

## MINUTES

### HOUSING & INTERGOVERNMENTAL RELATIONS COMMITTEE

February 26, 2020

A meeting of the Housing & Intergovernmental Relations Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by KipuKai Kualii, Chair, at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, February 26, 2020 at 10:54 a.m., after which the following Members answered the call of the roll:

Honorable Arthur Brun  
Honorable Mason K. Chock  
Honorable Felicia Cowden  
Honorable Ross Kagawa  
Honorable KipuKai Kualii  
Honorable Luke A. Evslin, Ex-Officio Member  
Honorable Arryl Kaneshiro, Ex-Officio Member

The Committee proceeded on its agenda item as follows:

Bill No. 2774      A BILL FOR AN ORDINANCE AMENDING CHAPTER 7A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE HOUSING POLICY FOR THE COUNTY OF KAUAI (This item was Deferred.)

Committee Chair Kualii:      Can I get a motion to approve, and a second for discussion purposes?

*(Councilmember Kagawa was noted as not present.)*

Councilmember Chock moved for approval of Bill No. 2774, seconded by Councilmember Brun.

Committee Chair Kualii:      Members, this is the Housing Policy Bill that we had the public hearings for last week. My goal for today is to go over the chart of changes that we had previously presented. I have placed the chart in the front of you. This is to ensure that the members understand all of the changes, there are several, and to have an opportunity to ask questions of the Administration. Thereafter, I would assume we will ultimately end up in a deferral. This is to give everyone, including stakeholders, members of the public, and the Councilmembers, an opportunity to digest the various changes, come up with possible amendments, and to ask follow-up questions. After we go through the chart, we can continue asking questions of the Administration regarding bigger picture questions not relevant to the chart. I am hoping this is okay with all members? Given that, we have Adam Roversi from the Housing Agency. Let us go through the chart. Number 1, the first change is the amendment to Section 7A-1.2(a), lowering the definition of "workforce"

housing from one hundred forty percent (140%) Area Median Income (AMI) and below to one hundred twenty percent (120%). As we pointed out before on the nexus analysis- page 12 Section 1.7.1(d), the justification of the one hundred forty percent (140%) AMI being too close to market rates; therefore, the recommendation is to lower the one level. Any questions for the Administration? Councilmember Chock.

Councilmember Chock: Thank you, Mr. Chair. Again, I appreciate the effort on this. This is much needed and anticipated. There has been some questions about the one hundred twenty percent (120%) and below. I believe everyone is in agreement that is the right direction for us to move. However, there has been the question about that gap, housing, and what do we actually do for the one hundred forty (140)? If at all, if anything, and that is really the direction we want to focus all our time and energy? I will add my second question. There has been a question about the definition of "workforce" as opposed to the definition of "affordability," or "affordable housing." If you could respond to those, I would appreciate it.

There being no objections, the rules were suspended.

ADAM ROVERSI, Housing Director: Sure, thank you. Committee Chair and Councilmembers, Adam Roversi, Housing Director. First, I would like to speak on the one hundred forty percent (140%) item. The recommendation to shift the definition of "workforce" from one hundred forty percent (140%) and below, down to one hundred percent (120%), came directly from the nexus report or the nexus analysis we contracted to analyze our Housing Policy, Inclusionary Zoning Ordinance. To put a little context to what those numbers mean being that we hear one hundred forty (140) and no one really necessarily understands that. This is for a hypothetical three (3) bedroom house. Under the current pricing, one hundred forty percent (140%) of the AMI, the sales price under the current United States Department of Housing and Urban Development (HUD) numbers would be six hundred forty-five thousand dollars (\$645,000). One hundred twenty percent (120%) in contrast would be five hundred forty-six thousand dollars (\$546,000). I am rounding these off, there are extra numbers. One hundred percent (100%) would be four hundred forty-six thousand dollars (\$446,000), and eighty percent (80%) would be three hundred twenty-four thousand dollars (\$324,000). The nexus analysis concluded that the one hundred forty percent (140%) units at six hundred forty-five thousand dollars (\$645,000) are essentially the same price as market rate houses. In fact, if we look at the Ho'oluana example in Hanamā'ulu, the three (3) bedroom homes that they were selling was in the five hundred fifty thousand dollar (\$550,000) range. Their market rate houses are even below what the one hundred forty percent (140%) AMI number is. If we are asking the developer to provide one hundred forty percent (140%) AMI homes, we are essentially asking them to do nothing that the market is not already doing. The underlying purpose of the Workforce Housing Policy is to provide gap housing for people otherwise unable to participate in the market on their own. They do not make enough to buy market rate houses. In short, that is the justification of shifting that definition or pricing range down, so that they are

addressing people who I believe are really more the intended target of the policy to begin with. We are not here to incentivize market rate houses necessarily, although that is a benefit to the community as well. As far as the workforce home versus affordable homes, there is a certain level that is semantics. When using the term "workforce," is expressly getting at the idea that when a developer wants to do a project, whether it is a hotel resort or a large housing development, that development is causing a need in the community for certain number of employees and workers to serve the community. Whether it is direct service of housekeepers, foodservice, and wait staff...in the case of a resort or indirect services like fire, police, roadwork, various County maintenance personnel, or even private sector workers. There is a workforce need that is arising from the development as opposed to a broader affordability requirement, which the phrase suggests blanket need. I believe it is important that the language is expressing the need directly connected to whatever project it may be that we are looking at whether it is subdivision, hotel, or housing development.

Councilmember Cowden: I have a follow-up. Prior to being in office, when I have asked that question, something that was said to me and wondering if there is accuracy in this. When it is called workforce housing, it means you are looking for people who are living in the area so it is most likely to be addressing the existing residents for affordable housing. The good thing is that it catches the whole bracket of people who might need housing. It is easier for people to apply from another state and move into affordable housing than to apply from another state and to workforce housing. Is that correct or incorrect?

Mr. Roversi: It is correct in part. The Housing Policy has got many...it is a thirty (30) page policy. The amendments that are being proposed are really dealing only with the first part of the policy which is how a project is assessed. There are additional parts of the policy that have not been presented to you which deals with once those houses are built how they are sold, once they are sold, how are they overseen over time? When you get to the second part of the policy, when we require developers to build workforce units, a part of what the "what happens next," is the utilization of our home-buyer list that we maintain, which is required by the policy. We have a home-buyer list. The developers who built the workforce houses has to go to our home-buyer list to provide a preference from that list for people who are able to rent or purchase homes. To be on that list, you have to be a resident of Kaua'i. There is a resident component connected to the workforce housing units that are generated. There are complications when Federal funding gets involved with a project, but there is a basic residential requirement. You are able to come here and become a resident in several days. There is no durational requirement. Built into the existing policy, there is a residential requirement to be on the home-buyer list given to the people with first pick at the units that are developed under this policy.

Council Chair Kaneshiro: It is just a follow-up. It makes sense to offer houses to people that are working in the area. I feel that everyone talks about traffic

impacts and everyone talks about providing housing where people work. If we are doing a housing project in Kōloa, and people are traveling from Kapa‘a to Kōloa, or from the west side to Kōloa, and we offer to them, they can actually live and work in the same area rather than...of course, it would be first-come-first-served. Rather than someone who lives and works in Kapa‘a, they live in Kōloa and has to still commute to Kapa‘a.

*(Councilmember Kagawa was noted as present.)*

Mr. Roversi: The ability to impose those preferences on the sale or rental of the units that are actually created already exist in the housing policy.

Committee Chair Kualii: Councilmember Chock.

Councilmember Chock: Along the lines of that conversation. I totally agree, workforce housing fits the Bill especially for the target range that we are talking about. In terms of the utilization of the term “affordable housing,” do you see a standard here that we need to be more definitive as it relates to eighty percent (80%)?

