

REQUEST FOR LEGAL SERVICES

Date: October 27, 2022
From: Gabe Johnson, Chair
Affordable Housing Committee

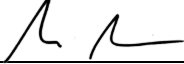
TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Mimi DesJardins, Esq.

Subject: PROPOSED BILL 103, CD1 (2022), RELATING TO RESIDENTIAL WORKFORCE DEED RESTRICTIONS AND RESALE (AH-31)

Background Data: Please see attached proposed Bill 103, CD1, (2022). Please submit response to ah.committee@mauicounty.us with reference to AH-31.

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

Requestor's signature  Gabe Johnson	Contact Person <u>Paige Greco or Richard E. Mitchell</u> (Telephone Extension: <u>7660 or 7662, respectively</u>)
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☐ ROUTINE (WITHIN 15 WORKING DAYS) ☐ RUSH (WITHIN 5 WORKING DAYS)
☐ PRIORITY (WITHIN 10 WORKING DAYS) ☐ URGENT (WITHIN 3 WORKING DAYS)

☒ SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): October 28, 2022
REASON: For posting on the November 3, 2022, Affordable Housing Committee meeting agenda.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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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 _____

By _____
(Rev. 7/03)

ah:ltr:031acc01

Attachment

ORDINANCE NO. _____

BILL NO. 103 (2022)

A BILL FOR AN ORDINANCE AMENDING SECTIONS 2.96.030(E) AND
2.96.060(B), MAUI COUNTY CODE, RELATING TO RESIDENTIAL
WORKFORCE HOUSING DEED RESTRICTIONS AND RESALE

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

SECTION 1. The purposes of the Ordinance are to amend the residential workforce housing deed restrictions to require units be sold to owner-occupants in perpetuity and to increase the time-period for all other restrictions.

SECTION 2. Section 2.96.030, Maui County Code, is amended by amending subsection E to read as follows:

“E. Projects [~~pursuant to~~] under chapter 201H, [~~Hawaii~~] Hawai‘i Revised Statutes, [~~shall be~~] are subject to the requirements of this chapter [, provided that where]. If the terms of this chapter and chapter 201H are in conflict, the terms contained in chapter 201H [shall] control[.], except chapter 201H projects must comply with Section 2.96.060(B)(4).”

SECTION 3. Section 2.96.060, Maui County Code, is amended by amending subsection B to read as follows:

“B. Deed restrictions.

1. The unit must be owner-occupied in perpetuity.

[1.] 2. The ownership units within each income group [~~shall~~] will be subject to [~~the~~] all other deed restrictions contained in this section for the following periods:

- a. “Below-moderate income,” [~~ten~~] twenty years.
- b. “Moderate income,” [~~eight~~] sixteen years.
- c. “Above-moderate income,” [~~five~~] ten years.

[2.] 3. For the [deed-restricted period,] respective periods identified in subsection (B)(2), the following [shall] apply:

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

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

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

[d.] c. Upon sale of the unit, the deed restrictions [shall] will remain in full force and effect for the remainder of the [deed-restricted period] respective periods identified in subsection (B)(2) that commenced at the time of the initial sale.

[e.] d. 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 military duty or short-term contracts for off-island employment.

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

i. An appraisal of the property [shall be] is required before occupancy.

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

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

[g.] f. 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] must verify the sales price.

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

4. Projects developed under chapter 201H, Hawai'i Revised Statutes, must comply with section 2.96.060(B)(2).

C. Sales price ~~[-]~~ of dwelling units. The sales price of a new dwelling unit ~~[shall]~~ must be established by the department based on current HUD price guidelines.”

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 takes effect on approval.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

ah:misc:031abill01

INTRODUCED BY:

Tamara M. Paltin

TAMARA PALTIN