



November 3, 2022

Aloha e Councilmembers,

I am writing on behalf of Hawaiian Community Assets (HCA) and Hawaii Community Lending (HCL) to support Bill 103 and AH-14(7) and commend this committee in starting the conversation on the need for a more streamlined approval process for housing projects.

In addition, we are providing comments below to discuss the alignment of the proposed bills with the Maui County Comprehensive Affordable Housing Plan that HCA was contracted by the Office of Council Services to complete as well as additional actions our organization recommends for alignment with the plan.

Bill 103

The proposed changes in Bill 103 are consistent with the recommendations in the Maui County Comprehensive Affordable Housing Plan.

As it relates to affordability periods, the plan recommends the following:

All units built under the (2.96 Workforce Housing) program will be required to maintain the original affordability levels for at least 10 years, and longer if the county provides fee waivers and/or Affordable Housing Fund financing in the unit.

In addition, the plan recommended the following as it relates to calculating shared appreciation. This shared appreciation model was vetted by our team of experts and the development community:

Workforce housing owners will gain no equity appreciation for the first 10 years. Starting in year 10 and increasing until year 30 borrowers will receive 2.5% of the equity appreciation on their home for each year they live in the home past 10 years. All subsidies provided by the County will be a lien on the home and must be repaid on sale. The county will have the option to provide subsidy to a new low-income buyer so the home continues to be affordable.

AH-14(7)

The proposed changes to Maui County Code chapter 3.35 are consistent with the recommendations in the Maui County Comprehensive Affordable Housing Plan.

Our team highly encourages the committee to pass this bill as it would allow for funding from the Affordable Housing Fund to support direct subsidies to local homebuyers.



HAWAIIAN COMMUNITY ASSETS



In addition, our organization recommends the committee and council consider additional changes to Maui County Code chapter 3.35 and 3.34 that would expand eligible uses of funds and codify recommendations included in the Maui County Comprehensive Affordable Housing Plan.

These recommended changes include the following:

Recommended Changes to 3.34

Expand eligible uses of funds to include:

- *First-time homebuyer gap financing, deferred payment mortgages*
- *Rental housing gap financing*
- *'Ohana and ADU development, individual septic and wastewater systems, and long-term financing*
- *Rehabilitation of existing structures*
- *Provision of housing counseling services and the development of a pre-qualified list of eligible buyers and renters*

Additional recommended changes include:

- *Secure loans from the fund with a deferred payment mortgage in the highest position achievable*
- *Generally, funds provided will not include interest. If interest is charged, the rate will not exceed two percent per annum for homeownership properties and three percent per annum for rental properties. All payments will be deferred until sale or refinance*
- *Limit borrower default actions to forfeiting land or property to the county or full repayment of the principal balance without interest*

Recommended Changes to 3.35

- *Generally, funds provided will not include interest. If interest is charged, the rate will not exceed two percent per annum for homeownership properties and three percent per annum for rental properties. All payments will be deferred until sale or refinance*
- *If the fund is used to pay for community serving infrastructure, the department shall establish a fair reimbursement for the market rate units benefitted by the infrastructure. Market rate units will reimburse the fund at building permit. Reimbursements will be permanently set aside in the affordable housing fund.*
- *Limit borrower default actions to forfeiting land or property to the county or full repayment of the principal balance without interest*
- *The Department of Housing and Human Concerns will be responsible for managing a community oversight board responsible for developing an affordable housing fund annual plan. The committee shall consist of nine members with one-third private sector representatives, one-third community members, and one-third public representatives including the chair of the council's affordable housing committee. Committee members will serve five-year terms and be responsible for reviewing, scoring, and recommending grant and loan applications made to the fund. The department shall coordinate and conduct at least monthly committee meetings. The department shall propose an affordable housing fund annual plan based on committee member recommendations.*



▪ Report annually to the council on targets and metrics for the Affordable Housing Plan.



As of Right Development

Our organizations commend the committee in starting the conversation on the need for a more streamlined approval process for housing projects.

According to research conducted for the Maui County Comprehensive Affordable Housing Plan, it currently takes 100% affordable housing projects 24 months to obtain County approvals from site control. The long approval timeline adds costs and uncertainty for builders and makes them ineligible for financing to move their project forward and deliver affordable homes to our local people in a timely manner. For our local 100% affordable housing builders, this delayed timeline may result in the project not going forward at all.