Mr. Roversi: Let me provide quick context. One (1) of our two (2) primary goals of the Housing Agency is to develop housing or incentivize the development of housing. We basically do that in two (2) separate ways. We utilize Federal funds to actually go and develop housing in partnership with nonprofit or for-profit entities. When we utilize the federal funds, we are required by law to serve people that make eighty percent (80%) and below. It is mostly sixty percent (60%). However, there are a few people at eighty percent (80%) and below can be served. The Federal side of our development mission is targeting low or very low-income people. The workforce housing requirements imposed in the housing policy are not geared towards those people. We have a Federal program system set up to serve those people. Examples of those are the Pua Loke Street rental project, which we have briefed Council on in the last several weeks. The Housing Policy is targeting people in the current policy of one hundred forty percent (140%) and we are suggesting to drop that down to one hundred twenty percent (120%). This is conceptually what we are defining as the “workforce group.” We have the low-income group being served by our Rental Assistance Program and Federal Program developments. The Housing Policy is targeting a different group of individuals. That is what I believe is the “workforce” segment of our population.

Councilmember Chock: I appreciate that. The term is used broadly and that is why it is such an issue. To clarify this is important especially as it relates to our function as a County.

Committee Chair Kualii: Adam, basically if there was concern with workforce housing, that it would not be affordable. In fact, as you talked about the low and very low, which is the fifty to sixty percent (50-60%) and under. The

Workforce Housing Policy and what is covered here, it has the eighty percent (80%), one hundred percent (100%), and the one hundred twenty percent (120%) AMI restrictions, if you will, or limitations.

Mr. Roversi: Yes, correct.

Committee Chair Kualii: Any more follow-up on this section? No? Okay, let us move to number 2, Section 3 in the chart, 7A-1.3, amending the definition of "Limited appreciation leasehold estate." This is coming from the Housing Policy and "buyback authority to include a County established land trust." Any questions about this? No? Okay.

Next, 7A-1.3, amending the definition of "Limited equity housing cooperative." Any questions? I know that we will go through some of these.

7A-1.3, amending the definition of "qualified renter," a non-substantive grammatical change.

Number 5, 7A-1.3, amending the definition of "resort project." This is to be consistent with the language in the General Plan. Any questions? Councilmember Evslin.

Councilmember Evslin: I am sorry, I did not actually cross-reference the Bill and it may be answered there? Would the fifty percent (50%) requirement for the resort project be triggered if someone were doing a development with ten (10) houses within the Visitor Destination Area (VDA) that had the potential to be used as vacation rentals? Are those being sold?

Mr. Roversi: I believe so.

Councilmember Evslin: It would.

Mr. Roversi: It would not only apply to a three hundred (300) unit hotel. It would apply to a project that met this resort definition of the project.

Councilmember Evslin: You could simply have ten (10) homes within the VDA that have the ability to be used as transient accommodations?

Mr. Roversi: Correct.

Councilmember Evslin: Okay, thank you.

Councilmember Cowden: I would like to have clarification on that. If someone is building a ten (10) unit apartment building, and they are intending that

to be long-term, just because it is in the VDA, would that mean that it would be a resort building?

Mr. Roversi: Technically. We will get into other sections later. If someone's intention was to build an affordable rental project within the resort area to serve the workers at one of the hotels, the Housing Agency would have the authority to declare that an affordable project and it would not impose additional affordability requirements on top of that workforce housing assessments.

Committee Chair Kualii: Any more questions on this? As we go through this chart and if you are trying to cross-reference to the Bill, as we talk about each one and the sections that are in the shaded area under the actual section of the actual Bill, that section is in the current reduced version of the amendments. This is not the entire thirty (30) page Bill.

*(Councilmember Kagawa was noted as not present.)*

Next is number 6, section 7, 7A-1.3, amending the definition of "Restriction on sale for transfer, debt, and use." Councilmember Cowden.

Councilmember Cowden: I am sure you are aware there are people who feel like fifty (50) years is really inadequate and it should be indefinite. There are others who are very unhappy with fifty (50) years being far too long. Do you have a comment either way on that?

Mr. Roversi: Well, I will start out that the nexus report concluded that fifty (50) years is close to the national average of what is required in inclusionary zoning policies. I believe they say that forty-five (45) years is the national average. They also say that a typical inclusionary zoning policy will impose...let us say for example, a forty-five (45) year occupancy requirement, which I believe should really be thought of more as an affordability requirement being that nothing stops someone from moving out or selling the property at a reduced price. They are not forced to stay there like a prisoner. It would impose a hypothetical policy that another state would impose the forty-five (45) year requirement. When someone chooses to sell, the forty-five (45) years would start over again. Conceptually, that forty-five (45) years could become eighty (80) years, ninety (90) years, or even longer.

*(Councilmember Kagawa was noted as present.)*

Mr. Roversi: The Housing Agency's goal is to create and preserve affordable housing over the long-term. In my mind, the twenty (20) year requirement that currently exists in the policy is inadequate. It creates relatively short-term. It is not short-term in an individual's life of twenty (20) years. However, across generations for our community and our island, it proposes a relatively short-term benefit. An anecdotal example I have discussed with a few Councilmembers would be the Kilauea Estates affordable housing subdivision, which

was built before Ordinance No. 860, but nonetheless, it was connected to an ordinance-based workforce housing requirement imposed on Princeville. They built forty-three (43) units that were sold via lottery system to people making eighty percent (80%) and below. They were sold at a ballpark estimate of one hundred sixty thousand dollars (\$160,000) back in 1999. That project only had ten (10) year occupancy requirement or an affordability requirement. This is again anecdotal being that I do not know the exact number but, I was living in Kilauea at the time. At the end of that ten years (10), it was something close to seventy-five to eighty percent (75-80%) of those homes went on the market within a relatively short period of time before the ending of that occupancy requirement. The people that were lucky enough to win the lottery in the first instance, conceivably received a windfall profit of approximately three hundred thousand dollars (\$300,000). This happened being that in 2010, the going houses on the market for a ballpark estimate of five hundred thousand dollars (\$500,000). In my mind, the Housing Policy is not set up to provide a win fall profit to a small group of people who were lucky enough to get into the house in the first place. It was to create a pool of affordable housing that will serve the community over a longer term, across generations, that is a broader benefit to the community as a whole. I would also like to add a quick note that the people who buy an affordable workforce home under the deed restriction that would be imposed on the house, they are still able to sell the house. They would be able to sell the house at the original purchase price. Additionally, it would include the value of any improvements if they added a bedroom or did any upgrades to the house. Under the existing housing policy, they would receive a one percent (1%) per year increase over their purchase price. If they kept it for ten (10) years and decided to sell it, they would make a ten percent (10%) profit on their home. Granted that is not a lot, but it is significantly more than a renter would receive if they moved out of a rental out after ten (10) years; they would essentially have nothing. It is providing a small benefit. Generally, you need to keep in mind that the people who are benefiting from purchasing these workforce houses, are people who would not otherwise have been able to buy a house in the first place.

Councilmember Cowden: Thank you for that. When you get a chance, I would like to see a copy of the details on that. I live directly across the street from that property. I know many people that live there. It sure does not feel like seventy-five percent (75%) have moved away. However, it is a good study and ten (10) years was definitely too short. Thank you.

Committee Chair Kualii: Councilmember Evslin.

Councilmember Evslin: For these properties, they are sold with deed restriction and the developer is...

Mr. Roversi: Out of the picture.

Councilmember Evslin: From the developer's perspective, the timeframe is irrelevant, right?

