

MINUTES

HOUSING & INTERGOVERNMENTAL RELATIONS COMMITTEE

July 22, 2020

A meeting of the Housing & Intergovernmental Relations Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by KipuKai Kualii, Chair, at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, July 22, 2020 at 8:31 a.m., after which the following Members answered the call of the roll:

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

Excused: Honorable Arthur Brun*, Ex-Officio Member

Committee Chair Kualii: Members, as I mentioned two (2) weeks ago, we will continue working on this Bill, introduce any amendments, and it is my intention to defer after today's discussion. Clerk, can you please read the item on the agenda?

The Committee proceeded on its agenda item as follows:

Bill No. 2774, Draft 2 **A BILL FOR AN ORDINANCE AMENDING CHAPTER 7A, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO THE HOUSING POLICY FOR THE COUNTY OF KAUA'I (This item was amended to Bill No. 2774, Draft 3, and Deferred to the 1st Committee Meeting in September 2020.)**

Councilmember Kagawa moved for approval of Bill No. 2774, Draft 2, seconded by Councilmember Cowden.

Committee Chair Kualii: Thank you. I should have done that first before I started talking.

There being no objections, the rules were suspended to take public testimony.

There being no one registered to provide testimony via remote technology, the meeting was called back to order, and proceeded as follows:

Committee Chair Kualii: We will open the floor for amendments. I know that Councilmember Kagawa wants to introduce an amendment that our Housing Director has worked on.

Councilmember Kagawa moved to amend Bill No. 2774, Draft 2, as circulated, and as shown in the Floor Amendment which is attached hereto as Attachment 1, seconded by Councilmember Cowden.

Committee Chair Kualii: Thank you. Is the Housing Director present? As you may remember, the Housing Director was working on the amendment regarding the resort development and the fifty percent (50%) workforce housing assessment. He was also working on another piece to implement a minimum so that when you are using the formula to reduce the fifty percent (50%), we will not go lower than thirty-five percent (35%). I believe it was briefly talked about but the Housing Director was trying to figure out the best wording and where to put it in. That is one (1) part of the amendment.

The other part of the amendment is a bigger piece. As we were developing the exemptions for the special design districts and the R-10 or greater density, instead of assuming that the developments would happen at the lower than the one hundred twenty percent (120%) affordable housing rate level, at the last meeting, we put a cap on the price level maximum, which was at the one hundred twenty percent (120%) level. After thinking about that further, we were calling it a "partial exemption," but in reality it is a different assessment. It will no longer be the thirty percent (30%) assessment that applies across the policy. This is a special assessment for the particular areas that are identified with the one hundred twenty percent (120%) Area Median Income (AMI) level. The other part of this exemption is rewording that, taking it out of the area that was listed as exemptions, and giving it its own section for special assessment.

I hope I got that right? If not, the Housing Director is able to help and clarify any questions. Are there any questions? Councilmember Chock.

Councilmember Chock: Thank you. I appreciate the continued work that you folks are putting your efforts towards. We received testimony today which include the following: Building Industry Association (BIA) who are against the amendment, the Kaua'i Board of Realtors I believe is requesting to meet with stakeholders...is that confirmed on our side to...

Committee Chair Kualii: Yes, the Kaua'i Board of Realtors has helped to identify ten (10) to fifteen (15) stakeholders which will be part of a team's meeting next Tuesday. It is my hope to provide an update of everything current regarding this Bill and include everything that is passed today. I will be sending the stakeholders an E-mail later today or first thing tomorrow. I believe the BIA letters did not address the exemptions nor the one hundred twenty percent (120%) AMI price level.

Councilmember Chock: Okay. I was thinking that they would be able to be a part of the stakeholder group.

Committee Chair Kualii: Yes, I would be happy to invite and send them the same information that I will be sending out later today or tomorrow morning. Councilmember Cowden.

Councilmember Cowden: I have asked if we are able to structure it like a workshop. It would be really valuable if Councilmembers are able to attend. When you are referring to the stakeholder group, would that include Council Chair Kaneshiro and yourself, is that correct?

Committee Chair Kualii: That is correct.

Councilmember Cowden: I would like to be able to have access to that direct information and the conversation. When I had the conversation last week with one of the developers, it seemed as if quality information came out that would be difficult to share in five (5) or six (6) minutes. There is a lot of value in having a robust conversation with everyone together.

Committee Chair Kualii: Okay.

Councilmember Cowden: Is that possible?

Committee Chair Kualii: It is always possible. Besides the meetings that we are having with the stakeholders, are the Members interested in having an additional workshop?