For example, pre-development financing and recoverable grants, which are critical at the earliest stage of development for projects to be viable, are currently available through community development financial institutions. However, the funds carry 24- to 36-month terms. For a builder to take advantage of these resources, they would need to be assured their project can be approved, built and sold or rented to local residents within 3 years. Today, projects take 5 or more years to be completed.

As of right development would streamline the County approval process for projects that meet established design standards and community engagement requirements (see the enclosed design standards proposed in the Maui County Comprehensive Affordable Housing Plan). This would build certainty into the process and create the conditions for projects to access pre-development financing and recoverable grants that are available but unable to be accessed at this time for the reasons listed above.

With the recent passing of Bill 107, which has reduced sale price guidelines and codified these changes in statute, and continuing increases in interest rates, it will become more and more difficult for our local 100% affordable housing builders to deliver affordable homes and still recoup costs. An as of right development process has the ability to shorten the timeline on builders, which would in-turn reduce costs and position them to be better able to meet the requirements under the new sales price guidelines.

The Maui County Comprehensive Affordable Housing Plan identified 4 ways in which the Council can streamline the approval process to meet the goal of delivering 5,000 affordable homes to local residents under 120% area median income by 2025.

Our organizations highly recommend the Council move forward with action to implement all 4 of these recommendations for streamlining County approvals and engage the development community on additional as of right development processes.

These recommendations include the following:

Method 1

Currently, all Council members serve on the following committees:



☐ Affordable Housing

☐ Budget, Finance and Economic Development

☐ Planning and Sustainable Land Use



The Council could eliminate redundancy and decrease approval timelines for projects by eliminating steps in the current process by:

- 1. Identifying the appropriate committees for which the project should be referred once the application has been approved by the DHHC and transmitted to the Council.*
- 2. If the Council determines the need for projects to be referred to one, or all, of the above committees, committee chairs and the council chair could coordinate efforts for a joint hearing or at the full council rather than require hearings with the same council members in multiple committees.*
- 3. The full council could review and issue approvals, approvals with modifications, or disapprovals.*

This method would reduce project approval timelines by an estimated six months and would free up the full council and council committee calendars for other actions.

Method 2

Another method to eliminate redundancy and decrease approval timelines is by using an established process currently implemented through the Planning Department and the Hana Community Advisory Committee. Under this existing process, projects are reviewed for their adherence to established design standards and guidelines and implementing a public review process is led by an advisory committee with representatives from the community where the project proposes to be developed.

The following steps for the strategy are based on the existing Hana Community Advisory Committee process:

- 1. Developer submits application to Planning Department that includes:
 - a. Applicant name*
 - b. Proof of ownership or if not property owner a notarized authorization from owner*
 - c. Structural and landscape plans*
 - d. Signage and graphics*
 - e. Identification of building materials**
- 2. Planning Department forwards to the Community Advisory Committee.*
- 3. Committee reviews application using design standards and guidelines and sends recommendations to the Planning Director within 60 days.*
- 4. Planning Director takes action to approve, approve with modifications, or disapprove within 30 days.*
- 5. Appeals to the Planning Director's decision can be made to the Committee within 30 days of*



6. Commission must take action within 30 days to override the decision of the Planning Department.

7. Commission decision can be appealed with a lawsuit.

This method would reduce project approval timelines to an estimated 180 days, increases community engagement, and would free up the full council and council committee calendars for other actions.

Method 3

A third method to reduce approval timelines and costs on affordable housing projects could be to exempt projects that are 100% affordable for households below 140% AMI that meet standard design and guidelines from having to submit an EA/EIS with the project application. Under state chapter 343, projects considered to have a “significant effect on the environment” would still be held accountable public health, safety, and cultural and environmental resource standards.

This method would reduce project timelines by an estimated twelve to twenty-four months and decrease upfront costs on affordable housing developers at the application phase before their projects have been approved as long as they meet the Environmental Council’s definition of having “minimal or no significant impact on the environment”.

On the January 5, 2021, the State Environmental Council gave the Maui County Department of Planning the opportunity to amend the county’s exemption list for Chapter 343 to comply with the newly approved Hawai’i Administrative Rules, which may provide opportunity for small affordable housing projects to be included. Until such time as the county submits their updated list, the current exemption list from 2007 is in place.