Mr. Roversi: Correct. The only time it would be relevant and it is not really this section, but we also allow a developer to do rental projects instead of homes for sale. At the end of the affordability term, the developer would still own the rentals, they could rent them at higher rental rate, sell it, make them into condominiums, and they could do all sorts of things. That is the only instance that the developer maintains some connection.

Councilmember Evslin: Would the rental duration be the same?

Mr. Roversi: In the current policy, the rental period is forty (40) years.

Councilmember Evslin: If this Bill passed, would the rental duration be fifty (50) years and match the for sale duration?

Mr. Roversi: The current amendments are not lining up. That could be an option if you elected to adopt the fifty (50) year for sale requirement, you could create that parallel requirement for the rental provision that is in the existing policy and make them line up to be both fifty (50) years. There is not an existing amendment before you of the rental portion of the policy.

Councilmember Evslin: When the landowner goes to sell, the County gets first right of refusal. If the County refuses, how do they sell it and is it to someone who is income restricted?

Mr. Roversi: It is not specifically spelled out in the Ordinance, but we have Administrative rules, and we also have model deed restrictions that we have used over time. In the first instance, if someone wants to sell, they would come to the Housing Agency, and we have the option to purchase at a formula that is set, in which I just described to Councilmember Cowden. It would be the one percent (1%) a year, plus the purchase price, plus the improvements. As a practical matter, usually we opt to do that. If we do not, we are able to provide them with a waiver where they are able to sell it on the open market at the specified reduced price. If they are not able to do that in a reasonable period of time, we can grant them an additional waiver that allows them to sell at market rate home. This is done so they are not stuck and unable to sell the property at that reduced price point.

Councilmember Evslin: If the County refuses, then they would be able to sell it. Let us say that if they bought at the eighty percent (80%) level, they would be selling the house on open market at three hundred fifty-thousand dollars (\$350,000) per year plus one percent (1%) per year? It does not have to be someone on the...

Mr. Roversi: The first step would be the County at the set price. The second step would be to the general public at that set price. The final option would be if they are unable to get rid of the house at either of those situations, they would be able to sell it at the price they are able to get. It would be an unrestricted price. That ultimately means it is no longer an affordable unit, but it is also not trapping a homeowner. The chances of that happening are likely slim. However, let us say that the real estate market collapsed, housing prices dropped by fifty percent (50%) due to another hurricane, that would put people in a situation where they are not necessarily trapped at a reduced price. That is a muddled analogy, but if something dramatic happened, the person would not be trapped forever in that home, and having to sell only at that reduced price. In certain circumstances, with the Housing Agency's approval and the express waiver, they could ask for whatever price they could get.

Councilmember Evslin: Final follow-up and a final component of this question. I have not thought this through very well. The only relevant example that I know of is Waipouli Courtyard Apartments. To my understanding, the County would have had to pay market value for those units, right? Why were we not having to pay this initial price plus one percent (1%) or the income restricted price was? Why did that go up to market value?

Mr. Roversi: The workforce housing restriction or assessment, and various restrictions imposed on the Waipouli Courtyard Apartment project. It is to my understanding that it was imposed by a project specific Ordinance before Ordinance No. 860 was adopted. I would have to go back and pull the details of the Ordinance and review it to be able to give you an intelligent answer. I believe that there was a past offer made to sell the project while the affordability period was still alive. In the most recent offer to the County being able to purchase that property was after the affordability period expired. If we were to hypothetically say that it was under Ordinance No. 860, the price restrictions offered to the County would have already expired.

Councilmember Evslin: Okay.

Mr. Roversi: Again, it was not developed under Ordinance No. 860, so I am only hypothesizing on what the Ordinance says for that project.

Councilmember Evslin: I am sorry, I have a final question on that. You had mentioned that perhaps in the nexus study or that other places do it have forty-five (45) years. Upon the sale of the property that forty-five (45) year clock resets. What was the reason to not incorporate that into this and to go only with the fifty (50) year cap?

Mr. Roversi: There is a practical reason. The practical reason is that most of the time the County ops to repurchase these properties. We

have the authority to reinstitute the affordability amount that you want. Typically, when we repurchase a workforce housing unit, we would then resell it as a leasehold property. We would own the land and sell a ninety-nine (99) year lease at a reduced rate. Now that house has become affordably in perpetuity if the County buys it back, because we control the land and we are leasing it out. On a separate level, the proposals that we generated for the current amendments, I view as first step. I wanted to get something fairly straightforward, easy to understand, and not overly complexed over to Council for consideration. This was provided to you so you are able to see how it operated, address other portions of the policy, and to reconsider how the changes are working. I view this as a work in progress and not a final answer to solving our housing problem.

Committee Chair Kualii: Any more questions on this section?  
Councilmember Chock.

Councilmember Chock: In regards to how we are approaching the amendment to this Ordinance. Are you able to explain to me how you are categorizing that approach in phases to address the holistic needs of the Ordinance?

Mr. Roversi: As I mentioned, the housing policy broadly has different sections. The primary amendments in front of you now all deal with the assessment portion; how workforce housing is assessed on a project, the number of unit, what percentage, what income levels, and how long will they be affordable. There are separate sections of the housing policy that we have not really proposed significant amendments to with the dealing of what happens to those workforce units that are built. How do we sell them, who we sell them to, how do we oversee the houses after they have been sold, how do we repurchase the houses, and how do we manage the list of possible buyers. There is a section that is referenced in the definitions part that we have not really touched on at all. There is the housing policy contemplates that a land trust will be created. There is other segments and aspects of the policies that are not addressed in the immediate amendments, largely because this is a forty (40) page ordinance and I felt like it needed to be tackled in chunks. Now we are essentially dealing with the assessment portion. What is the imposition that is placed on a developer at the upfront stage? It is our hope and intention to be able to come back and address those other parts in time.

Councilmember Chock: Okay. Just to confirm, it sounds like perhaps three (3) phases or three (3) sections to address that separately and over how much time, correct? They undoubtedly interact with each other in order to provide the outcomes that we are looking for.

Mr. Roversi: I would hope to be able to come back in segments addressing the other parts within the next year and not put it off for a long time. I believe the upcoming sections will be less complexed and less contentious to the extent of what we are talking about.

Councilmember Chock: Thank you.

Committee Chair Kualii: Councilmember Evslin.

*(Councilmember Kagawa was noted as present.)*

Councilmember Evslin: I have a question on the timeframe as I was able to digest.

Mr. Roversi: Do not hold me to an exact year.

Councilmember Evslin: Say that the timeframe was an open question...

Mr. Roversi: You are talking about the fifty (50) years.

Councilmember Evslin: Yes, the fifty (50) year duration. The considerations for that decision. Either way, there is zero in position on the developer whether is it one (1) year or unlimited timeframes as long as we are only talking about the for sale component. The criteria for that decision is going to be whether the purpose of this Ordinance is to give a homeowner equity at the end of a certain timeframe or how it should stay affordable and in perpetuity. I have heard concerns from others saying that one of the reasons for a timeframe is to ensure that the person living in the house is maintaining it well, being that it would be theirs to make a profit off of at the end. Are there other concerns that go into this decision that I am leaving out. Is that it or are there other factors?

*(Councilmember Kagawa was noted as present.)*

Mr. Roversi: I believe it is ultimately a policy-based decision whether we are aiming for the primary benefit to invest the initial purchaser solely or the wider community is the justification for extending the requirements beyond what would be the typical occupancy of the initial purchaser. As a policy matter, the Housing Agency (Inaudible) should be longer as proposed. A tangential issue...I do not want to complicate things too much. Houses have a life span after which significant capital improvements need to be made into a home. To the extent that the County and the Housing Agency typically buys these homes back, there are complications in having an asset pool of very old homes that require a significant amount of capital improvement from the Housing Agency and continual influx of funds. At some point in the life of a home, that poses difficulties in maintaining those in perpetuity for the Housing Agency to extent it is a practical matter, the Housing Agency will often end up repurchasing the homes.

