AFFORDABLE HOUSING COMMITTEE

Council of the County of Maui

MINUTES

December 18, 2019

Council Chamber, 8th Floor

CONVENE: **1:37 p.m.**

PRESENT: VOTING MEMBERS:
Councilmember, Tasha Kama Chair
Councilmember, Michael J. Molina Vice-Chair (in at 1:38 p.m.)
Councilmember Riki Hokama
Councilmember Alice L. Lee (out at 2:54 p.m.)
Councilmember Keani N.W. Rawlins-Fernandez
Councilmember Shane M. Sinenci
Councilmember Yuki Lei K. Sugimura

NON-VOTING MEMBERS:
Councilmember Tamara Paltin (out at 3:45 p.m.)

STAFF: Alison Stewart, Legislative Analyst
Ana Lillis, Legislative Analyst
Stacey Vinoray, Committee Secretary

Don Atay, Executive Assistant to Councilmember Shane M. Sinenci

ADMIN.: Mimi DesJardins, Deputy Corporation Counsel, Department of the Corporation Counsel
Linda R. Munsell, Deputy Director, Department of Housing and Human Concerns
Clyde "Buddy" Almeida, Housing Administrator, Department of Housing and Human Concerns

OTHERS: Tom Croly
Jason Economou, Government Affairs Director, REALTORS® Association of Maui
Kehau Filimoea`tu
(8) additional attendees

PRESS: *Akaku: Maui Community Television, Inc.*

CHAIR KAMA: . . .*(gavel)*. . . The meeting of the Affordable Housing Committee will now come to order. Today is December 18, 2019, and it is now 1:37 p.m. Please silence all your noise-making devices while you're in the Chambers. Aloha, good afternoon. My name is Tasha Kama, and I'm the Chair of the Affordable Housing Committee. I'd like to introduce our Members who are with us today. Vice-Chair Mike Molina is not with us, but he will be here right after he gets out of his dental appointment. So, I'd like to say aloha and thank you for joining us to our Member from Hana, Mr. Shane Sinenci. Aloha.

COUNCILMEMBER SINENCI: Aloha auinala, Chair.

CHAIR KAMA: Aloha auinala. Also, our Councilmember from Wailuku. Aloha.

COUNCILMEMBER LEE: Aloha to you. Thank you.

CHAIR KAMA: What, no new greetings? What you did at PSLU this morning?

COUNCILMEMBER PALTIN: She did good morning.

CHAIR KAMA: Oh, okay. Thank you. Aloha from our Molokai Member, Ms. Rawlins-Fernandez. Aloha.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha auinala, Chair.

CHAIR KAMA: Aloha auinala. Also, our Member from Lanai. Aloha, Mr. Hokama.

COUNCILMEMBER HOKAMA: . . .(*inaudible*). . .

CHAIR KAMA: Oh, now let's greet Mr. Mike Molina, our Vice-Chair.

VICE-CHAIR MOLINA: Aloha auinala, Madam Chair.

CHAIR KAMA: Oh, he must've had good dentist 'cause you're speaking straight.

VICE-CHAIR MOLINA: Oh, I tell you. Not too bad.

CHAIR KAMA: Also, our Member from Upcountry, Maui, Yuki Lei Sugimura, aloha.

COUNCILMEMBER SUGIMURA: Good morning...oh, good afternoon. Sorry.

CHAIR KAMA: See what happens. Okay, and also, our non-voting Member, Ms. Tamara Paltin. Aloha.

COUNCILMEMBER PALTIN: Aloha auinala, Chair.

CHAIR KAMA: Also, we have Council Chair King who is not a Member of the Committee, but who is always welcome to come and attend and participate with us this afternoon. Also, we have with us from the Administration from the Department of Housing and Human Concerns, Ms. Linda Munsell, the Deputy Director. Aloha.

MS. MUNSELL: Aloha, Chair.

CHAIR KAMA: We have with us also, Mr. Buddy Almeida, from the Housing Division. Aloha.

MR. ALMEIDA: Good afternoon, Chair.

CHAIR KAMA: Also, we have with us from the Department of Planning, Ms. Michelle. Aloha.

MS. MCLEAN: Aloha, Chair.

CHAIR KAMA: And we have with us from Corp. Counsel, Mimi DesJardins. Aloha, Mimi.

MS. DESJARDINS: Aloha, Chair.

CHAIR KAMA: And also, we have our Committee Staff with us this afternoon, Ms. Alison Stewart, our Legislative Analyst. Aloha.

MS. STEWART: . . .*(inaudible)*. . .

CHAIR KAMA: And we have with us the other Legislative Analyst, Ms. Ana Lillis. Welcome.

MS. LILLIS: . . .*(inaudible)*. . .

CHAIR KAMA: Thank you. And our Committee Secretary Stacey Vinoray. Aloha, Stacey.

MS. VINORAY: . . .*(inaudible)*

CHAIR KAMA: So, welcome to today's meeting of the Affordable Housing Committee. And we only have one item on our agenda today. It's the Biennial Review of Residential Workforce Housing Policy, Chapter 2.96 of the Maui County Code, or AH-10. The intent of the Residential Workforce Housing Policy is to encourage the provision and maintenance of residential workforce housing units, for both purchase and rental, to meet the needs of income-qualified households for the workforce, students, and special housing target groups. Chapter 2.96, Maui County Code, directs the Council to review the policy every two years. It is my intent that we discuss as a Committee what we would like to include in the scope of a review of the Residential Workforce Housing Policy of the Maui County Code Chapter 2.96. This review is required by the Maui County Code 2.96.110(A) which states, the Council shall review this chapter every two years. To my knowledge, this section of the Code which was originally adopted in 2006 has not been reviewed in accordance with the Code, and prior Councils have performed regular amendments in 2007, 2008, 2010, 2014, 2015, 2016, twice in 2017, and the last was in 2018 in December. My hope is that we can compile a list of issues or concerns that can be researched by Staff resulting in Code amendments that will be considered in future Committee meetings for legislative action because no legislative action will be taken today. So, at this time I would like to open up for public testimony on this agenda item. And if you'd like to testify, make sure you sign up with our Staff. Testimony is limited to three minutes. The yellow light will come on when you have reached two-and-a-half minutes. And when you have run out of time, the light will buzz red. So, when testifying, please state your name for the record, identify if you're testifying for a group, business, or organization, and please state if you're a paid lobbyist.

. . .*BEGIN PUBLIC TESTIMONY*. . .

CHAIR KAMA: So, Alison, could you please call our first testifier?

MS. STEWART: The first testifier signed up in the Chambers is Tom Croly, testifying on behalf of himself, to be followed by Jason Economou.

MR. CROLY: Aloha, Chair.

CHAIR KAMA: Aloha.

MR. CROLY: Aloha, Committee. I'm Tom Croly. I want to wish everyone a Happy Holiday Season. I always like when I come to the Chambers and things are decked out for the holidays. It always looks so nice. I sent in some testimony, and I hope that you've had the opportunity to review it because I don't have the time to read it in three minutes. But in a nutshell, I took a look at one of the projects that fell under 2.96, and it was the Kamalani project in Kihei. And I've watched that project go up, and I've been very pleased to see the progress they've made. And I'm pleased to see that all those units have been sold. But using the real property tax records, I saw some things that raised some concerns to me. And I hope that you'll look into this. One is that I would've expected all of these 170 units to be homeowner units. But I didn't find that. I found that 81 of them were homeowner units, and 89 of them did not have a homeowner exemption. Now, that may be because some of these folks didn't know they have to go file for that. So, as a public service, I'm here to tell anyone who owns a home in Maui County that they live in, that they should file for their homeowner exemption before the end of this year, or you won't get it for next year. So, I did find that 109 of the units in that complex had addresses consistent with the unit that was in question. So, that left, whatever, 60...71...or 61 units that were owned by people who don't live in them. And some of them, and this was the real cause of my concern, some of them are owned by off-island owners, 24. And some of them were owned by people who owned other homes in Maui County that they claim a homeowner exemption on. And that didn't seem consistent with what these were supposed to be. Now, I don't want you to misinterpret my concern about this to say that in any way, shape, or form, I'm not in support of this project. I'm 100 percent in support of this project. I'm in support of the rest of the units that they're going to build over there in Kamalani. But with respect to how well it has complied with Chapter 2.96, I'm not sure that the chapter maybe has done the job that it was intended to do in this case. And I hope that you'll have some questions and get some answers about them. I made a suggestion here, maybe a strong one, that the Auditor take a closer look at what's happened with these homes in this, only because this was one of the first ones that's gone through. And you don't want to set a precedent here for others that go through that maybe don't meet what you're wanting to do. Now, I do want to preface everything with, the real property tax records may not have been updated. They may not have been correct. So, some of what I base my data on may not be 100 percent true. So, look into those things. But again, I appreciate you looking at this item. And I hope that you find the research that I did helpful.

CHAIR KAMA: Thank you. Members, anyone has any questions for Mr. Croly? Yes, miss...okay, Ms. Paltin? Yes?

COUNCILMEMBER PALTIN: Thank you, Chair. Thank you, Mr. Croly, for your diligence and your hard work on this. I just was wondering, are you suggesting that the affordable, or workforce homes have a deed restriction that they be owner-occupied for the affordability time limit?

MR. CROLY: Well, this particular project has a workforce agreement, and I reviewed that agreement. And some of them have an eight-year restriction, some of them have a five-year restriction. There was a range of restrictions that were on there. That's one of the parts of 2.96. I am a little concerned that I saw two of the units have resold since, okay. And they resold for considerably more, $155,000 more than what it was purchased for new. And the other one, $65,000 more than it was purchased for new. And one of those two sold to someone in Pennsylvania. So again, yes, to some extent I'm concerned that someone got an affordable home, and then resold it to someone in Pennsylvania for a higher price. Did that meet what the purpose of, you know, that affordable was? Now again, having said that, I'm thrilled to have a whole bunch of homes that they sold from $300,000 to $500,000, that we need homes in that price range, and it was great that those were made and sold.

COUNCILMEMBER PALTIN: Do you know if those two that were resold met their criteria for the affordability time period? Did they meet their five and eight years, and then they got sold to the Pennsylvania...

MR. CROLY: No, I don't believe that they could have because they only started selling these unit two years ago.

COUNCILMEMBER PALTIN: Oh.