Councilmember Chock: I appreciate the work that you folks are doing now in terms of getting baseline with the stakeholders. We can have an expanded briefing once we move towards combining all of the different ideas and/or perspectives. It would be good to bring everyone together. I like the idea of us vetting ahead of time to see where we are able to find common ground. Out of the testimony received, are we able to identify one (1) stakeholder that is going to say, "Yes, this a sweet spot." If so, we will know moving forward that when passing a bill like this, we will have some sort of outcome in terms of building. I believe it requires more vetting and I would be open to a workshop. Thank you.

Committee Chair Kualii: It is obvious that the continual vetting will be happening in our meetings. It is my hope that as you receive input from a Councilmember, individual, or stakeholder, if it brings a potential amendment that you would like to introduce, please talk to our Housing Director who is taking the lead on this. Aside from the work we have been doing, are there Members interested in a workshop?

Councilmember Kagawa: Yes.

Committee Chair Kualii: Okay, it looks like you folks are interested. We will schedule a workshop, I will talk to the Staff about it, and we will likely schedule the workshop for our Council Meeting on Wednesday. If we are able to identify the agenda—if time permits, we can schedule the workshop in the afternoon and in the next two (2) weeks.

Council Chair Kaneshiro: For me, I want to be clear on what the end result of the workshop is going to be. At workshops in the past, we had over one hundred (100) suggestions, no resolution, and no one is happy. You are not able to accommodate every suggestion. I want it to be clear to us that if we do a workshop regarding this Bill, it is to provide information on what we are trying to accomplish,

what we want to leave in, and to provide suggestions and improvement. At the end, someone is going to have to tie it all together. If we are having a workshop to have a workshop, where everyone is throwing noodles on the wall to see what sticks, we are going to run into the same challenges as we did in the past. Being that we are not able to please everyone, nothing is ever done, and I do not want us to get to that point again. In this workshop, I would like for us to be able to narrow the gap and present the final result of the Bill. That is my comment on a workshop.

Committee Chair Kualifi: I am happy to share the letter that I am e-mailing to the stakeholders. This letter will highlight everything Council Chair Kaneshiro is talking about regarding the big issues that are in the Bill. Provided in the letter will be feedback that is strong on one end or the other. I am hoping that people will focus on what is in the actual Bill, what is able to be changed or removed, and feedback on how we are able to improve the Bill. Councilmember Kagawa.

Councilmember Kagawa: I am receiving a lot of questions regarding the Housing Bill and what we are trying to do, so I would like to paint a picture on my perspective and what we are trying to accomplish. For example, if you have five (5) acre parcel and the developer tells you that they are able to do twenty (20) units at an average cost of five hundred thousand dollars (\$500,000)...if I am able to make a profit, it will be worth it for me. With that five (5) acre parcel, it will be ten million dollars (\$10,000,000), I am able to make a profit, move forward, and comply with the Housing Policy. In our policy we say that twenty-five percent (25%) needs to hit eighty (80) and below. Figuratively speaking, you have five (5) units at eighty (80) and below, costs two hundred fifty thousand dollars (\$250,000), for a three-bedroom single-family home. You now have the other seventy-five percent (75%) or the other fifteen (15) units will have to subsidize that cost reduction from five hundred thousand (500,000) to two hundred fifty thousand (250,000), which we are saying that is going to hit the people in need. Instead of each unit being five hundred thousand dollars (\$500,000), it will be five hundred eighty-three thousand dollars (\$583,000), which is almost one hundred thousand dollars (\$100,000) more. If it is compared to Hanamā'ulu where the majority are local families, how is that fair? These local families who do not hit the eighty percent (80%) and below, they will have to purchase the home at almost one hundred thousand dollars (\$100,000) higher in order to subsidize the twenty-five percent (25%). One could say that is how it is and that is affordable housing...we are trying to help the needy. We also must help the middle-class. Our middle-class cannot keep subsidizing...they are the ones that pay taxes and they are the ones that pay full college tuitions. They deserve a fair price too. Their fair price is five hundred thousand dollars (\$500,000), which is high in today's world. That is what the units at the Hanamā'ulu project went for, and it was all sold to mostly local families. If I drive around there, ninety-five percent (95%) are local families that were born and raised here for many generations. That is the dilemma that we have. We have people writing testimony into the newspaper, we have Op-Eds that are saying, "It is so easy, help out the eighty percent (80%) and below," but how are you going to help them? Are you going to penalize your middle-class? Is that fair? How hard are we going to hit the middle-class? This is not a "slam dunk" and "cut and dry" proposal. Developers will not develop if they are going to break even or take a loss. The County, due to COVID-19, we are in no position to be developing a lot of lots that will be satisfying the demand on Kaua'i. Adam, please correct me if I am wrong. That is the general analysis that I come up with. This is not so "cut and dry" where we can help the needy and make the

mainland investors pay for it. If you look at the Hanamā'ulu project, that is not what is happening. The local families are buying homes and need homes. That is what we call inventory. Some people do not like that term. I like that term. Supply and demand, it is basic economics. My term on the Council is almost done. I appreciate the work that the Housing Agency is doing. With our current Housing Policy, we have not had much movement. We have a lot of complaints from the developers. In the end, they may still complain. We still have to take care of what the County of Kaua'i and what our lawmakers feel is going to satisfy our needy. We have to help some of our needy, but, at what cost to the middle-class? Thank you, Chair.