Committee Chair Kualii: Okay, we will move to Section 8, 7A-1.3 deleting the definition of "State Government Entity" and "State Government Lands."

Instead of defining that only to the Department of Hawaiian Home Lands (DHHL) and to leave it open to all State and Government entities. Do you have a question on this?

Councilmember Cowden: It did not make sense to me if we took out those words, why did we not take it out entirely. Why do we say “as follows” and there is nothing following it? It seems like a big typographical error. It says, “State Government Entity” and “State Government Lands” as follows colon, and there would be nothing. Do you see what I mean?

Committee Chair Kualii: There might be more than that?

Councilmember Cowden: It does not go anywhere.

Committee Chair Kualii: As sort of a housekeeping item, obviously if there is not anything that follows, we will also eliminate the part that says “as follows.”

Councilmember Cowden: Maybe even take out Section 8.

Committee Chair Kualii: What we did was we truncated. We are only working on the parts that we are working on.

Councilmember Cowden: Okay.

Committee Chair Kualii: Anything else on this? Section 9, adds the definition of “transient accommodation” and to clearly define “Resort Use” and to be in alignment with the Comprehensive Zone Ordinance (CZO) and the General Plan.

Section 10 and 11, overlaps and ties into what we have already discussed regarding the one hundred twenty percent (120%) and the one hundred forty percent (140%). There will be a few of these. If you have further questions, it is getting back to the change from one hundred forty percent (140%) AMI to one hundred twenty percent (120%) AMI.

Section 12, deletes the language “Applicability” provision. Again, it is most like a housekeeping issue and non-substantial.

Number 11, Section 12, non-substantive. If you are following along, the shaded sections are the sections in the actual Bill. That is on the bottom of page 2, Section 12. The top of page 3, Section 13. Do you have a question?

Councilmember Cowden: I have a question. I had a question sent by a constituent who in this case is wanting to develop land in the Kōloa area. That point was under these exemptions 7A-1.4.2. When we have this exempted area in the Lihue Town Core Urban Design District, there is a sewage system that they will

already have, whereas in Kōloa or Kalāheo, there is no sewer system. If they did maximum density and had to put in a wastewater treatment plant as well as a settlement area, there would be no land to do it. Have you seen that request?

Mr. Roversi: Yes, I am familiar with that.

Councilmember Cowden: You are familiar to that request? Are you able to speak to that?

Mr. Roversi: In all of these situations, whatever is built will obviously need to comply with the Planning Department, wastewater, sewage, and building requirements.

Councilmember Cowden: You would need the retaining basin.

Mr. Roversi: Detention basin.

Councilmember Cowden: Detention basin.

Mr. Roversi: It is project specific. I would have to analyze the details of the project whether it is feasible to build to the maximum density that is provided by zoning.

Councilmember Cowden: That might be something that comes up in this process of thinking it through. I am basically speaking for a constituent that has a project. When looking at that, what is being said with the designs that are being shown to create that maximum density, have the sewage treatment, and the detention basin? They could not fit and do the maximum density. The request is to be considered if there some sort of adaptations for the areas where there is no sewage in the water. I am bringing that forward to your attention.

Mr. Roversi: Okay.

*(Councilmember Kagawa was noted as not present.)*

Committee Chair Kualii: On the top of page 3, number 12, Section 13, we are dealing with exemption "a." That is the part that lays out the design districts. Any questions on that? You have the maps, Aida passed them out. We gave it to you when we first presented. They are here again for use in conjunction with the chart. Anything on proposed districts? Councilmember Chock and then Councilmember Evslin.

Councilmember Chock: Thank you, Mr. Chair. I have broad exemption questions. I like the exemptions. I am not familiar with the utilization of exemptions in this case. We have identified specific areas or districts. Do we have an indication or projection on the amount that we intend to achieve as related to what

the General Plan target is of nine thousand (9,000) units in next twenty (20) years? Do we have any correlation...

Mr. Roversi: My agency has not done a specific analysis. I do not have an answer if every available lot that could take advantage of this did and how many units would be a developed. We would have to go through them to come up with that number.

Councilmember Chock: Is that possible?

Mr. Roversi: We could. It is complexed question. For instance, if we analyzed the Līhu'e Town Core area, these exemptions are provided for a period of ten (10) years. The number of units that theoretically be built under the exemptions would probably far exceed current water capacity. You are going to come up with other limitations that are completely outside of the housing policy. In some sense, the numbers that we come up with would be theoretical numbers and would not necessarily in practice be achieved. We would have to consider all factors including the lack of sewer in Kōloa and Kalāheo, water infrastructure in Līhu'e, et cetera. We could come up with a ballpark estimate.

Councilmember Chock: I believe what it does is gives us some sort of indication of where else we need to look at and how we need to look towards filling that need. That is really within our decision making. Thank you.

Committee Chair Kualī'i: Councilmember Cowden and the Councilmember Evslin.

Councilmember Cowden: It is basically following-up on what I asked previously and what he just asked. When there is different amounts of infrastructure in different areas, our maximum density will be a little different, correct?

Mr. Roversi: The maximum density that is referred to in these is simply based on the zoning and what is permitted under the current zoning code.

Councilmember Cowden: One would maybe argue if someone was looking to put in wastewater, that they would have to make a smaller units. Their units would be smaller so that they could fit the maximum density.

*(Councilmember Kagawa was noted as present.)*

Mr. Roversi: That could be an option.

Committee Chair Kualī'i: Any questions on districts? Councilmember Evslin.

Councilmember Evslin: We spoke a little about this yesterday and maybe a Planning Department question. From my read of it, it basically exempts R-10 or greater as long as they maximize density. The rationale for the districts is because...I have heard some concerns why we are choosing these geographic districts to give these exemptions to. My response to that has been because to my understanding, Kōloa and Kalāheo Towns do not have an "R" equivalent density with form-based code. Is that correct, is that why those are included in there?

Mr. Roversi: The primary reason that they are included in there was because we did not want to develop that proposed amendments to the housing policy in a vacuum. We wanted them to mesh with the recently passed General Plan. The goal of the General Plan broadly is to promote infill high density development in these specifically designated town core areas. Our intention was to make it significantly easier for developers to do that, and to...on a very simplistic level, the development community for a long time has disliked the fact that we have housing assessment in any way whatsoever and points at the housing policy has an impediment to developing housing. We are testing the development community. We are saying, "Okay developers, we have heard your complaints and we will provide you with these test areas where you are cut free of the requirements of the Ordinance; show us what you can do?" These are the areas that our community as a group, County Council, the Planning Department, and all the community meetings have decided these are the areas that we most want housing. We are offering to the development and the community to show us that you are able to build housing in these areas that "we" as community have said "this is where we want them." In conceptualizing these to propose them to you, it would be the Housing Agency's hope and expectation through the planning process, additional areas were identified. I know that you are now considering the West Kaua'i Plan and special planning areas that were developed as part of that plan. As those go through Planning Department and the Planning Commission process, then come to you for review and approval, that those additional areas where community has said we want higher density could be plugged into these exemptions.

Councilmember Evslin: I totally understand the rationale, but the question was more along the line of if we only had it say, "With R-10 or greater," would it not accomplish the same thing presumably Kōloa and Kalāheo do not have an R-10 equivalent? Is Kōloa and Kalāheo Town Core R-20 or is it that form-based code does not have that?

