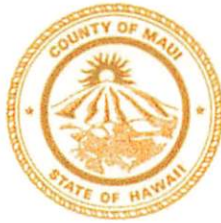


MICHAEL P. VICTORINO  
Mayor

LORI TSUHAKE  
Director

LINDA R. MUNSELL  
Deputy Director



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

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OFFICE OF THE  
COUNTY CLERK

November 19, 2021

Honorable Michael P. Victorino  
Mayor, County of Maui  
200 South High Street  
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

 11/23/21  
Acting Mayor Date

For Transmittal to:

Honorable Alice L. Lee, Chair  
and Members of the Maui County Council  
200 South High Street  
Wailuku, Hawaii 96793

Dear Chair Lee and Members:

**SUBJECT: APPROVING CERTAIN FINANCING STRUCTURE  
COMPONENTS RELATING TO THE USE OF FUNDS RECEIVED  
THROUGH CHAPTER 3.35, MAUI COUNTY CODE, THE HALE  
PILINA FAMILY AFFORDABLE HOUSING PROJECT**

I am transmitting a proposed resolution entitled "APPROVING CERTAIN FINANCING STRUCTURE COMPONENTS RELATING TO THE USE OF FUNDS RECEIVED THROUGH CHAPTER 3.35, MAUI COUNTY CODE, THE HALE PILINA FAMILY AFFORDABLE HOUSING PROJECT".

The purpose of the proposed resolution is to obtain Council's approval to allow the Hale Pilina project to utilize certain financing structure components for the use of the Affordable Housing Fund grant award. As stated in Chapter 3.35, Maui County Code, these financing structure components require advance approval by Council.

I respectfully request that this matter be referred to the appropriate Council committee for review, discussion, and action.

COUNTY COMMUNICATION NO. 21-545

Honorable Alice L. Lee, Chair  
and Members of the Maui County Council  
November 19, 2021  
Page 2

Thank you for your attention to this matter. Should you have any questions, please feel free to call me at Ext. 7805.

Sincerely,



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

Attachment  
xc: Housing Division

# Resolution

No. \_\_\_\_\_

APPROVING CERTAIN FINANCING STRUCTURE COMPONENTS RELATING TO THE USE OF FUNDS RECEIVED THROUGH CHAPTER 3.35, MAUI COUNTY CODE, THE HALE PILINA FAMILY AFFORDABLE HOUSING PROJECT

WHEREAS, the County Council ("Council") passed Ordinance Number 5217, Bill 46 (2021), which approved an Affordable Housing Fund grant award of Six Hundred Sixty Thousand Dollars (\$660,000) ("Grant") to Catholic Charities Housing Development Corporation, a Hawaii nonprofit corporation ("Grantee") for planning and design to produce 178 rental units for households at or below 60 percent of the area median income and one unit for an on-site property manager, to be known as Hale Pilina Family Affordable I & II Housing Project ("Project"); and

WHEREAS, under Section 3.35.040(F), Maui County Code ("MCC"), a permitted use of the Affordable Housing Fund is to leverage funds provided by Federal, State, nonprofit, or for-profit agencies and other non-County entities, to further expand affordable housing opportunities; and

WHEREAS, without the prior approval of Council by resolution, Section 3.35.070(A)(1), MCC, requires the Project to be held in perpetuity by the grantee or borrower unless conveyed to the County or to a qualified nonprofit or community land trust; and

WHEREAS, the Project will be developed and owned by Hale Pilina I LP, a single purpose Hawaii limited partnership ("Limited Partnership"), the general partner of which is Hale Pilina I LLC, a Hawaii limited liability company, and the sole owner of Hale Pilina I LLC is the Grantee; and

WHEREAS, the Limited Partnership will enter into a Residential Workforce Housing Agreement, as defined in Section 2.96.080, MCC, and shall be subject to long-term affordability restrictions that will be recorded against the Project property; and

WHEREAS, the Limited Partnership has received or will receive Federal Low Income Housing Tax Credits, State of Hawaii Low Income Housing Tax Credits, and Rental Housing Revolving Funds from the Hawaii Housing Finance and Development Corporation ("Non-County Funds"); and

## **Resolution No. \_\_\_\_\_**

WHEREAS, to realize the benefits to the Project from the Non-County Funds, the Grantee must loan the Grant funds to the Limited Partnership for the development and construction of the Project; and

WHEREAS, without the prior approval of Council by resolution, Section 3.35.070(A)(5), MCC, prevents the grantee or borrower from distributing or redistributing grant funds to other third party organizations; and

WHEREAS, the Project's lenders require the Project be subject to possible foreclosure or forfeiture in certain events of default under the Project's loan documents; and

WHEREAS, without the prior approval of Council by resolution, Section 3.35.070(A)(3), MCC, requires the Project not be sold, exchanged, divested, or converted to other uses that are inconsistent with the purposes set forth in Chapter 3.35, and Section 3.35.070(A)(4), MCC, requires conveyance of the Project to the County in the event of dissolution or bankruptcy of the grantee or borrower; now, therefore,

**BE IT RESOLVED** by the Council of the County Maui:

1. That the Project may be transferred to, developed and owned by the Limited Partnership, so long as it is subject to the terms of a Residential Workforce House Housing Agreement, including:

i. The Project must have a deed-restricted affordability period of 61 years.

ii. The County must have the option to purchase the Project on the same terms as any bona fide third party purchase offer, unless such third party assumes the Project owner's obligations under the Residential Workforce Housing Agreement.

iii. The County must have the right to purchase the Project within 90 days of the expiration of the term of the Residential Workforce Housing Agreement, unless an additional 30- year deed restriction is recorded against the Project with substantially similar affordability requirements as under the Residential Workforce Housing Agreement.

2. That in the event title to the Project is transferred by reason of foreclosure or forfeiture under a deed of trust, mortgage or real estate contract,

**Resolution No. \_\_\_\_\_**

by deed in lieu of foreclosure, or by any other similar process, Chapter 3.35 will no longer apply to the Project, except to any portion not transferred;

3. That in the event of dissolution or bankruptcy of the Grantee, the requirement to convey the Project to the County will be subordinate to the rights of any Project lender under a deed of trust, mortgage or real estate contract, or by any other similar process;

4. That the Grantee may redistribute the Grant to the Limited Partnership as a loan; and

5. That certified copies of this Resolution be transmitted to the Mayor, the Director of Public Works, the Planning Director, the Director of Housing and Human Concerns, and Catholic Charities Housing Development Corporation.

APPROVED AS TO FORM  
AND LEGALITY:

/s/ Mimi Desjardins  
MIMI DESJARDINS  
Deputy Corporation Counsel  
LF 2020-1927  
2021-11-05 Resolution