Committee Chair Kualii: Councilmember Chock, followed by Councilmember Cowden.

Councilmember Chock: I just wanted to reiterate what I heard from the Council Chair. I would agree. I think having...doing the work, like I said, ahead of time and maybe it be even more informational of a session, then we can fine-tune things if we need to at the very end with a workshop. It is so complex. Even some of the history, I think there is a lack of understanding about the history of this Ordinance and how it has affected us. That way people will understand what we culminate with when we come forward with this Bill. Those are just my thoughts.

Committee Chair Kualii: Thank you. I appreciate that.
Councilmember Cowden.

Councilmember Cowden: I have no problem with the narrowing before doing the workshop. It is just important to me that we all are hearing the same kind of strong concerns. One that I heard recently was from a developer that already has permits...when we change this program, how does he adapt to deal with that? He could possibly go with what the guidelines were before. I think that one hundred twenty percent (120%) across-the-board was something that was a little bit more palatable than before, but that requires a complete re-permitting of the project. I think just being able to think about that and to put a few of the comments that I have heard...one is from the younger community. They really have resistance to this fifty (50) year or permanent affordability clause. They cannot build any kind of equity. Someone does not want to move into a house when they are twenty-five (25) years old and stay there until they are seventy-five (75) years old. It almost puts them in that position. There have been constraints from that community talking about this proposal. There are also concerns about deed restrictions being so heavy that it is hard to find the market once you build it or to be able to get funding for the building of the property. If the project has too many deed restrictions, there is not going to be an investor willing to help that development. For the lowest end of housing, there has been a lot of interest to do social enterprise structure, and I see that nowhere in this Housing Policy. I wonder if we could look at creating that in there...social enterprise. If people do not know, that is where people that have less than strong individual capacity live together. It is tied to a work possibility. It is better than therapeutic housing, but it is empowering housing where they could get that support. I think we are overlooking that. My understanding is that our Housing Policy cannot affect the Department of Hawaiian Home Lands (DHHL)? Is that correct? DHHL is feeling left out...some of the homeowners' associations.

Committee Chair Kualii: Left out?

Councilmember Cowden: Well, their issues are not addressed well enough. I am just hearing that comment coming at me.

Committee Chair Kualii: Adam, can you tell us about how our Housing Agency might do any work with DHHL?

There being no objections, the rules were suspended.

ADAM P. ROVERSI, Housing Director: With regard to DHHL, the existing Housing Policy is more or less silent on DHHL, as Councilmember Cowden mentioned. Our interpretation is that...let me back up. The Housing Policy is designed to generate workforce housing by imposing a workforce housing assessment on various developers. Our understanding or reading of the Policy is that DHHL, to the extent that DHHL is a developer, is exempt from the Housing Policy, because they are exempt from the zoning and building requirements that would trigger the imposition of a workforce housing assessment on a regular developer. That only speaks to whether the Housing Policy applies to DHHL lands, which our interpretation is that it does not. The Housing Policy is only one small aspect of what the Housing Agency does. There are numerous other ways that we could partner with and work with DHHL. Those do not necessarily have to be included in the Housing Policy.

Committee Chair Kualii: Would you not also say that in essence, the type of homes that DHHL builds and the pricing levels that they build at, with United States Department of Housing and Urban Development (HUD) AMI levels, that it is all affordable housing?

Mr. Roversi: Generally, yes. There is a State law, for example, that is one way that DHHL projects interacts with the Housing Policy. There is a State law that requires the Housing Agency to give DHHL housing credits when or if they develop affordable workforce housing on DHHL lands. They can then turnaround and sell that to a private developer to offset the workforce housing requirement that would be imposed on that project. That is one concrete way that the Housing Policy interacts with DHHL. That is a product of a State law requirement. For example, if DHHL were to develop twenty (20) workforce housing price point properties in Anahola, they could apply to the Housing Agency for workforce housing credits based on a formula that is in the existing Policy. Then, if say, Alexander & Baldwin, Inc. (A&B) was doing a development on the South Shore and we were going to require A&B to build ten (10) workforce housing units, A&B could either build those workforce housing units, or they could pay DHHL for some of their credits that they have been granted when they developed their Anahola project. This whole process is designed to assist DHHL with funding by allowing them to sell their housing credits, when and if they develop housing.

