

COUNCIL OF THE COUNTY OF MAUI

HOUSING, HUMAN SERVICES, AND TRANSPORTATION COMMITTEE

August 25, 2015

**Committee
Report No. _____**

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

Chair and Members:

Your Housing, Human Services, and Transportation Committee, having met on August 6, 2015, makes reference to the following:

1. A Miscellaneous Communication dated April 22, 2013, from the County Clerk, reporting that on April 19, 2013, the Council referred the matter relating to a review of the management of the Hale Makana O'Waiale Rental Rehabilitation facility (also known as the Hale Makana O'Waiale Affordable Housing Rental Project, referenced herein as the "facility"); and
2. County Communication 13-204, from Committee Chair Stacy Crivello, relating to the operation and management of Ka Hale A Ke Ola Homeless Resource Centers, Inc. ("KHAKO").

Your Committee notes the Council's Housing, Human Services, and Transportation Committee (2013-2015 Council term) met on June 26, 2013, July 16, 2013, January 9, 2014, February 6, 2014, July 31, 2014, and December 4, 2014.

Your Committee notes the Council referred the Miscellaneous Communication and County Communication 13-204 to your Committee (County Communication 15-2) at its meeting of January 2, 2015.

By correspondence dated July 16, 2015, the Deputy Director of Housing and Human Concerns transmitted a proposed resolution entitled "AUTHORIZING REPAYMENT PLAN PROPOSED BY KA HALE A

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KE OLA HOMELESS RESOURCE CENTERS, INC.” The purpose of the proposed resolution is to authorize a proposed repayment plan in settlement of the outstanding debt to the County related to the construction of the facility on County-owned land. The proposed resolution notes the original amount of the loan by the County was \$4,255,000.

Your Committee notes the proposed settlement of the outstanding debt is unrelated to a separate loan made for the West Maui resource center.

Attached as Exhibit “1” to the proposed resolution is a copy of correspondence dated April 28, 2015, from Erin L. Lowenthal, Chief Executive Officer, KHAKO, to the Director of Housing and Human Concerns, proposing terms for repayment of the loan. The proposal includes forgiveness of all past-due interest on the loan; quarterly payments of \$25,000 on the principal loan balance, which shall cease accruing interest; and a review of the loan repayment schedule and facility operations every five years to determine if loan payments can be adjusted upwards. The first proposed quarterly payment of \$25,000 accompanied the proposal.

Your Committee received correspondence from the Director of Finance, dated August 6, 2015, reflecting the payment history on the loan. The Director stated the County had received payments between 1999 and 2003 totaling \$1,472,530, noting \$200,000 had been applied toward the loan’s principal, with the remainder applied toward interest. He also confirmed receipt of a \$25,000 payment deposited on May 1, 2015.

The Chair of your Committee distributed a revised proposed resolution, entitled “AUTHORIZING REPAYMENT PLAN IN SETTLEMENT OF KA HALE A KE OLA HOMELESS RESOURCE CENTERS, INC.’S OUTSTANDING DEBT RELATED TO THE CONSTRUCTION OF THE HALE MAKANA O WAIALE AFFORDABLE HOUSING RENTAL PROJECT.”

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The revised proposed resolution incorporated the terms contained in paragraphs numbered 1 through 4 of Exhibit "1"; corrected the payment history on the loan; reflected the recent \$25,000 payment; and used September 1, 2015, as the start date for prospective payments under the proposed repayment plan.

The Deputy Director of Housing and Human Concerns provided an overview of Hale Makana O'Waiale, a Hawaii limited partnership ("HMOW"), organized on December 18, 1997, to acquire, construct, own, finance, lease, and operate the facility. She described the facility as a low-income, 200-unit housing project with 24 studio units, 128 two-bedroom units, 32 three-bedroom units, and 16 four-bedroom units.

The Deputy Director said HMOW received \$4,255,000 from the County to complete its facility. Maui Economic Concerns for the Community, Inc. and the County entered into a loan repayment agreement on December 29, 1998. From 1999 through 2003, interest payments were made, and a principal payment of \$200,000 was received in September 2000.

According to the Deputy Director, in December 2014, the Department received correspondence from the new Chief Executive Officer of KHAKO in an effort to reach a resolution of County concerns about the debt and management of the facility. After having completed a reserve study to plan for future maintenance and capital improvement costs, KHAKO indicated it was in a position to address its repayment obligations to the County. In June 2015, the Director transmitted a letter of support for the repayment proposal to the Council.

