the process, you have a motion before you to amend the modifications conditions. And, that's purely within your jurisdiction to determine that. Now, what the net effect of that, those conditions are is another matter.

If, and, and not speaking to the amendment, but as far as the other discussion about reconfiguring the lot or the parcel, I kind of agree with Chair White that you may have to go back to the drawing board.

COUNCILMEMBER CRIVELLO: Chair, may I just say one more?

CHAIR WHITE: Ms. Crivello.

COUNCILMEMBER CRIVELLO: I am going to respect my colleague from Hana. I'm going to respect his decision. That's his home. That's his aina. So, as conflicting that it is, I think I'm going to conclude to support my colleague in his efforts to provide homes; not houses, homes, for the, his Hana, our family, our ohana. Thank you.

CHAIR WHITE: Thank you. Any further discussion, Members? Seeing none, I'll call for the question. The vote is whether to amend the main motion by adding two new conditions presented by Ms. Cochran. All those in favor of the amendment, please signify by saying "aye".

COUNCILMEMBER COCHRAN: Aye.

COUNCILMEMBER KING: Aye.

COUNCILMEMBER ATAY: Aye.

CHAIR WHITE: Those opposed say "no".

COUNCILMEMBER CRIVELLO: No.

COUNCILMEMBER SUGIMURA: No.

VICE-CHAIR CARROLL: No.

CHAIR WHITE: I think I counted five and two. Let's just do a roll call vote just to be sure.

COUNTY CLERK: Councilmember Alika Atay.

COUNCILMEMBER ATAY: AYE.

COUNTY CLERK: Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: NO.

COUNTY CLERK: Councilmember Elle Cochran.

COUNCILMEMBER COCHRAN: AYE.

COUNTY CLERK: Councilmember Riki Hokama.

COUNCILMEMBER HOKAMA: NO.

COUNTY CLERK: Councilmember Don Guzman.

CHAIR WHITE: EXCUSED.

COUNTY CLERK: Councilmember Kelly T. King.

COUNCILMEMBER KING: AYE.

COUNTY CLERK: Councilmember Stacy Crivello.

COUNCILMEMBER CRIVELLO: NO.

COUNTY CLERK: Councilmember Robert Carroll.

VICE-CHAIR CARROLL: NO.

COUNTY CLERK: Council Chair Mike White.

CHAIR WHITE: NO.

AYES: COUNCILMEMBERS ATAY, COCHRAN, AND KING.

NOES: COUNCILMEMBERS CRIVELLO, HOKAMA, SUGIMURA, VICE-CHAIR CARROLL, AND CHAIR WHITE.

EXCUSED: COUNCILMEMBER GUZMAN.

DEPUTY COUNTY CLERK: Mr. Chair, three, one, two, three, four; five "noes", three "ayes", and one "excused".

CHAIR WHITE: Okay, the measure fails. We're back to the main motion. Any further discussion on the main motion?

Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, I've been listening quite intently to the discussion. And you know what troubles me? Why go through a 201H if all we're going to do is delay? You know, I understand the discussion between two State agencies. Well, they should talk to a Deputy AG and take each other to court and get a judge to make the ruling. The statute is the statute. Follow the law. If you don't like it, amend the law.

But, don't come and tell us at the last minute, when we have a clock ticking, we don't agree with the agency that has authority, so think about this then. Well, be upfront and tell me upfront earlier so that we can either defer it, deny it, send it back.

And you know, for me, Chairman, you know, it always gets me where, you know, we all support the housing. But, somehow when we get to this point, we have a hard time doing the housing, okay. You know, I understand the need to respect and honor our past, because we are who we are from our past. But, that shouldn't hold us back from providing for our future. Other cultures have found a way to embrace their history, share it, grow it, preserve it, without hindering their ability to provide for their young and their community to grow. We should be in that situation; honoring our past, our Hawaiian strength which is the culture, our practices as island people, but still allow us to move forward and provide for our young.

So, how do we provide as I was told how many times by the, what is our seven-generation plan then, for these housing programs for our future? I don't have a problem looking back, Chairman, as I said. But, I won't have that weigh us down to not provide for the future. I have to have enough faith and hope that those who take our place will find a better situation. But just staying here and grumbling why it didn't work in the past is not good enough.

So, for me, you know, I wasn't in Hana, but you know, I followed up, I've checked who was there, who wasn't. I want to be able to take care 25 local, local families. Isn't that what we're here for; local families? We're finally talking about housing for residents, not housing for speculation, for short-term rentals. We're talking about housing for residents.

If this is not what we want then, Chairman, then let's tell the State scrap this 201H and go through just the regular zoning process. Cause I'm tired of being held by a clock and then put with one gun at the end like today, and say you shouldn't make a decision even if the clock's ready to expire, because there's a new factor. Or let's get rid of this clock then. It doesn't do us any good. But, let's just be upfront.

Until you get, you know, cause my problem with this one right now, Chairman, is you get two State agencies, okay. This is a fast-track proposal. What motivation does that two State agencies have to make a decision in a timely manner? There's no requirement. They can take two years, ten years to make this decision. Is this project supposed to flounder that long on a fast-track process? That's not fair either. So, we either up it or down it, then the property owner knows what to do. I think that's fair. So, I'm ready to vote, Chairman. Thank you.

CHAIR WHITE: Thank you, Mr. Hokama. I'd just add that I believe there is a time limit for SHPD to review. But, no developer--

COUNCILMEMBER HOKAMA: Not between two State agencies though, Chair.

CHAIR WHITE: No, I know, but I'm just talking about SHPD. But, I don't believe many developers are willing to challenge that timeframe and just move ahead. And, I know that, you know, SHPD is not well, well-staffed. And, I would agree with you, we have a, we have a big challenge when you have two State agencies that don't, don't agree on something.

But, I think the thing that makes me very comfortable moving this forward is that we, we heard loud and clear from many more than 25 families in Hana the need for housing. And, I don't think, there's little doubt in my mind that any one of those individuals, if asked, would you rather keep that structure of three walls or four walls, or have a house there for your family. I know what the answer is, they'll take the house.

And, I agree with Mr. Carroll, that if there are significant cultural areas, heiaus and other things of significant importance, all of us are going to be there to preserve it, and all of us are going to be there to protect it. So, I, you know, I look at OHA's response coming 42 months after they initially got a letter from the, the company doing the AIS. And, if they're going to have a notice of 42 months and respond to us within two weeks of us having to make a decision, I'm sorry, I, I think OHA's got to be expected to do more and do better.

So, any further discussion?

Mr. Atay.

COUNCILMEMBER ATAY: I, I want to see this housing development go through. At the same time, it's yea, we want housing, but I also want to make sure when I lay my head down, is it pono? So, listening to the developer or the representative, they agreed to the proposed, earlier proposed amendment of 2, and was, was saying pretty much wouldn't be able to follow 3. So, can we at least introduce this amendment that members of the community will determine, and then you know, they go, the community looks and meets with them, and not adding any cost of money, but knowing that certain sites is good?

CHAIR WHITE: I, I believe that was Mr. Carroll's comment, not the developer or the developer's representative.

COUNCILMEMBER ATAY: Yea, so, could I introduce an amendment that only included, excluding this item 3, but just, only this item 2? That's just so that the community can comfortably say, yea, we met with the developer, everything's pono, instead of the decision is just coming from the developer?

CHAIR WHITE: I think you can make that motion. I think that has already been done through the process, and--

COUNCILMEMBER ATAY: No.

CHAIR WHITE: --would be duplicative.

COUNCILMEMBER ATAY: But, I'm taking out that 3. I'm taking out--

CHAIR WHITE: No, I understand. But, I believe that the community has been involved in the meetings. I'm, I would assume that many members of the community, or some of the members of that community are Aha Moku members. They may not, I don't know whether they met with the head of the Aha Moku, but.

COUNCILMEMBER ATAY: I'm just saying that, because in light of this last letter from Office of Hawaiian Affairs, at least the Hana community is participating in this process and saying that this is a pono development.

SO, IF I COULD, I WOULD LIKE TO ENTERTAIN OR DO THE MOTION AS WRITTEN HERE, ITEM "2. THE DEVELOPER WILL CONSULT WITH THE HANA AHA MOKU COUNCIL, WHO WILL DETERMINE WHETHER DATA RECOVERY PRESERVATION IS APPROPRIATE FOR THE SITES LISTED WITHIN THE PROJECT AREA."

CHAIR WHITE: Do I have a second.

COUNCILMEMBER CRIVELLO: Is that a motion?

COUNCILMEMBER ATAY: That's the motion.

COUNCILMEMBER CRIVELLO:

SECOND.

CHAIR WHITE: We have a motion from Mr. Atay, and a second from Ms. Crivello.

Further discussion? I'd like to hear from Mr. Carroll and the developer.

Mr. Carroll.

VICE-CHAIR CARROLL: This is the first time that just having them go over there and consult with the developer is fine. I have problems with number 3, because something like that could hold up the project for an unreasonable amount of time. But, just having them work with them, I think that's fine because they know about the project. Many of them were at the original meeting where we had 75 people.

I don't see any, let's see, determine whether data recovery is appropriate at sites in the project area. But, it's not a binding, it's not a binding statement. So, that ensures that they have the work over there, and we're not going to get tied up where, well, I want another month to decide. So, I think that, I think that would be appropriate, we can pass that out. Thank you, Chair.

CHAIR WHITE: Mr. Atay, my understanding is that data recovery was already part of the AIS prior to their finding. Would you be amendable to saying "whether further data recovery" is appropriate?

COUNCILMEMBER ATAY: Okay. Alright.

CHAIR WHITE: Mr. Hart.

MR. HART: Just a point of clarification on data recovery. Are you insisting there was an option of data recovery or preservation and so this, these were sites that were mauka and were identified as significant. Those sites were preserved. So, preservation in place means that at a later date, somebody else could do data recovery if they're able to do that.

But as a cost driver, what the applicant was concerned about was the additional cost of data recovery. These sites previously had been determined to not be significant. I don't think that there's a problem with consultation. But, I think that, that the issue of the agency or the entity that's, you know, invested with the authority that determine the level of archeological work that's necessary, I think the applicant is trying to explain that that's SHPD.

And so, we can meet with Aha Moku. We can talk to them about project site and things like that. But, as far as determining what the appropriate level of archaeological work

is, I think that that should be the State agency that has a archeologist on board with them.

CHAIR WHITE: Mr. Atay.

COUNCILMEMBER ATAY: Chair, yea, you know, for the Hana people, well, I would say the community would look at, okay, that's the State, but this is people from our own community that's saying everything good. That's all.

CHAIR WHITE: How about if we ask them, ask them to consult with the Aha Moku without any additional conditions on it?

COUNCILMEMBER ATAY: Right. Okay.

CHAIR WHITE: So, just, the developer shall, or

"THE DEVELOPER WILL CONSULT WITH THE AHA MOKU
COUNCIL."

MR. HART: The applicant would be happy to do that.

COUNCILMEMBER ATAY:

SO MOVED. SO MOVED.

CHAIR WHITE: Okay.

COUNCILMEMBER ATAY: Okay.

CHAIR WHITE: Thank you, Mr. Hart.

Any further discussion, Members?

COUNCILMEMBER COCHRAN: Sorry, Chair.

CHAIR WHITE: Ms. Cochran.

COUNCILMEMBER COCHRAN: Lastly, yea, and thank you. It kind of just whittled down to the bare bones, but it's something I suppose. I am in support. And, yea, I just feel like the more consultation, especially people of the area, the better. So, thanks for re-introducing Mr. Alike Atay and Ms. Crivello. Thank you.

COUNCILMEMBER KING: Chair.

CHAIR WHITE: Ms. King.

COUNCILMEMBER KING: I support the, I support the motion. And, I just wanted to say that I liked your earlier idea, because that was one of my questions of, you know, would it be possible to sell the lots with these sites intact? And, maybe it would add some value to, to the lot if somebody was related to, if that was their ancestry. So, I just wanted to kind of throw that out there too; is that that might be a potential. I mean, if I was going to buy a lot and it had a, it had a heiau on it, I think that would add value to it. That's just my opinion, so.

CHAIR WHITE: Okay. Any further discussion, Members? Motion on the floor is to amend that to read "The developer will consult with the Aha Moku, the Hana Moku Council." All those in favor, please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,
CRIVELLO, HOKAMA, KING, SUGIMURA,
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER GUZMAN.

CHAIR WHITE: Measure passes with eight "ayes", and one "excused".

CHAIR WHITE: We're back to the main motion. Any further discussion on the main motion?

COUNTY CLERK: Mr. Chair. Mr. Chair, brief recess.

CHAIR WHITE: Okay. Brief recess.

(THE MEETING WAS RECESSED BY THE CHAIR AT 4:55 P.M., AND WAS RECONVENED AT 4:56 P.M., WITH ALL MEMBERS PRESENT, EXCEPT MEMBER GUZMAN, EXCUSED.)

CHAIR WHITE: Staff correctly reminded me that because we've made an amendment, we need to, Mr. Carroll, you'll need to request waiver of Council Rules so that we can pass it today.

VICE-CHAIR CARROLL: Thank you, Chair.

I MOVE THAT WE WAIVE THE RULES OF THE COUNCIL TO SECTION.

COUNCILMEMBER HOKAMA:

SECOND.

VICE-CHAIR CARROLL: I don't have it before me.

CHAIR WHITE: We have a move for the waiver and we have a second.

VICE-CHAIR CARROLL: Thank you, Chair.

CHAIR WHITE: We have a motion from Mr. Carroll to suspend the rules, and a second from Mr. Hokama.

The motion on, any discussion, Members, on the waiver of the Rules? Seeing none, all those in favor of the waiver please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,
CRIVELLO, HOKAMA, KING, SUGIMURA,
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER GUZMAN.

CHAIR WHITE: So, we've waived Council Rules. And, we're back to the main motion, which means we can pass it out today.

All those in favor, please signify by saying, I'm sorry, Ms. Cochran.

COUNCILMEMBER COCHRAN: Oh, sorry, was there discussion?

CHAIR WHITE: Please go ahead. I thought we were done.

COUNCILMEMBER COCHRAN: Okay, yea, real briefly. So, I guess my, the whole thought process for me is looking at the bigger picture, which is 72-acres. Twelve acres is what this developer has gotten to mine. So, obviously and hopefully those areas don't have one of these 169 pre-contact features in it. And so, then they're leaving out a big chunk of roughly about 52.8-acres currently for a personal home and lot. And so, now it whittled down to this 7.2 acres for this affordable housing for the people lot, project.

So, I just am factoring all this in and thinking, you know, I mean, how hard is it to consult with the people, thank you, we put this amendment in. But, just previously and throughout that entire process that they could have chosen a better place to do such a project. 60 acres, I am factoring in, perhaps they had options of drawing out this project, you know. Instead, they picked it here near the road, which I still have a question about the ingress and egress.

But, you know, I'm going to support this because it's for the people. But, God forbid anything bad happen in the intersection that finally is completed, and also in the, the pre-contact features that continue to exist, the ones in this project, and I don't know about the rest. I wasn't able to see the rest of the property. But, they, it is under a mining permit at this time.

So, those are my comments. And, yea, again, difficulties at all levels. Thank you, Chair.

CHAIR WHITE: Thank you, Ms. Cochran.

So, all those in favor, please signify by saying "aye".

AYES: COUNCILMEMBERS ATAY, COCHRAN,
CRIVELLO, HOKAMA, KING, SUGIMURA,
VICE-CHAIR CARROLL, AND CHAIR WHITE.

CHAIR WHITE: Those opposed say "no".

NOES: NONE.

EXCUSED: COUNCILMEMBER GUZMAN.

CHAIR WHITE: Measure passes with eight "ayes", one "excused".


Thank you, Members. I believe we have reached the end of our agenda, Mr. Clerk.

COUNTY CLERK: Mr. Chair, for the record, that would be RESOLUTION 17-159. And there is no further business before the Council.

CHAIR WHITE: Thank you very much. We are adjourned.

ADJOURNMENT

The regular meeting of November 3, 2017 was adjourned by the Chair at 4:59 p.m.


DENNIS A. MATEO, COUNTY CLERK
COUNTY OF MAUI, STATE OF HAWAII

Date: October 30, 2017

To: Maui County Council
From: Dennis Fitzpatrick
85 Mokuahi Street, Makawao, HI 96768 • Phone: 808 572-6565

RECEIVED
2017 NOV -1 PM 4:10
OFFICE OF THE
COUNTY CLERK

RE: Tax increase on condominium who rent long-term

I have been here long enough to hear three different mayors ask that owners provide affordable rentals for residents. I have owned my condo in Kihei since 1986, and I have provided affordable long-term rent for our residents.

The recent Maui County Council proposals for converting long-term condo rentals into short-term for tax purposes will cause much harm. There was never any short-term rental of our property in any large numbers until VRBO formed in 1995 from Austin Texas and AirBNB formed in Aug 2008 from California. Many owners in our complex then began short-term rentals as allowed in the zoning. These two companies have more world-wide spaces offered for rent than the six major hotel chains in the world, according to The New York Times, although they own nothing.

According to the recent Maui News article (10/29/17 front page), I will see my condo taxes rise by 48% even though I rent long-term. This tax increase will certainly encourage me to rent short-term and no longer provide affordable housing for our local workers.

The real problem has been the lack of enforcement of the tax laws by County and State. As president of the board of our condominium, I informed the County that owners were renting units short-term or as vacation rentals, but were illegally getting homeowners exemptions and/or tax breaks for long-term rentals.

Never once in over 20 years has someone come to our property to investigate or see what the owners are doing. A few years ago, the County Council made condo managers responsible for declaring their tax status: resident, short-term, or vacation rental. ***However, there was never follow-up comparing VRBO, AirBNB, and Craigslist site rentals with these tax declarations.*** I strongly urge that a dedicated staff be created to search these sites and compare their tax declaration. I believe this will make owners accountable to the law. The cost of this staff will be more than compensated by the increase in tax revenues from owners not following the law.

The County has lost millions in lost revenues by not enforcing the current laws. Increasing my tax will encourage me to rent short-term. The County needs to go after short-term and vacation rentals which operate illegally.