Committee Chair Kualii: The only other thing that I would say is that what is coming...we have seen some of the homestead associations are at a place now where they have grown their capacity and they are going after grants and doing economic development projects themselves, and they are looking to do affordable housing projects. I think this is spurred on by the Governor's...like our Kealaula project, when that came forward, where the Governor was putting the money and the effort towards projects like that. I know the Homestead Development Corporation

from Anahola was going to try and do similar types of projects. As DHHL starts recognizing that not only are there individuals for residential, agricultural, and pastoral lots, there is a fourth category being mercantile and business that comes in to play. Homestead associations are organizing themselves to develop projects and be landlords as well. These are fully affordable projects, of course. The land is their leverage in many ways. They do not have the high price of the land. There are probably ways for us to work with them, not requiring any kind of law, but through the Housing Agency and some of the different outreach programs and funding programs that you do. Did you have a follow-up question? When you said low-end and therapeutic, can you define low-end and ask a question?

Councilmember Cowden: When I look at the high-need communities, I tend to have a strong focus on the people without housing. Many of them, most likely, would qualify for DHHL lands. It seems when we have that land that is out there and available, and there is a desire, and when I look at the population that is at the highest risk, I would say at least half of the ones I am interfacing with would be appropriate for placement on those properties. I think the County, if we look aggressively for ways to partner with DHHL lands, even if that is somehow assisting with infrastructure that allows for wastewater or whatever else we can do...when we are looking at what the building association says is five thousand (5,000) houses in the next ten (10) years, some of those houses could end up on DHHL lands for that population that is most displaced and we would be hitting our target. We need to help them and helping them on land that is already set aside appropriately...I would like to see our housing conversation to bring us in that direction. I am understanding that it may not be related to this particular Bill, but I would like to keep that front and center. That would reduce a lot of demand from our strongest and highest need group.

Committee Chair Kualii: Council Chair Kaneshiro.

Council Chair Kaneshiro: Adam, I know it has been brought up before about the below eighty percent (80%) concept. I know you have mentioned it as well. Can you reiterate the different types of programs that the Housing Agency works with and the purpose of this affordable housing policy? From my understanding, this affordable housing policy is specific to the eighty percent (80%) to one hundred twenty percent (120%) or one hundred forty percent (140%), depending on what we change. If we start talking about trying to satisfy those below eighty percent (80%) AMI, then that is a completely different program than what we are talking about. We are not going to be able to try and fit that into this policy that we are working on, because this policy that we are working on is specific for this gap group of eighty percent (80%) to one hundred twenty percent (120%) or one hundred forty (140%), depending on which threshold we use. Adam, could you reiterate that again?

Mr. Roversi: Sure. We have two (2) broad programs that are designed to help people that are on the low end of the economic spectrum. On one hand, we administer close to eight million dollars (\$8,000,000) in rental assistance every year through our Section 8 Housing Choice Voucher Program to assist people in paying rent, who are specifically in that income group, that very low income group with assistance in paying rent in existing housing units. Separate from the Rental Assistance Program, our Development Division actively partners with nonprofits and for-profit housing agencies using available Federal funding. We get

an approximately three million dollars (\$3,000,000) allocation in Federal funding under a formula every three (3) years. We pair that money with the Development Fund that is provided by the County Council, along with Federal tax credit programs to develop housing that is specifically geared towards the low-income group. The income-based requirement that is imposed on us by the use of Federal funds that we rely on can be seen in examples of these projects that are under construction or nearing completion right now include Koa'e development in Kōloa, which is a one hundred and thirty-five (135) one- to three-bedroom units; the Waimea Huaka'i project in Waimea; the Pua Loke Affordable Housing project in Līhu'e, which just broke ground about two (2) weeks ago that would be approximately fifty (50) or so units; and several others that have been in existence for a long time. These include Kalepa Village here in Līhu'e, the Pa'anau Village housing in Kōloa, and Kolopua in Princeville near the fire station. All of those projects are direct County-developed or County-funded projects that were built in partnership with private developers relying on these Federal grant programs and tax credits. All of those developments are specifically geared for people with very low incomes and the low end of the spectrum. Generally, it is for those below sixty percent (60%) AMI, but sometimes below eighty percent (80%) AMI. Separate from all of that work, the Housing Policy is designed to serve the people that make too much money to qualify for those low-income projects, but do not make enough money to compete in the market as it is developed in the market. Certainly, if we had more funding, we could do more very low-income projects. We are doing the best we can with the resources that we have available.

Council Chair Kaneshiro: Thank you for that clarification.

Committee Chair Kualii: Councilmember Chock.

Councilmember Chock: Thank you. Just a question about the current amendment on the floor. I was asking for some clarity. I think I get the gist of most of the amendment, but I was wondering, Adam, if you could talk a little bit more about the fifty percent (50%) workforce housing requirement and the variance between thirty-five percent (35%) and fifty percent (50%), and how we intend to run through the independent analysis. I am not quite clear as to how that income threshold is determined to reach a specific percentage.

