

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

September 21, 2001

Committee
Report No. 01-170

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

Chair and Members:

Your Committee of the Whole, having met on September 4, 2001, makes reference to the following:

1. County Communication No. 00-316, from the Director of Housing and Human Concerns, transmitting a proposed resolution entitled "ACCEPTING DEDICATION OF LAND PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE".

The purpose of the resolution is to accept two parcels of land, identified as TMK: 4-6-015:portion of 1 and TMK: 4-6-026:057, comprising nearly seven acres of property in West Maui from Pioneer Mill Company, Limited, (Pioneer) a subsidiary of Amfac/JMB Hawaii, Inc. (Amfac). Pioneer wishes to dedicate these parcels to the County as provided in the "Agreement in Satisfaction of Affordable Housing Conditions and Employee Housing Plan".

2. Committee Report No. 01-84, from the Human Services and Economic Development Committee (HSED), recommending the following:
 - a. That the proposed resolution, as revised, entitled "ACCEPTING DEDICATION OF LAND PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE", be ADOPTED;
 - b. That the Administration be REQUESTED to execute a long-term lease for the County to occupy as lessee the 4,200-square-foot portion of TMK: 4-6-026:057 identified as portion of Royal Patent Number 1685, Land Commission Award Number 1815, Apana 2 to Keaweaeheulu;

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- c. That the Department of the Corporation Counsel be REQUESTED to draft and transmit to the Council a proposed resolution to authorize proceedings in eminent domain for the 4,200-square-foot portion of TMK: 4-6-026:057 identified as portion of Royal Patent Number 1685, Land Commission Award Number 1815, Apana 2 to Keaweaheulu;
- d. That copies of this committee report be TRANSMITTED to the Director of Housing and Human Concerns, the Corporation Counsel, and the Mayor; and
- e. That County Communication No. 00-316 be FILED.

Your Committee notes that the Council previously adopted Resolution No. 00-28, accepting the dedication of approximately five acres of land identified as TMK: 4-6-015:portion of 1, at its meeting of March 2, 2001 (HSED Committee Report No. 01-15, As Amended).

Your Committee further notes the following:

1. By correspondence dated May 4, 2001, the Chair of HSED requested that the Corporation Counsel transmit a revised proposed resolution entitled "ACCEPTING DEDICATION OF LAND PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE".
2. By correspondence dated May 7, 2001, the Chair of HSED requested that the Corporation Counsel determine the appropriateness of the Council's actions at its meeting of March 2, 2001, relating to the acceptance of public testimony and transmit all documents necessary for the ratification of the Council's actions on the West Side Resource Center project.
3. By correspondence dated May 10, 2001, the Department of the Corporation Counsel opined that the Council's actions at its March 2, 2001 meeting were proper, appropriate, consistent with both the requirements of the Sunshine Law and its own rules, and therefore legal.

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4. By correspondence dated May 10, 2001, the Department of the Corporation Counsel transmitted a facsimile executed Warranty Deed.
5. By correspondence dated May 14, 2001, the Department of the Corporation Counsel transmitted a hard copy of an executed Warranty Deed.
6. By correspondence dated May 14, 2001 to the Chair of HSED, the Vice-Chair of the Committee transmitted a copy of a letter dated May 11, 2001, to the Director of Housing and Human Concerns, requesting responses to several questions relating to the West Side Resource Center project and housing agreement.
7. By correspondence dated May 18, 2001 to the Chair of HSED, the Council Chair transmitted a letter dated May 14, 2001, from Senator Jan Yagi Buen, requesting support for the purchase of 1.8 acres of Amfac lands for a senior center.
8. By correspondence dated May 18, 2001, the Vice-Chair of HSED transmitted a response letter dated May 15, 2001, from the Director of Housing and Human Concerns.

Your Committee further notes that a revised proposed resolution, recommended for adoption by HSED Committee Report No. 01-84, would have accepted the dedication of approximately 1.864 acres of land known as the Pioneer Mill Office site in Lahaina, identified for real property tax purposes as TMK: 4-6-026:057. The intended use of this parcel is for a senior center. At its meeting of May 18, 2001, the Council referred Committee Report No. 01-84 to your Committee.

By correspondence dated June 25, 2001, your Committee Chair asked for the submittal of requests for resource personnel along with possible questions that may be posed during discussion of this item.

