

**PUBLIC SERVICES COMMITTEE**  
Council of the County of Maui

**MINUTES**

**February 11, 2009**

**Council Chamber**

**CONVENE:** 1:32 p.m.

**PRESENT:** VOTING MEMBERS:

Councilmember Wayne K. Nishiki, Chair  
Councilmember Joseph Pontanilla, Vice-Chair  
Councilmember Jo Anne Johnson (out 2:30 p.m.; in 2:58 p.m.)  
Councilmember Sol P. Kaho`ohalahala  
Councilmember Danny A. Mateo (in 1:38 p.m.)  
Councilmember Michael P. Victorino (in 1:34 p.m.)

NON-VOTING MEMBERS:

Councilmember Gladys C. Baisa (out 2:45 p.m.)

**EXCUSED:** Councilmember Bill Kauakea Medeiros

**STAFF:** Scott Jensen, Legislative Analyst  
Clarita Balala, Committee Secretary

*Seated in the gallery:*

Leinaala Kihm, Executive Assistant to Councilmember Bill Kauakea Medeiros  
Kelly B. McGinnis, Executive Assistant to Councilmember Joseph Pontanilla

**ADMIN.:** Lori Tshako, Director, Department of Housing and Human Concerns  
Kimberly A. B. Sloper, Deputy Corporation Counsel, Department of the Corporation Counsel

*Seated in the gallery:*

Brian T. Moto, Corporation Counsel, Department of the Corporation Counsel  
Madelyn S. D'Enbeau, Deputy Corporation Counsel, Department of the Corporation Counsel  
Edward S. Kushi Jr., Deputy Corporation Counsel, Department of the Corporation Counsel  
Wayde Oshiro, Housing Administrator, Department of Housing and Human Concerns

**OTHERS:** Eric Taniguchi, President, American Institute of Architects, Maui Chapter

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Alice Lee, Alice Lee LLC  
Kamaile Sombelon, Executive Director, Lokahi Pacific  
Sherri K. Dodson, Executive Director, Habitat for Humanity Maui  
John Andersen, Executive Director, Na Hale O Maui  
David Goode, President, KSD Hawaii  
Susan Moikeha  
Sandy Baz, Executive Director, Maui Economic Opportunity, Inc.  
Roy Katsuda, Executive Director, Hale Mahaolu  
Lucienne deNaie  
Dick Mayer  
Kai Nishiki  
Mercer "Chubby" Vicens  
(16) additional attendees

**PRESS:** *Akaku: Maui Community Television, Inc.*  
*Chris Hamilton, The Maui News*

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CHAIR NISHIKI: ...*(gavel)*... Public Services Committee please come to order. Let the record show Committee Members Pontanilla, Kaho`ohalahala, Johnson, and Nishiki present. Also joining us is Councilmember Gladys Baisa. Thank you for your attendance, Gladys.

COUNCILMEMBER BAISA: Thank you.

CHAIR NISHIKI: We have one item on the agenda today, amendments to the Residential Workforce Housing Policy.

**ITEM NO. 2      AMENDMENTS TO THE RESIDENTIAL WORKFORCE HOUSING POLICY (C.C. No. 09-25)**

CHAIR NISHIKI: First of all, I would like to introduce to the members of the public and the Council Members, the Corporation Counsel here, Kimberly Sloper. I see Lori Tsuhako, the Director for the Department of Housing and Human Concerns. On our Staff, we've got Scott Jensen, the Legislative Analyst, and Clarita Balala, our Committee Secretary.

I'm going to open the agenda up to public testimony. First of all, I've got Eric Taniguchi representing the American Institute of Architects, Maui Chapter, and he's the president.

MR. TANIGUCHI: Hello, Council. . .

CHAIR NISHIKI: As you can see, there is no lights going to be operating. We'll give you as much time as you have...want to.

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MR. TANIGUCHI: Oh.

CHAIR NISHIKI: Okay. Thank you.

***...BEGIN PUBLIC TESTIMONY...***

MR. TANIGUCHI: Okay. Thank you, Wayne. Hello, Council Members. My name is Eric Taniguchi. I'm an Architect. I live in Pukalani. I'm the President of the American Institute of Architects, Maui Chapter. I represent about 36 licensed architects practicing here on Maui and about 25 associates and affiliates. I'm here to testify about the Workforce Housing Policy. I want to thank you for allowing me and the general public to have further input in refining this policy. I also want to thank Councilmember Danny Mateo, but he not here, for working tirelessly for creating this bill.

Now that this Housing Bill has been enacted, we as Maui Architects have seen and experienced some issues which the bill may have inadvertently affected projects and housing here on Maui. First, would be the part of the bill, which requires projects of more than four units. I think during the creation of the bill there was some discussion about the number of units, and as I can recall, Alice Lee said that placing requirements on smaller projects would probably kill 'em. Well, it pretty much has. Trying to fulfill the Workforce Housing requirements on projects even at 20 units is a struggle and I've personally seen three of my projects die because of it, and that relates to the amount of required affordable housing units of 50 percent. It really poses some real adverse obstacles for a lot of smaller projects and projects not located in prime real estate locations here on Maui.

If there could be a sliding scale for the amount of affordable housing units to the size and location of the project, that would make it more realistic. Another issue in the policy, there is no provision for mixed-use tenants, for example, living units above workplace. This type, this type of unit would still have to comply with the affordable housing requirements even though there is a workplace space as part of the living unit. Smart Growth advocates are trying to recommend this sort of design. It's actually just old town design, for example, the owner of the bakery lives above it. Trying to make this type of design work out economically never really pencils out.

These are some of the issues we as architects and with our clients see with the current bill as written and, and I, and some other members of the Maui AIA will be submitting a letter to you addressing these issues and suggesting some solutions. In closing, the American Institute of Architects, Maui Chapter, support affordable housing here on Maui. With refinements to this policy we know it will make it more successful and yet be more beneficial to the people of Maui. Thank you.

CHAIR NISHIKI: Thank you, Mr. Taniguchi. Any question from Committee Members? Joe.

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VICE-CHAIR PONTANILLA: Thank you. Thank you, Eric, for being here. Since you provided us with a lot of data and you said that you're going to be providing us with some solutions in regards to some of your concerns. But I'm sure you got something in writing, right?

MR. TANIGUCHI: Yes, I do.

VICE-CHAIR PONTANILLA: If you can present that to the Committee, we'd appreciate it.

MR. TANIGUCHI: Uh, okay. I kind of want to make a formal one 'cause actually the members they have all these different ideas and concepts. So, I just wanted to general address to that and then we're going to get into specifics --

VICE-CHAIR PONTANILLA: Okay.

MR. TANIGUCHI: --you know, and really come up with some solutions, some suggestions.

CHAIR NISHIKI: Thank you.

VICE-CHAIR PONTANILLA: Thank you. How soon are you...

CHAIR NISHIKI: Any other questions?

VICE-CHAIR PONTANILLA: How soon are you going get that thing out?

MR. TANIGUCHI: Okay. Get deadline now? Okay, uh, next week.

VICE-CHAIR PONTANILLA: Thank you.

MR. TANIGUCHI: No?

VICE-CHAIR PONTANILLA: That's good.

CHAIR NISHIKI: Whenever you can get it to us.

MR. TANIGUCHI: Okay. Thank you, Wayne.

CHAIR NISHIKI: Thank you. Mr. Victorino.

COUNCILMEMBER VICTORINO: Yes. Thank you, Chair Nishiki. Mr. Taniguchi, I'm interested, you know, when you say small projects, which have been inhibited, these are not family subdivisions; these are just small subdivisions, eight, ten houses or something of that nature?

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MR. TANIGUCHI: It runs the gamut, Council Member. It just, what happens is that it really depends on a lot of issues. It depends on the type of project, where the project is located, and just running the numbers with the 50 percent and running backwards because that's basically what they do. You run the numbers backwards and you find out what your market cost going to be, your market housing going be. And then with that that's going to subsidize, you know, the sliding scale, the 50 percent.

COUNCILMEMBER VICTORINO: Uh-huh.

MR. TANIGUCHI: So that's, you know, it runs the gamut from, you know, subdivisions, small subdivisions to family subdivisions to, you know, small condos, you know, apartments, stuff like that.

COUNCILMEMBER VICTORINO: Uh-huh. Okay. I'm interested to see some of your solutions. I think that would be much more interesting to see what kind recommendations you folks could make.

MR. TANIGUCHI: Okay.

COUNCILMEMBER VICTORINO: Thank you, Mr. Chair.

CHAIR NISHIKI: Thank you, Mr. Victorino. I think that's it on questions. Thank you.

COUNCILMEMBER JOHNSON: One more.

CHAIR NISHIKI: Oh, I'm sorry. Jo Anne Johnson.

COUNCILMEMBER JOHNSON: No problem. When you talk about sliding scale, is it based on the size of the project, the number of units, or is it a combination of size and pricing?

MR. TANIGUCHI: It is that. It's, it's about the size of the project and, and more importantly the location of the project. Because basically what it is, is that when you, when we design a project for clients sometimes they want a design in Kihei. They got to do the 20 units in Kihei, you run the numbers backwards they got to sell a one-bedroom or two-bedroom condo for 900 grand. Not going happen, you know what I mean, to subsidize the, the sliding scale of the thing. So that, that project dies right there, you know what I mean, 'cause they can't make the numbers work, but if they have it in Makena or Wailea they could ask for one or two, three million dollars. They going get the money. They can make the affordable housing.

But even parts of Lahaina I have a couple projects, you know, that stopped because they cannot get 800,000 for a two-bedroom in Lahaina Town. You know what I mean, they not going get that money, you know what I mean, so they cannot afford to make the affordable housing. So that's how that thing work, you know what I mean. So that's why location is important just as much as the number of units. 'Cause number of units

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also counts too because, you know, the more units you get the more money you can spread out, you know what I mean. So it's a combination of a lot of these things.

COUNCILMEMBER JOHNSON: Yeah. I really look forward to your suggestions 'cause that was one of the challenges that we had to face. You can't discriminate based on the cost or something --

MR. TANIGUCHI: Right.

COUNCILMEMBER JOHNSON: --of the, of the actual project. But I, I look forward to how we're going to I guess address that unintended consequence of, you know, I guess people who are building more modest units having that requirement and yet the ones that are more expensive who could perhaps better afford it not paying a similar or, or at least a share that would be more commensurate with the scope of their project. So, I thank you and if you can come up with anything I'd appreciate it.

CHAIR NISHIKI: Thank you. Any other questions? Thank you, Eric.

MR. TANIGUCHI: Thank you.

CHAIR NISHIKI: Let the record show, our Council Chair Danny Mateo and also Mr. Victorino present for this meeting.

COUNCILMEMBER MATEO: Thank you, Chair.

COUNCILMEMBER VICTORINO: Thank you.

CHAIR NISHIKI: Next speaker will be Alice Lee followed by Kamaile Sombelon.

MS. LEE: Good afternoon, Committee Chair, and Members of the Public Services Committee. My name is Alice Lee. In reading today's paper, President Obama says and I quote, you know, referring to the, our economy, "It's gone deep. It's gotten worse. The situation we face cannot be more serious." Economic conditions have deteriorated so dramatically in the last nine months that the Carpenters Union reports that in January approximately 400 of their 600 members are out of work. Presently, the operating engineers estimate that over half of their members are unemployed. Many are deeply concerned that there aren't enough projects planned to sustain them in the future. Also, hard hit are architects, civil, mechanical, electrical engineers, landscape designers, plumbers, masons, electricians, flooring providers, and a long list of equipment, material, appliance, and fixtures suppliers, as well as other subcontractors and their employees.

The Residential Workforce Housing Policy was created when conditions were quite the opposite. Our economy was vibrant. Jobs were plentiful and employment was high. Unfortunately, all of that has drastically changed and it will take years for the economy to rebound from this crippling financial crisis. I believe that revising certain provisions in

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the current ordinance will provide an incentive to homebuilders and other developers to move forward on projects that are now either cost prohibitive or marginal at best due to the current requirements of the ordinance. Lowering housing requirements from, from 40 and 50 percent to perhaps 30 and 40 percent or even lower, would actually maintain the requirements above national standards. In other words, national standards right now average between 10 and 30 percent and we're up above that.