Mr. Roversi: Sure. The existing Housing Policy, not the amended version that you have before you, but the existing Housing Policy, proposes the method of imposing a workforce housing assessment on resort properties is purely through an independent assessment of every project. If a developer wants to do a resort project under the current Housing Policy, they are required to hire an economist and do a study of their specific project to come up with their own independent analysis of the number of workforce units that will be required related to the type of development that they are doing. They then have to come to the Housing Agency for preliminary approval of that analysis and then eventually they have to go to the County Council and the Council review and approve their analysis and we develop an individualized workforce housing assessment for every resort development.

Councilmember Chock: Okay.

Mr. Roversi: One of the recommendations in the Nexus Analysis that we commissioned, was having an individualized ad hoc analysis for every resort development. It is unwieldy and too much of an unknown for a developer. They need to know and doing an analysis of a project and be able to predict what the workforce housing imposition is on their project is important for them to know whether the numbers are going to pencil out. The Nexus Report recommended that we eliminate the project-specific analysis and pick a number, like we do for residential developments. It is somewhat difficult to pick a number, because there is a wide array of the types of resort projects that all drive different levels of workforce housing demand and the need for the numbers of workers. They all have different financial abilities to absorb the subsidy that we would be required to impose on them. The Nexus Report contains an economic review of types of resort developments and an assessment of how many workforce units as a practical matter are required as employees in these types of developments. It was a range of up to one hundred percent (100%) down to a low of thirty-five percent (35%). That means in a very high...and this is if we have to go back to the report for its details...I am paraphrasing. In a very high-end resort, one hundred (100) units are going to generate a need for one hundred (100) employees to work there and thus that is one hundred (100) workforce housing units. On the lower end of the resort community, possibly a motel or less luxurious project might generate as low as thirty-five percent (35%) to fifty percent (50%). So in trying to pick a number, the initial fifty percent (50%) recommendation from the Housing Agency, was at the low-end of the scale that the Nexus Analysis had presented. That was the initial proposal. Fifty percent (50%) would eliminate the ad hoc analysis and just pick a number. I guess in realizing that was going to be challenged by the resort development community, the decision was made to provide at least the option of continuing with the independent economic analysis so you could have variability depending on the types of projects and the low-end projects could conceivably come up with an economic analysis demonstrating that they are not creating their workforce housing need as high as fifty percent (50%). The idea of putting individualized now is back in as an option, as that came up at Council. We brought up the thirty-five percent (35%), for background. Where does the thirty-five (35%) come from? This amount is essentially the bottom-end of the scale of what is proposed in the Nexus Analysis. The reason that we recommended thirty-five percent (35%) floor for an assessment is to avoid what I view as unfortunate abnormalities in some of the individualized assessments that have been presented and approved in the past. The one that I used as an example was the Coco Palms Resort in Wailua, which obviously has never been rebuilt. They did, under Ordinance No. 860, one of those individualized site-specific analyses for their project. The economist that they hired came up with a range that the Coco Palms Resort would generate a need for workforce housing units between zero (0) and my recollection is twenty-five (25). The notion that a three hundred fifty plus- (350+) room hotel would generate a need for zero (0) workforce housing units just strikes me as absurd, that that could come out of an independent economic analysis. That was the impetus for requesting at least a floor in there. If we are going to provide the opportunity for people to choose between the fifty percent (50%) number or alternatively we are going to do our own analysis, we did not want analyses coming back to us telling us that a three hundred fifty (350) unit hotel will generate zero (0) need for employee housing.

Councilmember Chock: Thank you. Under your analogy, I realize the Nexus Study's cap is fifty percent (50%), but in your analogy, really, it could be higher

than that, depending on the type of resort that is built. Why would we not move in the opposite direction as well to provide that variance? Is there specific reasoning to where the fifty percent (50%) is? Again, I am just referencing the thought that if you require one hundred (100) workers, then should it not be one hundred percent (100%)? Would that not limit the type of resort that we would see on the island if we moved it in the opposite direction as well?

Mr. Roversi: Do you mean if we made the number higher than fifty percent (50%)?

Councilmember Chock: Maybe the variance was seventy-five percent (75%) to thirty-five percent (35%). I do not know. I am just throwing it out there as to the reasons why we would stop at one end.

Mr. Roversi: If we think of this as a practical matter, if we were to provide two (2) options to a resort developer, either you can provide seventy-five percent (75%) of workforce housing units, or you can do an independent analysis. Every one of them will do an independent analysis. Having two (2) options will become relatively meaningless would be my presumption. Backing up...we recommended the fifty percent (50%) number because it was low enough on the range in the Nexus Report to encompass the vast majority of developments. It would not unnecessarily burden the low-end projects, and it would be, fiscally and politically more palatable to the development community instead of telling them eighty percent (80%), ninety percent (90%), or even seventy-five percent (75%).

