

REQUEST FOR LEGAL SERVICES

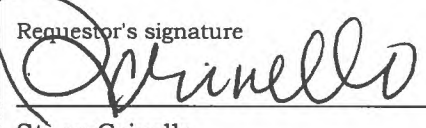
Date: October 10, 2017
From: Stacy Crivello, Chair
Housing, Human Services, and Transportation Committee

TRANSMITTAL
Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Jeffrey Ueoka, Esq.

Subject: AMENDMENTS TO THE RESIDENTIAL WORKFORCE HOUSING POLICY (PROPOSED AMENDMENTS RELATING TO CREDITS, RESTRICTIONS FOR RENTAL UNITS, AND VACANCIES IN RESIDENTIAL WORKFORCE HOUSING UNITS) (HHT-2(1))

Background Data: Please incorporate revisions made at the October 5, 2017 HHT Committee meeting, and other nonsubstantive revisions based on the attached marked-up copy, and approve as to form and legality. Please also include the revised hard copy in your response.

Work Requested: FOR APPROVAL AS TO FORM AND LEGALITY
 OTHER:

Requestor's signature  Stacy Crivello	Contact Person <u>Shelly Espeleta or Mimi DesJardins</u> (Telephone Extension: 7134 or 7886, respectively)
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- ROUTINE (WITHIN 15 WORKING DAYS) RUSH (WITHIN 5 WORKING DAYS)
 PRIORITY (WITHIN 10 WORKING DAYS) URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): October 11, 2017, 9 a.m.
REASON: To meet posting deadline for the October 20, 2017 Council meeting.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR: APPROVED DISAPPROVED OTHER (SEE COMMENTS BELOW)
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

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

DEPARTMENT OF THE CORPORATION COUNSEL

Date _____

By _____

(Rev. 7/03)

hht:ltr:002(1)acc01:ske

Attachment

ORDINANCE NO. _____

BILL NO. _____ (2017)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96, MAUI COUNTY CODE, RELATING TO RESIDENTIAL WORKFORCE HOUSING POLICY

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

SECTION 1. Section 2.96.050, Maui County Code, is amended by amending subsection A to read as follows:

“A. Credits may be [given under the following circumstances:] issued by the director, upon request by the developer, provided that:

[1. Upon developer's request, credits may be given for every single-family dwelling unit, two-family dwelling unit, or multi-family dwelling unit constructed and sold at affordable rates, in excess of the residential workforce housing units required by section 2.96.040, provided that developments comprised of one hundred percent residential workforce housing units shall be eligible for credits totalling no more than seventy-five percent of the total number of residential workforce housing units constructed.

2. Credits may be issued for a one hundred percent affordable project developed pursuant to section 201H-38, Hawaii Revised Statutes, provided that, one residential workforce housing credit shall be given, upon request by the developer, for every single-family dwelling unit, two-family dwelling unit, or multi-family dwelling unit constructed and sold at affordable rates, in excess of fifty percent of the total number of units constructed and sold at affordable rates in the project. Credits shall not be issued for projects developed pursuant to section 201H-38, Hawaii Revised Statutes, that are not one hundred percent affordable.]

1. Each residential workforce housing unit constructed in the development shall be encumbered by a recorded deed restriction that meets the requirements of this chapter.

2. Each residential workforce housing unit shall be sold or rented to an income eligible individual.

3. Credits may only be issued for each residential workforce housing unit sold or rented to an income eligible individual in the appropriate income group, that is in excess of the residential workforce housing requirement set forth in section 2.96.040, provided that, ^{for} those developments comprised of one hundred percent residential workforce housing units, only seventy-five percent of the residential workforce housing units sold or rented to income eligible individuals shall be eligible for credits. Further provided that, ~~for those~~ developments comprised of one hundred percent residential workforce housing units that are to be rented to ~~these~~ households whose gross annual family income is sixty percent or less of the area median income as established by HUD, or as adjusted by the department, for Hana, Lanai, and Molokai, shall be eligible for credits for each residential workforce housing unit constructed.

4. Notwithstanding the foregoing, for those developments developed pursuant to chapter 201H, Hawaii Revised Statutes, only those developments comprised of one hundred percent residential workforce housing units shall be eligible to receive credits. Credits may only be issued for those residential workforce housing units sold or rented to income eligible individuals in the appropriate income groups, in excess of fifty percent of the total number of residential workforce housing units constructed.”

SECTION 2. Section 2.96.070, Maui County Code, is amended to read as

follows:

“2.96.070 Residential workforce housing restrictions – rental units. A. Timing of completion. Residential workforce housing units shall be made available for occupancy either prior to or concurrently with market rate units at the same ratio required of the development. Certificates of occupancy shall not be issued and/or final inspections shall not be passed for the market rate units unless certificates of occupancy are issued and/or final inspections are passed for the residential workforce housing units concurrently or sooner.

[B. Vacancies. Any rental unit vacancy must be filled by an applicant in the appropriate income group to better maintain an equal distribution of rentals across the "very low income" and "low income," "below-moderate income," and "moderate income" groups.