Mr. Roversi: I believe it is only Kalāheo. I am aware that there are some R-10 lots there. There could conceivably be two (2) R-6 lots next to each other. An R-6 lot by itself would not trigger if they were not building over ten (10) units it would trigger this policy. If somebody had a multiple lots together, they were building two (2) lots that are R-6 and you were going to build ten (10), you would trigger the code. If you built twelve (12) between the two (2) lots, you would fall under the exemption. I may not be answering your question.

Councilmember Evslin: No, that actually does. I believe that I was a bit wrong in my own thinking. If there are areas with slightly lower density areas within the Kōloa and Kalāheo, it would then make sense to specify them out.

Mr. Roversi: There is definitely overlap in the way these two (2) exemptions operate. There is an R-10 exemption that may not be applied in the town centers.

Councilmember Evslin: We could eliminate Līhu'e Town Core Urban Design District. Being that it is already R-40, it would not make any difference, right? It would already have it.

Mr. Roversi: Perhaps, yes.

Councilmember Evslin: Okay.

Committee Chair Kualī'i: Any follow-up?

Council Chair Kaneshiro: Not to try and confuse the matter. If they have lower density, they will most likely not fall into the affordable housing policy. It would not matter if they are in the town core or not. When it comes to the people in the R-40, they would have to build at their max R-40, which will eliminate them from having to do the housing policy. Building out to the max is their incentive. I believe that was the push and pull on this. It does not matter if it is in the town core.

Councilmember Evslin: A quick follow-up to that. I understand all of that. If it says "R-10 or greater," could we eliminate the geographic specifications being that those areas are theoretically all above R-10? There may be a unique situation in there with having the geographic exemption would be helpful.

Mr. Roversi: I would like to add that for the R-10/R-20 exemptions or higher density in town cores, one of the points that the nexus report recommended was apartment style developments from the housing policy because exempting the nexus analysis concluded that by their nature, those types of development by default tend to be at a workforce price level. A part of the motivation is to include these exemptions which is coming from the nexus report and not only from the General Plan.

Councilmember Evslin: From my reading of the nexus report, this is entirely in line with that. The nexus report states that those types of construction is infeasible and this makes it feasible. I appreciate that.

Committee Chair Kualī'i: Councilmember Cowden.

Councilmember Cowden: Being that there are a handful of people who are most likely watching and have a high interest in this issue, they have a lot of

input, but I do not see them present. What we heard in the beginning is that we are reviewing this and there will be a time for stakeholders or people to come and discuss this with yourself and some of us individually together. I do not want to argue what was brought to me here. Is that correct? Will there be more time for this to be developed with stakeholder groups?

Mr. Roversi: How you folks act on the Bill is entirely up to you on whether or not it is deferred. I am available for discussion with whomever would like to talk about the policy.

Committee Chair Kualii: We are still on districts. Any questions on districts?

Councilmember Chock: Follow-up to Councilmember Evslin as it relates to the geographic exemptions. You stated that it came from the Nexus Analysis.

Mr. Roversi: The concept of providing an exemption for apartment style developments is from the nexus report. I believe that it cited on the chart. The multi-family apartment complex is on the Nexus Analysis, page 13. It is the recommendation to entirely exempt that style of developments from the housing policy.

Councilmember Chock: Is that analysis based on existing or successful models around the country?

Mr. Roversi: The company that did this report does inclusionary zoning analyses all over the country. They are familiar with how other policies work or do not work. To my understanding, it is partially based on their view operated in other places. It is also in recognition to their understanding, that those types of multi-family apartment style housing opportunities simply do not exist here on Kaua'i. The economies of building them do not work with a thirty percent (30%) requirement. We are able to talk about the thirty percent (30%) number later. When a requirement is imposed on them because they have a very small profit margin per unit.

Committee Chair Kualii: Can we move to R-10 zone, item 7A-1.4.2(b) on the exemptions for R-10 and higher. Any questions? We will move to 7A-1.4.2(c). This is obviously something from before, exempting County housing projects. No questions. 7A-1.4.2(d), is the "sunset provision" which is the ten (10) years. Any questions on that? No.

Mr. Roversi: If I could add a comment. I would like to point out that we felt by putting the "sunset provision" in there was important. In recognition to the fact that to some extent, the exemptions that we are proposing are premised on in part on the recommendation on the Nexus Analysis regarding

multi-unit apartments. They are premised partially on the General Plan. We recognize to some extent that they are also in experiment and we have no guarantee that the units developed under these exemptions will have to be at a workforce price point. The intention of putting the sunset clause in there was to require the Council to come back and relook at this to see if the exemptions are actually working as they are supposed to.

Committee Chair Kualii: Councilmember Chock.

Councilmember Chock: Yes, thank you, and I agree. I believe that we need to evaluate this sooner to see if this is working in our favor in order to get to the goals that we are searching for. Is that embedded in any way on your end with the Housing Agency ensuring that we are reaching...it sort of goes back to the original question of what can we expect to get out of these areas and how are we doing? What mechanisms are in place?

Mr. Roversi: We are ready as a matter of course to monitor all of the planning, zoning, building permits, et cetera to go through the Planning Commission from an affordable housing perspective to keep a tally of that information. We will be watching what happens. The reason we chose ten (10) years rather than five (5) or a shorter time limit, was in recognition of the amount of time that it takes to get things developed from land acquisition to planning approvals, to design approvals, environmental consultations and approvals. It takes two (2) to three (3) years to get something from consult to development to then time to build. We figured that we needed to give it a reasonable chance for it to work before worrying and analyzing the success.

Councilmember Chock: Thank you.

Committee Chair Kualii: Let us move on. Number 16, which deletes subpart (c) and moves it to another section which is 7A-1.6(b). Number 17 adds language regarding the delivery of for sale homes, rental units, and lots for sale. The justification is on page 12, Section 1.7.1(c) in the Nexus Analysis, recommending simplifying and clarifying the program. Any questions on that? Okay, number 18, adds a new subsection regarding the delivery of land-in-lieu or in-lieu fees as an alternative method of satisfying a workforce housing requirement. Councilmember Cowden.

Councilmember Cowden: Has it been considered to do land-in-lieu and infrastructure particularly when it is adjacent to a development that would already have the infrastructure going in so that we would not be paying a portion of the infrastructure?

Mr. Roversi: As a practical matter under the current housing policy, to allow a developer to offer land-in-lieu of units, or just money, is at the discretion of the Housing Director. When a developer comes to the Housing

Agency with an offer of land, we have the opportunity to review the appropriateness of that land for the purposes of housing. As a practical matter, we would not accept ten (10) acres of farmland in the middle of nowhere that had no water, no sewer, and no access to transportation. As a second step, the acceptance of land-in-lieu has a satisfaction of the housing policy requires Council approval. The first step would be that the Housing Agency would review it whether it is an appropriate contribution in-lieu of housing units. The Council would have an opportunity to review it the same way, whether that was appropriate or not? Under the current structure, we have the opportunity to do that analysis and require effectively that any land be buildable land and not unusable for the purposes of housing.

Councilmember Cowden: What I am hearing you say is that it is not necessary to be explicit, because you have the capacity and discretion to be able to choose if it is land near infrastructure.

Mr. Roversi: Yes, I believe so.

Committee Chair Kualii: Any other questions for this section?  
Councilmember Chock.

Councilmember Chock: In regards to the in-lieu fee schedule, is that looking to be updated in terms of the fee structure?