Committee Chair Kualii: Councilmember Evslin.

Councilmember Evslin: Thank you, Adam. Is there a mechanism for the County to reject an independent assessment, like you just mentioned for Coco Palms? Say it comes back and the County says this is not realistic...go back and do it again?

Mr. Roversi: Yes. Under both the current Ordinance and the amended language that is presented to you, the individualized assessment ultimately needs to be approved both by the Housing Agency and by the County Council. In the Coco Palms example, the Council accepted the very low...and the Housing Agency also accepted that number as well, probably because that place had become an eyesore and was undeveloped for so long, the County was desperate to have it developed and was willing to forego a workforce housing element alongside the proposed development, which we all know still has not happened.

Councilmember Evslin: For previous economic assessments, do you have some kind of ballpark figure as to where they were coming out? I know you mentioned the Nexus Analysis showing seventy-five percent (75%). Is there a possibility that if it passes with this language, that everybody is going to do their own assessments that is going to come out really low and just end up with thirty-five percent (35%) as their lowest?

Mr. Roversi: That is certainly possible. I would have to dig through our files, but in my preliminary review of what we had in our records was that Coco Palms was effectively the only entity that has gone through this

individualized assessment process since Ordinance No. 860 in its current form was developed. I do not have a library of other assessments that I could show you and we could all review together. It is certainly possible that under the proposed amendment, any project will end up at thirty-five percent (35%) or very close to it based on their independent economic analysis. Provided as well that the Council is going to approve it.

Councilmember Evslin: Given that the Nexus Analysis shows that the need was likely going to be higher, is the thirty-five percent (35%) the legal maximum that we could put in there as the floor?

Mr. Roversi: I would direct you to Matt for that discussion.

Councilmember Evslin: Matt, any chance that you are there? We can move on to other questions and come back to Matt when he is ready.

Committee Chair Kualii: Let us see if he is trying to talk to us. I am happy to give him more time though. Let us move forward with Council Chair Kaneshiro.

Council Chair Kaneshiro: I was just going to say that if Matt is not available right now, we can always send the question to him and have him respond in writing.

Committee Chair Kualii: We can do that. Do you have anything further, Councilmember Evslin?

Councilmember Evslin: That is all. Thank you very much, Councilmember Kualii.

Committee Chair Kualii: Any other questions? Councilmember Cowden.

Councilmember Cowden: I know that I asked this before, but AMI is determined by HUD? Do we have a little knowledge of whether that includes the full end of all the income from lowest to highest? Do you know, Director Roversi?

Mr. Roversi: I am not exactly sure what you are asking. HUD annually publishes AMI for every county in the United States. The specific numbers that they issue with regard to Hawai'i are for thirty percent (30%)...first they announce just what the AMI is each year, then they establish a thirty percent (30%), fifty percent (50%), and eighty percent (80%) number based on their AMI. Using that data that is provided by HUD, we generate the chart of sales prices that is posted annually on the Housing Agency's website. Those sales prices are based on calculations that are contained within the Housing Policy. Broadly speaking, my understanding is that they were generated to reflect banking practices and the way loans are issued for various incomes. That is how the sales prices are arrived at. We have a spreadsheet that we plug in the numbers, the parameters are described in the Housing Policy, and we plug the HUD-generated income numbers into it and it tells us what the sales prices are.

Councilmember Cowden: Okay. The reason I am asking is that I just have an intuitive sense that AMI...I have a hard time trusting that that is an appropriate number or that that might move a lot. I know on the North Shore, where I live, we are almost an inversed bell curve economically. We have the uber rich and those who are really struggling. We do not have as much of the middle-class. I am wondering if the AMI is that set for Kaua'i or is that an average for all of our state?

Mr. Roversi: No, it is Kaua'i specific.

Councilmember Cowden: It is Kaua'i specific and it would be an average for the entire island?

Mr. Roversi: Well, median is slightly different than an average.

Councilmember Cowden: The median.

Mr. Roversi: Yes, it is for the entire island.

Councilmember Cowden: When we have these people who are exceptionally wealthy that live here as their permanent residence, does that go into our median calculation?

Mr. Roversi: I believe all permanent residents are added into the median calculation. If someone owns a vacation home here, I do not think they would be considered a resident.

Councilmember Cowden: Right.

Mr. Roversi: On the HUD website, there is a very detailed three- to four- page summary of exactly how they arrive at these calculations. You almost need a Master's degree in mathematics and statistics to understand exactly how they are doing it. I cannot begin to describe to you the exact details on how HUD arrives at their numbers.

