

COUNCIL OF THE COUNTY OF MAUI
HOUSING AND
HUMAN SERVICES COMMITTEE

January 20, 2006

Committee
Report No.

_____ 06-8

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

Chair and Members:

Your Housing and Human Services Committee, having met on January 5, 2006, makes reference to County Communication No. 05-264, from the Director of Housing and Human Concerns, transmitting a copy of a proposed agreement entitled "Agreement Regarding Affordable Housing" between the County of Maui and Wailea MF-9 Associates, LLC (Wailea MF-9).

Your Committee notes that Wailea MF-9 was granted a Special Management Area permit to construct 120 condominium units on property zoned, and designated in the Kihei-Makena Community Plan, for hotel use. Pursuant to Maui County Code, Chapter 2.94, Affordable Housing Policies for Hotel-Related Developments, Wailea MF-9 is required to provide one affordable housing unit for every four hotel units, or a total of 30 affordable units. The affordable housing agreement memorializes and implements the understanding regarding the satisfaction of affordable housing requirements.

By correspondence dated September 21, 2005, the Chair of your Committee transmitted correspondence dated September 21, 2005, from Wailea MF-9 representative B. Martin Luna, Esq., transmitting a map of the Wailea MF-9 project in the Wailea Resort, identified as Exhibit "A" to the affordable housing agreement.

By correspondence dated December 28, 2005, the Director of Housing and Human Concerns transmitted a summary of a co-development agreement, entitled "Summary of Co-Development Agreement," between Wailea MF-9 and Maui Economic Opportunity, Inc. (MEO). Under the co-development agreement, Wailea MF-9 will co-develop, with MEO, 30 affordable housing rental units in MEO's "Best House on Vineyard" and "Best House in Wailuku (Waiehu)" projects to satisfy Wailea MF-9's affordable housing requirements.

At its meeting, your Committee met with the Director of Housing and Human Concerns; a Deputy Corporation Counsel; B. Martin Luna, Esq., Carlsmith Ball, LLP; Christopher L. Hart, Landscape Architect - Planner, Chris Hart & Partners, Inc.; and Stephen Jiran, Quill Group, Inc.

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Your Committee received public testimony from one person suggesting that “affordable housing” and “units” be better defined in the affordable housing agreement. He also stated that the affordable housing agreement was not specific enough about unit size.

Mr. Hart gave a brief overview of the Wailea MF-9 project. He stated that the project will consist of 120 condominiums, in 20 buildings, on a 30.16 acre parcel across from the Grand Wailea Resort. The condominiums will be individually owned, and owners will have the option of leasing the unit to a management company for use as a hotel room when the unit is not owner-occupied.

Mr. Luna stated that the developer will provide 30 affordable housing units under a co-development agreement with MEO in MEO’s “Best House on Vineyard” and “Best House in Wailuku (Waiehu)” projects for residents on Maui whose incomes are less than 50 percent of median income for the County of Maui. MEO has already purchased the property for its “Best House on Vineyard” project and has obtained a commitment for property in Waiehu for its “Best House in Wailuku (Waiehu)” project.

The Director of Housing and Human Concerns explained that the affordable housing provisions under Chapter 2.94 requires that a certificate of occupancy for the affordable units must be issued concurrent with or prior to occupancy of the main project. She further explained that the affordable units were being built in Central Maui instead of the Wailea area because there were no housing projects in the Wailea area that could be finished concurrent with or prior to occupancy of the main project.

Your Committee requested that the Director of Housing and Human Concerns and Mr. Luna consider the following modifications on page two of the “Agreement” section of the affordable housing agreement:

1. The second item in the “Agreement” section reads:

“Full compliance of the affordable housing requirements specified in this Agreement shall occur when Wailea MF-9 provides the 30 affordable housing units or such other number due to the decrease or increase in the number of units in the Project. Said requirement may be fulfilled by Wailea MF-9 individually or in cooperation with another entity acceptable to the County”.

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Your Committee requested that Wailea MF-9 be more specific about why the number of units in the main project could increase or decrease. Your Committee further requested that the phrase “may be fulfilled” be changed to “will be fulfilled”.

2. The third item in the “Agreement” section reads:

“As described in the Recitals, the parties agree that the affordable housing requirement for the Project is equal to a maximum of 30 affordable housing units based on 120 units in the Project”.

Your Committee requested that the word “maximum” be changed to reflect that the number of affordable units could increase or decrease based on the number of units in the main project.

Mr. Luna responded that the word “maximum” was used because the number of overall units in the project could not increase without returning the project to the Maui Planning Commission; however, the number of affordable units could decrease if the developer encounters problems with the building permit process and less than the proposed 120 condominium units can be constructed. He agreed to work with the Department of Housing and Human Concerns on your Committee’s recommended changes.

Your Committee asked whether there was any employee housing planned for this development and Mr. Luna responded that no employee housing was proposed. Your Committee stated that requiring hotels to provide employee housing as part of their affordable housing commitment was something that needed to be addressed at a future meeting.

Your Committee further asked whether there were any procurement issues to consider when the County refers developers to nonprofit agencies without a bidding process.

The Director of Housing and Human Concerns responded that there were no procurement requirements because the County is not a party to the co-development agreement.

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Your Committee notes that pursuant to Maui County Code, Section 2.94.030(D), the Council's role is to review and comment on the unexecuted affordable housing agreement. The Council shall then transmit its comments and the agreement to the Administration for further negotiation and modification, if appropriate, and for proper execution.

Your Committee voted to recommend filing of the communication.

Your Housing and Human Services Committee **RECOMMENDS** the following:

1. That copies of this committee report and the agreement entitled "Agreement Regarding Affordable Housing" be TRANSMITTED to the Mayor; and
2. That County Communication No. 05-264 be FILED.

Adoption of this report is respectfully requested.

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