

**COUNCIL OF THE COUNTY OF MAUI**  
**COMMITTEE OF THE WHOLE**

June 23, 2006

**Committee  
Report No.**

\_\_\_\_\_ 06-69

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

Chair and Members:

Your Committee of the Whole, having met on March 14, 2006 and June 6, 2006, makes reference to County Communication No. 06-62, from Councilmember Michael J. Molina, transmitting a proposed resolution entitled "PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, PERTAINING TO ESTABLISHING AN AFFORDABLE HOUSING FUND".

The purpose of the proposed resolution is to amend the Revised Charter of the County of Maui (1983), as amended (Charter), to establish an affordable housing fund and require the Council to appropriate in each fiscal year's budget a minimum of 2 percent of real property tax revenue to the fund for building and expanding affordable housing.

At its meeting of March 14, 2006, your Committee met with the Director of Housing and Human Concerns, the Director of Finance, and a Deputy Corporation Counsel.

Your Committee received public testimony from two individuals and written testimony from six individuals in support of the proposed resolution.

The Director of Housing and Human Concerns expressed support for the proposed resolution. She stated that a permanent source of funding would assist in providing subsidized housing for low-income families that are not included in the mid- to moderate-income level gap-group.

Your Committee questioned whether the proposed maximum of 3 percent of the fund to be used to cover administrative costs was sufficient. The Director of Housing and Human Concerns stated that the amount of administrative costs would depend on whether internal staff or an outside agency administered the fund.

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The Director of Finance stated that the revenue from real property taxes is expected to increase approximately 21 to 24 percent, or \$3.8 million, this year based on an increase in property values.

Your Committee discussed whether a Charter amendment was the best alternative to establish the fund. Your Committee expressed concern that a Charter amendment may not provide the flexibility that may be needed in order to alter legislation as necessary. Your Committee further expressed concern over substantial changes in property tax calculations that may alter the way property taxes are collected.

The Deputy Corporation Counsel stated that the proposed Charter amendment would enable the fund to be a continuous mandate and would be similar to the Charter amendment that established the Open Space, Natural Resources, Cultural Resources, and Scenic View Preservation Fund. He further stated that, as an alternative to a Charter amendment, funds may be appropriated to a specific department and for a specific amount through the annual budget.

Your Committee discussed the possibility of placing a cap on the annual amount appropriated to the fund. Your Committee suggested a cap of 2 percent of real property tax revenues, or \$3 million, whichever is less. Your Committee briefly discussed the implementation of a sunset date for the fund so as not to bind future Councils.

Your Committee discussed the State Legacy Land Act and its appropriation of funds to the counties for affordable housing purposes. The Director of Housing and Human Concerns stated that funds under the State Legacy Land Act are distributed according to a competitive process; therefore, the counties should not depend on this as a reliable funding source.

A member of your Committee expressed concern about the consistency of terminology used to define low- and moderate-income individuals. She suggested that a range, which includes very low-income to moderate-income individuals, be added to the proposed resolution so as not to exclude any groups defined in another proposed bill establishing a Residential Workforce Housing Policy pending before the planning commissions.

Your Committee deferred the matter pending further discussion.

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By correspondence dated March 15, 2006, your Committee's Chair requested that the Department of Finance provide an inventory of County-owned land that may be considered for affordable housing purposes.

By correspondence dated March 15, 2006, your Committee's Chair requested that the State Department of Land and Natural Resources (State DLNR) provide an inventory of State-owned land that could conceivably be transferred to the County and considered for affordable housing purposes.

By correspondence dated April 4, 2006, your Committee's Chair requested that the Department of the Corporation Counsel incorporate the appropriate ballot question into the body of the proposed resolution.

By correspondence dated April 13, 2006, the Department of Finance transmitted an inventory of County-owned land that may be considered for affordable housing purposes with attached maps illustrating where these properties are geographically located.

By correspondence dated April 18, 2006, your Committee's Chair requested that the Department of the Corporation Counsel determine whether the establishment of an affordable housing fund through an ordinance would be a violation of Section 9-3(2), of the Charter.

By correspondence dated May 16, 2006, your Committee's Chair requested that the State DLNR respond to an earlier correspondence dated March 15, 2006, requesting an inventory of State-owned land that could be transferred to the County and considered for affordable housing purposes.