Thank you very much,

Dennis Fitzpatrick

LAND USE

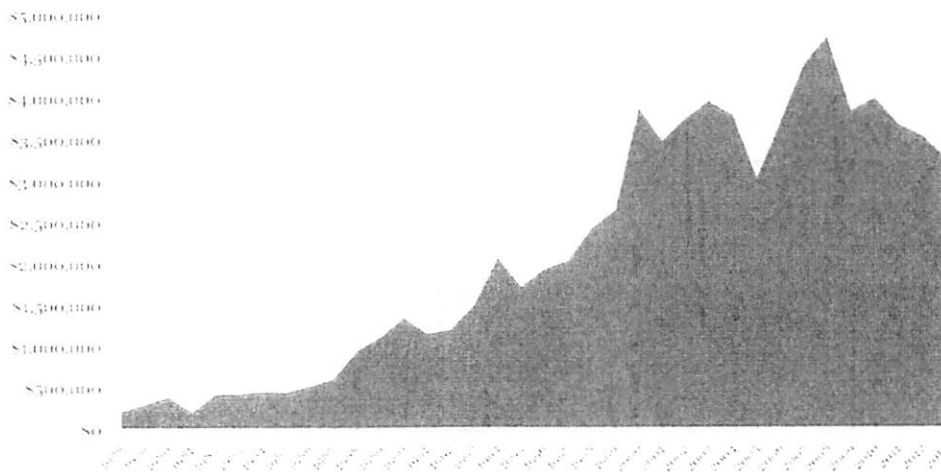
Build and let live: 40 years of affordable housing in Aspen

By **Catherline Lutz**, for **Aspen Sojourner and Aspen Journalism** May 27, 2014

Submitted by
Autumn Ness
11-3-17
CC 17-434



Average Single-Family Home Price in Aspen 1978 – 2013



Information from BJ Adams and Co.

ASPEN – It was Labor Day weekend of 1978, the end of Aspen’s summer tourist season. Smoke from dozens of barbecues curled toward an impossibly blue sky, and a calm in the air offered the first hint of the long, quiet off-season that would last until Thanksgiving.

Midland Park Place, in Aspen’s East End, however, was abuzz with activity.

While on other streets locals grilled burgers and guzzled beers, here they were moving furniture, unpacking boxes, smiling at children as they squealed about their new rooms, and greeting recent acquaintances and old friends as next-door neighbors for the first time.

Thirty-seven individuals and families were moving into the brand-new Midland Park Place Condominiums, Pitkin County’s inaugural government-built employee-housing project. Surrounding a cul-de-sac at the base of Smuggler Mountain, the eight low-profile units fit neatly into their peaceful residential neighborhood with stunning views of Aspen Mountain.

One of the new residents was Jim Hancock, a twentysomething ski instructor and co-owner of a rafting company. Some weeks earlier, a friend of Hancock's had seen a newspaper ad announcing a new housing development whose units would be sold to local workers. Hancock was skeptical.

"I never thought I'd be able to afford a place to live in Aspen," he says—but he and his friend investigated and found that they could split the cost of a \$60,000 two-bedroom condo. The selection process would be a lottery among all qualified applicants. Hancock and his buddy threw their names in the hat—and they won.

"It worked out great for me. Probably, more than anything, it solidified that I would stay here," says Hancock, who lived at Midland Park for seventeen years before moving on with his growing family to bigger units in the employee-housing system. "I didn't want to commute. I was always involved in the ski world, and [in-town housing] enabled me to do that. But, mainly, having a place gave me a much more secure feeling of being here."

By the mid-1970s, Pitkin County was riding the tail end of an unprecedented period of growth. The county's population had leapt from 2,300 residents in 1960 to 6,000 in 1970, a 160 percent increase, and would taper off only after it reached 8,700 residents in 1975. (The county's population is about 17,200 today.)

Skiing, as a sport, had taken off; as an industry, it brought to Aspen a wave of development more targeted to wealthy tourists and second-home owners than to local ski bums, many of whom moved around seasonally as rents were raised for ski season and homes were remodeled, bought, and sold.

It was in this climate that Aspen's housing program was born.

Four years before Midland Park was completed, in October 1974, the Pitkin County commissioners had authorized a \$25,000 budget to fund a housing authority. The idea of this new office (which was officially created by a separate vote in February 1975) was to study the housing needs of the community, to come up with a set of requirements and incentives to build affordable housing, and to apply for any pertinent state and federal housing program funds.

"It was pretty revolutionary," says Bill Kane, who was the Aspen/Pitkin County planning director at the time and helped set up the housing authority. "We totally invented the concept of a dual market: a second, more affordable pool of housing that would be traded among local residents and that would be insulated from market forces."

Today, as the average Aspen home price climbs north of \$3.2 million, the Aspen/Pitkin County Housing Authority (<http://www.apcha.org/>) oversees some 2,800 sales and rental units. There are studio apartments worth \$40,000 and million-dollar single-family homes whose sole purchase requirement is that the owner be a year-round resident employed in Pitkin County—and every price in between.

That housing stock serves employees whose household incomes range from \$35,000 to \$206,000 and whose net assets can range up to \$900,000. It's the main reason that nearly half of Pitkin County's workforce lives here.

There are lifelong ski bums living in employee housing; there are also rabbis, CPAs, and successful restaurateurs. (See complete list (<http://aspenjournalism.org/2014/05/26/who-owns-deed-restricted-housing-in-pitkin-county/>) of owners).

The projects, scattered all over town, vary in scale from single affordable units that are required by the City of Aspen to be included in free-market developments to Burlingame Ranch, an affordable-housing village three miles from downtown Aspen that, once built out, could include more than 250 homes for local employees.

Despite that size and success—indeed, perhaps, in part, because of them—the housing program has its issues. Chief among them are concerns about aging complexes with inadequate capital reserves and a wave of baby boomer retirement that could take hundreds of units out of the potential pool for local workers. (Because who wouldn't want to retire in Aspen?)

Meanwhile, slow job growth, limited land availability, and competition with the downvalley free market are all factors in the debate about how much more affordable housing Aspen really needs, what kind is most appropriate, and where it should go.

Still, there's no doubt that on the fortieth anniversary of its unassuming beginnings, the housing program has deeply affected many lives, shaping the Aspen community in the process.

The impact on Aspen, according to Aspen/Pitkin County Housing Authority Director Tom McCabe, can be measured "in a thousand different ways," from a school system chock full of local children to an all-volunteer fire department to a very politically engaged community.

Kathryn Koch, who recently retired after forty years as Aspen city clerk, is another original resident of Midland Park. In 1978, she and her husband, John, a ski patroller at Snowmass, were newlyweds living in a rented apartment. Because they were determined to stay in Aspen and raise a family, home ownership was the next logical step for the young couple, but the free market was financially out of reach.

The Kochs won a three-bedroom condo at Midland Park, for which they paid \$81,500. At the time, owning their own home allowed them to stay in town—where most of their friends still lived—and maybe afford to buy new skis, laughs Koch.

Even more importantly, in the long run, "it has allowed us to stay engaged in the community," says Koch, who values being able to walk to work, interact with friends and neighbors in her daily routine, and frequently and easily attend Aspen's cultural events. And as the city clerk, she says, "being able to vote [in the city I serve] has been important for how I see my life and my job."

The Kochs still live in their condo thirty-six years later. It's cozy and unassuming, a minuscule kitchen sharply contrasting with the large picture window in the living room that perfectly frames Aspen Mountain.

Over the years, especially when their daughter was a teenager, Koch and her husband talked about but rejected the idea of looking for something bigger and newer. Having more room and a yard to work in was not worth the trade-off of less weekend hiking time. Plus, reasons Koch, more space would have just meant more stuff.

And then she gestures toward the window: "Would you leave this view?"



Karl Wolfgang

Kathryn and John Koch in their home at Midland Park.

Pumping up the volume

Housing has long been a big issue in Aspen. As early as 1969, an article headlined "Aspen Worker Housing Hard to Come By" in the *Grand Junction Sentinel* detailed the woes of young workers crammed four to a room paying exorbitant rents, the Aspen Ski Corp's plans to address the problem by building low-rent housing, and a proposal to use government park land to subsidize new housing.

When Midland Park was planned and built, housing costs in Aspen were 35 percent higher than the national average (The average single-family home price was about \$197,000.) Midland Park kick-started an employee-housing program that was originally quite humble, says Kane: "We were thinking maybe a couple of hundred units." The idea was to provide Aspen's workers with a stepping-stone, through equity and a small amount of appreciation, to the free market.

Yet by the mid-1980s, some believed Aspen's affordable-housing problem had been solved—but not by a "humble" program. While the rest of the nation had been gripped in a recession in the early part of the decade, housing officials in Aspen, buoyed by broad public support, had gone on a spree.

They negotiated with the owner of the Hunter Creek (then called Silver King) apartments to buy four of the eight buildings in the complex and sell the seventy-seven newly deed-restricted condos to employees. Part of the deal included acquiring the undeveloped property next door and contracting with a private developer to build Aspen's then-largest employee-housing complex: Centennial.

After the 240 units at Centennial came online in 1985—ninety-two were deed-restricted for-sale units, and 148 became affordable rentals—Aspen for the first time experienced an affordable housing glut that, according to the *Aspen Times* in 2001, continued into the early 1990s.

All told, about 800 units were brought under the affordable housing umbrella in the early 1980s, estimates Gail Schwartz, who at that time was the development director and later the interim director of the housing authority. (She is now a Colorado state senator, with Aspenites among her constituents.)

Land to build on was becoming scarce, and the housing authority's mandate was to "insulate" — or preserve — housing in order to keep employees in town by either building it or converting it to affordable, says Schwartz.

But more importantly, officials were trying to find the right mix of for-sale and rental units in various price ranges, so that local workers could move through the system as their career and family situations changed. No longer was affordable housing a stepping-stone to the free market, as had been the original intention. It was now acknowledged as a full market in itself.

Large-scale projects like Hunter Creek and Centennial met the goals of housing a lot of people but also, due to the young, transient nature of many Aspen newbies, earned their reputations as employee ghettos.

Centennial's 148 rent-controlled units housed much of Aspen's service industry: waiters and bartenders who would come home from work at two or three in the morning and continue their nightlife. The thin walls, close quarters, and people coming and going at all hours sometimes gave Centennial the feel of a frat house, says Ryan Margo, a former Centennial resident who worked on the complex's maintenance crew. It wasn't unusual to hear your neighbors closing kitchen cabinets, "heel-walking" across the floor, or having sex.

Common maintenance calls Margo fielded included pleas from drunken residents to unlock their apartments when they couldn't find their keys and requests to deal with people in the wrong apartments altogether.

"I can't tell you how many calls I had at 3 a.m. of, 'There's a dude passed out in my living room,'" Margo recalls.

The busiest time of year was after Thanksgiving, Margo remembers, half-jokingly, when many Aspen freshmen would host their first Thanksgiving dinner. Possessing only novice domestic skills, they'd stuff the turkey carcass down the garbage disposal—and Margo would be called in to unclog it.

But for all of the abused appliances and damaged carpets, plenty of residents took good care of their apartments, says Margo, including many who chose to remodel rental units at their own expense just to live more comfortably. And it was in a lot of ways a close-knit community: you knew your bartender at Jimmy's because he lived two doors from you.

For Margo—and many of Aspen's outdoor-loving, lifestyle-prioritizing types—the urban-style condo developments (albeit urban-style with amazing mountain views) suited them just fine.

"It's dorm-style living, but the beautiful thing is your backyard is Smuggler Mountain and your front yard is Aspen," he says. "People learn to live with it."

Many people liked it enough to make Hunter Creek or Centennial their permanent home. Rachel Richards, a Pitkin County commissioner, bought her deed-restricted Hunter Creek condo in 1988 and still lives there. She was the only bidder for the \$64,000 two-bedroom, one-bath unit at a time when many affordable housing units were languishing on the inventory, she recalls.

Yet free-market prices were already well beyond the reach of Richards, a recently divorced single mother working in advertising distribution. She remembers two-bedroom free-market condos in Hunter Creek selling for about \$150,000 at the time—more than twice what she paid for the same employee unit.

For Richards, buying a home in Aspen wasn't about the living space itself.

"As a single mother, it was enough to just pay the mortgage off," says Richards, who for the first several years had a roommate to help pay the bills and built a closet in the living room so it could double as a bedroom when her son was living with her. "Could I enjoy a larger kitchen and a larger bedroom? Yes. But overall, it was a bargain I made, and I'm still happy with it."

She credits living in town and not having to commute for her participation in local politics.

"When I moved into city limits, I had another two hours a day, it seemed. I had time to get involved more," says Richards, who began her public service on Aspen's clean air board, then rose through the political ranks to become a city councilwoman, then mayor.

But even during the affordable-housing glut, things were rapidly changing. Aspen's ski bums were growing up, for one thing, and were looking beyond the next ski season for the first time in their lives.

"People were starting to move into that second phase of their lives, to put some roots down, and they were thinking, 'I'd better get in now because this town is changing,'" says Richards.

Thanks to a rapidly improving economy and tax code changes that benefited investment real estate, Aspen average home prices skyrocketed in the late '80s, more than doubling from 1986 (\$509,000) to 1989 (\$1.1 million). They reached \$2 million by 1994 and nearly \$3 million by the end of the decade.

As home-owning locals sold out to reap substantial profits on residences they'd purchased years ago and non-homeowners were priced out as previously affordable free-market rentals became second homes, the percentage of Aspen workers living in town dropped from 62 to 33 percent over the course of a decade, according to a 1994 *Aspen Times* article.

Not long after moving into Hunter Creek, Richards noticed that all of the for-sale signs that had once dominated the Aspen Village and Woody Creek trailer parks—considered very far from Aspen at the time—had disappeared.

By the early 1990s, price-controlled housing had become attractive again.

Demand for employee housing can be measured by participation in housing lotteries, the mechanism the housing authority uses to select the "winners" for available units among qualified would-be buyers.

In 1993, the Aspen/Pitkin County Housing Authority (the city and county had joined forces a decade earlier) held its final sale of an affordable housing unit without a lottery for at least a decade, according to the *Aspen Times*. The twenty-seven-unit Benedict Commons project, completed in 1995, drew 400 people for its lottery. And demand hit a high mark in 1997, when seventy-five applicants vied for a single affordable housing unit on West Hopkins Avenue.

But Aspen wasn't building much. Fewer than 200 employee units came online in four years in the mid-'90s, the *Aspen Times* reported—compared to 800 in the early '80s—and a whole subculture of workers was living in tents and tepees in the mountains around Aspen.

It wasn't as if the housing program didn't have enough money to build more. To the envy of other resort communities, the City of Aspen alone generates some \$9 million annually for affordable housing. A tax on real estate sales accounts for the majority of the funds—an average of \$6 million per year as of late—and a dedicated portion of the city sales tax brings in about \$1 million more.

Another piece of the funding pie is mitigation—requiring developers to build employee housing or pay into a fund for it—based on the argument that new development generates or displaces employees, or both. Mitigation was, in a way, the genesis of Pitkin County's housing program: the county commissioners had, in their attempt to control growth in the early '70s, stipulated that a portion of all new residential development be affordable.

The housing mitigation requirements are determined by complex formulas, and they're among the most debated sections of Aspen's codes. But over the years, mitigation has put roofs over a lot of people's heads.



Karl Wolfgang

The Lanese family in their employee housing unit at Aspen Highlands.

On Cloud Nine at Aspen Highlands

Perhaps the best example of that is Aspen Highlands Village. When in the mid-1990s a Houston-based developer proposed a luxury village at the bare-bones base of Aspen Highlands, it prompted a lengthy and controversial review process. In the end, locals lost their beloved A-frame bar and convenient surface parking, but they gained 112 housing units, just steps away from the lifts at Aspen's "locals' mountain." (Free-market units in the development totaled 105 condos and townhomes, plus 31 luxury lots.)

Just before Emily and Dominic Lanese won their employee townhome at Aspen Highlands—on aptly named Cloud Nine Lane—Emily told her husband it was probably time to leave the valley. The Laneses, who had an infant and a toddler, were squeezed into a two-bedroom, second-floor condo in Aspen, struggling with carrying the stroller up and down stairs and having no outdoor space where the kids could play.

They had both held classic Aspen jobs: ski instructor, house painter, ski tech, and restaurant worker among them, and were discouraged after failing to win numerous other deed-restricted units.

Moving into their new, four-bedroom home in the summer of 2001 changed everything. Cloud Nine Lane is a semicircle of six duplexes and three single-family homes, surrounding a playground that the residents built. There's a well-utilized walking path to the schools and athletic fields and frequent bus service to town.

"We have one car, and it sits in the garage," says Emily, who works at an Aspen law firm. Dominic works for the City of Aspen.

In the winter, the Laneses can ski right to their front door (when the kids were young they'd load them into a little red wagon to get to the base, Emily says), and on summer evenings many residents, adults and kids alike, hang out outside together.

Not everything is perfect on Cloud Nine Lane. Cheap construction and poor design meant that "we did a lot of work" to make the house more livable, says Emily. That included spreading out a cramped kitchen, rehanging doors that were on backwards, and replacing most of the finishes.

They also had to hang heavy curtains over poorly insulated windows to protect against the cold that would flow in. But with the curtains pulled back, the Laneses enjoy a million-dollar view of Highlands' slopes. They paid \$236,300 for it. The free-market townhomes on nearby Thunderbowl Lane are worth roughly \$3 million to \$4 million.



Karl Wolfgang

Housing units at Burlingame.

Burlingame: the present

By the late 1990s, building more housing meant looking outside of Aspen proper—and thinking outside the box. In 1998, the City of Aspen purchased the 250-acre Burlingame Ranch for \$2.6 million, where 250 units could conceivably be constructed. Two hundred seasonal rental units were built nearby, and there was even talk of building housing on the city-owned Aspen golf course.

At the North Forty next to the Aspen Airport Business Center, fifty-nine lots were sold to longtime local employees who would build their own single-family homes, with no price restrictions on cost of construction. The North Forty and other housing aimed at Aspen's professional class—homes that are regularly listed for more than \$1 million—draw national media attention as a travesty of what can be considered "affordable."

These units have over the years often languished on the sales inventory, as very few qualified employees can afford them, and the ones who can have the tempting option of getting a better bang for their buck by buying a free-market home downvalley that will appreciate at more than the four percent rate set for North Forty.

Burlingame, sited on a historic ranch three miles from Aspen, became the poster child for the affordable housing versus urban sprawl debate that played out over the course of the decade. As real estate prices climbed and a worker shortage intensified, some wanted as much housing built as possible; others argued that creating what was essentially a whole new workers' village outside of Aspen's traditional boundaries would exacerbate traffic and congestion and contradict the community's environmental values. Everyone, it seemed, had a strong opinion.

Aspen voters twice, in 2000 and 2005, approved the project in principle, and due to both the scale of and interest in the project, a sixteen-member task force was appointed to come up with recommendations on unit types, price ranges, and design.

In 2003, a divided Aspen City Council narrowly approved moving forward with the first phase of ninety-one units. Three years later, in the midst of perhaps the biggest real estate boom Aspen had ever seen, the first Burlingame lottery drew 260 applicants for thirty-one units.

But then the city was accused of downplaying the costs of Burlingame, which exceeded \$50 million for phase one and had an average taxpayer-funded subsidy of more than \$330,000 per unit. Planning for phase two was paused as audits were conducted and the political drama played out. The city was also criticized for spending \$35 million at the height of the real estate bubble to land-bank four pieces of property to be developed as affordable housing.