MR. CROLY: And the last of them was sold about six months ago. I don't remember exactly but I think one, they owned it for about a year. And the other one I think they only owned it for a couple of months.

COUNCILMEMBER PALTIN: Thank you.

CHAIR KAMA: Thank you, Mr. Croly. Alison?

MS. STEWART: The next testifier is Jason Economou, testifying in behalf of the REALTORS® Association of Maui, to be followed by Kehau Filimoea`tu.

MR. ECONOMOU: Good afternoon. My name is Jason Economou, and I'm testifying on behalf of the REALTORS® Association of Maui. I am a registered lobbyist, but I'm also their Government Affairs Director, so I'm an employee. My...first off, Mr. Croly's testimony was really compelling. If you've not read it yet, you really should. And that goes to the larger point of compliance. It's not necessarily that the legislation is particularly flawed. It's that we don't have people complying with the legislation. So, I would urge you to work towards that. If you were going to examine any potential changes to 2.96, what I would suggest is maybe lowering the threshold to get access to fast-track permitting. One of the big issues that developers often complain about is the time that it takes to get permits for housing. If we lower it from 100 percent to 75 percent workforce housing, that might have a significant impact. Fifty percent might be better. I know that the idea of this is to get affordable housing, so lowering it completely to an absurdly low level is not ideal. But what you need to consider is that if you lower the threshold, even the market-rate homes, the increased number of market-rate homes that come on the market, will bring a level of equilibrium to the housing market. Right now, there are a lot of homes that are being priced very high, and they're selling at 97 percent of what the asking price is. And they really would not be of that value if there was more inventory of newer homes. So, my one suggestion for now, since you're not taking any legislative action, is to reexamine that threshold for fast-track permitting. Thanks.

CHAIR KAMA: Members, questions for Mr. Economou? Yes, Ms. Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. If it was lowered to 50 percent, wouldn't then they be able to utilize the 201H fast-track permitting process?

MR. ECONOMOU: Yeah, so 50 percent might not be ideal. And, you know, there are, there's applications for both 2.96 and 201H. I don't have an ideal number as far as what percentage of workforce housing in order to get access to the fast-track permitting. But that should be examined. That's my recommendation. So, sorry I don't have more information for you. But I'm more reactive when it comes to legislation.

COUNCILMEMBER PALTIN: So, then the other thing I wanted to clarify, when you said that compliance is an issue, can you be more specific?

MR. ECONOMOU: Really just echoing what Mr. Croly was saying. That people seem to be getting around some of the deed restrictions or selling prior to when they should be selling. I'm not really certain as to who's benefitting from when a property isn't able to sell within the 90-day period when it moves up in the ladder as far as the potential buyers that you can sell it to. There are all sorts of issues as far as if people are holding up to their end of the bargain when they are going through this 2.96 process. So, it's a matter of the developers being held accountable.

COUNCILMEMBER PALTIN: So, by compliance you're just echoing what Mr. Croly had said.

MR. ECONOMOU: Yes.

COUNCILMEMBER PALTIN: Okay, thank you.

MR. ECONOMOU: Yes. All right.

CHAIR KAMA: Thank you.

MR. ECONOMOU: Thank you very much.

CHAIR KAMA: Ms. Stewart?

MS. STEWART: Final testifier signed up in the Chambers is Kehau Filimoea`tu, testifying on behalf of herself.

MS. FILIMOEA`TU: Aloha --

CHAIR KAMA: Aloha.

MS. FILIMOEA`TU: --AH Committee. My name is Kehau Filimoea`tu. I'm here on behalf of myself. I wish I was a paid, what, lobbyist? No, I do this for free. Anyway, I'm here today just to share with you about an event yesterday that I was very humbled and honored to be part of. And just to go back to what he was talking about, yeah, it's about compliant, about people promising you what they going do, and they do it. But then again it becomes an enforcement issue, yeah. So, what you pass can be perfect. But who's your policeman to make sure it's perfect. And then we have to look at other ways to do that. But yesterday I attended on Oahu a gathering of people, agencies, services at a Hawaii Housing Affordable Assembly. That was all of the housing advocates that were part of the HACBED or the Hawaii Housing Affordability Coalition that had landed on Maui I know in January. And it came together, brought together, a Statewide assembly of affordable housing advocates. We had developers, we had a lot of nonprofits, we had...one of the sponsors was Kaiser Permanente as well as HMSA. We had ACLU there. We had FACE of Maui, or Stand Up Maui, as well as FACE of Hawaii Nei. And what we did was we put all of us together, coming together, to talk about Hawaii affordable housing. I was embarrassed. There was nobody representing Maui. There were three of us, so we named each other Maui, Lanai, and Molokai. And although we live here, we come here, it was just a reiteration of what we had to tell the people there that we needed help. Number one, we all need help for affordable housing. Number two, we have been told that again and again from your funding sources, your building sources, and everybody else that Maui County is in the worse equity of housing in the entire State. We are like at zero. And I'm saying that I know we have housing that exists, or that is being done here. But it's from your nonprofits, your outside people that come in and help us. You gotta take away three 'cause I was talking about 2.96, you know. And all of these other things. So, what are we doing? We don't even have a plan. What happened to the SMS reviews that came back and told us what we had to do? Where is that? We couldn't take anything from Maui that said, no worry, we doing this. 'Cause a nonprofit would come up, and you know, Ikaika Ohana says, oh, don't worry, we get 200 units here. It's in your Maui County, but it's not funded by Maui County, and that was the part 'cause we were looking at funding sources. And I know you don't have that much money, but you have a Affordable Housing Revolving Fund. You have a State fund, and that's what it is when you get on the State level. You all come together. We're not there. We're not at the State. The only county wasn't represented was Maui County. For us, it was embarrassing. I'm pleading with this Committee to do something. It's embarrassing. Every single county had somebody there. Maui had just us three who said we're Lanai, Molokai, and Maui. So, that is what we are going to be on the State level trying to help us out 'cause that's what we asked for. Thank you.

COUNCILMEMBER SUGIMURA: Kehau?

CHAIR KAMA: Yes, Ms. Sugiyama?

COUNCILMEMBER SUGIMURA: Thank you.

CHAIR KAMA: Sugimura.

COUNCILMEMBER SUGIMURA: Kehau, thank you very much for being here. So, who put on this workshop or conference yesterday?

MS. FILIMOEA'TU: It was part...well, you had Kresge, Appleseed, Kaiser, HMSA, as well as HACBED. HCA was part of it as well. But those are all your number one funding sources. And, you know, the thing about Kaiser and HMSA, H stands for hale, housing, house, home, but it also stands for health. And health is either physical, medical, or mental. And when you look at a house, or a family that doesn't have a house, what is at the core of it? This depression? It's sometimes rejection. You have the kane that no can provide for, or the parent that has a single child, and cannot provide a safe roof over their head. And that's what they were all looking at, setting aside, you know, the CEO here, the, you know, FEO there, and whoever you were. We were trying to figure out how can we pick everybody up. And that's why when you look at the inventory of what Maui has, it's zero, coming from Maui County.

COUNCILMEMBER SUGIMURA: So, those were the funders but who was the coordinator? Is it Hawaii Housing Authority or...

MS. FILIMOEA'TU: It was...no, it was HACBED, HCA, of which I am part of, Appleseed.

COUNCILMEMBER SUGIMURA: Okay.

MS. FILIMOEA'TU: Yeah, Kresge too. All of those came together along with RCAC, ACLU, and rural list of what we...a lot of those people they bring in are connected to all those outgoing ways, yeah, to bring in the funding there. Otherwise, just for the local folk, would be difficult.

COUNCILMEMBER SUGIMURA: And were we invited, the County of Maui? They said they invited County of Maui, nobody showed up?

MS. FILIMOEA`TU: It went out. You should've gotten it. I don't know. Maybe you guys...I went subscribe to this.

COUNCILMEMBER SUGIMURA: Oh, you subscribe to it. Okay, thank you.

MS. FILIMOEA`TU: 'Cause there's a, what you call that, that comes out every month, too. I had it right here.

COUNCILMEMBER SUGIMURA: Newsletter.

MS. FILIMOEA`TU: Yeah, yeah, right, the newsletter. Yeah, Hawaii Housing Affordable Coalition newsletter.

COUNCILMEMBER SUGIMURA: Okay, thank you.

MS. FILIMOEA`TU: And I know everybody else got it that I know of on Maui 'cause some people that were wanting to go. We were lucky to go because we had some scholarships to help the outside people to get there. So, there were two of us that got funded by Kaiser from Maui. There was one from Molokai, and two from Kauai, two from Big Island. And some of 'em had their own nonprofits, like ACLU brought people over, yeah. And then RCAC did that too.

COUNCILMEMBER SUGIMURA: Thank you.

MS. FILIMOEA`TU: Okay.

CHAIR KAMA: Yes, Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I was just curious. Aloha, Ms. Filimoea`tu. Mahalo for your testimony. And I'm sorry, I was unaware of this conference that happened. I was just curious if our Chair knew about the conference.

CHAIR KAMA: I don't remember getting anything.

MS. FILIMOEA`TU: You gotta have known that. I'm so sorry. Somebody must've unsubscribed the meeting...that housing what-you-call-it 'cause it's the Hawaii Housing Affordable Coalition, yeah. It was...they stopped here first, Tasha, if you don't remember, in January.

CHAIR KAMA: Yeah, I remember.

MS. FILIMOEA`TU: It was Breck...Breck...yeah, Breck.

CHAIR KAMA: It was Brett. Yeah.

MS. FILIMOEA`TU: Brent Kakesako, James Koshima [*sic*]. We had Lahela here who had wanted to start. They were going to go to each county, yeah, to make sure you...each county was involved. So, it wasn't just Honolulu-centric, yeah, or Molokai-centric, stuff like that. So, that's why the embarrassment for me was this is the end of the year and Maui is not here.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo. Mahalo, Chair.

CHAIR KAMA: Thank you. Yes, Ms. Tamara Paltin?

COUNCILMEMBER PALTIN: Thank you, Chair. Can you work with the Chair to get us back on the subscribe list?

MS. FILIMOEA`TU: The Chair should be able to do that.

COUNCILMEMBER PALTIN: Oh.

MS. FILIMOEA`TU: 'Cause I'm telling you, you've gotta have hit unsubscribe to not be on this thread. And it went out greater to all housing advocates again this last time. So, but if...but like I said, if you unsubscribe, you don't want this anymore, and you got it once, maybe that may be it.

