

COUNCIL OF THE COUNTY OF MAUI

AFFORDABLE HOUSING COMMITTEE

November 18, 2022

**Committee
Report No. _____**

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

Chair and Members:

Your Affordable Housing Committee, having met on August 18, 2022, October 18, 2022, and November 3, 2022, makes reference to Bill 103 (2022), entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 2.96.060, MAUI COUNTY CODE, RELATING TO RESIDENTIAL WORKFORCE HOUSING DEED RESTRICTIONS AND RESALE."

Bill 103's purpose is to amend residential workforce housing deed restriction provisions to require units be sold to owner-occupants in perpetuity and to increase the time period for all other restrictions.

Your Committee discussed the need for residential workforce housing units to remain affordable for as long as possible and extending the deed restriction period for ownership units would be a potential way to achieve this.

Your Committee notes the current deed restriction periods are ten, eight, and five years for ownership units in the below-moderate, moderate, and above-moderate income group categories, respectively.

Your Committee discussed doubling the deed restriction periods, before concluding that an even longer 20-year deed restriction period for all categories of residential workforce housing ownership units would help to maintain housing affordability and increase housing availability for the local workforce.

Your Committee noted that a longer deed restriction period would also help prevent windfalls for earlier homebuyers at the expense of subsequent homebuyers and significant County subsidies in those units.

COUNCIL OF THE COUNTY OF MAUI

AFFORDABLE HOUSING COMMITTEE

Page 2

Committee
Report No. _____

Your Committee discussed requiring residential workforce housing units be owner-occupied in perpetuity, noting that owners could still sell their units as provided in Chapter 2.96, Maui County Code, so long as the purchaser of the unit is the owner-occupant.

Your Committee noted that the owner-occupancy in perpetuity requirement would apply for the life of the unit, even after the deed restriction on affordability has ended and the unit is offered or purchased at market rate.

Your Committee agreed that special circumstances may warrant a temporary exemption from the owner-occupancy requirement, including medical conditions or financial hardships that necessitate a homeowner residing elsewhere temporarily.

The Deputy Director of Housing and Human Concerns said the Department has processed many appeals for owner-occupancy waivers, including for medical reasons, and noted the deed restriction time period is tolled for the duration of the waiver.

A Deputy Corporation Counsel advised adding a provision for financial hardship in Section 2.96.030(B)(2)(e), Maui County Code, which allows a residential workforce housing unit owner to appeal to the Department for a waiver of the owner-occupancy deed restriction due to off-island employment under short-term contract, active military duty, or other special circumstances.

Your Committee agreed that owner-occupancy waivers for financial hardship should be limited to a one-time waiver for up to two years.

Your Committee also agreed that any waiver should require the unit be provided as a long-term rental for households at or below the area median income level designated for the unit at the time of purchase, which includes households participating in the Housing Choice Voucher Section 8 Program.

COUNCIL OF THE COUNTY OF MAUI
AFFORDABLE HOUSING COMMITTEE

Page 3

Committee
Report No. _____

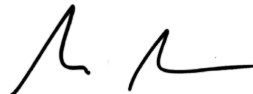
Your Committee expressed support for Bill 103 and its potential to provide greater housing affordability, security, and stability for our local workforce and full-time residents.

Your Committee voted 5-2 to recommend passage of Bill 103, CD1 (2022) on first reading. Committee Chair Johnson, Vice-Chair Molina, and members Paltin, Rawlins-Fernandez, and Sinenci voted “aye.” Committee members Kama and Lee voted “no.” Committee members King and Sugimura were excused.

Your Committee is in receipt of Bill 103, CD1 (2022), entitled 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,” approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee’s recommended revisions and nonsubstantive revisions.

Your Affordable Housing Committee RECOMMENDS that Bill 103, CD1 (2022), as revised herein and attached hereto, entitled “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 PASSED ON FIRST READING and be ORDERED TO PRINT.

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



GABE JOHNSON, Chair

ORDINANCE NO. _____

BILL NO. 103, CD1 (2022)

A BILL FOR AN ORDINANCE AMENDING SECTION 2.96.060, 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. This Ordinance's purpose is 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 2.96.060, Maui County Code, is amended to read as follows:

"2.96.060 – Residential workforce housing restrictions – ownership units.

A. Timing of completion.

1. Residential workforce housing units [shall] must be made available for occupancy either before or concurrently with market rate units at the same ratio required of the development.

2. Certificates of occupancy [shall] must not be issued [and/or] and final inspections [shall] must not be passed for the market rate units unless certificates of occupancy are issued [and/or] and final inspections are passed for the residential workforce housing units concurrently or sooner.

B. Deed restrictions.

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

[1.] 2. The ownership units within each income group [shall be] are 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] twenty years.
- c. "Above-moderate income," [five] twenty 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 have] has 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[.], or financial hardship. In cases of financial hardship, a waiver may be granted only once and for a maximum of two years. To be granted any waiver, the owner must provide the unit as a long-term rental at or below the income-qualified category designated for the unit at time of purchase.

[f.] e. Resale. The maximum resale price [shall] will 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] 25 percent of the difference between the two appraisals [shall] will 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.

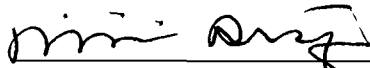
~~[h.]~~ g. The restrictions contained in subparagraphs ~~[2a through 2g]~~ 2b through 2f ~~[above shall]~~ do not apply in situations of foreclosure.

C. Sales price - dwelling units. The sales price of a new dwelling unit shall 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:



MIMI DESJARDINS
Department of the Corporation Counsel
County of Maui

ah:misc:031abill02:ans

INTRODUCED BY:

Tamara D. M. Paltin

TAMARA PALTIN