The Special Housing & Intergovernmental Relations Committee Meeting of the Council of the County of Kaua‘i was called to order by Committee Chair KipuKai Kuali‘i at the Council Chambers, 4396 Rice Street, Suite 201, Līhu‘e, Kaua‘i, on Wednesday, August 19, 2020 at 1:33 p.m., after which the following Members answered the call of the roll:

Honorable Mason K. Chock
Honorable Felicia Cowden
Honorable Luke A. Evslin (via remote technology)
Honorable Ross Kagawa (present at 1:41 p.m.)
Honorable Arryl Kaneshiro
Honorable KipuKai Kuali‘i

Excused: Honorable Arthur Brun*

COUNTY HOUSING POLICY WORKSHOP:

The Kaua‘i County Council’s Housing & Intergovernmental Relations Committee will hold an informational Workshop to discuss Bill No. 2774, Draft 3 and matters related to amendments to the County of Kaua‘i’s Housing Policy.

Committee Chair Kuali‘i: Please note that we will run today’s meetings pursuant to the Governor’s Supplementary Emergency Proclamation dated March 16, 2020, Sixth Supplementary Emergency Proclamation dated April 25, 2020, Seventh Supplementary Emergency Proclamation dated May 5, 2020, Eighth Supplementary Emergency Proclamation dated May 18, 2020, Ninth Supplementary Emergency Proclamation dated June 10, 2020, and Tenth Supplementary Emergency Proclamation dated July 17, 2020.

APPROVAL OF AGENDA.

Councilmember Chock moved for approval of the agenda, as circulated, seconded by Councilmember Cowden.
Committee Chair Kuali’i: Is there any discussion on the agenda from the Members?

The motion for approval of the agenda, as circulated, was then put, and carried by a vote of 6:0:1*.

Committee Chair Kuali’i: This is the County of Kaua‘i’s Housing Policy Workshop that was requested. If you remember back at our last meeting Councilmember Cowden made a motion and the Council voted for it, so here we are. We will start with our usual public testimony and we have one (1) person who signed up to testify. JoAnn Yukimura.

JOANN A. YUKIMURA (via remote technology): Committee Chair Kuali’i, Committee Members. I would like to lay the groundwork for our discussion, just to the extent that I have input. I want to thank the Committee for removing the exemptions for the town core properties and the multi-family projects at R-10 or greater. The resulting provisions, however, allow all the required units to be at one hundred twenty percent (120%) of median income, with no requirement for long-term affordability that I can see if they are rentals. In that situation, it would not allow us to achieve our affordable housing goals. It indicates a disturbing attitude that we should use our inclusionary zoning powers primarily to satisfy the middle-income families and not address what should be the first focus of public moneys and housing tools—the people who have the fewest housing options and the greatest need. The latest amendments appear to be based on the assumption that lower income housing needs will be addressed by tax credits and federal money alone, which every knowledgeable affordable housing advocate will know it will not work. They ignore the history of affordable housing on Kaua‘i where forty-three percent (43%) of affordable units built on Kaua‘i in the last forty years were built through inclusionary zoning. The process that is incorporated in Ordinance No. 860, which Bill No. 2774 would amend, and some of the more recent ones are Pa‘anau, Koa‘e, Kolopua, and Komohana; which was long ago thanks to Grove Farm Corp., and Halelani, and lots of others. If you allow developers to satisfy their affordable housing requirement with one hundred forty percent (140%) or all one hundred twenty percent (120%) income, you will be handicapping the building of housing for at least fifty percent (50%) of all families on Kaua‘i, which fall in the lower incomes. That would increase the ever-widening income divide in our County. The other issue is long-term affordability. It may be somewhere in Draft 3 and I am just not seeing it, but I see no long-term protection for affordable rentals; this is crucial, or we will be seeing the injustice and suffering of families caused by Courtyards at Waipouli happen repeatedly. I trust rentals or something equivalent like limited equity cooperative housing will be a big part of the affordable housing supplied by our housing law, otherwise the housing problem will grow worse and worse. I have spoken earlier about the insufficiency of the fifty-year requirement of affordability...I am not sure if that is on the agenda today, but if we adopt that, we are just kicking the can down the road upon future generations. This is not a good way to do public policy and if you think about how we have appreciated the past generations in our community, it is because they did not only think about themselves, but they thought about “us now” and those coming. If you look at State housing projects that were built over seventy (70) years ago, if they had been sold into market, how many more homeless would there be today. Lastly, I described in a recent commentary in The Garden
Island that we need to lower the percentage requirement and require...in first instance, that it be satisfied with land and offsite infrastructure, because this is a win-win. It lessens the burden on the developer, as well as the County, which is not very good with finding land or supplying infrastructure. It would give the County practical resources for making affordable housing happen quickly. That is my testimony. Thank you very much.

Committee Chair Kualiʻi: Thank you very much. Before we go forward, I want to go over the agenda quickly. We divided this workshop into six (6) pieces, not counting public testimony. We are going to first hear from the Housing Director. He is going to give us a summary of the existing Housing Policy and then a sample illustration of the existing Housing Policy and of the Bill No. 2774, Draft 3. We will immediately go into the four (4) different larger issues. The first being the definition change of “Workforce Housing” that narrows us to one hundred twenty percent (120%) Average Median Income (AMI) or less, which eliminates the one hundred forty percent (140%) AMI or less, as well as how it breaks down between the remaining eighty percent (80%), one hundred percent (100%), and one hundred twenty percent (120%). After that section, we will have questions and answers and statements. Then in the second section, we will talk about what we used to call the exemptions and what we currently call the “Workforce Housing Special Assessment,” with the special zoning and design districts and R-10 and higher areas. The third topic will be the “Workforce Housing Assessment for Resort Developments” within the Visitor Destination Areas (VDA). That is currently the one that is at fifty percent (50%) with a thirty-five percent (35%) floor. The last of the four that we are pinpointing is the term of “affordability,” which is currently proposed to increase from twenty (20) years to fifty (50) years. The last section, which is the sixth section will be, hopefully, if the time allows, for any other issues or closing comments.

(Councilmember Kagawa was noted as present.)

Before I call on Housing Director Roversi to get us started, I will just say that as we do go through each topic and even in the end I am asking everyone to stay on the Bill, in particular; we do not need to hear the background about how difficult housing is—we already know that. It is a challenge at-hand and we must address it. Right now, today, we are talking about the specifics of the Bill. When we are on the area that is briefly presented, tell us what you like, what you do not like, what you propose instead, and then let us move through that way. Be as concise as possible so that other people can speak as well. I am going to try to do my best to check through as people are speaking, to give everyone a chance. The other thing is making sure you raise your hand...you probably can do it anytime as we are going over the topic at-hand on the agenda. Raise your hand, so we can know who wants to speak, so you can be called on. When you do get called on, of course, do not forget to unmute and again, try and be as concise as possible; getting right to the point of whether you support or do not support and what you would propose instead. If there are no questions from Councilmembers, let us get started and call on our Housing Director Adam Roversi.

ADAM P. ROVERSI, Housing Director (via remote technology): Aloha. I will do my best not to bore you all to death. As Committee Chair Kualiʻi mentioned, I am first going to briefly go over how the Housing Policy operates within the larger mission of the Housing Agency, walk through the current Housing Ordinance and
how it works in practice—when we are actually faced with a real development, then I am going to show you a handful of PowerPoint slides analyzing a specific project and how the existing Ordinance impacts that project financially, how the Ordinance, as amended, impacts that project, so you can compare and contrast today [existing law] versus the amendments, as well as an additional hypothetical example. To start, the Housing Agency has two (2) broad missions. We provide rental assistance ourselves and in partnership with nonprofit entities or for-profit companies, for that matter. Examples of that are Pa'anau Village, Kalepa Village in Lihu'e, which is one hundred eighty (180) units, the new Pua Loke project that just broke ground behind Kukui Grove Cinema, and the Koa'e project in Kōloa, which is one hundred thirty-five (135) units. As Ms. Yukimura mentioned, those projects typically are dependent on federal grant moneys and federal tax credit programs. Because of that reliance the federal programs, these projects by and large, with a few exceptions, are limited to serving people who make sixty percent (60%) of AMI or below. Just for reference, today, and this changes every year, but the sixty percent (60%) AMI number for Kaua'i at the moment is forty thousand eight hundred fifty dollars ($40,850) for a single person or for a family of four (4), fifty-eight thousand three hundred dollars ($58,300). Anyone making more than that is generally excluded from these direct County development programs because of the funding sources, under our current law.

The second method of developing homes is under Ordinance No. 860 via the inclusionary zoning mechanisms that are in that Ordinance that essentially, in short, require a developer who wishes to develop ten (10) units or more on Kaua'i to provide a certain percentage of those units at specified workforce housing prices to people at specified income levels. The current Housing Ordinance is geared towards providing workforce or affordable housing, as it was previously referred to, for people that make above sixty percent (60%) up to one hundred forty percent (140%) of AMI. Again for reference, AMI at one hundred forty percent (140%) today is ninety-nine thousand eight hundred dollars ($99,800) for a single individual or one hundred forty-five thousand five hundred fifty dollars ($145,550) for a family of four (4). The way that is calculated is based on the United States Department of Housing and Urban Development (HUD's) annual AMI numbers and the calculations that are provided for in Ordinance No. 860.

An example of how the policy works, in very simplistic terms...the Ordinance is thirty-six (36) pages long; it is quite in-depth, so I am not going to cover everything, but I am just going to give an overview. If a developer has a proposed project on Kaua'i, they come in for their building permit or their initial zoning permit, they are informed by the Planning Department that they are required...or actually we [the Housing Agency] will receive a copy of their proposed plans, and submit a comment to the Planning Department indicating whether their project is or is not covered by Ordinance No. 860. In effect, does it trigger or not trigger a workforce housing requirement. If it triggers a workforce housing requirement, we [the Housing Agency] notify the Planning Department and they put that in as a condition of the zoning approval or of the building permit. The first step is that the developer comes to us with their initial proposal and we discuss the various options that they have under the Ordinance, which in short, is to provide physical units of housing, to provide money in lieu of the units of housing, or again as Ms. Yukimura mentioned, to provide land and infrastructure instead of either money or the units themselves.
We [the Housing Agency] discuss with them their intentions, analyze the project, and we prepare an initial written workforce housing assessment that will lay out the specifics of the requirements and the options that they have—the number of units, the price points of those units, the alternative in lieu fee amount, and then if they were to opt for the land instead of the in lieu fees, that requires a further appraisal of the property and Council approval. We do not really get into the details of that, but they do know that the value of the land that they could convey to the County instead of providing units or funds has to be equal to or greater than the value of what the in lieu fee assessment would be, subject to Council approval. The developer then takes our assessment, they go back to their development team and crunch the numbers, or what makes the most sense for them. Is it best financially for them to provide units, is it best for them to pay the fee, is it best for them to provide land? One would presume that for resort-style developments, higher-end developments like at Kukui‘ula that generally...well I am getting ahead of myself, but one would assume projects like that may be more amenable to money, because they are not developing a large number of relatively inexpensive homes that make it simple to just add a handful of workforce housing units in that project. Once the developer comes back to us, they let us know which option in the assessment they want to move forward with, we [the Housing Agency] develop a formal housing agreement, which is essentially a contractual document that is approved by Council, signed by all parties, which spells out exactly what the developer will need to provide as a workforce housing requirement. We will walk through this example momentarily, but essentially if we are talking housing units, the assessment begins with the presumption of a thirty percent (30%) workforce housing assessment and then there are numerous incentives that the developer can take advantage of that are in the policy that would drop that number down. For example, if you place your workforce units that you need to provide, mixed in with the market rate units, you can reduce your thirty percent (30%) assessment, by twenty-five percent (25%). If you provide single-family homes as opposed to providing duplex or quadplex or apartment rentals, you can reduce your thirty percent (30%) assessment by another twenty-five percent (25%). You could, in theory, under the current incentives that are in the existing Ordinance, reduce your thirty percent (30%) assessment to fifteen percent (15%), but no lower. That is the floor that is allowed with all the incentives.

