BFED Committee

From: Amanda M. Martin <Amanda.M.Martin@co.maui.hi.us>
Sent: Thursday, April 2, 2026 11:21 AM
To: BFED Committee
Cc: Pauline Martins
Subject: FW: Discussion on Bill 34 (2026), Amending Fiscal Year 2026 Budget, Affordable Housing Fund Repayment to Kamalani Ventures LLC (BFED-20(26))
Attachments: LTR 260312 Dir. to BFED re Kamalani Ventures (BFED-20(26)).pdf; LTR 260312 Dir. to BFED re Kamalani Ventures (BFED-20(26)).Attachments.pdf

Aloha,

Attached you will find the response to BFED Chair Sugimura's letters of 2/27/26 and 3/5/26 including the attachments.

Please let me know if there is anything else that you need.

Mahalo!

Amanda M. Martin
Private Secretary to the Director
County of Maui | Department of Housing
Email: amanda.m.martin@co.maui.hi.us
Phone: (808) 270-7125 | Fax: (808) 270-6284

From: Amanda M. Martin
Sent: Thursday, March 12, 2026 1:36 PM
To: Estrelita B. Dahilig <Estrelita.B.Dahilig@co.maui.hi.us>
Cc: Shyah Okudara <Shyah.Okudara@co.maui.hi.us>; Ezekiela I. Kalua <Zeke.Kalua@co.maui.hi.us>; Kelii P. Nahooikaika <Pili.Nahooikaika@co.maui.hi.us>
Subject: Discussion on Bill 34 (2026), Amending Fiscal Year 2026 Budget, Affordable Housing Fund Repayment to Kamalani Ventures LLC (BFED-20(26))

Aloha Lita,

Attached you will find the Department's response to BFED Chair Sugimura's letters of February 27, 2026, and March 5, 2026.

Should you have any questions, please contact me.

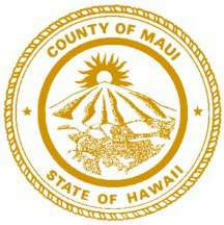
Mahalo for your assistance!

Amanda M. Martin
Private Secretary to the Director
County of Maui | Department of Housing
Email: amanda.m.martin@co.maui.hi.us
Phone: (808) 270-7125 |Fax: (808) 270-6284

RICHARD T. BISSEN, JR.
Mayor

RICHARD E. MITCHELL, ESQ.
Director

SAUMALU MATA'AFA
Deputy Director



DEPARTMENT OF HOUSING
COUNTY OF MAUI
2065 MAIN STREET, SUITE 108
WAILUKU, MAUI, HAWAI'I 96793
PHONE: (808) 270-7351
FAX: (808) 270-6284

March 12, 2026

Honorable Richard T. Bissen, Jr.
Mayor, County of Maui
200 South High Street
Wailuku, Hawai'i 96793

For Transmittal to:

Yuki lei K. Sugimura, Chair
Budget, Finance, and Economic Development Committee (BFED)
200 South High Street
Wailuku, Hawai'i 96793

Dear Chair Sugimura:

SUBJECT: **DISCUSSION ON BILL 34 (2026), AMENDING FISCAL YEAR 2026 BUDGET: AFFORDABLE HOUSING FUND REPAYMENT TO KAMALANI VENTURES LLC** (BFED-20(26))

The Department of Housing (Department) is in receipt of the Budget, Finance, and Economic Development Committee's (BFED) letter sent on Friday, February 27, 2026, at 4:21 p.m., which requested responses to four questions by Monday, March 2.

At the BFED meeting on March 3, Council members articulated several concerns about Bill 34 (2026), the budget amendment ordinance relating to Alexander & Baldwin's (A&B) overpayment on behalf of Kamalani Ventures LLC. As a result, by letter dated March 3, addressed to Council Chair Lee, the Department requested that Bill 34 be canceled from the Council's March 6 meeting agenda so the Department could investigate the concerns expressed prior to second reading of the bill.

The Department is also in receipt of the BFED letter sent on Thursday, March 5, 2026, at 4:50 p.m., which requested responses to six questions by Thursday, March 12, 2026.

The questions contained in both BFED letters and the Department's responses follow. In addition, the Department has endeavored to provide additional relevant information on related issues in this letter. As the Department did not exist when the Kamalani project was completed in 2019, its current leadership team lacks direct knowledge of how the project progressed. Accordingly, the Department has requested that a Kamalani project representative be present at the next BFED Committee or Council where the budget amendment may be considered to address the project's history.

Thank you for the opportunity to look deeper into the Kamalani project, and for your continued support and collaboration in achieving the Department's mission.

1. **What is the formula used to calculate original payment?**

   "Any units that remain unsold may be offered at market rate without deed restrictions. Upon the sale of the unit, the County shall receive fifty percent of the difference between the original sales price of the unit and the actual market rate sales price, for deposit into the affordable housing fund. In this event, the developer shall still be deemed to have satisfied the requirement for producing a residential workforce housing unit." Section 2.96.90(D)(4)(d), Maui County Code (MCC).

2. **What calculation or interpretation changed between the original payment and the current reconciliation?**

   As noted by the Department during the BFED Committee meeting on March 3, A&B calculated the payment amount required under Section 2.96.90(D)(4)(d), MCC, by subtracting the thirty Residential Workforce Housing Units (RWHU) sold from the 170 built, instead of the 115 that were the minimum requirement under the project's residential workforce housing agreement.

3. **What is the impact to the Affordable Housing Fund? Would this repayment reduce program uses in Fiscal Year 2026 or require internal cash management to avoid disrupting other funded items?**

   As noted by the Department during the BFED Committee meeting on March 3, the Department does not anticipate a negative impact to the

Affordable Housing Fund, a reduction in Department programs reliant on the Affordable Housing Fund for Fiscal Year 2026, or other internal disruptions.

4. What internal control changes are now in place so that a similar calculation error does not occur?

The Department's current leadership cannot speak to the administrative practices of the former Department of Housing and Human Concerns' (DHHC) in approximately 2019. Neither the Department nor its current leadership were not in place at that time.

Following the Department's inception on July 1, 2024, and while the Department was in its early reorganization phases, several issues relating to DHHC issues were given to the Department's leadership team to resolve. The A&B overpayment was one of those issues.

The process for calculating the amount a developer may owe to the County was and is determined under Section 2.96.90(D)(4)(d), MCC. Department staff must determine the number of RWHUs sold at market rate and at what price. This requires reviewing the applicable residential workforce housing agreement, the developer's project sales records, cross-checking those records with data on the County's Real Property Assessment Division's website (qPublic), and then calculating 50 percent of the difference between the workforce housing sales price and the actual market rate sales price.

The 2019 A&B overpayment appears to be an anomaly, as the Department is unaware of other overpayments or underpayments under Section 2.96.90(D)(4)(d), MCC, prior to July 1, 2024. Since the Department's inception, the Department has not sought or otherwise received payments required under Section 2.96.90(D)(4)(d), MCC.

5. Provide the project's residential workforce housing agreement and all documents that set or modify the applicable conditions. Include the required unit count, payment obligation, and the basis for the $234,050 repayment calculation.

Please see the attached Kamalani project's residential workforce housing agreements recorded respectively on June 26, 2015 (Doc. No. A-56550796) (Attachment 1), and July 12, 2017 (Doc. No. A-64020683) (Attachment 2).

Regarding the second sentence of the above question (e.g., "payment obligation, and the…$234,050 repayment calculation"), please see the Department's response below to the seventh question.

6. Provide copies of the communications that triggered the refund request, including the sender, recipient, date, and subject of each communication. Also provide the Department's internal timeline that shows how the issue was identified, reviewed, and validated, including key dates and decision points.

As noted above in response to the fourth question, A&B's overpayment was brought to the Department's attention after its inception, on December 30, 2024. The Department received an email from A&B's legal counsel (Attachment 3).

A&B / Kamalani Project Timeline

06/17/21 Former DHHC Director, Lori Tsuhako, wrote to A&B's legal counsel, Rick Kiefer of Cades Schutte, about the Kamalani project not meeting the RWHU requirement with only 30 of 115 required RWHU's sold (Attachment 4). In that letter, former DHHC Director Tshuhako wrote: "Despite the efforts made, however, only thirty (3) units were successfully sold as workforce units, far below the one hundred fifteen (115) minimum requirement.…Without delivering the minimum number of workforce units, there are no excess workforce units sold that would entitle the developer to receive credits."

07/22/21 Mr. Kiefer wrote to Deputy Corporation Counsel (DCC) Mimi Desjardins inquiring on whether Chapter 2.96, MCC, allowed housing credits to be issued.

07/23/21 DCC Desjardins advised Mr. Keifer that the County's position on housing credits remained the same (i.e., no credits for unsold RWHUs), acknowledged A&B's apparent overpayment to the County, and inquired on whether Mr. Keifer wanted to discuss how to calculate the refund.

Department Created - 07/01/24

07/01/24 Mr. Kiefer asked DCC Desjardins about the developer's refund relating to the A&B overpayment on fifty-five Kamalani project RWHUs.

07/02/24 DCC Desjardins directed Mr. Kiefer to DCC Kristina Toshikiyo, and asked Messrs. Kiefer and Keola Whittaker for a spreadsheet calculating the overpayment.

07/02/24 Mr. Kiefer emailed DCC Desjardins with the Kamalani project's sales spreadsheets which also tracked payments made to the County.

07/03/24 Mr. Whittaker emailed DCC Desjardins – "Attached is a spreadsheet of sales for the Kamalani units. I added up the payments made to the County for the last fifty-five RWHU units and that total is $235,550."

Department Later Corrects Reimbursement Amount From $235,550 to $235,050

07/19/24 Mr. Whittaker emailed DCC Desjardins to follow up on his calculation - "The calculation was pretty simple. I added up the amounts paid to the County for the last fifty-five units by date sold. I had someone else do the same calculation to confirm accuracy."

07/22/24 DCC Desjardins responded to Messrs. Kiefer and Whittaker - "This is being handled primarily by Kristina as she is assigned housing developments. I will follow up with her as well. Hope to be able to fit it in this week."

11/01/24 Mr. Whittaker to DCC Desjardins – "Since it's been a few months, I thought I'd check in to see if there's anything more we need to do or provide to get A&B a refund for their overpayments to DHHC. We would also appreciate an update on when A&B can expect to hear back."

12/30/24 Mr. Whittaker to DCC Desjardins – "It's been six months since we submitted our request for a refund of A&B's $235,550 overpayment to the County. We provided spreadsheets showing the overpayment along with an explanation. We also followed up about two months ago. We'd appreciate it if we could wrap up this matter soon, so we don't have to be a nudge about it in 2025."

Department First Learns About A&B Issue - 12/30/24

12/30/24 DCC Desjardins to Mr. Whittaker - "Can you please forward the spreadsheet again, and include Saumalu Mata'afa, the Deputy Director of Housing? *You might point out to A&B that I asked Mr. Kiefer if he wanted to resolve this issue when I emailed him on July 23, 2021. Unless I am missing an email, I didn't hear back from anyone at Cades Shutte until your email of July 1, 2024, almost 3 years later.* We will do our best to work with the Department of Housing as expeditiously as possible to verify the information in your

spreadsheet, but there is no guarantee we can do so within A&B's desired timeframe."

12/30/24 Mr. Whittaker to DCC Desjardins - "I've attached the spreadsheet showing the sales of the Kamalani units. To arrive at the $235,550 number, I added up the amounts in the "Due to County" column for the last 55 affordable units, starting in 2019 ($180,500 for 42 units) and the 2nd half of 2018, going backwards chronologically based on the dates in the 'Date Closed' column for the last 13 affordable sales that generated an amount due to the County in 2018" (Attachment 3).

02/27/25 Mr. Whittaker to Deputy Director Saumalu Mataʻafa – "Since it's been a couple of months, I thought I would check in to see if you had any questions. I also took the liberty of highlighting the payments made in late 2018 on the attached spreadsheet for you that we used to calculate the amount our client is owed."

02/28/25 Deputy Mataʻafa to Department Director –"Please see the attached email from Mr. Whittaker. I was copied on the email a couple months ago and wanted to see if we could meet with him to discuss his request to recuperate an overpayment to the County." A meeting to discuss the overpayment was scheduled for March 17.

03/17/25 Mr. Whittaker– requested that the meeting be rescheduled. He wrote the following to the Department: "I had a client emergency come up this morning that will require my attention at 10am."

05/22/25 Mr. Whittaker to Department Director and Deputy Mataʻafa - "Now that the County's budget process has concluded, I'm following up regarding the $235,550 owed to our client in connection with the workforce housing units for which A&B did not receive credits. Our last discussion was on April 8, at which time we understood there would be further follow-up after budget season. We would appreciate an update on the status of this matter. If there is any additional information needed from our side to move this forward, please let us know."

07/23/25 Mr. Whittaker to Department Director and Deputy Mataʻafa – "I am writing to follow up on this request again. I think we're all in agreement that A&B is owed the amount it overpaid. Is there anything we can do to get this processed? We made this request more than a year ago. I know it hasn't been with you quite that long, but if there's anything we can do to assist in moving this forward, please let us know."

08/06/25 Mr. Whittaker to Department County Housing Programs Division Administrator, Cassi Yamashita – "Hi Cassi, I am writing to follow up on this request. It's been more than a year since we first made it. Is it just an administrative issue at this point, or do you need more information from me? Would it be possible to process the payment this month? Thanks."

08/06/25 Ms. Yamashita to Mr. Whittaker – "Aloha Keola. I am working with Corporation Council to see how we can process this. I will provide updates as soon as I can. I understand this has been an ongoing issue and I am motivated to get this taken care of. Mahalo for your patience."

09/30/25 Ms. Yamashita to Mr. Whittaker – "Aloha Keola. I have reached out to Corp. Counsel and was advised you were in communications with them on concerns with this project. I believe there may be some other issues that need attention with the project. I don't have historical knowledge about the other concerns. I will reach out to them again today."

Department Director's Office Takes On Resolving Issue - 10/25

10/14/25 Department Director sent a Request for Legal Services (RFLS) to Department of Corporation Counsel seeking advice on whether Council approval was required for the Department to process a refund for the Kamalani project to A&B, requesting a 10-day reply.

12/03/25 The Department of Corporation Counsel responded to the Department's RFLS by email (Attachment 6).

12/05/25 Mr. Whittaker to Ms. Yamashita – "I'm sorry to be a nudge, but it's been 4 months since this was transferred back to Corp. Counsel's office (they had it for the first 6 months), and we still haven't heard anything. Do you have a contact or name of someone in that office I can reach out to, or do you have any updates? So far everyone has agreed on the facts and the amount, so I am confused as to why this simple request has taken more than a year to process."

12/05/25 Ms. Yamashita advised Mr. Whittaker that the Department received a response from Corporation Counsel and that the Department Director would be reaching out to him to discuss the overpayment.

12/12/25 Department Director's office emailed Mr. Whittaker to validate the 50 percent reimbursement amount noted in the Kamalani

project sales spreadsheet and the interest rates used in 2017, 2018, and 2019.

01/28/26 Mr. Whittaker responded to Department Director's office. Department Director spoke with Mr. Whittaker concerning the discrepancy in the overpayment calculation.

01/30/26 Department Director spoke to and subsequently emailed the Director of the Department of Finance, Marcy Martin, to request information on the exact amounts paid by Kamalani Ventures LLC (via A&B) to the County (Attachment 7).

02/04/26 The Department of Finance provided the Department Director with evidence of the County's deposit of four payments made by A&B relating to the Kamalani project (Attachment 8).

- Deposit No. – Nov 29 18 000975 – $187,100.00
- Deposit No. – Jan 17 19 001324 – $128,240.00
- Deposit No. – Feb 28 19 001651 – $180,950.00
- Deposit No. – Oct 16 19 000724 – $180,500.00

Department Corrects Reimbursement Amount
From $235,550 to $235,050

02/04/26 On receipt of evidence of the above-noted deposits with the County relating to the Kamalani project, the Department Director requested the preparation of a budget amendment to reimburse A&B (Attachment 9). The Department's budget amendment request is for $234,050, which is $500 less than the amount originally requested by A&B for the overpayment on the Kamalani project.

7. Provide the calculation workpapers and source data the Department used to verify sales history and unit status, including the unit counts discussed at the meeting and the method the Department used to confirm those counts.

As noted in the timeline above, Mr. Whittaker provided the Department with a spreadsheet that itemized all Kamalani project unit sales from 2017 to 2019, summarized payments to DHHC, that showed the developer's calculation of the required payments under Section 2.96.090(D)(4)(d) (Attachment 5).

The Department reviewed the sale prices on qPublic for all Kamalani units listed in the Kamalani project spreadsheet and identified the following discrepancies.

- Unit 903 – Kamalani listed the sale price on its spreadsheet as $320,000, while qPublic listed it as $321,500.

- Unit 3704, Kamalani listed the sale price on its spreadsheet as $377,600, while qPublic listed it as $379,100.

- Unit 3705, Kamalani listed the sale price on its spreadsheet as $310,710, while qPublic listed it as $310,700.

Units 3704 and 3705 were sold as RWHUs, and therefore no payment was owed to the County for those units.

As noted above, the Department of Finance provided Director Mitchell with evidence of A&B's payments to the County (Attachment 8). All four payments aligned with the corresponding payment information in the Kamalani project spreadsheet. The total and verified amount paid by A&B to the County was $676,790.00.

The Department revised the Kamalani project spreadsheet to address the discrepancies noted above with the corrected amounts to validate the correct overpayment amount. To determine the overpayment, the Department calculated the total amount paid to the County for the final fifty-five market-rate units sold, which include forty-two units in 2019 and thirteen units in 2018. The total paid to the County was $53,550 in 2018 and $180,500 in 2019, for a combined total of $234,050.

As noted in the timeline above, Mr. Whittaker stated in an email dated December 30, 2024, that the overpayment amount was $235,550. Following discussions with the Director Mitchell's office, Mr. Whittaker agreed that the correct overpayment amount was $234,050 and not $234,550.

8. Confirm the number of units that moved to market rate. Also describe the step-up process that applied at the time, including when the County had an opportunity to express purchase interest and what notice or process governed that opportunity.

As noted in response to question number two above, only thirty RWHUs, out of the required 115, were sold as RWHUs. Eighty-five of the 115 minimum required were sold at market rate. Regarding the remainder of the question, prior to the passage of Ordinance 5878 (Bill No. 40, CD1 (2025)), the "step-up" process did not include the County having an opportunity to express an interest in acquiring the

RWFHUs prior to them going to market rate. The process under Section 2.96.090(D)(4), MCC, was as follows:

> "4. In the event that units are not sold within the first ninety days after they are offered for sale, and the developer has made a good faith effort, as determined by the director, to contact and qualify applicants on the wait list, the sale of remaining units shall be conducted as follows:
>
> a. For the next ninety-day period, units shall be offered for sale to the next-higher income preference group, at the original sales price. For example, units targeted for families earning up to one hundred twenty percent of the median income may be sold to families earning up to one hundred forty percent of the median income. All other eligibility criteria shall apply.
>
> b. Units shall be offered to the next higher income group every ninety days until the units are sold or there are no more income groups available.
>
> c. Units shall then be offered to nonresidents on the wait list in the order in which their names were drawn in the lottery, for the next ninety-day period, provided that as long as the applicant's income is within the residential workforce housing income groups.
>
> d. Any units that remain unsold may be offered at market rate without deed restrictions. Upon the sale of the unit, the County shall receive fifty percent of the difference between the original sales price of the unit and the actual market rate sales price, for deposit into the affordable housing fund. In this event, the developer shall still be deemed to have satisfied the requirement for producing a residential workforce housing unit."

9. Provide a summary of any planned Maui County Code Chapter 2.96 changes the Department referenced, including the specific problem each change would address, the target timeline for proposal, and whether the Department anticipates any Council action during Fiscal Year 2026.

Shortly after the Department's inception, Director Mitchell and Councilmember Tasha Kama's staff met to discuss possible technical corrections to Chapter 2.96, MCC. Some of the issues discussed in

those meetings were addressed in Ordinance No. 5875, Bill 40, CD1 (2025), which recently passed.

In addition, the Department, through its Housing and Community Development Division, provided information to Councilmember Paltin concerning Chapter 2.96, MCC, on fee waivers for affordable housing. It is the Department's understanding that the resulting proposed legislation has been reviewed and approved as to form and legality by the Department of Corporation Counsel and may be introduced after the Fiscal Year 2027 budget cycle.

The Department is continuing to review Section 2.96.090(D)(4)(d), MCC, and was scheduled to discuss the chapter at the Housing Advisory Board's schedule meeting on March 13. Due to storm the closure of County offices on March 13, the Housing Advisory Board's scheduled meeting was canceled. The meeting will be rescheduled.

The Department has been in direct communication with Housing and Land Use Committee Chair U'u-Hodgins' staff concerning the Chapter 2.96, MCC, and has advised her staff that the Department anticipates making additional recommendations after the Fiscal Year 2027 budget cycle. In addition, the Department would appreciate the opportunity to first discuss its observations with the administration.

The Department does not plan to request any Council action on Chapter 2.96, MCC, during Fiscal Year 2026.

10. Provide a program analysis on whether the County may adjust applicable income limits downward in local program rules. Also identify any changes the Department plans to pursue, including the lead staff, timeline, and any approvals required.

The median family income for the County of Maui is first determined by the U.S. Department of Housing and Urban Development (HUD). Then, under Section 2.96.020, MCC, the Department is authorized to adjust the median family income for Hana, Lanai, and Molokai.

Median family income, as defined in Section 2.96.020, MCC, impacts the calculation of the County's housing sales price and rental rate guidelines. The Department's downward adjustments to the median family income for Hana, Lanai, and Molokai also impact the housing sales price and rental rate guidelines for those communities.

Regarding the Kamalani project, a discussion on lowering the development's target income levels would have been when the project's developers identified their project funding sources. For a

project to pencil out, larger public subsidies are required for lower income levels. Once a developer's project funding stack has been developed and construction has commenced, one does not "adjust" the applicable income limits downward. To do so, would put the project's funding arrangements at risk.

Separately, Public Housing Authorities (PHAs) must adhere to the maximum income limits set by the HUD (typically 50 percent or 80 percent of Area Median Income (AMI)). PHAs, like the Department, are authorized by HUD to manage Section 8 Program funds; and their authority to lower income limits apply solely to the Section 8 Program. PHAs cannot exceed the HUD limits but do possess discretion to set lower income limits for their programs, or "target" lower income levels, to better serve their specific, lower-income populations. Again, this must occur in the early stages of a federally funded project.

In 2025, the Department commissioned a fair market rent study to challenge the fair market rents established by HUD, which have been historically low and did not reflect local market conditions or rising rents. The results of the study supported an increase to the Department's Section 8 Program payment standards. The Department successfully petitioned HUD to accept the results of the fair market study to allow the Department to reduce the portion of rent voucher holders were required to pay. It also helped voucher holders better compete in an already tight rental market with limited inventory.

When the Department issued its Affordable Housing Request for Proposals as a precursor to the Fiscal Year 2026 budget cycle, it sought applications for projects targeting an AMI of 80 percent and lower. During the Fiscal Year 2026 BFED hearings Council members expressed a clear preference for targeting projects at an AMI level of 120 percent and lower.

Notwithstanding the above, the Kamalani project highlights how multifamily rental and for-sale projects, as opposed to single-family affordable housing projects, may not be well received in the County, particularly where the price difference between deed restricted (even when the restriction is short) and non-deed restricted units is relatively close.

Should the BFED Committee have any further questions, or require any additional documentation, please feel free to contact me at either director.housing@co.maui.hi.us or (808) 270-7110.

