

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

February 22, 2008

Committee
Report No.

08-34

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

Chair and Members:

Your Policy Committee, having met on February 5 2008, makes reference to County Communication No. 07-38, from the Chair of your Committee, relating to the matter of proposals for amendments to the Residential Workforce Housing Policy.

By correspondence dated August 22, 2007, the Chair of your Committee transmitted a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96, MAUI COUNTY CODE, RELATING TO RESIDENTIAL WORKFORCE HOUSING POLICY APPEALS, AND APPLICANT SELECTION PROCESS FOR RENTAL UNITS".

The purpose of the proposed bill is to clarify procedures relating to the requirement to approve or disapprove of Residential Workforce Housing Policy appeals within 90 days, and the applicant selection process for rental units.

At its meeting, your Committee met with the Director of Housing and Human Concerns and two Deputy Corporation Counsel.

There was no public testimony.

A Deputy Corporation Counsel provided a brief overview of the proposed amendments. He explained that the proposed bill amends (1) Section 2.96.030(C)(3) to clarify the Council's deadline to approve or disapprove an appeal; and (2) Section 2.96.100(D)(7) to clarify the requirements for the sale of a residential workforce rental development. With regard to the Council's deadline to approve or disapprove an appeal, the proposed bill clarifies that the Council or a Council Committee must schedule a hearing on the appeal within 45-days of the appeal being filed with the County Clerk, and the Council must approve or disapprove the appeal by resolution within 45-days of the conclusion of the presentation of evidence in a Council or Committee meeting.

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Your Committee discussed the first appeal to the Residential Workforce Housing Policy that was disapproved by Resolution No. 07-100 in August 2007, and the confusion surrounding how the 90-day Council deadline to approve or disapprove the appeal was calculated.

Your Committee noted that Section 2.96.030(C)(4) of the proposed bill provides that an appeal will be automatically approved by the Council if the deadlines are not met.

Your Committee voted to recommend passage of the proposed bill.

Your Committee is in receipt of a revised proposed bill, approved as to form and legality, revising the year of the bill from “2007” to “2008”.


Your Policy Committee RECOMMENDS that Bill No. _____ (2008), attached hereto, entitled “A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96, MAUI COUNTY CODE, RELATING TO RESIDENTIAL WORKFORCE HOUSING POLICY APPEALS, AND APPLICANT SELECTION PROCESS FOR RENTAL UNITS” be PASSED ON FIRST READING and be ORDERED TO PRINT.

Adoption of this report is respectfully requested.

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

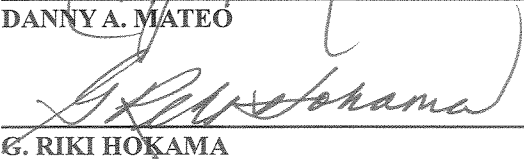
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ORDINANCE NO. _____

BILL NO. _____ (2008)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 2.96, MAUI COUNTY CODE,
RELATING TO RESIDENTIAL WORKFORCE HOUSING POLICY APPEALS, AND
APPLICANT SELECTION PROCESS FOR RENTAL UNITS

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Section 2.96.030, Maui County Code, is amended by amending subsection

C to read as follows:

“C. Adjustment.

1. A developer of any development subject to this chapter may appeal to the council for a reduction, adjustment, or waiver of the requirements based upon the absence of any reasonable relationship or nexus between the impact of the development and the number of residential workforce housing units or in-lieu fees/land required[;].

2. Any such appeal shall be made in writing and filed with the county clerk prior to final subdivision approval or issuance of a building permit for the development, whichever is applicable. Any such appeal shall administratively stay the processing of the development’s subdivision or building permit, whichever is applicable, until a decision on the appeal is rendered. The appeal shall set forth in detail the factual and legal basis for the claim of reduction, adjustment, or waiver, and the developer shall bear the burden of presenting substantial evidence to support the appeal, including comparable and relevant technical information[;].

3. The council, or if the appeal is assigned to a council committee, the council committee, shall convene a meeting within forty-five days of the county clerk’s receipt of the appeal, to consider the appeal. The council shall approve or disapprove the appeal by resolution within [ninety] forty-five days from the date the developer has concluded its presentation of evidence supporting the appeal[.] in a council or committee meeting. [If on the ninety-first day after the developer has concluded presenting such evidence the appeal is not disapproved, the appeal, as submitted by the developer, shall be deemed approved by the council; and]

4. If the council or a council committee has not convened a meeting within forty-five days of the county clerk’s receipt of the appeal,

or if the council does not approve or disapprove the appeal by resolution within forty-five days from the date the developer has concluded its presentation of evidence at the council or council committee meeting, the appeal, as submitted by the developer, shall be deemed approved by the council.

[4] 5. If a reduction, adjustment, or waiver is granted by the council, any subsequent substantive change or modification in use within the development, as determined by the director, shall invalidate the reduction, adjustment, or waiver previously granted.”

SECTION 2. Section 2.96.100, Maui County Code, is amended by amending subsection

D to read as follows:

“D. Selection Priority.

1. Residents on the wait list shall receive first priority for the available units. Nonresidents on the wait list may rent a residential workforce housing unit once the wait list has been exhausted of all residents[;].

2. The developer, its partner, or its management company may do a mass mailing of housing applications to applicants on the wait list[;].

3. The residential workforce housing units shall be offered to residents in the order in which their names were drawn in the lottery, provided that there is a unit available in the income group for which they qualify. Nonresidents will then be offered residential workforce housing units in the order in which their names were drawn in the lottery, provided that there is a unit available in the income group for which they qualify[;].

4. The developer, its partner, or its management company shall submit copies of the following information to the department to verify the rental of residential workforce housing units to eligible renters:

a. Applicant’s completed final rental application[.];
b. Executed rental lease[.]; and
c. All signed federal and state tax returns used to determine eligibility, or any other documents used to determine eligibility by the developer, its partner, or its management company[;].

5. The developer, its partner, or its management company shall maintain a wait list for the development after all of the units are rented, which shall be used to fill any vacancy[;].

6. Any rental unit vacancy shall be filled by an applicant in the same income group as the original tenant to maintain an equal distribution of rentals across the “very low income” and “low income,” “below-moderate income,” and “moderate income” groups[;].

[7. The developer, its partner, or its management company shall follow the procedure in subsection D.4 of this section if they cannot rent the unit at the appropriate income group; and

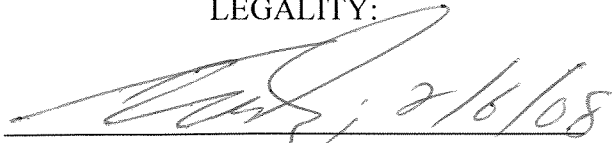
8. An owner of a residential workforce housing rental development that is being resold shall notify the department of the owner's intent to sell and provide documentation that the new owner knows of the deed restrictions.]

7. An owner of a residential workforce housing rental development intending to sell the development shall notify the department in writing prior to the closing of the sale, and shall provide documentation to the department that the prospective new owner acknowledges and is aware of the terms, conditions, and restrictions encumbering the development as set forth in section 2.96.070."

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, bracketed material, or the underscoring.

SECTION 4. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND
LEGALITY:



EDWARD S. KUSHI, JR.
Deputy Corporation Counsel
County of Maui

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