Mr. Roversi: The chart that is in the existing Ordinance was developed in 2008 based on an analysis of cost of construction. When we do in-lieu analysis today, as the Ordinance requires, we increase those numbers based on the Consumer Price Index (CPI) for the City & County of Honolulu. I did one a week ago where I calculated the in-lieu fees. Since this Ordinance was enacted, we are adding twenty-three percent (23%) to the existing numbers in the CPI policy. I do not think this changes the substance of the Ordinance, the amounts would still be the same, but we could update the numbers in the chart to reflect 2020's dollar amounts to ensure that when someone read this, they would not have to do not have to do calculation in their head. In three (3) years from now, we would still have to perform the same CPI exercise to show increase. I would be happy to provide those numbers if Council was interested in the dollar amounts.

Councilmember Chock: It sounds like that is already in the works. Would you agree that schedule is the right fit for us moving forward?

Mr. Roversi: To be perfectly honest, I do not know the exact origins of those numbers. They seem to be in line when I read out earlier regarding what the three (3) bedroom sold at eighty percent (80%), one hundred percent (100%), or one hundred twenty percent (120%). They seem to line up broadly with the cash rate difference between those sale prices and the market rate. It is reflective of the cost of the developer when he is providing an eighty percent (80%) home.

Councilmember Chock: Thank you.

Committee Chair Kualif'i: The next section is a housekeeping item which deletes "Kaua'i County" and defines "Housing Agency" being the Kaua'i County Housing Agency. Number 20, Section 17, is another instance of the one hundred forty percent (140%) and one hundred twenty percent (120%) change. Do you have a question? Councilmember Evslin.

Councilmember Evslin: You basically took the one hundred twenty percent (120%) requirement to one hundred forty percent (140%) and put them all into the eighty percent (80%) category. Instead of 20/30/20, we are now at 40/30/30. The concern we heard from both affordable housing applicants and developers is that when we load up the eighty percent (80%) number to high, that the subsidy for those units is added on top of the market pricing. The cost for the market priced units have to be higher and higher until it is infeasible to develop and we get no affordable housing out of it. Have you been discussing the possibility of doing something like 20/40/30 or shifting the eighty (80) percent numbers around to somewhere else?

Mr. Roversi: We have thought of that. I would not be adverse necessarily to doing that. Under the current Ordinance where we go all the way up to one hundred forty (140). We have a bell shape with a higher number of units in the middle and fewer on the high-end and the low-end. Admittedly, we have ruptured the bell by moving the units to the lower-end. I do not necessarily think that it would be a bad thing to recreate that bell curve with thirty percent (30%) provided at eighty (80), forty percent (40%) provided at one hundred thirty percent (130%) provided at one hundred twenty (120).

Councilmember Evslin: At the moment, you do not have any objections to that at the moment.

Mr. Roversi: No.

Committee Chair Kualif'i: Any other questions on this section? We are doing well, we have two (2) more pages. Section 17, deletes the process of conducting an individualized project based analysis of the workforce housing demands for resort developments, and replaces this ad hoc analysis with a defined and understandable standard of fifty percent (50%). This is the fifty percent (50%) for resorts. Any questions?

Councilmember Evslin: I should get last priority since I am not on the Committee. I have to say personally that I like the fifty percent (50%) figure. Especially when we have a lot of resort units and if someone is building a new one, there should be a high standard. You referenced in the Nexus Analysis that...it says right there that the actual need for workforce housing between forty-five percent (45%) and one hundred percent (100%) of the number of resort units built. I

am sorry, I did not realize it went to a second page. My question was going to be why did not we do that at forty-five percent (45%) instead of fifty percent (50%)? If here is a range between forty-five percent (45%), one hundred percent (100%), and equals fifty percent (50%), that sounds reasonable. I would like to retract my question.

Committee Chair Kualii: Any other questions? Section 18, 7A-3.1(a), deletes a cross reference, which is a housekeeping item. At the bottom of page 5, number 23, Section 18, this is to do with the schedule. If the one hundred percent (140%) is removed, it needs to be removed from the in-lieu table. It is also one hundred forty percent (140%) to one hundred twenty percent (120%). This is also housekeeping. Any questions? On the last page, we have the amendments. Sections 19 and 20, removes the requirement for County Council approval for imposing geographical preferences when selecting purchasers of for-sale workforce housing.

Mr. Roversi: If I am able to add that this addresses Council Chair Kaneshiro's comment earlier regarding the reasonableness or logic if we are building workforce housing, it should be for people who need to work in the area. It seemed that it was an unnecessary step to have to go through Council approval for that if it is basically the purpose of policy in the first place.

Committee Chair Kualii: Okay. Number 25, Section 21, increases the affordability from twenty (20) years to fifty (50) years. We have already talked about this and it involves the same change. Does anyone have questions, no? The last item is primarily housekeeping which deletes the entire section being that it is in a new section somewhere else in the Bill. Thank you for your patience in going through all of this and your chance to be able to specific questions answered from the Administration. If you have any questions?

Council Chair Kaneshiro: This is going back to the ten (10) year. I should have asked the question at the time. I know that I asked you before, I believe we talked about it before, but I did not get it in writing regarding the ten (10) year trigger. Where does the project need to be when the ten (10) year expiration comes up? If the project is far enough that they are able to still move forward? If they did not reach a certain point, it is now up to the Council whether they will extend the deadline or determine that is the hard deadline. I know when it came up last, you said it depends on what time of project it is and where they are at. If you are able to provide examples.

Mr. Roversi: It is triggered based on different types of projects. For example, a subdivision to sell land, doing a housing development, building a hotel would trigger the housing policy and some requirements. In each case, we entered into a written housing agreement that is signed by all parties. It is different depending on what we are talking about. It has to be in place before final subdivision approval is granted or it has to be in place before the Planning Department signs off on a building permit. You are not able to get your final building

permit or your final subdivision approval unless your housing agreement is in place. I would say that someone would be “safe” from the sunset if they enacted their housing agreement. In the moment and time that happens is a little different depending on the type of project.

Council Chair Kaneshiro: Thank you.

Committee Chair Kualii: Councilmember Chock.

Councilmember Chock: Can I get a follow-up to my question. Did we do our due diligence in looking at this Bill and having a legal opinion on it? Has the County Attorney reviewed and provide an opinion on this Bill? The reason why I am asking is specific to the exemptions. There has been some questions about the legality. I want to ensure that we have it in writing with the resources to support it.

Mr. Roversi: I would have to defer to the County Attorney.

MATTHEW M. BRACKEN, County Attorney: Matthew Bracken, County Attorney. I currently have an opinion request regarding the legality. It should be done by the end of the week, I believe the due date is the 28<sup>th</sup>. I have already done research on it, and it is just a matter of writing it. I should be able to work on writing it tomorrow.

Councilmember Chock: Okay, thank you. Everything sounds good to me, but I would like to see the examples of what we can expect in terms of the exemptions. For my follow-up, if there are any examples that you are able to share in your study and the direction that it is moving, that would be appreciated.

Mr. Roversi: You are not referring to your previous question regarding tallying up the number of possible units. You are looking to see if this has been done in other places and what happened.

Councilmember Chock: Yes, it would be for both. Thank you.

Committee Chair Kualii: Councilmember Evslin.

Councilmember Evslin: Back to the top regarding resort units. You mentioned that the Nexus Analysis says that from an economic standard, thirty-five percent (35%) is an economically feasible number of units, but the actual number of created jobs would be closer to forty-five percent to one hundred percent (45-100%). From a legal perspective, you are going to fifty percent (50%) which is higher than the thirty-five percent (35%) which is economically feasible. From my reading, it seems that we are potentially making a resort unit infeasible with the fifty percent (50%) figure. From a legal standpoint, are we okay with doing that?