Again, I am going to try to shoot over this, so the developer goes off to build their housing development, so the next step involves marketing requirements that are set up in the Housing Policy as to how those workforce units will be sold and distributed. There are several stages specified in the Ordinance. Twelve (12) months before the expected completion date, the developer can begin to market the units to residents, income-qualified residents who are on the County of Kaua‘i Home Buyer list. That is a list that the Housing Agency maintains. We have about eight hundred fifty (850) people currently on that list. That is the first stage of marketing. If not enough people step forward from the Home-Buyer list to purchase the available workforce housing units, then the next stage of marketing is that they can go outside of the Home Buyer list to any Kaua‘i resident who is income-qualified. You no longer must be on the list. Now it is just any Kaua‘i resident, income-qualified. That is ten (10) months before the expected completion date, they can move on to the next category of buyer. Six (6) months from the expected completion date, if they still have not been able to find qualified buyers who can get financing to purchase the units, they can then move up to the next income group. Let us just say they had to provide an eighty percent (80%) AMI house, if no eighty percent (80%) AMI qualified buyers step up within that time period, they can move up to sell that house at one
hundred percent (100%) AMI, similarly if it was at one hundred forty percent (140%), they can go up to one hundred sixty percent (160%). Four (4) months out from completion if they still have not found qualified buyers to buy up the units, they can then offer the units to any Kaua‘i resident without any income restrictions whatsoever. Sixty-one (61) days out, if they still have not sold the units, they can have unrestricted sales to local residents irrespective of income or sale price of the workforce housing unit. As an example, any price cap set on those units essentially disappears, if by that point the developer has not found qualified buyers who can get financing to buy the house. Finally, the last step in the marketing program, at completion of the project with Certificates of Occupancy, if there are still unsold workforce units, those units convert to just market rate units, with no deed restrictions, no price restrictions, no income restrictions of any sort. I wanted to highlight that, in particular, because we had some comments and this does not entirely discount the comments, but just for context, we had some comments that affordability periods whether twenty (20) years or fifty (50) years as was proposed in the amendment, create unmarketable units and leave a developer, essentially, holding the bag on units that they cannot sell. This sort of tiered marketing program, I think largely answers that problem in that once that project is completed, a developer as set out in the Ordinance is not going to be left holding units that they cannot get rid of, because if they have not been sold...if they cannot be sold within the parameters of the Ordinance, they can be sold on the open market. Given the marketing plan, I think it is a little bit of an unfounded concern—being trapped with unsellable units.

Okay, so the units have been sold, we will presume, to income-qualified Kaua‘i residents. Under the current Ordinance each of those workforce units has a twenty-year deed restriction. The developer is now out of the picture and it is up to the County Housing Agency to enforce and monitor that deed restriction. In practice what that requires, and I will give you a concrete example, at the Kamamalu Condominiums, which is next door to the Līhu‘e industrial park, those units were largely produced as an inclusionary zoning requirement for an expansion of the Marriott. Some of those units have a ten-year restriction, some have a twenty-year restriction. We recently had communications with one of the owners of one of twenty-year restrictive units and it has been about eleven years since he purchased, and he desires to sell his house. The way that works is the Housing Ordinance specifies that he can sell the home back to the County for his purchase price, plus the value of any improvements that he has made to the unit, plus one percent (1%) equity growth per year, which is admittedly low. So, this individual purchased that unit for about one hundred seventy-eight thousand dollars ($178,000), which was a drastically discounted price ten (10) years ago when he bought it. The Ordinance provides the County the option to buy that home back from him today...our calculations with everything was about one hundred ninety-two thousand dollars ($192,000). He would get the difference in that. He has a loan, so less any equity he paid off against his loan as well, so that would be the money that would be in his pocket as he moves to the mainland. If the County is financially unable to purchase that unit at the price specified in the Ordinance or for some other reason unwilling to or not interested in purchasing it, what would happen in practice is we would provide him a letter essentially waiving our repurchase price at the specified amount and he could sell that unit on the open market. In this particular case, we had the funds and the availability to purchase that and he agreed to do so and what would happen next is that house now...had a twenty-year affordability requirement, the County will repurchase it and it will go into the County’s Home Buyer program.
We have about thirty (30) properties so far and the County will resell that property at or below the price that we buy it back at. So, we maintain that home, it will be resold at the most, at one hundred ninety-two thousand dollars ($192,000), the price that we purchased it for—it could be sold for less, because we have the option of selling it to people who are even lower income, who could not qualify for that. When we resell it, those affordability periods will all be extended, so it is no longer a twenty-year affordability requirement starting back in 2008 or so. It is now restarting the clock and in most instances for our Home Buyer programs, we resell the properties as leasehold properties with a ninety-nine year lease and we retain the ownership of the fee. For the condo, I would actually have to look on how exactly we were doing that...we may be just imposing a renewed affordability requirements since there is no land under it that the County can hold and release, but I am not positive on the details of that.

In a nutshell, that is how the current policy is intended to operate. Back in January and these will all be detailed more and Committee Chair Kuali‘i has already stepped through them...the Housing Agency proposed some preliminary amendments to the Housing Policy. Quick background. There had been, which Ms. Yukimura sat on, a Housing Task Force several years ago working on amendments to the Housing Policy. Probably many of you who are on this call were members of...

Committee Chair Kuali‘i: Adam?

Mr. Roveri: Yes?

Committee Chair Kuali‘i: I am just doing a time check. I know we started a little bit late, but I got about another ten, fifteen minutes at the most for you and I know you have a bunch of slides you wanted to go through. This is just a time check.

Mr. Roveri: I will jump into the specific projects.

Committee Chair Kuali‘i: Okay.

Mr. Roveri: I am going to attempt to share my screen and hope that works.

Committee Chair Kuali‘i: Okay.

Mr. Roveri: Are you able to see this?

Committee Chair Kuali‘i: Yes.

Mr. Roveri: As the slide says, this is an analysis of the financial impact of the current Housing Ordinance on a prospective housing development on South Kaua‘i. This project proposes forty-six (46) single-family two- and three-bedroom homes. The developer has an initial conversation with the Housing Agency and discussed the various incentives. They elected to take advantage of two (2) incentives, which reduced the base thirty percent (30%) requirement by thirty percent (30%), so that reduces the thirty percent (30%) housing assessment down to twenty-one percent (21%). Twenty-one percent (21%) assessment of the forty-six (46) unit project means they need to provide ten (10) workforce units. On
the right hand of the slide, I provided just some basic presumptions that feed into the analysis that is going to be on the next pages. The average per unit cost is an average across both the two- and three-bedroom units that was provided to us by the developer. The two-bedroom unit presumably would be a little less and three-bedroom units would be a little more, but that is the average. According to the developer, this is all inclusive of land costs, infrastructure, planning, financing, et cetera. That is an all-in number of the actual cost per unit. The projected market unit sale price, again this is an estimate, but we arrived at that price by looking at the available MLS listings in the area for similar home types. These are not luxury homes. These are your typical plantation-style two- and three-bedroom residential homes that you would find around Kaua‘i. Presuming the unit cost and the projected sale price, there is a projected profit per unit of one hundred twenty-one thousand dollars ($121,000). Again, obviously these are all just estimates. This is only one (1) project. Every project would differ. Some developers are going to tell us they can build houses for less than five hundred fifteen thousand dollars ($515,000) a unit, others will tell us that it has to be more no doubt.

This chart shows the financial impact of the current Housing Ordinance on this proposed project. In the far-left hand corner is the percentage of units that they will need to provide at each income group. Two-bedroom units, you will see they need to provide five (5) two-bedroom units: one (1) at eighty percent (80%), two (2) at one hundred percent (100%), one (1) at one hundred twenty percent (120%), and one (1) at one hundred forty percent (140%). Rather than go through everything in detail, the red numbers show fairly clearly the amount of subsidy that is required for the developer to be able to provide especially the eighty percent (80%) units, but also the one hundred percent (100%) units. You see that the two-bedroom unit, again this is the average between the two- and three-bedroom units requires a one hundred ninety-five thousand dollars ($195,000) subsidy. That subsidy comes from the sale of the market rate units, obviously. You will see also that the one hundred twenty percent (120%) price point units, essentially, requires no subsidy. They are making a profit for the developer. The one hundred forty percent (140%) units similarly, I noted down at the very bottom any observations that the one hundred forty percent (140%) AMI sale price of a three-bedroom is actually seven hundred thirty-seven thousand dollars ($737,850), which is well above the projected market rate prices in this area for these types of homes. All in all, the bottom right-hand corner, the total profit and loss on all these workforce units comes out to a loss of just under forty dollars ($40,000). This is the impact of the Ordinance under the tentatively approved current amendments. As you can see we eliminated the one hundred forty percent (140%) units, which are providing a subsidy for the workforce units. They are also providing a larger number of one hundred percent (100%) units under the thirty percent (30%), forty percent (40%), thirty percent (30%) breakdown of the apportionment of the proportionate. Obviously eliminating that one hundred forty percent (140%) placed a larger burden on the developer and then on the far right bottom corner, you see that the total profit/loss for the project on the workforce units, and again this is just the workforce units, not the total project, so the loss to the developer on the workforce units would be four hundred seventy-three thousand dollars ($473,000).

This slide provides a similar analysis with the “what if” we reduced the thirty percent (30%) beginning assessment down to twenty percent (20%), as I believe former Councilmember Yukimura suggested and I think Milo Spindt had also suggested in an editorial he had in the paper this last week. This sets out the impact
of that...again the twenty percent (20%) base-assessment, when you take advantage of the very same incentives, drops down to fourteen percent (14%), which also results in fewer workforce units being built—six (6) rather than ten (10). You will see here that the total on the bottom right, the total profit/loss on the workforce housing units that are produced is three hundred seven thousand eight hundred dollars ($307,800). So less burden on the developer for the workforce units, but still requiring the subsidy on those and producing fewer units. Two (2) more slides and we will be finished. This is a summary of the current Ordinance versus the ordinance as currently proposed with amendments. We got, working left to right, the per unit cost, the projected sale price of each unit, the profit each unit—four million three hundred fifty-six thousand dollars ($4,356,000) is the projected profit on all of the market rate units of the project assuming the six hundred thirty-six dollar ($636,000) sale price. Thirty-nine thousand dollars ($39,000) is the subsidy required of the workforce units only under the current Ordinance. Four hundred seventy-three thousand dollars ($473,000) is the subsidy required if we removed the one hundred forty percent (140%) AMI point, and then the final two (2) columns are the total project profit under either scenario. The one hundred twenty percent (120%) AMI has reduced the overall project profit by four hundred thousand dollars ($400,000) more or less.

Last slide. This is a summary of the impacts, if we were to reduce the base-workforce assessment down to twenty percent (20%). Even though we still have a subsidy to the workforce units, because a developer has had to provide fewer workforce units overall, six (6) rather than ten (10), the overall projected profit on forty (40) units, rather than forty-six (46), is four million eight hundred thousand dollars ($4,800,000). After the workforce housing subsidy, the total project profit is just over four million five hundred thousand dollars ($4,500,000). The observations down on the bottom, the overall project profit for the entire project is almost five million dollars ($5,000,000) greater than under the current Ordinance with the one hundred forty percent (140%) AMI. My time is probably about up. I will unshare my screen. With that, I can turn it back to you.

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<th>Committee Chair Kuali'i:</th>
<th>Okay.</th>
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<td>Mr. Roversi:</td>
<td>Thank you, Committee Chair Kuali'i.</td>
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<td>Committee Chair Kuali'i:</td>
<td>We will get right into the specific issues. The first one being the Workforce Housing Assessment for Residential Developments, which is the definition of workforce housing to change down to one hundred twenty percent (120%), eliminating the one hundred forty percent (140%), which you just gave us examples of. Whatever the workforce percentages, thirty percent (30%) at the moment, how that breaks up between the remaining eighty percent (80%) AMI, one hundred percent (100%) AMI, one hundred twenty percent (120%) AMI at thirty percent (30%), forty percent (40%), thirty percent (30%), respectively. First issue to speak on specifically...anyone can you raise your hand? Ms. Yukimura.</td>
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<td>Ms. Yukimura:</td>
<td>I just discovered I do not have a way to electronically raise my hand.</td>
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<td>Committee Chair Kuali'i:</td>
<td>We can see you.</td>
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<td>Ms. Yukimura:</td>
<td>It goes back to the analysis that Adam presented and thank you very much, Adam, it was helpful. Your analysis is assuming</td>
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that the developer would provide certain number of houses in each category, each AMI range, is that correct?