Allowing at least 50 percent of the required affordable units to be provided within the community plan and up to 50 percent outside of the community plan would allow units to be built in a rural area such as Hana and on Molokai and Lanai as well. Allowing the donation of unimproved land to be the same value, as improved land would provide more flexibility in meeting housing requirements. And finally, allowing the Director to give up to two credits instead of one for units affordable to the very low and low-income residents would be a tremendous incentive to developers to assist our residents who have the greatest need for safe and decent affordable housing.

We need to put our people back to work as soon as possible so that they can buy homes and keep them. I believe that making the revisions I just mentioned would achieve that goal. Thank you.

CHAIR NISHIKI: Thank you, Alice. Any questions from Committee Members? Councilmember Victorino.

COUNCILMEMBER VICTORINO: Thank you. Thank you, Chair. Thank you, Ms. Lee, for being here.

MS. LEE: Thank you.

COUNCILMEMBER VICTORINO: And your insights are, are well received. My question to you is, and, and I guess the, the real challenge I have is when we start getting, going out of the community planned area, part of this whole ambiance was to develop workforce housing for those areas for which many of these jobs are being created. And now if we just, just go and cut it in half, I think it would defeat one of the primary purposes of this original bill was to create housing say, for example, in South Maui or West Maui or Central Maui. And no offense to East Maui or any other district, if you were to take those housing and build it there, again, you defeat part of the purpose of that. And so, how do you address that? Because to me that's one of the real keys to this whole bill is making housing for which we hope these people will buy, rent, live, and work in those communities, becoming sustainable communities.

MS. LEE: And I think if we allowed 50 percent of that workforce to remain in that same community plan I think that should suffice. But, Council Member, you should, I think you'd be surprised to find out how many people don't want to live next to where they work. For instance, myself, I wanted to stay Upcountry when I got the job as Director of Housing and Human Concerns but there were no homes to buy at that time. There are a

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lot of people who love to live in Upcountry, in fact, that's probably their first choice, and work in Kihei and Wailuku and in different areas. So that's one thing that we need to consider that people should have a choice and they don't right now.

Secondly, do you want...if, if you really look at all the developments coming up right now, they're either in South Maui or West Maui. So, do you want to continue to have a concentration or even an over-concentration of development in just those two sections? I don't think so, you know, because it's taxing our infrastructure. I think people, opportunities to live elsewhere should be spread around and right now there, there are no, that I know of, no major developments on Molokai and in Hana. And they could use some of the resources that Central Maui and other parts of Maui are enjoying.

COUNCILMEMBER VICTORINO: Well, you know, for many years I worked in West Maui and lived Upcountry, and I can say this on any...unconditionally, back in the late or mid to late '80s they did a survey, which like 10 percent of the people that were working in West Maui said, ah, they don't mind, the rest we'd like to just travel, 10 percent said they wanted to live in West Maui. They did a survey about two, three years back and that number had jumped up to over 58 percent. Okay. Now, I, when gas was at \$1.50 a gallon and the traffic jams weren't so bad and so many cars and vehicles with one road going in and out, and, and losses such as fires, accidents, and all that, I may agree with you, Ms. Lee, but I think that has changed because the vast majority of people I talked to today, and I know I live in this community as long as most, they would rather try to work [*sic*] closer to work 'cause it's getting very expensive. But I won't debate the issue as far as where and what but again I, I would like to see us keep as much and breaking it out to other districts may not be the real solution when it comes to a workforce housing program. But anyhow I'll, I'll save those comments for later. Thank you, Mr. Chair.

CHAIR NISHIKI: Yeah. Thank you. Don't forget now, please remember to ask questions. Okay. Thank you. Jo Anne.

COUNCILMEMBER JOHNSON: Alice, I know that you are out in the community trying to work towards affordable housing and the actual implementation of the projects. So, one of the questions that always comes up because people are uncertain about their jobs even purchasing homes or qualifying to purchase homes, even a presentation that we had yesterday it's getting increasingly difficult for people to actually move into affordable units and there's all this inventory that now through foreclosures coming on, you know, some of them are pretty attractive prices. How is that, with the recommendations that you've made even with a reduction in percentages, will that, in your opinion, still help or how will it help to get people in the homes if they're constructed if, if they're not getting sufficient revenue to pay their mortgages?

MS. LEE: The way people get sufficient revenue to pay their mortgages is to have a job. The construction industry supplies thousands and thousands of jobs. And I'm not only talking about the carpenters and the masons and operating engineers. I mean I have a nephew, I have relatives, I have friends and neighbors who have been laid off. And they, and they

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have nothing to do with building a house, but they provide the window coverings and the flooring and everything else that goes, you know, to completing a house. And I think, I think people forget sometimes, and I did too from time to time, that when you talk about affordable housing you are talking about a subsidy program. You are, there is no such thing as affordable housing without subsidy. So when you try and build in other areas such as the rural areas; Hana, et cetera, how are you going to provide affordable housing if you can't access resources and other subsidies that Central Maui is enjoying? You know, you have to understand that people cannot build affordable housing without some kind of Federal subsidy or County subsidy or some subsidy, you know, somebody is paying the difference. And that is what we're talking about in terms of affordable housing.

If we can keep people employed, we will be able to put them into housing, you know, and that's the connection. I think we need to connect the dots. Housing by itself right now is not going to help the economy. Just, just housing by itself. But getting people employed and being able to afford the housing that's, you know, that's all interconnected and that is what is important to our economy.

COUNCILMEMBER JOHNSON: I really appreciate that, Alice. And I guess then the other challenge is that when we get into the subsidy we have to make sure that the parameters for income are broad enough so that people don't get bumped out due to earning too much money. Because in some situations that's why people have not qualified for their affordable housing is they just are over that edge on what their overall income is. So, I guess it's a balancing act. But thanks very much for your input.

MS. LEE: You're welcome.

CHAIR NISHIKI: Thank you, Jo Anne. Any questions for Alice?

VICE-CHAIR PONTANILLA: Chairman.

CHAIR NISHIKI: Joe Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. Thank you, Alice, for being here. You must have been seeing CNBC lately because what, what you said is exactly what, you know, is being portrayed, you know, when you look at national coverage. That the workforce line begins from an industry and it goes all the way to different companies and industries that, you know, support that one major industry. The idea of improved land I see that one of the things that you have noted over here is that trying to get more land instead of in lieu fee and the number you provide us is that the unimproved land shall be at least twice the value of the improved land. My question to you how much is an acre of land average today here in Maui County?

MS. LEE: Council Member, it's hard to say. It depends on the location of that land and how much infrastructure is either on the land or accessible, you know, close by, in the

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proximity. I think what I had, I hope what I had mentioned was allowing the donation of unimproved land to be the same value as improved land. And to me, I think that would be, you know, a fair compromise rather than it being, you know, twice the value but again it's, I don't have a specific project in mind, you know, I really don't. All I'm trying to look at is to, to look at the tools that you provided in this ordinance and how can we make it more attractive so that we will have more houses built and put more people back to work.

VICE-CHAIR PONTANILLA: Thank you. Thank you, Chairman.

CHAIR NISHIKI: Any other questions for Alice? Seeing none. Thank you, Alice.

MS. LEE: Thank you.

CHAIR NISHIKI: Kamaile Sombelon followed by Sherri Dodson. Kamaile is representing Lokahi Pacific.

MS. SOMBELON: Good afternoon. Good afternoon, Chair Nishiki, and Members of the County Council. My name is Kamaile Sombelon and I'm the Executive Director for Lokahi Pacific and we're a non-profit housing developer. I support or we support the proposal as presented by Alice Lee and she also represents our Maui Housing Council, which is made up of several non-profits in the community. The current Residential Workforce Housing ordinance says that when you build market priced units you have to provide affordable units. Section 2.96.030.B.6 says that government projects, 201H, H projects, land trust projects, and projects where more than the required affordable units are built are not subject to the ordinance.

This was intended to mean that since the purpose of these types of projects is to provide affordable units, the ordinance shouldn't require additional affordable units for these types of projects. Unfortunately, by saying the ordinance doesn't apply it means the whole ordinance doesn't apply including the right to receive credits. So, for example, when a developer like us builds 100 market-priced units, the ordinance requires that the developer also provide 50 affordable units, but if the developer provides 75 affordable units instead of just the 50, the ordinance requires the developer to get 25 credits for the extra 25 units. The developer can then use these credits to satisfy the Residential Workforce Housing requirement in its next project. However, the way the ordinance is written, if Lokahi Pacific or anyone else independently builds a 25 unit project and all of the units are affordable, they provide the same benefit as the market-priced developer but they do not get any credits at all.

So, you only get the credits when you have to provide the affordable housing units not when you do so voluntarily. It seems that this must have been an oversight because I believe that the Council must have intended that the providers of affordable housing would be treated at least as well as the provider of market housing. And we've provided some, I have some language to submit that can easily correct the ordinance.

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Our second proposed revision is that we would want to see that the...the credits are transferable. What would a developer of an affordable project do with the credits? The non-profit developer sells them to a developer of market units who uses them to satisfy its requirements under the ordinance. The affordable projects cost can then be reduced by the amount received for selling the credits. In addition to this significant cost saving, another benefit is that affordable projects don't have to be tied to a particular market project and vice-versa. There won't be the same problems of finding a match with the right number of units and the right timing. The developers of affordable units and, and of market units can just exchange the credits and the funds that will go directly to the affordable projects. Again, this can easily be accomplished by amending the ordinance to say that credits are transferable.

While we think these amendments would result in the ordinance treating affordable developers at least as well as market developers, we also think that in the current economic crisis this is more important than ever. As you all know, non-profits expect to receive far less funding from all sources than ever before and is very likely to get worse before it gets better. As everyone is forced to tighten their belts, private and public contributions to non-profits will be among the first to go and the last to return when things start getting better. If non-profits can receive credits for the affordable units they provide the same way the market developers receive them, non-profits can make up for some of the losses of funds, don't have to come back to the County as often, apply the credits directly to lowering the project costs, and pass on the savings directly to their tenants and buyers. And we all know that right now we need, we need to do everything we can to lower the cost of housing. Allowing the credits would be a huge step in the right direction. Thank you.

CHAIR NISHIKI: Thank you, Kamaile. Questions? Jo Anne.

COUNCILMEMBER JOHNSON: Thank you, Kamaile. Just so that I understand, the credits and, and I don't have the, you know, the exact verbiage in front of me right at this moment but will the credits stay within the community plan area or would they be credits that you could sell islandwide?

MS. SOMBELON: As supporting what Alice is proposing, we were hoping we could do it islandwide.

COUNCILMEMBER JOHNSON: Okay. If, understanding that that's the position that you're advocating for, I guess my question would be, one of the reasons that, at least from, you know, when we went through all these hearings, in creating affordable housing or workforce housing is so that the workforce would be perhaps able to be located closer to where the employment was, which was --

MS. SOMBELON: Right.

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COUNCILMEMBER JOHNSON: --spoken about by Member Victorino. Also, part of this is to mitigate some of the impacts from a particular housing development that may create additional traffic and whatnot. So, if let's say for instance, you do a project in Hana but the credits are going to be used by somebody that has a requirement in Kihei, how will the housing being created in Hana mitigate any potential negative or possibly increase in traffic or other kind of situations in Kihei? Because for all intents and purposes the person that lives in Hana is not going to commute to Kihei to work.

MS. SOMBELON: Right. Well, that is a good question. The person in Hana, you know, I mean, Hana being a very tight knit community and like everywhere else they, you know, like Molokai they really cherish what they have and they're very protective of what is being built there. And we've been asked to look into providing some self-help housing out there. And of course, you know, we always, our motto is when we go in to do a development anywhere, we meet with the community and we try to use the assets of the community; contractors and things like that. And we've done that on Molokai also. But our, our thing is, you know, so they allow that one development and whether they would allow more, you know, that's up to the community to decide. And, and for us if we can somehow benefit that community in other ways we will definitely do that but if we need funds for another project, predevelopment especially and that's the hardest funding to get, that would benefit us in, as we go into other communities to try and resolve this housing problem.