By correspondence dated May 26, 2006, the Department of the Corporation Counsel transmitted a revised proposed resolution entitled "PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, PERTAINING TO ESTABLISHING AN AFFORDABLE HOUSING FUND". The revised proposed resolution incorporates the wording of the proposed ballot question.

By correspondence dated June 4, 2006, Richard Michaels, Chairman of the Affordable Housing Committee, supported the proposed resolution.

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At its meeting of June 6, 2006, your Committee met with the Director of Housing and Human Concerns, the Director of Finance, the Senior Executive Assistant to the Mayor, and the Corporation Counsel.

Your Committee received public testimony from four people in support of the proposed resolution. Two individuals also provided their testimony in writing. One individual suggested increasing the proposed 2 percent appropriation to 5 percent for ten years. The individual representing Maui Tomorrow questioned whether the funds would be divided by community plan district according to the amount of real property tax collected in each district and whether the funds would be available to community land trusts.

Your Committee also received one written testimony in support of the proposed resolution.

The Mayor submitted documents entitled "Maui Affordable Housing Statistics" and "Maui Island Development Projects".

Your Committee received comments from the Mayor's Senior Executive Assistant, on behalf of the Mayor, supporting the concept of an affordable housing fund, but expressing concern about dedicating a percentage of real property tax revenue through the Charter. According to the Mayor's Senior Executive Assistant, the Mayor prefers to see the goal accomplished by ordinance rather than by Charter amendment.

Your Committee also received comments from the Director of Housing and Human Concerns who also supported the concept of establishing an affordable housing fund, but urged flexibility to allow the funds to be used for repair and renovations.

Your Committee briefly discussed County-owned rentals and affordable housing projects.

Your Committee discussed how the funds will be managed, and noted that the Council will continue to appropriate the funds through the passage of an annual budget ordinance.

Your Committee discussed the possible impacts of the proposed Charter amendment on any existing funds related to affordable housing. According to the

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Corporation Counsel, the existing funds will continue to exist unless specifically repealed.

Your Committee requested a current inventory listing of all Hawaiian home lands from the Department of Hawaiian Home Lands.

Your Committee recessed its meeting to June 8, 2006.

At its reconvened meeting of June 8, 2006, your Committee met with the Senior Executive Assistant to the Mayor and the Corporation Counsel.

Your Committee discussed whether establishing an affordable housing fund by ordinance is more advantageous than doing so by Charter amendment. Your Committee noted that an ordinance would allow revisions to be made much more quickly and easily versus a Charter amendment.

Your Committee discussed expanding the scope of the proposed uses of the funds to include people of very low income.

Based on concerns raised by the Corporation Counsel, your Committee agreed to revise the proposed resolution to avoid specific language regarding the payment of debt service due to possible Federal income tax consequences. Your Committee agreed that the Council may continue to appropriate funds annually to pay for debt service on bonds, but that such language should not appear in the Charter.

Your Committee discussed the possibility of inserting a sunset clause into the proposed Charter amendment, and agreed to insert a sunset provision that would allow for the collection of revenue for the fund from Fiscal Year 2008 through Fiscal Year 2011. Your Committee clarified that the fund is intended to continue to exist after the expiration of the collection of revenues for the fund.

Your Committee discussed whether the language in the proposed resolution allows the funds to be used to lease land, and agreed to revise the language to allow the funds to be used to purchase or otherwise acquire land or property entitlements.

Your Committee recommended that the proposed resolution be revised to include a sunset clause, to clarify how the funds may be used, and to delete reference to the payment of debt service.

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Your Committee voted to pass the revised proposed resolution on first reading and to file the communication.

Your Committee is in receipt of a revised proposed resolution incorporating your Committee's suggested revisions.

Your Committee notes that Section 14-1.1 of the Charter requires that amendments to the Charter shall be initiated by resolution of the Council adopted after two readings on separate days and passed by a vote of six or more members of the Council.

Your Committee of the Whole **RECOMMENDS** the following:

1. That Resolution No. \_\_\_\_\_, as revised herein and attached hereto, entitled "PROPOSING AMENDMENTS TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, PERTAINING TO ESTABLISHING AN AFFORDABLE HOUSING FUND" be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 06-62 be FILED.

Adoption of this report is respectfully requested.

