

COUNCIL OF THE COUNTY OF MAUI
HOUSING AND
HUMAN SERVICES COMMITTEE

July 21, 2006

Committee
Report No.

_____ 06-81

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 June 22, 2006 and July 6, 2006, makes reference to County Communication No. 06-151, from the Director of Housing and Human Concerns, transmitting a proposed resolution entitled "AUTHORIZING THE SALE BY NEGOTIATION OF COUNTY REAL PROPERTY (REMAINDER INTEREST) IDENTIFIED BY TAX MAP KEY NO. (2) 2-2-002:073 LOCATED AT KIHEI, MAUI, HAWAII, PURSUANT TO CHAPTER 3.44, MAUI COUNTY CODE".

The purpose of the proposed resolution is to authorize the sale by negotiation of approximately 6.012 acres of County-owned land in Kihei to Hale Mahaolu at the pro-rated amount of \$216,000 (proposed purchase price).

Your Committee notes that the prior Council's Committee of the Whole reported on the lease of the subject property to Hale Mahaolu Ehiku, Inc. through Committee Report No. 03-24, which recommended that a proposed resolution entitled "AUTHORIZING A GRANT OF A LEASE TO OCCUPY COUNTY REAL PROPERTY TO HALE MAHAOLU EHIKU, INC." be adopted. At its meeting of March 21, 2003, the Council adopted Committee Report No. 03-24 (Resolution No. 03-34).

Your Committee further notes that the lease between the County and Hale Mahaolu Ehiku, Inc., dated May 29, 2003, and recorded with the Bureau of Conveyances, State of Hawaii, on June 30, 2003, is for a period of 75 years, at a rental price of \$1 per year, and requires that the Lessee (Hale Mahaolu Ehiku, Inc.) "use or allow the Premises hereby demised to be used solely for the purpose of constructing and operating an affordable, rental housing for very low, low, and moderate income elderly or disabled persons on a nonprofit basis, and for related administrative offices and support facilities and programs."

By correspondence dated June 5, 2006, the Chair of your Committee requested that the Director of Housing and Human Concerns provide the most current appraisal for

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the subject property and the basis for the proposed purchase price of \$216,000. The Chair also requested that the Director advise your Committee of the consequences of not adopting the resolution by July 2006, a deadline which the Director cited for Hale Mahaolu's acquisition of the property, based on a requirement imposed by the U.S. Department of Housing and Urban Development (HUD).

By correspondence dated June 13, 2006, the Chair of your Committee transmitted correspondence dated June 2, 2006, from Roy Katsuda, Executive Director, Hale Mahaolu, and Robyne Nishida Nakao, Development Coordinator, Hale Mahaolu, transmitting an appraisal for the subject property prepared by James Aganos Real Estate Appraiser, LLC, dated April 24, 2006 (the Aganos Appraisal). Your Committee notes that the Aganos Appraisal is for the "leasehold (remainder) interest" of the unimproved parcel, identified as TMK: (2) 2-2-02:073, containing an area of 6.012 acres, and concludes that the subject property is valued at \$1,260,600.

By correspondence dated June 14, 2006, the Director of Housing and Human Concerns cited to the Aganos Appraisal and noted that waiver of the appraisal required under Section 3.44.070, Maui County Code (MCC), is being requested. She also advised that the \$216,000 proposed purchase price is based on the County's purchase price of the property, and explained that the timing requirements for the sale to be completed by July 2006 are based on restrictions imposed by HUD on funds reserved for Hale Mahaolu's project.

At its meeting of June 22, 2006, your Committee met with the Director of Housing and Human Concerns and a Deputy Corporation Counsel.

Your Committee received public testimony from Roy Katsuda, Executive Director, Hale Mahaolu.

Mr. Katsuda stated that HUD has granted three extensions to expend the funds reserved for the Hale Mahaolu project to complete construction plans, and will probably not grant another extension. He explained that HUD will not accept a sublease of the property to a subsidiary of Hale Mahaolu for the housing project. While the lease could be changed, purchasing the property will give the most flexibility and be the fastest way to resolve the problem. He noted that Hale Mahaolu has been working with the Department of Housing and Human Concerns and the Department of the Corporation Counsel to purchase the property for the past three years.

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Your Committee discussed the proposed purchase price of the property, noting it does not include any interest costs the County has paid to finance the purchase. Your Committee also noted that using the property for affordable housing purposes in perpetuity would be in the community's interests.

The Director of Housing and Human Concerns informed your Committee that the Department supports this housing project.

Your Committee deferred consideration of the matter pending further discussion.

By correspondence dated June 27, 2006, the Chair of your Committee requested that the Director of Finance provide the date and price for which the County purchased the property, the applicable real property tax assessment, the method used to finance the purchase, and the amount of interest paid.

