

To: Maui County Council Land Use Committee

From: Albert Perez, Executive Director
Maui Tomorrow Foundation

Re: AFFORDABLE HOUSING PROJECTS (CHAPTER 201H, HAWAII
REVISED STATUTES) (INDEPENDENT DEVELOPMENT OF MAKILA
KAI; LAHAINA) (LU-2(1))

Aloha Chair Carroll and Committee Members:

Exhibit A of the proposed ordinance says

6. The construction of accessory dwellings shall not be prohibited by any restrictive covenant. Accessory dwellings shall comply with all applicable laws.

Therefore, we are talking about the potential for 98 dwelling units. The Planning Department agrees with this buildout potential. That's 98 dwelling units with septic systems, even though DOH only allows a maximum of 50 septic systems. Anything over that number requires a wastewater treatment plant, which is a trigger for an environmental assessment under HRS Chapter 343.

In addition, although the Dept. of Housing and Human Concerns refers to the Makila Kai as the "applicant," an "eligible developer" is not the "applicant" under 201H-38. The HFDC is the official primary entity in fast-track projects, and the "eligible developer" merely partners with the housing corporation. Since HFDC is the "applicant" under HRS Chapter 343, they are clearly in violation of HAR 11-200-7, which says that a group of actions proposed by an agency or an applicant shall be treated as a single action when the component actions are phases or increments of a larger total undertaking. The former Makila project, which was undergoing Land Use Commission review and then withdrawn, has now been segmented into three separate 201H projects - Polanui Gardens, Makila Kai, and Makila Rural East. Splitting up the project into 3 segments does not reduce the environmental impacts of the whole.

Even without this clear violation of Chapter 343, citizens of Maui County rely on the Council to take a global view of these related developments, and not look at just the one in the middle with blinders on.

RECEIVED AT LU MEETING ON 5/31/17

In summary, the proper thing to do is to consider these three projects together, instead of allowing and encouraging segmentation.

You don't have to approve this today. Under 201H, the Council has the option to modify the project or to disapprove. I urge you to discourage segmentation by disapproving this project until they all come before you, and then make a decision on all three.