Sincerely,

Richard E. Mitchell

RICHARD E. MITCHELL, ESQ.
Director of Housing

Attachments (9)

cc: Saumalu Mataʻafa, Deputy Director
Cassi Yamashita, County Housing Programs Division Administrator

STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED
June 26, 2015 10:45 AM
Doc No(s) A-56550796

/s/ NICKI ANN THOMPSON
REGISTRAR

45 1/1 CGG
B-32651665

Return by Mail ☐ Pickup ☐

To: Department of Housing and Human Concerns
County of Maui
2200 Main Street, Suite 546
Wailuku, Hawaii 96793

TITLE OF DOCUMENT:

RESIDENTIAL WORKFORCE HOUSING AGREEMENT
FOR
KAMALANI

PARTIES TO DOCUMENT:

DEVELOPER: KAMALANI VENTURES LLC, a Hawaii limited liability company
c/o 822 Bishop Street
Honolulu, Hawaii 96813

COUNTY: COUNTY OF MAUI
200 S. High Street
Wailuku, Maui, Hawaii 96793

TAX MAP KEY NO.: (2) 3-8-004-030

(This document consists of 45 pages.)

RESIDENTIAL WORKFORCE HOUSING AGREEMENT
FOR
KAMALANI

THIS AGREEMENT (this "**Agreement**") is made this 23rd day of June, 2015, by and between, KAMALANI VENTURES LLC, a Hawaii limited liability company, whose address is c/o 822 Bishop Street, Honolulu, Hawaii 96813 ("**Developer**"), and the COUNTY OF MAUI, a political subdivision of the State of Hawaii, whose address is 200 South High Street, Wailuku, Maui, Hawaii 96793 ("**County**").

WHEREAS, Developer owns that certain parcel of land located at Pulehunui, Kihei, District of Wailuku, Island and County of Maui, being Lot 5 of the "Pulehunui Plans Subdivision," identified by Tax Map Key No. (2) 3-8-004-030 with an area of approximately 94.352 acres as described and depicted in Exhibit A attached hereto and incorporated herein (the "**Land**");

WHEREAS, by Findings of Fact, Conclusions of Law, and Decision and Order, entered February 20, 2009, in Docket No. A07-772, the Land Use Commission of the State of Hawaii reclassified the Land from State Land Use Agricultural District to the State Land Use Urban District;

WHEREAS, pursuant to such reclassification, Developer's predecessor entered into that certain Declaration of Conditions dated April 3, 2009, recorded in the Bureau of Conveyances of the State of Hawaii (the "**Bureau**") as Document No. 2009-051059 (the "**Declaration**");

WHEREAS, the Declaration requires Developer to provide affordable housing opportunities pursuant to the applicable affordable housing requirements of the County under such terms as may be mutually agreeable between Developer and the County;

WHEREAS, pursuant to Ordinance No. 4145 (2014) and Ordinance No. 4146 (2014), the Land was rezoned "from Agricultural District to A-1 Apartment District, A-2 Apartment District, R-1 Residential District, and B-2 Community Business District (Conditional Zoning)," as more particularly described therein, and in that certain Unilateral Agreement and Declaration for Conditional Zoning dated July 8, 2014, recorded in the Bureau as Document No. A-53191023 (the "**Unilateral Agreement**");

WHEREAS, pursuant to the Unilateral Agreement, Developer is to work with the County's Department of Housing and Human Concerns ("**DHHC**") to incorporate appropriate sales provisions and processes that promote home sales to owner occupants;

WHEREAS, Developer intends to subdivide the Land and construct residential dwelling units thereon, which development is subject to County's Residential Workforce Housing Policy, Chapter 2.96, Maui County Code ("**MCC**") and the applicable provisions thereof are attached hereto and incorporated herein as Exhibit B; and

WHEREAS, Section 2.96.040, MCC, requires that prior to final subdivision approval or issuance of a building permit for a development, Developer is required to enter into a residential workforce housing agreement with DHHC;

NOW, THEREFORE, Developer and County hereby agree as follows:

1. Project Description. Kamalani (the "**Development**") is to be located on the Land and is intended to be developed in increments over time. The Development is envisioned to consist of residential work force housing units and market dwelling units on the Land. Developer has reserved the right to add and

annex additional land in the vicinity of the Land to the Development, in which case, the Development shall refer to the Land (as described above) and such additional lands that are so annexed.

2. Definitions: The following are some of the defined terms used in this Agreement.

(a) "**Above-moderate income**" means those households whose gross annual family income is more than one hundred twenty percent, but not more than one hundred forty percent of the area median income as established by HUD for the island of Maui (excluding Hana), as adjusted for household size.

(b) "**Affordable Rates**" means the pricing rates of the RWH Units for households at or below Above-moderate income, *i.e.*, at or below 140% of area median income as established by HUD for the island of Maui (excluding Hana) adjusted for household size.

(c) "**Annual Report**" means an annual report, which shall confirm, update, or supplement the information in Exhibit C, attached hereto and made a part hereof.

(d) "**Below-moderate income**" means those households whose gross annual family income is more than eighty percent, but not more than one hundred percent of the area median income as established by HUD for the island of Maui (excluding Hana), as adjusted for household size.

(e) "**Developer's Agent**" means, collectively, Developer's partners, management company, and real estate broker, as applicable.

(f) "**Director**" means the then director of the DHHC.

(g) "**HUD**" means the United States Department of Housing and Urban Development.

(h) "**Market Units**" means the residential dwelling units and residential lots within the Development that are not residential workforce housing units as defined in Section 2.96.020, MCC.

(i) "**Moderate income**" means those households whose gross annual family income is more than one hundred percent, but not more than one hundred twenty percent of the area median income as established by HUD for the island of Maui (excluding Hana), as adjusted for household size.

(j) "**Non-Resident**" means a person who does not meet the requirements to be a Resident.

(k) "**Resident**" means a person who meets the requirements of a "Resident" as defined in Section 2.96.020, MCC.

(l) "**RWH Credits**" means credits given to Developer for the RWH Units constructed and sold at Affordable Rates in excess of the RWH Units required for the Development, as described below.

(m) "**RWH Units**" means residential work force housing units, as defined in Section 2.96.020, MCC, which are intended to be constructed within the Development.

3. Residential Workforce Housing Requirement:

(a) Requirement: 25% of the Market Units (*e.g.*, 25% of the 460 Market Units)[1].

[1] As described in this Agreement, amounts and quantities that are assumed or shown in parentheses in this Agreement are examples based on current estimates, and are subject to change, provided all changes shall comply with the MCC requirements and shall be reflected in each Annual Report.

(b) Number of RWH Units required: 25% of the total number of Market Units in the Development (*e.g.*, 460 x 25% = 115 = 115 RWH Units).

(c) Income Group Distribution (as more particularly described below):

(i) At least 30% of the RWH Units shall be priced for Below-moderate income households (*e.g.*, 35 RWH Units);

(ii) No more than 20% of the RWH Units shall be priced for Above-moderate income households (*e.g.*, 23 RWH Units); and

(iii) The balance of the RWH Units shall be priced for Moderate income households (*e.g.*, 57 RWH Units).

(d) The percent and number of RWH Units priced for Moderate income households may be more or less than 50% of the RWH Units if more than 30% of the RWH Units are price for Below-moderate income households and/or fewer than 20% of the RWH Units are price for Above-moderate income households.

4. RWH Credits. For each RWH Unit constructed and sold at Affordable Rates in excess of 25% of the total number of Market Units (*e.g.*, 170 RWH Units – 115 RWH Units = 55 excess RWH Units), Developer shall receive one (1) RWH Credit (*e.g.*, 55 RWH Credits), which shall be freely transferable. Developer shall receive 55 RWH Credits for excess RWH Units constructed in the Development based on the following assumptions: 460 Market Units and 170 RWH Units. The RWH Units may be constructed in advance of the Market Units and Developer may construct all or most of the 170 RWH Units in an initial increment within the Development. Based on the foregoing assumptions, 115 RWH Units will satisfy the requirements for the 460 Market Units in the Development and Developer shall have earned 55 RWH Credits for the remaining 55 RWH Units. The RWH Credits shall be subject to the following:

(a) The RWH Credits may be used in the Development (including additional lands that are annexed) and any community plan area, in accordance with Section 2.96.050(E), MCC.

(b) Each RWH Credit may be used to satisfy the requirement for any type and size of unit or lot that is otherwise required to be a residential workforce housing unit. For example 25 RWH Credits may be used to satisfy the requirements of a subdivision with 100 market priced lots, in accordance with Section 2.96.050(C), MCC.

(c) The RWH Credits may be applied to satisfy the requirement for any income group. For example, a RWH Credit earned for a RWH Unit priced for an Above-moderate income household may be used to satisfy the requirement for a residential workforce housing unit for a Below-moderate income household.

(d) The number of estimated RWH Credits is set forth in Exhibit C, which shall be updated in each Annual Report.

(e) If Developer constructs and sells RWH Units in excess of the required RWH Units for the Development in an income group (*e.g.*, constructs and sells more than 35 RWH Units priced for Below-moderate income households), Developer shall be deemed to have earned RWH Credits for such excess RWH Units, which RWH Credits may be applied immediately to satisfy any residential workforce housing requirements for any community plan area.

5. Deed Restriction Period. Pursuant to Section 2.96.060(B), MCC, the RWH Units priced within each income group shall be subject to the following regulated term (the "**Deed Restricted Period**") commencing as of the closing date of the initial sale:

(a) Below-moderate income – 10 years

(b) Moderate income – 8 years

(c) Above-moderate income – 5 years

6. Deed Restrictions. For the Deed Restricted Period, the following shall apply:

(a) The RWH Unit must be owner-occupied.

(b) The owner must notify DHHC upon a decision to sell.

(c) Upon the owner's decision to sell, the County shall have the first option to purchase the RWH Unit 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.

(d) Upon sale of the RWH Unit, the deed-restriction shall remain in full force and effect for the remainder of the Deed Restricted Period that commenced at the time of the initial sale.

(e) Under special circumstances an owner of a RWH Unit may appeal to DHHC for a waiver of the owner-occupancy deed restriction; these circumstances would include, but are not limited to, assignment to active duty military or short-term contracts for off-island employment.

7. Resale. During the applicable Deed Restricted Period, the maximum resale price shall be established by DHHC using the following guidelines:

(a) An appraisal of the property shall be required before occupancy. The appraisal obtained by or on behalf of the lender or prospective lender for the applicant's purchase may serve as the appraisal required by this clause (a).

(b) A second appraisal shall be required upon a decision to sell the RWH Unit.

(c) Twenty-five percent of the positive difference between the two appraisals plus the amount of a seller's usual and customary closing costs shall be added to the owner's purchase price.

8. Designation of Units.

(a) The initial list showing (i) the proposed RWH Units, (ii) the intended income groups for the RWH Units, (iii) the proposed Market Units, and (iv) the estimated RWH Credits, is attached hereto and incorporated herein as Exhibit C. The unit-mix and unit-types may be adjusted from time to time because of (among other reasons) market conditions and development costs, provided, however, the pricing and unit counts (ratio of RWH Units and Market Units) shall comply with the minimum requirements of this Agreement. For example, Developer may increase the number of RWH Units at Affordable Rates and decrease the number of Market Units in the Development thereby increasing the number of RWH Credits; provided, however, the RWH Units required for the Development shall be priced to satisfy the requirements of the income groups.

(b) Developer shall submit to the Director an Annual Report commencing from the calendar year in which Developer first markets the RWH Units and terminating when (i) the last RWH Unit is sold by Developer, and (ii) Developer provides a final report to the Director. The Annual Report for a calendar year shall be submitted by Developer to the Director, by March 31st of the following year. The Annual Reports shall update, confirm, or supplement the information in Exhibit C, provided, however, in addition to the Annual Reports, Developer may, at its election, update, confirm, or supplement such information from time to time and the same shall not be deemed amendments to this Agreement.

(c) The amounts and quantities that are assumed or shown in parentheses in this Agreement are examples based on current estimates, and are subject to change, provided all changes shall comply with the MCC requirements and shall be reflected in each Annual Report and may be included in interim updates, to the extent applicable.

9. Sales Price.

(a) The upper range of the sales prices of the RWH Units shall be set by DHHC in accordance with HUD guidelines prior to Developer's submission of its registration application to the Real Estate Commission of the Department of Commerce and Consumer Affairs of the State of Hawaii ("**Registration Application**") for the RWH Units in the increment or increments that will be offered for sale by Developer. DHHC shall set and provide such upper ranges to Developer within fifteen (15) calendar days of Developer's written request.

(b) The upper ranges shall be based on the assumption of a down payment of five percent (5%) of the purchase price and the prevailing interest rate being the average interest rate then available under any two affordable financing programs of Freddie Mac, Fannie Mae, or the Federal Housing Administration for a 30-year first mortgage loan with no discount points and rounded to the nearest 0.25%.

(c) Developer may elect to decrease the sales prices of the RWH Units so that the originally priced RWH Units may be in a lower income group.

(d) If DHHC does not set or does not provide to Developer the upper range of the sale prices for the applicable RWH Units and income groups within fifteen (15) calendar days of Developer's written request, Developer may submit to DHHC (in writing) its proposed sales prices (or its proposed range of sales prices) for the applicable RWH Units and income groups. If DHHC fails to disapprove in writing the proposed sales prices (or range thereof) and specify its reasons for such disapproval within fifteen (15) calendar days after receipt thereof, the proposed sales prices (or range thereof) shall be deemed approved by DHHC.

10. Marketing.

(a) Developer shall be required to use its reasonable best efforts to effectively market the RWH Units. Developer shall create and submit a marketing plan to DHHC at any time prior to Developer's initial Registration Application. DHHC shall have thirty (30) calendar days from the submission of the marketing plan to approve or request revisions to the plan. If no comments are received from DHHC within such 30-day period, the plan shall be deemed to have been approved by DHHC.

(b) Pursuant to Section 2.96.090, MCC, Developer shall establish and maintain a wait list of all interested applicants for the RWH Units in the Development (the "**Wait List**").

(c) Pursuant to Section 2.96.090, MCC, prior to initiating the Wait List, Developer or Developer's Agent shall publish in at least five (5) issues of a newspaper of general circulation within the

County, a public notice that shall contain all information that is relevant to the establishment of the Wait List. The public shall also be informed in a like manner, of any decision that would substantially affect the maintenance and use of the Wait List. Developer may do a mass mailing of the application form for the acquisition of the RWH Units (the "**Ownership Application**") to all interested applicants on the Wait List.

11. Eligibility: Pursuant to Section 2.96.090(B), MCC, in order to be eligible for a RWH Unit, an applicant must meet each of the following criteria:

(a) Be a citizen of the United States or a permanent resident alien who is a resident of the County of Maui.

(b) Be eighteen (18) years of age or older.

(c) Have a gross annual family income (not to include the income of minors) which does not exceed one hundred forty percent of the area median income as established by HUD for the island of Maui (excluding Hana), as adjusted for household size.

(d) Have assets that do not exceed one hundred forty percent of the area median income as established by HUD for the island of Maui (excluding Hana), as adjusted for household size. Assets shall include all cash, securities, stocks, bonds and real property, but shall exclude amounts in a retirement account, the cash surrender value of any life insurance policies, and the amount to be used for the down payment to acquire the RWH Unit, which excluded down payment amount shall not exceed 10% of the purchase price of the RWH Unit. Real property shall be valued at fair market value less liabilities on such real property.

(e) For a period of three (3) years before the submittal of the Ownership Application, have not had an interest of fifty percent (50%) or more in real property in fee or leasehold in the United States, where the unit or land is deemed suitable for dwelling purposes, unless the applicant is selling an affordable unit and purchasing a different affordable unit that is more appropriate for the applicant's family size.

(f) Have pre-qualified for a loan and obtained a pre-qualification letter setting forth the maximum amount of the pre-qualified loan (the "**Pre-Qualification Letter**").

(g) At the election of Developer, have completed Homebuyer Education Classes and received a certification from Hale Mahaolu or another organization acceptable to Developer (the "**Certification**").

12. Notification of Change: Pursuant to Section 2.96.090(C), MCC, it shall be the applicant's responsibility to notify Developer or Developer's Agent in writing of any changes in mailing address, telephone number, fax number, and/or e-mail address. If an applicant fails to properly notify Developer or Developer's Agent of such changes, and Developer or Developer's Agent is unable to contact the applicant, the applicant's name shall be removed from the Wait List. In addition, the applicant shall be responsible for notifying Developer or Developer's Agent in writing of any changes in his or her status as a Resident or Non-Resident.

13. Ownership Application: Developer shall prepare the form of the Ownership Application. All interested applicants shall be required to submit to Developer a completed Ownership Application, the Pre-Qualification Letter, and if required by Developer, the Certification. Pursuant to Section 2.96.090(B), MCC, the Ownership Application will be completed when a specific RWH Unit is being considered.

14. Pre-Selection Verification: Pursuant to Section 2.96.090(B), MCC, the initial determination for compliance with the maximum gross annual family income provision shall be made by Developer or Developer's Agent for the RWH Units on the basis of the information provided on the Ownership Application. Developer may disqualify an applicant who fails to the meet any of the criteria in Section 9 on the basis of the information provided in the Ownership Application (and the Pre-Qualification Letter) or who fails to provide the Pre-Qualification Letter, or if required, the Certification. If so disqualified, Developer shall remove the applicant's name from the Wait List.

15. Selection Priority: The selection priority from the Wait List shall be pursuant to Section 2.96.090(D), MCC. Because the RWH Units may be developed in increments, after an offering for an increment, Developer may start a new Wait List for new applicants for the next increment in a manner that is consistent with the provisions of Section 2.96.090(D), MCC. Pursuant to Section 2.96.090(D), MCC, in the event that RWH Units are not sold within the first ninety (90) days after they are offered for sale, and Developer has made a good faith effort, as determined by the Director, to contact and qualify applicants on the Wait List, the sale of remaining units shall be conducted as provided in Section 2.96.090(D), MCC.

16. Post-Selection Verification:

(a) Pursuant to Section 2.96.090(B), MCC, final determination for compliance with the maximum gross annual family income provision shall be made by the prospective lender at the time the applicant's income verification data is received.

(b) To the extent permitted by applicable privacy and other laws and subject to appropriate redactions of social security numbers, birthdates, and other information that is not necessary for verification purposes, Developer shall submit, or shall cause the lender to submit, the following information to DHHC to verify the eligibility of buyers of the RWH Units:

(i) Applicant's completed Ownership Application;

(ii) Executed sales contract;

(iii) Pre-Qualification Letter;

(iv) All signed federal and state tax returns used to determine eligibility, or any other documents used to determine eligibility by the lender; and

(v) Escrow company's settlement statement.

In the alternative, in lieu of redacting the information, Developer or lender shall make the foregoing documents available to DHHC for inspection at a reasonable location during regular business hours.

17. Incentives. The Development is subject to Chapter 2.96, MCC and under the jurisdiction of the Development Services Administration of the County's Department of Public Works and is entitled to expedited review processes under Section 2.96.140, MCC. The reduced fees and reduced park dedication requirement, which are applicable to a residential workforce housing unit under Ordinance 3512 (2007), shall apply to the RWH Units within the Development. Developer shall also be entitled to any other incentives or benefits now or hereafter available for residential workforce housing units or any development with residential workforce housing units.

18. Affordable Housing Agreement. This Agreement does hereby fully satisfy the affordable housing requirements of the Declaration (the Land Use Commission district reclassification) and the Unilateral Agreement (the County's rezoning) and is, and fully satisfies the requirement for, a "residential workforce housing agreement" under Section 2.96.040, MCC, for the Development and fully complies with Chapter 2.96 of the MCC (Residential Workforce Housing Policy). This Section 18 and the RWH Credits provided to Developer (whether or not applied) shall specifically survive the expiration of the term of this Agreement.

19. Indemnification. Developer shall indemnify, defend, and hold harmless County and its officers, employees, and agents from and against any and all claims, including bodily injury, wrongful death and/or property damage by any persons caused by, occasioned by, arising from, or resulting from this Agreement.

20. Director Approvals and Actions; Verification of Compliance. The Director shall maintain authority of this Agreement and the authority to implement this Agreement and shall have the authority to make approvals, issue interpretations, waive provisions, execute documents, make and execute further agreements and/or enter into amendments of this Agreement so long as such actions do not materially or substantially change the permitted development and sale of the RWH Units, and such interpretations, waivers and/or amendments may include extensions of time to perform. The County agrees, upon the written request of Developer, to provide such written verification of Developer's compliance with this Agreement as Developer or its prospective or existing lenders or development partners may reasonably request.

21. Amendments: This Agreement, or any provision thereof, may not be modified, altered or changed except by written instrument executed by Developer and the Director, and Developer is fully vested under Chapter 2.96 of the MCC (Residential Workforce Housing Policy) in effect as of the date of this Agreement (a copy of which is attached hereto as Exhibit B).

22. Notices: All notices, demands, requests, consents, approval, or other communications ("notices") required or permitted to be given under this Agreement or which are given with respect to this Agreement shall be in writing and shall be delivered by personal delivery or by registered or certified mail, return receipt requested, postage prepaid, addressed to the party to be notified at the following address, or to such other address as the party to be notified shall have specified most recently by like notice:

If to County, then to:

Mayor
County of Maui
200 South High Street
Wailuku, Hawaii 96793

cc: Director of the Department of Housing and Human Concerns
County of Maui
200 South High Street
Wailuku, Hawaii 96793

If to Developer, then to

Kamalani Ventures LLC
c/o 822 Bishop Street
Honolulu, Hawaii 96813

cc: Kamalani Ventures LLC
c/o A & B Properties, Inc.
11 Puunene Avenue
Kahului, Hawaii 96732

Notices given as provided in this Section 22 shall be deemed given on delivery or upon receipt if by personal delivery. Any notice may be sent on behalf of either party by such party's counsel.

23. No Partnership or Joint Venture; No Third Party Beneficiary. Nothing contained in this Agreement shall constitute or be construed to constitute or create a partnership, joint venture, or other joint business interest by and between the parties. This Agreement is made exclusively for the benefit of Developer and the County, and no other persons or entities shall acquire any rights, powers, privileges, remedies, or claims thereby.

24. Severability: If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby.

25. Recordation: As required by Section 2.96.080(B), MCC, this Agreement shall be recorded in the Bureau so that the terms and conditions of this Agreement run with the Land and bind and constitute notice to all subsequent grantees, assignees, mortgagees, lienors, and any other persons who claim an interest in the Land.

26. Effective Date: The effective date of this Agreement shall be the date on which the last party signs this Agreement. This Agreement is made as of the day and year first above written.

27. Governing Law: This Agreement and the rights and obligations of Developer and County shall be interpreted in accordance with the laws of the State of Hawaii and any applicable federal law. Further, the Developer and County agree that all applicable provisions of Section 2.96, MCC shall be adhered to whether or not said provisions have been restated in this Agreement.

28. Term: The term of this Agreement shall expire when the Deed Restricted Period for the last RWH Unit sold by Developer has expired; provided, however, Developer's obligations hereunder shall expire when the last RWH Unit is sold to a homeowner.

[Signatures begin on the next page.]

IN WITNESS WHEREOF, Developer and the County have executed this Agreement the day and year first above written.

