

REQUEST FOR LEGAL SERVICES

Date: September 27, 2017
From: Stacy Crivello, Chair

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CORPORATION COUNSEL

2017 SEP 27 AM 10:04

Housing, Human Services, and Transportation Committee

TRANSMITTAL
Memo to:

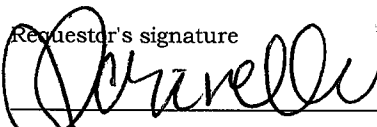
DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Jeffrey Ueoka, Esq.

Subject: AMENDMENTS TO THE RESIDENTIAL WORKFORCE HOUSING POLICY
(PROPOSED AMENDMENT RELATING TO HOUSING RESTRICTIONS) (HHT-2(2))

Background Data: Please review and approve the attached revised proposed bill and include the hard copy in your response.

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

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2017 SEP 28 PM 3:59
OFFICE OF THE
COUNTY COUNCIL

Requestor's signature  Stacy Crivello	Contact Person Shelly Espeleta (Telephone Extension: 7134)
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- ROUTINE (WITHIN 15 WORKING DAYS)
- PRIORITY (WITHIN 10 WORKING DAYS)
- RUSH (WITHIN 5 WORKING DAYS)
- URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): September 29, 2017, 9 a.m.
REASON: To meet posting deadline for the October 5, 2017 HHT meeting.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: JTU	ASSIGNMENT NO. 2017-0097	BY: KKL
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TO REQUESTOR: APPROVED DISAPPROVED OTHER (SEE COMMENTS BELOW)
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED
COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date 9/28/17

By JEFFREY UEOKA

(Rev. 7/03)

hht:ltr:002(2)acc01:ske

Attachment

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:

A handwritten signature in black ink, appearing to read "Jeffrey Ueoka", is written over a horizontal line.

JEFFREY UEOKA
Department of the Corporation
Counsel

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