COUNCILMEMBER PALTIN: Okay, thank you.

MS. FILIMOEA`TU: I would try to check with your housing...you never get nothing, Linda? Okay. 'Cause I went to them. I said you guys when let us know, or what? They said it went a broad blast. And then I had other people from other areas of Maui see that.

CHAIR KAMA: Thank you. So, Ms. Stewart, do we have any other testifiers signed up?

MS. STEWART: There are no other testifiers signed up in the Chambers.

CHAIR KAMA: Can we check with the neighbor islands to see if we have any testifiers?

MS. STEWART: No, there are no testifiers signed up in the District Offices.

CHAIR KAMA: Thank you. So, are there anyone else...is there anyone else in the Chamber that would like to testify? Seeing none, so, Members, without further objections, I'd like to be able to close public testimony.

COUNCILMEMBERS: No objections.

CHAIR KAMA: Thank you.

. . .END OF PUBLIC TESTIMONY. . .

AH-10: BIENNIAL REVIEW OF RESIDENTIAL WORKFORCE HOUSING POLICY (CHAPTER 2.96, MAUI COUNTY CODE) (CC 17-290. CC 19-12)

CHAIR KAMA: So, Deputy Director Munsell, can you please provide the Committee on an overview of the Maui County Code 2.96, please? The purpose of the Code and what the --

MS. MUNSELL: Thank you, Chair.

CHAIR KAMA: --Administration has on those matters.

. . .BEGIN PRESENTATION. . .

MS. MUNSELL: Thank you, Chair. My name is Linda Munsell. I'm the Deputy Director for the Department of Housing and Human Concerns. I actually appreciate Ms. Kehau's comments. I did not receive that. It might have gotten into a...I don't know if it's in a spam folder or what, but I'll check into that. I'm disappointed that we weren't there, too. So, thank you for mentioning it. So, today what we want to do is just talk about 2.96, talk about what our experience has been. I know that you don't intend to initiate legislative action at this hearing. But just to try and give you a feel for where we are, especially in light of some of the testimony that we got. Just want to go through this. As the Chair mentioned, the intent of Maui County Code 2.96 is to ensure that the housing needs of the County are addressed, and to encourage the provision and maintenance of residential workforce housing units for both purchase and rental. The Code was initially enacted in December of 2006. It had a 50 percent affordability requirement. There was one Residential Workforce Housing Agreement signed under that initial 50 percent requirement, and it resulted in three workforce housing units total. The Code was amended in December of 2014. It was a 25 percent affordability requirement at that point. We have since signed 20 Residential Workforce Housing Agreements. There are about 1,409 units which are either complete, under construction, or pending. And I've got some more data about that, those units a little bit later. So, 20 agreements, 1,400 units possible. So, I'm not going to...I'm just going to touch the highlights 'cause I think you probably are familiar with this. There are certain triggers associated with the Code. It's usually ten or more something happens which says that you have to comply with 2.96. We've applied 2.96 to housing projects, and typically those are projects who are trying to build on property that already have their entitlements. So, they're consistent with the community plan, they're properly zoned, things like that. Two-point-nine-six also applies to commercial subdivisions and industrial parks, and to hotels and timeshares. So, you will see Workforce Housing Agreements with all of these entities. So, a Workforce Housing Agreement, once we've identified the fact that you will have to comply with 2.96, you will have to enter a Workforce Housing Agreement with us prior to a final subdivision approval, or prior to the issuance of building permits. And it requires that 25 percent of the total market-rate lots or units are set aside...have to be created for workforce housing units. And the developer may receive credits if they decide to create more than the 25 percent requirement. So, the workforce housing requirements, they can be satisfied in a number of ways. They can be satisfied by actually building the 25 percent units that you're required to provide under the Code. You could pay an in lieu fee, and I've done the calculation for you. Currently, it's in the Code. Right now, it's $245,000 per workforce housing unit. You could also obtain credits from somebody who provided more units than they were required to provide. And you...the other option is that you could provide unimproved or improved land to the County which we could then use to build units. So, the Workforce Housing Agreement, there are certain deed restrictions, and there are certain AMI levels that you're required to comply with. For ownership units, it's...we start at 80 percent AMI, and it goes up to 140 percent AMI. And the deed restriction is between ten and five years depending on the level...the AMI level at which you purchase. The rental units, their distribution is slightly different. It does drop below 80 percent AMI for the rental units, and the deed restriction on these properties is 30 years. So, eligibility requirements again, it's part of the Code. You can take a look at it there. But you have to be a resident of the U.S. You have to have a certain AMI income level. Assets are limited. You can't own $1 million and get a workforce housing property. And then it also requires that for three years prior that you cannot have had 50 percent or more interest in real estate property in the U.S. unless you're selling an affordable unit and purchasing a different affordable unit that's more appropriate to the family size. So, there is an opportunity if it's during its current deed restriction to move up into a larger unit. So, just to show you...this is...we're only looking at things that happened after the amendment in 2014. So, I mentioned that we had 20 Workforce Housing Agreements. Seventeen of those agreements are with...on projects where they're actually going to produce housing, and three of them are on non-housing projects. The housing units actually would provide 1,409 units total. And of those, per our Workforce Housing Agreements, 718 should be workforce units. For the non-housing projects, the three of those units that should provide 18 workforce housing units, all of those were met with credits. So, we've had nine projects actually...2.96 projects actually complete construction. And so, what I'm showing you here is kind of a feel for what those projects look like. We had five single-family home projects that were completed, 139 units in those projects. Of the 139, 44 were market units and 95 were supposed to be workforce housing units. Of those single-family homes, 87 of them are deed-restricted, and 8 were resolved with credits. For sale multi-family projects, this is like the Kamalani project that was testified about previously, there were three of those for sale, a total of 280 units in those projects. Fifty-two of those units were supposed to be market, and 228 were supposed to be workforce housing units per their agreement. As it turned out, 63 of those multi-family units are actually deed-restricted. Eighteen units were paid with credits, and 147 were actually sold with no restrictions. They were sold on the market. For the rental project, this is cheating because this is ours. This is the Kamalani project. It's 56 total units, one of them is the market unit, and 55 are workforce housing. And they're all, of course, deed-restricted. So, one of the things...I mean when we saw all of the units at Kamalani go to market, essentially were sold without deed restrictions, one of the things that we do when we are looking at a project is we do get their marketing requirements. We do get their advertisements. We do review to make sure that they're complying with their Workforce Housing Agreement. And they're required to actually market the units for a certain period of time to the AMI levels. And after a certain period of time, they are allowed to go to market. You can't actually start construction, I'm not an expert on construction or construction loans, but I understand you have to actually close a certain number of those, or at least have them...buyers identified for I think it's 50 percent of them, or some percentage--we've got developers here who might be able to help us--before they can actually start construction. So, it's not like we can keep units on the market forever or ask a developer to keep a unit on the market forever. Kamalani actually tried really hard to market these units and to get them deed-restricted. They wanted the credits that would resolve...end up...from the end of that. And they were not successful. So, that's just a little bit. And all of these projects have to go through this marketing process. So, just to look, the sales, the actual sales distribution so that we can look at this, for the for-sale units the Residential Workforce Housing Agreements required 44 of those units to be market units, 16 should be sold between 121 and 140, 47 between 101 and 120, 80 to...32 between 80 and 100 percent. And then the total deed-restricted, as I mentioned before, was supposed to be 95. The actual sales, as you can see from the chart, the 52 is a result of the credits that were applied to these projects. And then the sales distribution was pretty much in line with the AMIs that were outlined in the ordinance. For the multi-family projects, this is the different story, again you can see the numbers here. We were supposed to have 52 that were market units, and we ended up with 217, 18 of those are the...are credit units. And you'll also see the income distribution for the units that were sold. More of the units were sold on the lower AMI levels. And, you know, we're not...we don't have enough experience yet to know exactly why it happened in this way. But the initial perception at least is that the difference between the sales price and the market price was not significant enough for these to be attractive to homebuyers. If they could go across the street and buy a unit for almost the same price without a deed restriction, that's what they were going to do. And we were concerned when we first saw this. Is this what we're also going to see in our multi...in our single-family homes as well? And that didn't turn out to be the case. Now, these units...the units...the single-family units that were sold, I think both of those projects...no, not all of them, are...it will depend on where they're located in the market rates. So, if those were all on the west side, the difference between the workforce housing sales price and the market price is pretty significant. So, these homes were very attractive. And again, there's not a lot of data. We haven't had a lot of projects be completed and be sold under this model, so we don't know if this pattern is going to continue or not. But we thought it was really interesting to take a look at this information. For the multi-family rental project again, you know, that's cheating. This is ours, so never mind. We will be interested as more projects come up to see whether in a rental project, we're going to have some challenges with renting the upper AMIs. This is the Kamalani project, and I am going to say just one thing. We started actually trying to lease this project up in September. And the lower AMIs were very simple, very easy, very quickly leased up. But it took us until March to fill up the upper income units. And, of course, we're the County, right. I mean there's some, you know, at some point we need to get those units filled so that we can start paying our own...our bills, right. So, it took us a very long time to actually fill those upper units with people because again the rent in those units was much closer to the market rent that they could get on the outside. In order to get one of these units, you actually had to show your income, and not everybody is willing to do that. I mentioned that there are credits that you can apply to workforce housing units. There are actually two types. There's County-issued credits. And those are issued to developers for creating more workforce housing units than are required by law. And then there's Act 141 credits which are essentially State credits for DHHL projects. For our projects we issue a credit for any workforce housing unit over the 25 percent requirement. So, if you've got a 100 percent workforce housing project, you would be eligible for 75 percent credits. If you are a 100 percent workforce housing project and you are selling or renting at less than 61 percent AMI, you're eligible for 100 percent credits. This is outlined in our Code. For 201H projects, 201H automatically requires that 51 percent of the units be workforce housing units so only...and only 100 percent, again in our Code, only 100 percent workforce housing projects are eligible to earn credits, and they receive credits for anything that's over the 50 percent. So, Act 141, this is State law. Counties are directed to issue credits on a one-to-one basis to DHHL for their projects. We've had 372 credits issued for Waiehu Kou and the Villages of Leiali`i. We have more pending. There's a new project out here in Waikapu that will be coming online. And there'll be more credits for that. These credits can be used anywhere in the County in which they're earned. So, they earn 'em in Maui County, they can use 'em anywhere in Maui County. They can apply...be applied towards our affordable housing or residential workforce housing requirements for any development. And there's very few limits actually set on these credits. When the County created our own credits, we wanted to make them something, you know, at least slightly attractive. And so, we mirrored some of the items for the State credits. Our credits can be used in any community plan area. They can be used to satisfy the requirement for any type of unit that's constructed, and for any income group. And they must be applied to future developments, not existing ones. The number of credits that are earned or issued must be set forth in the Residential Workforce Housing Agreement with the developer. So, lots of questions about whether 2.96 works. And somebody actually said, are they incentivized by this? Actually 2.96 isn't an incentive. It is...well, an extraction, or a tax, or however you want to call it. We're actually requiring them to provide 25 percent of a project as workforce units. Rather than incentivizing them, we're requiring that. And again, the...or the Code has created potentially 1,400 units, 718 of them could be workforce housing units. Incentives do exist for 2.96 projects. One hundred percent affordable projects, 2.96 or otherwise, is eligible for fee waivers and incentives through the Code. The Mayor has also issued a directive that any workforce housing project providing two-thirds of their units as workforce units would also be eligible for fast tracking. So, fast tracking is at 100 percent. The Mayor has lowered that barrier to two-thirds, if that makes sense. So, there's a question about whether 2.96 would produce more units with incentives. And there's also been questions about whether we should change the AMI distribution. I think, you know, with only nine projects actually complete, I think it's a little bit early to tell. But certainly, we're open to discussion and looking at more data as it comes through. One of questions that I had was, okay, so 2.96, what if we did change the requirements? What would that...what might that look like? And would that perhaps create more units? And so, I tried to compare it to 201H. So, 201H has a 50 percent requirement and you get...you're able to ask for certain exemptions, right. So, there's some incentives for providing more units. So, I wanted to take a look at that and see if there was something that we could learn from that comparison. So, as