KAMALANI VENTURES LLC, a Hawaii limited liability company

By A & B Properties, Inc.
Its Manager

By _____
ALAN K. ARAKAWA
Its SENIOR VICE PRESIDENT

By _____
CHARLES W. LOOMIS
Its ASST. SECRETARY

COUNTY OF MAUI

mc/pp

By _____
~~ALAN M. ARAKAWA~~
~~Its Mayor~~
KEITH A. REGAN
ACTING MAYOR, COUNTY OF MAUI

RECOMMENDED APPROVAL:

6.9.15

JO-ANN T. RIDAO
Director Housing and Human Concerns

APPROVED AS TO FORM
AND LEGALITY:

JEFFREY UEOKA
Deputy Corporation Counsel

STATE OF HAWAII)
) SS:
CITY AND COUNTY OF HONOLULU)

On this 5th day of June 2015, before me appeared ALAN K. ARAKAWA, to me personally known, who, being by me duly sworn, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity(ies) shown, having been duly authorized to execute such instrument in such capacity(ies).

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

CHERYL A. ONISHI NOTARY 97-178 PUBLIC STATE OF HAWAII

Cheryl A. Onishi
CHERYL A. ONISHI
Notary Public, State of Hawaii

My commission expires: APR 17 2017

(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: Residential Workforce Housing Agreement for Kamalani

Doc. Date: Undated at time of notarization

No. of Pages: 45 Jurisdiction: First Circuit (in which notarial act is performed)

CHERYL A. ONISHI NOTARY 97-178 PUBLIC STATE OF HAWAII

Cheryl A. Onishi 6/5/15
Signature of Notary Date of Notarization and Certification Statement

CHERYL A. ONISHI
Printed Name of Notary

(Official Stamp or Seal)

STATE OF HAWAII)
) SS:
CITY AND COUNTY OF HONOLULU)

On this 5th day of June 2015, before me appeared CHARLES W. LOOMIS, to me personally known, who, being by me duly sworn, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable, in the capacity(ies) shown, having been duly authorized to execute such instrument in such capacity(ies).

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

CHERYL A. ONISHI
Notary Public, State of Hawaii

My commission expires: APR 17 2017

(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: Residential Workforce Housing Agreement for Kamalani

Doc. Date: Undated at time of notarization

No. of Pages: 45 Jurisdiction: First Circuit (in which notarial act is performed)

Signature of Notary

6/5/15
Date of Notarization and Certification Statement

CHERYL A. ONISHI
Printed Name of Notary

(Official Stamp or Seal)

STATE OF HAWAII)
) SS:
COUNTY OF MAUI)

On this 23rd day of June 2015, before me appeared KEITH A. REGAN ~~ALAN M. ARAKAWA~~, to me personally known, who being by me duly sworn did say that ~~she~~ he is the Mayor of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui pursuant to Section 7-6.2 and Section 9-18.1 of the Charter of the County of Maui; and the said ~~ALAN M. ARAKAWA~~ KEITH A. REGAN acknowledged the said instrument to be the free act and deed of said County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

MICHELLE L. ESTEBAN NOTARY PUBLIC No. 11-250 STATE OF HAWAII

(Official Stamp or Seal)

Michelle L Esteban

MICHELLE L. ESTEBAN
Notary Public, State of Hawaii

My commission expires: 8/14/15

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: Residential Workforce Housing Agreement for Kamalani

Doc. Date: ~~Undated at time of notarization~~ 6/23/2015

No. of Pages: 45 Jurisdiction: Second Circuit (in which notarial act is performed)

Michelle L Esteban
Signature of Notary

6/23/2015
Date of Notarization and Certification Statement

MICHELLE L. ESTEBAN
Printed Name of Notary

MICHELLE L. ESTEBAN NOTARY PUBLIC No. 11-250 STATE OF HAWAII

(Official Stamp or Seal)

Exhibit A

LAND DESCRIPTION

All of that certain parcel of land (being a portion of Land Patent 8140, Land Commission Award 5230 to Keaweamahi) situate, lying and being situate at Pulehunui, Kihei, Wailuku, Maui, Hawaii, being Lot 5 of the "Pulehunui Plains Subdivision," and thus bounded and described in that certain Affidavit of Justin R. Shaw (Licensed Professional Land Surveyor, Certificate No. LS-15959) dated March 5, 2015, recorded in the Bureau as Document No. A-55460707 and as shown on the Subdivision Map (Pulehunui Plains Subdivision (County of Maui Subdivision File No. 3.2221)) attached to Affidavit of Ken T. Nomura dated July 10, 2012, recorded in the Bureau as Document No. A-45760643) as follows:

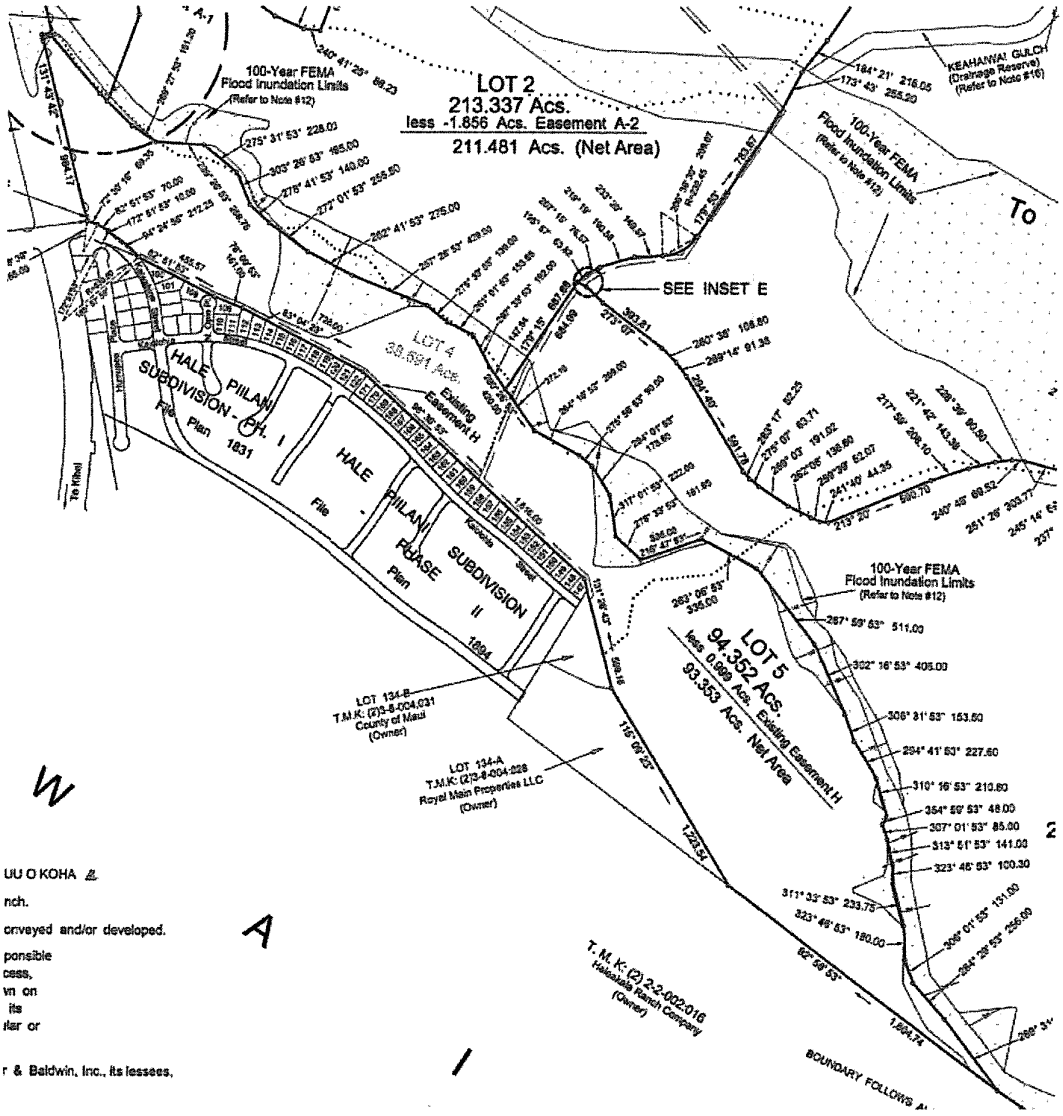


Exhibit B

Chapter 2.96 - RESIDENTIAL WORKFORCE HOUSING POLICY

Sections:

2.96.010 - Purpose.

The purpose of this chapter is to enhance the public welfare by ensuring that the housing needs of the County are addressed. The council finds that there is a critical shortage of affordable housing, making home acquisition by the majority of County resident workers extremely difficult, and creating a shortage of affordable rental units. The resident workforce is leaving the County in search of affordable housing, and new employees are being deterred by the high cost of living. To maintain a sufficient resident workforce in all fields of employment, and to ensure the public safety and general welfare of the residents of the County, resident workforce housing needs must be addressed. It is the intent of this chapter to encourage the provision and maintenance of residential workforce housing units, for both purchase and rental, to meet the needs of income-qualified households for the workforce, students, and special housing target groups.

(Ord. 3418 § 1 (part), 2006)

2.96.020 - Definitions.

Whenever used in this chapter, unless a different meaning clearly appears from the context:

"Community land trust" means a nonprofit organization that acquires land that:

1. Is held in perpetuity;
2. Is primarily for conveyance under a long-term ground lease for the creation of dwelling units that shall be sold or rented to applicants within the income-qualified groups established by this chapter; and
3. Retains an option to purchase any dwelling unit at a price determined by formula that is designed to ensure that the dwelling unit remains affordable in perpetuity.

"Council" means the Maui County council.

"Density bonus" means a density increase over the otherwise allowed residential density under the applicable zoning and land use designation, without the need for further council approval, subject to enabling legislation.

"Department" means the department of housing and human concerns.

"Director" means the director of housing and human concerns, County of Maui.

"Disabled" means a person who is determined, by a medical doctor, to have a physical, mental, or emotional impairment that:

1. Is expected to be of long-continued and indefinite duration;
2. Substantially impedes his or her ability to live independently; and
3. Is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

"Division" means the housing division of the department of housing and human concerns, County of Maui.

"Elderly" means a person who has attained the age of sixty-two years.

"Employed" means working for compensation in the County for any number of hours.

"Homeless" means:

1. An individual or family who lacks a fixed, regular, and adequate nighttime residence; or
2. An individual or family who has a primary nighttime residence that is:
    a. A supervised shelter designed to provide temporary living accommodations; or
    b. A place not designed for or ordinarily used as sleeping accommodations for human beings.

"HUD" means the United States Department of Housing and Urban Development.

"Improved land" means land that has necessary infrastructural improvements to support a public use project or a use density of at least a single-family or a two-family residential building per acre, in conformity with state and County zoning laws and building permit requirements.

"Lot" means any improved or unimproved land that has been subdivided.

"Median family income" means the middle income in a series of incomes ranked from smallest to largest as determined by HUD for the County, or as adjusted by the department, for Hana, Lanai, and Molokai.

"Off-site" means any area outside the boundaries of the development within the community plan area.

"On-site" means the area on, or within the boundaries of, the approved development within the community plan area.

"Prevailing interest rate" means the average interest rate of two mortgage lenders in the County, acceptable to the director, for a thirty year fixed loan with no discount points.

"Qualified housing provider" means a community land trust, nonprofit agency, or other private or public organization, agency, or entity authorized and designated by the department in accordance with section 2.96.150 to own, develop, construct, administer, operate or otherwise provide residential workforce housing required under this chapter.

"Resident" means a person who meets one of the following criteria:

1. Currently employed in the County;
2. Retired from employment in the County, having worked in the County immediately prior to retirement;
3. A full-time student residing in the County;
4. A disabled person residing in the County who was employed in the County prior to becoming disabled;
5. The parent or guardian of a disabled person residing in the County;
6. A spouse or dependent of any such employee, retired person, student, or disabled person residing in the County; or
7. In the event of the death of the employee, retired person, student, or disabled person, the spouse or dependent of any such person residing in the County.

"Residential workforce housing unit" means a unit or lot to be sold or rented to residents within one of the following income groups as established by the department:

1. "Very low income," which are those households whose gross annual family income is fifty percent or less of the area median income as established by HUD, or as adjusted by the department, for Hana, Lanai, and Molokai;
2. "Low income," which are those households whose gross annual family income is more than fifty percent, but not more than eighty percent of the area median income as established by HUD, or as adjusted by the department, for Hana, Lanai, and Molokai;

3. "Below-moderate income," which are those households whose gross annual family income is more than eighty percent, but not more than one hundred percent of the area median income as established by HUD, or as adjusted by the department, for Hana, Lanai, and Molokai;

4. "Moderate income," which are those households whose gross annual family income is more than one hundred percent, but not more than one hundred twenty percent of the area median income as established by HUD, or as adjusted by the department, for Hana, Lanai, and Molokai;

5. "Above-moderate income," which are those households whose gross annual family income is more than one hundred twenty percent, but not more than one hundred forty percent of the area median income as established by HUD, or as adjusted by the department, for Hana, Lanai, and Molokai; and

6. "Gap income," which are those households whose gross annual family income is more than one hundred forty percent, but not more than one hundred sixty percent of the area median income as established by HUD, or as adjusted by the department, for Hana, Lanai, and Molokai.

"Special housing target group" means a group of residents that can be demographically defined as having a special or unique housing need, including but not limited to, the elderly, homeless, and disabled.

"Unimproved land" means land not classified as "improved land."

"Wait list area" means Hana, Lanai, Maui (excluding Hana), or Molokai.

(Ord. No. 3719, § 1, 2010; Ord. 3512 § 1, 2007; Ord. 3418 § 1 (part), 2006)

2.96.030 - Applicability.

A. Any development, including the subdivision of land and/or the construction of single-family dwelling units, two-family dwelling units, multifamily dwelling units, or hotels, as defined in section 19.04.040 of this code, whether constructed at one time or over several years, shall be subject to this chapter upon final subdivision or building permit approval, whichever is applicable and occurs first, if it will result in the creation of the following:

1. Five or more dwelling units, excluding farm labor dwellings or a second farm dwelling, as defined in section 19.04.040 of this code; provided that, such farm labor dwelling or farm dwelling is in full compliance with chapter 205, Hawaii Revised Statutes, and is not part of a condominium property regime, as set forth in chapter 514A, Hawaii Revised Statutes;

2. Five or more new lots;

3. A combination of dwelling units and new lots totaling five or more;

4. Three or more lodging, dwelling, or time share units in a hotel;

5. A conversion of one or more hotel units to dwelling units or time share units; or

6. Any hotel redevelopment or renovation project that increases the number of lodging or dwelling units in a hotel.

B. Exemptions. This chapter shall not apply to any development that falls into one or more of the following categories:

1. A development subject to an affordable housing requirement, evidenced by an executed affordable housing agreement with the County, currently in effect and approved prior to the effective date of this chapter;

2. A development subject to a change in zoning condition that requires affordable or residential workforce housing, unless the condition expressly allows for the application of the affordable housing or residential workforce housing policy set forth herein;

3. A subdivision granted preliminary subdivision approval prior to the effective date of this chapter;

4. A building permit application submitted prior to the effective date of this chapter;

5. A family subdivision, for immediate family members, as described in sections 18.20.280.B.1 and B.2 of this code; or

6. A development by a government entity; a project pursuant to section 201H-H, Hawaii Revised Statutes; a community land trust; or an affordable housing project with more than the residential workforce housing units, in-lieu fees, or in-lieu land required by section 2.96.040 of this chapter, as approved by the director.

C. Adjustment.

1. A developer of any development subject to this chapter may appeal to the council for a reduction, adjustment, or waiver of the requirements based upon the absence of any reasonable relationship or nexus between the impact of the development and the number of residential workforce housing units or in-lieu fees/land required.

2. Any such appeal shall be made in writing and filed with the County clerk prior to final subdivision approval or issuance of a building permit for the development, whichever is applicable. Any such appeal shall administratively stay the processing of the development's subdivision or building permit, whichever is applicable, until a decision on the appeal is rendered. The appeal shall set forth in detail the factual and legal basis for the claim of reduction, adjustment, or waiver, and the developer shall bear the burden of presenting substantial evidence to support the appeal, including comparable and relevant technical information.

3. The council, or if the appeal is assigned to a council committee, the council committee, shall convene a meeting within forty-five days of the County clerk's receipt of the appeal, to consider the appeal. The council shall approve or disapprove the appeal by resolution within forty-five days from the date the developer has concluded its presentation of evidence supporting the appeal in a council or committee meeting.

4. If the council or a council committee has not convened a meeting within forty-five days of the County clerk's receipt of the appeal, or if the council does not approve or disapprove the appeal by resolution within forty-five days from the date the developer has concluded its presentation of evidence at the council or council committee meeting, the appeal, as submitted by the developer, shall be deemed approved by the council.

5. If a reduction, adjustment, or waiver is granted by the council, any subsequent substantive change or modification in use within the development, as determined by the director, shall invalidate the reduction, adjustment, or waiver previously granted.

(Ord. 3546 § 1, 2008; Ord. 3418 § 1 (part), 2006)

2.96.040 - Residential workforce housing requirements.

A. Prior to final subdivision approval or issuance of a building permit for a development subject to this chapter, the department shall require the developer to enter into a residential workforce housing agreement that requires the following:

1. Where the residential workforce housing requirement is satisfied exclusively through the provision of on-site units:

a. When more than fifty percent of the dwelling units and/or new lots in the development are offered for sale for less than $600,000, at least twenty-five percent of the total number of units and/or lots shall be sold or rented to residents within the income-qualified groups established by this ordinance; or

b. When fifty percent or more of the dwelling units and/or new lots in the development are offered for sale for $600,000 or more, at least fifty percent of the total number of units and/or lots shall be sold or rented to residents within the income-qualified groups established by this ordinance.

2. Where the residential workforce housing requirement is satisfied through the provision of off-site units:

    a. When more than fifty percent of the dwelling units and/or new lots in the development are offered for sale for less than $600,000, then the number of off-site residential workforce housing units due shall be equal to fifty percent of the total number of on-site market rate units; or

    b. When fifty percent or more of the dwelling units and/or new lots in the development are offered for sale for $600,000 or more, then the number of off-site residential workforce housing units due shall be equal to fifty percent of the total number of on-site market rate units.

3. When three or more new lodging, dwelling, or time share units in a hotel are created, or when there is a conversion of one or more hotel units to dwelling units or time share units, or when any hotel redevelopment or renovation project increases the number of lodging or dwelling units in the hotel, or when five or more new dwelling units for rental purposes are created, then forty percent of the total number of new, additional and/or converted units shall be sold or rented to residents within the income-qualified groups established by this ordinance.

B. The requirement may be satisfied by one or a combination of the following, which shall be determined by the director and stated in the residential workforce housing agreement:

1. Offer for sale, single-family dwelling units, two-family dwelling units, or multi-family dwelling units as residential workforce housing within the community plan area;

2. Offer for rent, multi-family dwelling units within the community plan area. A developer may partner with a nonprofit organization or community land trust on a specific affordable project to either construct new multi-family dwelling units or renovate existing nonhabitable multi-family dwelling units, paying an amount that represents the difference in unit costs for a family of four at one hundred percent and one hundred forty percent of median income pursuant to HUD affordable sales price guidelines as adjusted by the department by wait list area. The developer's requirement shall be deemed satisfied upon receipt of payment. Moneys shall be deposited into the affordable housing fund;

3. In lieu of directly selling or renting units pursuant to subsection B.1 or B.2, the developer may convey such units to a qualified housing provider subject to department approval pursuant to section 2.96.150; or

4. In lieu of providing residential workforce housing units, the residential workforce housing requirement may be satisfied by payment of a fee, by providing improved land, or by providing unimproved land. Any fee must be approved by council resolution. Any donation of land must be approved by the council pursuant to section 3.44.015 of this code.

    a. The in-lieu fee per unit for sale/ownership units shall be equal to thirty percent of the average projected sales price of the market rate dwelling units and/or new lots in the development. The in-lieu fee per unit for hotel, time share, converted or rental units shall be an amount that represents the difference in unit costs for a family of four at one hundred percent and one hundred sixty percent of median income pursuant to HUD affordable sales price guidelines, or as adjusted by the department, for Hana, Lanai, and Molokai. The in-lieu fee shall be designated in the residential workforce housing agreement, and be secured by a lien on the units if not paid before the units are constructed or converted. The in-lieu fee shall accrue to the affordable housing fund, which shall be established in the County budget for the purpose of enhancing and supporting housing needs and programs of income-qualified households and special housing target groups; and

    b. The value of the improved land shall not be less than the in-lieu fee that would otherwise have been required under this chapter. The value of the unimproved land shall be at least equal to twice the value of the improved land. The in-lieu land shall be used to address the housing needs of income-qualified households and special housing target groups. Such

land shall have a minimum lot size of six thousand square feet or the minimum lot size allowed by the applicable zoning, whichever is greater. Such land must be acceptable to the department and may be used by the County or others approved by the County to develop residential workforce housing, resource centers for the homeless, day care centers for seniors, or other public use projects that address the housing needs of income-qualified households and special housing target groups.

(Ord. No. 3719, § 2, 2010; Ord. 3438 § 1, 2007: Ord. 3418 § 1 (part), 2006)

2.96.050 - Residential workforce housing credits.

A. Credits may be given under the following circumstances:

1. One residential workforce housing credit shall be given for every single-family dwelling unit, two-family dwelling unit, or multifamily dwelling unit constructed in excess of the residential workforce housing required by section 2.96.040 of this chapter; and

2. One residential workforce housing credit shall be given for every ten market rate units that contain a deed restriction requiring an owner to occupy the unit for a minimum of three years, and share with the County fifty percent of any profits realized from a sale of that unit within the three-year owner-occupancy period.

B. The credit must be used in the same community plan area in which the unit was constructed.

C. The credit must be applied toward the same type of unit constructed.

D. The credit must be used for the same income group in which the credit was earned, when the credit is earned by constructing more residential workforce housing units than required.

E. The credit must be used for the "gap income" group when the credit is earned by creating a deed restriction.

F. The credit may be used for a future development, but may not be used for an affordable housing or residential workforce housing unit owed at the time the credit is given.

(Ord. 3418 § 1 (part), 2006)

2.96.060 - Residential workforce housing restrictions—Ownership units.

A. Ownership units shall be subject to this chapter for twenty-five years from the initial sale of the unit.

B. Unless an exemption is granted by the director, the percentage of ownership units within each income group shall be as follows:

1. Thirty percent of the ownership units shall be for "below-moderate income" residents;

2. Thirty percent of the ownership units shall be for "moderate income" residents;

3. Twenty percent of the ownership units shall be for "above-moderate income" residents; and

4. Twenty percent of the ownership units shall be for "gap income" residents.

C. Timing of Completion.

1. Residential workforce housing units shall be made, available for occupancy either before or concurrently with market rate units at the same ratio required of the development; and

2. 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.

D. Deed Restrictions.

1. The unit must be owner-occupied;

2. The unit must remain affordable for twenty-five years from the initial sale, with the owner notifying the department upon a decision to sell; and

3. Under special circumstances an owner of a residential workforce housing unit may appeal to the department for a waiver of the owner-occupancy deed restriction; these circumstances would include, but are not limited to, assignment to active duty military or short-term contracts for off-island employment.

E. Sales Price—Single-Family Dwelling Units. The sales price of a new single-family dwelling unit shall be set by the department, at the time the developer is ready to market the unit, using the following guidelines:

1. A down payment of five percent shall be assumed;

2. The prevailing interest rate shall be used;

3. The price of a one-bedroom unit shall be based upon seventy percent of the median income of the wait list area, adjusted to the respective target income group;

4. The price of a two-bedroom unit shall be based upon eighty-five percent of the median income of the wait list area, adjusted to the respective target income group;

5. The price of a three-bedroom unit shall be based upon one hundred percent of the median income of the wait list area, adjusted to the respective target income group;

6. The price of a four-bedroom unit shall be based upon one hundred fifteen percent of the median income of the wait list area, adjusted to the respective target income group; and

7. Applicants in each income group shall be assumed to pay no more than thirty percent of the gross annual income of the highest percentage in the applicant's group.