Mr. Roversi: I will leave it to the County Attorney to answer that question in his opinion letter. The nexus analysis analyzes projects on two (2) levels. What are the actual number of workforce housing units, what is the actual need for workforce housing units created by a project, and what is economically reasonable for developers to be expected to do? Those numbers do not always mesh. The nexus report concluded that if you build one hundred (100) units in a resort that could give rise to an actual need for one hundred (100) places to work there and live. You now have a 1:1, a one hundred percent (100%) requirement down to forty-five percent (45%). The range is because a luxury resort hotel has a higher requirement than a mom and pop inn. It is a separate question. What number do you hit before a developer decides that it is not in my best interest to build a hotel anymore? Those are two (2) separate analysis. We chose the bottom end of the actual need in recognition that the economic reasonable number is still below that.

Committee Chair Kualii: Anyone else?

Councilmember Chock: Mr. Chair, for process purposes, we are going to defer. We received some testimony that disagreed with the amendment as well as some asking for stakeholder involvement. I am wondering what do we anticipate and how do we want to approach that? I understand, we have had years of this being in two (2) different tasks force. I know that there is a lot of stakeholder involvement. I am curious to hear if you are able to explain your expectation regarding the outreach and what will that be?

Committee Chair Kualii: First off, we are not rushing, which is why I am asking for a deferral. We are also not going to defer it out indefinitely. I feel that we need to keep moving and get something done. Earlier, we talked about how it could be done in phases. This is only the first part of it. If we miss any changes that need to happen, in six (6) months, we are able to come back with another bill. There is a lot in this Bill, which is based on the recommendations from the study. The hope is to keep moving. As far as the stakeholders, we are going slowly, and this is the process for their involvement. They have been notified, we have sent out...this is the process. Come and engage now. We have received a few testimony and I am assuming that we will get more. We will try to address the testimony. I believe that you will see it once we have the amendments. For today, I am hoping to defer.  
Councilmember Kagawa.

Councilmember Kagawa: For me, I would like to support the motion to defer. I have received calls of concern regarding this Bill. While there is good intentions with some of these changes, it would actually work against developments being built. It is the unintended consequences. I would like you folks to include some of the big landowners as part of the group. Without their cooperation, a lot of those projects will not move forward. We need to satisfy the needs of both sides. By leaving them out and moving forward on this without having them involved is not going to achieve anything. I would like to support the motion to defer...

Committee Chair Kualii: There is no motion.

Councilmember Kagawa: I am saying I would like to support it at some point. I hope that the Housing Agency is able to go out and explain what the “nexus” is. There is so much reference to “nexus.” There is lobbyist from past time who have worked with the County for a long time who have not really heard about “nexus.” Who is to say that “nexus” is the right way to move forward with this? To me, it would be better if you reached out to the stakeholders and explain this to them before you come with big changes. Thank you, Chair.

Committee Chair Kualii: To answer that, the nexus study came from two (2) versions of the prior affordable housing task force and the need to do the study. It was presented to the Council in June, and these are the proposals now. We have heard from two (2) members and we expect that we will hear from more. There is no rush and we are doing the public process now. Instead of continuing to do this, we can do this after public testimony unless you have more questions for the Administration.

Councilmember Evslin: My final question especially with the ten (10) year sunset provision, what would be your overarching goal or how would we judge success of the Ordinance if we are looking back in ten (10) years, what would you like to see the Ordinance produce?

Mr. Roversi: I do not have a specific number of housing units, but I would like to see three hundred (300) new multi-family housing units in the Lihu'e Town Core generated as result of the reduced restrictions of this project. I would like to see second unit apartments being built on top of storefronts in Kōloa and Kalāheo. I do not have a defined number of units as a goal.

Committee Chair Kualii: If there are no further questions at this time, while the rules are still suspended, I would like to take public testimony? Do we have anyone signed up to speak?

KARLYN SUKEHIRA, Council Services Assistant I: We have one (1) registered speaker, JoAnn Yukimura.

*(Councilmember Kagawa was noted as not present.)*

JOANN A. YUKIMURA: Committee Chair Kualii and members of the Housing & Intergovernmental Relations Committee. Once again, thank you for this opportunity to speak again on Bill No. 2774 which seeks to amend and update the current housing ordinance. I really appreciated the detailed discussion today, because it is such a complex Bill. I would like to recommend that the committee hold a workshop, where a lot of public members who are interested in this Bill are able to attend. I would like to recommend that the workshop not be in the stratified format of people testifying, but to allow for some back and forth discussion on certain topics,

which would require a good facilitator. I think that would be the most educational way to help the public understand the proposal, and help you to hear the concerns out there in the public and from developers. Today, I want to elaborate on and give emphasis to two (2) of the four (4) substantive issues I spoke about last week. First, is the land and infrastructure in-lieu option, and I appreciate Councilmember Cowden's question. It is in-lieu of what? It is in-lieu of the turnkey requirement, which is currently in Ordinance No. 860. Right now, it does not require the Bill to change, but it requires developers of residential properties with certain big exemptions to provide turnkey affordable housing units equal to thirty percent (30%) of the market units. That means that the developer has to provide land off-site infrastructure, on-site infrastructure, and buildings ready to be occupied for turnkey units. The land and infrastructure alternative would cut the developers requirement and costs approximately in half by requiring only land and off-site infrastructure. The County would then hold the fee to the land and would be responsible for finding a developer to install the on-site infrastructure and build the units. This is the model that is playing out in Po'ipū in the Koa'i Makana Affordable Housing Project. As part of the affordable housing obligation, Kukui'ula in exchange for entitlements to build one thousand five hundred (1,500) luxury homes in Po'ipū, provided land and infrastructure, the County procured the developer, and it is being developed. The land and infrastructure in-lieu is a win/win/win. The developer's costs are cut in half, being that the County owns the fee can ensure that the units are affordable forever without rent control, and the taxpayer wins because his tax money provides housing for generations and not only for the first buyer. It is not good enough to leave it in the discretion of the Housing Director. It really needs to be fleshed out in the Bill.

Committee Chair Kualii: You will have three (3) more minutes. That is your time.

Ms. Yukimura: Our Housing Director is very good; however, we have Housing Director's that would not be capable of implementing without guidance.

Committee Chair Kualii: Clarifying question.

*(Councilmember Kagawa was noted as present.)*

Councilmember Brun: You mentioned the format. Are you willing to be the facilitator if we moved in that direction? You said that we need a "good facilitator."

Ms. Yukimura: I believe it would be the Chair's decision.

Councilmember Brun: Are you willing to do it?

Ms. Yukimura: Yes, sure.

Councilmember Brun: Okay, thank you.

Ms. Yukimura: I will definitely come to participate. Thank you very much.

Committee Chair Kualii: Is there anyone in the audience wishing to testify? Mr. Hart, come on up.

BRUCE HART: For the record, Bruce Hart. This is so complicated. All of you need to ask questions. I am not able to keep up with this. I do not understand. I would like to commend Adam. Adam knows, he was able to answer every question you asked him, and he answers it well. I have good comprehension and I try to retain enough to ask intelligent questions. I am not able to do it. I would have to sit down and study this for hours. As a member of the public, I would like to say that I think that this is really complicated. Am I able to say this? I am not for the government providing housing. Rental assistance, yes. I am not for the government becoming involved with something that used to be a part of the private sector. Company housing is an old tradition. The plantations used to provide company housing. It goes way back and you see it in the movies. That is the private sector. Thank you.

Committee Chair Kualii: Anyone else in the audience wishing to testify for the first time? No. Anyone for a second time?

