

MICHAEL P. VICTORINO
Mayor

SANDY K. BAZ
Managing Director



OFFICE OF THE MAYOR
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov

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OFFICE OF THE
COUNTY CLERK

December 30, 2022

Ms. Kathy Kaohu, County Clerk
County of Maui
200 South High Street
Wailuku, Hawaii 96793

Dear Ms. Kaohu:

SUBJECT: BILL 103, CD1, FD1 (2022)

At its meeting of December 16, 2022, the Council of the County of Maui passed on final reading, Bill 103, CD1, FD1 (2022), amending Section 2.96.060, Maui County Code ("MCC"), relating to Residential Workforce Housing Deed Restrictions and Resale. On December 20, 2022, Bill 103, CD1, FD1 (2022) was received by the Office of the Mayor.

The objective of getting more of our residents into attainable and affordable housing and become homeowners is one that I continually work on to achieve. The changes to Chapter 2.96, Maui County Code enacted by this will hinder efforts to achieve that objective.

Pursuant to Section 4-3(1) of the Revised Charter of the County of Maui (1983), as amended, "if the mayor disapproves it, the mayor shall specify the mayor's objections thereto in writing and return the bill to the county clerk with the mayor's objections...".

Therefore, I object to Bill 103, CD1, FD1 (2022) for the following reasons:

- 1) Section 2.96.060(B)(1), MCC, Deed restrictions.

The unit must be owner-occupied in perpetuity. Potential buyers will likely have a difficult time financing the purchase

COUNTY COMMUNICATION NO. 23-1

of a residential workforce housing unit since the requirement for the unit to be owner occupied still applies in situations of foreclosure. As perpetuity will likely extend beyond the useful life of the unit and since the restriction will be recorded on the real property, it will likely be seen to “run with the land”, how will the underlying real property be treated in the event the unit is destroyed or demolished? It is unclear as to which Department or Agency is charged with the enforcement of this provision as it extends the deed restricted period to perpetuity. Furthermore, if there is a violation of this restriction, would a fine or penalty be assessed and who would enforce the violation? These issues should all be further reviewed before the requirement is expanded.

2) Section 2.96.060(B)(2), MCC, Deed restrictions

The primary objection to modifications to this section is the increase in the deed restriction for below moderate income from ten years to thirty years; for moderate income from eight years to thirty years; and for above-moderate income from five years to thirty years.

Furthermore, it hampers our workforce from building wealth and optimizing the benefits of home ownership, without providing for a graduated increase in the resale price.

For the reasons outlined above, I oppose Bill 103, CD1, FD1 (2022) and strongly urge the Council to reconsider its decision.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael P. Victorino".

MICHAEL P. VICTORINO
Mayor

WE HEREBY CERTIFY that the foregoing BILL NO. 103, CD1, FD1 (2022)

1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 16th day of December, 2022, by the following vote:

Alice L. LEE Chair	Keani N. W. RAWLINS- FERNANDEZ Vice-Chair	Gabriel JOHNSON	Natalie A. KAMA	Kelly T. KING	Michael J. MOLINA	Tamara A. M. PALTIN	Shane M. SINENCI	Yuki Lei K. SUGIMURA
No	Aye	Aye	Excused	Aye	Aye	Aye	Aye	No

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 20th day of December, 2022.

DATED AT WAILUKU, MAUI, HAWAII, this 20th day of December, 2022.

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OFFICE OF THE MAYOR



ALICE L. LEE, CHAIR
Council of the County of Maui



KATHY L. KAOHU, COUNTY CLERK
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS _____ DAY OF _____, 2022.

MICHAEL P. VICTORINO, MAYOR
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. _____ of the County of Maui, State of Hawaii.

KATHY L. KAOHU, COUNTY CLERK
County of Maui

Passed First Reading on November 18, 2022
Effective date of Ordinance

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. _____, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on _____

County Clerk, County of Maui

ORDINANCE NO. _____

BILL NO. 103, CD1, FD1 (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] will be subject to [the] all other deed restrictions
contained in this section for the following periods:

a. "Below-moderate income," [ten] thirty
years.

b. "Moderate income," [eight] thirty years.

c. "Above-moderate income," [five] thirty 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
DEPUTY CORPORATION COUNSEL
Department of the Corporation Counsel
County of Maui
LF2022-1918
PAF 22-285 2022-11-21 Ord Amd Sec 2.96.060
paf:pmg:22-285a

INTRODUCED BY:

Tamara M. Paltin
TAMARA PALTIN