F. Sales Price—Two-Family or Multifamily Dwelling Units. The sales price of a new two-family or multifamily dwelling unit shall be ninety percent of the price of a single-family dwelling unit, as established in subsection E of this section.

G. Resale Price. The maximum resale price shall be established by the department using the following guidelines:

1. An appraisal of the property shall be required before occupancy;

2. A second appraisal shall be required upon a decision to sell the unit; and

3. Twenty-five percent of the difference between the two appraisals shall be added to the owner's purchase price.

H. Foreclosures.

1. The County shall have the first option to purchase the unit; and

2. If the County does not exercise its right to purchase, the units may be offered at an affordable price, set by the director, with the same deed restrictions.

(Ord. 3418 § 1 (part), 2006)

2.96.070 - Residential workforce housing restrictions—Rental units.

A. Rental units shall be subject to this chapter for the life of the unit, as determined by a building inspector with the development services administration of the department of public works and environmental management.

B. Unless an exemption is granted by the director, the percentage of rental units within each income group shall be as follows:

1. One-third of the rental units shall be for "very low income" and "low income" residents;

2. One-third of the rental units shall be for "below-moderate income" residents; and

3. One-third of the rental units shall be for "moderate income" residents.

C. Timing of Completion.

1. Except when the developer is partnering with a nonprofit organization or community land trust as allowed in section 2.96.040.B.2 of this chapter, 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; and

2. When the developer is partnering with a nonprofit organization or community land trust, the payment to the nonprofit organization or community land trust must be made prior to final subdivision approval or issuance of a building permit for the market rate units. The residential workforce housing units must be constructed within three years of the date the certificates of occupancy are issued and/or the final inspections are passed for the market rate units.

D. 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.

E. Deed Restrictions.

1. The rental unit must remain affordable for the life of the unit;

2. The owner must notify the department upon a decision to sell the rental development; and

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

F. Rental Rates. The monthly rental rates shall be set by the department based on HUD income limits.

G. Foreclosures.

1. The County will have the first option to purchase the rental development; and

2. If the County does not exercise its right to purchase, the rental development may be sold with the same deed restrictions.

(Ord. 3418 § 1 (part), 2006)

2.96.080 - Residential workforce housing agreement.

A. Before final subdivision approval or issuance of a building permit, the developer shall enter into a residential workforce housing agreement that sets forth the detailed terms and conditions of compliance with the residential workforce housing policy, including but not limited to:

1. Sales or rental periods for the residential workforce housing units, which specify procedures for the release of units from the residential workforce housing requirements should units not be sold or rented following the expiration of the sales or rental periods;

2. Identification of the number, type, and location of units;

3. Designation of units for specific income and/or special housing target groups;

4. Marketing process for the residential workforce housing units;

5. Eligibility of income-qualified households;

6. Provision for residential workforce housing credits, as applicable;

7. Payment of in-lieu fees or provision of in-lieu land; and

8. Resale restrictions, which may include buy-back provisions, shared equity, and encumbrances.

B. The residential workforce housing agreement shall be recorded with the bureau of conveyances of the State of Hawaii or the land court of the State as the case may be, so that the terms and conditions of the agreement run with the land and bind and constitute notice to all subsequent grantees, assignees, mortgagees, lienors, and any other persons who claim an interest in such property. The agreement shall be enforceable by the County by appropriate action at law or suit in equity, against the developer, its successors, and assignees.

(Ord. 3418 § 1 (part), 2006)

2.96.090 - Applicant selection process—ownership units.

A. Wait List Procedure.

1. The developer, its partner, or its management company shall establish wait lists of interested applicants by development;

2. Prior to initiating the wait list, the developer, its partner, or its management company shall publish in at least five issues of a newspaper of general circulation within the County, a public notice that shall contain all information that is relevant to the establishment of the wait list. The public shall also be informed in a like manner, of any decision that would substantially affect the maintenance and use of the wait list; and

3. Selection for purchase shall be made by a lottery administered by the developer, its partner, or its management company and overseen by the department, subject to the applicant meeting the eligibility criteria established in subsection B of this section.

B. Eligibility Criteria. In order to be eligible for a residential workforce housing unit, an applicant must meet the following criteria:

1. Be a citizen of the United States or a permanent resident alien who is a resident of the County;

2. Be eighteen years of age or older;

3. Have a gross annual family income (not to include the income of minors) which does not exceed one hundred sixty percent of the County's area median income as established by HUD, or as adjusted by the department, for Hana, Lanai, and Molokai. Initial determination for compliance with the maximum gross annual family income provision shall be made by the developer, its partner, or its management company for the initial sale of residential workforce housing units, on the basis of the information provided on the ownership application. The ownership application will be completed when a specific unit is being considered. Final determination for compliance with the maximum gross annual family income provision shall be made by the prospective lender at the time the applicant's income verification data is received;

4. Have assets that do not exceed one hundred sixty percent of the County's area median income as established by HUD, or as adjusted by the department, for Hana, Lanai, and Molokai. Assets shall include all cash, securities, stocks, bonds and real property. Real property shall be valued at fair market value less liabilities on such real property;

5. For a period of three years before the submittal of the ownership application, have not had an interest of fifty percent or more in real property in fee or leasehold in the United States, where the unit or land is deemed suitable for dwelling purposes, unless the applicant is selling an affordable unit and purchasing a different affordable unit that is more appropriate for the applicant's family size; and

6. Pre-qualify for a loan with the applicant's choice of lender.

C. Notification of Change. Each applicant shall be responsible for notifying the developer, its partner, or its management company in writing of any changes in mailing address, telephone number, fax number, and/or e-mail address. If an applicant fails to properly notify the developer, its partner, or its management company of such changes and the developer, its partner, or its management company

is unable to contact the applicant, the developer, its partner, or its management company shall remove the applicant's name from the wait list.

D. Selection Priority.

1. Residents on the wait list shall receive first priority for the available units. Nonresidents on the wait list may purchase 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 must 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 be offered residential workforce housing units in the order in which their names were drawn in the lottery; and

4. In the event that units are not sold within the first ninety days after they are offered for sale, and the developer has made a good faith effort, as determined by the director, to contact and qualify applicants on the wait list, the sale of remaining units shall be conducted as follows:

   a. For the next ninety-day period, units shall be offered for sale to the next-higher income preference group, at the original sales price. For example, units targeted for families earning up to one hundred twenty percent of the median income may be sold to families earning up to one hundred forty percent of the median income. All other eligibility criteria shall apply;

   b. Units shall be offered to the next higher income group every ninety days until the units are sold or there are no more income groups available;

   c. Units shall then be offered to nonresidents on the wait list in the order in which their names were drawn in the lottery, for the next ninety-day period, provided that the applicant's income is within the residential workforce housing income groups; and

   d. Any units that remain unsold may be offered at market rate without deed restrictions. Upon the sale of the unit, the County shall receive fifty percent of the difference between the original sales price of the unit and the actual market rate sales price, for deposit into the affordable housing fund. In this event, the developer shall still be deemed to have satisfied the requirement for producing a residential workforce housing unit.

5. The developer shall submit copies of the following information to the department to verify the sale of residential workforce housing units to eligible buyers:

   a. Applicant's completed ownership application;

   b. Executed sales contract;

   c. Pre-qualification notice from lender;

   d. All signed federal and state tax returns used to determine eligibility, or any other documents used to determine eligibility by the lender; and

   e. Escrow company's settlement statement.

6. An owner of a residential workforce housing unit that is being resold must sell the unit to an income-qualified household and notify the department of the sale. The department shall verify the sales price.

(Ord. 3418 § 1 (part), 2006)

2.96.100 - Applicant selection process—rental units.

A. Wait List Procedure.

1. The developer, its partner, or its management company shall establish wait lists of interested applicants by rental development;

2. Prior to initiating the wait list, the developer, its partner, or its management company shall initiate the wait list process by publishing in at least five issues of a newspaper of general circulation within the County, a public notice that shall contain all information that is relevant to the establishment of the wait list. The public shall also be informed in a like manner, of any decision that would substantially affect the maintenance and use of the wait list; and

3. Selection for rental units shall be made by a lottery administered by the developer, its partner, or its management company and overseen by the department, subject to the applicant meeting the eligibility criteria established in subsection B of this section.

B. Eligibility Criteria. The eligibility criteria for rentals shall be established on a project-by-project basis by the director in the following manner:

1. If the project is receiving federal and/or state assistance, the applicable federal and/or state eligibility criteria shall apply; and

2. If the project is not receiving federal and/or state assistance, all eligibility criteria in section 2.96.090.B of this chapter shall apply, except for section 2.96.090.B.6 of this chapter.

C. Notification of Change. Each applicant shall be responsible for notifying the developer, its partner, or its management company in writing of any changes in mailing address, telephone number, fax number, and/or e-mail address. If an applicant fails to properly notify the developer, its partner, or its management company of such changes and the developer, its partner, or its management company is unable to contact the applicant, the applicant's name shall be removed from the applicable wait list.

D. Selection 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.

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

(Ord. 3546 § 2, 2008; Ord. 3418 § 1 (part), 2006)

2.96.110 - Review requirements.

A. The council shall review this chapter every two years.

B. The director shall provide an annual report to the council on the status of the housing policy that shall include the following:

1. The number of units built for sale and rent, categorized by number of bedrooms, income group, and sales price if for sale;

2. The number of purchasers who resold units, categorized by number of bedrooms, income group, and sales price; and

3. The number of developers, their partner(s), or their management companies maintaining a wait list, and the number of applicants on each wait list.

C. For rental developments, the developer, its partner, or its management company shall submit an annual report of rental units to the department that includes the following:

1. The tenant's move-in date; and

2. The income group of the tenant or family.

(Ord. 3418 § 1 (part), 2006)

2.96.120 - Rules.

The director shall adopt administrative rules to implement this chapter, pursuant to chapter 91, Hawaii Revised Statutes, within one hundred eighty days after the effective date of the ordinance codified in this chapter.

(Ord. 3418 § 1 (part), 2006)

2.96.130 - Property assessment value.

The annual tax assessed value, as determined by the County, will take into account the limited resale value of the residential workforce housing property.

(Ord. 3418 § 1 (part), 2006)

2.96.140 - Incentives.

A. For developments subject to this chapter, and under the jurisdiction of the development services administration of the department of public works and environmental management, decisions on permits will be made by all departments within sixty days of the date the permit application is deemed complete by the development services administration. Decisions on permits that require review by any outside agency will be made within thirty days of receipt by the development services administration of the last approval from an outside agency; provided, that decisions on applications that require special management area permit review, or environmental review pursuant to chapter 343, Hawaii Revised Statutes, shall be issued within ninety days of completion of the applicable review.

B. For developments subject to this chapter, and if applicable, the council will schedule the initial meeting for such application within six months of the referral to the appropriate committee. The council will vote to approve or deny the application within one year of the referral to committee.

C. Developments that include on-site residential workforce housing units may be entitled to a density bonus, subject to enactment of enabling legislation.

(Ord. 3418 § 1 (part), 2006)

2.96.150 - Qualified housing providers.

Where the department determines that such an agreement will further the purposes of this chapter, the department shall enter into an agreement, on a project-by-project basis, with a qualified housing provider. Such an agreement may provide, without limitation, that the qualified housing provider shall:

A. Receive, own, manage, rent, operate and sell residential workforce housing units provided by developers pursuant to section 2.96.040 of this chapter;

B. Enter into agreements with developers pursuant to section 2.96.040.B.2 of this chapter, subject to the department's approval, pursuant to which residential workforce housing units are developed, constructed, renovated, or otherwise made available to satisfy the purposes of this chapter;

C. Receive land and in-lieu fees provided by developers pursuant to section 2.96.040.B.4 of this chapter;

D. Receive disbursements from the affordable housing fund and other funds provided for the purposes of this chapter; and/or

E. Administer the selection processes under sections 2.96.090 and 2.96.100 of this chapter, subject to the department's oversight.

1. Where a qualified housing provider receives, owns, develops, rents, operates or sells residential workforce housing units, such units shall be rented or sold to applicants qualified under this chapter, as set forth in the qualified housing provider's agreement with the department;

2. Selection of purchasers or renters for a qualified housing provider's units shall be made in accordance with sections 2.96.090 and 2.96.100 of this chapter or with other selection processes permitted under the qualified housing provider's agreement with the department;

3. All qualified housing provider rentals or sales shall be on terms, conditions and restrictions set forth in the agreement, which shall be at least as restrictive as the terms, conditions and restrictions applicable to developer rentals or sales under this chapter, and may be more restrictive; and

4. All qualified housing provider agreements shall require detailed reports to the department, on no less than an annual basis, of the qualified housing provider's implementation of, and compliance with, the agreement. This report shall include an annual financial audit.

(Ord. 3418 § 1 (part), 2006)

ORDINANCE NO. 4177

BILL NO. 86 (2014)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96, MAUI COUNTY CODE, RELATING TO THE RESIDENTIAL WORKFORCE HOUSING POLICY, AND AMENDING CHAPTER 3.35, MAUI COUNTY CODE, RELATING TO THE AFFORDABLE HOUSING FUND

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

SECTION 1. Section 2.96.020, Maui County Code, is amended by repealing the definition "density bonus".

["Density bonus" means a density increase over the otherwise allowed residential density under the applicable zoning and land use designation, without the need for further council approval, subject to enabling legislation."]

SECTION 2. Section 2.96.020, Maui County Code, is amended by repealing the definition "off-site".

["Off-site" means any area outside the boundaries of the development within the community plan area."]

SECTION 3. Section 2.96.020, Maui County Code, is amended by repealing the definition "on-site".

["On-site" means the area on, or within the boundaries of, the approved development within the community plan area."]

SECTION 4. Section 2.96.020, Maui County Code, is amended by amending the definition of "Residential workforce housing units" by deleting the definition of "Gap income".

"Residential workforce housing unit" means a unit or lot to be sold or rented to residents within one of the following income groups as established by the department:

1. "Very low income," which are those households whose gross annual family income is fifty percent or less of the area median income as established by HUD, or as adjusted by the department, for Hana, Lanai, and Molokai[;]_

2. "Low income," which are those households whose gross annual family income is more than fifty percent, but not more than eighty percent of the area median income as established by HUD, or as adjusted by the department, for Hana, Lanai, and Molokai[;]_.

3. "Below-moderate income," which are those households whose gross annual family income is more than eighty percent, but not more than one hundred percent of the area median income as established by HUD, or as adjusted by the department, for Hana, Lanai, and Molokai[;]_.

4. "Moderate income," which are those households whose gross annual family income is more than one hundred percent, but not more than one hundred twenty percent of the area median income as established by HUD, or as adjusted by the department, for Hana, Lanai, and Molokai[;]_.

5. "Above-moderate income," which are those households whose gross annual family income is more than one hundred twenty percent, but not more than one hundred forty percent of the area median income as established by HUD, or as adjusted by the department, for Hana, Lanai, and Molokai[; and

6. "Gap income," which are those households whose gross annual family income is more than one hundred forty percent, but not more than one hundred sixty percent of the area median income as established by HUD, or as adjusted by the department, for Hana, Lanai, and Molokai.]_.

SECTION 5. Section 2.96.030, Maui County Code, is amended to read as follows:

"**2.96.030 Applicability.** A. Any development, including the subdivision of land and/or the construction of single-family dwelling units, two-family dwelling units, [multifamily] multi-family dwelling units, or hotels, as defined in section 19.04.040 of this code, whether constructed at one time or over several years, shall be subject to this chapter upon final subdivision or building permit approval, whichever is applicable and occurs first, if it will result in the creation of the following:

1. [Five or more dwelling units, excluding farm labor dwellings or a second farm dwelling, as defined in section 19.04.040 of this code; provided that, such farm labor dwelling or farm dwelling is in full compliance with chapter 205, Hawaii Revised Statutes, and is not part of a condominium property regime, as set forth in chapter 514A, Hawaii Revised Statutes;

2. Five or more new lots;

3. A combination of dwelling units and new lots totaling five or more;

4. Three or more lodging, dwelling, or time share units in a hotel;] Ten or more lots, lodging units, time share units, or dwelling units, excluding farm labor dwellings or a second farm dwelling, as defined in section 19.04.040 of this code; provided that, such farm labor dwelling or

farm dwelling is in full compliance with chapter 205, Hawaii Revised Statutes, and is not part of a condominium property regime, as set forth in chapter 514A, Hawaii Revised Statutes;

[5.]2. A conversion of [one] ten or more hotel units to dwelling units or time share units; or

[6.]3. Any hotel redevelopment or renovation project that increases the number of lodging or dwelling units in a hotel by ten or more.

B. Exemptions. This chapter shall not apply to any development that falls into one or more of the following categories:

1. A development subject to an affordable housing requirement, evidenced by an executed affordable housing agreement with the County, currently in effect and approved prior to the effective date of this chapter;

2. A development subject to a change in zoning condition that requires affordable or residential workforce housing, unless the condition expressly allows for the application of the affordable housing or residential workforce housing policy set forth herein;

3. A subdivision granted preliminary subdivision approval prior to the effective date of this chapter;

4. A building permit application submitted prior to the effective date of this chapter;

5. A family subdivision, for immediate family members, as described in [sections] subsections 18.20.280.B.1 and B.2 of this code; [or]

6. A development by a government entity[; a project pursuant to section 201H-H, Hawaii Revised Statutes;] or a community land trust[; or an affordable housing project with more than the residential workforce housing units, in-lieu fees, or in-lieu land required by section 2.96.040 of this chapter], as approved by the director[.]; or

7. A development within the boundaries of the Wailuku redevelopment area as defined by the Maui redevelopment agency pursuant to chapter 53, Hawaii Revised Statutes.

C. Adjustment[.] by developer.

1. A developer of any development subject to this chapter may appeal to the council for a reduction, adjustment, or waiver of the requirements based upon the absence of any reasonable relationship or nexus between the impact of the development and the number of residential workforce housing units or in-lieu fees/land required.

2. Any such appeal shall be made in writing and filed with the [County] county clerk prior to final subdivision approval or issuance of a building permit for the development, whichever is applicable. Any such appeal shall administratively stay the processing of the development's subdivision or building permit, whichever is applicable, until a decision on the appeal is rendered. The appeal shall set forth in detail the factual and legal basis for the claim of reduction, adjustment, or waiver, and the developer shall bear the burden of presenting substantial evidence to support the appeal, including comparable and relevant technical information.

3. The council, or if the appeal is assigned to a council committee, the council committee[,] shall convene a meeting within forty-five days of the [County] county clerk's receipt of the appeal, to consider the appeal. The council shall approve or disapprove the appeal by resolution within forty-five days from the date the developer has concluded its presentation of evidence supporting the appeal in a council or committee meeting.

4. If the council or a council committee has not convened a meeting within forty-five days of the [County] county clerk's receipt of the appeal, or if the council does not approve or disapprove the appeal by resolution within forty-five days from the date the developer has concluded its presentation of evidence at the council or council committee meeting, the appeal, as submitted by the developer, shall be deemed approved by the council.

5. If a reduction, adjustment, or waiver is granted by the council, any subsequent substantive change or modification in use within the development, as determined by the director, shall invalidate the reduction, adjustment, or waiver previously granted.

D. Adjustment by director. The director may, subject to council approval by resolution, authorize a reduction, adjustment, or waiver of any provision of this chapter."

SECTION 6. Section 2.96.040, Maui County Code, is amended to read as follows:

"**2.96.040 Residential workforce housing requirements**. A. [Prior to final subdivision approval or issuance of a building permit for a development subject to this chapter, the department shall require the developer to enter into a residential workforce housing agreement that requires the following:] Developers shall be required to provide a number of residential workforce housing units equivalent to at least twenty-five percent, rounding up to the nearest whole number, of the total number of market rate lots, lodging units, time share units, or dwelling units, excluding farm labor dwellings or a second farm dwelling, as defined in section 19.04.040 of this code, created. If a developer satisfies the requirements of this chapter through subsection (B)(3) and the units shall remain available only to income-qualified groups in perpetuity, the developer shall provide at least twenty percent, rounding up to the nearest whole number, of the total number of market rate lots, lodging units, time share units, or dwelling units, excluding farm labor dwellings or a second farm dwelling, as defined in section 19.04.040 of this code, created.

[1. Where the residential workforce housing requirement is satisfied exclusively through the provision of on-site units:

a. When more than fifty percent of the dwelling units and/or new lots in the development are offered for sale for less than $600,000, at least twenty-five percent of the total number of units and/or lots shall be sold or rented to residents within the income-qualified groups established by this ordinance; or

b. When fifty percent or more of the dwelling units and/or new lots in the development are offered for sale for $600,000 or more, at least fifty percent of the total number of units and/or lots shall be sold or rented to residents within the income-qualified groups established by this ordinance.

2. Where the residential workforce housing requirement is satisfied through the provision of off-site units:

a. When more than fifty percent of the dwelling units and/or new lots in the development are offered for sale for less than $600,000, then the number of off-site residential workforce housing units due shall be equal to fifty percent of the total number of on-site market rate units; or

b. When fifty percent or more of the dwelling units and/or new lots in the development are offered for sale for $600,000 or more, then the number of off-site residential workforce housing units due shall be equal to fifty percent of the total number of on-site market rate units.

3. When three or more new lodging, dwelling, or time share units in a hotel are created, or when there is a conversion of one or more hotel units to dwelling units or time share units, or when any hotel redevelopment or renovation project increases the number of lodging or dwelling units in the hotel, or when five or more new dwelling units for rental purposes are created, then forty percent of the total number of new, additional and/or converted units shall be sold or rented to residents within the income-qualified groups established by this ordinance.]

B. Prior to final subdivision approval or issuance of a building permit for a development subject to this chapter, the department shall require the developer to enter into a residential workforce housing agreement. The [requirement] agreement shall set forth the method by which the developer satisfies the requirements of this chapter. The requirements may be satisfied by one or a combination of the following, which shall be determined by the director and stated in the [residential workforce housing] agreement:

1. Offer for sale, single-family dwelling units, two-family dwelling units, or multi-family dwelling units as residential workforce housing within the community plan area;

2. Offer for rent, multi-family dwelling units as residential workforce housing units within the community plan area[. A developer may partner with a nonprofit organization or community land trust on a specific affordable project to either construct new multi-family dwelling units or renovate existing nonhabitable multi-family dwelling units, paying an amount that represents the difference in unit costs for a family of four at one hundred percent and one hundred forty percent of median income pursuant to HUD affordable sales price guidelines as adjusted by the department by wait list area. The developer's requirement shall be deemed satisfied upon receipt of payment. Moneys shall be deposited into the affordable housing fund];

3. In lieu of directly selling or renting units pursuant to [subsection B.1 or B.2,] subsections (B)(1) or (B)(2) the developer may convey such units to a qualified housing provider subject to department approval pursuant to section 2.96.150; or

4. In lieu of providing residential workforce housing units, the residential workforce housing requirement may be satisfied by payment of a fee, by providing improved land, or by providing unimproved land[. Any fee must be approved by council resolution. Any donation of land must be approved by the council pursuant to section 3.44.015 of this code.] in accordance with the following:

a. The in-lieu fee per residential workforce housing unit required by this chapter [for sale/ownership units shall be equal to thirty percent of the average projected sales price of the market rate dwelling units and/or new lots in the development. The in-lieu fee per unit for hotel, time share, converted or rental units shall be an amount that represents the difference in unit costs for a family of four at one hundred percent and one hundred sixty percent of median income pursuant to HUD affordable sales price guidelines, or as adjusted by the department, for Hana, Lanai, and Molokai. The in-lieu fee shall be designated in the residential workforce housing agreement, and be secured by a lien on the units if not paid before the units are constructed or converted. The in-lieu fee shall accrue to the affordable housing fund, which shall be established in the County budget for the purpose of enhancing and supporting housing needs and programs of income-qualified households and special housing target groups; and] shall be equal to the difference in unit costs for a three bedroom, single-family, dwelling unit, at one hundred percent and a three bedroom, single-family, dwelling unit at one hundred sixty percent of median income, for a family of four, pursuant to HUD affordable sales price guidelines, or as adjusted by the department for Hana, Lanai, and Molokai.

b. [The value of the improved land shall not be less than the in-lieu fee that would otherwise have been required under this chapter. The value of the unimproved land shall be at least equal to twice the value of the improved land. The in-lieu land shall be used to address the housing needs of income-qualified households and special housing target groups. Such land shall have a minimum lot size of six thousand square feet or the minimum lot size allowed by the applicable zoning, whichever is greater. Such land must be acceptable to the department and may be used by the County or others approved by the County to develop residential workforce housing, resource centers for the homeless, day care centers for seniors, or other public use projects that address the housing needs of income-qualified households and special housing target groups.] Any dedication of improved or unimproved land in-lieu of residential workforce housing units shall be subject to the approval of the director and the council by resolution.