Mr. Roversi: Yes, those percentages are prescribed in the Ordinance.

Ms. Yukimura: And I think you show that the market is providing quite well to the hundred forty percent (140%) families...I mean they are able to afford houses that are at market rate now.

Mr. Roversi: I would not necessarily draw from this example that the market is providing plenty of one hundred forty percent (140%) AMI units. It is more just for this specific project where the specific type of houses that were proposed, which are relatively low priced homes to begin with, that would be the case for this project, but I would not draw a conclusion islandwide based on this one (1) example.

Ms. Yukimura: Okay. But if we include one hundred forty percent (140%) AMI families in the requirement, that means there will be fewer houses, whatever the requirement is, provided for in the other income groups.

Mr. Roversi: Correct.

Ms. Yukimura: Okay. But if we include one hundred forty percent (140%) AMI families in the requirement, that means there will be fewer houses, whatever the requirement is, provided for in the other income groups.

Mr. Roversi: May I make one (1) comment before we move on to another speaker? For this specific example project, which is only one (1) instance, having the one hundred forty percent (140%) workforce housing requirement under this scenario is essentially the same as reducing the workforce housing requirement on the developer, because those units are the same as their market rate units. I understand that helps to subsidize the other units, but it is the same as having a lower requirement. That might not be the case if we were talking about developing million dollar homes—then the one hundred forty percent (140%) requirement would have some impact, but not in the model that I presented.

Committee Chair Kuali'i: Thank you. At this point, I do not see anyone else raising their hands, so if you do want to speak, please raise your hand. Milo.

MILO SPINDT, Executive Director, Kaua‘i Housing Development Corporation (via remote technology): Thank you. This is Milo Spindt, Executive Director for Kaua‘i Housing Development Corporation, for the record. Housing Director Roversi, thank you very much for that example. I think it is a very useful example. I think it clearly shows that by removing the one hundred forty percent (140%) AMI category from the affordable housing mix, it clearly shows a significant increase in costs to the developer. By making this change to the Housing Ordinance, rather than reducing the barriers to creating housing developments, there is an increase impact to all housing development. All of our articles have stated that the current Ordinance No. 860 has not produced housing and so my question is that by increasing the restrictions and increasing the cost to developers—how do we expect
to develop more housing? That is my case with even the one hundred twenty percent (120%) to one hundred forty percent (140%) in them. Thank you.

Committee Chair Kuali‘i: I also see the hand of Mike Serpa.

MIKE SERPA, Concentric Development Group (via remote technology): Hi, this is Mike Serpa. Thank you Adam for your presentation and your matrix, as it was very helpful. Just a couple of brief comments on that. I have been a builder for twenty-five years, predominantly in California, but I have several projects on the island of Kaua‘i. When you show developers numbers like that, the things that generally are not included and I would be curious to see what the assumptions were that came with the profit on that, but generally I will tell you that on my twenty-five years in the business running both public companies and build private, I probably built over ten thousand (10,000) homes and I have done a lot of affordable housing, I have worked with a lot of affordable agencies (inaudible)... I can tell you that over that twenty-five year period, the average profit for a project is generally seven percent (7%) to ten percent (10%). What you presented showed nineteen percent (19%) profit, which is fantastic. I hope that builder hits it, because in the development business what you learn is that on one-third of your project you lose money. One-third of your project comes close to breaking even and one-third of your project, you better hope you make money to cover the losses that you sustained on the other three. Where the losses come from are unpredictable risks that happen that you could not foresee coming, for example, what you have to price into your cost is a warranty which new developers and even median seasoned developers typically do not do, structure reserve, because you have to go back and fix those buildings over the years have a ten-year construction defect liability that follows you. You are on the hook to go back and fix those buildings. There is a decent amount of money you have to leave in reserve for that. Also, when you look at a static model like that, you are assuming today’s market conditions. So what happens is whatever you come to today, the housing agreement, whatever you do for your costs, they do not change much. The costs do not. But if your revenues take a big hit, like if a pandemic hits or something like that, it puts down the pressure on pricing, then your project that was at ten percent (10%) or twelve percent (12%), quickly loses all its profit. But you are still providing a subsidy for the houses, so the one hundred twenty percent (120%), one hundred forty percent (140%) categories—that helps mitigate those unforeseen risks, it helps with the warranty costs that goes into that. It does not always fix it, but it helps, so if you take that top off and that profit away, the model that you showed would lose a lot of money. I would just say to keep in mind that when you are looking at a builder’s numbers, you are also assuming there are assumptions to whatever is assumed in those numbers. We really do not know what assumptions go into those numbers there, but I would caution all of you to assume that a development project generally makes about twenty percent (20%) profit—that has not been, in my experience, over the last twenty-five years. I just wanted to offer that. It is great to have an example and see how the numbers work, but I would not assume...like Adam did say, “this is just one project,” and I appreciated that, but we really do not know what the assumptions are going into (inaudible). Those are my comments. Thank you.

Committee Chair Kuali‘i: Thank you. Councilmember Cowden.

Councilmember Cowden: I just have a basic question to add to the table on this. I do not have an answer, but the different regions on the islands are quite different. When I think about the development in the Hanamā‘ulu area, Lihu‘e has a
lot of professional jobs. We have teachers, we have the people from the hospital, we have the people from the County, so I think getting the one hundred forty percent (140%) is more easy to do here and in fact you need to have that one hundred forty percent (140%) because you are going to have people with jobs in that range. If you go more Anahola, north, there are fewer professional jobs. I joked and said we are on inverse bell curve of normal people, but when we set our policy up, I am not sure if it looks to be where we are going to have more places for less earning. If we put all the lower earning housing in the Lihue area, people do not drive all the way for an hour for a fifteen dollar ($15) an hour job, they might, but they do not want to. I am just wondering when we are designing this, if we have any thought towards which areas of the island. I do not know if Adam has an answer to that.

Committee Chair Kuali'i: Adam, you are going to have to signal to me to when you want to chime in on anything, because I need to get a signal from you. Do you have anything to say at this point? Ms. Yukimura, I see your hand up.

Councilmember Cowden: You are muted, Adam.

Mr. Roversi: I would observe that it is correct that different areas of the island are different. The Housing Policy has attempted to at least differentiate between visitor destination areas (VDA) where vacation rentals drive up housing prices versus standard residential areas, but I think the Housing Policy is complicated enough already in trying to differentiate between Lihue versus Koloa versus Kilauea would start to become an unsurmountable task and I understand that it is hard to create a one-size fits all policy. I would suggest that maybe a VDA versus residential distinction is about all that we will be equipped to try to create.

Councilmember Cowden: Okay.

Committee Chair Kuali'i: Ms. Yukimura.

Mr. Yukimura: Thank you. I would like to follow-up on Mr. Serpa's and Milo's point. As you know I am wanting to keep the developers profits as high as possible, but at the same time address the housing need. To increase the income qualifications to one hundred forty percent (140%) AMI is to increase profits at the expense of the goal of providing affordable housing. Adam, I noticed that you reflected the deep subsidies of the other lower groups. This idea of providing land and off-site infrastructure does not need to reflect the deep subsidies, and so if you take that paradigm on where you provide land and housing for...and I am taking your first case, ten (10) units, what would that do for the developer's cost? And then you do not have the long-term warranties or operation and maintenance you have to think about that Mr. Serpa mentioned because these units will be in the hands of a nonprofit or the County. Is that not a better way to get both goals-reduce developers' costs and provide more affordable housing.

Committee Chair Kuali'i: Okay, seeing no more hands, I am going to let Adam have the last...oh, Milo. I am doing a time check, about five (5) more minutes and then we can get back on schedule and move on to topic 2. Milo and Adam are the two (2) folks we will hear from.

Mr. Spindt: I just have a real quick comment. I believe that the current Ordinance allows affordable housing up to one hundred forty percent
(140%) AMI and that the proposal is to reduce that down to one hundred twenty percent (120%), which would make it more onerous upon the developers; therefore, making it harder for projects to pencil and not the other way around. We are not adding it on, we are actually taking it away. I am proposing that that portion of it be left alone and not changed.

Committee Chair Kuali‘i: Adam.

(Councilmember Kagawa was noted as not present.)

Mr. Roversi: To Ms. Yukimura’s point, I just wanted to, for context, throw out an in-lieu fee assessment that we recently did for a proposed project in Kalāheo. It is a ten (10) unit project and under the current Ordinance, the in-lieu fee assessment on this property for ten (10) units was four hundred seventeen thousand five hundred sixty dollars ($417,560).

If this developer in this example were to opt for a land transfer as opposed to providing units or paying this money, he would be required to provide land that appraised at or above four hundred seventeen thousand dollars ($417,000) to the County. That is just to provide information.

Committee Chair Kuali‘i: Thank you. As we move to the second item, I just wanted to remind everyone else on the call, you need to raise your hand even if you just want to make a brief comment on whether you support or do not support the proposed amendment and whether you have any suggestions on anything different. Adam, can you just give a brief overview on our second topic; the Multi-Family Workforce Housing Special Assessment? We are at the 2:30 p.m. slot.

Mr. Roversi: Quick context. The Housing proposals, the amendments that the Housing Agency proposed to Council back in January arose from the Workforce Housing Nexus and Financial Feasibility Analysis that have been prepared by Keyser Marston Associates, Inc. (KMA) which I believe the request original from one of the Council’s task force committees chaired by Arthur Brun. One of the prime recommendations from this report, and these folks design inclusionary zoning ordinances, one of the primary recommendations from this report was that multi-family projects on Kaua‘i under the current Ordinance are financially not feasible, because the subsidy required to produce...the profit on the units with the sale price or the rental price is not sufficient to provide a subsidy for the workforce requirements that were imposed. Their top recommendations were to create an exemption for apartment-style multi-family developments. With the recognition that generally speaking, those types of projects as long as they are not in the visitor destination area and resort projects, are essentially the most “bang for your buck,” to create the most units at what tend to be, by default, workforce prices whether they are rentals, condominiums, or for-sale condominiums. To effectuate that exemption of multi-family projects that was recommended in the report, looking at the General Plan for some additional guidance, we proposed two (2) types of exemptions from the existing Ordinance. One would be for zoning based and that has proposed an exemption for any units that are zoned R-10 or greater. You only get the exemption...
If you build to the maximum density allowed, so you cannot build ten (10) units on an R-20 and be exempt. You would have to build twenty (20). The presumption is that a twenty (20) unit apartment complex built on an acre lot would by definition and market reality end up producing workforce price point units, which is what we desperately need. Those R-10 and R-20 lots on Kaua‘i, by and large, are concentrated in the greater Līhu‘e area. There are some in other areas of the island, for sure, but most of them are in the greater Līhu‘e area, which the General Plan tells us is where we want development to be broadly focused. The General Plan also tells us that aside from the greater Līhu‘e area, we want to focus development in existing town cores where we have infrastructure, where we can create walkable neighborhoods, so the exemption concept was also expanded not just to be zoning based, but also to be based on special planning areas that arose from both the General Plan and the most recently adopted South Kaua‘i Community Plan. The initial exemption areas were proposed for the Līhu‘e Town Core, Kalāheo, and Kōloa; with the presumption that Council would review whether future town core exemptions were appropriate or not as additional special planning areas were developed under the West Kaua‘i Community Plan, which is now before Council and under future community plans presumably there will be...in the future, there will be a North Shore Community Plan, there will be an Eastside Community Plan. Even though there is an existing town plan of Kīlauea, we expressly do not recommend creating an exemption area there, because the town plan itself has specific affordable housing requirements that is in excess of the requirements that are imposed by the current Housing Ordinance. This is incredibly thorough, but we did do an analysis of existing multi-family projects in the greater Līhu‘e area, so that we have an understanding of the reality of what those places would rent for based on the current market reality. We looked at the existing rents at the Līhu‘e Townhouse on Rice Street, the Shinseki apartments on Hoala Street, Sun Village in Līhu‘e near Wilcox, Banyan Harbor in Kalapaki, and Halelani on Hanalima Street. Almost across the board, all of the units in those multi-family projects are at one hundred percent (100%) AMI or below; they are not full of wealthy individuals coming to live in the greater Līhu‘e area. Because we recognized that creating exemptions is scary and it does not absolutely guarantee anything, it is making market-based assumptions on the reality today...because we realized that, we recommend the 10-year sunshine provision on that exemption so the Council will be forced to reconsider whether it is appropriate or not. So on some level it was proposed as an experiment for ten (10) years to see if it works. If it does not, it will automatically evaporate. Then Council can review whether it has been successful...to reinstitute it, reinstitute it with amendments, or go in a completely different direction. So that was the initial impulse behind this amendment.