Ms. Yukimura: Thank you. I would like to talk about the second issue and that is the exemptions in Section 13. This Bill's ability to deliver desperately needed affordable housing will be severely curtailed if you exempt a large number of residentially-zoned properties. You as decision-makers and the public as beneficiaries, should know how many unit you are exempting. I appreciate Councilmember Chock's question when asking what this number is. Even though it might be a theoretical number, that is how we do planning. We talk about buildout capacity, we should at least know that number. The assumption underlining the Bill's exemption seems to be that a certain percentage of high density market units will automatically be affordable. Therefore, affordability requirements by law are unnecessary. However, no evidence has been provided to show examples of where this has happened. It certainly has not happened in the City & County of Honolulu, where there is a lot of high density development. Mr. Roversi said that on page 13 of the nexus study, they are saying that apartments and condos are infeasible. They say it based on a view that they have in recognition of their understanding that apartments do not exist, because it does not work with thirty percent (30%) affordable. I think that might be true, but what will it work at? Will it work at fifteen percent (15%) or fifteen percent (15%) in form of land and infrastructure? Do you totally exempt them? I would urge you to look at what level of requirement would work for the developments? Also, I want to see some evidence that there will be affordable units created if you exempt them? Are we going to wait ten (10) years to see if this experiment works? We have to provide four hundred (400) affordable units per year to meet the General Plan requirements. Are we going to wait ten (10) years to find out we created three hundred (300) affordable units? The nexus study says there is a nexus with those exempt units. They say that it is infeasible at thirty percent (30%). Let us find out what level it would be feasible to assure that there would be some affordable housing for fifty (50) years if that is our buy-back period.

You may also consider the Stanley Chang, Singapore model, which has no income limits in the household. However, they have to be owner-occupied, own no other real estate, which would really apply to millennials.

Committee Chair Kualii: Thank you.

Ms. Yukimura: Thank you very much.

Committee Chair Kualii: No questions. Mr. Hart, for a second time?

Mr. Hart: I want to clarify something that I said. It is not so much that I object to the government helping with housing. It is this continued management, it is suddenly the people's government has become the company. All the complications are created because we are not the company, we are the government. I find it difficult to reconcile with everything that I believe is the initiative. I am for helping people getting help and able to get into housing. However, to continue the government...to continue to have this hands-on. I see it becoming this big, huge, and what is already a problem. Thank you.

Committee Chair Kualii: Thank you.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Committee Chair Kualii: Members, any further discussion?  
Councilmember Cowden.

Councilmember Cowden: I am also going to support the choice to defer this Bill so that we can have more Committee time. I really do feel that we need to be talking to the stakeholders that are unhappy. I appreciate that there were letters from the builders, the developers, and the core groups who create the housing because ultimately we need to hear from them. We need to hear from them, I do not only want to receive a letter saying it is not adequate. I would like to know where they are at. As former Councilmember and Mayor JoAnn Yukimura suggested having a workshop, if that is something that would work for us, I am open to that. I feel that we need to have a real dialogue where it goes back and forth. Both sides of the argument have a lot of merit. I believe that it is best to have that conversation together as a group.

Committee Chair Kualii: Thank you. Any other Councilmembers?  
Councilmember Kagawa.

Councilmember Kagawa: Thank you, Chair. I believe the best way we are able to get affordable housing to progress is not only to hit the goals of the minimal affordable percentage, but for the other parts of the local community that end up buying at market rate. That is how you solve...if we are able to hit the magical number whether it is sixty percent (60%) or seventy percent (70%), if we are able to hit those numbers, you will not only hit it with the subsidized numbers, that will only be a small percentage approximately ten percent (10%). The gap between that ten percent (10), fifty percent (50%), or sixty percent (60%), et cetera, what is bought at the market price, the price is still not achievable. That is what we need to argue for at the next level. When we give those entitlements, let us ensure we are using our

methodology that we have to hit our goals. Get things built. Let us not only focus on that small affordable percentage that is a minimal requirement. We are going to solve our affordable housing by doing projects that hit that gap. We will never have enough to pay from the County's coffers to give affordable housing to the majority percentage in need. We need to change our game plan to make it work where the market sets itself, and succeeds for the local people looking for housing. That is the end result. Is it easy to get there? No, but that is where our Legislation should be headed. We need to move those types of possibilities to reality. Thank you.

Committee Chair Kualii: Any other Councilmembers? Councilmember Evslin.

Councilmember Evslin: As I said at first reading, I feel that this is most likely the most important bill that we are going to take up in our term here. I appreciate the ability to go slow. I appreciate all the work that Adam, Council Chair Kaneshiro, and Councilmember Kualii have done on it. I want to be clear because there is a lot of concerns about creating exemptions to this. When we make a thirty percent (30%) requirement for affordable housing, that does not mean that we all of a sudden get thirty percent (30%) of our houses being affordable. In the case of our existing Ordinance No. 860, it is largely meant that we get zero affordable houses. If the requirement is too high, then nobody is building. Not only do we not get additional supply to bring down the cost of housing, we do not get affordable units. There is clear evidence around the country that when you have an inclusionary zoning ordinance with too high of a threshold, the market cost of housing increases, the sales prices of houses that are built is higher, you get more resort housing out of it and less overall housing. As Councilmember Kagawa said, my own personal goal would be to find that balance. We want to be somewhere that we are able to produce houses for those who are eighty percent (80%) and one hundred percent (100%) AMI, would not get a house, but we need to also ensure that we are building houses. There is clear evidence that if there is more houses that we are able to build, the market price of housing will reflect that. Our enormous housing crisis that we are currently facing, is clearly or partially based on the fact that our new home construction has fallen off a cliff in the last ten (10) years or so. There is six hundred (600) homes per year between 1960 and 2010, down to two hundred (200) homes since 2010. I believe the goal for all of us has to be to try and find that balance of encouraging new home construction, and at the same time ensuring we are getting affordable units. For the most part, this Bill is hitting some of those components. However, I feel that we certainly need to do more work here.

Committee Chair Kualii: Councilmember Chock.

Councilmember Chock: Thank you. I will not repeat what was said, but I agree with almost everything said by my fellow Councilmembers. Committee Chair Kualii, I do appreciate you taking your time on this. I agree that it is a complex discussion, I am glad that we are sectioning it out, and we need to make it easier. I believe that a part of it is the outreach being necessary. We have heard from one developer who is completely against it. In some ways, this has to meet them somewhere in order for us to see some housing being built. We also heard from the Board of Realtors who are completely opposed at this moment. I am looking forward to having those community discussions. I feel that it is somewhere in the middle that we are going to fall in hopes of determining what that balance is. What is also very

evident by this discussion is the income disparity and gap that we are seeing when one hundred forty percent (140%) AMI is the market housing. It is very telling, and is the reason why we need to change, and change significantly in order to meet people where they are. I look forward to future discussions and potential amendments that are forth coming.

Committee Chair Kualii: Anyone else? Okay, thank you for that and thank you everyone for your work today. As I mentioned, we will continue working on this and we are not rushing this. I know that we have two (2) amendments prepared. One (1) primarily being simple housekeeping, and two (2) in the works based on some of the discussion today. Go ahead and work on your amendments and we will start considering it at the next Committee Meeting. At this point, if there is no further discussion, can I get a motion to defer and a second?

Committee Chair Kualii: Do you have something?

Council Chair Kaneshiro: Is there a specific date that you are deferring to or will it be next...

Committee Chair Kualii: It will be until the next meeting. We have simple housekeeping amendments that we need to work on. We will defer if we need too.

Councilmember Cowden moved to defer Bill No. 2774 seconded by Councilmember Brun, and unanimously carried.

Committee Chair Kualii: Motion carried.

There being no further business, the meeting was adjourned at 12:28 p.m.

Respectfully submitted,



KarLyn Sukehira  
Council Services Assistant I

APPROVED at the Committee Meeting held on April 8, 2020:



KIPUKAI KUALII  
Chair, HIR Committee