C. Income group distribution.

1. Unless an exemption is granted by the director, the percentage of ownership units within each income group shall be as follows:

a. Thirty percent of the ownership units shall be for "below-moderate income" residents.

b. Fifty percent of the ownership units shall be for "moderate income" residents.

c. Twenty percent of the ownership units shall be for "above-moderate income" residents.

2. Unless an exemption is granted by the director, the percentage of rental units within each income group shall be as follows:

a. One-third of the rental units shall be for "very low income" and "low income" residents.

b. One-third of the rental units shall be for "below-moderate income" residents.

c. One-third of the rental units shall be for "moderate income" residents."

SECTION 7. Section 2.96.050, Maui County Code, is amended to read as follows:

"**2.96.050 Residential workforce housing credits.** A. Credits may be given under the following circumstances:

1. One residential workforce housing credit shall be given for every single-family dwelling unit, two-family dwelling unit, or [multifamily] multi-family dwelling unit constructed and sold at affordable rates, in excess of the residential workforce housing required by section 2.96.040 [of this chapter]; and

2. [One residential workforce housing credit shall be given for every ten market rate units that contain a deed restriction requiring an owner to occupy the unit for a minimum of three years, and share with the County fifty percent of any profits realized from a sale of that unit within the three-year owner-occupancy period.] 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.

B. The credit [must] may be used in [the same] any community plan area [in which the unit was constructed].

C. The credit [must be applied toward the same] may satisfy the requirement for any type of unit constructed.

D. The credit [must be used for the same] may satisfy the requirement for a unit in any income group [in which the credit was earned, when the credit is earned by constructing more residential workforce housing units than required].

E. [The credit must be used for the "gap income" group when the credit is earned by creating a deed restriction.

F.] The credit may be used for a future development, but may not be used for an affordable housing or residential workforce housing unit owed at the time the credit is given.

[G.]F. The number of credits issued shall be set forth in the residential workforce housing agreement."

SECTION 8. Section 2.96.060, Maui County Code, is amended to read as follows:

"**2.96.060 Residential workforce housing [restrictions-Ownership units.] restrictions-ownership units.** A. [Ownership units shall be subject to this chapter for twenty-five years from the initial sale of the unit.

B. Unless an exemption is granted by the director, the percentage of ownership units within each income group shall be as follows:

1. Thirty percent of the ownership units shall be for "below-moderate income" residents;

2. Thirty percent of the ownership units shall be for "moderate income" residents;

3. Twenty percent of the ownership units shall be for "above-moderate income" residents; and

4. Twenty percent of the ownership units shall be for "gap income" residents.

C.] Timing of [Completion.] completion.

1. Residential workforce housing units shall be made[,] available for occupancy either before or concurrently with market rate units at the same ratio required of the development[; and].

2. 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.

[D]B. Deed [Restrictions.] restrictions.

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

a. "Below-moderate income," ten years.

b. "Moderate income," eight years.

c. "Above-moderate income," five years.

2. For the deed-restricted period, the following shall apply:

[1.]a. The unit must be owner-occupied[;].

[2.]b. The [unit must remain affordable for twenty-five years from the initial sale, with the] owner [notifying] must notify the department upon a decision to sell[; and].

c. Upon the owner's decision to sell, the County shall have the first option to purchase the unit 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.

d. Upon sale of the unit, the deed-restricted shall remain in full force and effect for the remainder of the deed restriction period that commenced at the time of the initial sale.

[3.]e. Under special circumstances an owner of a residential workforce housing unit may appeal to the department for a waiver of the owner-occupancy deed restriction; these circumstances would include, but are not limited to, assignment to active duty military or short-term contracts for off-island employment.

f. Resale. The maximum resale price shall be established by the department using the following guidelines:

1. An appraisal of the property shall be required before occupancy.

2. A second appraisal shall be required upon a decision to sell the unit.

3. Twenty-five percent of the difference between the two appraisals shall be added to the owner's purchase price.

[E]C. Sales [Price - Single-Family Dwelling Units.] price - dwelling units. The sales price of a new [single-family] dwelling unit shall be [set by the department, at the time the developer is ready to market the unit, using the following guidelines:

1. A down payment of five percent shall be assumed;

2. The prevailing interest rate shall be used;

3. The price of a one-bedroom unit shall be based upon seventy percent of the median income of the wait list area, adjusted to the respective target income group;

4. The price of a two-bedroom unit shall be based upon eighty-five percent of the median income of the wait list area, adjusted to the respective target income group;

5. The price of a three-bedroom unit shall be based upon one hundred percent of the median income of the wait list area, adjusted to the respective target income group;

6. The price of a four-bedroom unit shall be based upon one hundred fifteen percent of the median income of the wait list area, adjusted to the respective target income group; and

7. Applicants in each income group shall be assumed to pay no more than thirty percent of the gross annual income of the highest percentage in the applicant's group.] established by the department based on current HUD price guidelines.

[F. Sales price - Two-Family or Multifamily Multi-family Dwelling Units. The sales price of a new two-family or multifamily dwelling unit shall be

ninety percent of the price of a single-family dwelling unit, as established in subsection E of this section.

G. Resale Price. The maximum resale price shall be established by the department using the following guidelines:

1. An appraisal of the property shall be required before occupancy;

2. A second appraisal shall be required upon a decision to sell the unit; and

3. Twenty-five percent of the difference between the two appraisals shall be added to the owner's purchase price.

H. Foreclosures.

1. The County shall have the first option to purchase the unit; and

2. If the County does not exercise its right to purchase, the units may be offered at an affordable price, set by the director, with the same deed restrictions.]"

SECTION 9. Section 2.96.070, Maui County Code, is amended to read as follows:

"**2.96.070 Residential workforce housing [restrictions - Rental units.] restrictions-rental units.** A. [Rental units shall be subject to this chapter for the life of the unit, as determined by a building inspector with the development services administration of the department of public works and environmental management.

B. Unless an exemption is granted by the director, the percentage of rental units within each income group shall be as follows:

1. One-third of the rental units shall be for "very low income" and "low income" residents;

2. One-third of the rental units shall be for "below-moderate income" residents; and

3. One-third of the rental units shall be for "moderate income" residents.

C.] Timing of [Completion.] completion.

[1. Except when the developer is partnering with a nonprofit organization or community land trust as allowed in section 2.96.040.B.2 of this chapter, residential] 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[; and

2. When the developer is partnering with a nonprofit organization or community land trust, the payment to the nonprofit organization or community land trust must be made prior to final subdivision approval or issuance of a building permit for the market rate units. The residential workforce housing units must be constructed within

three years of the date the certificates of occupancy are issued and/or the final inspections are passed for the market rate units].

[D.]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.

[E.]C. Deed [Restrictions.] restrictions.

1. The rental unit must remain affordable for [the life of the unit;] thirty years from the initial occupancy.

2. For the thirty-year affordability 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.

[3.] b. Any new owner must comply with the deed restrictions.

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

[F.]D. Rental [Rates.] rates. The monthly rental rates shall be set by the department based on HUD income limits.

[G. Foreclosures.

1. The County will have the first option to purchase the rental development; and

2. If the County does not exercise its right to purchase, the rental development may be sold with the same deed restrictions.]"

SECTION 10. Section 2.96.090, Maui County Code, is amended to read as follows:

"**2.96.090 Applicant selection process – ownership units.** A. Wait List Procedure.

1. The developer, its partner, or its management company shall establish wait lists of interested applicants by development[;].

2. Prior to initiating the wait list, the developer, its partner, or its management company shall publish in at least five issues of a newspaper of general circulation within the County, a public notice that shall contain all information that is relevant to the establishment of the wait list. The public shall also be informed in a like manner, of any decision that would substantially affect the maintenance and use of the wait list[; and].

3. Selection for purchase shall be made by a lottery administered by the developer, its partner, or its management company and overseen by the

department, subject to the applicant meeting the eligibility criteria established in subsection [B of this section.] (B).

B. Eligibility [Criteria.] criteria. In order to be eligible for a residential workforce housing unit, an applicant must meet the following criteria:

1. Be a citizen of the United States or a permanent resident alien who is a resident of the County[;].

2. Be eighteen years of age or older[;].

3. Have a gross annual family income (not to include the income of minors) which does not exceed one hundred [sixty] forty [per cent] percent of the County's area median income as established by HUD, or as adjusted by the department, for Hana, Lanai, and Molokai. Initial determination for compliance with the maximum gross annual family income provision shall be made by the developer, its partner, or its management company for the initial sale of residential workforce housing units, on the basis of the information provided on the ownership application. The ownership application will be completed when a specific unit is being considered. Final determination for compliance with the maximum gross annual family income provision shall be made by the prospective lender at the time the applicant's income verification data is received[;].

4. Have assets that do not exceed one hundred [sixty] forty [per cent] percent of the County's area median income as established by HUD, or as adjusted by the department, for Hana, Lanai, and Molokai. Assets shall include all cash, securities, stocks, bonds and real property. Real property shall be valued at fair market value less liabilities on such real property[;].

5. For a period of three years before the submittal of the ownership application, have not had an interest of fifty [per cent] percent or more in real property in fee or leasehold in the United States, where the unit or land is deemed suitable for dwelling purposes, unless the applicant is selling an affordable unit and purchasing a different affordable unit that is more appropriate for the applicant's family size[; and].

6. Pre-qualify for a loan with the applicant's choice of lender.

C. Notification of Change. Each applicant shall be responsible for notifying the developer, its partner, or its management company in writing of any changes in mailing address, telephone number, fax number, and/or e-mail address. If an applicant fails to properly notify the developer, its partner, or its management company of such changes and the developer, its partner, or its management company is unable to contact the applicant, the developer, its partner, or its management company shall remove the applicant's name from the wait list.

D. Selection [Priority.] priority.

1. Residents on the wait list shall receive first priority for the available units. Nonresidents on the wait list may purchase 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 must 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 be offered residential workforce housing units in the order in which their names were drawn in the lottery[; and].

4. In the event that units are not sold within the first ninety days after they are offered for sale, and the developer has made a good faith effort, as determined by the director, to contact and qualify applicants on the wait list, the sale of remaining units shall be conducted as follows:

a. For the next ninety-day period, units shall be offered for sale to the next-higher income preference group, at the original sales price. For example, units targeted for families earning up to one hundred twenty [per cent] percent of the median income may be sold to families earning up to one hundred forty [per cent] percent of the median income. All other eligibility criteria shall apply[;].

b. Units shall be offered to the next higher income group every ninety days until the units are sold or there are no more income groups available[;].

c. Units shall then be offered to nonresidents on the wait list in the order in which their names were drawn in the lottery, for the next ninety-day period, provided that the applicant's income is within the residential workforce housing income groups[; and].

d. Any units that remain unsold may be offered at market rate without deed restrictions. Upon the sale of the unit, the County shall receive fifty [per cent] percent of the difference between the original sales price of the unit and the actual market rate sales price, for deposit into the affordable housing fund. In this event, the developer shall still be deemed to have satisfied the requirement for producing a residential workforce housing unit.

5. The developer shall submit copies of the following information to the department to verify the sale of residential workforce housing units to eligible buyers:

a, Applicant's completed ownership application[;].

b. Executed sales contract[;].

c. Pre-qualification notice from lender[;].

d. All signed federal and state tax returns used to determine eligibility, or any other documents used to determine eligibility by the lender[; and].

e. Escrow company's settlement statement.

6. An owner of a residential workforce housing unit that is being resold must sell the unit to an income-qualified household and notify the department of the sale. The department shall verify the sales price.

SECTION 11. Section 2.96.140, Maui County Code, is amended to read as follows:

"**2.96.140 Incentives.** A. For developments subject to this chapter, and under the jurisdiction of the development services administration of the department of public works [and environmental management], decisions on permits will be made by all departments within sixty days of the date the permit application is deemed complete by the development services administration. Decisions on permits that require review by any outside agency will be made within thirty days of receipt by the development services administration of the last approval from an outside agency; provided[,] that decisions on applications that require special management area permit review, or environmental review pursuant to chapter 343, Hawaii Revised Statutes, shall be issued within ninety days of completion of the applicable review.

B. For developments subject to this chapter, and if applicable, the council will schedule the initial meeting for such application within six months of the referral to the appropriate committee. The council will vote to approve or deny the application within one year of the referral to committee.

[C. Developments that include on-site residential workforce housing units may be entitled to a density bonus, subject to enactment of enabling legislation.]"

SECTION 10. Section 2.96.150, Maui County Code, is amended to read as follows:

"**2.96.150 Qualified housing providers.** Where the department determines that such an agreement will further the purposes of this chapter, the department shall enter into an agreement, on a project-by-project basis, with a qualified housing provider. Such an agreement may provide, without limitation, that the qualified housing provider shall:

A. Receive, own, manage, rent, operate and sell residential workforce housing units provided by developers pursuant to section 2.96.040 [of this chapter;].

B. [Enter into agreements with developers pursuant to section 2.96.040.B.2 of this chapter, subject to the department's approval, pursuant to which residential workforce housing units are developed, constructed, renovated, or otherwise made available to satisfy the purposes of this chapter[;].

C.] Receive land and in-lieu fees provided by developers pursuant to [section 2.96.040.B.4 of this chapter;] subsection 2.96.040(B)(4).

[D.]C. Receive disbursements from the affordable housing fund and other funds provided for the purposes of this chapter[; and/or].

[E.]D. Administer the selection processes under sections 2.96.090 and 2.96.100 [of this chapter,] subject to the department's oversight.

1. Where a qualified housing provider receives, owns, develops, rents, operates or sells residential workforce housing units, such units shall be rented or sold to applicants qualified under this chapter, as set forth in the qualified housing provider's agreement with the department[;].

2. Selection of purchasers or renters for a qualified housing provider's units shall be made in accordance with sections 2.96.090 and 2.96.100 of this chapter or with other selection processes permitted under the qualified housing provider's agreement with the department[;]_.

3. All qualified housing provider rentals or sales shall be on terms, conditions, and restrictions set forth in the agreement, which shall be at least as restrictive as the terms, conditions and restrictions applicable to developer rentals or sales under this chapter, and may be more restrictive[; and]_.

4. All qualified housing provider agreements shall require detailed reports to the department, on no less than an annual basis, of the qualified housing provider's implementation of, and compliance with, the agreement. This report shall include an annual financial audit."

SECTION 12. Section 3.35.050, Maui County Code, is amended to read as follows:

"**3.35.050 Term of affordability.** A. Ownership housing units financed by the affordable housing fund shall be subject to the restrictions of [sections 2.96.060(D) through (H)] subsections 2.96.060(B) and (C) of this code. Rental housing units financed by the affordable housing fund shall be subject to the restrictions of [sections 2.96.070(E) through (G)] subsections 2.96.070(C) through (D) of this code.

B. The restrictions imposed by this section shall run with and bind the housing units, and the department shall record such restrictions with the bureau of conveyances or the land court of the [state.] State."

SECTION 13. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 14. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:

JEFFREY UEOKA
Deputy Corporation Counsel
County of Maui
hht:misc:011abill02
S:\ALL\JTU\ORDS\2.96 residential workforce housing policy (11.25.14).docx

WE HEREBY CERTIFY that the foregoing BILL NO. 86 (2014)

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 19th day of December, 2014, by the following vote:

Gladys C. BAISA Chair	Robert CARROLL Vice-Chair	Eleanora COCHRAN	Donald G. COUCH, JR.	S. Stacy CRIVELLO	Donald S. GUZMAN	G. Riki HOKAMA	Michael P. VICTORINO	Michael B. WHITE
Excused	Aye	No	Aye	Aye	Aye	Aye	Excused	Aye

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 19th day of December, 2014.

DATED AT WAILUKU, MAUI, HAWAII, this 19th day of December, 2014.

ROBERT CARROLL, VICE-CHAIR
Council of the County of Maui

JOSIAH K. NISHITA, DEPUTY COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 22 DAY OF December, 2014.

ALAN M. ARAKAWA, MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 4177 of the County of Maui, State of Hawaii.

DENNIS A. MATEO, COUNTY CLERK
County of Maui

Passed First Reading on December 5, 2014.
Effective date of Ordinance December 22, 2014

RECEIVED
2014 DEC 22 PM 2:44
OFFICE OF THE
COUNTY CLERK

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 4177, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui

EXHIBIT C

KAMALANI

EXHIBIT C - DESIGNATION OF RESIDENTIAL WORKFORCE HOUSING (RWH) UNITS

	Total Projected	UNIT DELIVERIES 2016	2017	2018	2019	2020	2021	2022	2023	Actual to Date
Increment 1										
RWH 80% -100%	56									-
RWH 100% -120%	80									-
RWH 120% -140%	34									-
Subtotal - RWH UNITS	170	-	-	-	-	-	-	-	-	-
Increment 2										
Market 1	79									-
Market 2	59									-
Market 3	23									-
Subtotal	161	-	-	-	-	-	-	-	-	-
Increment 3										
Market 1	112								-	-
Market 2	47								-	-
Market 3	87								-	-
Market 4	53								-	-
Subtotal	299	-	-	-	-	-	-	-	-	-
Subtotal - MARKET UNITS	460	-	-	-	-	-	-	-	-	-
TOTAL UNITS	630	-	-	-	-	-	-	-	-	-

		2016	2017	2018	2019	2020	2021	2022	2023	
RWH Unit Count										
Annual Deliveries		-	-	-	-	-	-	-	-	
Cumulative Total	170	-	-	-	-	-	-	-	-	
Market Unit Count										
Annual Deliveries		-	-	-	-	-	-	-	-	
Cumulative Total	460	-	-	-	-	-	-	-	-	
RWH Units Required	115									
RWH CREDITS	55									

THE ORIGINAL OF THE DOCUMENT
RECORDED AS FOLLOWS:
STATE OF HAWAII
BUREAU OF CONVEYANCES
DOCUMENT NO. Doc A – 64020583
DATE - TIME July 12, 2017 10:45 AM

Return by Mail ( ) Pickup ( ) To:
Department of Housing and Human Concerns
County of Maui
2200 Main Street, Suite 546
Wailuku, HI 96793

This document contains 15 pages.

Tax Map Key No.: (2) 3-8-004-030

This First Amendment to Residential Workforce Housing Agreement for Kamalani amends the agreement recorded in the Bureau of Conveyances of the State of Hawaii as Document No. A-56550796.

FIRST AMENDMENT TO RESIDENTIAL WORKFORCE HOUSING AGREEMENT FOR KAMALANI

This FIRST AMENDMENT TO RESIDENTIAL WORKFORCE HOUSING AGREEMENT FOR KAMALANI ("***Amendment***") made as of July 3, 2017 by **KAMALANI VENTURES LLC**, a Hawaii limited liability company, whose address is c/o 822 Bishop Street, Honolulu, Hawaii 96813 ("***Developer***"), and the **COUNTY OF MAUI**, a political subdivision of the State of Hawaii, whose address is 200 South High Street, Wailuku, Maui, Hawaii 96793 ("***County***").

RECITALS.

1. This Amendment pertains to the Residential Workforce Housing Agreement for Kamalani dated June 23, 2015 (the "***Agreement***") that was executed by Developer and County and recorded in the Bureau of Conveyances of the State of Hawaii ("***Bureau***") as Document No. A-56550796, concerning that certain parcel of land owned by Developer located at Pulehunui, Kihei, District of Wailuku, Island and County of Maui, being Lot 5 of the "Pulehunui Plans Subdivision," identified by Tax Map Key No. (2) 3-8-004-030 with an area of approximately 94.352 acres as more particularly described in the Agreement (the "***Land***").

2. Developer is still the sole owner in fee simple of the Land.

3. Subsequent to the execution and recordation of the Agreement, the County's Residential Workforce Housing Policy, Chapter 2.96, Maui County Code ("***MCC***") has been amended. As such, Developer and County desire to amend the Agreement.

NOW THEREFORE, pursuant to Section 18 of the Agreement, the Agreement is hereby amended as follows:

1. The County's Residential Workforce Housing Policy, Chapter 2.96, MCC attached to the Agreement as Exhibit B, is hereby supplemented by adding the amendments to said Chapter that were enacted after the date of the Agreement that are attached hereto as Exhibit 1.

2. Sections 6 and 7 of the Agreement are deleted in their entirety and replaced as follows:

> 6. Deed Restrictions. For the Deed Restricted Period, the following shall apply:
>
> (a) The RWH Unit must be owner-occupied.
>
> (b) The owner must notify DHHC upon a decision to sell.
>
> (c) Upon the owner's decision to sell, the County shall have the first option to purchase the RWH Unit from the owner; said option shall be available to the County for a period of ninety days from receipt of written notice from the owner.
>
> (d) Upon sale of the RWH Unit, the deed-restriction shall remain in full force and effect for the remainder of the Deed Restricted Period that commenced at the time of the initial sale.
>
> (e) Under special circumstances an owner of a RWH Unit may appeal to DHHC for a waiver of the owner-occupancy deed restriction; these circumstances would include, but are not limited to, assignment to active duty military or short-term contracts for off-island employment.
>
> (f) The foregoing restrictions shall not apply in case of a foreclosure of a mortgage of a RWH Unit, a deed of a RWH Unit to a mortgage lender in-lieu of foreclosure, or the sale of a RWH Unit by a mortgage lender that acquires the RWH Unit in such a foreclosure situation.

7. Resale. During the applicable Deed Restricted Period, the maximum resale price shall be established by DHHC using the following guidelines:

(a) An appraisal of the property shall be required before occupancy. The appraisal obtained by or on behalf of the lender or prospective lender for the applicant's purchase may serve as the appraisal required by this clause (a).

(b) A second appraisal shall be required upon a decision to sell the RWH Unit.

(c) Twenty-five percent of the positive difference between the two appraisals plus the amount of a seller's usual and customary closing costs shall be added to the owner's purchase price.

(d) The foregoing restrictions shall not apply in case of a foreclosure of a mortgage of a RWH Unit, a deed of a RWH Unit to a mortgage lender in-lieu of foreclosure, or the sale of a RWH Unit by a mortgage lender that acquires the RWH Unit in such a foreclosure situation.

2. Notwithstanding anything to the contrary in the Agreement, no provision of the Agreement or Chapter 2.96 of the MCC (Residential Workforce Housing Policy) shall give the owner of a RWH Unit or any other party priority over any rights of any institutional mortgage lender or any governmental or quasi-governmental agency including, but not limited to, the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, the U.S. Department of Housing and Urban Development or the Veterans Administration, pursuant to its mortgage of a RWH Unit in the case of payment to an owner of an RWH Unit of insurance settlements or condemnation proceeds for losses to or a taking of such RWH Unit and any interest appurtenant thereto.