Committee Chair Kuali‘i: Thank you, Director Roversi. We have two (2) to three (3) people in line waiting to speak. I would like to remind everyone that if you have difficulty raising your hand using the Microsoft Teams function, you can...
also turn on your camera and we will look to physically see your hand. First, we have Councilmember Evslin. You need to unmute your microphone.

Councilmember Evslin: I am sorry, I muted my microphone. Are you able to hear me okay?

Committee Chair Kuali’i: Yes.

Councilmember Evslin: Thank you, Committee Chair Kuali’i. I have a quick question. There have been concerns over the ten-year period and possibly shortening the length. From start to finish, what is the average duration for a development to get their entitlements sent in? Could you hear me?

Committee Chair Kuali’i: We heard the question, I am not sure who should answer that?

Council Chair Kaneshiro: I would say it is over ten (10) years.

Mr. Roversi: ...some of the private developers may have a completely different answer. For the County’s rental projects, they are usually three (3) years...two (2) to three (3) years. Three (3) years would be the average presuming that the ducks are lined up. Being that we are a County Agency, I would say that we have a little of an advantage when it comes to rapid permitting.

Councilmember Evslin: I would love to hear if a private developer could provide insight to that, as well as the timeframe for bringing infrastructure, et cetera.

Committee Chair Kuali’i: Next up, we have Karen Ono.

KAREN ONO, Kaua‘i Board of Realtors (via remote technology): Hi, Committee Chair Kuali’i.

Committee Chair Kuali’i: Aloha.

Ms. Ono: I do not have camera capability.

Committee Chair Kuali’i: We can hear you clearly. You are starting to break up.

Ms. Ono: I am as far back from everything as possible. I will be out of my office door soon. First of all, thank you. We are in the[town] core corridor, correct? When we originally did this plan, it was to put infill in. With
COVID-19, there has been changes. There are not many people who want to live in the urban core or infill area. So that is something that this group has to really reconsider again. It is not a bad idea to have infill, but we have to really consider how we are going to do the infill. Thank you.

Committee Chair Kuali'i: Thank you. Next, we have Palmer W. Hafdahl.

PALMER W. HAFDAHL, AIA (via remote technology): Hello, thank you for this introduction. I hope you can hear me? My question goes to the exemption. For example, in the town core, it says “a maximum density or greater.” I am trying to get a picture of what could be greater than maximum density, and where to ARUs fit in that picture? Is the maximum density at the forty (40) units per acre in a Town Core? Is the ARUs not counted toward that? Where would an ARU fit in that picture and how could something be greater than the maximum density?

Mr. Roversi: It was our intention when presenting the amendment...in which I believe was presented before the ARU rule even passed. This is not based on increased density included in areas, but on the base zoning density of a project. The “or greater” may be a little unnecessary semantics, but certain affordable housing projects can get variances to increase their density. The Ordinance provides for increased density as an incentive for projects that meet certain affordability requirements. With the Housing Agency’s cooperation, you can go above the maximum density that is allowed if you are meeting various affordability requirements.

Committee Chair Kuali'i: Next, we have Mike Serpa.

Mr. Serpa: Thank you again for allowing me to speak. I have a real life project under construction now. Quite frankly, I am waiting on thus Housing Policy to decide what to build there. When I bought the project, it had been approved before there was a Housing Ordinance. Technically there is no affordable housing required there. What the previous developer had planned was to have duets there, two thousand two hundred (2,200) square foot duets, they would have to sell them for eight hundred thousand dollars ($800,000). In a town core like Koloa, that did not seem like the best product. It seemed more of a win-win to go in with one-bedroom one-bath, or two-bedroom two-bath. Adam mentioned earlier that this on its own, by design, meets the “Workforce Housing” price point. At this point, I do not have to have a Housing Agreement and I do not have to have affordable housing. Therefore, I am wondering if there are going to be unintended consequences if I do choose to do the smaller units that are affordable by design. I think it is better and I think we will sell a lot faster to local people. I believe that the other option was designed as second homes for mainland buyers. That is not really who we want to
serve, and certainly not in a town core we want to be vibrant like Kōloa Town. If I have to submit to the Ordinance, and I take the sixty (60) home route...which by design is the most density you are able to get on it given our height restrictions, et cetera, the problem is, I will lose as much as eighteen (18) units to the affordable housing. I will end up with only forty-two (42) market-rate units. Thirty-four (34) or forty-two (42), I will end up with an additional eight (8) homes...it does not make sense. My point is that this is very, very hard. I am very impressed that Adam knows this like the back of his hand, and it is really impressive how well he knows these policies. The unintended consequences would be that if this is too cumbersome, if it is too onerous, then from a business standpoint, it would be silly of me to do the right thing and build the right size units that locals would buy because they are less than one half ($\frac{1}{2}$) of the price that they would have been before. It would be in a town core where people are able to walk, shop, dine-out, and spend money in the downtown. When I saw the exemption discussion where it could be exempt being that it is a town core, I thought, “Well, I am going to build smaller units.” It makes sense for business reasons, for the island, and for the housing stock that is basically nonexistent in that range. It is not deed restricted. I would like to go with the smaller units. However, my message is unintended consequences. Therefore, I would prefer to build smaller units. If it is a Town Core and if it is not exempt, how much pain will I have to go through? If so, I would default back to what I already have and there would be no affordable housing there. We have housing in the downtown core, but it really does not make sense. I am in a bit of a quandary and I will be paying close attention to this. I am hoping to build the right product for everyone and build what makes the most sense. However, not if it is overlaid with heavy inclusionary housing and dealing with a housing agreement that I currently do not have to deal with. Adam, I plan on sitting down with you to really talk through this as you obviously know this a lot better than I do. I would like to build the smaller units. Thank you.

Committee Chair Kuali'i: Mr. Serpa, there was talk about twenty percent (20%) instead of thirty percent (30%), which would be twelve (12) instead eighteen (18)...if so, would that be better for your numbers? I am not sure if he is still on? Next, we have JoAnn A. Yukimura. Unmute yourself.

Councilmember Cowden: Unmute and sit back.

Committee Chair Kuali'i: I saw another person raising their hand.

Councilmember Cowden: Councilmember Evslin. Sit back.

Ms. Yukimura sit back.

Committee Chair Kuali'i: We can hear you, but sit back.

Ms. Yukimura: Should I go ahead?
Committee Chair Kuali‘i: Yes.

Ms. Yukimura: Okay. I have questions for Adam. The examination for the multi-family units in Līhu‘e that you did—town houses, Sun Village, Banyan Harbor Resort, and Halelani Village...there may have been another one also, they were built forty (40) years ago. I do not think that you can say newly built homes are going to be smaller and therefore affordable by design. I really need better documentation to show that this is going to be true. If so, all of the units built by Mr. Serpa, besides the affordability requirement, are also going to be affordable just by the virtue of the design. That does not make sense to me. Is the intention of Draft 3, as presently written, to be at one hundred twenty percent (120%) AMI? If they have to make it at one hundred twenty percent (120%), what happens to the families that are in the ninety percent (90%) to one hundred percent (100%) AMI? Lastly, are these going to be rentals and for how long will they be affordable under this new provision?

Mr. Roversi: The previously proposed exemption at the last Committee Meeting was essentially converted from an exemption to a special assessment with a one hundred twenty percent (120%) AMI cap. As currently written, it would require all units produced to be at one hundred twenty percent (120%) or below. It has no requirement for the eighty percent (80%) units, one hundred percent (100%) units, et cetera. Being that this is an assessment, it is not an exemption, it would impose all the other requirements that exist in the Housing Policy. This is in terms of affordability, marketing restrictions, and so forth. The only real change that it makes from the existing Housing Policy is that it gives the developer a choice. If you are developing in the Līhu‘e Town Core, provided you are going to build at maximum density, you have a choice to accept the thirty percent (30%) existing assessment which requires eighty percent (80%) units, one hundred percent (100%) units, one hundred twenty percent (120%) units, or you would accept a one hundred percent (100%) assessment over your entire project at a one hundred twenty percent (120%) price point. You have two (2) choices and you get to decide which option pencils out best for you.

Ms. Yukimura: Okay. I am sorry, can you hear me? If it is all at the one hundred twenty percent (120%), is there any affordability length required?

Mr. Roversi: Presuming that the fifty-year affordability amendment ends up in the final bill, they would have the same fifty-year requirement as every other workforce housing unit would have, as the amendment is currently written.

Ms. Yukimura: It could be either for-sale or rental, but likely to be for-sale, right?
Mr. Roversi: They could be either. Under the current Ordinance, rental units are required to meet an affordability requirement for forty (40) years. Under the current Ordinance, for-sale units is twenty (20) years. There is a pending amendment to extend that period to fifty (50) years. It is different affordability periods for rentals versus for-sale units.

Committee Chair Kuali‘i: Okay. Next to speak is Councilmember Evslin followed by Dave Hinazumi, then Milo Spindt.

Councilmember Evslin: Thank you, Committee Chair Kuali‘i. I am sorry, there is a bad echo.

Committee Chair Kuali‘i: You are okay.

Councilmember Evslin: I have a question for Mike Serpa if he is still on the line. I would like to clarify what he was saying before. It is my understanding that with the exemptions for Kōloa, you are able to build a one-bedroom unit or possibly a two-bedroom unit, which are likely to be offered at workforce pricing. If there is a twenty percent (20%) to thirty percent (30%) requirement, then you would have to go with the higher value units. I want to ensure that I heard that correctly. Perhaps Mike Serpa could talk a little about what he expects the price point on the one-bedroom units to be if there was an exemption for Kōloa.

Councilmember Evslin: Thank you, Mr. Serpa. It was to clarify when you were speaking earlier, it was my understanding to what you were saying is that if there is [an] exemption for Kōloa, you are able to build either one-bedroom or two-bedroom units that would be oriented towards workforce or local residents. If there is no exemption and you need to comply with the workforce requirements, you
must do the higher value units which more than likely would gear towards second home buyers. One, I would like you to clarify if that was what you were saying. Two, if you can talk more in regard to what you expect the market price to be for those units if they were affordable.

Mr. Serpa:

Yes, you got it right. I am trying to decide what to do. The smaller units are best because I can bring those into the marketplace for somewhere ranging from four hundred dollars ($400) to five hundred dollars ($500) a foot, which means a sale price of four hundred twenty-five thousand dollars ($425,000), four hundred fifty thousand dollars ($450,000), to five hundred twenty-five thousand dollars ($525,000). The way I designed it is that I have half one-bedroom one-baths, and half two-bedroom two-baths. I believe from an attainability standpoint and over the years that I have been involved in affordable housing studies and working with consultants, generally when people say that “affordable housing is so important in their particular area,” what they mean most of the time is “attainable housing,” and that they are able to afford a house. They do not generally understand deed restrictions and all of the things that they have to go through. There is also a different group in a very low category. When you get about the eighty percent (80%), one hundred percent (100%), one hundred twenty percent (120%), or one hundred forty percent (140%), that group is talking about attainable housing. That is what I would like to produce, and you characterized it correctly. Yes, that is what I meant by that.

Councilmember Evslin: Thank you.

Committee Chair Kuali‘i: Next, we have Dave Hinazumi.