Other issues include an ongoing lawsuit filed by the Burlingame homeowners' association over faulty siding, lingering questions about how much more density is appropriate at that specific location, and the never-ending debate over whether or not to allow dogs (which were precluded by the original development agreement).

Yet despite all the hand-wringing, Burlingame has become home for many locals, particularly families—the latest in a nearly forty-year-long list of employee housing projects. An extensive playground (which is actually a public park) dominates the entrance to Burlingame, which is tucked a half-mile behind the Maroon Creek Club on a loop road with several small spurs. Children's bikes and toys add plenty of color to the scene, and the views—spanning from Snowmass to Highlands and toward Independence Pass—are unparalleled, even by Aspen standards.

For Barbara Lish and Jesse Morris, who recently moved into a new two-bedroom townhome in phase two, which will total eighty-two units when finished, Burlingame is the perfect starter home. The couple, says Lish, were lucky: Having lived in three Aspen rentals over four years, they got engaged last November and entered a single employee-housing lottery before winning their Burlingame unit.

The new, green construction (phase two meets high environmental standards) and energy efficiency were key for Morris, who works at Rocky Mountain Institute, a nonprofit whose mission is focused on moving the global economy away from fossil-fuel dependency. Plus, their home has great natural light and "million-dollar views," says Lish, who works in development at the Aspen Community Foundation.

And like many other affordable-housing residents, she gets more excited about the outdoor space than the interiors. She looks forward to this summer, when she'll work in the community garden, lounge in a grassy common area reading a book, and watch kids zoom around the sidewalks and neighborhood streets on bikes and scooters.

Lish, who moved to Aspen after much of the controversy over Burlingame had played out, is optimistic about the possibilities. After attending her first HOA meeting, she says, "Because it's so new and separated from the city geographically, I'm hoping that through the HOA we can make [Burlingame] into the kind of community we want to live in and thrive. It feels nice to own something; it feels like we should be more committed to making the town the kind of town we want to live in."



Karl Wolfgang

Barbara Lish and Jesse Morris at their home in Burlingame.

The future

Demand for affordable housing wavered during the economic downturn of the late 2000s, as jobs disappeared and people moved away (actually causing more sales than usual as owners' life situations changed), but it was nowhere near as affected as the free market.

In fact, demand for the lower-priced, smaller homes in the affordable-housing pool remained high, according to a study by Melanie Rees, a workforce-housing consultant based in Crested Butte.

Some, like Kimbo Brown-Schirato and her husband, bought free-market homes downvalley when prices there became more attainable. But for Brown-Schirato, who works at Obermeyer Asset Management in Aspen, the desire to live in employee housing remains strong.

"Now it's been almost six years, and I've been increasingly involved in the Aspen community," she says. "I'm struggling with being in a bedroom community in Carbondale and the fact that I spend one-and-a-half hours in the car every day."

Brown-Schirato echoes the sentiments of many young professionals when she discusses the perceived barriers to entry to Aspen's housing system: Not enough suitable options, especially for dog owners; perception of widespread fraud (people not living in their units, as they are required to, or renting them out, which is permitted only in rare circumstances); and not wanting to have to continuously move as one's family grows (the system prioritizes one person per bedroom, so a couple typically can't buy a three-bedroom until they have their first child).

More pertinently in her case, Brown-Schirato and her husband would have to sell their Carbondale home at a loss, because they bought it at the very beginning of the downturn in 2008.

The downturn also came at a time when the nearly forty-year-old program was reaching a midlife crisis, shifting attention away from planning the next project and toward some of the system's flaws.

Like many a carefree Aspen ski bum, the earlier affordable-housing complexes are aging but have the illusion—at least in the minds of many of their owners—of remaining forever young. Few have adequate capital reserves to replace roofs, siding, or other big-ticket items, an issue which many observers consider to be the housing system's most pressing.

And with a maximum of a three percent annual appreciation cap on their homes, employee-housing owners have little financial incentive to make costly free-market improvements to their units. The prevailing tendency has been to pass the onus of capital maintenance and improvements on to the next owner and then to the next and the next. The ninety-two

owners at Centennial, for example, are now facing some \$2 million in projected repairs due to deferred maintenance that hasn't been dealt with in thirty years.

Some are calling for radical changes in the housing program to address its issues. Tim Semrau, a developer of both employee and free-market housing and a former Aspen city council member, is proposing a plan by which affordable-housing owners who choose to remodel could realize double the deed-restricted value of their units. They could then sell it up to that price—if they could find a buyer—or the housing authority could buy down the unit to keep it affordable for the next owner.

The plan—essentially a parallel market within the housing program—would allow retirees to upgrade and sell their units at a profit to facilitate being able to retire elsewhere, and also incentivize young people to fix up their units to make them more livable in the long term, argues Semrau. It would encourage movement in the affordable housing market—especially from retirees to people still in the workforce, and the government could invest millions in buy-downs and still have money left over in its housing fund to pursue more housing.

The quasi-official Housing Frontiers Group, a volunteer board that grew out of the Burlingame debate, is considering less drastic measures to address capital reserves, such as raising the maximum 3 percent appreciation cap allowed on employee-housing units, and dividing the proceeds, upon sale of the unit, between the homeowner and a new capital reserve fund.

But has Aspen housed enough of its workforce to move away from more building and focus on refining? A number of people seem to think so, including Semrau and Adam Frisch, an Aspen city councilman who also leads the Housing Frontiers Group.

Citing a study that found that 47 percent of Pitkin County workers were housed in Pitkin County in 2012, Frisch believes that Aspen has struck the right balance of affordable-housing dwellers and commuters and must now “look to other community needs.”

But others warn that even though the need doesn't seem great now, that might change in the future.

Rachel Richards, the Pitkin County commissioner, cited a recent retreat of her board at which members of the business community said that housing demand was as strong as ever and was critical to their operations. The Aspen Music Festival and School, for example, was struggling with bringing summer faculty here because it is unable to find affordable seasonal rentals, she says.

“Any decent project can take years of planning, so you tend to always be behind the curve,” she says. “So in a way, we need more of everything.”

Tom McCabe, the housing authority director, is cautious in his assessment of the future of affordable housing.

“The housing program doesn't want to waste money; it wants to house people,” he says, adding that investing in older units might be a good idea if indeed demand is dropping. “We need to monitor demand carefully. I still see a demand, but it could go the other way.”

Nearly forty years later, Kathryn Koch, the original Midland Park owner, still believes that she and her husband, John, are living the Aspen dream, thanks to affordable housing.

Because while debates and plans about the program unfold, one thing remains constant: The Kochs and thousands more of Pitkin County's workers—from retail employees to magazine editors, master sommeliers to mechanics—will wake up tomorrow morning in their affordable studios, one-bedroom condos, and single-family homes, take in the view, and begin another day in paradise.

As Koch puts it, “I come home and just think how lucky we are. It's a real community, and a great place to live.”



why we added an allowance for Capital Improvements

More on the birth of the housing program

Pitkin County's affordable housing program was born out of the infamous growth control battles of the late 1960s and early 1970s — an era marked by Hunter S. Thompson's run for sheriff on the Freak Power ticket and documented by artist Tom Benton's anti-war and anti-development political posters.

It was a time when growth and political ideology were transforming Pitkin County. The population of the county had multiplied more than fivefold from 1950 to 1975 — and along with the people came a building boom. National prosperity and the opening of Snowmass Ski Area in December 1967 combined to draw thousands of lifestyle seekers, many of whom bought condos, homes, or lots here.

Along with the wealthy and well cultured who were attracted to Aspen by skiing and institutions such as the Aspen Music Festival came an eclectic mix of ski instructors and worker bees, coming-of-age baby boomers disenchanted with the suburban lifestyle, hippies, and anti-war types.

And it was this segment of the population — primed in the radicalized university system and cognizant of the environmental and social costs of overdevelopment — that questioned the way things were heading.

Pitkin County didn't have much in the way of land-use regulations at the time. Its first master plan, adopted in 1966, called for encouraging harmonious growth and preventing urban sprawl — yet allowed for 35,000 residents.

In 1970, two large condo complexes, the North of Nell and Aspen Grove, went up in downtown Aspen despite public protest because neither zoning laws nor the City Council had adequate teeth to control growth.

It was in this climate that Joe Edwards and Dwight Shellman, who ran on anti-growth platforms, were elected to the three-person Pitkin Board of County Commissioners.

The pair would go on to spearhead and usher in county-wide zoning codes and growth limits where none had existed before. They downzoned large swaths of the county (for which they fought and won a recall election) and founded such institutions as the trail network, the mass transit system, and affordable housing.

"We were doing it all at one time," says Edwards, "and it was communism as far as the free-market people were concerned."

Although there were few second homes at the time, according to Edwards, "after Dwight and I left, the pendulum swung the other way. The thing about affordable housing is, if we hadn't started the program then, Aspen would be a ghost town."

The commissioners weren't inclined to approve a lot of development, but they wanted to increase the available of affordable housing. So part of the extensive rewriting of local codes included creating a formula that required a percentage of new units to be affordable, according to Bill Kane, who was Aspen and Pitkin County's first joint planning director, from 1975 to 1978.

But how to ensure affordability? Kane recalls bandying about a lot of ideas, reading a lot of papers, and looking for examples in other communities. In the end, Pitkin County would go on to do its own, totally unique thing.

Meanwhile, responding to statewide concerns about the affordability of housing, the Colorado legislature had in 1973 passed legislation allowing cities and counties to form housing authorities — in order to do so, a petition had to be signed by at least 25 citizens. A similar body was created at the state level that could issue bonds and finance construction of low- and moderate-income housing.

So when the Pitkin County commissioners authorized \$25,000 to fund a housing authority in October 1974, it was not until four months later that, after a petition was circulated and the requisite signatures collected, they officially created the authority, in February 1975. The vote was 2-1: Shellman and Edwards in favor, and Commissioner Max Marolt abstaining.

One month later, the BOCC named Brian Goodheim, an appraiser and real estate broker with a background in statistics and computing, as the county's first housing officer. Paid \$980 per month, Goodheim's job was to inventory the county for potential affordable housing, coordinate federal funds to subsidize future housing (which wouldn't pan out), and work with local banks to finance projects.

Armed with a philosophy to, as he put it, "devise a series of incentives" to create affordable housing, Goodheim worked with Kane and the slow-growth commissioners to craft what is believed to be the first government-led, workforce-housing policy in the nation. Adopted into the land-use code, the policy included the creation of a "permanent moderate housing" zone and a requirement that 50 percent of new development be affordable.

As for how homes would be bought and sold on this system, "we didn't know of any other agency in the country that had right of first refusal and appreciation caps," says Kane.

Goodheim relied on his real estate experience to negotiate with private owners for the county's initial housing projects. The first, a 12-unit pilot project on Park Circle, was built by a private developer, marketed by Goodheim, and sold by the housing office to qualified locals at below-market prices. (Over time, it became mostly free market.)

Next, he negotiated the purchase of an 11-acre parcel near the base of Smuggler, from a civic-minded seller who couldn't develop the land due to the new strict land-use codes, for \$100. Envisioned for the Midland Park property was a combination of public and private investment to build 37 units, with the sale of the lots intended to cover the county's costs and extra density for the developer who was willing to build some affordable housing there.

"But there was a feeling among the commissioners that they couldn't trust private enterprise," says Goodheim, whose philosophy relied largely on partnering with the private sector. "So I got canned, and the county took over the project."

Midland Park went on to be designed, built, and sold by Pitkin County, and is now — more so than Park Circle — the model that launched Aspen's affordable housing program.

Forty years and 2,800 units later, the scope of the housing program amazes three of its primary architects.

"The impact is enormous," says Kane. "It's been a remarkable success for Aspen and Pitkin County."

Goodheim, who is now a software developer and technological consultant in Boulder, has a less rosy view.

"I think it's been a good thing, but there's too much of it," he says. "Every time I go up to Aspen, it breaks my heart to see what it has become in terms of density and growth, and the growth of the housing authority as a governmental empire — it's very different from the philosophy I had. My intention was to manage growth through — rather than a large staff and a lot of projects — creating a certain percentage so that the limited developments that were approved had a percentage devoted to housing."

Edwards, who is retired in Carbondale, also expressed some disappointment in what the housing program has become.

"Has it worked? Yes, yes, and yes," he says, "and we should have done more. It should have been expanded. We were trying to save this iconoclastic dropout community of college graduates that were out here. But Aspen has lost that ambiance, the excitement of that kind of lifestyle. We allowed ourselves to be bought out by wealthy people."



Brent Gardner-Smith / Aspen Journalism

The Burlingame project, as seen from Aspen Mtn. in early 2014.

A housing model for ski country

When Pitkin County launched its affordable housing program in the mid-1970s, no other ski resorts were doing anything like it.

(Mount Crested Butte actually had something on the books in 1974 about new development being responsible for employee housing, but it didn't take off.)

In fact, the concept of public housing at the time, for most people, generated visions of high-rise urban "projects" for the desperately poor, riddled with crime and gang violence.

But it wasn't long before other ski towns started to take notice of Aspen's unique concept, which from the beginning included permanent, for-sale affordable homes for income-qualified local employees — quite different from the seasonal rentals to lift ops and hotel workers that later became more widely available in ski country.

"I remember tons of visits from other resorts," says Kane. "You can't mention a major destination ski resort that hasn't looked at Aspen's affordable housing as a model."

For whatever reason, however, it was only in the early 1990s that other resorts began to seriously address employee housing. Many had housing needs assessments done at that time, says Melanie Rees, a workforce-housing consultant based in Crested Butte who conducted the assessments. Meanwhile, by 1993, the Aspen/Pitkin County Housing Authority oversaw some 1,300 units.

"Now that the Aspenization of other Rocky Mountain ski resorts ... has occurred, it is Aspen's model for a solution to the housing crunch that is being increasingly studied in resort towns along the Western Slope," declared a 1993 Aspen Times story.

Still, most communities eased into deed-restricted housing rather than jumped in, because of a strong sentiment that the market could take care of things as long as government eliminated barriers, Rees wrote in a 2012 report. So, many resort-town programs developed with employment and residency criteria, but no caps on income or resale prices.

By the late 1990s, real estate values had soared, and the gap between free-market and deed-restricted prices had widened considerably.

Across ski country, Rees wrote, there was more acceptance of deed restrictions, higher income levels were being served by housing agencies, and even communities downvalley from the principal resort were getting into the housing game. But most of them were playing catch-up.

"Everyone looks at Aspen and says, wow, I wish we'd done that back then," says Rees.

Nowadays, most resort communities have some sort of affordable housing program run by the local government, but many still lean heavily toward seasonal rentals.

Summit County has more than 2,000 units that are restricted in some manner for employees — many of them concentrated near ski areas such as Copper and Keystone, and the majority (65 percent) rentals.

The Town of Vail has over 700 units, all rentals. Snowmass Village has its own robust housing program, separate from the Aspen/Pitkin County Housing Authority, consisting of 247 rentals and 177 deed-restricted ownership units.

But it's not just about volume. With the largest inventory of affordable housing among Colorado ski towns, Aspen can also boast of having among the highest rates of homes that are occupied by local residents year round, despite having some of the most expensive real estate in the nation.

In 2011, Rees found that over 59 percent of Aspen's housing units were primary homes, compared to 28 percent in Breckenridge and 36 percent in Vail, for example.

Perhaps moreso than the quantity of affordable housing, Aspen's funding for it is the envy of ski country.

By the mid-1990s, Aspen had in place a roughly .2 percent sales tax and a hefty 1 percent real estate transfer tax assessed on all real estate sales above \$100,000.

These days, the sales tax generates about \$1 million per year, and the RETT about \$6 million; along with other income sources, the city's housing fund has recently averaged an enviable \$10 million annually. (Pitkin County has its own separate revenue stream for housing, development fees that average about \$600,000 per year.)

Aspen's affordable housing taxes were passed before changes in Colorado law made it much more difficult for communities to implement similar methods.

As a result, Aspen enjoys the state's only real estate transfer tax. In fact, no other community has as significant a revenue stream — Boulder comes the closest with its \$1.7 million per year property tax, and Summit County brings in over \$1.2 million per year with sales tax and impact fees combined, according to a Rees Consulting study.

All told, Aspen's average annual housing revenues from fees and taxes account for 55 percent of the combined total from 13 Colorado resort communities.

Yet, plenty of resorts have built successful affordable housing programs that serve the unique needs of their communities. One of the best examples may be Telluride, population 2,300.

Telluride got in fairly early on the affordable housing front, with a large rental apartment complex and a planned community of 184 deed-restricted ownership homes just outside of town that have housed local employees since the early 1990s.

But with most of its employee housing in the form of rentals and development mitigation, Telluride wanted to do more — and "what we decided to do is learn from Aspen," says Telluride Mayor Stu Fraser.

Fraser, then a town councilman, and several colleagues spent a few days in Aspen in 2001, working with housing authority and planning department officials and touring several affordable housing neighborhoods.

From 2004 to 2010, Telluride built about 100 employee units, patterning its deed restrictions on Aspen's. Now, about one-fifth of Telluride's population lives in affordable housing — in carefully thought-out neighborhoods interspersed throughout the town, housing a variety of workers and even powered by solar panels the town bought to reduce its carbon footprint.

From Fraser's standpoint, the program has been a great success — so much so that Telluride has deliberately back off on building more housing in order to help keep buyers in the wider real estate pool.

"Aspen provided a path for us to follow that really worked out for us," says Fraser. "We got a lot of information from Aspen and then modified it for us. We've created neighborhoods and communities that are beautiful and energy efficient. And we're seeing a more stable community and more focus on economic development because of more people living in town."

Editor's note: This story was done in collaboration with Aspen Sojourner (<http://www.aspensojourner.com/>), which published a shorter version of the story in its Summer 2014 issue. The feature also included sidebars on the process to secure a unit, local housing prices, and a timeline of the affordable housing program in Aspen. They are below.

Bagging an Abode

It's a story that has unfolded countless times: A ski bum comes to Aspen for a winter and stays for the summer. Before she knows it, a few years have passed, and she starts to contemplate settling down. What's this housing lottery someone mentioned?

Here's how it works:

First, she must make sure she's qualified. To purchase employee housing, she must work full time in Pitkin County and meet income and asset guidelines that will determine which of seven price categories of housing she is eligible to purchase.

A single adult with no dependents making \$43,000 a year is in Category 2; a couple with one child can make up to \$150,500 a year to be in Category 4.

The maximum household income to purchase income-categorized employee housing is currently \$250,000. Maximum allowable net assets range from \$100,000 for a Category 1 employee to \$900,000 for a household buying a resident-occupied, or RO, unit, which is subject to neither maximum sales prices nor income caps.

The Aspen/Pitkin County Housing Authority publishes a weekly list of for-sale units, including prices and the corresponding categories, in the paper and on its website.