3. Except as provided above, the Agreement remains in full force and effect. This Amendment may be executed in counterparts, and all such executed counterparts shall constitute the same agreement. Duplicated unexecuted pages of the counterparts may be discarded and the remaining pages assembled as one document.

[*Remainder of page left blank*]

IN WITNESS WHEREOF, Developer and County have executed this Amendment on the day and year above first written.

KAMALANI VENTURES LLC, a Hawaii limited liability company

By A & B Properties Hawaii, LLC, Series T
Its Manager

By _____
Richard B. Stack
Its SENIOR VICE PRESIDENT

By _____
ALYSON J. NAKAMURA
Its SECRETARY

COUNTY OF MAUI

By _____
ALAN M. ARAKAWA
Its Mayor

RECOMMENDED APPROVAL:

_____
CAROL REIMANN
Director Housing and Human Concerns

APPROVED AS TO FORM
AND LEGALITY:

_____
JEFFREY UEOKA
Deputy Corporation Counsel

STATE OF HAWAII)
) SS:
CITY AND COUNTY OF HONOLULU)

On this 23 day of June, 2017, before me personally appeared RICHARD B. STACK, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

KATHLEEN CHAPMAN NOTARY PUBLIC No. 15-344 STATE OF HAWAII

(Official Stamp or Seal)

Kathleen Chapman

Name: KATHLEEN CHAPMAN
Notary Public, State of Hawaii
My commission expires: 10/11/2019

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: First Amendment to Residential Workforce Housing Agreement for Kamalani

Doc. Date: _____ or ☒ Undated at time of notarization.

No. of Pages: 15 Jurisdiction: First Circuit (in which notarial act is performed)

Kathleen Chapman
Signature of Notary

Date of Notarization and Certification Statement

KATHLEEN CHAPMAN
Printed Name of Notary

KATHLEEN CHAPMAN NOTARY PUBLIC No. 15-344 STATE OF HAWAII

(Official Stamp or Seal)

STATE OF HAWAII)
) SS:
CITY AND COUNTY OF HONOLULU)

On this 23 day of June, 2017, before me personally appeared ALYSON J. NAKAMURA, to me personally known, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

KATHLEEN CHAPMAN NOTARY PUBLIC No. 15-344 STATE OF HAWAII

Kathleen Chapman

Name: KATHLEEN CHAPMAN
Notary Public, State of Hawaii
My commission expires: 10/11/2019

(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: First Amendment to Residential Workforce Housing Agreement for Kamalani

Doc. Date: _____ or ☒ Undated at time of notarization.

No. of Pages: 15 Jurisdiction: First Circuit (in which notarial act is performed)

Kathleen Chapman 6/23/2017
Signature of Notary Date of Notarization and Certification Statement

KATHLEEN CHAPMAN NOTARY PUBLIC No. 15-344 STATE OF HAWAII

KATHLEEN CHAPMAN
Printed Name of Notary

(Official Stamp or Seal)

STATE OF HAWAII)
) SS:
COUNTY OF MAUI)

On this 3rd day of July, 2017, before me appeared **ALAN M. ARAKAWA,** to me personally known, who being by me duly sworn did say that she is the Mayor of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui pursuant to Section 7-6.2 and Section 9-18.1 of the Charter of the County of Maui; and the said **ALAN M. ARAKAWA** acknowledged the said instrument to be the free act and deed of said County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

KELII P. NAHOOIKAIKA NOTARY PUBLIC No. 06-242 STATE OF HAWAII

Kelii P. Nahooikaika

Name: KELII P. NAHOOIKAIKA
Notary Public, State of Hawaii
My commission expires: 4.30.18

(Official Stamp or Seal)

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: First Amendment to Residential Workforce Housing Agreement for Kamalani

Doc. Date: 7.3.17 or ☐ Undated at time of notarization.

No. of Pages: 15 Jurisdiction: Second Circuit (in which notarial act is performed)

Kelii P. Nahooikaika 7.3.17
Signature of Notary Date of Notarization and Certification Statement

KELII P. NAHOOIKAIKA
Printed Name of Notary

KELII P. NAHOOIKAIKA NOTARY PUBLIC No. 06-242 STATE OF HAWAII
(Official Stamp or Seal)

EXHIBIT 1

ORDINANCE NO. 4235

BILL NO. 47 (2015)

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

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:

1. [One residential workforce housing credit shall] 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[; and], 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."

SECTION 2. Section 2.96.060, Maui County Code, is amended by amending subsection B to read as follows:

"B. Deed restrictions.

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

a. "Below-moderate income," ten years.

b. "Moderate income," eight years.

c. "Above-moderate income," five years.

2. For the deed-restricted period, the following shall apply:

a. The unit must be owner-occupied.

b. The owner must notify the department upon a decision to sell.

c. Upon the owner's decision to sell, the County shall have the first option to purchase the unit 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].

d. Upon sale of the unit, the [deed-restricted] deed restrictions shall remain in full force and effect for the remainder of the deed restriction period that commenced at the time of the initial sale.

e. Under special circumstances an owner of a residential workforce housing unit may appeal to the department for a waiver of the owner-occupancy deed restriction; these circumstances would include, but are not limited to, assignment to active duty military or short-term contracts for off-island employment.

f. Resale. The maximum resale price shall be established by the department using the following guidelines:

[1.]i. An appraisal of the property shall be required before occupancy ("the owner's purchase price").

[2.]ii. A second appraisal shall be required upon a decision to sell the unit.

[3.]iii. Twenty-five percent of the difference between the two appraisals shall be added to the owner's purchase price.

g. The restrictions contained in subparagraphs 2a through 2f above shall not apply in situations of foreclosure."

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

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

APPROVED AS TO FORM
AND LEGALITY:

JEFFREY UEOKA
Deputy Corporation Counsel
County of Maui
2 96 Credits and Foreclosures
LF 2015-3823

WE HEREBY CERTIFY that the foregoing BILL NO. 47 (2015)

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 24th day of July, 2015, by the following vote:

Michael B WHITE Chair	Donald S GUZMAN Vice-Chair	Gladys C BAISA	Robert CARROLL	Eleanora COCHRAN	Donald G COUCH, JR	S. Stacy CRIVELLO	G. Riki HOKAMA	Michael P VICTORINO
Aye	Excused	Aye	Excused	Aye	Aye	Aye	Aye	Aye

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 24th day of July, 2015.

DATED AT WAILUKU, MAUI, HAWAII, this 24th day of July, 2015.

RECEIVED
2015 JUL 24 PM 4 5?
OFFICE OF THE

MICHAEL B. WHITE, CHAIR
Council of the County of Maui

DENNIS A. MATEO, COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 27 DAY OF July, 2015.

ALAN M. ARAKAWA, MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 4235 of the County of Maui, State of Hawaii.

DENNIS A. MATEO, COUNTY CLERK
County of Maui

Passed First Reading on July 7, 2015.
Effective date of Ordinance July 27, 2015

RECEIVED
2015 JUL 29 AM 10
OFFICE OF THE
COUNTY C

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 4235, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui

ORDINANCE NO. 4338

BILL NO. 66 (2016)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96, MAUI COUNTY CODE, RELATING TO THE RESIDENTIAL WORKFORCE HOUSING POLICY CREDIT REQUIREMENTS AND DEED RESTRICTIONS

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

SECTION 1. Section 2.96.040, Maui County Code, is amended by amending subsection B to read as follows:

"B. Prior to final subdivision approval or issuance of a building permit for a development subject to this chapter, the department shall require the developer to enter into a residential workforce housing agreement. The agreement shall set forth the method by which the developer satisfies the requirements of this chapter. The requirements may be satisfied by one or a combination of the following, which shall be determined by the director and stated in the agreement:

1. Offer for sale, single-family dwelling units, two-family dwelling units, or multi-family dwelling units as residential workforce housing within the community plan area[;]_.

2. Offer for rent, multi-family dwelling units as residential workforce housing units within the community plan area[;]_.

3. In lieu of directly selling or renting units pursuant to subsections (B)(1) or (B)(2) the developer may convey such units to a qualified housing provider subject to department approval pursuant to section 2.96.150[; or]_.

4. In lieu of providing residential workforce housing units, the residential workforce housing requirement may be satisfied by payment of a fee, by providing improved land, or by providing unimproved land in accordance with the following:

a. The in-lieu fee per residential workforce housing unit required by this chapter shall be equal to the difference in unit costs for a three bedroom, single-family[,] dwelling unit, at one hundred percent and a three bedroom, single-family[,] dwelling unit at one hundred sixty percent of median income, for a family of four, pursuant to HUD affordable sales price guidelines,

or as adjusted by the department for Hana, Lanai, and Molokai.

b. Any dedication of improved or unimproved land in-lieu of residential workforce housing units shall be subject to the approval of the director and the council by resolution.

5. Application of residential workforce housing credits issued pursuant to this code."

SECTION 2. Section 2.96.060, Maui County Code, is amended by amending subsection B to read as follows:

"B. Deed restrictions.

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

a. "Below-moderate income," ten years.

b. "Moderate income," eight years.

c. "Above-moderate income," five years.

2. For the deed-restricted period, the following shall apply:

a. The unit must be owner-occupied.

b. The owner must notify the department upon a decision to sell.

c. Upon the owner's decision to sell, the County shall have the first option to purchase the unit from the owner; said option shall be available to the County for a period of [one hundred and twenty] ninety days from receipt of written notice from the owner.

d. Upon sale of the unit, the deed restrictions shall remain in full force and effect for the remainder of the [deed restriction] deed-restricted period that commenced at the time of the initial sale.

e. Under special circumstances an owner of a residential workforce housing unit may appeal to the department for a waiver of the owner-occupancy deed restriction; these circumstances would include, but are not limited to, assignment to active duty military or short-term contracts for off-island employment.

f. Resale. The maximum resale price shall be established by the department using the following guidelines:

i. An appraisal of the property shall be required before occupancy ("the owner's purchase price").

ii. A second appraisal shall be required upon a decision to sell the unit.

iii. Twenty-five percent of the difference between the two appraisals shall be added to the owner's purchase price.

g. The restrictions contained in subparagraphs 2a through 2f above shall not apply in situations of foreclosure."

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

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

APPROVED AS TO FORM
AND LEGALITY:

JEFFREY UEOKA
Deputy Corporation Counsel
County of Maui
S:\ALL\JTU\ORDS\2 96 amend_Application of Credits and Adjust County Purchase Option Period.docx
2015-5477

WE HEREBY CERTIFY that the foregoing BILL NO. 66 (2016)

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 17th day of June, 2016, by the following vote:

Michael B WHITE Chair	Donald S GUZMAN Vice Chair	Gladys C BAISA	Robert CARROLL	Eleanora COCHRAN	Donald G COUCH JR	S Stacy CRIVELLO	G Riki HOKAMA	Michael P VICTORINO
Aye	Excused	Aye	Aye	Excused	Aye	Aye	Aye	Aye

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 17th day of June, 2016.

DATED AT WAILUKU, MAUI, HAWAII, this 17th day of June, 2016.

MICHAEL B. WHITE, CHAIR
Council of the County of Maui

DENNIS A. MATEO, COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 20 DAY OF June, 2016.

ALAN M. ARAKAWA, MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 4338 of the County of Maui, State of Hawaii.

DENNIS A. MATEO, COUNTY CLERK
County of Maui

Passed First Reading on June 3, 2016
Effective date of Ordinance June 20, 2016

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 4338, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

County Clerk, County of Maui

From: Keola Whittaker
To: Saumalu S. Mataafa
Cc: Kristina C. Toshikiyo; Rick Kiefer; Clyde A. Almeida; Mimi Desjardins; Selina R. Pannell
Subject: RE: Kamalani Follow up
Date: Thursday, February 27, 2025 4:41:48 PM
Attachments: Payments to DHHC.xlsx

You don't often get email from kwhittaker@cades.com. Learn why this is important

Hi Saumalu,

Since it's been a couple of months, I thought I would check in to see if you had any questions. I also took the liberty of highlighting the payments made in late 2018 on the attached spreadsheet for you that we used to calculate the amount our client is owed.

Please let us know if you need additional information or would like to discuss by a Zoom meeting or call. Mahalo

Keola R. Whittaker | *Of Counsel* | **Cades Schutte LLP**
(t) 808.521.9292 | kwhittaker@cades.com | www.cades.com

From: Keola Whittaker
Sent: Monday, December 30, 2024 3:08 PM
To: Mimi Desjardins <MIMI.Desjardins@co.maui.hi.us>; Selina R. Pannell <Selina.R.Pannell@co.maui.hi.us>; Saumalu S. Mataafa <Saumalu.Mataafa@co.maui.hi.us>
Cc: Kristina C. Toshikiyo <Kristina.C.Toshikiyo@co.maui.hi.us>; Rick Kiefer <rkiefer@cades.com>; Clyde A. Almeida <Buddy.Almeida@co.maui.hi.us>
Subject: RE: Kamalani Follow up

Thanks, Mimi. No problem. I've attached the spreadsheet showing the sales of the Kamalani units. To arrive at the $235,550 number, I added up the amounts in the "Due to County" column for the last 55 affordable units, starting in 2019 ($180,500 for 42 units) and the 2nd half of 2018, going backwards chronologically based on the dates in the "Date Closed" column for the last 13 affordable sales that generated an amount due to the County in 2018.

Keola R. Whittaker | *Of Counsel* | **Cades Schutte LLP**
(t) 808.521.9292 | kwhittaker@cades.com | www.cades.com

From: Mimi Desjardins <MIMI.Desjardins@co.maui.hi.us>
Sent: Monday, December 30, 2024 2:59 PM
To: Keola Whittaker <kwhittaker@cades.com>; Selina R. Pannell <Selina.R.Pannell@co.maui.hi.us>; Saumalu S. Mataafa <Saumalu.Mataafa@co.maui.hi.us>
Cc: Kristina C. Toshikiyo <Kristina.C.Toshikiyo@co.maui.hi.us>; Rick Kiefer <rkiefer@cades.com>; Clyde A. Almeida <Buddy.Almeida@co.maui.hi.us>
Subject: RE: Kamalani Follow up

CAUTION: This email originated from outside of Cades Schutte.

Hi Keola,

Can you please forward the spreadsheet again, and include Saumalu Mata'afa, the Deputy Director of Housing?

You might point out to A&B that I asked Mr. Kiefer if he wanted to resolve this issue when I emailed him on July 23, 2021. Unless I am missing an email, I didn't hear back from anyone at Cades Shutte until your email of July 1, 2024, almost 3 years later. We will do our best to work with the Department of Housing as expeditiously as possible to verify the information in your speadsheet, but there is no guarantee we can do so within A&B's desired timeframe.

Thanks for your continued patience.

Mimi

Mimi Desjardins
First Deputy Corporation Counsel
Department of the Corporation Counsel
County of Maui
200 So. High Street, 3rd Floor
Wailuku, HI 96793
(808) 270-7740

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From: Keola Whittaker <kwhittaker@cades.com>
Sent: Monday, December 30, 2024 2:23 PM
To: Mimi Desjardins <MIMI.Desjardins@co.maui.hi.us>; Selina R. Pannell <Selina.R.Pannell@co.maui.hi.us>
Cc: Kristina C. Toshikiyo <Kristina.C.Toshikiyo@co.maui.hi.us>; Rick Kiefer <rkiefer@cades.com>
Subject: RE: Kamalani Follow up

Hi all,

It's been six months since we submitted our request for a refund of A&B's $235,550 overpayment to the County. We provided spreadsheets showing the overpayment along with an explanation. We also followed up about two months ago. We'd appreciate it if we could wrap up this matter soon, so we don't have to be a nudge about it in 2025.

Please let us know if there has been a decision made on the refund or if you need anything additional from us.

Mahalo.

Keola R. Whittaker | *Of Counsel* | **Cades Schutte LLP**
(t) 808.521.9292 | kwhittaker@cades.com | www.cades.com

From: Keola Whittaker
Sent: Friday, November 1, 2024 1:19 PM
To: Mimi Desjardins <MIMI.Desjardins@co.maui.hi.us>; Rick Kiefer <rkiefer@cades.com>; Selina Pannell <Selina.R.Pannell@co.maui.hi.us>
Cc: Kristina Toshikiyo <Kristina.C.Toshikiyo@co.maui.hi.us>
Subject: RE: Kamalani Follow up

Hi all,

Since it's been a few months, I thought I'd check in to see if there's anything more we need to do or provide to get A&B a refund for their overpayments to DHHL. We would also appreciate an update on when A&B can expect to hear back.

Mahalo

Keola R. Whittaker | *Of Counsel* | **Cades Schutte LLP**
444 Hana Highway, Suite 204 | Kahului, HI 96732
(t) 808.521.9292 | kwhittaker@cades.com | www.cades.com

From: Mimi Desjardins <MIMI.Desjardins@co.maui.hi.us>
Sent: Monday, July 22, 2024 11:28 AM
To: Keola Whittaker <kwhittaker@cades.com>; Rick Kiefer <rkiefer@cades.com>; Selina Pannell <Selina.R.Pannell@co.maui.hi.us>
Cc: Kristina Toshikiyo <Kristina.C.Toshikiyo@co.maui.hi.us>
Subject: RE: Kamalani Follow up

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Hi keola,

This is being handled primarily by Kristina as she is assigned Housing developments. I will follow up with her as well. Hope to be able to fit it in this week.

Mimi

Mimi Desjardins
First Deputy
Department of the Corporation Counsel
200 S. High Street
Wailuku, HI 96793
Ph. (808) 270-7740
Fax: (808) 270-7152
email: mimi.desjardins@co.maui.hi.us

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From: Keola Whittaker <kwhittaker@cades.com>
Sent: Friday, July 19, 2024 1:58 PM

To: Mimi Desjardins <MIMI.Desjardins@co.maui.hi.us>; Rick Kiefer <rkiefer@cades.com>; Selina Pannell <Selina.R.Pannell@co.maui.hi.us>
Cc: Kristina Toshikiyo <Kristina.C.Toshikiyo@co.maui.hi.us>
Subject: RE: Kamalani Follow up

Hi Mimi,

I am writing to follow up. I'm going to be away from the office next week, but checking emails periodically so I can answer any questions. Rick is also available.

The calculation was pretty simple. I added up the amounts paid to the County for the last 55 units by date sold. I had someone else do the same calculation to confirm accuracy. Please let us know if it looks accurate to you as well.

Mahalo

Keola R. Whittaker | *Of Counsel* | **Cades Schutte LLP**
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(t) 808.521.9292 | kwhittaker@cades.com | www.cades.com

From: Mimi Desjardins <MIMI.Desjardins@co.maui.hi.us>
Sent: Wednesday, July 3, 2024 10:13 AM
To: Keola Whittaker <kwhittaker@cades.com>; Rick Kiefer <rkiefer@cades.com>; Selina Pannell <Selina.R.Pannell@co.maui.hi.us>
Cc: Kristina Toshikiyo <Kristina.C.Toshikiyo@co.maui.hi.us>
Subject: RE: Kamalani Follow up

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Thanks, Keola, will take a look and get back you.

Mimi Desjardins
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From: Keola Whittaker <kwhittaker@cades.com>
Sent: Wednesday, July 3, 2024 10:03 AM
To: Mimi Desjardins <MIMI.Desjardins@co.maui.hi.us>; Rick Kiefer <rkiefer@cades.com>; Selina Pannell <Selina.R.Pannell@co.maui.hi.us>
Cc: Kristina Toshikiyo <Kristina.C.Toshikiyo@co.maui.hi.us>
Subject: RE: Kamalani Follow up

Hi Mimi,

Attached is a spreadsheet of sales for the Kamalani units. I added up the payments made to the County for the last 55 RWFH units and that total is $235,550. Let me know if you have any questions.

Keola R. Whittaker | *Of Counsel* | **Cades Schutte LLP**
444 Hana Highway, Suite 204 | Kahului, HI 96732
(t) 808.521.9292 | kwhittaker@cades.com | www.cades.com

From: Mimi Desjardins <MIMI.Desjardins@co.maui.hi.us>
Sent: Tuesday, July 2, 2024 2:14 PM
To: Rick Kiefer <rkiefer@cades.com>; Selina Pannell <Selina.R.Pannell@co.maui.hi.us>
Cc: Keola Whittaker <kwhittaker@cades.com>; Kristina Toshikiyo <Kristina.C.Toshikiyo@co.maui.hi.us>
Subject: RE: Kamalani Follow up

CAUTION: This email originated from outside of Cades Schutte.

Rick and Keola,

Can you send over the spreadsheet please? Thanks.

Mimi Desjardins
First Deputy
Department of the Corporation Counsel

200 S. High Street
Wailuku, HI 96793
Ph. (808) 270-7740
Fax: (808) 270-7152
email: mimi.desjardins@co.maui.hi.us

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From: Rick Kiefer <rkiefer@cades.com>
Sent: Tuesday, July 2, 2024 1:02 PM
To: Mimi Desjardins <MIMI.Desjardins@co.maui.hi.us>; Selina Pannell <Selina.R.Pannell@co.maui.hi.us>
Cc: Keola Whittaker <kwhittaker@cades.com>; Kristina Toshikiyo <Kristina.C.Toshikiyo@co.maui.hi.us>
Subject: RE: Kamalani Follow up

Thanks Mimi, sounds good, and no I am not handling those. My partner john Love is handling the DHHL purchase of the undeveloped phases of Kamalani and is the point person for anything on those.

If it would be helpful Keola has a spreadsheet that tracks the payments A&B made to DHHC for the final 55 unit sales at issue.

Rick

From: Mimi Desjardins <MIMI.Desjardins@co.maui.hi.us>
Sent: Tuesday, July 02, 2024 9:27 AM
To: Rick Kiefer <rkiefer@cades.com>; Selina Pannell <Selina.R.Pannell@co.maui.hi.us>
Cc: Keola Whittaker <kwhittaker@cades.com>; Kristina Toshikiyo <Kristina.C.Toshikiyo@co.maui.hi.us>
Subject: RE: Kamalani Follow up

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Aloha Rick,

Thanks for the email. Please include Selina Pannell, the deputy who is handling Parks matters, as well as Kristina Toshikiyo, the deputy in charge of housing issues.
We will be meeting internally to discuss this, I need to get Kristina up to speed on this, and brief her on our past discussions.

Will you be assisting Kamalani Ventures with the amended RWFHA as well as the amended Parks Assessment Agreement?

Thanks, will be in touch.

Mimi

Mimi Desjardins
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Ph. (808) 270-7740
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From: Rick Kiefer <rkiefer@cades.com>
Sent: Monday, July 1, 2024 6:44 PM
To: mimi.desjardins@co.maui.hi.us
Cc: Keola Whittaker <kwhittaker@cades.com>
Subject: RE: Kamalani Follow up

Hi Mimi – You might recall our emails below about A&B Kamalani workforce housing project where we had an issue about whether A&B was entitled to RWFH credits for 55 units that it built and sold.