DAVE HINAZUMI, Grove Farm (via remote technology): I have a few comments on this topic that will lead into Councilmember Evslin’s question. First of all, we support the exemptions. The issue everyone is aware of is that we have little to no housing of any type whether it is workforce, gap, or market units that have been built. I was in the same boat fifteen (15) years ago when I first started at Grove Farm... this was happening well before that. We support the intent which is to spur the development of high-density developments, as stated by Director Roversi. The exemption period would only be for ten (10) years. That may seem like a long time, but in terms of development, it is not. It takes a really long time and I am able to give you a specific example. For our Līhu‘e project that is located behind Walmart and down to the Kaua‘i Police Department area, AMFAC was the predecessor. They must have started their planning in the late ‘80s or ‘90s. They got their Land Use Commission approvals in 1994 and zoning shortly thereafter. We acquired the property in 2001. We went in for large lot subdivision in 2005. Here we are in 2020, and for various reasons related to permitting at various levels, we have yet to break ground. Unfortunately, that is the reality that we live in and it does take a long time.
For everyone at this table and on this call, we all have the same concern which is to produce housing. This policy alone cannot solve our problems, but it will help to eliminate barriers. I firmly believe that this will help to move things along, and that is why we support this. Thank you.

Committee Chair Kuali'i: Mr. Spindt.

Mr. Spindt: Thank you very much. For the record, Milo Spindt, Kaua'i Housing Development Corporation. I think restricting the town cores to developments only under one hundred twenty percent (120%) AMI is a wonderful concept. Again, in practical implementation, I think it means that nothing will be built. Even as a non profit developer, when trying to attain that, I must bring grant funds and other subsidies to the table in order to get projects cash flow, if it is a rental, or to be valid on the resale market. I have to bring a lot of subsidy to the table. I think that the idea of this is to encourage growth of infrastructure and housing options in the urban core. For that reason, I believe that the concept is risky. However, the ten-year sunset provision on doing an unrestricted policy in the town cores is a good idea to see what it produces. If it works well, you can continue it. If not, it can be changed.

Committee Chair Kuali'i: Thank you. Time check, we have a few minutes left on this topic. Is there anyone left? I do not see anyone raising their hand to make a final point on this topic. Okay, we will move to our third topic. Adam, if you are able to provide a brief overview.

Council Chair Kaneshiro: I am sorry. I would like to make a comment.

Committee Chair Kuali'i: Yes.

Council Chair Kaneshiro: It is not on here, but in order to qualify for the special assessment or exemption, we added an amendment to include all units being sold at one hundred twenty percent (120%) or below. I would like us to reconsider or think about that further. The whole point of this policy was to try and make it easier for people to develop houses. I really feel that starts to be an impediment on building houses if you place that one hundred twenty percent (120%) roof on developers or people that are trying to build houses. I would like to share that with everyone as we move forward and back into Committee as we look further into the one hundred twenty percent (120%). I believe it is a lot harder to say that we are making it easier to build housing when we place a one hundred twenty percent (120%) roof on those areas.

Committee Chair Kuali'i: Okay. Our third topic is Workforce Housing Assessment for Resort Developments within the VDA. Adam.
Mr. Roversi: Adam Roversi, Housing Director. The current Ordinance distinguishes standard residential developments from resort developments. Rather than imposing a thirty percent (30%) base assessment with various incentives for resort projects, the current Ordinance simply says that every resort project will do a project-specific economic analysis of their development and present it to the Housing Agency for review, and then it will be forwarded to the County Council for ultimate approval. Again, turning back to the Nexus Report, the Report recommended that amorphous assessment made it very difficult for resort developers to develop because it is completely uncertain. It does not provide any basis to be able to make financial decisions without a process until well down the road of expending money. One of the recommendations was to create the price point...create and define an assessment provision like the thirty percent (30%) residential provision. As a starting point of discussion, the Housing Agency initially proposed a blanket fifty percent (50%) assessment requirement for resort developments, which could take advantage of various incentives that were offered for residential developments. The fifty percent (50%) was not dreamed up out of thin air, and it was based on the Nexus Report. The Nexus Report did two (2) things. It analyzed various projects on a financial feasibility level and it also analyzed projects based on the workforce housing need that is created by those types of projects. For resort-style developments in particular, the analysis concluded that those types of projects typically create almost a 1:1 need for workforce housing units, given the type of development they are—the luxury-style development, and down to around fifty percent (50%) for a mom and pop, as it were, resort development. The fifty percent (50%) starting point for that proposed assessment had to do with the actual workforce unit need created by a typical resort project. Through the community process, the initial proposal to set across the board of fifty percent (50%) assessment for resort projects was amended to create essentially two (2) options. One, you are able to accept the fifty percent (50%) assessment. Option two, you are able to do the individualized project-specific economic analysis with a floor assessment of thirty-five percent (35%) for a resort project. Anecdotally, one of the interests in creating something that was more defined came out of the Coco Palms situation. Through their individualized economic assessment of their three hundred (300) room hotel, it was concluded that they created the need for zero (0) workforce housing units. They attempted to get that passed through Council, and it was negotiated up to ten percent (10%). It shows the instability of relying on an economist hired by the developer to tell us how many workforce housing units are appropriate for their project. We are attempting to create something defined in the policy.

Committee Chair Kuali'i: Thank you, Director Roversi. Does anyone want to speak on this? Is everyone okay with this? JoAnn A. Yukimura.

Ms. Yukimura: There is a John Horwitz raising his hand.
Committee Chair Kuali'i: We did not see that, thank you.

JOHN HORWITZ, Eric A. Knudsen Trust (via remote technology): John Horwitz, thank you.

Committee Chair Kuali'i: Mr. Horwitz, go ahead.

Mr. Horwitz: Thank you, Committee Chair Kuali'i. I am with the Eric A. Knudsen Trust. If Mr. Sato is able to mute his microphone, I will not have the feedback, thank you. I am the lead Trustee for the Knudsen Trust. Some of our lands agricultural lands and conservation lands but we also have resort lands down in Po'ipū. I understand that there is a fifty percent (50%) starting point, but nothing has moved from that. Through all the discussions, it stayed at the fifty percent (50%). I am losing hope that it was just a starting point and it has become a fixture. To add the idea that somehow you may be able to go in and convince the Housing Agency to go down to thirty-five percent (35%) is not ensuring opportunities for developers of resort lands. When we had our last discussion with many of the same stakeholders who are currently present in this meeting, I brought up the point that a developer down in Po'ipū who is wanting to build a two hundred (200) unit hotel would have an in-lieu fee of thirty million dollars ($30,000,000). That is an astounding number that is being imposed as a cost of doing business because it is a resort property. I believe this is a similar problem that Mr. Spindt brought up and still has not been answered. If the current housing concept has not worked, why are you deciding to make it more onerous. Everyone is being silent regarding that question. It was the very first question that was raised and not a single response to it. The same thing applies to the resort area, only more egregiously to assume that there is a fifty percent (50%) [workforce housing need]. We already went through the options. You are not going to put workforce housing in the middle of the resort. That is not feasible. You are now looking at the in-lieu fee or donating land equal to. Well, do you want to try and find thirty million dollars ($30,000,000) of land to donate or infrastructure that you are going to put in? It is not going to happen. You are going to ruin all opportunities to develop as it already has been ruined for the past decades. That is the point I wanted to make, thank you.

Committee Chair Kuali'i: JoAnn A. Yukimura.

Ms. Yukimura: Yes, thank you. I appreciate Mr. Horwitz bringing up the land equivalent to in-lieu fee, because that does not make sense to me. It should be land to provide enough space for the houses that are obligated. For example, Kukui'ula. We did not say, “give us land equal to the in-lieu fee.” We said, “give us land for the seventy (70) units that you owe under the inclusionary zoning.” For Kukui'ula who was partnered with A&B Development LLC, that was possible. It is harder for other landowners, but Kevin Showe was able to find the land at
Courtyards at Waipouli. I feel that we need to clear that up and remove that from the Ordinance that we are talking about land that is equivalent to the in-lieu fee. That does not make any sense. On the other point about not making hotels buildable, there is an issue regarding whether we want hotels to be built at this time. I do not think that the goal of the Housing Ordinance should be to facilitate hotel building, which should be determined by the General Plan. I want to point out that if you look at the history of affordable housing, the plantations provided one hundred percent (100%) of their employee housing. When we transitioned from plantation to hotel resorts, that was lost in transition. Kiahuna, which was Moana, which is now that development around the golf course in Po’ipū, that was one thousand five hundred (1,500) units and they gave two million dollars ($2,000,000) for housing. Until this day, I do not know how it was spent or what units were produced by that. That is the danger of in-lieu money. The County does not always know how to use it. There are all these issues. The goal is not to make development easier. The goal is to make sure that when development happens, they provide the housing that they generate the need for...or a portion of.

Mr. Horwitz: I totally disagree. I do not think that housing affordability should be creating policy for what type of developments are being made. I feel that is completely wrong; however, you have your opinion and I have mine. I would like to see an answer to the question, as we have heard, the intent of the workforce housing is to restrict hotel development because it is not necessarily desirable for some people. More importantly, the question that Mr. Spindt brought up needs to be answered. If this Housing Ordinance was unsuccessful at thirty percent (30%) at the levels of one hundred forty percent (140%) AMI and one hundred twenty percent (120%) AMI, how does it become better and less onerous with the new amendment of the resort being at fifty percent (50%) and other cases at thirty percent (30%) AMI. Adam, that answer needs to come from you.

Mr. Roversi: The partial answer to that question is that the creation of the exemptions for high density properties throughout the entire island and town cores was the developers side of the coin to the amendments of the Housing Policy. The proposed amendments had something for everyone. It increased the period of affordability because there were complaints about projects flipping to market rate prematurely and having a pool of affordable housing evaporate. There is that for the housing advocacy side of the world the exemptions originally proposed were the attempts to reduce the burden of the existing policy, and promote rapid housing in the areas that the General Plan told us that we should be promoting housing.

Committee Chair Kuali‘i: Adam, can you also say...
Mr. Roversi: In the PowerPoint that I presented and the idea for Council to discuss of changing the thirty percent (30%) assessment starting point to twenty percent (20%), which the Housing Agency supports.

Committee Chair Kuali'i: Adam, are you able to repeat what you stated in the beginning regarding where the fifty percent (50%) number came from, the Nexus Report, the requirements, et cetera.

Mr. Roversi: Yes. As I mentioned, the Nexus Report has both a financial feasibility analysis component for projects, and it also had a generated need element to the analysis. When analyzing existing resort properties, this report concluded, whether it is right or wrong... the report concluded that resort development generates an actual need for workforce employee housing of between one hundred percent (100%) of total resort units and approximately fifty percent (50%) of the resort units. To Ms. Yukimura's point, whether this is appropriate or not, in the plantation days where an employer provided housing for all of its employees, one could in the extreme argue that a hotel that generates the need for one hundred (100) employees could also provide housing for one hundred (100) employees. Whether or not that is an appropriate policy decision, that is the analysis that was in the report. The fifty percent (50%) chosen was on the low end of the analysis that was contained in the report compared to the actual number of units needed based on a resort development. I am sorry, that is a longwinded explanation.

Mr. Horwitz: Yes, when I read the Report, it was my understanding that they did not have any resort for an example. They did it completely hypothetically. They did not have any true numbers to work off from for the Report, and that is what I recall reading. Is that right? The report was based on being hypothetical which is not something you are able to rely on.

Mr. Roversi: I would need to go back and reread the Report to give you an answer.

(Councilmember Cowden was noted as not present.)

Mr. Horwitz: I know that it is a big report. Thank you very much.

Committee Chair Kuali'i: Councilmember Evslin.

Councilmember Evslin: Thank you, Committee Chair Kuali'i. Mr. Roversi, how does it work for the hotel redevelopment? Is there a threshold for knocking everything down and adding rooms which will trigger the workforce requirement and are you able to share information on that process?