COUNCILMEMBER JOHNSON: Yeah. And, and the reason I ask it is because this is one of the unintended consequences that we may have to face. So, if you can think about it and help us to resolve that and maybe even have transferability but with certain conditions.

MS. SOMBELON: Conditions. Right. Yeah, so...

COUNCILMEMBER JOHNSON: I, I would be much happier with that because I can see situations where it really wouldn't benefit the community and really the impact that's going to be created where you build housing, and particularly market-priced housing, you know, that community should in some way at least have the ability to mitigate any negative possibilities, lack of infrastructure, . . .(change tape, start 1B). . . whatever.

MS. SOMBELON: Correct.

COUNCILMEMBER JOHNSON: So...but, I, I just would appreciate...you don't have to answer me now but --

MS. SOMBELON: Yeah.

COUNCILMEMBER JOHNSON: --just think about it.

MS. SOMBELON: Yeah, I think. . .

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COUNCILMEMBER JOHNSON: Because that's one of the things we're going to have to wrestle with.

MS. SOMBELON: Right. And I think our goal is to bring it to the table for discussion.

COUNCILMEMBER JOHNSON: Okay. Thank you very much.

CHAIR NISHIKI: Thank you, Jo Anne. Any other questions? Councilman Mateo.

COUNCILMEMBER MATEO: Chairman, thank you very much. Ms. Sombelon, thank you very much for your, your testimony.

MS. SOMBELON: You're welcome.

COUNCILMEMBER MATEO: I think I'm a little surprised at some of your comments because I believe with the current housing policy in place, I think you yourself have been a beneficiary of funds that goes into some of your development projects. So, when you state things that the non-profits usually receive less that kind of bothers me because non-profits in the last number of affordable housing development projects have in fact been receiving more. As a matter of fact, it has been the target group of the Residential Workforce Housing Policy, the working poor, which was the 80 to 120 percent scale that are not receiving services or assistance. So, I take your comment as a perhaps an error.

In terms or transferability of credits, I think Ms. Johnson brings out a very important issue of impacts in communities. A developer can help you build your project and he's going to receive all the, you're going to receive all these credits that can be sold, can be sold to a developer who could be building a high-end development. If the credit that they deserve is based on what they built, if you built a home at a \$100,000 value the credit should be in that same area. It should not be more than \$100,000. That's not the case when you're going to transfer the credit. My question, well, you know, my question to you then is your reference to transfer credits, will you please provide us something more in, in lines of explaining what it is the intention is? Because I really have a hard time swallowing the fact that we should transfer credits.

MS. SOMBELON: One example, thank you, Danny, one example, is our...we have Leilani subdivision ongoing now and we have seven credits that we don't think we can sell. We're not sure if we can. We've approached the Housing Department in the past and we've had offers from developers to, to purchase those credits, and the development is moving forward and, you know, as with other organizations we, we do need the money. And that was one of the reasons why this was brought out. And I know that as far as monies that we've received they were from projects, Papaanui and Pacific Rim Land projects that were approved prior to the Workforce Housing. So, as far as monies that we've actually received under this Workforce Housing ordinance we haven't. But the, the ordinance has been applied when, when those projects came before the Council and we appreciate that.

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COUNCILMEMBER MATEO: No, Ms. Sombelon, you know, for me, for a question, Leilani project as you referenced with the seven credits, has this development project received any exemptions from the County?

MS. SOMBELON: Yes. We've received...

COUNCILMEMBER MATEO: And when you put the exemptions in terms of dollars and cents that is what I'm talking about. It is not that, you know, you're doing, you're doing it scot-free. There comes exemptions and there's value to the exemption as well. So, you know, your reference to additional credits it's kind of troubling because you need to take into consideration that the taxpayers of this County also assisted in providing you with exemptions that any other development project would have had to comply with. So, there is a dollar value there so those things should be taken into consideration as well.

MS. SOMBELON: Correct.

COUNCILMEMBER MATEO: Thank you, Mr. Chairman.

MS. SOMBELON: Thank you.

COUNCILMEMBER MATEO: Thank you, Ms. Sombelon.

CHAIR NISHIKI: Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. I think Chairman Mateo asked a question in regards to those particular credits. Ms. Sombelon, when you mentioned about the 201H, basically when you folks come in for approval almost 100 percent of the time this County have provided each of the developers for 201H projects with credits. And, and to sell those credits, if you do have credits, you know, shouldn't be sold to for a market value home. It should be put right back into the affordable unit making it more affordable.

MS. SOMBELON: Correct. That's the intent.

VICE-CHAIR PONTANILLA: So, I think when you do your research please, you know, look at the credits that the County provide projects like the 201H. Thank you. Thank you, Chairman.

CHAIR NISHIKI: Thank you. Any other questions from Committee Members? Seeing none, thank you, Kamaile.

MS. SOMBELON: Thank you.

CHAIR NISHIKI: Sherri Dodson followed by John Andersen. Sherri is representing Habitat for the Humanity [sic]. She's the Executive Director.

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MS. DODSON: Good afternoon, Committee Chair Nishiki, and Members of the Committee. Habitat for Humanity, Maui, is a non-profit developer providing homeownership for those people who earn 25 to 60 percent of median income for Maui County. These families typically would never qualify for a conventional loan at any price. Many of our partner families come right out of homelessness directly into a simple, decent place to live. These families prosper with the stability of a simple house. Their families prosper. They contribute to the community by giving back to the community by providing property tax and more income tax. There's no question that homeownership is a benefit to anybody who can get into it.

Since the passage of the Residential Workforce ordinance there's been very few affordable projects going forward. Meanwhile, the need for affordable housing has increased, increased drastically. It would seem that some changes are necessary to this ordinance. There are two sections on which I'd like to comment. The first is the section that requires the affordable housing project to be built in, in the community plan area where the project is being developed. Although, I hear very often the "not in my backyard" argument when we do projects, sometimes it's just unrealistic to do it in the area. Land costs are huge in the two areas where a lot of these projects are happening in Lahaina and in Kihei. We can't as a non-profit provider, we were given \$2 million and we couldn't find any land to build anything. We had to go into the urban area. We had to build, go up instead of out because land costs are just too prohibitive in those areas. If a developer is donating in lieu fees to a non-profit, that non-profit has to be building in that area. If we don't have a project in that area, then you have to go and find a project in that area. And again that's very difficult to do especially in Lahaina and Kihei.

The second section I would like to see changed is the section that gives housing credits for units built in excess of the housing requirement. To encourage developers to build more units than required it may be necessary to give more incentive. One incentive should be that for every unit built either by the developer or a non-profit for a very low income and low income resident, the developer could receive two credits per unit at the discretion of the Director. And these incentives would encourage developers to build more units and it would be easier for us as non-profits to get credits.

I'd like to thank this Committee for reviewing the ordinance. I know that the intent is the same that we have as non-profit developers and that this Council has and that is to provide affordable housing for the people of Maui.

CHAIR NISHIKI: Thank you, Sherri. Any questions for Sherri? If not, thank you. John Andersen representing Na Hale O Maui followed by David Goode.

MR. ANDERSEN: Good afternoon, Chair Nishiki, and Committee Members. My name is John Andersen. I am the Executive Director of Na Hale O Maui, our community land trust for affordable housing. I also had the pleasure to chair the working group that, that drafted the Administrative Rules that hopefully will be coming before you shortly on this

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ordinance. So we did a lot of work analyzing the ordinance. What was in it, what was not in it and what could be done with Administrative Rules. And Corporation Counsel Sloper was advisory to our group. And we identified a number of areas that, you know, the expressions "devil in the details" that simply needed more detailed work whether it be in Administrative Rules or changes in the ordinance. And Counsel Sloper did recommend in most of the cases that it would take legislative changes. So this is the opportunity to address those issues.

I submitted written testimony yesterday so hopefully you have that in your packet. It's pretty technical 'cause it's got a lot of numbers and percentages so I wanted you to have that in writing. And I would just like to highlight some of those things and not go into the, the detail. But my testimony is broken down into three parts: Issues that were not addressed in the ordinance; issues that should be revisited in the ordinance; and then incentives for your consideration in the ordinance.

We had extensive discussions in the, the working group for the Administrative Rules about the pricing within the income categories. And this is an area that really needs to be addressed more thoroughly than is addressed in the ordinance right now. We have 20 percent categories and when you translate that into what that means in sale price we're talking about differences of \$50,000 to \$70,000 in the sale price of a house depending on what percentage within the category is picked to set that price. If you pick the highest percentage in the category, which has been the practice of the Department in the past, the people at the entry level of that category, the bottom end, they're not going to qualify for the loan 'cause that house is now \$50,000 or \$70,000 more than they could afford.

So, we have recommended that the policy be that the pricing should either be an even distribution that averages the mid-point if there are multiple units in a category or they be priced at the mid-point of the category. That would give, you know, a much lower difference in sale price and allow more people at the bottom end of the category to qualify and actually buy that house. I'd, you know, I'd love to see the pricing set at the bottom of the category 'cause then you know everybody in the category could qualify and get a loan. But to reach a compromise of mid-point, we're recommending a mid-point pricing. At least that would give guidance to the Department as to making and keeping these affordable to everybody in that category.

Another area that was not addressed in the ordinance though it was debated, and Chair Hokama brought this up in the debate of two and half, three years ago on the ordinance and that is there is no standard size for a house. There are only controls on the pricing for the number of bedrooms in the house. Not even a differential for the number of bathrooms in the house and no differential for the size of a house. So, by pricing using these tables you could price a 600 square foot house at the same price as a 1,200 square foot house. And in the real world of real estate that doesn't make sense and the, and the consumer won't buy it if it's small and overpriced. So, we have recommended some standards and they're on the low side relative to real estate but they are, you know, better

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than nothing in terms of having no standards where you could have very small houses built to satisfy the ordinance.

So, we have recommended square footage standards and then price adjustments if a house is smaller than the standard. We're not saying that you can't build a smaller house. All we're saying is it shouldn't be priced the same as a bigger house. And so we have recommended some percentages. And this may be too detailed for the ordinance but if the sale price provision section of the ordinance gave the Director the authority to take into consideration when pricing because it is the Department that sets the price according to the ordinance. And there are guidelines in the ordinance on what the Director can take into account but those guidelines don't include square footage, number of bathrooms, whether the house is a rehab of a 30-year old house or brand new construction, and that has a great difference in value in real estate, and whether or not the house could be expanded or it's small and can only stay small. That also impacts the value. So, we'd like to see the Department, either the ordinance contain those extra details or the Department be given the discretion that they can adjust the price taking in these real world considerations that every buyer takes into account when they are comparing houses that are available to them.

Another area that came up and that was quite a controversial discussion in our working group was the off-site versus on-site unit requirements. And I have to address this because there, unfortunately, is an incentive that is built into the program or into the ordinance to build off-site. And why do I say that and that's because the ordinance says that the percentage shall be of the total number of units built. But in the one case that Mr. Goode will be able to talk to you about in his Makawao project. He had 34 units in the subdivision and he wanted to build and satisfy his requirements off-site. So he was required to build 17 units. Well, 17 is not, that adds up to 51 total units. Thirty-four on-site, 17 off-site. Seventeen is not 50 percent of 51. It's only 33 percent of 51. So, by building off-site there actually is an incentive to do that because now there's 34 units on-site to offset the cost of 17 whereas it had been built on-site there would have been 17 market and 17 affordable. If there's going to be any kind incentive, it should be to build on-site not to give an incentive to build off-site.

And in the Wailea 670 you did require that the developer subtract those 250 units from the number of units on-site. So, we've now seen two different ways that this has been applied and it should be consistently applied in each case. So, please address what your intent was. And I don't believe your intent three years ago was to benefit off-site development but inadvertently that has what has happened in, in the intervening years. So, really ask to take a look at that.