A&B has directed us to wrap this up by finalizing a refund of its overpayment to DHHC. I know you are no longer advising Housing but given your history with the issues can we work with you on this or, if not, can you direct us to the most appropriate person to deal with? Rick

Rick Kiefer | Partner | **Cades Schutte LLP**
Maui Office | 444 Hana Highway, Suite 204 | Kahului, HI 96732
Phone: 808.871.9700 | **Fax**: 808.871.6017 | **Web**: www.cades.com | **Email**: rkiefer@cades.com

---

From: Mimi Desjardins [mailto:MIMI.Desjardins@co.maui.hi.us]
Sent: Friday, July 23, 2021 9:18 AM
To: Rick Kiefer
Subject: RE: Kamalani Follow up

Hi Rick:

Thanks for your email. I have had further discussions with the DHHC about this and its position remains as stated in our letter to you indicating that the department will not be issuing credits for this project given that only 30 affordable, deed restricted units were sold. However, as I discussed when we met on July 2, there remains an issue with overpayment by A&B to the DHHC of the 50% difference between the market price and what should have been the sales price for an affordable unit in each AMI category for 55 of the units. Let me know if you would care to discuss how to calculate a possible refund of that overpayment.

I appreciate your efforts to try and resolve this.

Mimi DesJardins
Deputy Corporation Counsel
Department of the Corporation Counsel
200 S. High Street
Wailuku, HI 96793
Ph. (808) 270-7740
Fax: (808) 270-7152
email: mimi.desjardins@co.maui.hi.us

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From: Rick Kiefer [mailto:rkiefer@cades.com]
Sent: Thursday, July 22, 2021 5:58 PM
To: Mimi Desjardins <MIMI.Desjardins@co.maui.hi.us>
Subject: Kamalani Follow up

Hi Mimi - Just following up, do you have any further word on this?

Also, since we last talked I checked the legislative history of Ordinance 4780, which amended the Credits provisions of 2.96.050 after Kamalani's RWH Agreement was done. There were a couple of excerpts from Committee hearings -- which I pasted below and highlighted in the attached --which to me pretty clearly illustrate that the County understood that prior to Ordinance 4780 the wording of 2.96 potentially allowed claims for credits on sales of units without deed restrictions and to buyers who were not income-qualified as RWH buyers. As you'll see Jeff Ueoka characterized this as just clarifying the Department's "intent" in terms of how Credits should work, which I think is what's reflected in the Director's June 17 letter to me, but for purposes of Kamalani I think we need to follow what the law at the time actually said rather than what Department staff at the time thought it should say. (Not trying to be argumentative here, but do want to make sure you're away of this info .)

Anyway, again, any update you can share would be much appreciated. Rick

November 17, 2016 Housing, Human Services, and Transportation Committee Minutes:

- Director Carol Reimann: So under Chapter 2.96.050 credits may be issued by the Director upon request of the developer provided that and we are replacing the first two paragraphs with four paragraphs. The first paragraph reads, each residential workforce housing unit constructed in the development shall be encumbered by a recorded deed restriction that meets the requirements of this chapter. This really clarifies the intent. No. 2, each residential workforce housing unit shall be sold or rented to an income-eligible individual. No. 3, credits may be, 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 those developments comprised of 100 percent residential workforce housing units, only 75 percent of the residential workforce housing units sold or rented to the income-eligible individuals shall be eligible for credits. Further provided that, for those developments comprised of 100 percent residential workforce housing units that are to be rented to those households whose gross annual family income is 60 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. No. 4, notwithstanding the foregoing, for those developments developed pursuant to Chapter 20lH, Hawaii Revised Statutes, only those developments comprised of 100 percent residential workforce housing units shall be eligible to receive credits and only those units sold or rented to income-eligible individuals in excess of 50 percent of the total number of residential workforce housing units sold or rented to income-eligible individuals shall be eligible for credits. So that's the first part. (Pp. 4-5).

- Corporation Counsel Jeff Ueoka: Thank you, Chair. Thank you, Mr. Couch. That language is, right now we're just talking about the issuance of credits. There are provisions in 2.96 and other areas regarding resale and those types of matters. **And as far as the encumbered by recorded deed restriction and sold or rented to an income-eligible individual, it was the Department's intent to just make sure that was crystal clear**. **I believe we don't want to be giving credits out for units that are built that aren't deed restricted and are not sold or rented to income individuals, income-eligible individuals**. . . . . That's the intent behind those. (Pp. 7-8).

The Bill was then sent back to the Department for revisions and deferred to the 2017 term.

<u>August 17, 2017 Housing, Human Services, and Transportation Committee Minutes:</u>

- Chair Crivello: The purpose of the revised proposed bill is to amend Chapter 2.96, Maui County Code, as it relates to (1) Section 2.96.050A, Relating to Credits, (2) Section 2.96.070, Relating to Residential Workforce Housing Restriction for Rental Units, (3) Section 2.96. 100D, Relating to Vacancy in a Residential Workforce Housing Unit. (P. 25).
- Mr. Ueoka: I guess we'll start under the first one, Section 1, 2.96.050. The first main one is at the bottom of the page. Each residential workforce housing unit constructed in development shall be encumbered by a recorded deed restriction that meets the requirements of this chapter. **That was just so we were clear that credits only be given for residential workforce housing units with a deed can [sic] restriction. I know that seems obvious but it has come up so we wanted to address it. Turn to the next page, page two, item two on the top. Each residential workforce housing unit shall be sold or rented to an income eligible individual and this is for the credits in order to be applicable for credits. Same thing, seemed obvious but it has come up so we wanted to address it directly. (**P. 26).

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MICHAEL P. VICTORINO
Mayor

LORI TSUHAKO
Director

LINDA R. MUNSELL
Deputy Director

DEPARTMENT OF HOUSING
& HUMAN CONCERNS
COUNTY OF MAUI
2200 MAIN STREET, SUITE 546
WAILUKU, MAUI, HAWAI'I 96793
PHONE: (808) 270-7805

June 17, 2021

Mr. Richard J. Kiefer, Esq.
Cades Schutte
44 Hana Highway, Suite 204
Kahului, HI 96732

Dear Mr. Kiefer:

SUBJECT: RESIDENTIAL WORKFORCE HOUSING CREDITS FOR UNITS DEVELOPED IN KAMALANI

Thank you for your correspondence dated April 30, 2021 regarding Residential Workforce Housing Credits for units developed in Kamalani.

The Kamalani Workforce Housing Agreement (the Agreement) sets forth the terms for the developer to receive credits based on the number of residential workforce units constructed and sold at affordable rates in excess of the minimum number required. The Agreement provides that the required number of workforce units is one hundred fifteen (115) out of the total one hundred seventy (170) units to be constructed. The developer was entitled to receive up to a total of fifty-five (55) credits. Despite the efforts made, however, only thirty (30) units were successfully sold as workforce units, far below the one hundred fifteen (115) minimum requirement.

The developer, by its own submissions to the Housing Division of the Department of Housing and Human Concerns, identified each of the one hundred seventy (170) units sold as either a workforce housing unit or as a market rate unit. The submissions specifically identified one hundred forty (140) units sold at market rates to non-workforce buyers, and thirty (30) units sold at affordable housing rates to workforce qualified buyers. The deeds for the thirty (30) workforce units are the only deeds that were recorded with workforce deed restrictions. Since the minimum workforce requirement of fifty-five (55) units was not met, the calculation stops there. Without delivering the minimum number of workforce units, there are no excess workforce units sold that would entitle the developer to receive credits.

I am available to set up a meeting with you and your client should you wish to discuss further.

Sincerely,

LORI TSUHAKO, LSW, ACSW
Director of Housing and Human Concerns

xc: Housing Division
Corporation Counsel

From:	Mimi Desjardins
To:	Lesley J. Milner; Richard E. Mitchell; Saumalu S. Mataafa; Josiah K. Nishita
Cc:	Cassiopia L. Yamashita; Kristina C. Toshikiyo; Alice L. Hale
Subject:	Re: RFLS re: whether council approval is required to reimburse A&B for overpayment LF 2025-1758
Date:	Wednesday, December 3, 2025 5:04:20 PM
Attachments:	image001.png

You are correct, Lesley, there is no requirement to seek counsel approval for reimbursement of an overpayment.

Get Outlook for iOS

From: Lesley J. Milner <Lesley.J.Milner@co.maui.hi.us>
Sent: Wednesday, December 3, 2025 5:00:17 PM
To: Mimi Desjardins <MIMI.Desjardins@co.maui.hi.us>; Richard E. Mitchell <Richard.E.Mitchell@co.maui.hi.us>; Saumalu S. Mataafa <Saumalu.Mataafa@co.maui.hi.us>; Josiah K. Nishita <Josiah.K.Nishita@co.maui.hi.us>
Cc: Cassiopia L. Yamashita <Cassiopia.L.Yamashita@co.maui.hi.us>; Kristina C. Toshikiyo <Kristina.C.Toshikiyo@co.maui.hi.us>; Alice L. Hale <Alice.L.Hale@co.maui.hi.us>
Subject: RE: RFLS re: whether council approval is required to reimburse A&B for overpayment LF 2025-1758

Hi all,
Could you please supply the agreed upon amount of repayment and where you intend to pay it from? If you have sufficient funds to cover it I don't believe it needs a budget amendment but will double check once I have that information. I don't see anything in the code requirement Council approval related to an overpayment but will defer to Corporation Counsel on that aspect. Thank you.
-Lesley

Lesley J.C. Milner
Budget Director

Office of the Mayor
808-270-8239
Lesley.j.milner@co.maui.hi.us

From: Mimi Desjardins <MIMI.Desjardins@co.maui.hi.us>
Sent: Wednesday, December 3, 2025 4:29 PM
To: Richard E. Mitchell <Richard.E.Mitchell@co.maui.hi.us>; Saumalu S. Mataafa <Saumalu.Mataafa@co.maui.hi.us>; Josiah K. Nishita <Josiah.K.Nishita@co.maui.hi.us>
Cc: Lesley J. Milner <Lesley.J.Milner@co.maui.hi.us>; Cassiopia L. Yamashita

<Cassiopia.L.Yamashita@co.maui.hi.us>; Kristina C. Toshikiyo <Kristina.C.Toshikiyo@co.maui.hi.us>; Alice L. Hale <Alice.L.Hale@co.maui.hi.us>
Subject: RFLS re: whether council approval is required to reimburse A&B for overpayment LF 2025-1758

Hi Remi,

You sent an RFLS to us in October asking whether Council approval is required to pay A&B back for an overpayment it made to the COM when it was required to pay us for units at the Kamalani development that did not sell at the initially required AMI.

The overpayment was most likely made back in 2020 or even before then. I believe the Housing department and A&B have settled on an agreed amount that should be paid back.

I would defer to Budget director Lesley Milner. If you have the funds available to reimburse them without having to ask for a budget amendment then I would say Council approval is not needed.

I know from emails between you and legal counsel for A&B that you were waiting until after the budget session for the FY 2026 budget to reimburse A&B. I don't know if this was because you were going to add the amount to your budget or not, or whether it was in fact added. Again, I think Lesley might be better at answering this question that our department.

Please let me know if you need further assistance. I hope this can get resolved before the end of the year.

Mimi

Mimi Desjardins

First Deputy Corporation Counsel

Department of the Corporation Counsel

County of Maui

200 So. High Street, 3rd Floor

Wailuku, HI 96793

(808) 270-7740

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From:	Richard E. Mitchell
To:	Marcy L. Martin
Cc:	Megan Ness; Saumalu S. Mataafa; Noah D. Jackson
Subject:	Kamalani Housing - Excess Payments for RWH Units sold at Market Rate
Date:	Friday, January 30, 2026 9:53:00 AM

Aloha Marcy,

Below is a summary of what we discussed this morning. As noted in the second to last paragraph below, we're trying to discern the precise amount paid by A&B Properties, Inc. (A&B) to the County relating to Residential Workforce Housing (RWH) units. In addition, we would like to know the process for returning the agreed overpayment amount back to A&B.

Kamalani is a 460-unit development, located in north Kihei, that had a minimum requirement of 115 RWH units. A&B committed to building 170 RWH units, which exceeded the minimum requirement, with an expectation of receiving fifty-five credits for the excess RWH units. Phased construction for the project commenced in 2016.

Only thirty units were sold at the RWH price, leaving eighty-five RWH units to meet the minimum requirement.

Based on Chapter 2.96, Maui County Code (MCC), the developer asserts they incorrectly paid the County for a total of 140 RWH units, when they should have only paid for the outstanding eighty-five RWH units. They apparently believed that payment was due for all units sold at market-rate (140) that were committed by the developer to be sold as RWH. Payment was required only for the eighty-five remaining units to meet the minimum requirement of 115 RWH units. A&B's error resulted in an overpayment for fifty-five units.

Under Section 2.96.090(D), MCC, if workforce housing units remain unsold after 90 days despite good-faith efforts to contact waitlist applicants, they may be offered to higher-income groups in successive 90-day periods, then to nonresidents on the waitlist, and finally at market rate. When RWH units are sold at market rate under Section 2.96.090(D)(4)(d), "the County shall receive fifty percent of the difference between the original sales price of the unit and the actual market rate sales price…." Consistent with this process, A&B provided a spreadsheet that summarizes payments to the former Dept. of Housing and Human Concerns, that shows the developer paid fifty percent of the difference between the RWH price and the market-rate sale price, as required under Chapter 2.96.090(D)(4)(d). The spreadsheet provides information on all Kamalani unit sales from 2017 to 2019.

To determine the overpayment, A&B's attorney calculated the total amount paid to the County for the final fifty-five market-rate units sold, which include forty-two units in 2019 and thirteen units in 2018. The total paid to the County was $53,550 in 2018 and $180,500 in 2019, for a combined total

of $234,050. A&B's attorney, however, stated in an email (dated 12/30/2024) that the overpayment was $235,550.

Thank you for any assistance you can provide in tracking down the payments, and with explaining the reimbursement process.

Mahalo,
Remi

Richard E. Mitchell, Esq., Director
County of Maui | Dept. of Housing
E: richard.e.mitchell@co.maui.hi.us
O: (808) 270-7110 | C: (808) 446-0087

COUNTY OF MAUI

Deposited with the

Department of Finance - Division of Treasury

Collections on Acccount

Treasurer's No.
NOV 29 18 000975

Dept./Division: DHHC-Housing Division
Date: 11/19/2018

Source of Receipt			
Index	Subobject	Description	Amount
101001	3794	Payment for the 2018 Market Units For Kamalani pursuant to the Residential Workforce Housing Agreement between Kamalani Ventures LLC and the County of Maui, dated June 23, 2015, and amended July 3, 2017. 46 homes were built & closed through June 30, 2018; 7 (seven) of which were purchased by eligible Residential Workforce Housing buyers.	$ 187,100.00
		Total:	$ 187,100.00

✓ DH 11/20/18

Prepared By: Blossom Pagdilao
Phone: 270-7153

Receipt of Deposit Hereby Acknowledged: RW

S:\Treasury\forms\TDS Form_100516.xls

FORM TD-3 (REVISED 10/05/16)

01-10-19P12:13 RCVD

Deposited with the

Department of Finance - Division of Treasury

Collections on Acccount

Treasurer's No.

JAN 17 19 0 0 1 3 2 4

Dept./Division **Housing & Human Concerns-Housing Division**

Date **04-Jan-19**

Source of Receipt			
Index	Subobject	Description	Amount
101001	3794	Payment for the 2017 market Units For Kamalani pursuant to the Residential Workfoce Housing Agreement between Kamalani Ventures LLC and the County of Maui, dated June 23, 2015, and amended July 3, 2017. 35 homes were built & closed through June 30, 2018; 17 (seventeen) of which were purchased by eligible Residential Workforce Housing buyers.	$ 127,990.00 $ - $ -
101001	3794	Payment correction for 2017 sale of the Kamalani Market Unit #3903. Additional $250.00 due to the County for the sale.	$ 250.00
		Total:	$ 128,240.00

✓ 1/4/19

Prepared By: Blossom Pagdilao

Phone 270-7153

Receipt of Deposit Hereby Acknowledged: RW

P:\Copy of Blank TDS Form

02-22-19A09:09 RCVD

Deposited with the

Department of Finance - Division of Treasury

Collections on Acccount

Treasurer's No.

FEB 28 19 0 0 1 6 5 1

Dept./Division **Housing & Human Concerns-Housing Division**

Date **14-Feb-19**

Source of Receipt			
Index	Subobject	Description	Amount
101001	3794	Payment for the 7/1/18 to 12.31/18 Market Units For Kamalani pursuant to the Residential Workforce Housing Agreement between Kamalani Ventures LLC and the County of Maui, dated June 23, 2015, and amended July 3, 2017. 35 homes were built & closed through June 30, 2018. 17 (seventeen) of which were purchased by eligible Residential Workforce Housing buyers.	$ 180,200.00
			$ -
			$ -
101001	3794	Payment correction for 2018 sale of the Kamalani Market Unit #903. Additional $250.00 due to the County for the sale.	$ 250.00
101001	3794	Payment correction fr 2018 sale of the Kamalani Market Unit #903. Additional $500.00 due to the County for the sale.	$ 500.00
		Total:	$ 180,950.00

✓ KH 2/15/19

Prepared By: Blossom Pagdilao

Phone 270-7153

Receipt of Deposit Hereby Acknowledged: RW

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10-14-19A10:35 RCVD

Deposited with the

Department of Finance - Division of Treasury

Collections on Acccount

Treasurer's No.

OCT 16 19 000724

Dept./Division **Housing & Human Concerns-Housing Division**

Date **07-Oct-19**

Source of Receipt			
Index	Subobject	Description	Amount
101001	3794	Payment for the 1/1/2019 to 6/30/2019 Market Units For Kamalani pursuant to the Residential Workforce Housing Agreement between Kamalani Ventures LLC and the County of Maui, dated June 23, 2015, and amended July 3, 2017. Forty-Four (44) homes were built & closed through June 30, 2019. Two (2) of which were purchased by eligible Residential Workforce Housing buyers.	$180,500.00
		Total:	$ 180,500.00

✓ RW 10/7/19

Prepared By: Blossom Pagdilao

Phone 270-7153

Receipt of Deposit Hereby Acknowledged: RW

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From:	Richard E. Mitchell
To:	Lesley J. Milner
Cc:	Megan Ness; Saumalu S. Mataafa; Cassiopia L. Yamashita; Amanda M. Martin; Noah D. Jackson
Subject:	Affordable Housing Fund Budget Amendment Request
Date:	Wednesday, February 4, 2026 3:58:00 PM
Attachments:	CRPJN29A (Nov18) $187,100.pdf CRPJ117B (Jan19) $127,990.pdf CRPJ228B (Feb19) $180,200.pdf CRPKO16A (Oct 19) $180,500.pdf

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Aloha Lesley,

As discussed earlier this afternoon, the Department is requesting an Affordable Housing Fund budget amendment to address a housing credits overpayment under Section 2.96.090(D)(4), MCC.

In 2018 and 2019, Kamalani Ventures LLC (Kamalani) paid the County **$234,050.00** more than it should have under Section 2.96.090(D)(4). Unfortunately, the overpayment was not resolved prior to the formation of the Department of Housing, and the issue to us to resolve in December 2024.

Attached are receipts of deposit the Department of Finance forwarded to the Department to validate Kamalani's payments to the County. Those receipts total more than the overpayment amount. Our Department has worked with Kamalani's counsel to determine the exact amount of the overpayment, which is: **$234,050.00.** Could you please assist the Department with the preparation of an Affordable Housing Fund budget amendment to facilitate the reimbursement of the overpayment to Kamalani, please?

Thanks as always for your assistance.

Remi

Richard E. Mitchell, Esq., Director
County of Maui | Dept. of Housing
E: richard.e.mitchell@co.maui.hi.us
O: (808) 270-7110 | C: (808) 446-0087

KAMALANI

2017 SALES REPORT DETAIL

Count	Unit #	Model	Bedroom/Bath	AMI Eligibility	RWH Buyer Price	Non-RWH Price	Sold Price	Buyer Name	Date Closed	Due County	
1	3701	A	2/1.5	80-100%	$313,710		$313,710	Ramirez , Moses	10/26/17	$ -	WFH
2	3707	A	2/1.5	80-100%	$315,710		$315,710	Nakashima , Kelly	10/27/17	$ -	WFH
3	3705	A	2/1.5	80-100%	$310,710		$310,710	Nishita , Ryan	10/31/17	$ -	WFH
4	3502	A	2/1.5	80-100%	$299,210		$299,210	Pike , Shawn	12/13/17	$ -	WFH
5	3508	A	2/1.5	80-100%	$296,210		$296,210	Akina , Kaulani	12/15/17	$ -	WFH
6	3703	A	2/1.5	80-100%	$318,710	$335,000	$335,000	Bennett , Brandt	10/19/17	$ 8,145	
7	3504	A	2/1.5	80-100%	$318,710	$330,000	$330,000	Wong , Deborah AK	12/07/17	$ 5,645	
8	3605	B	3/2	80-100%	$364,100		$364,100	Agee , Nalani	11/13/17	$ -	WFH
9	3604	B	3/2	80-100%	$375,100		$375,100	Rinaldi , Robert	11/15/17	$ -	WFH
10	3501	B	3/2	80-100%	$352,600		$352,600	Wilson , Corey	12/01/17	$ -	WFH
11	3503	B	3/2	80-100%	$357,600		$357,600	Lopes , Desiree	12/01/17	$ -	WFH
12	3505	B	3/2	80-100%	$346,600		$346,600	Mendoza-Cuculiza , Eduardo	12/07/17	$ -	WFH
13	3704	B	3/2	80-100%	$377,600		$377,600	Schelin , Jacob	12/07/17	$ -	WFH
14	3507	B	3/2	80-100%	$349,100		$349,100	Toyoshima , Lance	12/11/17	$ -	WFH
15	3608	B	3/2	80-100%	$369,100		$369,100	O'Farrell , Shane	12/13/17	$ -	WFH
16	3607	B	3/2	80-100%	$369,100		$369,100	Strykul , Regina	12/29/17	$ -	WFH
17	3601	B	3/2	80-100%	$370,100	$392,000	$392,000	Wynne , Ronald	11/09/17	$ 10,950	
18	3708	B	3/2	80-100%	$371,600	$387,000	$387,000	Skye , Chayah	11/15/17	$ 7,700	
19	3606	B	3/2	80-100%	$364,100	$392,000	$392,000	Nguyen, Kim	11/21/17	$ 13,950	
20	3602	B	3/2	80-100%	$370,100	$392,000	$392,000	Fletcher , Steven	11/27/17	$ 10,950	
21	3603	B	3/2	80-100%	$375,100	$392,000	$392,000	Snodgrass , Robert	11/28/17	$ 8,450	
22	3706	B	3/2	80-100%	$392,500	$402,500	$402,500	Raque, Thomas	12/22/17	$ 5,000	
1	3804	C	2/2	100-120%	$342,500		$342,500	D'Alessandro , Lynn	10/06/17	$ -	WFH
2	3808	C	2/2	100-120%	$337,500		$337,500	Eastman , Glen	10/26/17	$ -	WFH
3	3904	C	2/2	100-120%	$340,000		$340,000	Fong , Ka'ai	12/20/17	$ -	WFH
4	3902	C	2/2	100-120%	$350,000	$360,000	$360,000	Murray , Summer	12/22/17	$ 5,000	
5	3908	C	2/2	100-120%	$335,000	$350,000	$350,000	Fukagawa , Helen	12/29/17	$ 7,500	
6	3803	D	3/2	100-120%	$402,500	$402,500	$402,500	Manuel , Nirmal	10/06/17	$ -	WFH
7	3807	D	3/2	100-120%	$395,500	$402,500	$402,500	Dominguez , Jaime	10/13/17	$ 3,500	
8	3805	D	3/2	100-120%	$400,000	$412,000	$412,000	Paerels, Nathan	10/27/17	$ 6,000	
9	3903	D	3/2	100-120%	$400,000	$402,000	$402,000	Manuel , Nirmal	12/22/17	$ 1,000	
10	3905	D	3/2	100-120%	$398,000	$412,000	$412,000	Vadney , Sean	12/22/17	$ 7,000	
11	3907	D	3/2	100-120%	$393,000	$402,000	$402,000	Hsiao , William	12/29/17	$ 4,500	
1	2002	E	3/2	120-140%	$461,600	$484,300	$484,300	Tsukamoto , Jolynn	10/13/17	$ 11,350	
2	2001	E	3/2	120-140%	$461,600	$484,300	$484,300	McGhie, Laurel	12/22/17	$ 11,350	
	35				**$12,694,570**		**$12,950,550**			**$ 127,990**	