Mr. Roversi: That may require discussion with the County Attorney regarding the various triggers that are set up. For example, if they are not
requiring new zoning permits or new use permits, and all they are doing is room upgrades, I am unclear if that would trigger a housing requirement. I would need to look into it. If there were substantive changes to the hotel, such as increasing the number of units and the intensity of use, that would presumably trigger use permits or zoning requirements that could conceivably activate a workforce housing assessment. I do not want to give you a categorical answer without doing research.

Councilmember Evslin: Thank you. As a follow-up, it would be good to know what the threshold is. The concerns that came up with the requirement was that we are potentially dooming hotels to aging out of existence if they are not able to continue their upgrades. Committee Chair Kuali‘i, I have another question if that is okay? Adam, you mentioned earlier that the Housing Agency supports twenty percent (20%). Is that amount for everything or are you saying it is only for outside the VDA?

Mr. Roversi: It is for outside the VDA.

Councilmember Evslin: Okay, thank you.

Committee Chair Kuali‘i: Next to speak is John Horwitz.

Mr. Horwitz: Thank you.

Committee Chair Kuali‘i: There are several of you who did not raise your hand. If you would like to speak, remember to raise your hand, and hopefully we do not miss you. Try to get our attention by using multiple ways... visually and by typing.

Ms. Yukimura: Committee Chair Kuali‘i, I have a question.

Committee Chair Kuali‘i: JoAnn A. Yukimura.

Ms. Yukimura: Thank you. I would like to know where we are at regarding the agenda. Do we have one (1) more item?

Committee Chair Kuali‘i: We have Term of Affordability, and the last section which is anything other than the four (4) issues.

Ms. Yukimura: Okay. Are you asking if we have any questions or comments on the subject that we are speaking on right now?

Committee Chair Kuali‘i: Any final questions or comments on the resort fifty percent (50%) requirement proposal.

Ms. Yukimura: Thank you for the clarification.

Committee Chair Kuali‘i: Thank you. We will move into our fourth and final topic, then proceed into closing and we are able to talk about other topics. The last topic is the Term of Affordability. By now, everyone knows that the basic proposal is increasing from the current twenty-year Term of Affordability to fifty (50) years. Please raise your hand if you would like to make a comment regarding
supporting, not supporting, what you would like to see, reasons why you support or
do not support this, et cetera. JoAnn A. Yukimura, followed by Milo Spindt.

(Councilmember Cowden was noted as present.)

Ms. Yukimura: I have a question. There is one level for both
rental and for-sale. The proposal is to make it fifty (50) years. Is that right?

Mr. Roversi: The proposed amendments did not change.
The current Ordinance has an affordability period of forty (40) years for rental
properties. In the originally proposed amendments, the only change was to the
for-sale unit period of affordability.

Ms. Yukimura: Is that amount twenty (20)?

Mr. Roversi: Under the current Ordinance, it is currently
twenty (20). The proposed amendment was to increase it to fifty (50). That proposal
grew out of a recommendation from the Nexus Report that cited forty-five (45) years
as a national average in inclusionary zoning policies. It also noted that in most of
those policies, similar to Kaua‘i, there is a buyback provision for the city or county
entity. When those buybacks happen, the affordability period is restarted for an
additional, in the national average sense, forty-five (45) years.

Ms. Yukimura: Thank you. Under the Ordinance or the Bill
as proposed, for-sale would be fifty (50) years and forty (40) years for rental?

Mr. Roversi: That is correct.

Ms. Yukimura: Okay. I would like to point out that the
County has been practicing for twenty (20) years...maybe ten (10) years, a
ninety-nine-year buyback on the properties that we own and resell. For example, the
Kamamalu Unit that Adam talked about. I remember all of the Councilmembers
being thankful that we have this policy which continues it as a form of permanent
affordability. Because we know what the need is, it allows these units to go to the
next qualified family. We already have a model which is why I would advocate for
this. I feel that even a fifty-year policy is really hard on rentals. I would say when
looking at the land and offsite infrastructure approach is what makes it easier for
both the developer and for the County. The issue of how long it should be affordable
becomes moot. Like Ko‘ae, it is going to be affordable forever because the County
owns it. Fifty (50) years from now, you really do not want a Courtyards at Waipouli
situation. If you think about it, you do not have to wait so long. Ten (10) years was
not long enough and thirty (30) years... Ko‘ae was going to be a thirty (30) year
affordable project in Po‘ipu. That would have been insane. That if it meant that in
thirty-years seventy (70) employees would have to leave.

Committee Chair Kuali‘i: Milo Spindt.

Mr. Spindt: That was a great lead-in for a point that I
would like to make. Kaua‘i Housing Development Corporation owns five (5) rental
projects. Every project has an affordability restriction greater than sixty (60) years
in totality. In reality, what ends up happening...and through my experience sitting
on the Board of the Hawai‘i Housing Finance and Development
Corporation (HHFDC), is that the capital improvement needs of a property, especially here in Hawai‘i, increases as you approach the twenty (20) to thirty-year mark. What that means is that we have a subsidized property where we have tax credit equity and other grants and donations subsidizing the property in order to keep rents low. As a result, because there is not as much revenue coming in on the property, there is not enough capital to do the necessary capital improvements like painting the property, remodeling siding, kitchen cabinets, showers, bathrooms, countertops, et cetera. Some of our properties which are coming up on that timeframe need new roofs, new siding, and new kitchens. In order to achieve that, what we need to do is something called resyndication where we go back out and get additional equity to come through the table, through new tax credit issuances, and new grants. This works in rental housing because we can bring new equity to the table every twenty (20) or so years. When we talk about homeownership opportunities, there is no equity to bring to the table in twenty (20) years. The homebuyers who purchase the home must figure out how to maintain their home. The reality is that if they are restricted on the resale value over a fifty-year timespan, their ability to bring additional equity to the table to do the necessary maintenance on their roof, painting, siding, windows, kitchens, et cetera, is not existent. Twenty (20) years is a realistic time, that is one (1) lifespan. Perhaps twenty-five (25) years could be a realistic number? When we start to extend past the standard thirty-year mortgage on single-family homes, we run into a situation where houses must be financed through what is called a portfolio loan. These types of loans cannot be resold on the secondary market to government entities such as Fannie Mae and Freddie Mac. They will not purchase the loans because they are nonconforming. They have restrictions on the property that extend past the thirty-year mortgage. This is a risk that the government is not willing to take on properties. If you have a secure line of financing to provide financing to these homebuyers, I feel that fifty (50) years could work. Again, they are going to have to be able to draw on whatever equity is in the home, somewhere around the twenty-five-year timespan, to be able to reroof, upgrade their kitchens, upgrade their bathrooms, and do other necessary repairs to the property. The fifty-year restriction, while ideal for retaining the equity that companies like ours put into properties, it is an unrealistic expectation, and it will make it more difficult to sell those properties to consumers who are looking to help and not hold the stick over them for fifty (50) years. If I am a first-time homebuyer and I buy a house at twenty-five (25) years old, you are saying that twenty (20) years after I pay off my mortgage, when I am seventy-five (75) years old, I am finally able to get the full value of my house. When you put it in that concept, it is overreaching. Thank you.

Committee Chair Kuali‘i: Is there anyone else wanting to speak?

Ms. Yukimura: Mr. Spears.

STEPHEN SPEARS (via remote technology): Okay, yes, thank you. I basically agree with Mr. Spindt. There is also one (1) other dynamic involved. If you have a second mortgage, and go for a home equity line of credit, the second becomes the first after the thirty (30) years that everything is paid off. The silent second that holds the property in place affects the ability to get any home equity line of credit, which plays right into what he is saying. I also believe most of the Habitat for Humanity’s work is approximately thirty (30) years on the mortgage and at times it could be thirty-three (33). I also believe that possibly having a fifty-year restriction on the property creates a problem with getting the first mortgage.
Ms. Yukimura: I have a question for Adam. What has our experience been with the ninety-nine-year buyback? We have families that are currently on that, and it might be an interesting take to survey these families. Yes, answer that question first, then I would like to say something.

Mr. Roversi: The people who purchased the County’s ninety-nine-year leasehold properties as part of our homebuyer program, there are thirty (30) units in that program, and we do not have difficulty’s finding buyers who are able to find financing. The companies that are willing to finance the ninety-nine-year leasehold properties are a relatively small pool. There are a few specialized lenders that we send them to. I will observe that we are following up on comments that we have received similar to what Mr. Spindt stated. We have reached out to most of the local lending institutions, within our office, to do our own internal study regarding the realities of financing under a longer affordability period. We are working to get more details, so we can have a more educated opinion. We can finalize the ninety-nine-year leasehold properties. The pool of lenders is relatively small, but they exist. We are working to learn more about the feasibility of lending with long-term deed restrictions.

Ms. Yukimura: Thank you for the research that you are doing. What I would like to say is that these people who buy a house that tend to be in the one hundred percent (100%) or even in the eighty percent (80%) AMI, they only pay thirty percent (30%) of their income. They have a big subsidy. If they can sell it on the market, then the next family is not there in terms of being able to qualify. This brings up a real philosophical basis of our work in providing affordable housing. Is housing that is going to be provided with government subsidy and using the police power of inclusionary zoning, should it be to provide people a house at thirty percent (30%) of their income or should it be a house with thirty percent (30%) income and the ability to sell it in Hawai‘i to get all of the equity and more to do everything else you want to do...send your child to college, et cetera, at the expense of the next family; or, do we want to have the houses that are provided with public money and public subsidy be available for generations of families.

Mr. Spindt: I believe that the philosophy of housing can work well in college whether it is at Oregon or Stanford. The reality of housing here on Kaua‘i is a very different philosophy. The practical implications of this Ordinance are much more important than the philosophical. Philosophically, we would like to provide as much as we are able. However, the reality if we make it too onerous for the developers to do anything, nothing gets built. That is the impetus for the desired changes in this Ordinance. The best of intentions were put forward. The goal is to provide as much affordable housing as possible. We have a decade of experience showing us that it did not work as intended. Making it more restrictive and more difficult to not only construct, but to finance, is not going to provide us with a single more house no matter how much we wish it would. That is the reality that I am trying to bring to the table in this discussion.
Ms. Yukimura: Yes, thank you. The point is that our ninety-nine-year leaseholds are providing housing, and we are finding financing. If we have the initiative, we would go to other financial institutions and ask them to use their...they have an obligation to spend a certain amount of their assets to help affordable housing and to look at creative financing efforts. The credit unions could be asked to do the same. If we did it this way, we would have more affordable housing. If you count it in affordable housing years, you will get far more with the approach of long-term affordable housing. In Kilauea Estates where families got houses in Kilauea for one hundred eighty thousand dollars ($180,000), which was fifteen (15) to twenty (20) years ago, they can now sell it for six hundred thousand ($600,000). Good for them, but what about...this was with public subsidy. Are we going to enhance their lives but what about the rest who need affordable housing in Kilauea Town?

Committee Chair Kuali'i: Thank you. We are at a point where we need to take a caption break. We will do that now, and next in line will be Councilmember Cowden.

There being no objections, the meeting recessed at 3:32 p.m.

The meeting reconvened at 3:42 p.m., and proceeded as follows:

Committee Chair Kuali'i: Okay, we are back in session. Is there anyone else that would like to comment on this last section before we go into the final closing section on the term of affordability? Stephen Spears go ahead.

Mr. Spears: One last comment on the affordability period. At the Habitat for Humanity, I upped it to thirty (30) years recently. It used to fade away after year ten (10), twenty (20), thirty (30). Now, it fades away at the earliest year twenty (20) of the year thirty (30). We did that because of this. Habitat for Humanity gets one hundred percent (100%) take out on our funds. We use United States Department of Agriculture (USDA) Section 502 Direct Loan Program. We are starting to use the 502 guaranteed loan program that lets you go up to one hundred fifteen percent (115%) AMI. In that pool, two hundred billion dollars ($200,000,000,000) is available across the United States available compared to other pools that have approximately one billion dollars ($1,000,000,000). I did not check with them, but it is possible that if we go to, forty (40) years of affordability, and we obviously must get our second documents confirmed...If the fifty (50) years eliminated that, it would effectively shut all financing for the Kaua'i Habitat for Humanity. It is fine if it goes up to thirty (30) years; however, we never checked above that. With the loan guarantee program, Habitat for Humanity is building thirty (30) houses per year. I told the Board that they can build two hundred (200) per year the way it is right now with the loan guarantee funding. The problem is if it affects the loan guarantee, because it goes through banks and USDA is just guaranteeing the loan. It still goes to one hundred fifteen percent (115%) and below. In 'Ele'ele, we used twelve (12) units so far. My big concern is that it could successfully and unintentionally destroy all Habitat of Humanity's source of funding. If so, it would not be good.