C.]B. Deed restrictions.

1. The rental residential workforce housing unit [must remain affordable] shall be subject to the requirements of this chapter for thirty years, [from the] commencing on the date of initial occupancy.

2. For the thirty-year [affordability] deed-restricted period, the following shall apply:

a. The owner must notify the department upon a decision to sell the rental development and the County shall have the first option to purchase the rental development from the owner; said option shall be available to the County for a period of one hundred and twenty days from receipt of written notice from the owner and shall not apply to sales by reason of foreclosure.

b. Any new owner must comply with the deed restrictions.

c. Owner or owner's representative shall submit proof of compliance with income guidelines for rentals quarterly.

3. Within [90] ninety days of the expiration of the thirty-year [affordability] deed-restricted period, the owner shall offer the County the right to purchase the property at market value as determined by the owner.

4. The deed restriction shall set forth the number of units in the development that shall be designated as residential workforce housing units along with the relative income group of those units. The deed restriction may, but shall not be required to, identify specific units as residential workforce housing units.

[D.]C. Rental rates. The monthly rental rates set forth in the lease shall be [set by the department] based on HUD income limits subject to approval by the department or as otherwise provided in this chapter.

D. Failure to rent within income groups. In the event owner or owner's representative does not maintain the required distribution of rentals among the appropriate income groups or rents outside of the appropriate income groups, owner or owner's

representative shall pay to County, for deposit into the affordable housing fund, the difference between the actual rent paid and the rent for the appropriate income group as required under the deed restriction.

E. Annual recertification. Owner or owner's representative shall complete an annual recertification of tenants that are occupying the residential workforce housing units to verify that the tenants meet income guidelines.

F. Graduated income tenants. For those tenants who have graduated to a higher income group during the term of the lease but still remain within an appropriate income group, if owner or owner's representative elects to continue to lease to tenant, the monthly rental rate shall be the rate for the income group which tenant is within. For those tenants who during the term of the lease have graduated to an income level that is in excess of the income groups for rental units, if owner or owner's representative elects to continue to lease to tenant, the annual rental rate shall be equivalent to thirty percent of tenant's gross income. Owner or owner's representative shall be responsible for paying County in accordance with section D, above. Owner or owner's representative shall make its reasonable best efforts to maintain the proper distribution of rentals across the "very low income" and "low income," "below-moderate income," and "moderate income" groups."

SECTION 3. Section 2.96.100, Maui County Code, is amended by amending subsection D to read as follows:

~~"D. Selection [Priority.] priority.~~

~~1. Residents on the wait list shall receive first priority for the available units. Nonresidents on the wait list may rent a residential workforce housing unit once the wait list has been exhausted of all residents.~~

~~2. The developer, its partner, or its management company may do a mass mailing of housing applications to applicants on the wait list.~~

~~3. The residential workforce housing units shall be offered to residents in the order in which their names were drawn in the lottery, provided that there is a unit available in the income group for which they qualify. Nonresidents will then be offered residential workforce housing units in the order in which their names were drawn in the lottery, provided~~

that there is a unit available in the income group for which they qualify.

4. The developer, its partner, or its management company shall submit copies of the following information to the department to verify the rental of residential workforce housing units to eligible renters:

a. Applicant's completed final rental application[;].

b. Executed rental lease[; and].

c. All signed federal and state tax returns used to determine eligibility, or any other documents used to determine eligibility by the developer, its partner, or its management company.

5. The developer, its partner, or its management company shall maintain a wait list for the development after all of the units are rented, which shall be used to fill any vacancy.

6. [Any rental unit vacancy shall be filled by an applicant in the same income group as the original tenant to maintain an equal distribution of rentals across the "very low income" and "low income," "below-moderate income," and "moderate income" groups.] In the event of a vacancy in a residential workforce housing unit, owner or owner's representative shall make its reasonable best efforts to fill the unit with an applicant in the same income group as the vacating tenant to maintain the proper distribution of rentals across the "very low income" and "low income," "below-moderate income," and "moderate income" groups. If after a thirty-day period the unit remains vacant and owner or owner's representative has made its reasonable best efforts, as determined by the director, to rent the unit to an income qualified individual, owner or owner's representative may rent the unit on the open market for a period not to exceed twelve months. Upon the tenant vacating the unit or the expiration of the twelve month period, whichever is sooner, owner or owner's representative shall make its reasonable best efforts to rent to an income qualified individual to maintain the proper distribution of rentals across the "very low income" and "low income," "below-moderate income," and "moderate income" groups.

7. An owner of a residential workforce housing rental development intending to sell the development shall notify the department in writing prior to the closing of the sale,

~~and shall provide documentation to the department that the prospective new owner acknowledges and is aware of the terms, conditions, and restrictions encumbering the development as set forth in section 2.96.070.”~~

³
SECTION ~~4~~. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

⁴
SECTION ~~5~~. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:



JEFFREY UEOKA
Department of the Corporation Counsel
County of Maui
2016-1027
2017-08-08 Revised Ordinance