I said, 1,400 units are either complete, under construction, or pending in our assessment within the next five years. For 201H, it's kind of a similar number. There's about almost 1,400 units. So, more than 14 in 2.96 and slightly under 1,400 for 201H. For 2.96, if they followed the workforce housing requirements in the ordinance, there would be 668 units that would be market. And then you can see the other distribution in the other AMIs for a total of 1,409. For 201H, it's like I said, a 50 percent requirement plus it has some incentives. The number of market units falls to 338, and then you've got a distribution that goes down. A lot of these that you're looking at here, we have workforce housing agreements with. And so, when you're seeing almost 400 units at less than 80 percent AMI, these are folks that are doing the LIHTC projects, and they are targeting the 60 percent AMI. So, that's a lot of these projects in the 201H area. So, that is...finishes my presentation. I know that you're going to have some questions. I know that some we'll be able to answer, and some we'll take back to respond to later. But I really appreciate the opportunity to open this discussion and hear from all of you, and then look at ways that you think that the ordinance might be looked at, or what kind of data you need, what kind of changes you would recommend. So, thank you.

. . .END PRESENTATION. . .

CHAIR KAMA: Questions, Members? Yes, Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR KAMA: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: I guess I would like to first address the big questions that our testifier asked us. So, Mr. Croly talked about the Kamalani resale units, two units being sold at a higher cost than they were purchased. Were those two houses deed-restricted?

MR. ALMEIDA: Thank you, Chair. Thank you for that question. Buddy Almeida, Housing Administrator. The two units that were sold were not deed-restricted. They...basically A&B went through their marketing plan. They actually marketed it for twice as long as was necessary, but as Ms. Munsell mentioned, based on the type of unit, the area that the project was located, A&B had a very hard time in selling these multi-family units so they eventually went to market. Now, when the project goes to market, it's sold without deed restrictions. However, the developer does not get off. The developer has to pay 50 percent of the difference between what he sells it for and what he was supposed to sell it for, per guidelines into the Affordable Housing Fund. And A&B ended up paying between 500,000 and $600,000 for the units that ended up not being deed-restricted. So, these two were in that classification.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, so they...A&B paid the County for that?

MR. ALMEIDA: Yes, they did.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. And who...and who in the Department is responsible for the enforcement and compliance of this?

MR. ALMEIDA: The Housing Division is.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. So, you, Mr. Almeida?

MR. ALMEIDA: Yes, my division.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay. For the Kamalani project, while it was on...being advertised for sale, did they follow 2.96.090(B)(6) which states, prequalify for a loan with the applicant's choice of lender? So, were they allowed to choose their own lender?

MR. ALMEIDA: To my knowledge, to get their financing, everyone was allowed to choose their own lender for their financing on the mortgage. There was some confusion back when A&B first held their community meetings. What A&B tried to do which I didn't think was necessarily a bad idea, was they had lenders on site that were familiar with both the 2.96 requirements and obviously qualifying for a residential mortgage loan. And the reason why they had these people on site was not to force them to go to them, but they were there as a resource because not all lenders...lenders out there, I was one for 16 years, and we're not familiar with these type of things. So, unless we're told that we have to qualify you for, you know, government regulations, we just want to make that sure that you can qualify for a loan. So, they had these people there as resources so people could talk to them and make sure they qualified on both sides. And that was construed as they were forcing them to end up going to these lenders, which wasn't the case. They were just technically there as a resource, and that's where the confusion lay with that. But in the end, everyone who got a mortgage was able to get one from their own choice of lender.

COUNCILMEMBER RAWLINS-FERNANDEZ: I think the confusion was in the advertising that they weren't following it, and the ad was very misleading. So, I think that was...I don't know, could've been intentional confusion. I don't know. Mahalo, Chair.

CHAIR KAMA: Ms. Lee?

COUNCILMEMBER LEE: For Ms. Munsell, have you thought about...I'm going to be coming up with some suggestions, and especially now that we're sort of changing our direction somewhat where we are using a tremendous amount of County funds to subsidize the low-end housing, yeah. So, I think several of us believe that if that's going to be the policy from now on, then the housing developers should be relieved of providing those houses. That we should require them, if anything, to provide housing in that 25 percent, or whatever the Members decide, starting from 90 percent and above, 90 to 100 percent and above. Because of our acute shortage of workforce housing, we need to encourage them to provide as many homes in that range as possible. So, we're talking 90 to 100 percent to 140 percent of median income. And then we're also looking at the possibility of revising the AMIs, yeah, based on Census and not necessarily HUD. So, I know that discussion has come up before. And as Housing Director, I always discouraged people from moving in that direction because of our HUD programs require us to use their calculations and their formulas. But if we're using their funding, Federal funding, for the low-end, that's fine. But maybe for the higher end, the mid to higher end, we can use the Census. I mean after all, we have different amounts...I mean family incomes for Hana, Lanai, and Molokai, yeah. We don't follow HUD. We create our own. So, I think we can do that for the rest of Maui. So, I think Ms. Rawlins-Fernandez had some amendments to make along those lines plus more. But just preliminarily, do you think it would be difficult if we had two sets of incomes? You know, HUD income and the Census income?

MS. MUNSELL: Well, thank you for the question. The incomes come up regularly, and it's something that we need to look at. I think it would depend on what the proposal is and what the application is. But we'd have to look at it before we would know. Yeah, I don't know the answer to that.

COUNCILMEMBER LEE: And we relied on the Department to determine what those numbers were based on the Census. And then we increased the amounts every year a certain percentage. I don't know if it was 3 percent, 4 percent, whatever it was, you know, based on inflation. But we were thinking that perhaps if we used the lower AMI, we can qualify more people. And that's more in line with actual incomes rather than the formula that HUD uses which, as you know, is higher, yeah. And we, when I was there, Housing Director, HUD refused to give us their formula. So, I don't know if it's different now, but we couldn't find out how they determined their AMIs for Hawaii. But nevertheless, you know, they have their restrictions and their rules so for their funds, we'll follow their rules. But for, you know, other housing policies that have nothing to do with Federal money, we could develop our own rules, yeah. Thank you.

CHAIR KAMA: Ms. Sugimura, and then Ms. Rawlins-Fernandez, and then Mr. Molina.

COUNCILMEMBER SUGIMURA: Thank you very much, Chair. So, I'm just wondering from the Department, what...how can we help you? I mean you're the one who actually has to, you know, use it and talk to developers, you know, meet the needs and goals. And I just wonder if you could tell us now, or you can tell us later, you know, how can we help you do this?

MS. MUNSELL: Thank you. We've actually...we've been talking to developers, and again, with only 400 and some odd units constructed, it's still difficult to tell how effective this is. We've talked to the Kamalani folks obviously. We're talking to the other project that was...the Kalama Kai project was also completed recently. We've been talking to them about what their experience with the ordinance is. There's some developers in the audience today and we've been talking to them as well. You know, what is their experience. The whole point is making sure that we've got a policy that does what we need it to do. You know, provides the right housing in the right AMI levels that our surveys say that we need. But also, do it with a fair partnership, right. When we look at the income levels, you know, I thought oh yeah, it's really easy to change those income levels. And when you do that, the...of course it changes the sales prices. And that changes the economics of a project, too. So, it's...making sure that both of those parts work and are fair. But, yeah, I appreciate your...you asking that question. I think as we gather more data and go down this path, you know, in the next few years we're going to have some good information that's going to tell us whether this works or not.

COUNCILMEMBER SUGIMURA: One last question, if I could. Thank you. So, you're saying that if we change the income levels, it would affect the developer in understanding how they can pencil this out, the project out? So, that's why we follow the HUD standards normally?

MS. MUNSELL: That's not why we follow the HUD standards. But often what they're...what...when we have this discussion, we're saying, all right, we're going to lower the AMIs, we're going to lower the income levels. And that's, you know, that's maybe...but that also lowers the price that's...the sales price or the rent for that unit. So, it's not just a matter of saying, yeah, we're going to lower it because we want to lower it. There's a cause and effect there. And I'm not saying that it would make it unmanageable for a developer either. But because as the economy changes, those incomes change. And so, you can watch the incomes go up and the prices go up, and the incomes go down, and the prices go down. It also changes with the interest rates. So, there's a lot of different factors there on whether a project pencils out. The fact that we're actually building projects says that at least something here is working. But this has been an up-cycle too, right. What happens when that cycle turns, when it goes down and prices are falling? We don't know that yet because we don't have enough time under our belt. So, there's a whole complicated mess here, not just the incomes, not just the sales, but also the economic cycle that we happen to be in. And we don't know all those answers yet.