Committee Chair Kuali'i: Thank you. We will move to our final segment which is closing comments and you are able to talk about the Bill other than the
specific four (4) parts that we discussed. Is there anyone? Councilmember Evslin, did you raise your hand?

Councilmember Evslin: I had a question on the Term of Affordability.

Committee Chair Kuali'i: Okay, go ahead. That is okay.

Councilmember Evslin: From what we are hearing, it sounds like that financing could be a major concern. From the developer's perspective, it does not make a difference because if they do not find a buyer, it is placed at the market price, and they are able to sell to anyone. Adam, is that true? Is there any reason why the Term of Affordability would make a difference for the developer outside of the rental?

Mr. Roversi: Under the phased marketing program that I briefly shared an overview on, it is also described in detail in the policy, once a Certificate of Occupancy is issued for a development of workforce housing units, if the developer is unable to sell them at the required price points with the required deed restrictions, the houses become market rate houses. The developer's concern about inability to sell units is muted by that marketing requirement. Once the units are sold...there are more intricacies to that. The phasing begins twelve (12) months out. The developer's like to pre-sell units to finance the projects, etcetera. If they are waiting for a certificate of occupancy to be able to do the market conversion because of an inadequate pool of income-qualified buyers, that could pose financial difficulties up to the certificate of occupancy moment. The simple answer is yes, the affordability period that is required disappears with a certificate of occupancy if it has not already been sold.

Committee Chair Kuali'i: JoAnn A. Yukimura.

Ms. Yukimura: Thank you. I would like to follow-up regarding Councilmember Evslin's question. Adam, have you been able to look at how many houses we lost through that marketing system?

Mr. Roversi: There has been very few projects developed under...I would say that there are no projects developed under the specific phasing system set up in Ordinance No. 860. However, I know that there were some issues at the D.R. Horton development in Hanamā'ulu. That development predated Ordinance No. 860, but it had related inclusionary zoning and marketing requirements that predated the Ordinance. I would have to investigate the details. I know that there was some difficulty in getting rid of some of the deed restricted units. Ultimately, I do not know that they converted to market rate units. I think they ultimately were eliminated, but there were some difficulties in doing that. I would have to look into that to provide the details. That was before my time.

Ms. Yukimura: I am sorry that Ken Rainfoth and Gary Mackler are not here, but over the last ten (10) or twenty (20) years, the County has not gone into affordable sales. We have known how urgent it is to develop rentals where the bulk of our need is. The marketing system that is in Ordinance No. 860 is a continuation of the marketing system for the last forty (40) years. They found that we lost a lot. You are now faced with a pandemic, people do not have jobs right now, they are not able to qualify, and it goes by the wayside. It would be interesting to find that out. In the ordinance amendments that my committee developed, we did
away with all of that and we put in the ninety-nine-year affordability requirement for for-sale, because we envisioned ownership to come through Limited Equity Cooperative or community land trusts. Not necessarily developed by the land trust, but later transferred to them. I am not able to express the joy and appreciation that was presented on the Council table every time we received a buyback, purchase, and give to another qualifying family. The way that the everyone felt; the buyer, the seller, and the Council felt that the system works with the ninety-nine-year buyback. Get Gary Mackler’s and Ken Rainforth’s... The history over the last twenty (20) years will show you that if you go into this for-sale with a twenty-year buyback, and it being a wholesale process, is questionable.

Committee Chair Kuali‘i: Milo Spindt.

Mr. Spindt: I am a supporter of the ninety-nine-year leasehold program for the County. I believe that it fulfills a section of the market. Part of the reason why it is such a small program is due to something called “take out financing.” When the buyer of the property finances their purchase of the property, there is a limited amount of funding available because you must use a special lender in order to qualify for those unique properties. This happens because those mortgages cannot be resold on the secondary market to companies like Fannie Mae and Freddie Mac, which is the reason it is limited. I do not disagree that the ninety-nine-year program has a very important role to play in preserving some housing in a long-term effect. The County’s ownership of those lands is an important way to maintain that. It is talking about how do we produce six thousand (6,000) homes. We are not able to do that through a ninety-nine-year leasehold program. There is not enough financing to be able to provide that at a scale. That is an important topic that the Council needs to look at. Yes, it is one part of the answer; but it is not the complete answer. In trying to impose the same restrictions across the entire market, we run the risk of going back to everyone shopping from the plantation store. What I mean by that allegory is that you run into a point where you indebt people to the County. You are never able to gain equity, they are never able to escape being a renter, they are never able to pass that wealth on to the next generation and bring that next generation out of poverty and into the middle class. I believe that is the greater goal. It is not only to provide housing, but also to provide a ladder for people to climb out of poverty, into home ownership, and into middle class.

Committee Chair Kuali‘i: We are on the last section. There are several of you have been on the call with us and have not had a chance to say anything. I would like to thank you for being on the call and if you have anything to share great, if not, it is okay. In case we missed you, Curtis Bedwell, would you like to share anything? Hi, Mr. Bedwell.

CURTIS BEDWELL (via remote technology): I do not have too much to add. My observations as an appraiser and analyst, I look at projects and I am able to say wholeheartedly not one of the market projects I appraised in the last ten (10) years has been built outside of the Kukui‘ula Development. Without getting into details, the only project that may be built is a government funded project. My only comments and observations that I have is when you are talking about the Bill, Section 7A-1.2, the purpose, paragraph “B,” I am going to read it and it says, “to encourage that a range and variety of workforce housing types and occupancy are made available.” This is the only time I have seen the word “encourage” anywhere in this Bill. On the contrary, I see the word “restrict” eighteen (18) different times.
understand that the purpose might be to encourage a variety of workforce housing types, but the reality is the way this is written, it adds more restrictions for development. In my experience, the more restrictions that you have on development, the more expensive the development becomes, and the fewer developers are building. Wholeheartedly, Chapter 7A was well intended, but it does not work. I understand the purpose of this Bill and the changes it is trying to make regarding Chapter 7A. From where I sit as an analyst, it is not going to work. You are not going to get what I feel is ultimately wanted. The number that has been shared is six thousand (6,000) homes. You need five thousand (5,000), six thousand (6,000), eight thousand (8,000) homes to meet our current housing demands. The problem is caused the lack of zoned lands that are ready to be built that are outside the VDA. What I see and what our island really needs is more development outside of the VDA that accommodate multi-family housing. It does not necessarily need to be restricted in the way Adam mentioned earlier in the rent survey, most of the market rents around Līhu'e fall into these affordable categories. You need to let the market build where the housing needs to be built, encourage it to be built, rather than write laws that restrict how it gets done. That is my broad-based perspective. I appreciate the opportunity to speak.

Thank you.

Committee Chair Kuali'i: Thank you. Next we have Mary Flood, followed by Lawrence Graff.

Ms. Flood: Aloha.

Committee Chair Kuali'i: Aloha.

MARY FLOOD, DR Horton (via remote technology): I wanted to reiterate what I already said and not try to reverberate. When I spoke earlier which is like what Mr. Bedwell was referring to, usually throughout the Country, the way that workforce housing and attainable housing is achieved is to create more supply than demand. On Kaua'i, there is a great demand for workforce housing. In Hanamaʻulu, we were very fortunate that we were able to sell our duplex homes with a twenty-year buyback. There were a lot of buyers who were very afraid of that. We received support from Steve Franco, and he was able explain and help them to understand the program. I appreciate the County's help to get through some of the challenges. We were able to sell all the units at the attainable price that we had it originally priced at. As we move forward, because we want to do more development on Kaua'i and build workforce housing, in over twenty-seven (27) years that I have worked here in Hawaiʻi and on Kaua'i, my philosophy has been that things work better and developers are able to build and buyers are able to buy when there are fewer restrictions rather than more. The fifty (50) years is too long, and twenty (20) years is long enough. To an extent, it does affect lending. We should stay under the thirty-year limit. The City & County of Honolulu has a ten-year buyback, which is a little better for buyers. They are afraid that the County will not be able to buy it back or that they will not be able to find a seller to qualify within the affordable range. It puts a burden and fear on the buyer that we should not be doing to the people who are first-time buyers and very unsophisticated. It makes them feel that we are not helping them. The suggestions that I have is 1) fewer restrictions for both the developer and the buyer; and 2) continue to keep the one hundred forty percent (140%) as we found that to be very helpful. The people who purchased within the one hundred forty percent (140%) included police officers, teachers, first-responders,
et cetera. Hanamā‘ulu turned out to be a good, new community for us. We should continue to model new communities after that. Thank you.

Committee Chair Kuali‘i: Thank you. Lawrence Graff, is there anything that you would like to share?

LAWRENCE GRAFF, PAL-Kaua‘i (via remote technology): Hi, thank you for the opportunity to speak. I see that this is a very interesting and complicated issue. I would like to share that when we talk about pre-market on Kaua‘i, there were statements that this is one (1) of the, if not the most, aneolithic housing markets in the nation. We look to our leaders and County Government to address and mitigate the inelasticity of our market. We would like to thank you for everything that you are doing. It is really a question about balance. I certainly had my eyes opened today regarding a lot of issues which I have not thought about. I see that you have a large task in front of you and we look forward to seeing the changes that you make. Thank you for the opportunity to share that as well.

Committee Chair Kuali‘i: Thank you. You may have left the call, Conrad Murashige if you are still here, do you have anything to share?

Mr. Graff: That concludes my comments.

Committee Chair Kuali‘i: Thank you, Mr. Graff. Is there anyone wanting to share any closing statements or if you would like to discuss issues other than the four (4) topics that were previously discussed. JoAnn A. Yukimura.

Ms. Yukimura: Thank you. When people talk about if there is more supply the price will go down, it ignores the fact that our supply is not only from workforce housing people. It is from China, Silicon Valley, and similar places. For example, there are people from Oahu who want investment properties, and houses on my street. The supply is not going to reduce demand. If you do that and allow it to happen, in ten (10) to twenty (20) years, you are going to hurt the people on this island who are going to need housing. We talk about workforce housing as if it were one hundred twenty (120) or one hundred forty (140); people who are in the eighty (80) to one hundred (100), they are working. They need housing and our inclusionary zoning has provided for them. It is true that in the last years, we focused on tax credits because we have not had the forty million dollars ($40,000,000) that we received after Hurricane ‘Iniki. Which means, this Housing Ordinance alone is not going to fix it. We need a supply of capital. If we had that capital supply, the one hundred thirty-five (135) units at Koa‘e would not have been only for sixty percent (60%) AMI, but it could have been one hundred (100) or one hundred twenty (120), and it would have made for a better quality development. I did a proposal to earmark a certain percentage of Real Property taxes. The percentage that is provided by the rich and wealthy who live on our island because we increased the Real Property tax rates on them. If we did the three percent (3%) earmark, it would have given us forty million dollars ($40,000,000) over ten (10) years. We could have floated a bond to get eighty million dollars ($80,000,000). We must do that, but we are not able to sacrifice our main goal which is to provide affordable housing on a long-term basis in a market which is not good and does not meet the regular economist supply and demand. I believe that is what Mr. Graff is referring to. It is not elastic, like it works in economics class. We must deal with the reality we are currently dealing with. The range of people that we are supposed to supply for, you
do not define it by how you are going to make it easier for developers. It is defined by the people who are in need. You need to address those groups first. I am in favor of addressing the one hundred forty percent (140%) or the one hundred twenty percent (120%), not with inclusionary zoning, but with perhaps an interest subsidy or similar...working with the credit unions. You can do that if you have the forty million dollars ($40,000,000) in General Obligation (G.O.) Bonds. There are creative ways to do it. To start using inclusionary zoning for the one hundred forty percent (140%) when we have a high demand in the eighty (80) and lower group is not going to get us to the supply that we need.