Councilmember Cowden: Okay. Is AMI the only point that we can be putting into our formula? As I look at strong wealth moving permanently here as has been the case in my community, and if we have more coming, if that does not disproportionately move it, it would work better for the developer to bring up that price. It might not work so well for the employed person. I am just wanting to make sure that when we do all of this design of how we are going to be funding things, that we are able to really have an appropriate figure to be balancing it against. I just have a little concern with that. Who knows how the economy is going to shift in the next couple of years.

Committee Chair Kualii: Adam, would you not say that based on that, in many ways, because we work with Federal funds for the lower end, thirty percent (30%), the fifty percent (50%), et cetera, it is required by HUD for us to follow those numbers? Then if we are following those numbers for that population and we switch to a different number for the gap group that is just above that, then it would not align fairly in our community? That might be oversimplifying it.

Mr. Roversi: To a certain extent you are exactly right. For all of the programs that we operate, except for the workforce housing assessment...whether it is the Rental Assistance Program or it is based on the Federal grant funding that we utilize to build the Pua Loke Housing Project, we are required by HUD to adhere to the guidelines that they have established. As a practical matter, because the workforce housing assessment is not connected to Federal requirements, Council could elect to do whatever it wants. It would create a completely different set of guidelines as compared to all of the other programs that we operate under.

Committee Chair Kualii: Is there a way to...and do we...appeal to HUD and say we think the numbers are still too high? We know you are trying to adjust for our particular community, but is there anyway to ask them to relook at those numbers prior to them sending it out each year?

Mr. Roversi: In some cases, yes. We cannot really change what our AMI is because that is a mathematical reality. For example, in our Rental Assistance Program, and this is not necessarily relevant to the sales price of the house, but in our Rental Assistance Program, HUD sets the reimbursable rents that we are allowed to pay for low-income individuals in houses. They do not necessarily do that by actually coming to Kaua'i and looking at rents. They make some mathematical assumptions and come up with the numbers. The numbers that they had been providing to us were far lower than the actual market rents on Kaua'i. We were having a hard...the people receiving our rental vouchers were having a hard time, even with rental assistance, being able to afford rentals. We appealed to HUD to do an actual market study of rents on Kaua'i, which resulted in them raising what are called the fair market rent caps for our Voucher Assistance Program. So now, by considering our appeal effectively, they have increased the amount of rental assistance that we can provide to all of our clients. So a long-winded answer, but yes, there are limited ways to appeal to HUD, but not for the AMI numbers.

Committee Chair Kualii: Thank you. So members, while we have the rules suspended, any further questions of our Housing Director? Councilmember Evslin.

Councilmember Evslin: Thank you. One quick question on AMI. With thirty percent (30%) unemployment or whatever we are facing, does AMI only include those who have an income? Or does it also include unemployment? Is there an expectation that those numbers could collapse over the coming years? Anything we pass...maybe we make all development totally infeasible because the numbers become so low because of the collapsing economy.

Mr. Roversi: The HUD analysis has I believe a year and a half or two-year lag. You are exactly right. If we had an economic collapse on Kaua'i and incomes were rapidly falling, the HUD AMI number would go down and that would be reflected in changes in sales prices. What I am telling you today, a three-bedroom eighty percent (80%) AMI house would also drop alongside the reduction in AMI. So it would lag reality by at least a year, but it could affect the policy, yes.

Councilmember Evslin: Do you know if the unemployed are included in that number, or does it...

Mr. Roversi: I believe unemployed residents are calculated into that, but I would have to confirm.

Committee Chair Kualii: Any last questions?

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

Committee Chair Kualii: Okay, seeing no further questions, I will call the meeting back to order. We will take final comments on the amendment. Councilmember Cowden.

Councilmember Cowden: We had taken an amendment in here which says, "Any affordable or workforce housing development developed by or for the county either by itself or in partnership with another housing development organization." We have not really discussed that. I am fine with that. That is where we are being explicit that for this exemption, we do not create a workforce requirement for workforce housing because it is already one hundred percent (100%). This is basically saying whether it is a partner or not, it is all considered essentially workforce housing. Right? Do I have that correct? This is what is included in Councilmember Kagawa's amendment.

There being no objections, the rules were suspended.

Mr. Roversi: That is correct, Councilmember Cowden. For context, the language regarding an exemption of county, or partnership housing development is in the current Ordinance. So what is in the amendment is nothing new. It is just being taken from one location in the current Bill and organizationally being placed in a different section of the Bill.

Councilmember Cowden: Okay.