COUNCILMEMBER SUGIMURA: Thank you, thank you.

CHAIR KAMA: Mr. Molina?

VICE-CHAIR MOLINA: Madam Chair, I have a number of questions relating to Mr. Croly's testimony, following up on Member Rawlins-Fernandez. And if I do stray out of bounds, please let me know 'cause I know the agenda says we need to focus on the policy. But I want to bring up questions related to the Kamalani project since it's being used as an example --

CHAIR KAMA: Example.

VICE-CHAIR MOLINA: --as to why we may want to consider, you know, making adjustments to 2.96. So, for the Department, in Mr. Croly's testimony suggested that only 46 units of the project have the affordable housing requirement deed restrictions. Can you tell us why only 46 units had this deed restriction?

MR. ALMEIDA: Thank you, Chair. Thank you, Member Molina. In the end, 30 units were deed-restricted out of the 170. The reason being, as Ms. Munsell alluded to a little bit in the presentation, was what we found with multi-family developments is, especially for the higher AMI categories that were close to market prices, that people were not willing to purchase a home with a deed restriction. They would rather...there was other options in South Maui for them to go, Southpointe, other places where they could buy a similar-type product, similar price, but without any deed restriction. So, A&B, as mentioned, marketed it for twice as long as necessary, 'cause they really wanted to sell all 170 deed-restricted 'cause there was credits involved if they could do so. But they were not able to manage that, and that's why they ended up being sold at market. And again, they paid 50 percent of the difference in cost to the Affordable Housing Fund.

VICE-CHAIR MOLINA: Okay. And that was...what year was that? I know things have changed since when this project first came out, yeah. And now the market's just gone out of control.

MR. ALMEIDA: I'm sorry, Member Molina. Dates as far as when the sale was --

VICE-CHAIR MOLINA: Yeah.

MR. ALMEIDA: --happening?

VICE-CHAIR MOLINA: When this project first came on?

MR. ALMEIDA: I believe it was 2018 primarily was the year most of them were sold, but I could get that actual data for you.

VICE-CHAIR MOLINA: Okay, thank you. And then so with regards...what could be...what can we do to insure that the number of units that are promised as affordable are sold as affordable? Any suggestions?

MR. ALMEIDA: Well, I think that the current requirement that...'cause if the developer cannot sell them as required with deed restrictions, again they have to pay that difference into the Affordable Housing Fund. So, it is a deterrent. You know, definitely an incentive for them to try and make sure those deed restrictions get enforced per the agreement. So, I think that is a very good mechanism, and we're open to other suggestions that you feel might be advantageous to get that done.

VICE-CHAIR MOLINA: Okay. And then the testimony regarding the eight out-of-state owners with the affordable deed restriction, how is it possible for a nonresident to get these homes? I mean is there any loopholes that they found in this?

MR. ALMEIDA: So, what happens when the marketing terms out and the developer is allowed to sell the market, they can sell to anyone. So, foreign, out-of-state, it doesn't matter. There's no restrictions. There's no deed restrictions so they can sell to any market buyer.

VICE-CHAIR MOLINA: Okay. Any thoughts on increasing that deed restrictions to, say, maybe 15 years instead of the current 10 years?

MR. ALMEIDA: Well, the ones that were sold to the mainland borrowers and foreign borrowers were the ones that were not deed-restricted. So, there was no requirement for them to remain in the home for any given period of time before they could resell. They were sold without restrictions, so that's why these particular units were resold in a short period of time.

VICE-CHAIR MOLINA: Okay. Yeah, I mean it's kind of a slippery slope we're walking on, yeah, with this. I mean we do want to make sure that these homes go to the people who it was intended for, but at the same time with the market as you stated, it's kind of a complex thing. So, how do we find the cure for this to find the appropriate balance to see what we can do so things like this don't occur on a frequent basis. So, okay, I'll yield the floor for the time being, Madam Chair. I got a couple more later. Thank you.

CHAIR KAMA: Thank you. Ms. Rawlins-Fernandez, and followed by Mr. Shane Sinenci.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. I first wanted to agree with Member Lee about using the Census numbers. Our County, my understanding, is that the Office of Economic Development in producing the Data Book has historically come out with AMIs that's been $10,000 less than HUD. And so that's...whatever formula the County uses seemed to be more accurate than HUD. So, I wanted to piggyback on what Member Lee was talking about in using those and not using HUD's numbers since they don't seem to be helping our residents much. I'll...next I wanted...I don't know. Do...does the Council review these numbers, or is this our review of the projects that have gone through like 2.96? Like I know we...I don't know how in depth we can go, and I don't know if it would be an item that we would have to schedule. But a lot of the information that Mr. Croly brought to our attention is concerning to me. And I'd like to know more information about this. But not only about Kamalani, you know, I'd like a deeper dive into, you know, Kahoma and the other 2.96 projects. At what point does the Council get to review this? Do we have to schedule an item?

MS. MUNSELL: The Kahoma project is actually a 201H. I was all excited because I was going to get to talk about all these numbers, and yeah this is 2.96 so we have to stick to 2.96. I did throw out some 201H in there. I hope I'm not breaking the rules there. But, yeah, I think...we apply the 2.96 income distributions to some of the 201H projects. If they're not one of these 60 percent and below AMI or other Federal funds or County funds projects, we apply the 2.96 distribution. And that's one of the things that we also will be looking at as these projects close. They do go through a review when...in order to get credit for the home sales, they have to submit data to us, and that's reviewed by the Department, or the Housing Division constantly. But, yeah, we're curious to see how the 201H works as well under that. You do receive an annual report on 2.96 from the division. I think Buddy is...Mr. Almeida is working on that currently. We also submit twice a year a housing report to you and that...you should receive that in January.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo. So, it looks like the last time we got a review was September 10, 2018. And that was to the former Housing Chair. And there were four projects at the time, Kaiaulu at Kaanapali, Kamalani, Pauwela Homes, and Mokuhau Subdivision. But there are more than four? And when can we expect this kind of overview for this year? You said Mr. Almeida is working on it, but it's already mid-December.

CHAIR KAMA: Go ahead.

MR. ALMEIDA: Thank you, Chair. The report that was submitted last year was submitted a little bit earlier because the previous year there was no projects to report on. No projects, prior to these projects, had been completed under 2.96. So, there was nothing to report on. So, that's why no reports were officially sent in prior to that. And we're currently working on it to get it in to you by...if not year's end, the beginning of next month.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo. Okay, I'll yield the floor for now. Mahalo, Chair.

CHAIR KAMA: Thank you. Mr. Sinenci?

COUNCILMEMBER SINENCI: Thank you, Chair. Just a couple clarification questions, On slide 16, Ms. Munsell you mentioned 100 percent workforce housing projects are eligible for 75 percent credits. And then for those workforce housing projects that are sold or rented below the 60 percent AMI are eligible for 100 percent credits. Can you briefly speak to the...where those credits will be used for?

MS. MUNSELL: Thank you for the question. So, what they will be used for, the...there was recently a subdivision, an industrial subdivision, that was submitted, and they purchased workforce housing credits in order to comply with their requirement. If you were to build a hotel, if you create more than ten rooms, or ten or more rooms, you have to comply with this. And so typically, they're not housing developers, and so they would buy credits from a developer who developed more housing units than they were required to do. So, those are the kinds of applications that they...that you would see those credits being used for. Also, sometimes developer will be developing two projects, you know, one in Wailea and one in Kihei. And so, the one in Kihei would be used to offset the requirements for the project in Wailea. Those kinds of things are what the credits are being used for.

COUNCILMEMBER SINENCI: Okay, thank you. And the other question was on the second to the last...oh, the last page, second to the last slide, you mentioned something about below...I believe it was 40 percent and below AMI. Are those...you mentioned something about 201H projects that address the 40 percent AMI and below. It doesn't show it on the chart.

MS. MUNSELL: Is it this chart you're talking about?

COUNCILMEMBER SINENCI: Yeah.

MS. MUNSELL: Yeah. So, sometimes...I mean affordable project, they're looking for land that's inexpensive, and often that land that's inexpensive is this land that's not entitled. So, a project like the Hale Mahaolu Ewalu project up in Pukalani, you know, right there next to Longs, that's 201H project. In order to fund that, they received LIHTC funding, Rental Housing Revolving Fund, various other funding sources. And they are all targeted at 60 percent and below AMI. The Kenolio Apartments project is...I think that's another 201H project. And that one is also receiving LIHTC funding. And those will be targeted at 60 percent and below AMI. Kaiwahine is another 201H project. Again, not entitled property and so they went through the 201H process in order to get that entitlement. They are using LIHTC Rental Housing Revolving Fund, all kinds of other funding sources, 60 percent and below AMI.

COUNCILMEMBER SINENCI: Okay, thank you. Thank you, Chair.

CHAIR KAMA: Ms. Paltin? Thank you for being patient.

COUNCILMEMBER PALTIN: Thank you, Chair. I wanted to, if possible, take a little deeper dive into the credits and the fees in lieu. So, you know, like when new hotels and things get built or expansions in like, say, West Maui, and then they have...they purchase credits. Is that what it is? And would the credits that they purchased be the same price as the fees in lieu?

MS. MUNSELL: We don't market those credits ourselves. Those credits are issued to the developer who produced the extra units. So, we would issue a letter saying that you...you have so many credits available to you. And then they would market those themselves. I've heard the price for those credits to be anywhere between 50,000 and $125,000 per credit. It's not as expensive as our in lieu fee. So, increasing our in lieu fee would make those credits more attractive, rather than less attractive.

COUNCILMEMBER PALTIN: And what is your opinion on how the fees in lieu are working out? Because the fee in lieu that we get is not sufficient enough to provide even one affordable housing unit. And so why...how did we come up with that number that you...I think it was 245,000. Why wouldn't it be the cost it would take to actually have a house?

MS. MUNSELL: I'll defer to the Members who actually passed the...

COUNCILMEMBER LEE: Oh, thank you. Is it okay if I speak, Madam Chair?

CHAIR KAMA: Yes, because I think Ms. Paltin would like an answer.

COUNCILMEMBER LEE: Okay, yeah.

COUNCILMEMBER PALTIN: Yeah, I'd love one.