Method 4

A final method is related to the approval is specific for accessory dwelling, ‘ohana, and single family owner-builder units serving renters or homebuyers at or below 100% AMI.

The City and County of Honolulu has passed legislation that includes a ‘One Time Review’ (OTR) process for accessory dwelling and ‘ohana units. The OTR process is meant to reduce the building permit processing time and is as follows:

1. Owner may complete pre-check form and submit to Department of Planning and Permitting to determine if their lot qualifies for an accessory dwelling unit or ‘ohana unit.

2. During the pre-check process, owner is required to gather signatures from multiple agencies to confirm that the building site meets the code requirements and has access to sufficient utility infrastructure.

3. Once the pre-check form is signed by all appropriate departments, owner files a notarized declaration of restrictive covenants and description of the property, such as the deed or other



conveyance document with the original to the State Bureau of Conveyances and a copy to the Department of Planning and Permitting.



The City and County has also partnered with community development nonprofits to develop an owner guidebook, building industry and design professionals to develop a range of options that can be preapproved under a master permit, and financial institutions to offer lending options. Once the owner-builder obtains a master permit for a particular model, the model needs a site permit showing where and how it will be constructed on the lot. Finally, appropriate inspections occur during construction.

In addition, the City and County of Honolulu has passed legislation that implements a similar OTR process for single- and two-family home permits, shortening the process timeline to within two months.

However, an audit of the program cited the Department of Planning and Permitting did not properly administer the OTR rules which resulted in delays and backlogs for owner-builder permits.

This strategy could be implemented to reduce development timelines and costs on owner-builders in order to increase the number of in-fill affordable housing opportunities through the County. Technical assistance from community development nonprofits has been key for the success of similar programs, such as the LA ADU Accelerator program which also seeks to create units accepting Housing Choice Vouchers that in turn help make payments for mortgage financing obtained for their construction.

Mahalo for the opportunity to support and provide comments on Bill 103, AH-14(7), and as of right development. Please contact me directly at 808.587.7653 or jeff@hawaiiancommunity.net should you have any questions or need more information.

Sincerely

A handwritten signature in black ink, appearing to read 'Jeff Gilbreath'.

Jeff Gilbreath
Executive Director
Hawaii Community Lending

Appendix E. Design Standards

100% affordable housing projects will be approved as of right through an Administrative review and Community Advisory Committee process if they meet the following criteria.

Locational

1. The project is less than 150 units in size in Central, South, or West Maui community plan areas.
2. The project area is less than 10 acres.
3. The finishes on the building exteriors conform to the finishes on units in the surrounding community.
4. In single family residential zones the project is not more than three stories, with setbacks from contiguous uses to minimize shading of neighboring properties.
5. In single family zones the project density is not more than 20 units per acre.
6. Buildings have only minimal impacts on the view sheds of neighboring properties.
7. In multi-family zones buildings can be as tall as other buildings within 500 feet of the property.
8. In multi-family zones project density cannot exceed the density of nearby buildings.
9. Developers will provide adequate parking, 1.5 spaces for each studio or one bedroom unit, 2 spaces for 2+ bedroom units, plus guest parking, so that street parking is minimized, except in more urbanized situations with routine bus access.
10. Parking will be located to minimize the impact on street views, in other words parking will not be located parallel to streets but perpendicular.
11. Units on second and higher stories will have access to outdoor spaces—balconies.
12. Multi-family style developments will include community rooms, playgrounds and swimming pools, unless the project is in close proximity, .25 miles, to a community park, pool or the ocean.
13. The project has at least a six-foot wall separating it from contiguous properties.

Climate Change Mitigation

Maui County is vulnerable to certain kinds of natural disasters, such as flooding, hurricanes, tsunamis, lava flows, wildfires, and earthquakes.

In Hawai'i, flash floods are much more common than other natural disasters, such as tsunamis or hurricanes. In March 2006, more than 30 days of torrential rain resulted in major damage from flooding, as well as serious public health issues.

Two hurricanes (Iwa and Iniki) left devastation and death in their wake after passing through the state. Not only are the high winds of a hurricane or cyclone very destructive, but the storm surge that comes with it. Storm surge (wind-driven high waves) causes severe flooding in coastal areas. Hurricanes are relatively rare events in the Hawai'ian Islands. However, the potential for property damage in Hawai'i is increased because of the numerous lightly constructed buildings and dwellings. Hawai'i's topography funnels and amplifies the tropical cyclone winds across ridges and through island channels¹.