By correspondence dated July 3, 2006, the Deputy Director of Finance responded that the County purchased the property on July 12, 2001, and that the 6.012-acre parcel was purchased for \$216,000. He further advised that the property had been subdivided, TMK: (2) 2-2-02:073 had been deleted, and the property had been assessed under the following four new TMKs: (2) 2-2-29:001, consisting of 2 acres, assessed at \$635,100; (2) 2-2-29:002, consisting of 1.09 acres, assessed at \$327,000; (2) 2-2-29:003, consisting of 2.607 acres, assessed at \$782,100; and (2) 2-2-29:004, consisting of 0.198 acres, assessed at \$100. Your Committee notes that the total assessed value for the four parcels is therefore \$1,744,300. The Deputy Director further responded that the purchase was funded by a General Obligation Bond, with a true interest cost of 4.877 percent through June 30, 2022.

At its meeting of July 6, 2006, your Committee met with the Director of Housing and Human Concerns, the Director of Finance, and a Deputy Corporation Counsel.

Your Committee also noted the presence of Roy Katsuda, Executive Director, Hale Mahaolu; and Robyne Nishida Nakao, Development Coordinator, Hale Mahaolu.

There was no public testimony.

The Director of Finance summarized the Department's response dated July 3, 2006. He also provided a rough approximation of \$50,000 in interest the County has paid to date on the property.

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The Director of Finance noted that the County would still pay the remaining interest on the bond even if the property is sold. Your Committee, therefore, requested that the Director approximate the total interest that would be paid on the property over the term of the bond. The Director advised that the remaining interest for the property is approximately \$78,000, for a total interest of approximately \$128,000.

Your Committee also discussed the possibility of earmarking the funds received from the sale of the property for specific purposes, such as South Maui park improvements, in light of the original intent for which the property was purchased. The Director of Finance noted that there would not be a problem in earmarking the funds from his Department's perspective. The Deputy Corporation Counsel noted that, to his knowledge, the deed did not contain a restriction that the property be used only for park purposes. He opined that a budget amendment would likely be necessary once the funds were received to allocate the funds appropriately.

The Deputy Corporation Counsel clarified a discrepancy in the size of TMK: (2) 2-2-29:001 reflected in correspondence dated July 3, 2006 from the Deputy Director of Finance, noting that the parcel consists of 2.117 acres, as opposed to 2 acres.

The Director of Housing and Human Concerns informed your Committee that the Department supports the sale of the property for a reasonable sum.

Your Committee questioned the process that would be involved in negotiating the sale of the property, and in particular, how the proposed resolution could identify the buyer as Hale Mahaolu and still comply with Section 3.44.050(B), MCC. The Deputy Corporation Counsel advised that, unlike the provisions for waiver of the appraisal, public hearing, and auction requirements, there is no provision for waiver of the requirements set forth in Section 3.44.050(B), MCC. As a result, the Director of Finance would still be required to publish a notice and invite additional bids, and if higher bids were received, then the matter would need to be revisited. He further indicated that the notice of sale and invitation for bids would need to be very specific, calling for a nonprofit agency that is committed to providing affordable housing in perpetuity, and that the sales price would need to be stated in the resolution. The Deputy Corporation Counsel noted that the sale could not be closed without following the procedures outlined in the MCC.

Your Committee expressed a clear intent to have the subject property used, in perpetuity, for the affordable housing purposes and related support services (such as an adult day care center) for which it had been leased to Hale Mahaolu in 2003. Your

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Committee noted that these restricted uses provide the basis for its consideration of the sale by negotiation for significantly less than the appraised or assessed values. Your Committee voiced its desire to have these uses incorporated as deed restrictions in the document conveying the property upon its sale.

Your Committee recommended that the proposed resolution be revised to reflect a purchase price of \$350,000, which consists of the \$216,000 the County paid for the property and the estimated interest that the County would pay over the term of the bond. Mr. Katsuda informed your Committee that he found the recommended \$350,000 purchase price acceptable, with the contemplated use restrictions, and that he would recommend the purchase to the Hale Mahaolu board of directors.

Your Committee further recommended that the references to Hale Mahaolu be removed from Paragraph Nos. 1 and 4 of the "BE IT RESOLVED" section of the proposed resolution, in light of the procedures set forth in Section 3.44.050(B), MCC.

Your Committee voted to recommend adoption of the revised proposed resolution and filing of the communication.

Your Committee is in receipt of the revised proposed resolution from the Department of the Corporation Counsel incorporating your Committee's requested revisions.

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

1. That Resolution No. _____, as revised herein and attached hereto, entitled "AUTHORIZING THE SALE BY NEGOTIATION OF COUNTY REAL PROPERTY (REMAINDER INTEREST) IDENTIFIED BY TAX MAP KEY NO. (2) 2-2-002:073 LOCATED AT KIHEI, MAUI, HAWAII, PURSUANT TO CHAPTER 3.44, MAUI COUNTY CODE", be ADOPTED; and
2. That County Communication No. 06-151 be FILED.

Adoption of this report is respectfully requested.

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DANNY A. MATEO Chair

JO ANNE JOHNSON Member

JOSEPH PONTANILLA Vice-Chair

CHARMAINE TAVARES Member

G. RIKI HOKAMA Member