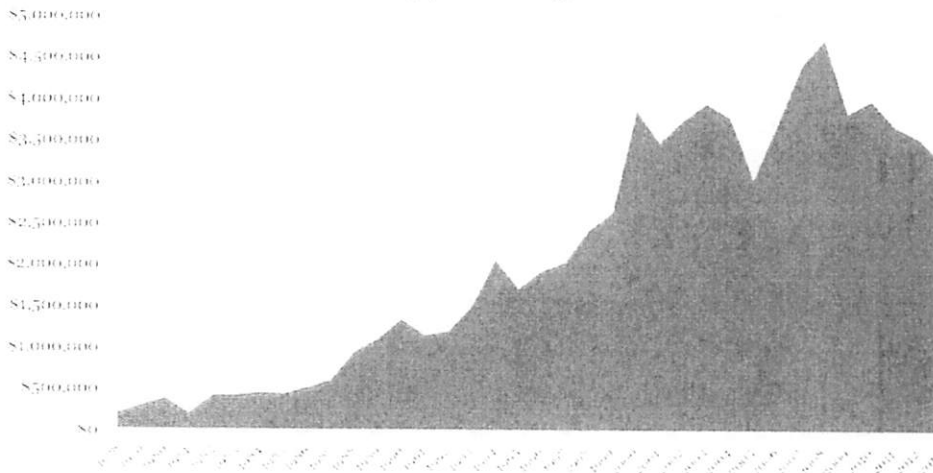
If one or more fits the ski bum's profile, the next step is to submit a packet, which contains such information as her employment history and tax returns that will determine her qualification.

When the bid period ends, a computerized lottery among all qualified applicants is held—with priority given to minimum occupancy (or one person per bedroom) and to those who have worked in Pitkin County for at least four years—and the lucky winner emerges.

Employee-housing units are allowed to appreciate at the rate of the CPI or 3 percent, whichever is less, and owners are allowed to recoup capital improvements up to 10 percent of the purchase price of the home.

Price conscious

Average Single-Family Home Price in Aspen 1978 – 2013



The average price of a single-family home in Aspen, while generally mirroring national real estate trends, has been on a sharply upward trajectory since the first employee-housing residents moved into their units in 1978.

The data presented here, courtesy of BJ Adams and Company, does not include the extreme high-dollar sales—those above \$7.5 million—since 2005.

The number crunchers at BJ Adams and Company believe that including those figures skews the average up in a way that doesn't accurately reflect the larger market.

None of the numbers include employee-housing units' prices.

1978: \$197,451
1979: \$286,406
1980: \$376,810
1981: \$193,191
1982: \$409,541
1983: \$419,420
1984: \$448,674
1985: \$434,108
1986: \$509,182
1987: \$597,970
1988: \$937,250
1989: \$1,101,258
1990: \$1,335,440
1991: \$1,145,441
1992: \$1,192,569
1993: \$1,486,264
1994: \$2,056,650
1995: \$1,708,397
1996: \$1,920,240
1997: \$2,022,695
1998: \$2,414,536
1999: \$2,629,331
2000: \$3,864,406

2001: \$3,469,106
2002: \$3,736,991
2003: \$3,947,279
2004: \$3,777,174
2005: \$3,034,544
2006: \$3,706,997
2007: \$4,396,484
2008: \$4,720,589
2009: \$3,832,361
2010: \$3,984,061
2011: \$3,665,211
2012: \$3,529,115
2013: \$3,259,006

Timeline: 40 years of deed-restricted housing

1969 Cost of dorm-style bed in Aspen rooming house: \$4 per night. "D.R.C. Brown, Aspen Skiing Corp. president, said at a seminar on the future of Aspen last fall that employee housing would not be built here until employers could no longer obtain employees." — *Grand Junction Sentinel*, 1969

1970s Growth in Aspen's population 1960–1970: 160 percent. Number of local households paying more than 40 percent of their income on housing: 500 Number of additional affordable-housing units needed, according to the 1979 master plan: 250

1983 City and county combine forces to create Aspen/Pitkin County Housing Authority with a staff and budget of 2 people and \$120,000

1984 Number of deed-restricted units sold through APCHA: 32, \$2 million total value

1992 Average single-family home price: \$1.2 million. Number of units built at Williams Woods affordable housing: 18

1993 Number of affordable housing units in Aspen: 1,300. Aspen Area Community Plan identifies housing as key issue in maintaining community character; sets goal of housing 60 percent of workforce upvalley from Aspen Village. Last sale of deed-restricted unit without a lottery for at least a decade.

1994 Affordable housing completed: Ute Park (7 units), East Cooper (13 units), and Common Ground (21 units). Aspen voters pass a real estate transfer tax to fund affordable housing, by a 70 percent margin.

1996 Average home price: \$1.9 million. Number of deed-restricted units: 1,489. Number of people in lottery for 27 units at Benedict Commons: 400. Rent at Alpina Haus (APCHA rental): \$250/month. Category 2 max income: \$60,100. Category 3 max income: \$83,900. Category 4 max income: \$121,500.

1997 Employee housing maximum prices: Category 1: \$34,400, Category 2: \$84,900, Category 3: \$125,000. Category 4: \$215,000. Typical free-market rent to share an apartment: \$750/month. Rent at Smuggler Mountain Apartments (Category 1): \$289/month Percent of workforce living upvalley: 45.

1998 Number of workers in employee housing: 3,000. Percentage of free-market Aspen homes that are second homes: 70. Number of deed-restricted units in Pitkin County: 1,589. Affordable housing completed since 1993: 210 units. Length of wait list for APCHA rentals: 3 years.

2000 Number of additional affordable housing units needed, per Aspen Area Community Plan: 800–1,300. Percentage of local employees living in metro Aspen (deed-restricted and free-market): 47 (3,684 households).

2001 APCHA staff and budget: 16 people, \$495,000. Number and value of deed-restricted units sold through APCHA: 155, \$25.4 million. Number of units in APCHA inventory: 1,937.

2005 Affordable housing completed: Stillwater (13 units). Number of people in lottery for 15 Snyder Park condos: 860 (a record).

2008–2012 \$7 million: Aspen's average annual tax revenue for its housing program; \$5.5 million: the combined sum for thirteen other Colorado resort communities, including Boulder.

2012 City of Aspen average annual total revenues of the last six years, including various mitigation fees paid by homeowners and developers, for affordable housing: \$10 million.

Who owns affordable housing in Pitkin County?

Below is a list of the owners of all of the units under the jurisdiction of the Aspen Pitkin County Housing Authority. The table show what the buyers paid for their unit, when they bought it, and what it's worth as of May 2014.

The table has been initially set alphabetically by the name of the housing projects, but it can be sorted by other values, including owner's last name, purchase price, purchase date, category or current value.

(Note that because of the alphabetical sort by project name, the list begins with projects that have numbers in their name, such as "300 South Spring Condominium," followed by "410 West End Condominiums." The alphabetical sort becomes more obvious further down the list.)

The list initially opens with ten entries, but there are 1,633 entries in total. You can use the "show X entries" tool at the top of the table to show all of the entries.

| Project | Owner Name | Unit Address | Purchase Price | Purchase Date | Category | Current Value |
|---|--|-------------------------------------|----------------|---------------|----------|---------------|
| 300 South Spring Condominium (http://www.apcha.org/sitepages/pid162.php) | Matthews, Zachary & Jordan Oberholtzer | 300 S. Spring St., Residential Unit | \$133,000 | 05/15/2012 | 2 | \$136,000 |
| 410 West End Condominiums | Provine & Soderling | 410 W. End, Unit 103 | \$83,000 | 07/28/2009 | 2 | \$91,400 |
| 410 West End Condominiums | Provine & Soderling | 410 W. End, Unit 104 | \$124,000 | 07/28/2009 | 2 | \$136,000 |
| 410 West End Condominiums | Provine & Soderling | 410 W. End, Unit 105 | \$124,000 | 07/28/2009 | 2 | \$136,000 |
| 521-523 West Hopkins (http://www.apcha.org/sitepages/pid115.php) | Nix, Robert Jr. | 521 W. Hopkins | \$250,000 | 07/30/2008 | 4 | \$270,000 |
| 521-523 West Hopkins (http://www.apcha.org/sitepages/pid115.php) | Todd, Shane | 523 W. Hopkins | \$355,000 | 07/18/2008 | 5 | \$383,000 |
| 625 E Main Street Condominiums (http://www.apcha.org/sitepages/pid165.php) | Tracy, Kathleen (Kate) | 625 E. Main St., Unit 202 | \$305,000 | 04/12/2013 | 4 | \$310,000 |
| 625 E Main Street Condominiums (http://www.apcha.org/sitepages/pid165.php) | Roy, Adam & Sarah | 625 E. Main St., Unit 203 | \$305,000 | 05/22/2013 | 4 | \$309,000 |
| 719 East Hopkins | 719 East Hopkins Avenue, LLC | 719 E. Hopkins, Unit 101 | \$83,000 | 12/18/2009 | 2 | \$91,000 |
| 719 East Hopkins | Forbes, Douglas Irvie | 719 E. Hopkins, Unit 102 | \$124,000 | 12/18/2009 | 2 | \$136,000 |

Showing 1 to 10 of 1,633 entries

[Previous](#)[Next](#)

Property and ownership records are public information and this list was provided by the Aspen Pitkin County Housing Authority at the request of Aspen Journalism.

While the Housing Authority (<http://www.apcha.org/>) maintains this public information, they do not make it available to the public on their website in a sortable format, as it is here. Aspen Journalism collaborated with Investigate West (<http://www.invw.org/>) to produce the table.

The "current value" fields are blank on a handful of units whose deed restrictions do not include appreciation caps. On the Housing Authority's database, these units are categorized as "market value" without a specific price assigned to them.

The "current values" are estimated by Aspen Pitkin County Housing Authority and are current as of May, 2014. The values are estimated based on the deed restrictions associated with the units and calculations for depreciated improvements that the Housing Authority has approved.

Almost every project name on the list is linked to more information about the specific complex on the Housing Authority's website, via a section it labels as "HOA Documents (<http://www.apcha.org/sitepages/pid85.php>) ."

Some units are owned by more than one person and if you are looking for a specific owner, you might also try the search function, which can also be used to search for specific addresses.



Evidence Matters

U.S. Department of Housing and Urban Development
Office of Policy Development and Research

Fall 2012

HIGHLIGHTS IN THIS ISSUE:

- Paths to Homeownership for Low-Income and Minority Households
- Individual Development Accounts: a Vehicle for Low-Income Asset Building and Homeownership
- Shared Equity Models Offer Sustainable Homeownership

Shared Equity Models Offer Sustainable Homeownership

Highlights

- Shared equity homeownership programs facilitate broader access to affordable, low-risk homeownership opportunities for low-income families
- One Roof Community Land Trust fills the need for quality, affordable housing and provides pre- and postpurchase support for homebuyers in Duluth, Minnesota and surrounding areas
- San Francisco's Below Market Rate Ownership Program balances wealth creation for existing owners of deed-restricted housing units with preservation of affordability for future buyers



One Roof Community Housing was established by grassroots activists to provide affordable homeownership opportunities for residents of Duluth, Minnesota.

The social and economic benefits of stable homeownership, particularly the potential for wealth-building among low- and moderate-income families, are well documented.¹ Homeownership continues to be out of reach for many of these households, however, particularly in the wake of the economic crisis. (See "Paths to Homeownership for Low-Income and Minority Households") Although home prices have fallen in many localities and interest rates are at record-low levels, stringent lending standards and significant drops in household incomes have prevented many interested low-income buyers from becoming homeowners. The Center for Housing Policy reports that from 2008 to 2010, renters earning no more than 120 percent of the area median income saw their household incomes decrease by 4 percent even as housing costs went up 4 percent. As a result, the number of severely cost-burdened renter households — those paying more than half of their income towards housing costs — rose by 2.8 percent during this period.² Meanwhile, the foreclosure crisis has heightened awareness of the risks of homeownership for low-income and minority families and the need for solutions that help attain as well as sustain homeownership. Faced with these challenges, a growing number of communities are turning to shared equity homeownership.

An Alternative Homeownership Option

Shared equity homeownership offers an alternative option to renting and traditional homeownership. The term refers to an array of programs that create long-term, affordable homeownership opportunities by imposing restrictions on the resale of subsidized housing units. Typically, a nonprofit or government entity provides a subsidy to lower the purchase price of a housing unit, making it affordable to a low-income buyer. This subsidy can be explicit, in the form of direct financial assistance, or implicit, in the form of developer incentives for inclusionary housing. In return for the subsidy, the buyer agrees to share any home price appreciation at the time of resale with the entity providing the subsidy, which helps preserve affordability for subsequent homebuyers. Although several types of shared equity homeownership programs exist, Rick Jacobus, director of Cornerstone Partnership Initiative at NCB Capital Impact, and Jeffrey Luoell, executive director of the Center for Housing Policy, describe two basic approaches: shared appreciation loans and subsidy retention programs.³

Shared appreciation loans are second mortgages provided by a public or nonprofit agency that buyers repay in full at the time of resale along with a percentage of home value appreciation. These funds are then reinvested to make homeownership affordable to another low-income buyer.⁴ With the more common shared retention approach, resale price restrictions ensure that the subsidy remains with the home.⁵ The most widely implemented subsidy retention programs include community land trusts (CLTs), deed-restricted housing programs, and limited equity housing cooperatives.

- CLTs increase affordability by removing the cost of the land from the sale price of a home — homebuyers purchase the structure but lease the land from the CLT, which retains ownership. Resale price restrictions are built into the ground lease to maintain affordability for future income-eligible buyers. Currently, more than 250 CLTs are operating in 46 states and the District of Columbia.⁶
- In a deed-restricted housing program, resale restrictions are recorded with the property's deed and generally remain valid for more than 30 years. Estimates place the number of deed-restricted housing units at between 100,000 and 300,000 nationwide.⁷

- Residents of limited equity housing cooperatives are shareholders. Instead of a housing unit, buyers purchase a share of stock in the cooperative, which entitles them to occupy one housing unit at a much lower price. Limits on the resale price of the cooperative shares ensure affordability. The National Association of Housing Cooperatives estimates the number of limited- or zero-equity cooperative units at 425,000.⁶

The maximum resale prices for shared equity homes in these models are established using formulas based on the appraised value of a home at the time of resale, changes to the consumer price index, or increases in the area median income.

Benefits of Shared Equity Housing

Although the different types of shared equity programs vary in structure, they are all distinguished by a common emphasis on owner occupancy, long-term or perpetual affordability, and equity sharing.⁵ These defining features enable shared equity models to facilitate broader access to affordable homeownership for low-income families. "Equally important," notes John Emmeus Davis, one of the nation's leading authorities on shared equity housing, these alternative models preserve "this opportunity for the same class of people over a very long period of time, while preventing the loss of the public (and private) subsidies that made this housing affordable in the first place."¹⁰ In markets where home prices are rising faster than household incomes and in gentrifying neighborhoods, shared equity mechanisms generate workforce housing that remains affordable over the long term, giving workers more local housing options while allowing communities to retain essential employees. For local governments dealing with large volumes of vacant and abandoned housing as a result of the foreclosure crisis, shared equity homeownership offers an avenue to transform vacant properties into permanently affordable housing and retain any public subsidies invested in them.

Shared equity programs also help reduce some of the risks associated with homeownership for low-income and minority households. As Jeffrey Lubell observes, "There are two main ways in which shared equity homeownership reduces risks. First, by buying homes at below-market prices, shared equity homebuyers are insulated to a significant extent from falling home values. It's still possible to lose money on a shared equity home purchase, but it's much more difficult since prices need to fall considerably before shared equity owners are forced to sell at a loss. Second, the purchase of a less expensive shared equity home may free up funds in some buyers' budgets to invest in other asset classes, such as retirement savings, education savings, etc., improving the diversification of assets."¹¹ At the same time, homeowners have the opportunity to build equity. An evaluation of seven shared equity homeownership programs conducted by the Urban Institute shows that, despite being subject to resale price restrictions, households in these programs earned significant returns on selling their homes. The study, which also analyzed outcomes related to affordability, security of tenure, and mobility for the programs, reveals lower delinquency and foreclosure rates among shared equity homeowners compared with owners of market-rate housing.¹² A separate study commissioned by the National Community Land Trust Network (CLT Network) found that at the end of 2010, only 1.3 percent of CLT home loans were seriously delinquent compared with 8.6 percent of conventional market-rate home loans.¹³

Many of these benefits are illustrated in the following examples of two types of shared equity programs operating in localities with vastly different housing market conditions: a CLT serving northern Minnesota and a deed-restricted housing program that promotes affordable homeownership in San Francisco, California. The programs, both of which are included in the Urban Institute study, show that shared equity models can effectively promote long-term affordable homeownership opportunities in strong and weak housing markets.

One Roof Community Housing

One of 10 CLTs in the state of Minnesota, the Northern Communities Land Trust (NCLT) was established in 1990 by grassroots activists to provide affordable homeownership opportunities for low- and moderate-income families in the city of Duluth and surrounding areas. In January 2012, NCLT merged with Neighborhood Housing Services of Duluth, an organization with a similar mission, to form One Roof Community Housing. As with most of the community land trusts in the nation, One Roof Community Housing is structured as a tax-exempt nonprofit, governed by a board of directors that is elected annually by its more than 500 members.¹⁴ One of the distinguishing features of the CLT model is its tripartite governance structure, which balances the interests of multiple stakeholder groups. A typical CLT board includes equal representation from land trust leaseholders, community residents, and public officials, local leaders, or advocates who oversee the community's interests.¹⁵ One Roof's 16-member board follows this classic structure, one-third of the organization's board is composed of representatives from low-income neighborhoods, including four CLT homeowners.

A Path to Affordable Homeownership

One Roof Community Housing's operations are designed to meet the unique housing needs of the community it serves. At \$41,092, Duluth's median household income is nearly 30 percent lower than the state median. Over one-third of the residents pay more than 30 percent of their income towards mortgage expenses in the city, where the median home value of owner-occupied units is \$151,300.¹⁶ Duluth has really old housing stock and very low incomes, and while some would say there is plenty of affordable housing in town, it's challenging for low-income families when they have to spend a lot of their time and income updating the homes," notes Jeff Corey, One Roof's executive director.¹⁷ To fill this need for quality affordable housing, the land trust builds and rehabilitates houses that it sells to families earning less than 80 percent of area median income (AMI) — the actual median household income of the land trust's current homeowners is closer to 60 percent of AMI.

The land trust currently rehabilitates vacant, blighted properties that it acquires from county foreclosure sales, the National First Look Program, and other bank programs.¹⁸ The rehabilitation work is done by One Roof's own construction company, Common Ground. "We had to do things differently, compared to places with high property values like Boston or Austin," says Corey. "We don't have much housing being built to scale like in some communities — there are few developers of owner-occupied housing and no general contractors that specialize in building affordable housing. We weren't able to get contractors to bid on our work, so we started building ourselves."