Hawai'i is the U.S. state at greatest risk for a tsunami. Hawai'i records about one a year, with a damaging tsunami happening about every seven years. Tsunamis usually occur after an earthquake in a coastal or oceanic region. Early in the morning on April 1, 1946, the largest and most destructive tsunami waves in reported history struck Hawai'i, killing 159 people. Maximum run-ups were reported to be 54 feet (16.5 m) on Molokai².

There are several kinds of events caused by volcanic activity that can be harmful to life and property. These include lava flows, ash falls and debris avalanches. In 2018, a new eruption of the Kilauea volcano changed the

¹ U of Hawaii – Hurricanes in Hawaii

² Hawaii.com

island of Hawai'i forever. From May through August, large lava flows covered land southeast of the park destroying over 700 homes and devastating residential areas in the Puna District³.

Earthquakes in Hawai'i are closely linked to the islands' volcanoes. Other earthquakes that can occur in Hawaii are called tectonic earthquakes, which can happen in areas of structural weakness at the base of the Hawai'i's volcanoes or deep within the Earth's crust beneath the island. Since 1868, more than 30 magnitude-6.0 or greater earthquakes have struck the Hawai'ian Islands, causing damage and impacting residents across the state. Most of these large earthquakes were located on or near the Island of Hawai'i, but others have occurred near the islands of Maui and Moloka'i⁴.

In Hawai'i, wildfires occur on all six major islands: Kaua'i, O'ahu, Moloka'i, Lāna'i, Maui, and Hawai'i Island. From 2000-2008 there were approximately 1107 wildfires in Hawai'i, consuming over 98,000 acres of land, impacting life, industry, property, and natural resources⁵.

Ground subsidence poses an indirect hazard on active Hawai'ian volcanoes. The only effective mitigation strategies available for relatively small-scale indirect hazards are to avoid using the areas susceptible to such hazards for high-density development or critical facilities through land-use zoning and public education. There are no practical mitigative measures for large-scale, truly catastrophic hazards associated with volcano flank collapse⁶.

The frequency and severity of impactful disasters has been increasing to unprecedented levels in recent years due to climate change:

- In 2017, 335 natural disasters worldwide affected over 95.6 million people, killing an additional 9,697 and costing a total of US \$335 billion.
- In 2018, there were 315 natural disaster events recorded with 11,804 deaths, over 68 million people affected, and US \$131.7 billion in economic losses across the world.
- In the US alone, over the past 10 years (2011-2020), there were an average of 62,693 wildfires annually and an average of 7.5million acres impacted annually.
- The COVID-19 Pandemic is the first time in the History of our Nation that all 50 States have had Emergency Declarations at the same time.

Climate change and sea-level rise are already impacting coastal communities in many locations worldwide, including the U.S. west coast, Alaska, Hawai'i, and U.S. affiliated Pacific islands⁷.

A community's preparation and response to a disaster and/or climate change can mean the difference between life and death in some cases and in most cases can determine the extent of long-term impacts. With the severity and frequency of disasters in modern times, communities are feeling overwhelmed. However, with planning, preparedness, and mitigation the reduction of impacts is an achievable goal.

The following Housing design standards are recommended for consideration by Maui County for the siting and construction of Affordable Housing to meet mitigation standards in island communities. These standards were based upon recommendations by FEMA as conceptualized by Enterprise Communities Partners in their publication: Keep Safe, A Guide for Resilient Housing in Island Communities, developed after working on Disaster Recovery in Puerto Rico.

³ NPS - 2018 Eruption and Summit Collapse

⁴ USGS - Natural Hazards and Risk Reduction in Hawai'i

⁵ Hawaii Emergency Management Agency

⁶ USGS - Natural Hazards and Risk Reduction in Hawai'i

⁷ *USGS – Coastal Climate Impacts

The recommendations are divided into four categories: Site Location, Green Infrastructure, Grey Infrastructure, Building Protections.