Now, provisions that should be revisited in the ordinance and I'm going to touch really on one major one and that's the range of the income categories. 'Cause what we have found since this, this project has been implemented is number one is a dramatic change in market conditions. When I testified before this group three years ago I came with the number of houses that were available on MLS under 500,000 and it was a handful.

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Income earners in the 120, 140, and 160 categories needed help three years ago because there was no help from the market. Well, in the past two years, the median sale price has dropped 20 percent overall and it's continuing to drop. So, now I bring to you figures right off of MLS that I took yesterday to let you know that for earner, households earning 160 percent of Area Median Income there are 204 single-family homes actively listed and not sold on MLS as compared to nothing three years ago. For families earning 140 percent of AMI there are 112 single-family homes currently sitting unsold on MLS. For families earning 120 percent of AMI there are 42 single-family homes available on the resale market. And even for families earning 100 percent of AMI, Area Median Income, there are 15 active single-family homes below 319,000 and that is the affordable figure for that income category.

So the market has adjusted dramatically and it will adjust again, the one thing that's consistent in real estate are the cycles. But we're in a down cycle now and we're not at the bottom of the down cycle. One of the, the experiences that Mr. Goode can testify about on his project in Makawao is the buyer resistance for buyers in the 100, 120, 140 and above median income to a 25-year deed restriction. They also have a resistance to the, to the land trust model which has equity sharing and resale control because they have resistance because they now have alternatives. And a buyer is not going to buy a property that has a 25-year deed restriction when they can go on the open market and buy fee simple unrestricted. So, when, so those buyers simply are not going to buy those deed restricted properties.

So, our emphasis right now is a little on the high side for the people who need help. The people who need help are the 100 percent and below workforce of this island. And I ask that the concentration of the percentage of affordables in an inclusionary zoning ordinance which we fully support but the concentration be aimed at those people who really need it and that's the families earning less than 100 percent of median income. And I would also ask you to drop the ownership down to 60 percent and above not 80 percent and above because there are families earning 60 to 80 percent who are qualified and can own and so we can get help to those people. Right now it starts at 80 percent and it really should start at 60 percent. We're receiving Federal money to buy foreclosed properties and the HUD requirements are that we have to start serving people at 50 percent of median income and below with 25 percent of that money. So, HUD is focusing that Federal money on the low and, and moderate income and I think we have justification to do this.

But bottomline is one of the recommendations that came out in some of the reports that were done for GPAC was that inclusionary zoning ordinances must be flexible to meet changes in market conditions. And boy have we had an example of that in the last two years. So, while I talk about, you know, adjusting the percentages, build in a way that it can be readjusted as market conditions change so that we can be, you know, fleet of foot when we see quick changes and where we can concentrate the help on those areas, the earning incomes that really need it that way. Now, we've got to move it down because there still is really no help from the market. The figures I read were single-family homes.

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There are a lot more condominiums available for those earners as well. So there's a lot of inventory available for households at 100, 120 and 140 and 160 even if we capped it at 120 we would still be refocusing on the area that, that needs it the most.

And I gave you the prices so that you really can equate 'cause when we meet with buyers and we're running seminar programs every month and bringing, you know, literally hundreds of potential buyers through the program and getting 'em qualified and, and, you know, prepared for homeownership. When we talk about the pricing to them and when you can see that, you know, under the tables used today a pricing for 160 percent of median income that's \$511,000; 140 percent of median income the table says the price should be \$447,000; 120 percent of median income at 6 percent interest, the price is set at \$383,000. Well, the people we met, meet with say that's not affordable, that's **not** affordable. What is affordable of pricing in the 100,000 and 200,000 maybe low 300,000 but you start getting up above that and they're going what? You call this affordable. So, we, we have to do better than just pricing off of tables which is why I'm recommending adjustments and things like that that would give the Department the ability to bring that price down to where it's truly affordable for our workforce 'cause I'm afraid what we're doing right now is not affordable that way.

I'd like to wrap up with just one incentive --

CHAIR NISHIKI: Thank you.

MR. ANDERSEN: --if I could.

CHAIR NISHIKI: Go ahead.

MR. ANDERSEN: We are recommending a 20 percent reduction in the number of units that would require to be built if the developer works through a community land trust or qualified housing provider that guarantees affordability in perpetuity. Not just a short-term deed restriction whether it be 10, 15, or 25 years but perpetual affordability. Generation after generation. The argument is if you had to choose four houses that were permanently affordable or five houses that were only temporarily affordable which would you choose? And if you chose to build the four houses that were permanently affordable you've just endorsed a 20 percent reduction of the requirement to really meet the bottomline that Chair Mateo started with years ago in the first drafts of this ordinance and that was affordability in perpetuity. That was the goal of this Council and we can get back to that goal and we can deliver that goal. Thank you very much.

CHAIR NISHIKI: Thank you, Mr. Andersen. Any questions? Jo Anne.

COUNCILMEMBER JOHNSON: Yes, John, with regard to the, I guess, the size of the actual unit.

MR. ANDERSEN: Uh-huh.

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COUNCILMEMBER JOHNSON: Would you also consider if we look at the lot size, too, if it's a single-family home?

MR. ANDERSEN: That absolutely could be an adjustment as well.

COUNCILMEMBER JOHNSON: Because I --

MR. ANDERSEN: Yes.

COUNCILMEMBER JOHNSON: --I think that with lot size if they can build an expansion onto that, that would...

MR. ANDERSEN: For example, if they could build an ohana --

COUNCILMEMBER JOHNSON: Uh-huh.

MR. ANDERSEN: --on their property in future years that has value and those things should be considered but at least the square footage of the house and the number of bathrooms in the house. 'Cause a developer could go out and build four bedroom, one-bath houses and get a premium for the fourth bedroom but no debit for the lack of, you know, a second bathroom, and that's a functionally obsolete house. When that, you have that many bedrooms you need more than one bathroom so that's why adjustments...

COUNCILMEMBER JOHNSON: Yeah. And, and I'm looking at zero lot line housing as opposed to maybe like a 5,000 square foot lot single-family home.

MR. ANDERSEN: Yeah.

COUNCILMEMBER JOHNSON: So, okay. Thank you.

CHAIR NISHIKI: Mr. Victorino.

COUNCILMEMBER VICTORINO: Thank you, Chair. Thank you, John, for all of that information you shared with us. My question is you know on the 25-year deed restriction, do you have any kind of set number that you would like us to really consider for that issue in particular?

MR. ANDERSEN: Well, no, because, you know, our kuleana is affordability --

COUNCILMEMBER VICTORINO: Okay.

MR. ANDERSEN: --in perpetuity. Any deed restriction is going to expire after a period of time and it's a double-edged sword. The longer the deed restriction the more resistance the consumer has to being locked in to that flat kind of percentage for that number of years.

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So, you have to really reach a balance of what is acceptable by the consumer in terms of that deed restriction. We worked very hard on the resale formula of our ground lease that built in incentives for how long they own the house that they get a bigger equity share and there are things like that which we feel are superior to just a deed restriction. But you've got to strike a balance on the deed restriction but once again you've got to provide incentives to get into permanently affordable housing or we just have to keep going through this year after year after year when to build new affordable housing.

COUNCILMEMBER VICTORINO: Well, I like the idea that you talking adjustment. The other question I had for you was this on-site, off-site issue. You're not really referring as the prior testifiers that the 50 percent build, be built in other project districts. You're referring if the number of homes is 50 on-site and then you say I'm going to build 50 percent off-site when it becomes 75 then it's 37.50 or 38 and 38, or whatever, that's what you're referring to the 50 percent, oh, on-site, off-site issue?

MR. ANDERSEN: Right. You know I go back to what the ordinance says.

COUNCILMEMBER VICTORINO: Yeah.

MR. ANDERSEN: The ordinance says the percentage shall be applied to the total number of units built. So, my interpretation of that is if you're building 100 on-site and 50 off-site you're building 150 units. You should be building 75 affordables not 50 affordables if you want a one-to-one. If that was you're intent in passing a 50 percent ordinance that there be one affordable for every market rate, then carry that out through, you know, whether it's on-site or off-site 'cause right now that is not clearly defined in the ordinance.

COUNCILMEMBER VICTORINO: Okay. Thank you, John. I appreciate it. Thank you, Mr. Chair.

CHAIR NISHIKI: Any other questions?

MR. ANDERSEN: Thank you.

CHAIR NISHIKI: Thank you, Mr. Andersen. David Goode, President for KSD Hawaii followed by Susan Moikeha.

MR. GOODE: Good afternoon, Chair Nishiki, Members of the Committee. My name is David Goode. I'm the President of KSD Hawaii and I appreciate you scheduling this item first thing in your Committee and I also appreciate not having the lights come on but I'll try to be brief. I did submit testimony today, which was handed out so you should have a copy of that in front of you. I'll basically kind of read from that or paraphrase from that.

As you know our company has built and has sold the first workforce housing project in the County, Na Hale O Kilinahe in Makawao. We're very, very proud of the project, the

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folks who live there, and the difference it's making in the community. We would like to do more projects. The current economic reality coupled with the lack of water meters just about everywhere is making that a near impossibility. We believe the structure of the ordinance as it currently exists is fine and we support inclusionary zoning ordinances in general. We think that inside the ordinance though some key changes need to be made to reflect the changes in the economic environment that we're currently in and what we experienced at our project as it relates to buyers and lenders having some issues with the current ordinance.

So, if you would if you can follow through on the table that's provided in my testimony. I'll try to be brief and run through this. We still believe as we had testified two and three years ago that the applicability should be at the change in zoning level and I think with the recent Wailea 670 in Makena we saw that it was successful in the sense in hammering that out during the change in zoning, it will produce some units. We also a number of years ago did the Waiolani Pikake Subdivision in Waikapu and in front of this Council had a requirement we came up with 22 percent and we produced those units and made them and they're inside the subdivision at the change in zoning level. We can talk more about that at another time but I still feel strongly about that.

As it relates to credits and I want to be clear based on the previous testimonies, some questions that came up. When we talk about credits we're talking about unit credits not credits as it relates to parks or building permits and, and those other monetary credits which are very helpful and we're glad the Council passed those previously. But if Maile builds five extra units beyond what she needs to and someone like one of Eric Taniguchi's clients in Kihei has a 20-unit condo and if you use Alice's 50 percent within the district, now he can squeeze five units in that Kihei condo and help that community and maybe Maile could use the money for the extra five in Wailuku then it's win-win and units get built. So, the idea of having transferability of unit credits while keeping . . . *(change tape, start 2A)*. . . as many as you can in the community plan district, it frees up the private sector, profit and non-profit sectors to come up with solutions that really work for everybody and units get built. 'Cause that's what we're, I think that's what we all really want.

So, we do support Alice's suggestion of at least 50 percent, at least 50 percent in the community plan and 50 percent, up to 50 percent somewhere else. So, depending on the project you might say, oh, yeah, 80 percent no problem I can do it here in Kihei or West Side. I just can't make it work 'cause I don't have a water meter, I don't have the zoning, but geez, Maile's got a project over there I can help her out. It helps me out and things get built. So, I think that's, that's the concept if I'm accurately saying what they were saying and what, what I believe is out there that can work.

Going to the second page. We believe the unit count should be 20 percent if under \$600,000 and 25 percent if over \$600,000. These numbers were, have come up based on our analysis of other projects that we passed on and can't do and also seems to be consistent with inclusionary zoning ordinances throughout the country as a level that can

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and has worked. As I mentioned previously we like the idea of 50 percent within the community plan district and some out if needed. We think the in lieu fee is too high and should be made the same as the current non-profit fee. We think if land is donated it should be appraised as urban property 'cause I think most of your land donations you're going get from the larger landowners that are probably in ag but they're going to be developed as urban. So, appraise them as urban as part of the transaction.

