

COUNCIL OF THE COUNTY OF MAUI
AFFORDABLE HOUSING COMMITTEE

December 20, 2019

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 November 20, 2019, makes reference to County Communication 19-15, from Council Chair Kelly T. King, relating to affordable housing projects pursuant to Chapter 201H, Hawaii Revised Statutes.

By correspondence dated November 12, 2019, the Director of Housing and Human Concerns transmitted a proposed resolution entitled "AMENDING RESOLUTION NO. 18-187 (MODIFICATION NO. 1) TO ALLOW THE DIRECTOR OF HOUSING AND HUMAN CONCERNS TO EXTEND TIME DEADLINES FOR COMMENCEMENT OF CONSTRUCTION AND COMPLETION OF THE WAILUKU APARTMENT RENTAL HOUSING PROJECT."

The purpose of the proposed resolution is to extend deadlines for the development of the Wailuku Apartment Rental Housing Project, consisting of 195 workforce housing rental units and 129 market-rate rental units on 14.4 acres at Waiale Road, East Kuikahi Drive, and Honoapiilani Highway in Wailuku, Maui, Hawaii. The Project was approved through the fast-track 201H process by Resolution 18-187, adopted November 15, 2018, as recommended by Land Use Committee Report 18-198.

Resolution 18-187 provided deadlines of two years to commence and five years to complete construction. At the time of approval, all parties—developer Legacy Wailuku LLC, the County Council, and the County Administration—believed the deadlines could be met. However, as stated in the proposed resolution, "Project commencement has been unexpectedly delayed by unanticipated recent events requiring repairs and upgrade to Maui County's wastewater system . . ."

COUNCIL OF THE COUNTY OF MAUI
AFFORDABLE HOUSING COMMITTEE

Page 2

Committee
Report No. _____

A representative of the developer advised your Committee the developer has entered into a public-private partnership with the County to design and obtain permitting for the needed improvements to the wastewater system—known as the Lower Main Street Sewer Upgrade—with the County to construct the improvements in accordance with a \$2.5 million appropriation in the Fiscal Year 2020 Budget. This public-private partnership will expedite completion of the improvements, but the Project will still not be able to meet the deadlines in Resolution 18-187, according to the developer's representative.

Accordingly, the proposed resolution would change the Project's deadlines to the following:

- Commence construction of the Project within one year after the County starts work on the Lower Main Street Sewer Upgrade.
- Complete construction of the Project within three years after the start of construction.

Your Committee expressed support for the new construction deadlines.

The proposed resolution would also delegate to the Director of Housing and Human Concerns the authority to grant an additional extension. Your Committee expressed opposition to this delegation of authority. Therefore, your Committee voted to revise the title and body of the proposed resolution to eliminate references to the Director's authority to grant an extension.

Your Committee voted 5-0 to recommend adoption of the revised proposed resolution. Committee Chair Kama, Vice-Chair Molina, and members Lee, Rawlins-Fernandez, and Sinenci voted "aye." Committee members Hokama and Sugimura were excused.

Your Committee notes Ordinance 4918, effective December 16, 2018, conditionally approved a District Boundary Amendment to facilitate the Project's development. Your Committee urges

COUNCIL OF THE COUNTY OF MAUI
AFFORDABLE HOUSING COMMITTEE

Page 3

Committee
Report No. _____

the Department of Housing and Human Concerns to consider whether Ordinance 4918 should be amended, if the revised proposed resolution is adopted.

Your Committee is in receipt of a revised proposed resolution, entitled "AMENDING RESOLUTION 18-187 (MODIFICATION NO. 1) TO EXTEND TIME DEADLINES FOR COMMENCEMENT OF CONSTRUCTION AND COMPLETION OF THE WAILUKU APARTMENT RENTAL HOUSING PROJECT," approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's revisions and nonsubstantive revisions.

Your Affordable Housing Committee RECOMMENDS that Resolution _____, attached hereto, entitled "AMENDING RESOLUTION 18-187 (MODIFICATION NO. 1) TO EXTEND TIME DEADLINES FOR COMMENCEMENT OF CONSTRUCTION AND COMPLETION OF THE WAILUKU APARTMENT RENTAL HOUSING PROJECT," be ADOPTED.

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



TASHA KAMA, Chair

ah:cr:19001(4)aa_TK:epd

Resolution

No. _____

AMENDING RESOLUTION 18-187 (MODIFICATION NO. 1) TO EXTEND TIME DEADLINES FOR COMMENCEMENT OF CONSTRUCTION AND COMPLETION OF THE WAILUKU APARTMENT RENTAL HOUSING PROJECT

WHEREAS, on November 15, 2018 the Maui County Council adopted Resolution 18-187 approving with modifications the Wailuku Apartment Rental Housing Project by Legacy Wailuku LLC, in accordance with Section 201H-38, Hawaii Revised Statutes; and

WHEREAS, paragraph 1 of Exhibit "A" attached to Resolution 18-187 requires the construction of the Wailuku Apartment Rental Housing Project to commence within two years of the effective date of the Resolution and be completed, with Legacy Wailuku LLC's good faith and reasonable best efforts, no later than five years after the effective date of the Resolution; and

WHEREAS, Project commencement has been unexpectedly delayed by unanticipated recent events requiring repairs and upgrade to Maui County's wastewater system near Lower Main Street (referred to as the "County's Facilities"); and

WHEREAS, to facilitate a solution, Legacy Wailuku LLC has agreed to provide, at its own expense, the engineering work needed for the County to upgrade the County's Facilities and to obtain all required environmental reviews and approvals for the work; and

Resolution No. _____

WHEREAS, because of the scope and complexity of Legacy Wailuku LLC's agreed tasks on the County's Facilities, Legacy Wailuku LLC has requested an amendment to Resolution 18-187 to provide additional flexibility on its own project time deadlines; and

WHEREAS, in accordance with Section 4-1 of the Revised Charter of the County of Maui (1983), as amended, the Council is authorized to act by resolution; now, therefore,

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


1. That based on the transmittals and representations of Hawaii Housing Finance and Development Corporation and Legacy Wailuku LLC, the Council amends, paragraph 1 of the Modifications attached to Resolution 18-187 as Exhibit "A" to read as follows, with deleted content in brackets and added content underscored:

"1. Construction of the Wailuku Apartment Rental Housing Project ("Project") shall commence within [two years of the effective date of this resolution.] one year after the County physically starts its construction of the Lower Main Street Sewer Upgrade. Commencement and construction of the Wailuku Apartment Rental Project shall mean the visible start of grading, pursuant to a valid grading permit as needed for the development of the property. Legacy Wailuku LLC shall act in good faith and with reasonable best efforts to complete construction of the 195 residential workforce housing units, with all related roads and infrastructure, no later than [five years after the effective date of this resolution.] three years after the commencement of construction."

Resolution No. _____

2. That certified copies of this Resolution be transmitted to the Director of Housing and Human Concerns, the Planning Director, Director of Public Works, the Executive Director of Hawaii Housing Finance and Development Corporation, and Legacy Wailuku LLC.

APPROVED AS TO FORM
AND LEGALITY:



MIMI DESJARDINS
Deputy Corporation Counsel
County of Maui

ah:misc:001(4)areso01:ans