The renovated homes, all of which incorporate green building features, are sold to income-eligible buyers at prices 20 to 25 percent lower than appraised value.¹⁹ As with most CLTs, One Roof creates this subsidy by retaining ownership of land beneath the homes. Buyers enter into a 99-year ground lease and pay a small lease fee to the land trust every month. To keep the homes, which must be owner-occupied at all times, affordable to subsequent low-income buyers, One Roof employs a resale formula that is appraisal-based; homeowners receive 25 percent of any appreciation in appraised value of the property and 100 percent of investment in eligible capital improvements made to the home.

Except for the resale and occupancy restrictions, One Roof's homeowners enjoy many of the same rights and rewards as owners of market-rate homes, such as predictable mortgage payments, privacy, and an opportunity to accumulate wealth. Owners pay property taxes and are free to remodel or improve their CLT homes, which can eventually be passed on to heirs.²⁰ When the homeowner wants to sell the land trust home, they have the option to choose One Roof as their real estate agent. The organization has its own realty company, a full brokerage through which it lists and sells land trust homes. Once again, a lower-priced housing market meant that One Roof needed to participate fully in the real estate industry. "Our price points aren't so dramatically different from market rate that if we had sort of thumbed our nose at the realtor community, we could have put ads in the newspaper and had people come running. They are our colleagues and business partners, and working with them helps us meet our mission in the community," notes Corey.

Pre- and Postpurchase Support

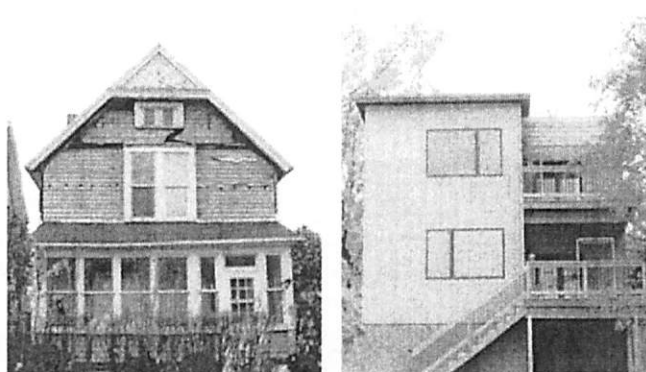
Homebuyer education is essential to helping buyers become informed, successful homeowners. One Roof offers free one-on-one homebuyer counseling sessions and requires buyers applying for land trust homes to complete an eight-hour, HUD-certified homebuyer education class and attend an orientation session about the community land trust program. Although it does not require applicants to get fixed-rate mortgages, the land trust does require mortgage preapproval from one of the four participating One Roof lenders and has the right to review and approve mortgages before purchase. Strict lending standards following the foreclosure crisis have left many land trust homebuyers unable to obtain a mortgage. A quarter of the CLTs that participated in a 2011 survey conducted in partnership with the CLT Network reported that buyers who qualified for their programs often were not able to purchase homes because they could not qualify for a mortgage. Nearly half of the respondents cited higher credit score and down payment requirements as the primary barriers to securing financing.²¹ Building and maintaining partnerships with lending institutions is one way to ensure that CLT homebuyers are able to overcome this hurdle to achieving homeownership.



The Obata family owns a One Roof Community Land Trust home and loves the ground trust life for a small monthly fee.

One Roof homebuyers are offered no-interest second mortgages to cover down payment and closing costs ranging from \$2,000 to \$6,000. An additional \$2,000 in employer-assisted funding is also available to buyers who work for two of the area's medical centers as long as they purchase homes close to their place of employment.²³

To help owners keep their homes in good condition, One Roof disseminates newsletters, offers free home maintenance classes, and operates a tool lending library. Community residents can borrow tools free of charge from the library to complete necessary repairs and other home improvement projects. In addition, the organization assists CLT homeowners unable to make their mortgage payments due to temporary setbacks, such as a medical emergency, by providing small, no-interest loans paid directly to the lender. Homeowners in default due to long-term financial hardships are referred to Lutheran Social Services for foreclosure prevention counseling. This type of pre-purchase support and ongoing stewardship helps explain why owners of CLT homes rarely become delinquent, says Emily Thaden, research and policy development manager for the CLT Network and author of the CLT foreclosure study. "Legal contracts for shared equity homeownership are not self-enforcing, and the challenges faced by lower income households do not entirely disappear just because their home is affordable. CLTs know this, which is why they steward both their homes and homeowners on an ongoing basis."²³



One Roof Community Land Trust acquires and rehabilitates vacant, blighted properties and sells the renovated houses to Duluth area families earning no more than 80 percent of the area median income.

Such long-term guardianship is expensive, however, and CLTs require large amounts of capital investment to build a housing portfolio. Most of One Roof's capital funding comes from HOME and Community Development Block Grant (CDBG) program funds awarded by local municipalities; other sources include the Minnesota State Housing Finance Agency and the Greater Minnesota Housing Fund. In addition, the organization generates substantial fee income, including lease fees, developer fees, and realty commissions, to finance its operations.

A Viable Model

The Urban Institute's evaluation of One Roof (before the merger) found that the land trust has been successful at maintaining affordability and building wealth for its homeowners. Although the minimum income required to purchase a land trust home slightly increased, the homes remain affordable to most low-income households. One Roof's homeowners, on average, realized a 38.7 percent annualized rate of return on resale, and 95 percent of homeowners who purchased 5 years prior to the study period had retained their homeownership status. Furthermore, only 1.1 percent of CLT homes — nearly all of which were financed with a 30-year fixed-rate mortgage — were in the foreclosure process as of December 2009, compared with 4.4 percent of Duluth area homes.²⁴ A separate study prepared for the Lincoln Institute of Land Policy, in which authors compared the One Roof land trust program with another low-income housing program in Duluth, found that the trust employed a more efficient use of subsidies and preserved affordability for multiple generations of low-income buyers.²⁵ To date, One Roof has recycled more than \$3.25 million in subsidies, overseen 67 resales, and helped 295 low-income families attain homeownership; one-third to half of these families are comprised of single mothers with dependent children.

One Roof Community Housing is unique in the scope of its services, which are structured to reflect market conditions and the community's needs. "I think we are different in that very few land trusts do all of the things that we do. There are a couple of CLTs that have realtors on staff, quite a few act as developers, and there may be some that have their own construction company, but I don't know any land trust that does all three," observes Corey. He stresses that CLTs operating in low-priced housing markets have to have a viable business plan and differentiate their product from what's on the market. "We have to be stronger than a typical nonprofit housing developer because we don't go away after the homes are built. We have a responsibility to maintain strong organizational capacity to carry out the stewardship role for our homes and homeowners going forward." With 228 units under its stewardship, the organization is presently working on expanding its geographic service area.²⁶

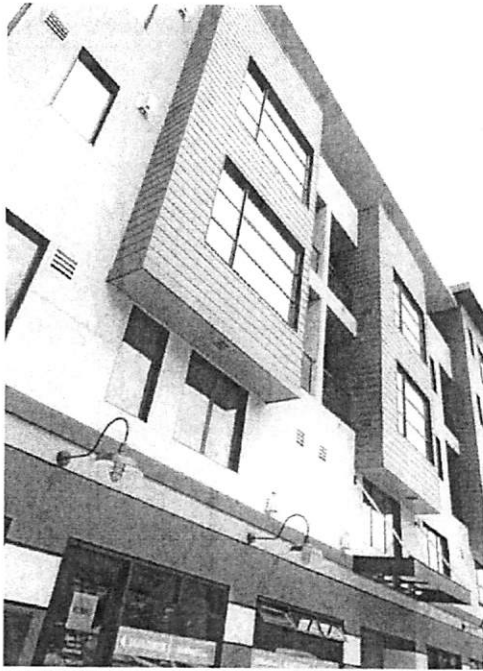
San Francisco Below Market Rate Ownership Program

In sharp contrast to One Roof Community Housing, San Francisco's Below Market Rate Ownership Program (Below Market program) assists households in one of the nation's most expensive housing markets with a median home value of \$785,191, more than four times the national median.²⁷ According to a study prepared for the San Francisco Mayor's Office of Housing (Housing Office) in 2011, only 7 percent of market-rate homes for sale in the city were affordable to households earning 80 percent of AMI.²⁸ Not surprisingly, San Francisco's homeownership rate of 37.5 percent is almost half the national homeownership rate.²⁹ Since 1992, the city has been adding affordable units to its housing stock through the Residential Inclusionary Affordable Housing Program. The program, which has been amended multiple times over the years, currently requires 15 percent of housing units in all developments of 5 or more units to be set aside for low- and median-income families. The set-aside requirement increases to 20 percent if the units are provided offsite or if developers elect to pay fees in lieu of providing affordable units. Through the Below Market program, the city makes the inclusionary units in for-sale developments available at below-market, affordable rates to first-time homebuyers earning no more than 100 percent of AMI.

More than 850 Below Market program units — most of them condominiums — are in the city's portfolio. These units are overseen by the Housing Office, which also administers the Residential Inclusionary Affordable Housing Program. The department posts information on below-market units available for purchase on its website and requires developers to advertise the units in at least five local newspapers that reach low- and moderate-income and minority households in the city.³⁰ As with One Roof Community Housing, income-eligible buyers are required to participate in a first-time homebuyer workshop conducted by designated housing counseling agencies. These agencies receive CDBG funds from the city to promote homeownership counseling and build capacity in minority communities. Buyers must finance their purchase through 15- to 40-year fixed-rate mortgages from approved lenders. Housing Office staff members review the mortgages to make sure that buyers are not subjected to predatory lending practices. For both new and resale units, buyers are chosen by public lottery from a pool of qualified applicants. The Housing Office offers prospective homeowners assistance with down payment and closing costs ranging from \$10,000 to \$36,000.³¹ The funds are structured as shared appreciation loans to be repaid by the homeowner at the time of resale along with a certain percentage of the property's price appreciation; the amount of home value appreciation to be shared with the city depends on the portion of the original purchase price covered by the loan.

Long-Term Affordability

To protect the long-term affordability of below-market units, resale restrictions are recorded with the property deed; purchasers sign a secondary deed of trust and related documents acknowledging the restrictions. Such restrictions or covenants are a widely used mechanism to preserve affordability. Hundreds of jurisdictions across the country employ deed restrictions to impose controls on affordable housing units produced through inclusionary zoning, and many CLTs use them in lieu of long-term ground leases, particularly for condominium developments. Unlike a CLT ground lease, however, the length of the affordability period in deed-restricted housing programs can vary depending on state statutes. Some states specify a limit to the affordability period, while very few explicitly define or authorize perpetual affordability restrictions.³² The restrictions placed on San Francisco's below-market units are applicable for the life of the project and survive foreclosure; for units that were created before June 2007, the restrictions apply for 50 years but restart every



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time a unit is sold.²² The units, which must be owner-occupied at all times, can be passed to heirs only if the heirs meet all of the program qualifications (income-eligible, first-time homebuyer). The Housing Office monitors compliance by requiring below-market owners to submit an annual occupancy certification and report any changes in ownership status. The office also reserves the right of first refusal to purchase below-market units listed for resale.

A Balancing Act

In 2007, the city revised its homeownership program in response to changing market conditions. Previously, the resale price for below-market units was based on one of two formulas: changes to the consumer price index or a mortgage-based formula. The latter formula calculates the resale price by arriving at a mortgage payment that is affordable (defined as no more than 33 percent of gross income) to a household earning 100 percent of AMI. Along with a 10-percent down payment, the formula takes into account interest rates, taxes, homeowners association fees, and insurance costs at the time of resale. This formula "yielded perfect affordability," notes Myrna Melgar, who oversaw the changes to the Below Market program as the Housing Office's homeownership director during this time.²³ As interest rates began to rise in 2005, however, homeowners who had purchased their deed-restricted units when the rates were low found themselves having to sell at a loss. The city responded by changing the resale formula. "We made the decision to sacrifice perfect affordability to ensure more predictability for individual homeowners," explains Melgar. With the new formula, the resale price is calculated based on the changes to AMI, providing a more stable equity building opportunity for owners. Sellers receive the resale price excluding loans, closing costs, and any shared appreciation related to the city's down payment assistance. Sellers also get reimbursed for capital improvements made to homes 10 years or older, although this amount is capped at 7 percent of home's resale price.²⁴

Melgar observes that the AMI formula may make below-market units more expensive over time, especially when interest rates are high. But given the city's strong housing market, the program still meets a need for affordable housing for moderate-income families. "A number of homeowners were able to build a nest egg and move on to market-rate homeownership, which is the program's goal," Melgar notes. The Urban Institute's evaluation of the Below Market program substantiates this conclusion based on an analysis of 771 sales and resales between 1999 and 2009. Study findings show that during this 10-year period, below-market units were purchased by first-time buyers with a median household income of about \$60,000 at a median price of nearly half the units' appraised value. Moreover, homeowners in the program were able to realize an

annual rate of return of 11.3 percent on resale.²⁶

San Francisco's ownership program is not without challenges, however, and chief among them is limited access to credit for many income-qualified households. Few lenders are willing to provide first mortgages for the below-market units. Buyers at the lower end of the income scale who do manage to secure a mortgage often face high homeowners association fees in some neighborhoods, which significantly decrease affordability. Another challenge involves the substantial amount of resources needed to reach out to and serve the city's high percentage of minority households. The Housing Office overcomes some of these problems by supporting a network of outside organizations. "The key is having good partners," notes Melgar. "The city does a good job of training lenders and title companies, funding counseling agencies, and including stakeholders in any policy decisions. All of that is important to keep the program healthy and productive."²⁷

A Way Forward

Shared equity homeownership continues to gain popularity as a viable alternative to traditional homeownership. Shared equity programs have proven successful at providing stable, affordable homeownership opportunities to low-income families who would otherwise be priced out of the housing market. At the same time, these programs ensure that public resources invested in affordable housing are maximized. Homeowners realize many of the same benefits offered by traditional homeownership, only with much lower risk. Inherent safeguards — such as mandatory homebuyer education and fixed-rate mortgage requirements — continuous monitoring, and other stewardship activities that are a part of shared equity models support a sustainable homeownership experience. Just as important, the One Roof CLT in Duluth and the Below Market program in San Francisco show that, regardless of market conditions, shared equity models that balance preservation of affordability with wealth creation have the potential to help lower-income households build equity and move up the housing ladder.

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A Hybrid Model

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Long-term Affordability or Resale Restrictions Q&A

What is a deed restriction?

Property is transferred from one owner to another by a deed. A deed restriction is a legal document that places limitations or restrictions on real estate. A property owner who desires to transfer his or her property subject to certain terms and conditions may transfer the property subject to the terms of a deed restriction. The property you are considering buying is subject to a long-term affordability deed restriction.

This affordability deed restriction is placed on the property to preserve it as a low- and moderate-income housing unit. This means it can only be sold to a buyer whose household meets certain income requirements and at a price that is affordable to that household.

What is affordable housing?

Housing is considered to be affordable when a household of low- or moderate-income can afford to buy the home without spending more than 30 percent of their gross household income on direct housing costs. Income levels are established by the U.S. Department of Housing and Urban Development and verified by a Monitoring Agent assigned to this property. Affordable housing is sold at a price established by the Monitoring Agent as being affordable to a low- or moderate-income household. That price is generally below what the home could be sold for without the deed restriction. Should the owner of a deed-restricted home sell the home during the term of the deed restriction, the Monitoring Agent would again establish the sales price at an affordable price that will, as previously noted, generally be lower than the market value. Properties of this type are developed with public subsidies for the specific purpose of creating safe, decent and affordable housing for households that could not otherwise afford it.

Is there anything else I should know?

Low- and moderate-income housing is built primarily to improve and sustain the supply of good quality housing available persons of moderate means. It is very unlikely to provide the kind of return on investment that a non-deed-restricted property would give the buyer. Additionally, the buyer must live in the property and use it as their primary residence. The ability to place a second mortgage on these homes is limited. The owner must receive the approval of the Monitoring Agent before using a deed-restricted property to secure any loan. They must also check with the Monitoring Agent before refinancing the property, even if it is at a lower rate. Well before selling the property, the owner must inform the Monitoring Agent. It is the Monitoring Agent's responsibility to establish the maximum selling price for the home and to help the owner determine if potential purchasers meet income guidelines.

Rhode Island

Affordability Restrictions

State law requires that low- and moderate-income units “remain affordable through a land lease and/or deed restriction for ninety-nine (99) years or such other period that is either agreed to by the applicant and town or prescribed by the federal, state or municipal subsidy program but that is not less than thirty (30) years from the initial occupancy.” As such, a municipal government subsidy ordinance should specify its preferences with regard to both the mechanism for long-term affordability and the term of affordability. Either method is recorded in the town records.

A land lease is managed through a community housing land trust, which takes ownership of the land, and leases it back to the resident who purchases only the improvements on the property. Typically, a land lease runs for ninety-nine (99) years, and not only ensures nearly perpetual affordability, but also, due to the separation of the land and improvements, assures that in the event of foreclosure the property will remain affordable. The Community Housing Land Trust of Rhode Island is a newly incorporated non-profit organization in the state that is ready to take on a statewide role in managing such properties. Please see the list of Approved Monitoring Agents in this package if your municipality is interested in this mechanism for maintaining municipally subsidized low- to-moderate income housing units.

Another means of restriction affordability is through a deed restriction, which is an additional document signed at closing that details the term of affordability, income level and other details, like right of first refusal and identified monitoring agent.

November 3, 2017

Maui County Council

Item # CR 17151

Re: Proposed Property Tax Changes

Good Morning Council Members!

My name is Susan Thomson and I own a 2 bedroom/2 bathroom condo at Pacific Shores, in Kihei.

I currently choose to rent my condo long-term, and have 2 wonderful tenants who work full-time here on Maui. They have mentioned to me several times how difficult it is to find anything to rent long-term.

I am very concerned about the proposed property tax changes, especially, the bill that would classify condominium units at their "highest and best use", regardless of "actual use".

Owners at Pacific Shores are allowed to do short term rentals, however, I prefer not to do this. I want to support our community and offer a long-term rental for someone who lives here but may not be able to afford to purchase a home or condo.

By making this change to put all condominiums that are approved for short-term rental into one category, the increase in an owner's property taxes will be so dramatic that those who choose to rent long-term will be forced to evict their tenants, to go to short-term rental to make enough money to pay for this increase in taxes.

Where are these evicted long-term tenants going to go? What will their options be? It's already hard enough to find housing. Will doing this increase the homeless population even more? These proposed changes will discourage anyone from providing a long-term rental simply because they just can't afford it.

I, respectfully, ask you today to leave the Property Tax Categories to designation of "actual use". If a unit is being used for short-term rental, tax that unit accordingly.

However, if a unit is being rented long-term, please support that owner by taxing that owner's condo at a lower rate.