Ms. Lowenthal noted the outstanding debt affects KHAKO's ability to maintain and reinvest in the property. She said the facility is in need of roof repairs and irrigation work. Since the reserve study was completed, KHAKO has been making regular contributions into a reserve account. Although HMOW is its own separate entity, the debt affects the

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trust that potential funders have in KHAKO, jeopardizing funding for KHAKO's homeless resource centers.

Your Committee discussed County spending on homeless, substance-abuse, self-sufficiency, and rental housing programs. Ms. Lowenthal noted KHAKO receives approximately \$500,000 in grant funding annually from the County, which is applied to the homeless resource centers, not to the facility.

Ms. Lowenthal stated that as of the date of your Committee's meeting, the facility was providing low-income rental housing to 751 individuals, including 356 children. Recent operational improvements and initiatives at the facility have included reducing maintenance and operations staff, with accompanying payroll savings; participation in a neighborhood watch group with the Department of Police and as a worksite in the State Judiciary's community service work program; retrofitting of outdoor lighting fixtures for safety; coordination with the Department of Parks and Recreation to add nearby Waiale Park to the list of parks where alcohol is prohibited; providing housing to 9 formerly homeless veterans and more than 48 U.S. Housing and Urban Development voucher recipients; collaboration with Maui Food Bank, Inc. and other volunteer organizations; and working with the Department of Housing and Human Concerns to improve educational opportunities for immigrant residents.

Ms. Lowenthal also said KHAKO has negotiated an end to the investment partnership with Sun America Housing Fund. A prior County concern was that the investment partner would capture excess revenue provided by the rental property. Since the partnership has ended, KHAKO is in a position to benefit directly from such revenue and to use it to reinvest in the property.

Your Committee expressed renewed hope and support for the changes being made at HMOW and the facility and noted the importance of the work being done by the facility.

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Your Committee commented the loan was money well spent. Your Committee further noted the \$100,000 proposed for repayment annually could instead be invested by KHAKO into facility maintenance needs, the reserve fund, or to otherwise support the agency's mission.

The Budget Director noted no budget amendment would be required to accept the proposed repayment plan. He also said the County would not incur any cost to forgive the loan because the County has already made the loan payments; no additional monies need be appropriated.

Your Committee noted it appeared the loan had been ignored for a number of years and it had taken your Committee's diligence to determine the loan's status and investigate management of the project and repayment options.

Your Committee discussed the possibility of forgiving the outstanding debt for construction of the facility in its entirety, as opposed to forgiving interest only, as proposed.

Your Committee discussed whether conditions or a proposed agreement would be necessary to ensure accountability. The Budget Director noted the Department receives audit reports from KHAKO and maintains a lease agreement, with associated conditions, for the property. These elements ensure a level of oversight.

Ms. Lowenthal said annual property inspections are also conducted. In addition, the lease agreement requires annual audits.

A Deputy Corporation Counsel advised your Committee revising the proposed resolution to forgive the outstanding debt is within the scope of the matter posted for discussion on your Committee's meeting agenda.

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Your Committee recommended the revised proposed resolution be further revised to authorize forgiveness of the entire outstanding debt (principal and interest) on the loan for the construction of the facility, and to reflect the Council's desire that savings realized from forgiveness of the debt be used in furtherance of KHAKO's mission.

Your Committee voted 5-0 to recommend adoption of the revised proposed resolution, incorporating your Committee's revisions and nonsubstantive revisions. Committee Chair Crivello, Vice-Chair Baisa, and members Carroll, Couch, and Guzman voted "aye." Committee members Hokama and Victorino were excused.

Your Committee is in receipt of a further revised proposed resolution, entitled "AUTHORIZING FORGIVENESS OF KA HALE A KE OLA HOMELESS RESOURCE CENTERS, INC.'S OUTSTANDING DEBT RELATED TO THE CONSTRUCTION OF THE HALE MAKANA O'WAIALE AFFORDABLE HOUSING RENTAL PROJECT," approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Housing, Human Services, and Transportation Committee RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING FORGIVENESS OF KA HALE A KE OLA HOMELESS RESOURCE CENTERS, INC.'S OUTSTANDING DEBT RELATED TO THE CONSTRUCTION OF THE HALE MAKANA O'WAIALE AFFORDABLE HOUSING RENTAL PROJECT," be ADOPTED.