COUNCILMEMBER LEE: I wasn't part of the group that passed it. I was part of the group that opposed it. I was the Housing Director at the time, and the reason why you see a fee that's less than the cost...well, you think of a $400,000 house, is because that fee is supposed to represent the subsidy portion. It's not supposed to represent the whole house. It's like when a developer provides an affordable home at a sales price of $300,000, yeah, his actual cost is probably, you know, around there. And the...it's supposed to be the difference between the cost and the market price. So, let's say the $300,000 house is probably $500,000 on the market. So, the difference is $200,000. And so, what they're supposed to be contributing is the subsidy, not the whole house, not the whole cost. What it is is just the...what the difference between the cost and the market price is the subsidy.

COUNCILMEMBER PALTIN: Okay. I can understand that. My concern is we're looking at it from the developer's perspective instead of from our resident's perspective that actually need the house, and not the subsidy, you know. I mean if you tell a resident like, oh, we're going to build this hotel with 100 rooms, and then they're expecting, you know, maybe 25 affordable homes out of the deal. But that's not what's happening. And our concern is that we want to provide affordable housing. We don't want to reimburse or take the amount of the subsidy. That's not fulfilling the need of our residents which is the houses. And my other question is the credits and the fees in lieu, like when you're saying that they can be used in any district or things like that, is that part of the reason why West Maui has such a shortfall in affordable homes? Or, I mean we have...we need a lot more than...I mean because we have a lot of jobs in West Maui, and so many people have to commute.

CHAIR KAMA: Mr. Almeida?

MR. ALMEIDA: Thank you, Chair. Thank you, Member Paltin, for the question. First off, to go back to the in lieu fee. I understand, you know, what you're saying. Just for information purposes, no one's ever paid the in lieu fee since 2.96 was enacted. And I talked to the developers, it's because it's too much. So, it's not an option anybody's ever chosen to use to satisfy the requirements, so.

COUNCILMEMBER PALTIN: Wow.

MR. ALMEIDA: With regards to the credits being used on the west side, I can do some research. I know that, for instance, when the Hyatt did their expansion, they purchased credits to satisfy their requirement. I'm not sure outside of that if any other projects on the west side satisfied their requirement with housing credits or not. That's the only one that comes to mind.

COUNCILMEMBER PALTIN: So, if there's like a project that provides more than enough affordable housing, it doesn't matter where it occurs, anybody can purchase the credits. Is it a bad thing to keep it district-specific? Would that be something that we could do to even it out, or no?

MR. ALMEIDA: When the ordinance was first approved, those were the restrictions that were attached to the credits. They were community plan-specific; they were AMI-specific. And when the State came out with their Act 141 credits, they had no limitations pretty much that I'm aware of. They could be used in any county for any type of project. When we revisited 2.96 in 2014 and made the majority of the amendments that have been made to it, we mirrored the State's credit formula, so we took off the community plan amendment requirement. We took off the AMI requirement. We took off the same type product requirements. So, owner-occupant credit could be used for rental, vice versa. So, our credits would be as attractive as the State credit, so it incentivized the developers to still do more workforce housing than was required.

COUNCILMEMBER PALTIN: One last question, then I'll yield. What would be the ramification of repealing the credit process and just have either fees in lieu, or actually providing affordable housing?

MR. ALMEIDA: It would probably have--this is just my opinion--that we would see less desire for developers to try to accomplish 100 percent affordable projects. Or to do over and above what their minimum requirement is if they're not going to receive credits 'cause credits can be used as a form of financing either on the back end of that project, or for future projects. So, it is incentivized for them to do more to get those credits. If we take that away, it would probably just lead to more developers complying with just the 25 percent.

COUNCILMEMBER PALTIN: One follow-up on that. Hotel specific, like is there a way to have hotels do more than say like, you know, if people are building residential workforce, or even residential market-value, that fills a niche. But, you know, with our General Plan and our Maui Island Plan and the amount of hotels we're seeing in certain areas and like that, I think there's more of a need for even just market-value houses than more hotels. Can we make it so that hotels couldn't use credits, or hotels would have to pay more credits, or something like that to incentivize more for our residents to either get market-value homes, or workforce homes, or affordable homes, or low-income homes?

MS. MUNSELL: So that...the ordinance is controlled by this body. I mean so if you want to change some aspects of that, you're able to do that. One of the things that I haven't finished quite yet is Kauai recently went through what they're calling a nexus study between...in their resort area specifically, the development of certain kinds of properties, you know, additional hotel units or additional rental...vacation rental houses, and how many jobs are actually created by the development of those units. And they are planning to relook at their inclusionary zoning policy, you know like...very much like our 2.96, and make amendments based on some of the things that they found in that study. I think that one of the things that will be very interesting for us to see is what comes out of that. So, the question is if a hotel room, an additional hotel room results in half a person, if they add ten hotel rooms, does that you mean you need...they need to provide five houses? You know, I don't know. That's something that this body, you know, as we move forward will have to take a look at and see if you want to treat different people different ways. Now, the economic effect of that might be a different thing. You know, we're looking at housing only, but you know, you also don't want to stifle the opportunity to develop jobs and, you know, other things. So, that's out of my experience. So, that would be something you would have to look at closely.

COUNCILMEMBER PALTIN: Thank you. Thank you, Chair.

CHAIR KAMA: Mr. Hokama?

COUNCILMEMBER HOKAMA: Just a few points, Chair, if you please. One, I would say hearing other Members, I would ask you to please consider posting another meeting that would be a little bit more general regarding how we fund and what we funding so we can bring in some --

CHAIR KAMA: Okay.

COUNCILMEMBER HOKAMA: --maybe other components that the Members have interest in as we consider revisions to improve this housing component. And then maybe also allow the Staff to have time. You know, housing agreements was driven by the unions in this County in the '60s, wasn't County ordinance, was private agreements between the employer and the employees' representative on employee housing. But they made it in the County Code, and that's why we have hotel housing requirements. One for every four hotel units required a new housing unit. Okay, we made an assessment, we came up with a formula, and that was in the County Code. So, we have a history, okay. Just like when we did Maui Marketplace. One of the first bigger commercial considerations for development, we made a housing assessment. We learned that San Diego, our sister county, looked at their formula of square feet per employees to determine what was fair for an employer of that type of activity to provide housing. So, my point now, Chair, is maybe as we're looking at adjustments in tiers with my colleague to my right, in her committee, maybe now that we hear comments such as those from testifiers, I'm looking now that maybe then we need to find another way of helping the employers contribute to housing. So, maybe in the business category, commercial category, resort, short-term rentals, everything that we consider a business activity, maybe we should assess a percentage or a formula that that...we'll take a portion of that fund and place it into the Affordable as the employers' contribution, okay, because that is what is lacking now. Employers don't contribute directly to employee housing. They need the employee, but the old days, the plantation knew. No house for the worker, no worker, no plantation. Simple, okay. They got it. So, maybe we gotta help find a way for have the employers to now find a new way to help pay for employee housing. And we'll take it through the tax system, Chair.

CHAIR KAMA: Okay.

COUNCILMEMBER HOKAMA: So --

CHAIR KAMA: Good idea.

COUNCILMEMBER HOKAMA: --I think we have opportunities. I throw that out now because before we go into Budget, maybe there's things that maybe my colleague, my Budget Chair, might want to consider. Maybe Mr. Molina in his Committee may have something to consider, or Ms. Paltin in Planning. But I think it's something worthy of our discussion on how we are going to look at funding and making up the differences or the subsidies to affordability. So, one of the ways is, again, I'm looking at is maybe it's tough to do the 100 percent projects. Maybe a smart mix is the more viable financial way we should go. But if we hook it up with a taxation program from employee class...employer classes, you know, it might make even better sense for us to approach it, Madam Chair. So, that's my suggestion and comments at this time. Thank you.

CHAIR KAMA: Thank you, Mr. Hokama. Good idea. So, we have something interesting as we go into the Budget, I'm assuming. Mr. Molina?

VICE-CHAIR MOLINA: Thank you, Madam Chair. Certainly, concur with Mr. Hokama's assessment. It's the industries that bring people here and again more employee...or employer contributions to the housing market. And you know, if you don't build the houses, then where are you going to get your workers? And that's ironically the concern is coming from, for example, the visitor industry. Their hotel employees, they cannot retain them because they don't have housing. So, maybe you know, they should look at it from their angle, the employers provide some type of, you know, more than just money, just build it, or something along those lines. But anyway, easier said than done. For the Department, on Page 10 where it says 2.96 is not an incentive, and then that second paragraph says, incentives do exist, 100 percent affordable projects. And we've been seeing an increase with developers using the 201H fast-track process because I guess they, a lot of...they get exempted and waived on a lot of commitments, versus using 2.96. And I'm hoping that...I know with the 201H there's a minimum 51 percent. I'm getting really concerned about that process being used 'cause a lot of exemptions and we're being put up against the wall, 45 days. And some developers, they don't want to give more than the minimum, 51 percent. 'Cause there is flexibility if the developer wants to give more than that. And I've talked to some developers. Some say they can make it work with more than 51 percent. Others say can't. So, what is the incentive, the carrot on the stick, to have these other developers who say they cannot give more than 51 percent? For me, my incentive would be, well, I might be a little...I'll scrutinize a lot, these projects more, these proposals on using the 201H. If you're not going to give more than 51 percent, I mean I don't know. It just might make it tougher for me to support. So, I'm just hoping the developers who are using this process can find a way to give a little bit more 'cause they're getting a lot of things exempted. So, if you're saving on not having to pay for certain types of infrastructure, well, give something back. And I don't know how we can, you know, provide incentives with 2.96. I guess that's still a work in progress. But I think myself and Mr. Hokama was on the Council way back when in 2006 when we came up with a policy when there was none. There was none. So, it wasn't the perfect thing. But at least we put something out. So, you know, but of course now as time has progressed, we've seen that maybe it didn't quite work. But at least now...and I believe the minimum was 50 percent, and it was brought down by Councils after down to 25 percent. So, maybe that doesn't appear to have worked as well. So, to me at least we have a policy. Better than nothing, Madam Chair. So, I guess we have to work with the community and the developers and everyone else to tweak it to provide incentives in 2.96. But just in general, Madam Chair, when I...it's interesting to see that now everybody's using the 201H process. And puts a lot of pressure on us, but what are we giving up too, 'cause we want something back more than just 51 percent, you know. So, anyway, Director, you got any thoughts or comments on my tirade?