We do think the credits should be used anywhere. So, again, back to my scenario, if you have some credits, unit credits, if they can be used by another person somewhere else while they still meet their kuleana within their community plan area that's a positive for everyone. I think the gap group as John Andersen just testified doesn't need to be in the ordinance anymore. We'd like to see maybe 25 percent of the unit count within the 80 to 100 group; 50 percent within the 100 to 120 percent, and 25 percent in the 120, 140. We would not support what John Andersen mentioned previously about pricing and unit sizing. That is getting too complicated, that's too much bureaucracy. Let the marketplace sort that out. It has and will continue to work in the future.

The resale is too restrictive, excuse me, I skipped one. Time limits. Twenty-five years was a turnoff for our buyers. We had a few that took it. Most of them didn't want it. Fifteen years is reasonable I think in the 80 to 100, 10 years in the 100 to 120, and five years in the 120 to 140 group. I don't think you'd find much buyer reluctance to those numbers. We think the resale was also too restrictive. A lot of our clients said how does this work? Okay. Now, if I, I sell it, now I got to do another appraisal and it's 25 percent. Okay. And this goes from year 0 to year 24 that, that was a problem for a number of our buyers and didn't want to buy because of that. So, our suggestion is to allow a 5 percent appreciation per year within that buy-back period that way they don't get the whole enchilada but they get some appreciation if they have to move.

This is a big one and the last, last item on Page 2. The deed restrictions as written in the ordinance survive foreclosure. So, if you have a 25-year buyback, if you have shared appreciation it survives foreclosures. By the time we finish the deeds, got 'em all done, got people qualified, send it to the banks, First Hawaiian, Bank of Hawaii, American Savings, Central Pacific Bank, all our big lenders in Hawaii said no, we cannot live with that, you got to change it. You get rid of that and we can lend. I said I cannot, it's in the ordinance. So, those banks would not lend with that restriction. That needs to be changed. It's a very simple change but just in the unlikely event of a foreclosure on one of these units that those deed restrictions are lifted. The units we did sell were financed by the credit unions. So, local credit unions stepped up to the plate, God bless them. I don't know how long they'll continue to do that. They only have a limited pool of funds but we need to widen that financing window and change that particular clause.

And finally, I agree with John Andersen as it relates to leasehold. We looked real hard at doing leasehold but again buyers were saying, oh, they had a real hard time with that but they wouldn't have a hard time if I could offer 'em for a lot lower price. And I could offer 'em for a lot lower price if I didn't have to build as many. So, my suggestion is

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allow us to, do the opportunity to do a leasehold but have leaseholds count on a two for one basis too for sale units. That's a lot of information. Please digest it. We do think that those suggestions do, however, do reflect the current economic situation we're in and the exact experience we had or having with buyers. And I thank you and I'll be happy to answer any questions that you have.

CHAIR NISHIKI: Thank you, David. Questions for Mr. Goode? Seeing none, thank you, David.

MR. GOODE: Thank you.

CHAIR NISHIKI: Susan Moikeha followed by Sandy Baz.

MS. MOIKEHA: Good afternoon, Chair Nishiki, and Members of the Committee. My name is Susan Moikeha and I am testifying today as an individual. I'd like to begin thanking Chair Mateo for bringing forth this ordinance several years ago and for all the work that went into it for the Committee's work, the Council's work, as well as the public's contributions. Interesting enough my comments today are going to be taken from the GPAC recommendations. We do have a housing element that is a part of the Maui Island Plan and in your copies of my testimony today I've referenced that. It is what I call a preliminary recommendation because we only had one vote on it to be accepted by the GPAC and a final vote will come on February 28<sup>th</sup> as part of the entire document. So, please consider these things as a preliminary recommendation from the GPAC. It is the February 4, 2009 draft of the Maui Island Plan housing element.

I've also, referencing a lot of other documents which I provided to you as resources at the end of my testimony on Page 5. You're welcome to go these sites to get the actual copies of the documents. I just couldn't provide them to you all. That's quite a lot of information. So, I'd like to begin with recommendations from the housing element and I'd like to begin with the goal. And the goal is Maui will have a safe, decent, appropriate, and affordable housing for all residents developed in a way that contributes to strong neighborhoods and a thriving island community. And I'm going to point out a few of the objectives that I think have application to this conversation today or discussion and also some of the objectives, policies, and actions and I'll paraphrase these.

The first objective I will read 'cause it's important, and it says better monitoring, evaluation, and refinement of current and future housing needs particularly affordable housing in conjunction with the economic cycle. One of the first policies to support this is establish a housing reporting system that facilitates identification of stages in the effects of the economic cycles on housing production. And I just want to divert a little bit to give you some background on why that's important and most of my comments on this part of it is from the John Knox and Associates, Maui Island Housing issue paper dated December 2006. Now, I want to also call to your attention that this report came out after we adopted the ordinance. In his report, he talks about what he identifies as three key elements to problems facing providing housing here on Maui, affordable housing. One of

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them is the homeownership rate has not risen in the past 25 years here on Maui. Considering that two years ago we were in an economic cycle where we had high demand and limited supply, compare that now today we're in this declining economy. And while we still do need the affordable housing and it's still a priority, the circumstances have changed and have changed drastically and it's due to the economic cycle we're in. And you've heard testimony already from those who have actually implemented this ordinance and the issues that we are facing.

The second element he identified was that data should be improved. You know there's this perception that a lot of the high demand went to offshore buyers and I've heard everything from 90 percent of the sales went offshore compared to what our local residents had opportunity to buy a couple of years ago. If you go to the SMS Housing Policy Study of 2006, they did a survey and only 9.6 percent of the units went for single-family now, not condominiums, single-family went to offshore. And this is why data is so important. He indicates in his report that to-date, we have no data that distinguishes between purchases of offshore and whether or not those units still remain on the island for residential use. We have absolutely no data on that. And so we need to do better in collecting this data.

One of the things the Long Range Department did in assessing how much went off to offshore was they used zip codes. So, if you purchased a unit and you didn't have a zip code of Maui, then you were considered offshore and even that does not distinguish did they leave those units here for residents to rent. The third thing he talks about is housing affordability and demand must be understood in terms of economic cycles. Housing producers have little incentive to generate supply during a down time and in the uptimes the lengthy regulatory system both delays production of new supply and also increases risk factors shifting focus to the more profitable resort housing market. And that was a direct quote from the report. He goes on to comment out of these three elements we suspect the last particularly critical or any rate the least frequently discussed. Understanding demand in the terms of a economic cycle and improving data is key to establishing an inclusionary zoning policy.

Even though the Knox report did come out as I mentioned earlier after the December '06 adoption of the ordinance, we still can take some of these recommendations and use them today in this process that we're going through in amending or making revisions to the current ordinance. I'd like to go on and, and talk about a few of the other policies under this objective. One, again, is improved data on resident and non-resident housing. We did talk about minimizing offshore impacts and we have some suggested language here to include: ensure that the future housing stock is mainly composed of housing types that are conducive and affordable for local residents, locate these housing in places that are also conducive and affordable to island residents, and then also look at a progressive taxation or building fee structure. There's a direct action to that that talks about additional revenues to mitigate the impact of offshore demand by applying a progressive property tax. You increase the taxes as the value increases, for example, and that is an action in the GPAC's recommendation.

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I'd like to go on to a couple of the other objectives. One, about having units remain in perpetuity. There are policies established here that talk about the buyback. Having the County be able to buyback these homes and try and keep them in an affordability. There was support in a policy for that. There's also support for rental housing that is subsidized by governments whether it's Federal, State, or County and that you make sure that they stay perpetually affordable for rentals. There's also a policy that says seek to have ownership affordable for sale and rental housing vested in a non-profit community land trust or other qualified housing provider committed to keeping such housing affordable in perpetuity.

So, you can see that the GPAC gave great thought to this about perpetuity of housing and affordable housing. Some of the actions to support that objective dealt with monitoring tenants income qualifications to determine eligibility. I think an example of this is Kahului Terrace when A&B, that was a restricted, had deed restrictions for rentals in affordability and when that lapsed EAH, a non-profit, came in and purchased that and will keep that in perpetuity. But what they found out is that their tenants, the current tenants were way over qualified to be in those, those type of units and they were making way too much money for the units that they were paying rent on. Another thing here was to keep affordable for sale and rental housing stock in perpetuity for a long time if it can't be for perpetuity but for a lengthy time.

More importantly to talk about things that you would want to keep in your, your current ordinance or in actions see on Page 3. There was a great discussion about concern that eliminating in lieu fees and giving priority to actually units being built or land. On a personal note, I kind of argued against that so it does read that give priority to units, give priority to land but do not eliminate the in lieu fees. And I think those arguments are pretty clear. A lot of your other housing providers will use those funds to buy down the price of a unit or use it for construction and development and that's important.

A couple of the other things is concurrency, market rates with affordables and you have that already in there. Incentives, very important, incentives for development. Making sure again that rental housing remains affordable and the thing that John talked about evenly distribute such a price over the range of the subject income category. And I don't need to go into further detail of that. You, you should understand the example that he used. Lastly, more livable communities, making sure when we plan that we have mixed use of multi-family, as well, as well as single-family units. And objective four it talks about infrastructure, how important it is to have it in concurrency with developments, and prioritizing that infrastructure and I mean this for the County as well. It's not just a problem for the development to provide infrastructure but the County needs to step up and prioritize that.

And lastly, it talks about reducing cost to the developers in producing these units. And one of the main policies I want to highlight here is require this construction of affordable for sale and rental housing units as part of the construction of new housing developments

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be offering, excuse me, offering extra incentives in boom periods and withdrawing extra incentives during slack periods. So, this is separate from having incentives which you need but to be in line with what cycle in we might want to increase those incentives, make extra incentives to get the kind of development and affordable housing we want built or we might want to lessen that in a time when we don't need to focus on that.

So, those were some of the objectives, policies, and goals that the recommendations came up from, oh, most importantly, streamlining the process. Everything...where from adopting new administrative rules that's, that talk about streamlining and clarifying the permitting process. Often you hear, you know, I think a lot of the development community is willing to do what they're asked to do in a ordinance if it's clear and if it doesn't change from one day to the next. And so, clarity has to be of great importance. Use outside consultants. Honolulu uses outside consultants that are certified by their County for review. And this is one of the things brought out in, in our discussions. Implement one-stop permitting process and most important hold the Departments accountable for processing timelines. Project's applications can sit in a department from anywhere for three to six months to a year and they're not moving and maybe that is one of the greatest causes to delay in producing affordable housing in this County.

I'd like to conclude with a comment from John Knox. In short, the length and complexity of housing approval processes should correlate with the price level with quicker and simpler reviews for affordable products. So long as the area identified for development is clearly set forth in the Maui County General Plan as appropriate for residential development and so long as there is also clarity about when, how infrastructure is to be provided. And I would concur with his comments and with the report. In your review of the ordinance do not limit yourselves to inserting just text and what's important to making this become implement...but making it...to be able to be implemented here. But look at what actions would be required to implement this ordinance and also what further knowledge we need to gain in the bigger picture of reducing the barriers to providing affordable housing for the residents of Maui County.

In Montgomery County, Maryland, has the oldest and most productive IZ systems in the country and their ordinances has been amended over 20 times since the passage in 1976. What this should tell us is that we need to be continuously working to keep this ordinance up to date taking into account current market conditions. Thank you.

CHAIR NISHIKI: Thank you so much. Any questions? Seeing none, thank you, Susan. Sandy Baz representing MEO followed by Roy Katsuda.

MR. BAZ: Aloha, Chairman Nishiki, and Committee Members. My name is Sandy Baz, Maui Economic Opportunity. And first of all, I did want to congratulate you, Wayne, for taking this up on your first meeting. That is a challenge that you've taken on and we really appreciate that from the community standpoint and you wanting to look at this ordinance and making sure that it can be the best it can be for, for Maui's community and for the housing needs required. So, thank you. I also wanted to thank Chairman Mateo

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of the Housing and Human Services Committee so many years ago that took on the original challenge and that saw this through to, to its point of actually becoming law. And that was something that, you know, he got lot of knives stuck in his back for and he had a lot of challenges and, and was called a lot of names for it, but it was something that, it took a lot of effort and we appreciate that and all the Committee Members that worked so hard on this original one.

