

COUNCIL OF THE COUNTY OF MAUI
HOUSING, HUMAN SERVICES, AND
TRANSPORTATION COMMITTEE

November 3, 2017

Committee
Report No. _____

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

Chair and Members:

Your Housing, Human Services, and Transportation Committee, having met on August 17, 2017, October 5, 2017, and October 19, 2017, makes reference to the following:

1. County Communication 16-132, from Councilmember Stacy Crivello, relating to amendments to the Residential Workforce Housing Policy.
2. County Communication 17-166, from the Director of Housing and Human Concerns, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96, MAUI COUNTY CODE, RELATING TO THE RESIDENTIAL WORKFORCE HOUSING RESTRICTIONS." The purpose of the proposed bill is to amend deed restriction and application selection process provisions for ownership units under the County's Residential Workforce Housing Policy.

By correspondence dated September 28, 2017, the Department of the Corporation Counsel transmitted a revised proposed bill to move language currently under Section 2.96.090(D)(6), Maui County Code ("MCC"), Selection Priority, and place it under Section 2.96.060(B)(2), MCC, Deed Restrictions, as it relates to requiring the owner of a residential workforce housing unit to sell the unit to an income-qualified household and to notify the Department of Housing and Human Concerns of the sale.

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The Director of Housing and Human Concerns expressed concern with the resale process for residential workforce housing units, stating that a homeowner could purchase a workforce housing unit at a low price, and during the deed restriction period, sell it at a significantly higher price according to the current resale calculation.

The Director also noted that amending Section 2.96.060(B), MCC, to delete language referring to the “owner’s purchase price” and to instead use the appraised value (which is typically higher) would eliminate a potential windfall when a residential workforce housing unit is sold.

The Director added that an amendment to Section 2.96.060(B) is needed to allow individuals who have saved large amounts of money for a down payment to not be penalized for having more assets than 140 percent of the area median income (“AMI”) group.

Your Committee discussed restricting the resale of a workforce housing unit, under the deed restriction period, to a buyer within the same AMI group as the initial owner. Your Committee felt this restriction would help keep workforce housing units affordable throughout the deed restriction period.

The Deputy Corporation Counsel advised that adding such language may affect other sections of Chapter 2.96, MCC. He suggested a separate bill be drafted to address these concerns.

Your Committee voted 6-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Crivello, Vice-Chair Carroll, and members Atay, Hokama, King, and White voted “aye.” Committee member Guzman was excused.

COUNCIL OF THE COUNTY OF MAUI
**HOUSING, HUMAN SERVICES, AND
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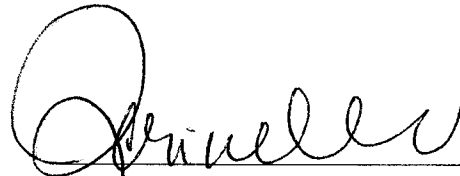
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**Committee
Report No. _____**

Your Housing, Human Services, and Transportation Committee
RECOMMENDS the following:

1. That Bill _____ (2017), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96, MAUI COUNTY CODE, RELATING TO THE RESIDENTIAL WORKFORCE HOUSING RESTRICTIONS," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 17-166 be FILED.

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



STACY CRIVELLO, Chair

ORDINANCE NO. _____

BILL NO. _____ (2017)

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

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

SECTION 1. 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 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-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 duty 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. 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.

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

SECTION 2. Section 2.96.090, Maui County Code, is amended by amending subsection B to read as follows:

"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 forty 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 forty 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[.] with the understanding that assets

being used for the down payment or closing costs shall not be included in the asset calculation. 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.

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

7. Developer, its partner, or its management company shall verify that each applicant meets the requirements of eligibility set forth herein."

SECTION 3. Section 2.96.090, Maui County Code, is amended by amending subsection D to read as follows:

"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.

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.

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.

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

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

APPROVED AS TO FORM AND
LEGALITY:



JEFFREY UEOKA
Department of the Corporation
Counsel

County of Maui
2017-0097
HHT-2(2) 2017-09-28 Ordinance

**HOUSING, HUMAN SERVICES, AND TRANSPORTATION
COMMITTEE**

Council of the County of Maui

Status Agenda

October 19, 2017
2:00 p.m.
Council Chamber, 8th floor

<u>ITEM</u>	<u>SUBJECT</u>
HHT-2(2)	AMENDMENTS TO THE RESIDENTIAL WORKFORCE HOUSING POLICY (PROPOSED AMENDMENT RELATING TO HOUSING RESTRICTIONS) (CC 17-166)

FIRST READING of revised proposed bill and **FILING** of communication by C.R.

HHT-38 HOMELESSNESS IN MAUI COUNTY (CC 16-131)

DEFER pending further discussion.

Follow-up letters to: 1) Director of Housing and Human Concerns re: requesting updated statistics on the cost of county programs that provide homeless services on Maui, the county's investment in those programs, the number of homeless currently on Maui, and the number of homeless who attained permanent housing; and **2) Family Life Center** re: requesting an update on lockers for the working homeless, including a projected timeframe, where they will be located, and a system for issuance.

**HHT-14 COUNTY-OWNED PARCEL ON NORTH PAPA
AVENUE (KAHULUI)** (CC 17-213)

DEFER pending further discussion.

Follow-up letters to: 1) Director of Housing and Human Concerns re: requesting the Department's plans with the parcel should the structural assessment result in renovating or demolishing the existing infrastructure; and **2) University of Hawaii, Maui College** re: confirming their plans for the parcel if the intent is to remain on the lease if the existing structures are demolished.

HHT-36 AFFORDABLE HOUSING PROJECTS (CC 16-114)

DEFER pending further discussion.

Follow-up letter to the Director of Housing and Human Concerns re: requesting statistics on the adjusted median income (AMI) ranges for affordable housing projects on Maui currently in the construction phase.

October 27, 2017

MEMORANDUM

TO: Office of the County Clerk
FROM: *Stacey* Stacey/Saumalu/Shelly
SUBJECT: **ADVANCE LISTING FOR THE NOVEMBER 3, 2017
COUNCIL MEETING**

HOUSING, HUMAN SERVICES, AND TRANSPORTATION COMMITTEE:

1. Recommending the following:
 1. FIRST READING of bill to amend the County's Residential Workforce Housing Policy, Chapter 2.96, Maui County Code, including provisions relating to deed restriction and application selection process for ownership units; and
 2. FILING of communication.

hht:misc:a1171103:sv/ssm/ske