UNIDENTIFIED SPEAKER: No.

MS. MUNSELL: Actually, thank you, actually. The 201H, I mean that's...it's a...pretty much everything is up for grabs under a 201H. Two point...well, I mean not quite, but on a 2.96 project, if you're a 100 percent workforce housing project, we waive a lot of fees. So, there are our waivers and exemptions allowed for you through that if you're a 100 percent workforce housing project. So, there are some incentives for doing more under 2.96.

VICE-CHAIR MOLINA: Thank you, Madam Director. You hit the nail on the head, yeah. It's, you know, I'm okay with waiving things as long as it's a lot more than 51 percent, you know. And I'm hoping maybe the State Legislature can look at revising that minimum, maybe upping that minimum to 60 percent, or 70 percent. Now, I don't know if that'll be a deterrent for developers. But some can do it. It's just all a matter of the profit margin depending on the developer, you know. And, Madam Chair, while...can I ask the Director a question, if it does tie into this? I just want an update with regards any County private sector proposals for the Upcountry area, the area that I represent? 'Cause I know we've been dealing with a lot of projects in West Maui and Central Maui, but anything on the backburner that our citizens in Upcountry should be made aware of for potential affordable housing projects that may be coming online or...you don't have to get too specific, but do we have anything coming up?

MS. MUNSELL: Thank you. Thank you for not letting...making me get too specific. But, yes, there are at least two projects that I'm aware of that we've spoken to developers recently. Now, how quickly those projects will move forward is dependent on a lot of factors. One I think is poised relatively quickly. The other one is going to be a 201H, so you guys will see that in front of you for approval. I think the first one is a...already correctly entitled and zoned. So, assuming they can put their financing together and get through the planning process then, yeah, that one will be soon.

VICE-CHAIR MOLINA: Okay, that's good news to hear and look forward to addressing it in the future. Thank you. Thank you, Madam Chair.

CHAIR KAMA: You're welcome. Yes, Ms. Tamara Paltin?

COUNCILMEMBER PALTIN: I just was wondering on your slide...oh, shucks, I'm not sure which number it is. But it says, 20 Residential Workforce Housing Agreements signed. Do you know how many of those 20 provided 25 percent, and how many provided more than 25 percent?

MS. MUNSELL: So, the 20 agreements that are signed, I mean you can see that 17 of those are actually housing projects, and three of those are non-housing projects. Can I tell you right off...I think it would probably take me too long to actually look through the projects themselves. But we can get that to you if you'd like to ask.

COUNCILMEMBER PALTIN: Yeah, that'd be awesome.

MS. MUNSELL: Sure, okay.

COUNCILMEMBER PALTIN: And then the other question, do you have any example of a developer or a project that has implemented managed appreciation?

MR. ALMEIDA: Thank you, Chair. Thank you, Member Paltin. The buyback provisions in 2.96 do not follow a shared appreciation model, so we have not...that has not been adopted in the Code. There's a...basically the buyback formula is you take the appraisal at the time of acquisition, the appraisal at the time of sale, take the difference and they get 25 percent added to the original purchase price. So, that's the formula that's currently used in Chapter 2.96.

COUNCILMEMBER PALTIN: Thank you.

MS. MUNSELL: Yeah, and we also work with Na Hale O Maui, and obviously they've got a shared appreciation formula that they use. Two-oh-one-H projects, they have a shared appreciation formula that they use as well.

COUNCILMEMBER PALTIN: And just the last question for this round is West Maui Affordable Housing Fund, how do we contribute...how does that get its funding?

MR. ALMEIDA: Thank you, Member Paltin. That was a one-time, I believe, appropriation through a previous, before my time, in lieu fee that was required upon a development. And that money was agreed to be appropriated specific to West Maui projects. So, that was a one-time appropriation, and we've been trying to utilize it. With the current plan that we're submitting, we possibly might be able to use the remaining amount if it gets approved by this body. But there's no other sources to replenish the funds into that particular pot of money.

COUNCILMEMBER PALTIN: Okay. And then so when you had said before that nobody has utilized the in lieu, that was during your time period, or...

MR. ALMEIDA: No, from the inception of the --

COUNCILMEMBER PALTIN: Two-point-nine-six.

MR. ALMEIDA: --Code in 2006, no one's ever paid the in lieu fee.

COUNCILMEMBER PALTIN: Okay, so then that appropriation to the West Maui fund wasn't an in lieu fee. It was just...like a deal worked out.

MR. ALMEIDA: It was an agreement...2.96 exempts projects that were in process prior to the Code being adopted and approved by the County Council. So, I'm assuming it was a project that was already in the works. That was the requirement for the satisfaction of the affordability requirement that was agreed upon that the funds be dedicated to West Maui projects.

COUNCILMEMBER PALTIN: Okay. Thank you.

CHAIR KAMA: So, Members, this Chair is going to call for a recess at the request of Staff. So, we're in recess at the call of the Chair. . . . *(gavel)* . . .

RECESS: 3:11 p.m.

RECONVENE: 3:24 p.m.

CHAIR KAMA: . . . *(gavel)* . . . The Affordable Housing Committee will now reconvene at 3:24 p.m. And I think we left off with Ms. Tamara Paltin.

COUNCILMEMBER PALTIN: Thank you, Chair. I just was going to request, you know, I think like amongst us and in the public there's not such a great understanding of credits, and how they're used, and how they're applied and accumulated. And I just was wondering if we can make a request to the Department if, you know, they can maybe provide us a list of all the credits that have been earned and how they've been used, and then walk us through one example from start to finish. And also, if they could also maybe educate us on how DHHL uses and applies credits as well, and how that...compare and contrast it to how the County does.

CHAIR KAMA: Ms. Munsell?

MS. MUNSELL: Thank you, Chair. Yes, absolutely. We can get that information, and at the Chair's request, we can bring it back and show it to you. We'll bring it to you.

COUNCILMEMBER PALTIN: That'd be awesome.

CHAIR KAMA: Do you think you could do a summarized version like in the next three minutes or something? Real quick. No? Okay. That complicated, okay. Thank you. I think...

COUNCILMEMBER PALTIN: That's why we need a tutorial, I think, 'cause you know, in dealing with the CPAC, so many people complain about the credits and the fees in lieu, and then come to find out that we haven't even used fees in lieu since the inception of 2006 2.96. Then I think there's like not very good understanding, you know.

CHAIR KAMA: Okay, so I think you'll have a tutorial, that'll be really good. Lots of pictures, Linda, please. Thank you. Yes, Mr. Hokama? And then Ms. Rawlins-Fernandez.

COUNCILMEMBER HOKAMA: I just, again, I'm going to ask if your intention is to re-post another meeting so can maybe --

CHAIR KAMA: Yes . . .(*inaudible*) . . .

COUNCILMEMBER HOKAMA: --take some of the more specific concerns. But I think we need to look at the picture a little bit more broader, Chair, and how...as well as the options available to us. Whether it be very comprehensive or not, the County has used different tools through ordinance. Especially when we reached certain points with the visitor industry, we enacted a moratorium. We stopped building permits. So, are we at that point with market housing development? Should we consider a moratorium on certain types of building permits? Just like Honolulu is looking at expediting only certain type of permit requests. You know, they've taking a different route. They're going to expedite specific permit requests with certain values and certain outcomes only. So, that's another way to approach it. But I think we should look at various options including stopping market development for a while until we get our affordables squared away. It's drastic. Definitely it impacts the economy, definitely. But as my colleague, Mr. Molina, and I have tried, in what we're talking about things that we've tried 20 years ago, and our people still suffering. So, maybe we need to be more drastic because as I said before, Chair, what is home without our people? And with our people, what is culture? Okay. So, I think we get it, and I'm happy to us to look at all options, Chair. Thank you.

CHAIR KAMA: Thank you. Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And mahalo, Member Hokama, for that perfect segue into the amendments that I would like to propose. I don't think it's too drastic. I think that's exactly what our County needs, actually. And mahalo to you, Member Hokama, Member Molina, and Member Lee for, you know, trying, you know, years ago to fix this. And whenever we pass laws, we don't think that it's the perfect law. We're just trying something to help our people. And it wasn't...it's never meant to be the end all. And I think, you know, we have to understand that, you know, all together, like it's never the end all. It's, we're trying something, if it works, wonderful. If it doesn't, let's fix it. And that's my proposals. I think we should fix it. And I'll begin...I'll preface this by reviewing what the purpose is in 2.96.010 which is, the intent of this chapter is to encourage the provision and maintenance of residential workforce housing units for both purchase and rental to meet the needs of income-qualified households for the workforce, students, and special housing target groups. Mahalo, Staff, for distributing these amendments that you'll find. So, we'll go to Page 3. I'm sorry, there aren't page numbers on the bottom. It's starts with "Qualified housing provider." Under Resident, number one, "currently employed 30 hours a week in the County." This is workforce housing; therefore, they should be an employee here. They should be part of our workforce. And so, I propose adding "30 hours a week" here, so that we ensure that they are part of our workforce. Under Resident, number five, the parent, guardian, "or caretaker." Under "Residential workforce housing unit," in line with what Member Hokama was speaking about, I would propose striking number three, "below moderate income." Striking "moderate income" and striking "above moderate income." And what we would be left with is "very low income" and "low income." And we can here also look at changing the language, "established by HUD," to "established by our County in the Data Book." Under 2.96.030, Applicability, A.3., "any hotel redevelopment or renovation project that increases the number of lodging or dwelling units in a hotel by ten or more." Perhaps we can decrease that to five. Yeah, Chair knows. Good idea. Under B, Exemptions, number three and number four, I believe were added to this to get this ordinance started. So, perhaps those can be stricken. And I can talk story with Corporation Counsel to see if that would be appropriate and how we would go about doing that. Under B.7., striking number seven, "a development with the boundaries of the Wailuku Redevelopment Area as defined as the MRA, Maui Redevelopment Agency, pursuant to Chapter 53 HRS," 'cause we need affordable housing everywhere. Under 2.96.040, which is on the next page at the bottom, A., to change that from 25 to 13 percent. Two years ago, we...I attended a Affordable Housing Summit that was, I believe, put on by our County and the Maui Chamber of Commerce, and there was an expert that they invited to speak as the keynote speaker, Mr. Rick Jacobus. He was the principal of Street Level Advisors, and because we're...we would be reducing the AMI to low and very low, his advice was to also reduce the number of...the percent tier to 13 because that would be the sweet spot. On the next page under 2.96.040A, striking this language here and moving it down to a new number three under B. So, here B, "prior to Council approval." So, this amendment here would give Council review of the housing agreement. Right now, we don't have that. We pass these projects without seeing the housing agreement, and that makes me really uncomfortable. I don't think that's appropriate. And I think we should see the housing agreement before we vote on it. So, that's what these amendments would do. "Prior to Council approval for a development subject to this Chapter, the Department shall require a developer to enter into a residential workforce housing agreement. The agreement shall be reviewed by the Council and set forth the method by which the developer satisfies the requirement of this Chapter." Under B.3., the in lieu, we'd strike that. Since it's not something that was, has been taken advantage of, then there's...it's not necessary. And instead of the in lieu for money, my proposal is that we do in lieu for land. The new number three would be, "in lieu of providing residential workforce housing units, the residential workforce housing requirement may be satisfied by providing the County the equivalent of at least 19 percent improved lots rounding up to the nearest whole number of the total number of lots, lodging units, timeshare units, or dwelling units, excluding farm labor dwellings or a second farm dwelling as defined in Section 19.04.040 of this Code, created or by providing the equivalent of at least 25 percent unimproved lots rounding up to the nearest whole number of the total number of lots, lodging units, timeshare units, or dwelling units excluding farm labor dwelling or a second farm dwelling as defined in