You know we're, we're told that if we don't understand history we're failed, we're doomed to repeat it. In, and believe me I was one in, in school that I hated history class. In fact, I passed by with D's and that was good enough 'cause I, I didn't, I didn't understand what history was. But in what we're looking at for today and in, in what I understand now history is incredibly important. Back in 2003, in May of 2003, MEO started this organization or we started, we had a meeting of a lot of different community members. I think it was about 150 people there that initially were there to discuss this issue of affordable housing and what is the problem. MEO had over 400 people on emergency rental housing assistance waiting list because they were in jeopardy of homelessness. And so we wanted to figure out what the problem was so we gathered everybody that we could think of together, everybody that wanted to, to be a part of this and created the Maui Nui Housing Task Force.

For six months the Maui Nui Housing Task Force met on sometimes a weekly basis, on other things a daily basis. This issue was a major topic. Six months later we created the 10-point plan for action. And this 10-point plan included a lot of different things, 10 of 'em obviously, but one of them was this ordinance. This ordinance was a part of the initial requests and initial items that we saw fit that, you know, needed to happen for affordable housing to be built. And but I say that this is only one of the points it's not the solution. Sometimes we look at this ordinance and we say, okay, well, this needs to be the solution for affordable housing. We look at that we still have a need for affordable housing and say that the affordable housing ordinance is completely useless. I'd say it's not. It's broken but it's not useless.

In 2004, the Maui Nui Housing Task Force introduced to the County Council and Chairman Mateo's Committee a document called "Affordable Housing Now". This was put together by the former Planning Director Brian Miskae as well as a working group of different community members ranging from the Maui Tomorrow to large developers. And they got together and they created this document that wanted to...was kind of the impetus to this Workforce Housing ordinance that talked about a lot of the issues that were even discussed this, this afternoon about changes to the ordinance. Those were in the original document and I can provide that to you if it's of interest.

As far as what we're talking about today and this ordinance, I do, you know, I listened to some of the comments and I've heard, I've discussed this with a lot of different individuals. The idea of the affordable housing units being required to be produced within the project district or the community district I think needs to be revisited. It will provide units within that district but I think that the concentration of development then

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gets forced into basically a couple different districts. And even Mr. Victorino's district, while he may think that there's developments that can cover some of the affordable housing units, there are many affordable housing credits that in the past or funds from affordable housing that were required as part of the affordable housing partnership agreements that actually were supporting within his district and our project is one of those. So, it's an important thing to, to remember.

We talked about partnerships and we talked about, you know, non-profits and transfer of credits and things like that. What we're truly talking about is the partnership for development of affordable housing units. Our ultimate goal, everyone's ultimate goal is to have units for people to live in that are affordable, that are safe, that are decent, that can fit the needs of Maui's individuals, Maui's residents. So, to that end, if we depend strictly on the developers to do this, I mean for-profit developers that are developing market units there is...that's why I say the system is broken. Because then you're saying that for the affordable housing units to be built we have to have market units. We have to have million dollar homes for us to build a \$100,000 home. And I don't think that is, is what we really want. We want to make sure that there's housing available for everyone.

So, how that happens is through partnerships. Non-profits have a particular ability to combine funds from many different sources. And you talk to the next testifier, Roy Katsuda, and most of his projects have...between 10 and 15 different funding sources to produce those affordable housing units. That's just the way that it works when we combine it. And that's why, you know, in general that you guys provide money to non-profits to provide services because you're getting the most bang for your buck. Yeah, you can, you're only investing...some of our programs you only invest 3 percent in and we're getting other funds to be able to make that happen. So, I think it's...less the discussion of transferability of credits and more the discussion of partnership and development.

Then also working with non-profits you have the ability to I think control the restrictions a little bit more, especially in the affordable housing for perpetuity or, you know, a long term sustained impact in the availability of units. The rental market I think is something that gets neglected in a lot of this discussion and I think it has been in the past discussions and even so far this afternoon, we need to understand that not everybody is going to be able to afford a home to buy, not everybody is going to want a home to buy. People are going to want to rent. Right now, the rental market is not affordable. There are rental units available. You can look through the paper and they're either holes in the wall or they're not up to basic safety standards and so, or they're not affordable.

So, that's where I think the non-profit partnerships can assist even more through the rental markets in providing affordable housing in perpetuity. And we have lots of good examples in this County specifically to that. Then the last thing I wanted to talk about specifically to today's topic of changing the ordinance is that as you review the, the ordinance in its entirety we do need to make it flexible to market fluctuations. You know, what, 2005 is when this basically passed, the market back then to the market now

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is night and day. As John Andersen was talking about some of the for sale units even the rental units, the market has completely changed and so how do we provide that flexibility within an ordinance that also has the, the ability to tell developers and anybody who wants to build that this is what's going to be required of you. That's a challenge and that's something that we're going to have to be discussing at your level and also with, with the community, with the developers, with everybody that's of interest to this type of organization.

So, Mr. Chairman, again, I thank you very much and thank for the opportunity to come and speak before you this afternoon.

CHAIR NISHIKI: Thank you, Sandy. Any questions from Committee Members? Seeing none, thank you. Roy Katsuda representing Hale Mahaolu, he is the Executive Director; followed by Lucienne DeNaie.

MR. KATSUDA: Thank you, Chairman Nishiki, and Members of the Committee. My name is Roy Katsuda. I'm the Executive Director of Hale Mahaolu. Most of you know this but I'll say this for the record. Hale Mahaolu is a private and non-profit housing corporation. We've been in business for the last 41, 42 years. In the last 25, 30 years we focused on affordable rentals and our emphasis is rentals, affordable rentals in perpetuity. I'd like to thank Chairman Mateo and the previous Council for, Councils I guess who came up with the Workforce Housing Bill. And Hale Mahaolu has been or is one of the agencies that has benefited from that. Our Ehiku project in Kihei received quite a bit of in lieu fees and that has been very, very helpful to us. For the record, we're up to 19 housing funding, funding sources for Ehiku. I hope we don't reach 20.

The Workforce Housing Bill I think was a good start. Like every good bill it needs to react to different forces. It's a living document and I think this Council is wise enough to come up with the appropriate tweaks. I have just two very short comments. One is that as far as the 100 percent remaining in the . . .*(change tape, start 2B)*. . . community planned area, I do believe that there is room for at least some portion of that to go outside of the area. It could serve as specialized housing or in fact any kind of housing that's affordable. But we're working on a drug force, drug force, no, Drug Court, Drug Court, what is it? Drug Court housing. Sometimes it doesn't come out right. Drug Court housing. Anyway, and if we had some of those units that we could apply it would, it would make this acquisition and operation much easier. So that could be an example of where you could apply some of those units from one community plan to another.

This is just a comment. I know sometimes we look at special needs housing and think that they're a small sector of our community that is not employed too much. Again, this is just a comment, this is not a formal study, but what we have been learning at Hale Mahaolu or witnessing is that more and more of our seniors are either still employed or they're seeking employment. Thank you.

CHAIR NISHIKI: Thank you, Roy. Any questions for Mr. Katsuda? Seeing none, thank you.

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COUNCILMEMBER KAHO`OHALAHALA: Chair, just a, just a quick question.

CHAIR NISHIKI: Excuse me, Roy, Sol's got a question for you. Thank you.

COUNCILMEMBER KAHO`OHALAHALA: Just on your comment alone. Why is it that you have noticed that your seniors are still employed or seeking employment?

MR. KATSUDA: Well, I think more recently I think the market conditions have caused a lot of anxieties and but more so we're finding that more and more of the seniors are capable of working and desiring to be in the workforce. So, while retirement and not working, I shouldn't say not working, not gainfully employed might seem appealing, there are quite a few now that are looking at that as maybe not so appealing. They're not as busy. So, being employed is, is almost like a pastime especially if they work part-time.

COUNCILMEMBER KAHO`OHALAHALA: Okay. Thank you, Mr. Katsuda.

CHAIR NISHIKI: Any other questions? Thank you, Roy. Lucienne DeNaie followed by Dick Mayer.

MS. DENAIE: Thank you. Nice to see you all. Thank you, Chair Nishiki. My name is Lucienne deNaie. I am a member of the housing committee for GPAC along with Susan and Stan and others, and very much support what Susan had to offer as our comments. I also helped during the draft of the Workforce Housing Bill working with Chair Mateo and the Council Members who put a lot of effort that's very appreciated by the community. It was time for us to have something even if it was just a start that defined how we looked at housing and how we were going to use our building industry to make sure that we were building community and not just housing product. And I think that's a very, very important consideration. We, we need to build communities. We need to build transparency into how we are providing affordable homes to both sell and rent. And a number of the suggestions that have been made through the housing element of the general plan, the Maui Island Plan, address those needs. So, I hope that this Committee will, will look at some of those as, as a jumpstart.

But, you know, looking at some of the broader issues that have been brought up here today, you have the issue of do we have 50 percent or 20 or 25 percent or do we have 40 or 50 percent or 20 or 25 percent. I'm going to go to the side of 50 percent and including the gap housing because I have seen nothing in the 30 years that I live here to lead me to believe that the market itself takes care of gap housing. Basically, gap housing is sort of an afterthought. There's always plenty of people who are making a living but cannot afford houses that are priced in the way that our houses are priced here. I mean I think we need to realize that we have a very artificial market here. We have a few major landowners that control the price of how the land is slowly portioned out and this is different in different places. It's not really a market driven force. It's more of a corporate driven product assignment.

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And so, because of that there are other areas that face this, this same thing and they do social engineering, which is what we're doing with our Workforce Housing Bill. Well, when you do social engineering you need to realize that there's always going to be kinks in it. You know two years it's good that we're reevaluating. We do need more flexibility. We do need incentives. I think we need to prioritize our water resources. And the higher the percentage of affordable homes are being built I think that we should make sure that those folks are top on the list to get a water meter and that we're doing everything we can to make sure water is supplied to them.

I have a friend who did a little subdivision in Makawao. It's all going to be affordable lots; \$200,000 range, \$250,000 range, 18-lots, in fill existing neighborhood. He couldn't get any water meters. Now, we heard from the gentleman at GPAC that has a good well in Makawao and the County could maybe work out something so those folks in Makawao that are waiting for water meters for their family subdivisions or like this gentleman got water because a well was available. The County's own well is somewhat used but it's very expensive to pump and it is not as robust a source as this private well. So, the partnerships that have been discussed are an important part of how we plan our future. And we really need to also have this transparency element.

Like right now I have heard from so many different people in the industry, these are people who are loan officers, real estate agents, so forth and so on, but they will have a person who has qualified for an affordable project who, you know, got a bond to sign up or wait in the lottery line or whatever and then found out that, you know, after it appeared that they would be accepted that things changed. And why did they change? The person was qualified in terms of financially but the, the, the appearance is, is that someone knows somebody and gets to the head of the list. And we've heard people even testify in these chambers that that's true.

So, I think we need transparency. We need to look at a way where there's a master list that's kept in one place that everybody who wants a house registers on and we kind of know what's going on and there's some accountability. I also think that, you know, the idea that we do a quicker turnaround and not have in perpetuity I mean perhaps some of the housing that's being built if we have a Workforce Housing Policy that covers, you know, a wide range of, of developments perhaps some of it could have, you know, a 25 year limit. But these five and ten year limits, these are for people who just want to make a profit. I mean I don't think the County should be in the business of subsidizing that. Let the market take care of that. People take the risk. People look for the thing that can get quick in and quick out.

You know many of us in Paia were very disappointed when the, when the development was built there, the Kent Smith development, in fill, small development 20 units something like, and one of my friends who's a real estate broker bought three of the units herself just to flip, to, to make money with. And this was sold to the Planning Commission and the Council as an affordable project. We had no Workforce Housing

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Bill at that time. We had no scrutiny. You know I'm glad my friend made some money and I know several people who, who bought some of those units. They paid \$600,000 for these very small houses with shared, you know, shared carports. So, just saying, oh yeah, that market is going to take care of everything, it ain't necessarily so. We do need to get in there and make sure that the people who are applying are qualified and make sure that we are having a fair process.