In 2017, the Maui Economy is good, Job Unemployment is low, and Property Values are back to pre-recession levels. As you consider these changes, please think of the Maui residents, who work so hard to be able to pay their taxes.

Thank you so much for giving me the time to speak today, on this very important issue.

Sincerely,



Susan Thomson
Kihei

I am Eve Hogan testifying on CR-17-150 and Cr 17-151

After a week of phone and face to face meetings...it is clear that the council does not fully understand these bills or their impact. Everyone we spoke to seemed to have more questions than answers (on Bills they already voted on.) These should go back to committee, until you all are in unison and fully understanding what these Bills mean, and the impact they have on the people they effect. PARTICULARLY AGRICULTURE. Please consider an exemption or separate AG category.

We did some math.....

AKN Ranch

Annette and Kimo Niles TMK: 220120450000

Pasture for goats, panini, Hawaiian medicinal plants and protea farm Proposed STRH
Current Tax: \$1,152.42 Parcel Assessed Value: \$876,100.00

Proposed tax rate based on \$9.73 "hotel" - result: \$8523.48
650% Tax increase

Sacred Garden Nursery

Eve and Steve Hogan TMK: 270010190000

Nursery Stock, Papaya, Turmeric and Hawaiian medicinal plants Licensed STRH
Current Tax: \$ 5,034.12 (Commercial) Parcel Assessed Value: \$691,500.00

Proposed tax rate based on \$9.73 "hotel" - result: \$6,728.29

35% Tax increase

Owner previous to Hogan's purchase NOT doing agriculture:

\$150.00 tax per year.

After bringing the property up to code, restoring the agriculture and cleaning the garbage from the property the tax went up 3300%.

Testimony for Bill BF79 on Friday November 3, 2017

Aloha Councilmember and Council Chairman,

My name is Debbie von Tempsky, my family operates a short term rental home on Molokai, STMO 2013/0009. Our family has owned the property since 1968. We have lived on the island of Maui for 6 generations and Molokai for 3 of them. My sister's family is of Hawaiian decent. My parents moved to Molokai in 1952 in their 20's. We have operated the rental home for 4 years now. We employ a part time cleaner, yardman, a bug man and coconut and tree trimmer as well as my sister as manager. Our home is rented, an average of one week per month. Our occupancy is relatively slow. Molokai is off the beaten path, the guests that go there are looking for an experience. Many of our guests want to relax, cook their own food, clean plastic off beaches and fishponds and learn about the Hawaiian culture.

I am here because I am opposed to Bill B F79. It does not make sense to create a new tax classification right now. The tax rate will not change much for nearly 11,000 condo operators. It will change the rate for 220 STVH permit holders, it would go up from their current commercial rate to the new rate of 30% or higher. It sounds like it would not make that much difference but that's my point, the margin will be too small to mess with it. There is nothing wrong with the current way STVH permitted properties are taxed without making a whole new classification.

You must understand that STVH permits operate much like a County special use permit. Much of the application and forms are very similar. These permits are not "a given" like condos are, they can be taken away at any time. The STVH permit is very difficult to get in the first place. The rules are very strict. They are regulated for safety and liability reasons. The permit is reviewed and can be renewed on Maui every 5 years for a fee but on Molokai the permitting is much stricter being that you have to renew every year and pay double the fee that Maui pays. Please consider all the permits in Maui County not just the ones on Maui.

Please consider the fact that many of the vacation homes in the county are illegal. Illegal operators are not governed by safety rules. Some safety rules that come to mind are, would be having fire routes through out a home as well as fire extinguishers on each floor. There also could be liability issues on non-permitted operators without standards. I think the County should pay more attention to the illegal operators that have been operating for years. The money that the county would make on fines could excide the collection of increased taxes on the legal permit holders. Legal permit holders like my family, are abiding by all the rules and restrictions that are required by the County.

It upsets me that my taxes would be 60%or more, higher than an illegal operator (a non permit holder) if this bill is passed. This is not fair, fines need to be increased on them and there should be more of an effort to stop them. I believe this problem needs to be considered in your decision. I ask that you please review and consider all the ramifications like zoning, permit restrictions, safety and fairness when voting for BF79. Will the bill really get the increase of revenues? Mahalo for your consideration in not supporting Bill BF79, it will make more pilikia for the county as well as for a small sector of tax payers.

ALAN M. ARAKAWA
Mayor

**REAL PROPERTY ASSESSMENT DIVISION
BOARD OF REVIEW**

DANILO F. AGSALOG
Director of Finance

BRUCE ERFER
Chair, Board of Review

In the Matter of the Tax Appeal of:
PAUL IRVING LAUB 1999 TRUST
PAUL IRVING LAUB TTEE
1003 FRONT ST
LAHAINA HI 96761

Tax Map Key No.: **(2) 450030020000**
Case No.: **014607**

DECISION AND ORDER: Having heard the above entitled appeal and having considered all of the evidence presented thereon, the Board of Review ("Board") has determined that the classification and value of the property as of January 1, 2014 is:

Land Classification: 700
HOTEL/RESORT

| | <u>VALUE</u> | <u>EXEMPTION</u> | <u>NET TAXABLE</u> |
|-----------------------|--------------|------------------|--------------------|
| Building/Improvements | \$185,600 | \$0 | \$185,600 |
| Land | \$1,406,400 | \$0 | \$1,406,400 |
| Total | \$1,592,000 | \$0 | \$1,592,000 |

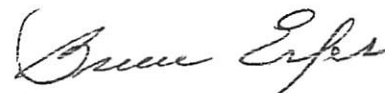
Upon consideration of all the facts before the Board, oral argument, and all submissions, the board finds:

EVIDENCE PRESENTED BY THE APPELLANT DEMONSTRATES THAT THE APPELLANT IS ENTITLED TO A CHANGE IN LAND CLASSIFICATION.

CHANGE LAND CLASS TO "COMMERCIAL" FOR 2014.

1. The Board met on September 17, 2014 to consider Appellant's Real Property Tax Appeal ("Hearing").
2. Appellant, Paul Laub, and the Appellant's representative, Tom Croly, were present at the Hearing and presented oral and written testimony.
3. Real Property Valuation Analyst, Marcy Martin, appeared at the Hearing on behalf of the Department of Finance and presented an Appeal Report and oral testimony to the Board on the subject property.

November 21, 2014
Decision Filed:

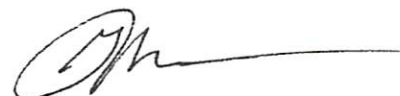


Bruce Erfer, Chair, Board of Review

CERTIFICATION

I hereby certify this to be a true and correct copy of the original document which is on file in the office of the Director of Finance, County of Maui, Hawaii.

November 21, 2014
Date:



Gery Madriaga, for Director of Finance

Further Right of Appeal: Decisions of the Board of Review may be appealed to the State of Hawaii, Tax Appeal Court pursuant to Chapter 232, Hawaii Revised Statutes.

Refu
\$75

cm

To: BF.committee@mauicounty.us

24 October 2017

Re: BF 42 and 79

Aloha ko'u Hoaloha,

The initial problem is that this issue is Res Adjudicata (Already been tried and reviewed). I enclose the determination by the County of Maui REAL PROPERTY ASSESSMENT DIVISION BOARD OF REVIEW, CASE 014607, CERTIFIED on 21 November 2014 by Gery Madriaga for the Director of Finance.

Simply stated the Finance department misapplied the assessment and called the property Hotel/Resort. However on appeal the board of Review disagreed as it clearly was NOT Hotel/Resort and it clearly was commercial "in business" and it was so determined by the board. NOTHING has changed since that time.

All the appellants and similar properties deserve to be treated in the same manner.

Thank You,

Paul Laub

TMK (2) 45003002000

To: BF.committee@mauicounty.us

RE: BF42 and BF79

The amalgamation of a singular tax position for STRH and Condo's that participate in Short Term Rentals.

Once again a situation has arisen that attempts to combine two unlike facilities into one Tax code.

Here are some major, major differences:

- 1) Condo's that can Short term rent have permanent footing. They do not need to renew their licenses as their licenses run with the ground and are not revocable, and can be sold to new owners as ongoing short term rentals. The exact opposite is true for Short Term Rental Homes.
- 2) Short term rental homes are limited to 2 buildings with a limited maximum of rentable rooms on one TMK but Condos are limited by a much larger density component so that it could very easily be the case that that 100 condo's split the tax bill while a short term rental only one person can provide the tax revenue.
- 3) Short Term Rental Homes are located in the Residential zoning areas, which have very limited amount of buildings allowed. Further, short term rental homes only allow the owner to be gone 90 days of the year. No such restriction is on the condo owner.
- 4) One might think of the similarities of boats and cars. They both provide transportation but their functions are substantially different.

Thank You, Paul Laub

Subject: **Fwd: BF-42**
Date: 3/27/2016 9:51:42 AM Hawaiian Standard Time
From: MauiLaub@aol.com
To: bf.committee@mauicounty.us

From: MauiLaub@aol.com
To: mike.white@mauicounty.us, michael.victorino@mauicounty.us, don.couch@mauicounty.us,
don.guzman@mauicounty.us, gladys.baisa@mauicounty.us, elle.cochran@mauicounty.us,
riki.hokama@mauicounty.us, robert.carroll@mauicounty.us, stacy.crivello@mauicounty.us
CC: ecmcnamara@aol.com
Sent: 3/25/2016 8:19:19 P.M. Pacific Daylight Time
Subj: BF-42

Aloha Council Members,

Approximately 18 months ago it was determined by this Council that the appropriate taxation for Short Term Rentals was the Commercial category. The concept of Hotel-Resort classification was brought up at that time but after discussion it was decided that 'Hotel' didn't fit for, at least, the following reasons:

- 1) Weddings and Parties are not allowed;
- 2) Ancillary businesses such as Spas, Hairdresser, Boutiques, Jewelry stores, Art Galleries, Tours, Car rentals, Food and 'Necessities' sales, Restaurant activity, Beach equipment rentals, Tournaments, other Entertainments and Luau's are ALL not allowed for STR's;
- 3) The STR permit is not transferable and does not run with the land;
- 4) There is no increased valuation to the property for property sales;
- 5) The taxation rate per room for a hotel is much lower by due to the fact that STR's are strictly limited to a very small number of rentable rooms;
- 6) The management of the hotels are employees while the STR management is limited to relatives, or Real Estate agents employees are not allowed in management.
- 7) The STR manager may only be off the island for 90 days per annum. There are no similar restrictions to Hotels

Accordingly I am openly in favor of raising the STR rates to hotel levels if STRS are given the **same rights and privileges** as Hotels. Other wise it would be **grossly unfair** to charge STRS the same price as Hotels but restrict them with less options and opportunities.

Thank You, Paul Laub

Subject: Real prop tax
Date: 9/18/2017 8:58:01 AM Hawaiian Standard Time
From: mauilaub@aol.com
To: BF.committee@mauicounty.us
Cc: ecmcnamara@aol.com

Aloha e Council members,

FAIRNESS: The essential feature here is getting what one pays for. Specifically no one wants to be discriminated against.

Simply, if one has to pay HOTEL rate property taxes one should get the same rights and benefits as a hotel.

Hotels have largely unlimited license to earn money. Short Term Rentals are very restricted. If we wish to change the STR Commercial rate to Hotel rate please connect that change to the privilege / right for the STR to function in all the ways a hotel does.

Fairness is not charging Rolls Royce prices and delivering a Hyundai.

Mahalo nui Loa,

Paul Laub

To: Maui County Council
From: Angelia Crim, 808.280.1024
Re: Objection to BF79
November 3, 2017

Good morning Council, thank you for the opportunity to testify this morning, my name is Angelia Crim I live in West Maui and I own a permitted, short term vacation rental home.

I missed the last opportunity to testify due to the storm we had Sunday night into Monday, all the traffic lights were out, by the time I made it through testimony was over. I am sure I was not the only person delayed or missing the opportunity altogether. I stayed for the discussion, it was clear and disappointing to me that the council members did not seem to understand the unique differences between short-term vacation homes and other short-term rentals nor the additional restrictions placed on short-term homes as all voted yes except for Mr. White.

This is very important to me as a 17 year resident of Maui and a five year resident of Kauai.... Am I local yet???? This is my livelihood. Please DO NOT Pass BF79. As stated I own a short-term home paying taxes, Property, GET, TAT, State income tax, insurance, permits, electricity, cable, phone, cleaning, garbage collection, gardening, pool, maintenance, décor, furnishings, etc. etc. I alone carry all the expense of my short-term home.

Short term homes have already seen a 25% hike or more in property taxes. If pushed into the same rate that condos currently pay this will be a total 60% tax increase post STRH Permit. To classify my short term rental home the same as a condo would be unfair. To operate a legal STRH home owners must apply for a permit at significant investment in time, expense, inspections (and stress) which must be renewed and is non transferrable. STRH homes have restrictions condos do not including not even inviting grandma over to see the grandkids! Maximum occupancy is also dictated. Family too big for the house, grandparents in a condo, cannot visit! No events or parties...Additional 1M liability insurance naming the County of Maui as an additional insured is required and costs each owner an additional \$1,400 + per year.

By zoning, condos have the right to rent short-term, have many owners to share in expenses, are NOT required to apply for a special permit, are NOT required to have the 1M liability policy naming the County of Maui as additional insured. Occupancy

limits are not in place for condos or hotels. Condos also build a short term rental business that IS transferrable through escrow at the point of sale increasing their value or can be left to heirs. Condos can and do hold events for a fee benefiting all owners as well as hotels, of course. Condo properties have restaurants, bars, spas, exercise facilities, meeting rooms as well as hotels, all providing additional income. STRH's enjoy none of these revenue streams.

If you spent several months time, several thousand dollars, and paid all your taxes, on time!, and now face additional taxes while countless others operate illegally, would you feel justly treated? Adding a mere 220 homes to this new text category and increasing our taxes Will not significantly increase the total tax collected by the county. Will passing BF 79 and increasing the taxes for short term rental homes encourage the illegal ones to step up and become permitted?

Those of us who have worked so hard to permit homes and pay all taxes required and now face additional tax feel it is not just to ignore all of those operating without a permit.

At the October 24 meeting budget chair Ricky Hokama more than once stated the tax rate for the new classification could go up but it could also go down. This is not likely, the tax rate would need to be at least as high as the current hotel rate in order to generate the same revenue as last year. The 10,769 condos pay the hotel tax rate of \$9.37 this classification accounts for the largest single share of real property tax paid. Giving the new classification a lower rate would in fact disrupt the county budget. Placing STRH homes in this new classification would immediately make our tax rate increase from the Commercial rate of \$7.28 to the Hotel rate of \$9.37 in effect a 29% increase in one year! Again the addition of approximately 220 permitted homes Will not significantly increase the total tax collected by the county.

Focus on bringing illegal properties into legal, permitted status not shutting them down, thereby increasing all forms of tax revenue for Maui County. Shutting down homes costs jobs as well as income for the county.

FW: Vote NO for STR Tax Change

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2017 NOV -3 PM 1: 27

Mike White

Fri 11/3/2017 8:53 AM

OFFICE OF THE
COUNTY CLERK

To: County Clerk <County.Clerk@mauicounty.us>;

From: Greg Mebel [mailto:gregmebel@gmail.com]

Sent: Friday, November 03, 2017 1:11 AM

To: Mike White <Mike.White@mauicounty.us>; Robert Carroll <Robert.Carroll@mauicounty.us>; Stacy S. Crivello <Stacy.Crivello@mauicounty.us>; Alike A. Atay <Alike.Atay@mauicounty.us>; Elle Cochran <Elle.Cochran@mauicounty.us>; Donald S. Guzman <Donald.Guzman@mauicounty.us>; Kelly King <Kelly.King@mauicounty.us>; Riki Hokama <Riki.Hokama@mauicounty.us>; Yukilei Sugimura <Yukilei.Sugimura@mauicounty.us>

Subject: Vote NO for STR Tax Change

Council –

Thank you for your service to the County.

Please don't vote for this bill that places residences into the same tax category as condos and hotels. It is shortsighted and just not fair.

Here is how it may be shortsighted:

To raise someone's taxes by 60% would, presumably, be to achieve the goal of raising more revenue. Here's the truth: people will bail on being permitted. Maybe if they've already paid the extra insurance, paid the County fees, paid for the application process, paid for the advertising, paid a property manager, they will continue for a while. Anyone evaluating whether he or she should participate in the future, will decide against it. And, the County will actually lose revenue because of lack of participation.

Keep in mind that many people have looked at, and are right now looking at this short term rental permitting process and making some decisions about whether they should participate or not. When the County promises one thing, legislates it, and then attempts to change the playing field, it creates distrust. And people tend not to participate with a partner they can't trust.

They will, however, still operate as a short-term rental. Prohibition, or even a program that's so unpopular people just opt out, only forces things underground. It doesn't eliminate the practice because prohibition just doesn't work. It didn't work when it was attempted here in Maui, and that's precisely why so much hard work was done by many of you, your predecessors, County Planners, and by citizen volunteers to implement the current STR permit policy. (Which, by the way, is years ahead of the rest of the Counties in the State)

Now please consider why this is unfair:

A residence does not become a condominium by virtue of how many days it may be rented. The six-month designation making something "long term" is arbitrary. Long term, short term, rented, lived in by an owner, lived in by an owner's daughter's boyfriend who's getting a "deal on rent", these are all use variations that we have decided to place arbitrary rules upon. Whoever lives in a home, and for how long they live there, DOES NOT change whether that home is a condominium IN THE SLIGHTEST. Don't take my word on this, ask Corporation Counsel.

Maui condos may be sold with the right to have short-term rentals GUARANTEED forever. Many condo buildings have a hundred bathrooms in them and are five stories high. Residences can't do these things. They are not condos, they don't have the same rights, they don't look or act like condos.

And, residences are not hotels. They don't have restaurants, luaus, and \$15 cocktails by the pool. They can NEVER generate the revenue of a hotel. They can't hold as many people. Residences are homes, they are in neighborhoods, they are run by individuals and not companies.

The permit process we all worked long and hard on in the past already guarantees there aren't, and will never be, hotels in neighborhoods. There are important, built in safeguards already.

To turn back the clock, and throw these residences into the same tax designation as condos and hotels is just wrong and not fair play.

Let's let the existing program and tax class work. THEN, let's evaluate it. Please, don't vote now to change the tax category again. Please keep the compromise that was already agreed upon and vote against this measure.

Thank you for your consideration.