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



STACY CRIVELLO, Chair

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Resolution

No. _____

AUTHORIZING FORGIVENESS OF KA HALE A KE OLA
HOMELESS RESOURCE CENTERS, INC.'S OUTSTANDING DEBT
RELATED TO THE CONSTRUCTION OF THE HALE MAKANA O'WAIALE
AFFORDABLE HOUSING RENTAL PROJECT

WHEREAS, Ka Hale A Ke Ola Homeless Resource Centers, Inc. ("KHAKO") is the operating general partner of Hale Makana O'Waiale, a Hawaii limited partnership organized for the purpose of providing affordable rentals; and

WHEREAS, Hale Makana O'Waiale received \$4,255,000 from the County of Maui ("County") as a loan for the construction of the Hale Makana O'Waiale Affordable Housing Rental Project at 195 Waimaluhia Lane, Wailuku, Maui, Hawaii ("facility"); and

WHEREAS, KHAKO has submitted a proposed repayment plan for the outstanding debt related to the construction of the facility; and

WHEREAS, the April 28, 2015, proposal containing the terms of repayment, as an offer of settlement, is attached hereto and made a part hereof as Exhibit "1"—specifically, paragraphs numbered 1 through 4; and

WHEREAS, prior to receipt of the proposed repayment plan from KHAKO, the County received payments totaling \$1,472,530 on the loan, \$200,000 of which was applied toward principal; and

WHEREAS, the County deposited the \$25,000 payment that accompanied the proposed repayment plan on or about May 1, 2015; and

WHEREAS, despite the proposal to repay the remaining principal loan balance through quarterly payments of \$25,000 each, with interest only on the loan to be forgiven, the Council believes it to be in the best interest of the County to forgive the entire outstanding debt, consisting of both principal and interest, related to the construction of the facility; and

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WHEREAS, it is the Council's desire that savings realized from forgiveness of the outstanding debt be used in furtherance of KHAKE's mission; and

WHEREAS, having reviewed the facts and circumstances regarding this offer of settlement, the Council wishes to authorize settlement; now, therefore,

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

1. That it hereby authorizes forgiveness of Ka Hale A Ke Ola Homeless Resource Centers, Inc.'s outstanding debt related to the construction of the Hale Makana O'Waiale Affordable Housing Rental Project;
2. That it hereby authorizes the Mayor to enter into a settlement agreement on behalf of the County to forgive the outstanding debt related to the construction of the Hale Makana O'Waiale Affordable Housing Rental Project; and
3. That certified copies of this resolution be transmitted to the Mayor; the Director of Finance; the Director of Housing and Human Concerns; the Budget Director; the Corporation Counsel; and Ka Hale A Ke Ola Homeless Resource Centers, Inc.

APPROVED AS TO FORM AND LEGALITY



JEFFREY T. UEOKA
Deputy Corporation Counsel
Department of the Corporation Counsel
County of Maui

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Ka Hale A Ke Ola Homeless Resource Centers, Inc.
 670 Waiiale Road, Wailuku, HI 96791
 (808) 242-7600 | www.khako.org

RECEIVED

Erin Fleming
 Chief Executive Officer

April 28, 2015

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JoAnn T. Rldao
 Director of Housing and Human Concerns
 County of Maui
 2200 Main Street, Suite 546
 Wailuku, HI 96793

DHHC-DIRECTOR'S OFFICE
 COUNTY OF MAUI

Dear Ms. Rldao:

Ka Hale A Ke Ola Homeless Resource Centers is eager to move forward on our initial loan repayment proposal. Based on conversations with the Maui County Council, Department of Finance, Department of Corporation Counsel, and Department of Housing and Human Concerns, we are prepared to accept the following repayment terms:

1. Forgiveness of all past due interest on loan.
2. Outstanding principal of \$4,055,000 shall cease accruing interest.
3. Quarterly loan payments of \$25,000 for five years commencing June 1, 2015.
4. Payment schedule and HMOW operations to be reviewed every five years to determine if quarterly payments can be adjusted upwards.

Enclosed please find our first quarterly payment of \$25,000. Please also note that we are currently in the process of negotiating Sun America Housing Fund's exit from the partnership. I've also enclosed a draft copy of the redemption agreement for your assurances. I anticipate finalizing the agreement by June 1, 2015; however, the agreement will be effective as of January 1, 2015.

We look forward to working in partnership with the County of Maui in our joint mission to provide affordable housing to those in need. I'm available to answer any questions or concerns at 808-446-8133.

Very truly yours,

Erin L. Lowenthal
 Chief Executive Officer

Enclosures