$255,980 Difference

50%

$127,990 Due County

$500 #3903 correction

$128,490

2017 Kamalani Market Sales Total:				**$127,990**	**Paid to County 12/17/2018**
Unit #		Price RWH	Sold Price	Due County	
3903	Incorrect Price	$400,000	$402,000	$ 1,000	
3903	Correct Price	$400,000	$402,500	$ 1,250	
Additional Due County/Unit 3903:				**$ 250**	**Paid to County 12/10/2018**

Total for 2017 Market Sales				**$128,240**	**Payment Complete**

KAMALANI

JANUARY - JUNE 2018 SALES REPORT DETAIL

Count	Unit #	Model	Bedroom/ Bath	AMI Eligibility	RWH Buyer Price	Non-RWH Buyer Price	Sold Price	Buyer Name	Date Closed	Due County
1	802	A	2/1.5	80-100%	$302,400		$302,400	Balala, Michelle	03-29-18	$ -
2	804	A	2/1.5	80-100%	$302,400	$315,000	$315,000	Kaman, Douglas	04-16-18	$ 6,300
3	806	A	2/1.5	80-100%	$302,400	$315,000	$315,000	Cibulka, Matthew	04-04-18	$ 6,300
4	808	A	2/1.5	80-100%	$302,400	$315,000	$315,000	Martinez, Jayla	04-06-18	$ 6,300
5	901	A	2/1.5	80-100%	$305,600	$315,000	$315,000	Anteola Trustee, Evangeline	05-01-18	$ 4,700
6	903	A	2/1.5	80-100%	$310,400	$320,000	$320,000	Taoka, Truman & Mandi	04-20-18	$ 4,800
7	905	A	2/1.5	80-100%	$305,600	$315,000	$315,000	Wyatt, Jimmy	05-04-18	$ 4,700
8	907	A	2/1.5	80-100%	$310,400	$320,000	$320,000	Miyai, Aaron	05-11-18	$ 4,800
9	3506	A	2/1.5	80-100%	$320,000	$330,000	$330,000	Baxter, Cynthia	01-24-18	$ 5,000
10	801	B	3/2	80-100%	$357,100	$372,000	$372,000	Wells, Laura	03-28-18	$ 7,450
11	803	B	3/2	80-100%	$361,900		$361,900	Cortez, Jessica & Mark	03-23-18	$ -
12	805	B	3/2	80-100%	$357,100	$372,000	$372,000	Porter, Suzy	04-02-18	$ 7,450
13	807	B	3/2	80-100%	$366,400		$366,400	Yamamura, Kazuki	03-29-18	$ -
14	902	B	3/2	80-100%	$360,900		$360,900	Miguel, Billie-Jo et al	05-07-18	$ -
15	904	B	3/2	80-100%	$365,700	$377,000	$377,000	Haider, Thomas & Karie	04-27-18	$ 5,650
16	906	B	3/2	80-100%	$360,900		$360,900	Patao, Eugenio Jr. & Joan	05-04-18	$ -
17	908	B	3/2	80-100%	$375,000	$385,000	$385,000	Tomita, Les	05-11-18	$ 5,000
1	1002	C	2/2	100-120%	$333,200	$340,000	$340,000	Schlereth, Jacob	05-18-18	$ 3,400
2	1004	C	2/2	100-120%	$338,100	$345,000	$345,000	Tabb, Braxton III	05-25-18	$ 3,450
3	1006	C	2/2	100-120%	$333,200	$340,000	$340,000	Lau, Nicholas et al	06-01-18	$ 3,400
4	1008	C	2/2	100-120%	$333,200	$340,000	$340,000	Wong, Jane and Eric Guyette	06-08-18	$ 3,400
5	1101	C	2/2	100-120%	$343,000	$350,000	$350,000	Jokovich, Michael & Debra	06-28-18	$ 3,500
6	1103	C	2/2	100-120%	$353,000	$360,000	$360,000	Montgomery, Melissa	06-22-18	$ 3,500
7	1105	C	2/2	100-120%	$343,000	$350,000	$350,000	Lai, Stephanie	06-29-18	$ 3,500
8	1107	C	2/2	100-120%	$338,100	$345,000	$345,000	Inouye, Sharon	06-29-18	$ 3,450
9	3802	C	2/2	100-120%	$382,000	$390,000	$390,000	Wong, Sterling	04-06-18	$ 4,000
10	3906	C	2/2	100-120%	$345,000	$350,000	$350,000	MacLellan, Eshalle & Bryan	01-05-18	$ 2,500
11	1001	D	3/2	100-120%	$389,100	$397,000	$397,000	Gilkey, Landin	05-18-18	$ 3,950
12	1003	D	3/2	100-120%	$389,100	$397,000	$397,000	Hearne Trustee, Jennifer	06-08-18	$ 3,950
13	1005	D	3/2	100-120%	$389,100	$397,000	$397,000	Jurrens, Candace	06-01-18	$ 3,950
14	1007	D	3/2	100-120%	$389,100	$397,000	$397,000	Fuller, Todd & Teresa	05-25-18	$ 3,950
15	1102	D	3/2	100-120%	$398,900	$407,000	$407,000	Mauricio, Cynthia	06-15-18	$ 4,050
16	1106	D	3/2	100-120%	$398,900	$407,000	$407,000	LaMotte, Jason & Petra	06-22-18	$ 4,050
17	1108	D	3/2	100-120%	$394,000	$402,000	$402,000	Fetterly, Tyrel & Kristie	06-29-18	$ 4,000
18	3801	D	3/2	100-120%	$431,000	$440,000	$440,000	Liou, Eric Chyang	03-14-18	$ 4,500
19	3901	D	3/2	100-120%	$412,000	$420,000	$420,000	Brown, Mariah	02-16-18	$ 4,000
1	1801	E	3/2.5	120-140%	$481,600	$494,000	$494,000	Suda, Jonathan & Kaila Lee	03-14-18	$ 6,200
2	1802	E	3/2.5	120-140%	$489,000	$499,000	$499,000	Cole, Tara	03-09-18	$ 5,000
3	1901	E	3/2.5	120-140%	$456,600		$456,600	Belen, Layne	01-26-18	$ -
4	1904	E	3/2.5	120-140%	$460,100		$460,100	Diaz, Isaiah & Brandie Jaye	02-16-18	$ -
5	2101	E	3/2.5	120-140%	$456,600		$456,600	Beltran, Searay	02-16-18	$ -
6	2104	E	3/2.5	120-140%	$466,600	$484,300	$484,300	New Direction IRA, Inc.	02-16-18	$ 8,850
7	1902	F	3/2.5	120-140%	$446,600	$462,000	$462,000	Lineweber, David & Catherine Voegtlin	01-30-18	$ 7,700
8	1903	F	3/2.5	120-140%	$446,600	$462,000	$462,000	Ly Trustee, Micki	02-13-18	$ 7,700
9	2102	F	3/2.5	120-140%	$451,600	$467,000	$467,000	LeMaster, Sherry	04-12-18	$ 7,700
10	2103	F	3/2.5	120-140%	$482,000	$492,000	$492,000	Manuel, Nirmal	04-27-18	$ 5,000
46					**$17,336,900**		**$17,711,100**			**$ 187,100**
							$374,200	Difference		
							50%			
							$187,100	Due County		
							$750	adj #903		
							$187,850			

Unit	
802	WFH
804	MKT
806	MKT
808	MKT
901	MKT
903	MKT
905	MKT
907	MKT
3506	MKT
801	MKT
803	WFH
805	MKT
807	WFH
902	WFH
904	MKT
906	WFH
908	MKT
1002	MKT
1004	MKT
1006	MKT
1008	MKT
1101	MKT
1103	MKT
1105	MKT
1107	MKT
3802	MKT
3906	MKT
1001	MKT
1003	MKT
1005	MKT
1007	MKT
1102	MKT
1106	MKT
1108	MKT
3801	MKT
3901	MKT
1801	MKT
1802	MKT
1901	WFH
1904	WFH
2101	WFH
2104	MKT
1902	MKT
1903	MKT
2102	MKT
2103	MKT

1/1 - 6/30/2018 Kamalani Market Sales Total:				**$187,100**	**Paid to County 10/19/2018**
Unit #		Price RWH	Sold Price	Due County	
903	Incorrect Price	$310,400	$320,000	$ 4,000	
903	Correct Price	$310,400	$321,500	$ 5,550	
Additional Due County, Unit 903:				**$ 750**	**Amount Due to County (currently holding onto check # 00795080 issued in the amount of $250)**

Total for Jan-Jun 2018 Market Sales:	**$ 187,850**

KAMALANI

JULY-DECEMBER 2018 SALES REPORT DETAIL

Count	Unit #	Model	Bedroom/ Bath	AMI Eligibility	RWH Buyer Price	Non-RWH Buyer Price	Sold Price	Buyer Name	Date Closed	Due County	Unit	
1	703	A	2/2	80-100%	$334,000		$334,000	Generoso Mejia	09-20-18	$ -	703	WFH
2	701	A	2/2	80-100%	$327,000	$334,000	$334,000	Michelle Matosky	09-21-18	$ 3,500	701	MKT
3	501	A	2/2	80-100%	$342,000	$349,000	$349,000	Elizabeth Ann Eguia	12-11-18	$ 3,500	501	MKT
4	707	A	2/2	80-100%	$337,000	$344,000	$344,000	Matthew Ryan Morris	09-21-18	$ 3,500	707	MKT
5	507	A	2/2	80-100%	$352,000	$359,000	$359,000	Eric Gilliom	12-07-18	$ 3,500	507	MKT
6	705	A	2/2	80-100%	$337,000	$344,000	$344,000	Marcia Ferrer-Dominique	09-17-18	$ 3,500	705	MKT
7	505	A	2/2	80-100%	$334,000	$341,000	$341,000	Robert Murphy	12-07-18	$ 3,500	505	MKT
8	704	B	3/2	80-100%	$391,000	$399,000	$399,000	Tiana Kanamu	09-13-18	$ 4,000	704	MKT
9	504	B	3/2	80-100%	$397,000	$405,000	$405,000	Jessica Read	12-05-18	$ 4,000	504	MKT
10	702	B	3/2	80-100%	$384,000		$384,000	Ronaldo Ubando	09-10-18	$ -	702	WFH
11	3702	B	3/2	80-100%	$404,300	$420,000	$420,000	Jordan Smith	09-14-18	$ 7,850	3702	MKT
12	708	B	3/2	80-100%	$394,000	$402,000	$402,000	Soo Yung Ng	08-31-18	$ 4,000	708	MKT
13	508	B	3/2	80-100%	$399,000	$407,000	$407,000	Loren E. Clive Family Trust Dated 2-16-17	12-07-18	$ 4,000	508	MKT
14	706	B	3/2	80-100%	$394,000	$402,000	$402,000	Bryan Tyler Peterson	09-14-18	$ 4,000	706	MKT
15	506	B	3/2	80-100%	$399,000	$407,000	$407,000	Jessica Read	12-05-18	$ 4,000	506	MKT
1	1202	C	2/2	100-120%	$350,000	$360,000	$360,000	Christopher Hora	07-27-18	$ 5,000	1202	MKT
2	604	C	2/2	100-120%	$353,000	$360,000	$360,000	Casey Lamb	11-09-18	$ 3,500	604	MKT
3	1204	C	2/2	100-120%	$360,000	$370,000	$370,000	Frank O'Connor	07-13-18	$ 5,000	1204	MKT
4	602	C	2/2	100-120%	$358,000	$365,000	$365,000	Nirmal Manual Trust	11-02-18	$ 3,500	602	MKT
5	1206	C	2/2	100-120%	$350,000		$350,000	Daniel Christie	07-27-18	$ -	1206	WFH
6	608	C	2/2	100-120%	$353,000	$360,000	$360,000	Chaunalee Gaoiran	10-26-18	$ 3,500	608	MKT
7	1208	C	2/2	100-120%	$355,000	$365,000	$365,000	Hans Christopher Huber	07-06-18	$ 5,000	1208	MKT
8	3806	C	2/2	100-120%	$402,000	$410,000	$410,000	Oanh Dang	10-26-18	$ 4,000	3806	MKT
9	606	C	2/2	100-120%	$358,000	$365,000	$365,000	Annie Cyr-Hornick	11-16-18	$ 3,500	606	MKT
10	1104	D	3/2	100-120%	$394,000	$402,000	$402,000	Adam Powell	07-12-18	$ 4,000	1104	MKT
11	1201	D	3/2	100-120%	$407,000	$419,000	$419,000	Elden Towers LLC	07-09-18	$ 6,000	1201	MKT
12	603	D	3/2	100-120%	$402,000	$410,000	$410,000	Tammy Katsutani	11-09-18	$ 4,000	603	MKT
13	1203	D	3/2	100-120%	$417,000	$429,000	$429,000	Ronald and Odette Pura	07-13-18	$ 6,000	1203	MKT
14	601	D	3/2	100-120%	$406,000	$414,000	$414,000	Jonathan Mark Kevan	11-02-18	$ 4,000	601	MKT
15	1205	D	3/2	100-120%	$407,000	$419,000	$419,000	Guilherme Sampaio	07-20-18	$ 6,000	1205	MKT
16	607	D	3/2	100-120%	$418,900	$427,000	$427,000	Todd Walsh	12-14-18	$ 4,050	607	MKT
17	1207	D	3/2	100-120%	$417,000	$429,000	$429,000	Paul-Andre Fountain	07-27-18	$ 6,000	1207	MKT
18	605	D	3/2	100-120%	$406,000	$414,000	$414,000	Vivian Chan	11-02-18	$ 4,000	605	MKT
1	2204	E	3/2.5	120-140%	$479,000	$484,300	$484,300	Louis Charles Gruber	08-16-18	$ 2,650	2204	MKT
2	1704	E	3/2.5	120-140%	$505,000	$515,000	$515,000	Matthew Alan Logston	10-05-18	$ 5,000	1704	MKT
3	1604	E	3/2.5	120-140%	$500,000	$510,000	$510,000	Timothy Hunter	12-21-18	$ 5,000	1604	MKT
4	2201	E	3/2.5	120-140%	$479,000	$484,300	$484,300	Christopher Buerger	08-10-18	$ 2,650	2201	MKT
5	1701	E	3/2.5	120-140%	$497,000	$507,000	$507,000	Barry Stevens	10-09-18	$ 5,000	1701	MKT
6	1601	E	3/2.5	120-140%	$505,000	$515,000	$515,000	Brianna Fetterhoff	12-14-18	$ 5,000	1601	MKT
7	2202	F	3/2.5	120-140%	$479,000	$484,000	$484,000	Elden Towers LLC	08-10-18	$ 2,500	2202	MKT
8	1702	F	3/2.5	120-140%	$490,000	$500,000	$500,000	Justin Allen	11-09-18	$ 5,000	1702	MKT
9	1602	F	3/2.5	120-140%	$480,000	$490,000	$490,000	Philip Akeo	12-19-18	$ 5,000	1602	MKT
10	2203	F	3/2.5	120-140%	$457,000	$462,000	$462,000	Carl Paulino	08-16-18	$ 2,500	2203	MKT
11	1703	F	3/2.5	120-140%	$482,000	$492,000	$492,000	Rob Weis	10-11-18	$ 5,000	1703	MKT
12	1603	F	3/2.5	120-140%	$482,000	$492,000	$492,000	Donna Valentine	12-20-18	$ 5,000	1603	MKT
45	**45**				**$18,274,200**	**$17,566,600**	**$18,634,600**			**$ 180,200**		

$360,400	Difference
50%	
$180,200	Due County

A	2/1.5	80-100%
B	3/2	80-100%
C	2/2	100-120%
D	3/2	100-120%
E	3/2.5	120-140%
F	3/2.5	120-140%

Accrual:

Jul	$43,000
Aug	$14,300
Sep	$26,350
Oct	$22,500
Nov	$27,750
Dec	$47,300
	$181,200
adj prior months	-$1,000
	$180,200

KAMALANI

2019 SALES REPORT DETAIL

Count	Unit #	Model	Bedroom/ Bath	AMI Eligibility	RWH Buyer Price	on-RWH Buyer Pric	$180,500	Buyer Name	Date Closed	Due County		Unit	
1	503	A	2/2	80-100%	$339,000	$346,000	$346,000.00	Dennis Surabian Jr.	02-08-19	$ 3,500		503	MKT
2	502	B	2	80-100%	$391,000	$399,000	$399,000.00	Reza Danesh	01-03-19	$ 4,000		502	MKT
1	302	C	2/2	100-120%	$381,000	$389,000	$389,000.00	Kirt Edblom	04-12-19	$ 4,000		302	MKT
2	304	C	2/2	100-120%	$386,000	$394,000	$394,000.00	WenJie Zhang	04-22-19	$ 4,000		304	MKT
3	306	C	2/2	100-120%	$381,000	$389,000	$389,000.00	Paul Ciliano	04-26-19	$ 4,000		306	MKT
4	308	C	2/2	100-120%	$386,000	$394,000	$394,000.00	Graciela Dyangko	04-26-19	$ 4,000		308	MKT
5	402	C	2/2	100-120%	$370,000	$378,000	$378,000.00	The Ricky A. Edwards and Pamela I Edwards Trust	05-10-19	$ 4,000		402	MKT
6	404	C	2/2	100-120%	$374,000	$382,000	$382,000.00	Roger Schlogel	05-17-19	$ 4,000		404	MKT
7	406	C	2/2	100-120%	$370,000	$378,000	$378,000.00	Shayna-Lynn Hill	05-24-19	$ 4,000		406	MKT
8	408	C	2/2	100-120%	$376,000	$384,000	$384,000.00	Reza Danesh	05-24-19	$ 4,000		408	MKT
9	1301	C	2/2	100-120%	$358,000	$365,000	$365,000.00	Hans Lammer	02-25-19	$ 3,500		1301	MKT
10	1303	C	2/2	100-120%	$363,000	$370,000	$370,000.00	Dawn Crystal	03-08-19	$ 3,500		1303	MKT
11	1305	C	2/2	100-120%	$363,000	$370,000	$370,000.00	Rogerio Arbex	03-08-19	$ 3,500		1305	MKT
12	1307	C	2/2	100-120%	$368,000	$375,000	$375,000.00	Tayler Fourie	03-15-19	$ 3,500		1307	MKT
13	301	D	3/2	100-120%	$420,000	$429,000	$429,000.00	Phillip Clare Winter	04-12-19	$ 4,500		301	MKT
14	303	D	3/2	100-120%	$424,000	$433,000	$433,000.00	Rebekah Curtis	04-18-19	$ 4,500		303	MKT
15	305	D	3/2	100-120%	$421,500	$430,500	$430,500.00	Delia Marie Estrada	04-17-19	$ 4,500		305	MKT
16	307	D	3/2	100-120%	$424,000	$433,000	$433,000.00	Tyler Phillips	04-26-19	$ 4,500		307	MKT
17	401	D	3/2	100-120%	$417,000	$425,000	$425,000.00	Joshua Enrique Martinez Davila	05-10-19	$ 4,000		401	MKT
18	403	D	3/2	100-120%	$420,000	$429,000	$429,000.00	Napua Banks	05-10-19	$ 4,500		403	MKT
19	405	D	3/2	100-120%	$420,000	$429,000	$429,000.00	Leonard Ornellas	05-17-19	$ 4,500		405	MKT
20	407	D	3/2	100-120%	$421,000	$430,000	$430,000.00	A. Lee Wheeler IV	05-24-19	$ 4,500		407	MKT
21	1302	D	3/2	100-120%	$420,000	$429,000	$429,000.00	Jerry Owens	03-01-19	$ 4,500		1302	MKT
22	1304	D	3/2	100-120%	$422,000	$430,000	$430,000.00	Michael Davies	03-08-19	$ 4,000		1304	MKT
23	1306	D	3/2	100-120%	$422,000	$430,000	$430,000.00	Scott Patrick Lohman	04-12-19	$ 4,000		1306	MKT
24	1308	D	3/2	100-120%	$422,000	$430,000	$430,000.00	Michael Ryan	03-29-19	$ 4,000		1308	MKT
25	1401	D	3/2	100-120%	$414,000	$422,000	$422,000.00	Kerry Landau	03-22-19	$ 4,000		1401	MKT
26	1402	D	3/2	100-120%	$414,000	$422,000	$422,000.00	Joanne M. Heck	04-10-19	$ 4,000			MKT
27	1403	D	3/2	100-120%	$420,000	$429,000	$429,000.00	Nouredine Saddedine	03-29-19	$ 4,500		1403	MKT
28	1404	D	3/2	100-120%	$420,000	$429,000	$429,000.00	Kaleena Wakamatsu	03-29-19	$ 4,500		1404	MKT
29	1405	D	3/2	100-120%	$418,000	$427,000	$427,000.00	Thomas Brady	04-05-19	$ 4,500		1405	MKT
30	1406	D	3/2	100-120%	$418,000	$427,000	$427,000.00	Roger Gerald Nash	04-08-19	$ 4,500		1406	MKT
31	1407	D	3/2	100-120%	$424,000	$433,000	$433,000.00	David Knowles	03-22-19	$ 4,500		1407	MKT
32	1408	D	3/2	100-120%	$421,000	$430,000	$430,000.00	Luis Bermudez	04-12-19	$ 4,500		1408	MKT
1	1501	E	3/2.5	120-140%	$508,000	$518,000	$518,000.00	Michael Edward Sandlin	02-22-19	$ 5,000		1501	MKT
2	1504	E	3/2.5	120-140%	$520,000	$530,000	$530,000.00	Jose Coroas	04-12-19	$ 5,000		1504	MKT
3	2301	E	3/2.5	120-140%	$500,000		$500,000.00	Chad Covington	01-18-19	$ -		2301	WFH
4	2306	E	3/2.5	120-140%	$505,000	$515,000	$515,000.00	John L Harman and Kathleen F Harman Trust	01-25-19	$ 5,000		2306	MKT
5	1502	F	3/2.5	120-140%	$498,000	$508,000	$508,000.00	David Dowies	02-22-19	$ 5,000		1502	MKT
6	1503	F	3/2.5	120-140%	$490,000	$500,000	$500,000.00	Roger Simonot	02-25-19	$ 5,000		1503	MKT
7	2302	F	3/2.5	120-140%	$480,000	$490,000	$490,000.00	Thomas Barresi	01-24-19	$ 5,000		2302	MKT
8	2303	F	3/2.5	120-140%	$482,000	$492,000	$492,000.00	Antonios Skartsilas	01-18-19	$ 5,000		2303	MKT
9	2304	F	3/2.5	120-140%	$482,000	$492,000	$492,000.00	Alan Lightfeldt	01-25-19	$ 5,000		2304	MKT
10	2305	F	3/2.5	120-140%	$485,000		$485,000.00	Jeremiah Dusenberry	01-25-19	$ -		2305	WFH
44	**44**				**$18,558,500**	**$17,934,500**	**$18,919,500**			**$180,500**			
							$361,000	Difference					
							50%						
							$180,500	Due County					

	units	RWH price
2017	35	12,694,570
2018 1st	46	17,336,900
2019 2nd	45	18,274,200
2019	44	18,558,500
	170	66,864,170