Greg Mebel
Paia
808.866.6470

Lisa Darcy
1334 West Kuiaha Rd
Haiku, HI 96708
dimsumnyc@aol.com

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2017 NOV -1 PM 4: 10

OFFICE OF THE
COUNTY CLERK

October 31, 2017

The Honorable Mike White, Chairman
Maui County Council
200 S. High Street
Wailuku, HI 96793

SUBJECT: Support for a Bill for An Ordinance Amending Chapter 2.96, Relating to Residential Workforce Housing Policy

Dear Council Chairman White and Members:

I am writing in support of the proposed bill to amend Chapter 2.96, the Residential Workforce Housing Policy. The proposed amendment will provide Rental Housing Credits for the construction of much-needed affordable rental housing for our community. The Rental Housing Credits will allow Catholic Charities Hawaii to develop a 164 unit, 100% affordable housing complex for seniors. The financing offered through the housing credits will allow this developer to secure additional resources for construction of this project.

Throughout my professional career which included working as an international trainer with those financially challenged, I know that a community which values affordable housing as a major element in its overall health thrives. Development of truly affordable housing for income challenged individuals ensures their place will not deteriorate into homelessness, a crisis of which Maui is currently fully experiencing.

Maui is in crisis. It is desperate for holistic leadership which values the reality of the current struggles of its local residents. I ask that you support the proposed Bill for An Ordinance Amending Chapter 2.96 because it is a step in the right direction for addressing our need for affordable rental housing

Sincerely,

Lisa Darcy
Haiku Community resident

County Clerk

From: William Greenleaf <bgreenleaf.maui@yahoo.com>
Sent: Wednesday, November 01, 2017 9:34 AM
To: County Clerk
Subject: CC 17-434.

Aloha Council Members:

I'm writing in support of agenda item CC 17-434.

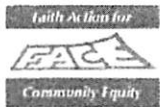
In years gone by, affordable homes have been sold at market price after an arbitrary time period has passed. The homes then become unaffordable and the owner gets a windfall profit. It's like the lucky owners are winning the lottery.

This bill includes a standard that allows for some minor appreciation when an owner sells. By limiting the appreciation, the next buyer can come from the pool of people who can not afford the high price of real estate on Maui.

I hope this bill get's 100% support from the Council.

Mahalo,
Bill Greenleaf
Makawao

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OFFICE OF THE
COUNTY CLERK



FACE Hawaii

October 27, 2017

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2017 NOV -1 PM 4:10

OFFICE OF THE COUNTY CLERK

The Honorable Mike White, Chairman
Maui County Council
200 S. High Street
Wailuku, HI 96793

Keith Webster
State President

Napua Amina
Maui President

Kathleen Jaycox
Oahu President

SUBJECT: A Bill for An Ordinance Amending Chapter 2.96, Relating to Residential Workforce Housing Policy

Kehaulani
Filimoe'atu
State Treasurer
& Maui
Representative

Dear Council Chairman White and Members:

Rev. Piula
Ala'ilima
Oahu
Representative

Faith Action for Community Equity (FACE) is a grassroots, interfaith, non-partisan organization that has been working on public and affordable housing issues for 21 years. Our membership represents two islands and a total of 34 faith-based institutions, a housing corporation, union, affordable housing tenants association and several other groups and non-profit organizations. FACE works to improve the quality of life for all the residents of Hawai'i.

Karen Ginoza
Oahu
Representative

Arising out of our Listening Processes over recent years, we have determined affordable housing to be the top priority for thousands of our members. Our families are being forced to move to the mainland because they simply cannot afford to live here- in the islands they grew up in and where their extended 'ohana and support systems remain. This is a tragedy for our state and FACE believes that the development of housing is everyone's responsibility.

Mary Weir
Oahu
Representative

We strongly support the proposed amendments to Chapter 2.96, which include rental housing credits. We believe they will undoubtedly provide the impetus for developers to create more affordable housing.

Rev. Elvis
Osonis
Maui
Representative

These proposed amendments will also enable Catholic Charities Hawai'i's Housing Development Corporation to build their 164-unit senior housing project. This proposed development is a fine example of what we desperately need for the people of Maui.

Thelma Akita-Kealoha
Maui
Representative

Christy
MacPherson
Executive
Director

It is time for strong political will to reverse our serious and dismal housing crisis.

Rev. Tasha
Kama
Maui Lead
Organizer

Thank you for your consideration,

Keith Webster, State President
Faith Action for Community Equity (FACE)

GARY P COLTON
480 Kenolio Rd 27-101
Kihei, HI 96753

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2017 NOV -1 PM 4: 38

October 23, 2017

OFFICE OF THE
COUNTY CLERK

Written Testimony
From
Father Gary P Colton
November 3, 2017

First, mahalo to all who gave testimony for the proposed bill pertaining to Rental Housing Credits, Amendment 2.96, on Friday October 20th) I am most grateful. I especially thank our Chairperson, Stacy Crevillo, on the Council Committee for Housing, Human Services and Transportation.

Second, I, Father Gary Colton continue to support this bill. The location of the Kahului Lani Project which will include two six-story multi-family residential buildings and a 7,500 square-foot multipurpose building in the middle of Kahului Town is perfect. The residents are close to Kaahumanu Shopping Center, Foodland, other stores and financial institutions. Also, many social services and agencies are nearby. The bus lines travel by the property.

Finally, because of these facts and more that I'm not even aware of now. I ask for your votes and the passage of Amendment 2.69.

Signed:



Father Gary Colton
(Retired or more accurate
"Recycled")



FAMILY LIFE CENTER, INC.
... a Place of Hope

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2017 NOV -1 PM 4:38

OFFICE OF THE
COUNTY CLERK

October 31, 2017

The Honorable Mike White, Chairman
Maui County Council
200 S. High Street
Wailuku, HI 96793

**SUBJECT: A Bill for An Ordinance Amending Chapter 2.96, Relating to
Residential Workforce Housing Policy**

Dear Council Chairman White and Members:

I am writing in support of the proposed bill to amend Chapter 2.96, the Residential Workforce Housing Policy. The proposed amendment will provide Rental Housing Credits for the construction of much-needed affordable rental housing for our community. The Rental Housing Credits will allow Catholic Charities Hawaii to develop a 164 unit, 100% affordable housing complex for seniors. The financing offered through the housing credits will allow this developer to secure additional resources for construction of this project.

As the Executive Director of Family Life Center, I know that affordable housing is a fundamental solution to homelessness. Development of truly affordable housing for income challenged senior citizens will allow them to live without fear of constantly rising rents, and with the added security of having on-site services. Creative solutions offered by experienced, trustworthy developers such as Catholic Charities will contribute to addressing long-neglected affordable housing needs in Maui County.

Family Life Center is located adjacent to this proposed property and would welcome the addition of this project to our neighborhood. We feel that this would be a good fit in this community.

I ask that you support the proposed Bill for An Ordinance Amending Chapter 2.96 because it is a step in the right direction for addressing our need for affordable rental housing. I thank you for the opportunity to provide written testimony prior to the Council's vote.

Sincerely,

Maude L. Cumming
Executive Director

RECEIVED

November 1, 2017

2017 NOV -2 AM 7: 53

Lena Staton
222 Anamuli St.
Kahului, Hawaii 96732

OFFICE OF THE
COUNTY CLERK

County Council
200 South High Street
Wailuku, Hi 96793

Subject: Bill No. 89 A Bill For An Ordinance Amending Chapter 2.96, Relating to Residential Workforce Housing Policy (Relating to Rental Housing Credits... HHT-2(1))

Dear Council Chair Mike White and Council Members,

I write in support of Bill For An Ordinance Amending Chapter 2.96, Relating to Residential Workforce Housing Policy (Relating to Rental Housing Credits... HHT-2(1)) to promote the development of new low-income rental housing for the needy. This proposed bill to amend 2.96 pertaining to Rental Housing Credits will help Maui build much needed affordable housing on Maui.

It's a sad fact that Maui doesn't have enough housing, but Maui also has a gross lack of affordable housing. I have been speaking with landlords such as myself. They are considering raising their rental rates because of their added expense of rising property taxes. An unfortunate financial adjustment for these landlords. This situation will make the dream of affordable housing even more unattainable.

We have an opportunity to provide affordable housing more easily by passing the Amendment on Chapter 2.96. Please take this opportunity to help boost the number affordable housing units on Maui.

This amendment to will help Catholic Charities Hawai'i's Housing Development Corporation build a 164 affordable senior rental units. Rental housing credits as proposed, especially for 100% affordable developments like Catholic Charities project will greatly enhance the of future affordable housing projects to obtain needed government financing. Catholic Charities Hawai'i, Housing Development Corporation is a 100% low-income developer with experience in building affordable housing. They are so close to success, with your help in passing the amendment to 2.96 building these much needed affordable units will have one less obstacle to hurdle.

I support and I humbly ask you to pass Bill For An Ordinance Amending Chapter 2.96, Relating to Residential Workforce Housing Policy (Relating to Rental Housing Credits... HHT-2(1)).

Sincerely,



Lena Staton
(808) 893-0928

CC 17- 434

RECEIVED

2017 NOV -3 PM 1: 27

Erika Lechuga Disalvo <erika.lechugadisalvo@gmail.com>

Fri 11/3/2017 8:24 AM

OFFICE OF THE
COUNTY CLERK

To:County Clerk <County.Clerk@mauicounty.us>;

Aloha Council,

I am writing to offer my support of CC 17-434. My name is Erika Lechuga DiSalvo and I am a 17 year resident of Maui. It is common knowledge we are in a affordable hosing crisis here on Maui. It is past overdue that long term measures be discussed and put into action to protect the average person living full time here.

I have come to learn that Maui County doesn't keep affordable homes that come onto the market affordable for long. As I understand it, the time frame is normally sometime between 5 and 10 years This is a problem. Once this time frame expires, the home owner can then sell the unit at a higher market price and inventory for affordable units decreases. We need affordable homes that stay affordable in perpetuity. Maui needs an constant inventory of affordable homes.

CC17-434 includes a useable and working formula to assist in this problem. This formula will manage the appreciation of the "affordable home" in a way that allows the homeowner to build equity and use their home as a conservative investment while keeping the resale price lower than the market rate homes. If I understand correctly, the bigger the original subsidy of the home the slower the appreciation. This formula also allows for a higher share of the appreciation to the homeowner the longer they own the home. This makes makes great sense for Maui. This formula was adapted from a community land trust who has been successful in building and maintaining affordable homes.

I have read that by managing the appreciation of affordable units, a second more affordable pool of housing for Maui workforce is created and it becomes protected and insulated from volatile market forces.

The people who really build our community- our teachers, our police force and firemen and women, our social workers, our medical staffs, our hotel workers and our construction workers need this. These people contribute to our island in important and necessary ways. The cost to live here in high. Our living wages are LOW. If Maui wants to support these people who give so much to Maui every day, this bill needs to be considered. Please schedule this bill to be read. The backbone of our island depends on it. The time is now.

Mahalo for your time.

With Aloha,

Erika Lechuga DiSalvo
808.250.5548

FW: STRH permitted homes should remain in the commercial tax category! Vote no on BF79

RECEIVED
2017 NOV -3 PM 1:28

Mike White

Fri 11/3/2017 8:54 AM

To: County Clerk <County.Clerk@mauicounty.us>;

OFFICE OF THE
COUNTY CLERK

From: Russell Evans [mailto:russelldevans@gmail.com]

Sent: Thursday, November 02, 2017 4:47 PM

To: Mike White <Mike.White@mauicounty.us>; Robert Carroll <Robert.Carroll@mauicounty.us>; Stacy S. Crivello <Stacy.Crivello@mauicounty.us>; Alika A. Atay <Alika.Atay@mauicounty.us>; Elle Cochran <Elle.Cochran@mauicounty.us>; Donald S. Guzman <Donald.Guzman@mauicounty.us>; Kelly King <Kelly.King@mauicounty.us>; Riki Hokama <Riki.Hokama@mauicounty.us>; Yukilei Sugimura <Yukilei.Sugimura@mauicounty.us>

Cc: mvra08@gmail.com; Honua Kai's Finest <info@honuakaisfinest.com>; Chris Smith Gmail <chris-smithla@gmail.com>; Angelia Crim <crima001@hawaii.rr.com>; David Fugate <defugate@gmail.com>; Juliana Sun & Mike McNeill <mike@mcneillfamily.org>; Elizabeth Evans <elizmevans@gmail.com>; Bruce Newnan <bbnewnan@earthlink.net>

Subject: STRH permitted homes should remain in the commercial tax category! Vote no on BF79

Dear Maui County Councilpersons,

Please vote **against** proposal BF79 to raise property taxes for STRH permitted homes above the Commercial tax category!

- Leave the STR homes in the Commercial tax category. This is already a 25% tax increase. If pushed to the current rate charged to the condos it would be a 60% tax increase!
- It is not fair to classify our permitted short term rental the same as condo units with the right to rent short term instilled by zoning.
- Agricultural efforts that are a requirement of STRH permits should not be taxed at Maui's highest tax rates.
- The restrictions on an STRH permit do not even allow permit holders to invite guests to exceed the maximum occupancy of the home, unlike Condos that do not need to abide by specific rules, prohibiting guests coming to the property.
- Condos have many units sharing a property to bring the individual unit's share of tax down to a more reasonable level.
- Condos can build a short term rental business to be sold with the unit (STRH permits do not transfer with ownership.)
- Condos do not go through a permitting process and pay an annual fee.
- Condos do not need the \$1,000,000 liability policy naming the County of Maui as an additional insured that is required of an STR. This alone can be an expense of \$1400 to \$2200 per year.
- Short Term Rental Homes are restricted to lower occupancy than condos or hotels.

- Short Term rental homes cannot produce revenue from activities, weddings, luaus, etc. which allow condos and hotels to generate additional revenue.
- It is ~~not fair~~ to increase our taxes while ignoring those operating without permits. It simply increases the unfair competitive advantage that the non-permitted rentals enjoy.
- And most significantly, many visitors to our beautiful island prefer to stay in rental homes as a family group. Our island depends on all levels of tourism. Please don't force us to pass the cost of higher taxes and increase our rental rates on to the visitors who are such a vital part of our island economy. At some point higher rates will discourage tourism.

Mahalo for considering our point of view by **voting against** increasing the property tax classification for Short Term Permitted rental homes.

Russell & Elizabeth Evans
16 Holomakani Place
Lahaina, HI 96761

~ A proud alumnus of "Semester at Sea" ~

FW: BF79 - Correction Requested

RECEIVED

2017 NOV -3 PM 1: 28

Mike White

Fri 11/3/2017 8:54 AM

To: County Clerk <County.Clerk@mauicounty.us>;

OFFICE OF THE
COUNTY CLERK

Importance: High

From: WRM Mark Marchello [mailto:mmarchello@vacation-maui.com]
Sent: Thursday, November 02, 2017 2:59 PM
To: Mike White <Mike.White@mauicounty.us>
Subject: BF79 - Correction Requested
Importance: High

Aloha Mike,

It has been brought to my attention that the Budget and Finance Committee passed BF79 out of committee last Tuesday, October 24, 2017. The intent is to create a new tax classification called Short Term Rental that will include all condominium units where short term rental is allowed, as well as short term rental permit holders.

Short term rental homes (STRHs) do not belong in the same category as hotels or condos.

Short term rental homes are not like condo units which have an inherent right to rent short term. That right is granted by a temporary permit.

In addition to it being a temporary permit, it is non-transferable and costly and difficult to obtain. Therefore a Short Term Rental permit holder is denied the ability to build a business that can be sold. A condo property has the right to rent short term instilled by zoning and it is transferable and adds to the property's value.

A STRH must be a single family home. It may not be an apartment building where the assessed land value can be split amongst hundreds of owners.

The land under a STRH is only allowed to build a single family home and an accessory dwelling and may not build out the land to the same intensity as an apartment or hotel zoned property.

STRHs are subject to many restrictions that actually reduce the activities and occupancy allowed on the land. A three bedroom STRH may be used by a maximum of six people. A 100 unit apartment building with two bedroom units could be used by as many as 600 people.

For STRHs, there is only one income stream and that's housing. There are no restaurants, meeting rooms, galleries, gift shops, clothing stores, bars, pool activities, beach activities, classes, concierge, room service, beach equipment rentals, snorkeling rentals, etc. They cannot have weddings or even parties.

The compromise of classifying Short Term Rental permit holders as "Commercial" was made to recognize the additional use being allowed by the permit. However, the Real Property tax administrator believes that properties should be classified by their highest and best use allowed by zoning. For short term rentals, that use would be Residential. Short Term Rental permit holders have already accepted a 25% higher tax rate as a result of their permit.

We need Short Term Rental permit holders to be left in the Commercial classification or even better, in the classification consistent with their zoning, for example Residential or Agricultural.

Thank you for removing the STRH's from this legislation.

Sincerely,

Mark A. Marchello, R

Mark

Property Manager
Whaler Investment Group, LLC
www.vacation-maui.com
propmgr@vacation-maui.com
800-676-4112 808-661-3484

Sales – Whaler Associates KW Island Living
SurfMauiRealEstate.com



Mark A. Marchello, R (PB) Mark A. Marchello, Inc.

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Walt Disney

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FW: STRH TAX November 3rd, 9:00 am meeting County Council

RECEIVED

2017 NOV -3 PM 1:28

OFFICE OF THE
COUNTY CLERK

Mike White

Fri 11/3/2017 8:53 AM

To: County Clerk <County.Clerk@mauicounty.us>;

From: Annie McNeil [mailto:paiastrfvacationhome@gmail.com]

Sent: Thursday, November 02, 2017 7:53 PM

To: Mike White <Mike.White@mauicounty.us>; Robert Carroll <Robert.Carroll@mauicounty.us>; Stacy S. Crivello <Stacy.Crivello@mauicounty.us>; Alike A. Atay <Alike.Atay@mauicounty.us>; Elle Cochran <Elle.Cochran@mauicounty.us>; Donald S. Guzman <Donald.Guzman@mauicounty.us>; Kelly King <Kelly.King@mauicounty.us>; Riki Hokama <Riki.Hokama@mauicounty.us>; Yukilei Sugimura <Yukilei.Sugimura@mauicounty.us>

Subject: STRH TAX November 3rd, 9:00 am meeting County Council

Dear Councilmembers of the Budget Committee,

At the time of STRH public testimony we were under the impression that our small, family-owned business would not be saddled with Hotel/Resort tax. We are local residents on this island, and not off island owners. We bought our home in 1997. We wish to ask the Council to create legislation to keep the tax rate for STRHs at the commercial/residential rate. All we are requesting is that the Council members honor the ruling that "commercial" tax classification was the most appropriate for short-term rental permit holders. STRH permit holders, who have followed the rules, and done the right thing to get permits, should not be penalized with a tax increase - especially as drastic as hotel-resort rate would.

Here are four great reasons for not taxing a STRH the same as a condo:

- 1) Short-term rental permits do not convey the same development or usage rights granted by hotel zoning. Short-term rental are restricted in at least a dozen ways compared to a hotel.
- 2) An STRH is only allowed to have one rental group staying within the house at any time. This severely limits our ability to generate income. Our STRH home has lower rental occupancy than a hotel.
- 3) Short-term rental permits are not changing the value of property since they cannot be transferred upon sale. Short-term rental home use has been defined in the code as a "Residential use".
- 4) Most importantly, STRH homes do not have nearly the ability to generate the same revenue a hotel does: no restaurants-spas-bars or paid resort activities.