By correspondence dated August 3, 2001, the Director of Housing and Human Concerns provided a copy of the "Amended and Restated Agreement in Satisfaction of Affordable Housing Conditions" (Amended Agreement).

By correspondence dated August 9, 2001, the Director of Housing and Human Concerns, requested that this item be taken up at your next Committee meeting.

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By correspondence dated August 28, 2001, your Committee Chair requested that the Corporation Counsel provide information on whether the Administration is able to override Special Management Area (SMA) conditions imposed by the Maui Planning Commission; the appropriateness of the Corporation Counsel assisting the Administration in drawing up agreements to satisfy affordable housing requirements; and the need to hire special counsel.

By correspondence dated August 29, 2001, your Committee Chair requested that the Director of Housing and Human Concerns provide an update on any planning for the proposed senior center.

By correspondence dated August 30, 2001, the Director of Housing and Human Concerns provided site plan and floor plan drawings for the proposed senior center.

By correspondence dated August 31, 2001, the Department of the Corporation Counsel opined that the Administration is not able to override SMA conditions imposed by the Maui Planning Commission; that it is appropriate for the Department of the Corporation Counsel to assist the Administration in drawing up agreements; and that no special counsel is necessary.

At its meeting, your Committee met with the Director of Housing and Human Concerns, the Planning Director, the Deputy Director of Public Works and Waste Management, a Deputy Corporation Counsel and Tamara Edwards, Vice President of Amfac.

Your Committee heard oral testimony from four people supporting the proposed senior center. Your Committee also recognized approximately 25 senior citizens from West Maui, who stood in support of a senior center in Lahaina.

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Your Committee discussed the Amended Agreement. The Deputy Corporation Counsel acknowledged that the original agreement was flawed. However, he indicated that the agreement had subsequently been revised to remove all reference to affordable housing requirements governed by the Maui County Code. By doing so, the requirement that the Council approve of the agreement prior to its execution was removed.

Your Committee inquired as to whether an agreement such as the Amended Agreement should be reviewed by the Council prior to being executed by the Administration and a company such as Amfac. The Deputy Corporation Counsel and the Director of Housing and Human Concerns both opined that the execution of such an agreement prior to Council review was appropriate, since the agreement was conditioned upon the Council's acceptance of the dedication of land. If the Council did not accept the proposed dedication of land, the agreement would become null and void.

Your Committee expressed concern regarding the unclear title on a portion of the Pioneer Mill Office site. Your Committee objected to the County having to be partially responsible for clearing the unclear title.

Your Committee requested additional information on the history of the proposed dedication of land in satisfaction of affordable housing conditions.

Ms. Edwards informed your Committee that the State Land Use Commission required Amfac to provide in excess of 300 affordable housing units for its proposed South Beach Mauka project and that Amfac requested an amendment to this condition. The State Land Use Commission agreed to rescind this requirement if Amfac was able to come to a satisfactory agreement with the County of Maui. A consultant hired by Amfac advised them to meet with the Director of Housing and Human Concerns to negotiate an agreement with the County of Maui.

Your Committee expressed concern over the current financial dilemma Amfac is facing. Ms. Edwards acknowledged that although Amfac has vast real property holdings, the company lacks liquid assets.

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Your Committee briefly discussed the value of the subject parcel, noting that valuation would depend on the appraisal of the property, market conditions and the tax-assessed value.

After an extended discussion, your Committee voted to recommend adoption of the revised proposed resolution to accept the dedication of the Pioneer Mill Office site, excluding the portion of property with unclear title. Your Committee agreed to defer the remaining recommendations from HSED Committee Report No. 01-84 pending further discussion.

Your Committee is in receipt of a revised proposed resolution entitled, "ACCEPTING DEDICATION OF LAND PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE, PIONEER MILL OFFICE SITE". The purpose of the revised proposed resolution is to accept the dedication of land identified as TMK: 4-6-26:portion of 57 (the Pioneer Mill Office site) for public purposes, excluding the portion of property with unclear title.

Your Committee is also in receipt of a revised Warranty Deed, attached to the revised proposed resolution, incorporating technical amendments consistent with legal requirements and your Committee's recommendations.

Your Committee of the Whole **RECOMMENDS** that Resolution No. _____, as revised herein and attached hereto, entitled "ACCEPTING DEDICATION OF LAND PURSUANT TO SECTION 3.44.015, MAUI COUNTY CODE, PIONEER MILL OFFICE SITE" be **ADOPTED**.

Adoption of this report is respectfully requested.

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