Committee Chair Kualii: Thank you. Is there anyone else who wants to provide closing remarks? Stephen Spears.

Mr. Spears: Yes, I would like to ensure that my statement is clear. I love the idea that we have the ninety-nine-year for units subsidized by the County. For the Habitat for Humanity, if there were money...the one hundred twenty-five (125) lot subdivision that they did in 'Ele'ele was fourteen million three hundred thousand dollars ($14,300,000) in land cost and infrastructure. We did not have that money to have a land trust to be at ninety-nine years. If we had someone to give us the fourteen million dollars ($14,000,000), that would have been wonderful. Moving forward, the Habitat for Humanity would be happy to partner with the County. The economic reality is that they have a system going on now and you are not able to do it with land trust because we do not have the takeout funding. I would like to share that I am in support of the long-term and the land trust idea...it is the economics of it. We should have the ninety-nine (99) years for the County properties. However, placing this on all the properties will displace Habitat projects. Thank you.

Committee Chair Kualii: Thank you. Milo Spindt.

Mr. Spindt: I do not have more to add. I would like to thank all of you for taking the time out to listen and hear from practical experiences that are happening out in the field. I really appreciate that, thank you very much.

Committee Chair Kualii: Thank you. Next, we have Palmer Hafdahl.

Mr. Hafdahl: Thank you. I am beginning to understand how complex this is, and I applaud all of you for taking this on. I would like to make it more complex than it possibly can be. I encourage you to review the ARUs. I recognize that this was done at the (Inaudible) areas, but I think there is great potential there. Whether you define a unit that is affordable that might include an ARU, it could change the market tremendously. If you stay out of our silos, the definition of a transient occupant should be vetted with the Building Division. We have a huge problem on the island that needs to be raised. There are several R-2 buildings that qualify as long-term residential condominiums, but they are being used for short-term use. That short-term use is R-1 type buildings that have higher demand regarding accessibility, fire sprinklers, fire safety, et cetera. If you get out of the silos, the ARUs were developed to provide affordable housing. There seems to be an opportunity here for it to be accelerated particularly in the denser town core areas. Where I see an opportunity to develop R-40, I double that with the ARUs to R-80, and if it qualified for affordable units, it could possibly provide income. As mentioned by Mr. Spindt, it would potentially provide a leg up for the person who purchases the unit. That is my short take on this in trying to make it more complex.
Committee Chair Kuali'i: Thank you. John Horwitz.

Mr. Horwitz: I would like to thank everyone. This is a community driven issue. We need to solve our workforce housing limit that we are currently facing. This is an approach that is taking a lot of time. I give credit to Committee Chair Kuali'i and the Committee for putting together the framework. I do not agree with a lot of the content, but that does not diminish the effort and desire to solve the problems. We should look for alternatives regarding restrictions being placed on development. I am not saying it needs to be in lieu of restrictions of development, but there should be another facet or direction that includes incentives on development. There are two (2) ways to get there. We can do it with incentives like we are doing with restrictions. I have yet to hear any comments regarding incentivizing the landowners to go to a developer and say, “We will put our land into the deal, are you able to put something into the deal,” and we can get workforce housing to give sixty percent (60%) AMI families a place to live, take care of the eighty percent (80%), and not forget about the one hundred twenty (120) and the one hundred forty (140). We need to address the problem as widely and broadly as possible. The Knudsen Trust has land and we are anxious to find partners to create one hundred percent (100%) pure affordable housing. We have lands near the Koa’e project. We discussed with the County the possibility to rezone the area to make it into affordable housing. There are major landowners on this Zoom Meeting that can make this happen. We are trying to make it happen only through restrictions and not through incentives. I encourage the Committee to look at ways to expand our opportunities for development. How can we get this to happen without taking ten (10) to twenty-five (25) years, as seen in Līhu’e. How are we able to do this? We need infrastructure, roads, money, developers, and we need to work together. By adding restrictions is not enough. I am generally opposed to all of them. Thank you.

Committee Chair Kuali'i: Thank you. JoAnn A. Yukimura. Your microphone is muted.

Ms. Yukimura: Thank you, Committee Chair Kuali'i, Councilmembers, staff, and all of the participants. This has been a good discussion and I appreciate everyone's input. I would like to tie together Mr. Horwitz... I hope he did not leave. I suggested an alternative to the turn-key requirements for building houses as land and off-site infrastructure. Knudsen Estate is in a particularly good position for that. If you wanted to build a hotel, you could offer a portion of your land for the housing to take care of that you can do housing... and infrastructure, which you would have to build for the hotel anyway. The County, having that land and infrastructure, could give it to someone like the Habitat for Humanity, mutual housing, or a nonprofit KHDC to develop. That is an example of how this would all piece together. It would be an easier contribution to make... Grove Farm also, instead of having to build turn-key, rentals, and in fifty (50) years you would have to put it into the market, manage, and monitor them. If so, it would be long-term affordable. I believe that is an alternative plan to consider.

Committee Chair Kuali'i: Thank you. Director Roversi, do you have any final comments as we close out our workshop? I will give the Councilmembers an opportunity after.

Mr. Roversi: The only comment I have is to thank everyone for your contribution. I appreciate the input as we continue to do our due diligence
on our end regarding all the ideas that have been presented to the Administration and Councilmembers. I appreciate your input.

Committee Chair Kuali’i: Councilmembers. Councilmember Evslin.

Councilmember Evslin: Thank you, Committee Chair Kuali’i. Great job on the workshop. This is my first experience going through a workshop as a Councilmember. I feel that it was productive. This may be the only time that I had a Zoom Meeting that was better than a meeting in person. It could have been the format and allowing everyone to speak versus being in the Council Chambers. I really appreciated this. In closing, I would like to address some of the information shared. As former Councilmember JoAnn A. Yukimura mentioned the supply and demand is something that happens in economics classes, that is not true. Real world data from around the Country, if you look at cities that build housing relative to their demand, the market price of housing is cheaper. For places that do not build housing relative to their demand, the market price is higher. Kaua’i is at the top of that list. As a local government, there is very little we can do about demand, but there is a lot we are able to do about supply. The challenge we are faced with is to ensure that we are building in a way that ensures inclusive communities. By trying to reduce demand by not building housing, all we are doing is hollowing out our communities. As people age out of their homes, it is my generation who is not able to afford a home, and they move away. If you look at migration data to Kaua’i, we have more people moving away than domestically moving here. That is my generation moving off island and being displaced by people moving into these homes. That is what is happening when there are not many homes being built. I am not saying that I have the perfect answer. We are all in the same boat trying to ensure that we are building in a way to maintain the community that we have without displacing anyone. It is a momentous challenge. I appreciate Council Chair Kaneshiro, Committee Chair Kuali’i, and Adam Roversi trying to find a solution to our challenges. Thank you, everyone for the roundtable discussion.

Committee Chair Kuali’i: Councilmember Chock.

Councilmember Chock: Thank you, Committee Chair Kuali’i. I would like to also thank everyone on the call. I felt that this was a productive meeting. I enjoyed hearing the different perspectives from everyone. It has helped me to focus in on the specific areas. Thank you, Committee Chair Kuali’i, for the structure of the workshop was specific and kept us on task. From my position, I see the opportunity to propose amendments at the September 9th meeting. I am looking forward to that. I like the idea of incentives. The ideas that Mr. Hafdahl mentioned with the ARU and ADU entitlements and mechanisms, infrastructure needs, and rezoning opportunities...being able to specifically work on the spot with the developers may be something that we are able to look forward to in the future. That may be outside of this scope in order to pass something to be able to see what we are able to build in the next ten (10) years. I appreciate all the feedback.

Committee Chair Kuali’i: Thank you. Councilmember Cowden.

Councilmember Cowden: I also appreciate the feedback. Most impactful to me was the discussions relative to permanent affordability and all the limitations on the financing. I would like to especially thank Mr. Spindt for talking about refinancing and maintaining the buildings which made a lot of sense to me.
would like to give a shout out to Mary Flood who connected me with the lender for your organization. I had a great conversation with her. It has been helpful for me. I need to think about it, this is very complicated, and I do agree that there is a lot of restrictions in here. I want to acknowledge the testimony from Curtis Bedwell. He is not even trying to build, and he is being able to take the thirty thousand (30,000) foot birds eye view. It is very helpful, and I appreciate all of you. We will continue to work on this so feel free to reach out if need be.

Committee Chair Kuali‘i: Council Chair Kaneshiro.

Council Chair Kaneshiro: I would like to say thank you to everyone who participated. This is a great conversation. Committee Chair Kuali‘i and I have been attending a lot of meetings. I will cut straight to the point. I am not on the Housing & Intergovernmental Relations Committee; my vote does not count. After all these meetings, I can share with you that the original intent of this Bill was to make housing easier for developers and for people to build in order to gain housing supply. Through the process, exemptions were added in areas, and people said “How do you know it will not cost one million dollars ($1,000,000), we should put a one hundred twenty (120) cap on it, et cetera.” In doing so, we got away from the original intent that we need to do something. In the last ten (10) years, we produced zero houses with Ordinance No. 860. We need to do something that is better, something that will make it easier, and something that is going to incentivize a person. As we go through the revisions, we are making it harder. For me, in listening to all the conversations and the back and forth discussions, when you look at the Bill now, I would love to see it without the one hundred twenty (120) cap in the exemption area, and as Adam mentioned, having the thirty percent (30%) reduced to twenty percent (20%), then we can truly say that we have done things that will make it easier for developers. We would have to see what happens over the next ten (10) years. There is a lot of market factors. If you look at the spreadsheet that Adam put together, if you adjust any of those numbers a little it will not pencil out at all. We need to provide the means to make it easier. Will it happen? We do not know. Someone can start a project now and it could take more than ten (10) years to develop. However, the original intent was to make it easier. We strayed away from that. I would suggest looking at amendments to remove the one hundred twenty (120) and lower the thirty percent (30%) to twenty percent (20%). I feel that we are then truly able to say, “We modified the current Ordinance to make it easier for people to develop and stimulate supply.” That is my comments.

Committee Chair Kuali‘i: Thank you. Councilmember Cowden.

Councilmember Cowden: One thing that we did not touch on, and I am not trying to pull a big piece. There are a lot of nuances in here. I reviewed the lottery system with a developer, which is onerous. When we look at all the deed restrictions, difficulties, and being able to sell fairly, there are more nuances than what we touched upon today. You made my head spin in seeing how many ways we limit who can purchase. I would like to recognize that as well.

Committee Chair Kuali‘i: Thank you. I would like to say thank you, mahalo nui loa, to everyone. For different reasons, there is a handful of people that were not on today’s call. Three (3) hours of a workday afternoon is a lot. Thank you for investing in today and for all your different points of view. We all learned
something today. It was my hope that you folks would share information with the Councilmembers, the Councilmembers would then introduce amendments, and that would get us to where we need to be. We have been working on this Bill for several months. We may have gone in a full circle during our discussion to be placed where we were trying to be in the first place. When you talk about the word incentivize and incentives, we initially intended to figure out a way to provide incentives so that developers would be able to build the housing needed for the gap group. We are doing great with the low and very low-income projects that are being developed with the Housing Agency, County, nonprofit partners, and Federal money. Where we are sorely lacking is the group in the middle. I learned a lot hearing about the financing challenges. That helps a lot moving forward and in the direction that we want to be. Thank you so much. We are continuing to work on this. Our next Housing & Intergovernmental Relations Committee Meeting will tentatively be on September 9th. We welcome your continued participation. Whether you can make the meeting or not, you are always welcomed to contact any of the Councilmembers or send us an E-mail with your input. Again, thank you so much.

Respectfully submitted,

KarLyn Suhehira
Council Services Assistant I

APPROVED at the Committee Meeting held on September 23, 2020:

KIPUKAI KUALI'I
Chair, HIR Committee

*Beginning with the March 11, 2020 Council Meeting and until further notice, Councilmember Arthur Brun will not be present due to U.S. v. Arthur Brun et al., Cr. No. 20-00024-DKW (United States District Court), and therefore will be noted as excused (i.e., not present).