Thanks to its progressive nature, the current County Council and Administration has taken great pains to help our Maui community by promoting permitted, small businesses to emerge from the shadows - and become legal. It took a lot of courage for both County officials, and underground business owners, to take action. A resort tax will reverse this positive outcome, and possibly send businesses scurrying back to the shadows. It is unfair to tax a home as a Hotel/Resort. We only ask that you please tax us fairly because we are a tiny speck in relation to condos and hotels.

Other important facts:

- If this bill passes 1st and 2nd reading at County Council STRH homes will be categorized as "Short Term Rentals" with the condos.
- The condos are currently taxed at "Hotel and Resort", and to keep the budget in balance, this rate will NOT go down, but could potentially go UP.
- Hotels would remain in the Hotel and Resort category, with some favoritism as they are considered the larger employers.
- Leave the STR home in the Commercial tax category (a 25% tax hike) instead of the condo rate (60% hike).
- Not fair to classify a permitted short term rental the same as a condo
- The restrictions on STRH permits prohibit guests on the property. Condos have no such rules.
- Condos have multi-units that bring the single unit's share down to a more reasonable level.
- Condos can build a shorter term rental business to be sold with the unit.
- Condos do not go through a permit process or pay annual fees.
- Condos not required to carry \$1M liability policy. STR's are, creating large annual expense up to \$2200.
- STR's are restricted to lower occupancy than condos or hotels.
- Unfair to raise taxes on rentals with permits while ignoring the many rentals operating without permits!

Thank you in advance for giving this your consideration.

Sincerely,

Annie and Chris McNeil

STPH2012/0001, TAX ID W04030496-01

paiastrf.com

FW: STRH Tax

RECEIVED

2017 NOV -3 PM 1: 28

OFFICE OF THE
COUNTY CLERK

Mike White

Fri 11/3/2017 8:54 AM

To: County Clerk <County.Clerk@mauicounty.us>;

From: Joy Nelson [mailto:westmango7@gmail.com]

Sent: Thursday, November 02, 2017 5:16 PM

To: Mike White <Mike.White@mauicounty.us>; Robert Carroll <Robert.Carroll@mauicounty.us>; Stacy S. Crivello <Stacy.Crivello@mauicounty.us>; Alike A. Atay <Alike.Atay@mauicounty.us>; Elle Cochran <Elle.Cochran@mauicounty.us>; Kelly King <Kelly.King@mauicounty.us>; Riki Hokama <Riki.Hokama@mauicounty.us>; Yukilei Sugimura <Yukilei.Sugimura@mauicounty.us>; Donald S. Guzman <Donald.Guzman@mauicounty.us>

Subject: STRH Tax

Aloha Council Members,

Short term rental homes are already taxed at the commercial rate of \$7.28, as opposed to \$5.54 for the residential rate, even though both categories of homes are very similar. You may hear stories of partying in a residential area. But that is why you hear the stories, because there is nothing to tell for the vast majority of rentals which house people merely relaxing in our tropical paradise. We lived next door to our rental for 6 years and very rarely had a problem with any of our guests.

Those of us with permits are willing to pay the commercial rate and have been doing so. But we object to being classified in a higher rate with condos who don't have to jump thru all the hoops involved with getting a permit because they have the right to rent short term instilled by zoning. They also don't have rules prohibiting guests from coming to their properties, and can transfer their rights to someone else, while we can't. Condos have many units sharing a property to bring the individual unit's share of taxes down to a more reasonable level. We don't need to be in a new category called "Short Term Rentals" with the condos.

I think it is obvious that hotels offer more units and amenities, which lead to more income, than we do. These include gift shops, spas, meeting rooms, bars, restaurants, etc. The current hotel rate is \$9.37 and we know that the newly proposed STRH won't be lower than that, may even be higher.

In 2014 the Budget Committee decided by a 7-0 vote to tax us as commercial for tax valuation. This was a good and fair decision. Let's keep it that way.

Sincerely,

Nellie's Rentals
Joy & Don Nelson, Owners
Stacy Vosberg, Operations Manager

FW: Testimony against classifying STRH's into a new tax class with condos

RECEIVED
2017 NOV -3 PM 1:28
OFFICE OF THE
COUNTY CLERK

Mike White

Fri 11/3/2017 8:55 AM

To: County Clerk <County.Clerk@mauicounty.us>;

From: Helene [mailto:horsulak@aol.com]

Sent: Thursday, November 02, 2017 6:13 AM

To: Mike White <Mike.White@mauicounty.us>; Robert Carroll <Robert.Carroll@mauicounty.us>; Stacy S. Crivello <Stacy.Crivello@mauicounty.us>; Alika A. Atay <Alika.Atay@mauicounty.us>; Elle Cochran <Elle.Cochran@mauicounty.us>; Donald S. Guzman <Donald.Guzman@mauicounty.us>; Kelly King <Kelly.King@mauicounty.us>; Riki Hokama <Riki.Hokama@mauicounty.us>; Yukilei Sugimura <Yukilei.Sugimura@mauicounty.us>

Subject: Testimony against classifying STRH's into a new tax class with condos

Aloha,

We are sending testimony via email because we cannot personally attend the Council meeting on Friday. We wish to testify against removing STRH properties from the current Commercial tax classification and adding them with condos into a new tax classification. Leave the STR homes in the Commercial tax category.

Our property in Hana currently holds an active, valid STRH permit, and it was a lengthy and expensive struggle to obtain the permit and meet the requirements that such a permit entails. We have noted that our rentals have decreased significantly over the last year and we believe it is the result of unpermitted rentals. As we ponder how to move forward in this market, it is with a great deal of frustration that we now face even higher tax liabilities with the recommendation of a move from the Commercial to a class higher than the Hotel tax classification which was recently proposed.

We have endured major additional expenses to obtain our permit, mounting significant plantings on our farm to meet not only the letter but the spirit of the agricultural requirements. We pay for the \$1M liability policy for the County of Maui. We maintain a guest limit of four persons. And we pay these expenses without the benefit condos have of sharing a property to maintain an individual owner's taxes at a reasonable level or the ability to pass on the permit to a new owner.

If the terms of the short term rental permit would be amended to allow the transfer of the permit on the sale of the property and allow the same kind of activities as hotels, then the higher tax rate can be justified. But within the current confines of the law, it is a grievous injustice to ask the legal STRH permit holders to pay a higher tax than even hotels merit.

My last issue is this: why is the Council so demanding that STRH's pay more than their share of taxes? Is it because they don't want the visitors we bring to Hana, or is it because the hotels are mounting an effort to shut us down? The guests we have will not stay in hotels, and if we can no longer make this rental home work, it will be sold as a second home to an owner that will contribute much less to the local economy than our vacation rental

guests contribute. And why isn't the law enforced to shut down unpermitted rentals? You seem to have a captive audience to pay taxes in the permitted rentals and are unfairly using them to balance your budget, without spending a cent to support the permitted rentals!

Thank you for your consideration,
Helene and Paul Orsulak

RECEIVED

2017 NOV -3 PM 1: 28

November 2, 2017

To: County Council Chair – Mike White &
County Council Members: Robert Carroll, Stacy Crivello, Alike Atay, Elle Cochran, Don Guzman,
Kelly King, Riki Hokama, Yukilei Sugimura

OFFICE OF THE
COUNTY CLERK

Testimony in regards to County Council meeting on November 3rd, 2017, Item #17-150

Tax reclassification for "Short-Term Rental" homes

My name is AJ Palmeira. I live in Haiku, on a property with a short term rental license.

I am a single mom of 2 children dependent on me. A great opportunity arose when we found ourselves looking for a long term rental as our previous rental was sold.

I was offered a living option on a short term rental licensed property. Within the home I'm renting there is one room used for visitor accommodation. This short term rental income makes it possible for me and my family to live in an affordable home in a safe neighborhood.

Now that a possible much higher property tax increase resulting from reclassification is being considered, the result may put myself and my family at high risk in losing our home.

Even if my landlord would consider giving up the short term rental license, the rent would increase. The market value for our 4 bedroom home in the long term market would be at least \$3000 + utilities. The current combination of short term and long term rental, has reduced my rent by 50%.

Please reconsider the recommendation from the budget and finance committee. Consider instead, leaving the short term rentals in the commercial tax classification. And when making your decision, please consider the effect that this change will have on residents.

We appreciate your time and humbly ask you for your support.

Mahalo,
AJ Palmeira,
Haiku, Maui Resident



RECEIVED

2017 OCT 25 PM 12:30

OFFICE OF THE
COUNTY COUNCIL

TRANSMITTAL

TO: Mr. Robert Carroll, Chair
Land Use Committee
200 S. High St.
Kalana O Maui Bldg
Wailuku, HI 96793

DATE: October 25, 2017

PROJECT: 201H Hana affordable housing project

ATTN:

SUBJECT: Response Letter

THE FOLLOWING IS ENCLOSED:

| | | | |
|--------------|---|----------------------|------------------------|
| FOR APPROVAL | | FOR YOUR USE | FOR REVIEW AND COMMENT |
| AS REQUESTED | x | FOR YOUR INFORMATION | OTHER |

| COPIES | DATE | DESCRIPTION |
|--------|-----------------|-----------------------------|
| 1 | October 25 2017 | Hardcopy of response letter |

COMMENTS:

I am transmitting 1 hardcopy of our response letter that was emailed to you earlier today.

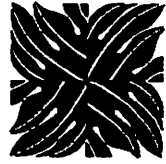
Please feel free to contact me at 242-1955 or bdavis@chpmaui.com with any questions or concerns.

Thank you,

-Brett Davis

COPY TO: Project File/13062

BY: Brett Davis



**CHRIS
HART**
& PARTNERS, INC.

Landscape Architecture
City & Regional Planning

October 25, 2017

Mr. Robert Carroll, Chair
Land Use Committee
County of Maui
200 S. High Street
Wailuku, HI 96793

Dear Chair Carroll

RE: Affordable Housing Projects (Chapter 201H, Hawaii Revised Statutes)
(Independent Development of 100 percent affordable Hana Housing Project)
(LU-2 (2))

Chris Hart and Partners, Inc., (CH&P) has prepared the following response to your letter dated October 10, 2017.

Comment 1. Please provide to the Committee a roadway cross-section that is acceptable to the Department.

Response: The Applicant's civil engineer has prepared the attached roadway cross-section. The figure was provided to the Department.

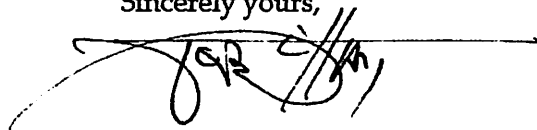
Comment 2. Please advise the Committee of the outcome of your further discussions with the Department on proposed exemption F.14, relating to Section 18.20.260, Maui County Code, and proposed exemption F.16, relating to Section 18.40.010, Maui County Code. Your response should indicate whether the Department is agreeable to the proposed exemptions or whether the Department recommends they be removed.

Response: In consultation with the Department it was determined that the exemptions F.14 and F.16 referenced above should be removed from the proposed exemption list.

Mr. Robert Carroll, Chair
Land Use Committee
Re: (LU-2 (2)), Hana 201H
October 25, 2017
Page 2

Thank you for your review of our responses. Please feel free to call me at (808) 242-1955 should you have any questions.

Sincerely yours,

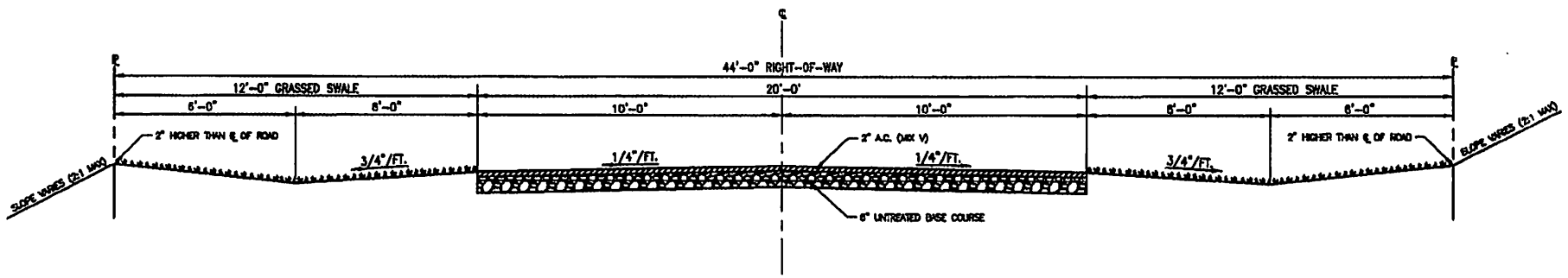
A handwritten signature in black ink, appearing to read "Jordan E. Hart", written over a horizontal line.

Jordan E. Hart, President
Land Planner

ENCLOSURES: (1)

1. Roadway cross-section

CC: Land Use Committee (Via Email)
Carla Nakata, Council Services (Via Email)
Rowena Dagdag-Andaya, Deputy Director, Dept. of Public Works (Via Email)
Paul Fasi, Planning Department (Via Email)
Carol Reimann, Director, Dept. of Housing and Human Concerns (Via Email)
(CH&P 13-062)



TYPICAL ROADWAY SECTION
 NOT TO SCALE

LU Committee

From: Anita Manzano <anitam@oha.org>
Sent: Friday, October 20, 2017 11:16 AM
To: planning@mauicounty.gov; LU Committee
Subject: OHA Response Letter
Attachments: 17-8305B OHA Response.pdf

Aloha,

Please find attached copy of an OHA Response Letter re: SHPD's Acceptance of Archaeological Inventory Survey Report and Significance Evaluations in Hana, Maui, for your records.

Mahalo,

Anita C. Manzano

Ka Pou Alo to the Ka Pou Kako'o

Kia'i Kanawai | Compliance Enforcement

Ka Paia Ku | Advocacy | Office of Hawaiian Affairs

560 N. Nimitz Hwy., Suite 200 | Honolulu, HI 96817

☎: (808) 594-1755 📠: (808) 594-1825 ✉: anitam@oha.org



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**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HWY., SUITE 200
HONOLULU, HAWAII 96817**

HRD17-8305B

October 17, 2017

Susan Lebo, Ph.D.
Archaeology Branch Chief
State Historic Preservation Division
601 Kamokila Blvd., Room 555
Kapolei, HI 96707

**Re: Comments on State Historic Preservation Division's Acceptance of Archaeological Inventory Survey Report and Significance Evaluations
Kawaipapa Ahupua'a, Hāna Moku, Maui Moku
Tax Map Key: (2) 1-3-004:001**

Aloha e Dr. Lebo:

I am writing in regards to a State Historic Preservation Division (SHPD) letter dated March 31, 2014 (Log No. 2014.00059, Doc No. 1403MD55), wherein which SHPD accepted an archaeological inventory survey (AIS) report titled, *Draft Archaeological Inventory Survey, TMK (2) 1-3-04:001, Kawaipapa Ahupua'a; Hana District; Island of Maui* (Haun and Henry 2014).

The report documents an AIS conducted of the subject parcel in 2008. During the survey, twenty-six sites, comprised of 169 features, were identified. The identified features include traditional Hawaiian stone-lined pits, walls, terraces, modified outcrops, mounds, enclosures, artifact scatters, platforms, and pavements dated pre-contact. Of the twenty-six sites, only one site, Site 4964, a historic railway grade, was recommended for preservation. Site 4964 was determined significant under Criterion A and Criterion D. No further work was recommended for twenty-two sites. Data recovery was recommended for Sites 6528, 6545, and 6550. The report also states that as an alternative to data recovery, Sites 6528, 6545, and 6550 could be preserved in accordance with a preservation plan. Twenty-one of the twenty-six sites are traditional Hawaiian habitation or agricultural sites, all of which were determined significant under only Criterion D.

OHA is concerned that SHPD accepted the AIS report and the significance evaluations in error. The traditional Hawaiian sites are significant under Criterion E and OHA and Native

Hawaiian organizations should have been consulted with regarding the significance evaluations and mitigation measures for these sites.

Pursuant to Hawai'i Administrative Rules (HAR) § 13-284-6(b)(5), sites that "have an important value to the native Hawaiian people . . . due to associations with cultural practices once carried out . . . or due to associations with traditional beliefs, events or oral accounts -- these associations being important to the group's history and cultural identity" are significant under Criterion E.

HAR § 13-284-6(c) states,

Prior to the submission of significance evaluations for properties other than architectural properties, the agency shall consult with ethnic organizations or members of the ethnic group for who some of the historic properties *may* have significance under criterion 'e', to seek their views on the significance evaluations. For native Hawaiian properties which *may* have significance under criterion "e", the Office of Hawaiian Affairs also shall be consulted (emphasis added).

Native Hawaiian organizations and OHA should have been consulted to seek our views on the significance evaluations prior to SHPD accepting the report. Although OHA argues that these sites are significant under Criterion E, OHA emphasizes that a site does not have to be determined significant under Criterion E before an agency is required to consult with OHA and other Native Hawaiian organizations on the significance evaluations. The regulations state that an agency shall consult with Native Hawaiian organizations and OHA if a property may have significance under Criterion E.

In addition to consulting with OHA and Native Hawaiian organizations about the significance evaluations, we should have been consulted with regarding proposed forms of mitigation. According to HAR § 13-284-8(a)(2),

If properties with significance, so evaluated under criterion "e" . . . are involved, the agency shall initiate a consultation process with ethnic organization or members of the ethnic group for whom the historic properties have significance under criterion "e" to see their views on the proposed forms of mitigation. For native Hawaiian properties which may be significant under criterion "e", the Office of Hawaiian Affairs also shall be consulted.

OHA is requesting that SHPD rescind their March 31, 2014 letter approving the AIS report, assess these twenty-one sites as significant under Criterion E, and provide OHA and Native Hawaiian organizations their rightful opportunity to consult about mitigation measures for these sites.

Dr. Susan Lebo, SHPD Archaeology Branch Chief

October 17, 2017

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Thank you for your attention to this matter. We look forward to your response. Should you have any questions, please contact Teresa Kaneakua, OHA Lead Compliance Specialist, at (808) 594-0231 or teresak@oha.org.

'O wau iho nō me ka 'oia 'i'o,



Kamana'opono M. Crabbe, Ph.D.
Ka Pouhana, Chief Executive Officer

KC:tk

Cc: Dr. Susan Lebo, SHPD Archaeology Branch Chief (*via email*)
Dr. Barker Fariss, SHPD Maui Archaeologist (*via email*)
County of Maui, Department of Planning (*via email*)
Maui County Council, Land Use Committee (*via email*)