SITE LOCATION

- For New Construction, Site Housing in a Safe Location
 - Don't site Housing or facility in a floodplain or floodway as determined by FEMA: <https://www.fema.gov/flood-maps>
 - Be careful not to site housing in an area prone to Volcanic Activity, Subsidence Zones, or Tectonic Activity Zones.
 - Avoid locating Housing or associated infrastructure in coastal areas.
 - Avoid building on steep hillsides, where fire may spread rapidly upwards.

GREEN INFRASTRUCTURE

- Install green infrastructure on housing sites:
 - When choosing where drainage systems go, do not deposit into a lake, stream, or the ocean.
 - Berms, both natural or man-made, can slow water headed downslope from rain or storm surge in coastal areas and reduce erosion.
 - Swales, both natural or man-made, are shallow channels with gently sloped sides that manage water runoff, filter pollutants, and increase rainwater filtration
 - Boulders or rip rap are large pieces of rock that can be placed strategically to steer water, hold earth, or even act as “break-waters” in coastal areas to mitigate erosion.
 - Plants help anchor soil systems, which prevents earth movement while mitigating flooding damage.
 - Greenroof – Roofs that are partially or totally covered with soil and a growing medium, planted over a waterproofing membrane can help mitigate excessive heat gain and manage storm water.

GRAY INFRASTRUCTURE

- Grey infrastructure refers to the human-engineered structures used for fortifying communities against climate effects
 - Retaining walls are permanent barriers that contain the weight of the terrain on a steep slope, where extreme rain might destabilize the exposed terrain. Drains are installed at the base of the wall on the up-slope side to move water away from the structure.
 - Dry wells are underground pits filled with gravel or aggregate that store water to percolate or drain slowly.
 - Ditches are channels that are used to redirect water flow.
 - Permeable surfaces consist of a paver, porous concrete, or other flooring system that allows water to pass through and percolate slowly into the soil.

BUILDING PROTECTION

Strategies to reduce building vulnerabilities to natural hazards

- **Foundations:**
 - Strong, flood-damage- resistant, and decay-resistant materials (reinforced concrete or preservative treated wood).
 - Elements sized for appropriate structure loads and local soil conditions.

- Proper connections and anchors to transfer loads between the foundation and the rest of the structure.
 - Resist lateral and uplift loads from floods, high winds, and earthquakes.
 - Be protected against flood- borne and wind-borne debris impacts.
 - Be resistant to erosion and scour that can undermine the foundation.
 - Anchor bolts, tie-downs and fasteners must be flood- damage and corrosion-resistant.
 - Install French drains around draining docks to collect and drain out excess water that reaches the foundation through the soil.
 - Use sewers or dry wells to collect excess runoff/rainwater.
 - Open raised foundations on structural piers in areas prone to flooding or near coastal zones.
- Walls:
 - Be properly anchored to the foundation to resist wind and seismic loads.
 - Be leak-free and crack- free since any holes may compromise its structural integrity.
 - Strong connections to the structural system or the joints.
 - Maintain a continuous load path by using vertical reinforcement, from the foundation to the roof, through the structural walls.
 - Anchor interior partition walls into the structural frame for stability.
- Roofs:
 - Be properly anchored to the walls to resist wind and seismic loads. Wood roofs should have properly sized metal hurricane ties to secure the connection to the structural walls. Concrete roofs require embed dowels into structural walls and provide adequate anchors and hurricane ties.
 - Have drainage to prevent rainwater ponding, particularly in low-sloped roofs.
 - Be leak-free and crack- free since any holes may compromise its structural integrity.
 - Strong connections to the structural system, or the joints.
 - Wood roofs need one or more impermeable layers, including waterproofing membrane, to keep water out of the building and provide insulation. Concrete roofs require the use of a sealant or continuous membrane on the exterior.
 - Anchor any equipment mounted on the roof, like solar panels or utilities, to resist wind loads.
- Openings:
 - Be protected against breaching.
 - Comply with floodproofing requirements for openings in flood zones. See Strategy 09.
 - New glazed doors, windows and skylights in newly- constructed homes must be manufactured to resist wind pressures and wind-borne debris.
 - Properly anchored to the structural framing with corrosion-resistant hardware and fasteners.
 - Openings containing glass, must ensure the system complies with the appropriate ASTM requirements and specified design thickness.
 - Seal any cracks, crevices or penetrations around its perimeter to prevent intrusion of water and leaks from wind-driven rain.