I also want to say that when we discussed the incentives part of the package in, in the GPAC, it was very much I think in accord that we do need to adjust to deal with economic spikes and valleys. And, you know, we're in a valley right now. We've seen other valleys before. We've seen other spikes. So, we do need a mechanism for that. So, I, I hope the Council will look at Mr. Knox's recommendations, some of the other things that have been discussed, and look and see what really fits. But this idea of the in lieu fees I mean I think they should be part of the package but I see this as an area of real abuse. If any of you have been down to South Maui recently and across from the Shops of Wailea there's a very large project. In fact, it has had the, it has had the gall to wipe out our view of Haleakala. You can no longer see Haleakala from that particular place whereas you could for years. So, 120 units have replaced a view of Haleakala. It's called Ho'olei. They sold between \$1 million and \$3 million each. They were, made a contribution to MEO. That's wonderful but their contribution was \$750,000. Now, that's \$60,000 a unit. Now, \$60,000 if you looked at, you know, has this made a house for anybody? No. It helped the BEST program provide a housing facility, but I would have no problem with MEO having received twice that amount or more.

And I just feel we are not fairly looking at the impacts of some of these projects. That project impacted traffic in that area, impacted parking at the beach in that area for the several years that it was under construction. Yes, it gave us jobs but it also should have given us higher fees, in lieu fees, if we're going to get in lieu fees. So, I leave you with one more thought and that is I agree with Mr. Baz that we need a variety of tools, this affordable housing ordinance, the Workforce Housing ordinance is one of the tools. But one of the things that is being tried in Oahu and I believe the Big Island also, and I'm speaking for East Maui now 'cause this is where I live but I was in my neighbor's taro patch this morning, checking out the water running in the stream and I'm happy to say that our, our water is now running in at least a couple of streams and, and people can, can grow kalo. But the problem is that their land taxes are based on what the property of some of my millionaire neighbors is worth. Even though these kuleanas have been in their family since the 1840s, since the Mahele.

So, I would like to suggest that one of the things we could do to promote affordable housing is to get the model legislation from OHA on the kuleana land tax exemption. They're hoping to see each island pass this. Yes, it would affect our tax revenues a little bit. It institutes a flat tax for families that have held their kuleana lands and still manage to hold on to them in this day. Now, if they sell outside the family the tax just becomes regular kind but if they don't, then families can have the dignity of, of passing on their

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family land to their children and grandchildren and I think that is part of our affordable housing solution.

So, thank you, Chair Nishiki, for giving us extra time to speak, it's really appreciated, and thank you all for listening.

CHAIR NISHIKI: Thank you. Any questions for Lucienne? Thank you. Dick Mayer followed by Kai Nishiki.

MR. MAYER: Bad cough. I'm going to have to take a cough drop before I speak. Thank you very much, Council Members. First, I want to say I do appreciate the Workforce Housing ordinance that was passed by Mr. Mateo and the Committee and Council. And I think it's been a great step forward. I think the sophistication of some of the testimony that's been given already today reflects that this bill has been operating, it has faults, it has strengths, and people now see some of the subtleties and I think you folks will be in a position to improve it.

I'm only going to mention a few things that have been mentioned before but I want to emphasize 'em. Number one, I think it's absolutely essential that a housing master list, waiting list be established. Right now, the developers are keeping this list. It's totally non-transparent. People don't know where they are on the list as somebody just mentioned. People can all of sudden come to the top of the list who may have been at the bottom and no one will know that that happened. And so, what I recommend is that the housing office maintain this list. This would free up the developers. Developers are always complaining about all their cost and this would be one cost, one burden, one paperwork, one set of answering phones that they would not have to do anymore. It would centralize it.

Under Mayor Carvalho back in the '70s this was something that was done. It worked beautifully. I had good friends with their name on the list, three years later they got a letter from the County housing office said your name is up near the top of the list, please think about financing, et cetera, there will be a house, affordable house available. It worked well. It worked smoothly. They did it by districts. I think there was one for West Maui, Central, and East Maui, probably for Molokai and Lanai as well to be done. And it would allow people to sign up. The first time when people signed up, a lot of people would want to sign up, you would allow people to put in their names over a month period and then you'd have a raffle drawing to see who'd be number one, two, three and people would get their number. So, number, somebody's number 250. Then that list would be maintained on the Web. It would be totally transparent to the community with the names listed there and you could see my number 250 now I'm up to number 48 or whatever it is. And the County would put notes on that would indicate that in the next year we're probably going to have 100 units or 200 units available for affordable housing from various developers.

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And people would know, okay, you know, and a letter would also go out. Get some financial counseling, get ready, be looking into whether you qualify, get your credit score, do the various things. So, people would be ready and able to get a house. I think it's absolutely critical to help people. It would also help a lot of local people, local kids who grew up here, who grow up here to get into this housing 'cause their name would be on the list. They probably won't get up at the top of list for four, five, or six years. So, if they sign up when they graduate from, from high school, they'll be up at the top of the list by the time they finish their military obligation or their college education. They've got some money and they would be able to buy a house and not allow somebody who's just moved here, gets on the list, and then unknown to anybody all of sudden they're up at the top of list because some developer wants to give their, their carpenter or their friend a rise right to the top. I think it would be a very good help to, to keep local kids and get them into housing.

Secondly, one of the developers put up housing on the, under the present ordinance and was allowed to fix up some existing homes Upcountry. I think this is not something that...this didn't add to the housing stock. It fixed up a house, it was nice and no problem that the house got fixed up. But when you take a house that was built in the '70s and fix it up and consider it your contribution to meet the 50 percent requirement I think that's misleading because we didn't add to the housing stock. And I think what should be done is to require that a new house be built. We can also have projects to get older houses upgraded, that's wonderful, but not to do that in lieu of...adding to the housing stock of affordable housing.

Along also with what Lucienne just said I think the in lieu of fees should be raised. They should be at a point, at a level, which would actually get the house built in the district that's relevant. Some of the districts may be much more expensive to get a house built than other ones because of land costs or, or the cost of labor. I know the DOE, for example, when they estimate the cost of building in West Maui, they estimate the cost of building a school in West Maui as higher than it would be in Central Maui. So, perhaps the in lieu of fee in West Maui could be higher than let's say in Central Maui. That would have to be looked at exactly what the figure would be but I think it's important to make the fees appropriate.

With regard to the concept of in perpetuity; one of the problems is right now that if I were a developer and I built let's say a housing project of 100 units, then I had the affordables there and I put 'em into the...in perpetuity for 25 years or 20 years or 15 years, what assurances are there that I'll be around or my company will be around to make sure that they're kept in perpetuity? Who's supervising that? I would urge you to have a housing office that has that responsibility of monitoring that houses are kept in perpetuity so that when a person in one of those affordable units wants to sell their house, the housing office would be in a position to say this is the price that will be bought back. And that housing price can be based on what's called the Construction Cost Index. That's the average cost of building that's kept by some of the banks where they average in the cost of cement, lumber, labor, et cetera, and the index can go up as we would have seen in

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2004, '05, and '06 and it can come down in 2007 and '08, and '09. So that it's not necessarily guaranteed it's going to go up but at least it would be a fair price back to the homeowner for a house that's bought back. If they wish to sell it after five, eight years and move into let's say a non-affordable house, a market price house. It would also mean then that house could then be resold to somebody else at a fair price that's still affordable.

I urge you to retain the provision in the law that has the 50 percent of market houses and not the interpretation that was used with Makena. That was I think a phony interpretation where the project had 800 units and 400 only affordables were put in. I think it should have been one for one affordables to market. The GPAC, which I'm working on and I'm not representing the GPAC today, I'm speaking as an individual, is talking about and getting information that we need to provide a lot more housing for local families. And I think that by decreasing the percentage we are going to mean that much of our young population will leave the island, will be forced to leave the island as my kid did 'cause he couldn't afford a house and move to a place where he could buy a house for 20 percent of the cost of that same house on Maui. We want to make sure it's available and the best way to do that is to make sure it stays at 50 percent, one for one, and make it very explicit exactly what's intended. Thank you very much and I wish you well in the ordinance.

CHAIR NISHIKI: Thank you, Dick. Any questions from Committee Members? Seeing none, Kai Nishiki, unless there's anyone else that wishes to speak. Following her the Committee will take a 10-minute recess and we will probably work through 4:15 today just to let people know out there how long this Committee will meet. Thank you. Kai.

MS. NISHIKI: Aloha, Housing Committee, and Members. Thank you. I wanted to start off by saying that on March 7<sup>th</sup> there's going to be a housing summit at MCC. It's being put on by FACE and the County of Maui from 9:00 to 2:00 and it gives the community a chance to get together and talk about the housing needs and what they want from our representatives. So, I hope all of you will be in attendance and let everyone know about it. I want to thank Committee Chair Mateo and, I'm sorry, Council Chair Mateo and Committee Chair Nishiki for bringing this ordinance up for review, and also to Mr. Nishiki for putting this ordinance on the agenda as one of your first orders of business. It shows your commitment to providing for the needs of the residents of our County and I'm sure that we all appreciate that. And thank you, Chair Mateo, for caring about our community and wanting to make sure that we have housing for the local people. Thank you.

I do not support lowering the percentage that developers must provide. In fact, I believe that it should be more in the case of luxury home subdivisions. I also believe that the affordable housing should be built on-site. Allowing a developer to build affordable housing off-site I believe promotes segregation and should not be tolerated in our islands. Segregation should not be part of our County's policy. Please promote true community and not gated enclaves for the wealthy. A large luxury subdivision impacts a community and providing affordable housing mitigates the impacts to that community. And I believe that the affordable housing should not be allowed outside of the community plan and

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should actually be on-site. We love our communities here and I think that allowing wealthy people to live in one area and affordable housing in another does not promote what Hawaii is about. So, I ask that you look at that section and promote the true community that our, our County is about. Thank you.

CHAIR NISHIKI: Any questions for Kai? Seeing none, --

MS. NISHIKI: Thank you.

CHAIR NISHIKI: --thank you. Anyone out there in the general public wishing to testify? Chubby, you can come and speak and later sign up. Chubby.

MR. VICENS: Good afternoon, Chairman Nishiki, and Members of the Committee. My name is Mercer Chubby Vicens and I've been in the community for 20 years. I'm semi-retired but I think more importantly for you is that I have been for the last four years part of GPAC. And the, the things that you're talking about today or will consider during your term are quite important to, to where we go and how we do it. How do we take care of our kids? How do we bring 'em home? And this affordable component that you're speaking of needs to be flexible. The job that they did several years ago to put this on the books for the very first time was yeoman. I mean I attended almost every meeting. There was discussions pro and con that went back and forth and I think the document that came out was the basis of what we're talking about today; however, times change, people change, conditions change. And this Council I would ask to take a look at what you've got and be flexible.

Not only will you be flexible for the next year but when you get the, the information from GPAC on housing, on population, on infrastructure, be able to take some time and to see how it's a web. Infrastructure doesn't stand by itself. Population will not grow by itself. Housing availability will not in itself do anything for anyone. But the webbing and the bringing of all of these combines together so that we can build the goal, a stronger community for tomorrow. And that was the, the Residential Housing Bill. We hadn't done anything for the people who lived here for a long, long time. They had the guts, they had the forethought, they had the vision to start something. Now, I ask you to take a look at it, find out where you need to improve, take a look at the pros and cons of the comments that you've received from the, the many different agencies including my GPAC members who have given hours and hours of their time. And then say what's best for this community.

I have tried, as a GPAC member, to come forth and visit Council Members individually. And my goal is to tell them what's happening at the GPAC level and ask you as new Members coming in if you have any questions I'll be more than happy to answer that because we've had four years of blood, sweat, and tears. And I mean it's unbelievable but our, my, my offer today is to allow me and my GPAC members to come visit you, tell you where we're at, tell you how we got there, and if you have suggestions of moving us to a higher level, tell us because we're still in the process of making it happen. While we

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have to turn all of our information over at the end of the month, the process lives because it goes to the Planning Commission. One hundred and eighty days, many more hours of testimony than it finally comes back here. So, I think that by the time, and this my own opinion, by the time the Council will rustle and finally put this puppy to bed it will be late 2011 and possibly the middle of 2012.