Section 19.04.040 of this Code," which means we would then strike a., 3.a. And add under 3.b., which would be the new a., "any dedication of improved or unimproved land in lieu of residential workforce housing unit shall be subject to the approval of the Director and the Council by resolution and shall provide the Council the opportunity to contract with the developer to install infrastructure on the in lieu unimproved lots concurrently with the project infrastructure with the understanding that the County will subsidize the cost for their portion of the infrastructure installed on the dedicated lands." And so this idea here is if...what would be given to the County in lieu is unimproved land that the County...that the County could enter into a agreement with the developer to improve that land and that the County would pay for that. Number five, that's dealing with housing credits would be stricken. C., Income group distribution, 1.a. would be "30 percent of the ownership units shall be for very low-income residents." B., "70 percent of the ownership units shall be for low-income residents," and c. would be stricken. Number two, "unless an exemption is granted by the Director, the percentage of rental units within each income group shall be as follows, a., one-third of the residential units shall be for very low-income," and strike the rest; b., "two-thirds of the rental units shall be for low-income residents," and c. would be stricken. Two point nine six point zero five zero, that deals with the residential workforce housing credits, would be repealed. Two point nine six point zero six zero, Residential workforce housing restrictions, ownership units. Again under B., Deed restrictions. One, "the ownership units within each income group shall be subject to deed restrictions contained in this section in perpetuity". Two, "the deed-restricted period, the following shall apply: the unit must be owner-occupied;" b., would be stricken, "the owner must notify the Department upon decision to sell," gone; c., "upon the owner's decision to sell," gone; d., "upon sale of the unit, the deed restrictions shall remain in full force and effect in perpetuity;" i., "the owner must notify,"...oh, sorry...g., "an owner of a residential workforce housing unit that is being resold must sell the unit to an income-qualified household," period; h., would be stricken; i., "the owner must notify the Department upon inability to sell the unit and lot at the end of its life and inhabitability;" j., "upon the owner's inability to sell the unit at the end of its life and inhabitability, the County shall have the first option to purchase the unit and lot from the owner, said option shall be available to the County for a period of 90 days from receipt of written notice from the owner." And this would help to satisfy Member Lee's concern about...oh, I forgot the word that she always uses...obsolescence, yeah, obsolescence, okay. And then k., "the restrictions contained in subparagraph 2.a through 2.j above shall not apply in situations of foreclosure." And this concludes my first round of amendments for 2.96. And in the next meeting, I'll have a second round of amendments to do a complete overhaul of 2.96 which would better serve our community. Mahalo, Chair.

CHAIR KAMA: Thank you, Ms. Rawlins-Fernandez, for doing all of that hard work for us so that we don't have to do it. We can just pick at it. Okay, Members, questions? Yes, Mr. Hokama?

COUNCILMEMBER HOKAMA: Chair, I appreciate this proposal because it gives us something to chew on and something that was thought-out. I appreciate that. So, for the next meeting I would ask that if you can already help prepare, go and get maybe some of our financial representatives from institutions that would either be a potential lender, about some of the adjustments in the conditions regarding the resale and whatnot, whether or not from a lender's point of view they have some comments they could share with us for us to improve the legislation. Or if there's a concern about...and then again I want to hear from the Department with the County's first option to purchase, if it is so dilapidated and busted-up, is it worth our money to rebuild at 30 years old or something, okay. Because it comes to a point where I get no return on investment.

CHAIR KAMA: Yeah, right, might have nothing left.

COUNCILMEMBER HOKAMA: So, those kinds of things, Chair, if maybe the Staff --

CHAIR KAMA: Yes.

COUNCILMEMBER HOKAMA: --can assist --

CHAIR KAMA: Yes.

COUNCILMEMBER HOKAMA: --the Committee in preparation because I think we're heading now in a good direction in trying to get some detailed adjustments to policy and then...'cause we all want units built, Chair. We're with you.

CHAIR KAMA: Yes.

COUNCILMEMBER HOKAMA: We want the units built. Thank you.

CHAIR KAMA: Thank you. So, I just have a question for Ms. Munsell. So, it is my intent to have the second meeting. But I'd also like to see if we could also have your PowerPoint presentation on the credits so they can understand as they go into deliberations of Ms. Rawlins-Fernandez's first draft. Okay, okay. So, any other questions, Members?

COUNCILMEMBER SUGIMURA: Chair?

CHAIR KAMA: Yes, Ms. Sugimura?

COUNCILMEMBER SUGIMURA: Thank you. So, added on to future meetings, if you look at this proposal...thank you very much, Keani, for doing it. And I just wonder what, from a developer's perspective, how can this be implemented, and what would the impact be. I know that when you do things in perpetuity, then exactly, you know, what was brought up in terms of repair and maintenance, and how do we plan for that if we need to if we, you know...yeah. I mean just kind of practical things.

CHAIR KAMA: Yes.

COUNCILMEMBER SUGIMURA: And I notice that we had developers here in the audience just to listen. So, I'm glad that they were here. But if you could reach out to them and find out.

CHAIR KAMA: I can do that too.

COUNCILMEMBER SUGIMURA: I know that the Kihunes are...have done 100 percent affordable for sale, but not, you know...

CHAIR KAMA: For rental.

COUNCILMEMBER SUGIMURA: Yeah. So, that wouldn't be like in perpetuity, but what does all this mean --

CHAIR KAMA: We could do that.

COUNCILMEMBER SUGIMURA: --for discussion.

CHAIR KAMA: Thank you. Any other questions, Members?

VICE-CHAIR MOLINA: Madam Chair?

CHAIR KAMA: Yes, Mr. Molina?

VICE-CHAIR MOLINA: I just want to thank Member Rawlins-Fernandez for really a good start to...at looking at 2.96. I'm speechless. I mean it's great. And she get some more yet, so, looking forward to that. This is something that certainly will shake the trees, if you know what I mean. So, thank you.

CHAIR KAMA: If you look at 2.96, you'd want to overhaul it altogether, or just get rid of the whole thing. It's that onerous, I guess, is the word.

VICE-CHAIR MOLINA: Thank you.

CHAIR KAMA: Thank you. Yes, Mr. Sinenci?

COUNCILMEMBER SINENCI: Yeah, thank you. I just wanted to comment on Member Rawlins-Fernandez. That was a quick study to the 2.96. So, I appreciate the fast lesson. Mahalo.

CHAIR KAMA: So, get ready for the lesson on credits. Okay, Members, so if you...yes, Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. And mahalo, Members, for you know, the discussion on my amendments. And, you know, as I mentioned earlier, you know, 2.96 was a good try. And, you know, laws are meant to evolve with the people.

CHAIR KAMA: Absolutely.

COUNCILMEMBER RAWLINS-FERNANDEZ: And so, you know, I don't think it needs to, you know, be repealed altogether. I just think it needs to be fixed. You know, Member Molina, Member Hokama, Member Lee, and other Councilmembers, you know, did a good job at the time, you know, with the information and, you know, in that era. And therefore, you know, I think it was good at that time. And we've now learned over the years, and we can improve it, and we don't necessarily have to repeal it. I wanted to also comment on, you know, I know everyone kind of, you know, just the word "perpetuity" makes, you know, people feel uncomfortable because that means forever. The house that I live in is, you know, over 40 years old, and it's totally habitable. It's great. It's a plantation style, post and pier, single-wall, wood, you know. And so, the whole 30 years to dilapidation, I just...I'm not buying it. That perhaps some houses, you know, are dilapidated after 30 years. But I know a lot of houses...I mean I just look out my window from my office and there's a lot of houses there that are over 30 years old. And they're fine. And they're going to continue on for a number of years. The other point I wanted to make is that whenever we allow a piece of land, a parcel, to go out of affordability, that's land that we'll never have again for an affordable house. We don't have, you know, unlimited amount of land here. And so even if the house is dilapidated, I would still want to keep that parcel so that we could build upon it and build an affordable house. And so, I support, you know, having it in perpetuity. Mahalo, Chair.

CHAIR KAMA: You're welcome, Ms. Rawlins-Fernandez. So, I think we should just get comfortable, period. Just get comfortable. Say the word, understand what it is, and then that's it. So, Members, if there are no other questions and...Mr. Sinenci, did you have something? Okay. Then this Chair would like to be able to adjourn this meeting at three...defer this subject, and adjourn this meeting at 3:46 p.m. Thank you.

COUNCILMEMBERS VOICED NO OBJECTIONS. (Excused: AL)

ACTION: DEFER PENDING FURTHER DISCUSSION.

CHAIR KAMA: Thank you. Meeting adjourned. . . .*(gavel)* . . .

ADJOURN: 3:46 p.m.

APPROVED:

TASHA KAMA, Chair
Affordable Housing Committee

ah:min:191218:rlk

Transcribed by: Reinette L. Kutz

CERTIFICATE

I, Reinette L. Kutz, 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 13th day of January 2020, in Makawao, Hawaii.

Reinette L. Kutz