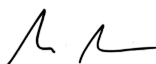


# REQUEST FOR LEGAL SERVICES

**Date:** August 26, 2021  
**From:** Gabe Johnson, Chair   
**Affordable Housing Committee**

TRANSMITTAL

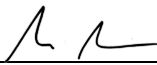
**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Mimi DesJardins, Esq.

**Subject:** HŌKŪAO 201H HOUSING PROJECT (AH-1(1))

**Background Data:** Please see the attached resolution approving the project with modifications. Please sign if the resolution is legally defensible. If the resolution is not legally defensible, please provide a public memo explaining your reasons. Confidential legal advice is not sought. Please submit the response to [ah.committee@mauicounty.us](mailto:ah.committee@mauicounty.us) with reference to AH-1(1).

**Work Requested:** ☒ FOR APPROVAL AS TO FORM AND LEGALITY

☐ OTHER:

Requestor's signature  Gabe Johnson	Contact Person <u>Alison Stewart or James Forrest</u> (Telephone Extension: <u>7661 or 7137, respectively</u> )

☐ 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): 9:00 a.m., August 27, 2021  
REASON: For posting on the September 3, 2021 Council 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:001(1)acc01:ans

Attachment

# Resolution

No. \_\_\_\_\_

APPROVING WITH MODIFICATIONS THE INDEPENDENT DEVELOPMENT OF  
THE HŌKŪAO HOUSING PROJECT UNDER SECTION 201H-38,  
HAWAII REVISED STATUTES

WHEREAS, Pūlāma Lānaʻi, a Hawaii corporation, proposes the development of the Hōkūao Housing Project (“Project”) on approximately 76 acres of land, which is identified for real property tax purposes as Tax Map Keys (2) 4-9-002:061 (por.), (2) 4-9-014:001 (por.), and (2) 4-9-014:009 (por.) in Lānaʻi City, Hawaiʻi; and

WHEREAS, the proposed Project will consist of a residential development of 150 single-family homes, with 76 homes for rent to qualified households earning between 80 and 140 percent of Maui’s area median income, and 74 homes for rent at market rates; and

WHEREAS, the proposed Project will provide a one-acre park, a 1,500-square-foot community center for use by the Lānaʻi community, and 60 parking stalls for residential and intermittent parking; and

WHEREAS, the Project will provide needed residential workforce housing to meet the current and growing demand for housing on Lānaʻi; and

WHEREAS, the Project is being independently developed under Section 201H-41, Hawaiʻi Revised Statutes (“HRS”); and

WHEREAS, under Section 201H-38, HRS, the Council of the County of Maui (“Council”) may approve certain exemptions for the Project, and the requested exemption list is attached as “Exhibit A”; and

WHEREAS, under Section 201H-38, HRS, the Council must approve, approve with modifications, or disapprove the Project by resolution 45 days after the Department of Housing and Human Concerns (“DHHC”) has submitted the preliminary plans and specifications for the Project to the Council, which submittal occurred on July 21, 2021; and

WHEREAS, under 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 upon the transmittals and the representations of the DHHC and Pūlāma Lānaʻi, the Council approves the Project with the

Resolution No. \_\_\_\_\_

modifications specified in “Exhibit B,” including the Project’s preliminary plans and specifications, as submitted to the Council on July 21, 2021, under Section 201H-38, HRS; except that Pūlāma Lāna‘i must comply with all statutes, ordinances, Charter provisions, and rules of governmental agencies relating to planning, zoning and construction standards for subdivisions, development and improvement of land, and the construction of units, unless exempted as specified in “Exhibit A”;

2. That the final plans and specifications for the Project will be approved by the Council if the final plans and specifications do not substantially deviate, as determined by the Director of Housing and Human Concerns, from the preliminary plans and specifications submitted to the Council;
3. That the final plans and specifications will constitute the zoning, building, construction, and subdivision standards for the Project;
4. That any substantial deviation from the final plans and specifications must be submitted to the Council for prior approval;
5. That in the event of any conflict between the plans and specifications of the Project and this Resolution, terms of the Resolution and its exhibits will control; and
6. That certified copies of this Resolution be transmitted to the Director of Public Works, the Planning Director, the Director of Housing and Human Concerns, and Pūlāma Lāna‘i.

APPROVED AS TO FORM AND LEGALITY

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Deputy Corporation Counsel  
County of Maui

ah:misc:001(1)areso01:ans

## **EXHIBIT B**

### **HŌKŪAO HOUSING PROJECT**

#### **MODIFICATIONS**

1. No condominium property regimes are allowed on the three Project parcels. No further subdivision of the parcels for additional dwellings is allowed, except as specified in Exemption 14 relating to County of Maui Subdivision File Number 6.180.
2. Developer must establish a policy to affirmatively protect any Pūlama Lānaʻi employee residing within the Project to express themselves freely, even in opposition to Pūlama Lānaʻi or its affiliates, without fear of retaliation from the company, or loss of home or employment.
3. The Project's proposed park and community center must be completed prior to construction of the last market rate unit.
4. Developer must reserve 10 residential workforce housing units for teachers in grades Pre-K through 12 residing on Lanaʻi. Teachers will be required to complete the same application and verification process as any other applicant. Should there be fewer than 10 teachers who apply or qualify for units, the remaining reserved units may be offered to other qualified applicants. Developer must coordinate with the Department of Housing and Human Concerns to establish the specific procedures for implementing this selection priority for teachers.
5. Developer must act in good faith and with best efforts to develop internal roads, additional sidewalks, and pathways that promote safety and accessibility, multimodal transportation, and "Vision Zero Maui" and "Complete Streets" principles.
6. Developer must act in good faith and with best efforts to develop a stub out for water and a stub out for wastewater in coordination with, and for the use of, the County's Lanaʻi Affordable Housing Project on the parcel adjacent to the Hōkūao Housing Project.
7. Developer must develop all residential workforce housing units, including related roads and infrastructure, before or concurrently, and at the same ratio with the market rate units.

8. Developer must complete construction of all residential workforce housing units, with related and infrastructure, within 10 years of receiving the first building permit, except that an extension may be granted by Council approval by resolution.
9. The resolution and exemptions will lapse and become void if construction of the units has not started within two years of receiving approved building permits for the residential workforce housing units.
10. The resolution and exemptions will lapse and become void if the required district boundary amendment is not granted within two years of the effective date of this resolution.
11. Short-term rental homes and other transient accommodations are prohibited within the Project.
12. Rental of residential workforce housing units at market rate is prohibited, even in the temporary absence of income-qualified applicants.
13. Developer must satisfy the conditions of Chapter 14.12, Maui County Code, Water Availability.
14. Developer must develop and manage the project in substantial compliance with all representations made to the Council and its Affordable Housing Committee to obtain approval of this resolution. The County has the right to deny the issuance of permits if, and as long as, the developer is in breach of any of these modifications.

ah:misc:001(1)areso01\_Exhibit B