So, you can see that you've got, you've got a lot work ahead of you in the next two years to shape something for us that, that some of you will not be here the next time either by retirement or by election. But be proud of what you do, be proud of the legacy that each of you can, can touch and leave us because that's all we've been trying to do as GPAC members is to look at Maui today and say from a visionary standpoint how can we leave it better tomorrow. Okay. Thank you for time and again, Mr. Mateo, thank you for starting the process because without that we would be back at square one. At least we've got something to build on. Thank you.

CHAIR NISHIKI: Thank you, Chubby. Any questions for Chubby? Seeing none, thank you.

MR. VICENS: Thank you very much.

CHAIR NISHIKI: The Committee will be in recess till 3:45. . . .(gavel). . . .(change tape, start 3A). . .

**RECESS: 3:35 p.m.**

**RECONVENE: 3:48 p.m.**

CHAIR NISHIKI: . . .(gavel). . . Public Service Committee please reconvene. The Chair would, first of all, like to recognize Mr. Wayde Oshiro from the Housing Division sitting back there. Thank you for coming. Finally, Mr. Medeiros is excused. And finally, is there anyone out there that would like to testify? If not, the Chair is going to close public testimony.

VICE-CHAIR PONTANILLA: No objections.

COUNCILMEMBER VICTORINO: No objections.

CHAIR NISHIKI: With no objections we'll close public testimony.

COUNCILMEMBER VICTORINO: No objections, Chair.

CHAIR NISHIKI: Thank you.

**...END OF PUBLIC TESTIMONY...**

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CHAIR NISHIKI: Okay. Two things I wanted to cover. One, Lori, maybe you could answer a question that was asked by the general public about the Administrative Rules, is that going to be sent to the Committee?

MS. TSUHAKO: Thank you, Mr. Chairman.

CHAIR NISHIKI: You're welcome.

MS. TSUHAKO: The Administrative Rules were forwarded by my Department to the County Clerk's Office today for filing.

CHAIR NISHIKI: Oh, okay. Thank you. And lastly, Lori, the Chair would ask you to comment on the legislation that we have here, Residential Workforce Housing Policy, what the Administration has to offer to us today.

MS. TSUHAKO: Thank you, Mr. Chair. The Department, of course, is very concerned about affordable housing and, and its availability to residents of our community. We appreciate, Mr. Chair, we appreciate the forum that you have created to allow for input from various aspects of the community, non-profit as well as for-profit developers, as well as consumers as well as GPAC members. And so, we, we certainly appreciate the opportunity to hear feedback and to get a sense of other perspectives on how the ordinance is working or in some cases not working very well.

At this point in time, I would reserve my comments for a time when we can deliberate and look at not just the suggestions that were made today and check some of those references but also to have a discussion about both the intended and unintended consequences of some of the changes that have been suggested today. I think I look forward to that process and to hearing from more people if, if there's more feedback and also to really have a lively debate about whether this ordinance needs to be changed in a big way or in small ways. So, at this point, you know I mean I would, I would defer to the feedback from the community and be willing to have Deputy Director Ridao and I join all of you as well as the community in that debate.

CHAIR NISHIKI: Thank you, Lori. This is what the Chair is proposing and I would ask or solicit your comments, Committee Members. We did accept a quite a bit of testimony. The reason why the Chair was allowing people to testify at length today was because as you can see by this ordinance it is quite a thick document. And so, if I've offended any of you, I apologize, but I think that there was many things brought up by the general public that we now want to think about. The Chair is suggesting that when I sent you the memo about being prepared to submit in writing upon the convening of the meeting any suggested revisions, I think now that you've heard from the general public, non-profits, developers, General Plan Committee members, that at our next meeting we can start fresh and go head on into the ordinance. I would hope that you will submit to the Committee in writing some of the concerns and outline via the ordinance exactly the area that you want discussion on and even perhaps language that we can have discussion on.

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Staff, anything else that we wanted to also ask Administration? Oh, finally, Lori, you shared with me the chart of affordable housing projects that are going on here in Maui County. Will you be able to submit that chart for this Committee? I know that we had asked you to make some changes but if it's possible I'm sure that Members would like to see some of the housing units that Maui County has right now going on and it would be valuable if you could possibly submit that to this Committee.

MS. TSUHAKO: I would be happy to do that.

CHAIR NISHIKI: Okay. She has, Committee Members, a big chart of all the affordable housing projects that are going on and I would think that you, as well as the general public would like to see that. Any other comments before we adjourn? Mr. Pontanilla.

VICE-CHAIR PONTANILLA: Thank you. Maybe for the Director, the chart that Mr. Nishiki is talking about is that similar to the one that I received from you several days ago?

MS. TSUHAKO: Yes.

VICE-CHAIR PONTANILLA: Okay. Maybe, Mr. Nishiki --

CHAIR NISHIKI: Yes.

VICE-CHAIR PONTANILLA: --if we could get from the Planning Department, and I think the Planning Department have all of the projects that I think calls for affordable housing units. You know when we talk about 10, 11, 12 thousand units that are already being planned, we need to take a look at those plans, planned projects. And the reason why I say that is that I believe some of these projects are, you know, 10 years and older. You know, how feasible would be that those projects will materialize in the future I don't know. So, along with what Lori is going to present us, request for that from the Planning Department.

CHAIR NISHIKI: Okay. No objections from Committee Members we'll also ask the Planning Department to give us a update on the affordable units that may be due or are in the process.

VICE-CHAIR PONTANILLA: Yeah.

CHAIR NISHIKI: Okay. Anything else? Danny. Thank you.

COUNCILMEMBER MATEO: Mr. Chair, if I may, I would like to provide some comment on some of the, some of the information shared with this Committee throughout this afternoon.

CHAIR NISHIKI: Sure. Go ahead.

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COUNCILMEMBER MATEO: Thank you. You know, several of the individuals that came up to testify consistently asked for this ordinance to be flexible. I think they need to realize that any ordinance in this County is flexible because it can be amended at any time. In addition to that, this ordinance in particular came with a window, a two-year window, for us to do exactly what everybody was asking us to do, have an opportunity to review it when times changes. So, it is not a matter of flexibility or being flexible or not being flexible because it was already built into the ordinance had it been actually read.

In addition, Mr. Chair, it seems that, you know, some of them insist that the policy has not been effective. That is, that is an insinuation. As a matter of fact, Mr. Chairman, this policy was definitely successful. Through this policy more than 1,000 units of affordable housing was actually approved. Unfortunately, it is not in our purview to not have projects legally challenged. That's not in our control and as soon as we approve these housing projects and if they ended up in court because of clear title or because of any other, you know, challenge, that was virtually out of our control. So, does the housing policy work? It brought in thousands and thousands of dollars so we can provide for special needs. Hale Mahaolu is one of 'em. You know and the list goes on.

So, I'm really excited to have, to have heard some of the recommendations. I think they're, they're viable and it's time to consider it. But somehow the insinuation that the policy didn't work, the policy was not, was not lenient or flexible, the policy didn't address the issues, you know, come on, it was a beginning and a starting point and we're at this point because the policy worked. Thank you, Mr. Chair.

CHAIR NISHIKI: Thank you so much, Mr. Mateo. Sol.

COUNCILMEMBER KAHO`OHALAHALA: Thank you, Chair Nishiki. One of the testifiers, Mr. Andersen, I believe made some comparisons in, in how to proceed and one of the things that he said is the Administrative Rules would be a part of what we might want to look at versus looking at the actual ordinance. So my question is are there Administrative Rules that have . . .

CHAIR NISHIKI: Yeah. That's what I asked Lori for.

COUNCILMEMBER KAHO`OHALAHALA: Oh, I'm sorry.

CHAIR NISHIKI: She said that she had just presented it to the County Clerk so she has started the process and we'll be getting that from the Administration.

COUNCILMEMBER KAHO`OHALAHALA: Okay.

CHAIR NISHIKI: Anything else?

COUNCILMEMBER KAHO`OHALAHALA: No, that's it, Mr. Chair.

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CHAIR NISHIKI: Thank you, Sol. Jo Anne.

COUNCILMEMBER JOHNSON: I just want to thank everybody today and especially you, Chair Nishiki, because I think that part of the challenge we're facing in this economy is really not only creating affordable housing but keeping our residents, and particularly those that are suffering financially, keeping them in their homes right now. And so, you know, while we're working on the Residential Workforce Housing to create new housing or to create housing opportunities, my concern is also very much with those individuals that are losing the roofs over their heads. And I know that the Administration in many ways they're doing everything that they can but along with this I also think that we need to integrate whether it's within this policy or what we accept or within a separate item, I want to make certain that we don't lose sight of the fact that with every foreclosure there is pain and suffering. And that is really, really hard because I think that while, you know, you can refurbish older homes and whatnot, if there are people living in those homes now are there, is there anyone that is being displaced as a result of, you know, perhaps being on shaky footing financially, whatever it might be.

And so, what our focus should be is not only looking at new housing and new development but maybe including within the dialogue and the discussion not being an entity or not being a body that encourages predatory practices to go in and swoop in and take advantage of people that are losing their homes simply so that we can recreate or, you know, get those homes available for other people. It just bothers me so much when I hear these stories because with every foreclosure on the back page of The Maui News there is a family that may be displaced that's living, you know, day to day. And I've had some of those calls and I know you have had them also, Mr. Nishiki, and it's not easy. So, I just want us all to be mindful that there is suffering going on and whatever we can do to help I guess soften that or try to come up with creative ways to keep people in their homes and work with some of the very same people that will come forward whether it's on the mortgage side, the banking side, even our Finance Department, if foreclosures are due to tax liens. We need to work with all the players.

So, I want to thank you very much because I know that you have a great deal of compassion for people and it's just not easy for any of us to see this going on in our very community. So, I know we're willing to put in the hours to do the work. Thank you.

CHAIR NISHIKI: Thank you. Mr. Victorino.

COUNCILMEMBER VICTORINO: Yes. Thank you, Chair. And, and the only thing I'll add is that I hope when we come back at our next meeting that some of these issues, some of the things Ms. Tuhako and the maps and all the others things will be made, made available to us. And some of these people that you have mentioned will be here because like you, Chair, I like to get working because like Mr. Andersen said, there are people that are losing their homes every day and that's just another issue. But if we don't take a firm position and start working on it, I agree with Chair Mateo, you know, it doesn't, it

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doesn't get better for everybody. So, I would hope that we get all our ducks lined up and we can start moving because I think you and I both agree this County deserves much better than we've gotten. Although we've gotten a lot, we need a lot more right now.

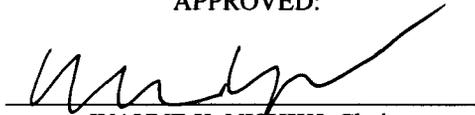
CHAIR NISHIKI: Yeah. And, and I think that this document is really good because it is whether people agree with it or not it is at least a fair playing field where all developers have got to deal with this. And, and so that's really crucial why we will be meeting again on the 18<sup>th</sup> is perhaps because I think all of you as well as Administration wants to deal with the important issues of this, this ordinance. So, are there, any other comments before I adjourn the meeting? Okay. So, meeting is adjourned. Thank you. . . .*(gavel)* . .

**COUNCIL MEMBERS VOICED NO OBJECTIONS.** (Excused: BKM)

**ACTION: DEFER PENDING FURTHER DISCUSSION.**

**ADJOURN:** 4:04 p.m.

APPROVED:



WAYNE K. NISHIKI, Chair  
Public Services Committee

ps:min:090211

Transcribed by: Cathy Simmons

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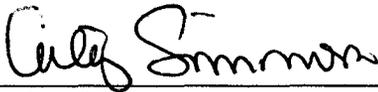
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CERTIFICATE

I, Cathy Simmons, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED this 5<sup>th</sup> day of March 2009, in Wailuku, Hawaii.

  
\_\_\_\_\_  
Cathy Simmons