Mr. Roversi: It is not changing anything substantive. It is just moving where the language is. The reason it says, "county or partnership" is because the County typically partners with nonprofit or for-profit developers to build the housing for County projects. We do not act as developers ourselves. For example, the Pua Loke housing project that just broke ground, the County owns the land and has entered into a long-term ground lease with the Ahe Group who is going to build and own the vertical apartment buildings for a period of the ground lease. Their ownership has all the requirements imposed on them of meeting various affordability requirements and so forth, that are established in our funding agreement and in the ground lease. The partnership between a private company and the County, but it is sufficiently constrained that it should be exempt from an additional workforce housing requirement.

Councilmember Cowden: Thank you. I just wanted to point out for the record and for anyone listening that we are pulling that from a lower area up and just clarifying the change. That is what we are voting on.

Committee Chair Kualii: While the rules are still suspended, does anyone have any further clarifying questions or actual questions, rather than comments? Okay.

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

Committee Chair Kualii: We will try this again. Does anyone have final comments before we vote? Anyone? Councilmember Evslin.

Councilmember Evslin: I just wanted to say thank you to the introducers. I appreciate the process of moving slow and I did want to comment on the workshop. I do support the idea of a workshop though as Council Chair Kaneshiro said, I do hope the workshop is results-oriented. I would also like to see historic numbers of how the current ordinance makes development infeasible and some of the difficulties in getting financing. My hope is that we can continue moving forward and get it done with one workshop or two at the very most. I think it is possible that we get lost in workshops. I do not think we are going to make everyone happy here. I support the idea of continuing to move forward. I appreciate the introducers moving slow and getting a lot of input.

Committee Chair Kualii: Councilmember Chock.

Councilmember Chock: Just a process question.

Committee Chair Kualii: I wanted to focus on the amendment right now. We will vote on the amendment and after that we will talk more about process as far as scheduling the workshop and things like that.

Councilmember Chock: Okay, sure.

Committee Chair Kualii: Any final discussion on the amendment? If not, can we take a vote?

The motion to amend Bill No. 2774, Draft 2, as circulated, and as shown in the Floor Amendment which is attached hereto as Attachment 1, was then put, and unanimously carried.

Committee Chair Kualii: The motion carries. Before we adjourn and I ask for a deferral again, any further comments on the plan to have the workshop next? So the next time we meet, we will be as the Committee in a workshop. We are trying to work that into our August schedule. I will ask for a deferral at the end of this meeting and it will be until the first Committee Meeting in September. Any other suggestions or questions, or anyone wanting to talk about the workshop?

Councilmember Chock: In light of that schedule, it sounds to me as if what we are wanting to do is have those individual stakeholder meetings from now until the next time we meet in a workshop setting. Do you anticipate any further...I guess my question is about any additional amendments that might come forward. Are we going to then introduce them at the next Committee Meeting in September?

Committee Chair Kualii: Correct. After the workshop. Perhaps as a result of the workshop, there will be more amendments.

Councilmember Chock: Thank you.

Committee Chair Kualii: Okay, that is the process. I will just repeat myself. We are going to schedule with staff a Housing Workshop at some future date in August. I will ask now for a deferral to the first Committee Meeting in September.

Councilmember Chock moved to defer Bill No. 2774, Draft 2 as amended to Bill No. 2774, Draft 3 to the 1st Committee Meeting in September 2020, seconded by Councilmember Cowden, and unanimously carried.

There being no further business, the meeting was adjourned at 9:37 a.m.

Respectfully submitted,

KarLyn Sukehira
Council Services Assistant I

APPROVED at the Committee Meeting held on August 5, 2020:


KIPUKAI KUALII
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).

(July 22, 2020)

FLOOR AMENDMENT

Bill No. 2774, Draft 2, Relating to the County Housing Policy

Introduced by: ROSS KAGAWA, Councilmember

Amend Bill No. 2774, Draft 2, as follows:

1. Amend proposed Sec. 7A-1.4.2, Exemptions, to read as follows:

“Sec. 7A-1.4.2 Exemptions.

The workforce housing requirements of this Chapter shall not apply to [the following:] any affordable or workforce housing development developed by or for the County, either by itself or in partnership with another housing development organization.

[(a) Projects within the following special planning areas and design districts, developed at or above the maximum density allowed, or in areas subject to form based codes developed as multi-family projects, in which all developed units will be priced at or below one hundred twenty percent (120%) of the Kaua‘i median household income:

(1) Līhu‘e Town Core Urban Design District as defined in Title IV, Chapter 10, Article 5A.

(2) Kōloa Town Walkable Mixed Use District as defined in Title IV, Chapter 10, Article 6.

(3) Kalāheo Town Walkable Mixed Use District as defined in Title IV, Chapter 10, Article 6.

(b) Projects outside of Visitor Destination Areas and Special Management Areas in residential or mixed use zoning districts with a density of R-10 or greater, consisting of multiple or single family attached dwellings, developed at or above the maximum density allowed, in which all developed units will be priced at or below one hundred twenty percent (120%) of the Kaua‘i median household income.

(c) Any affordable or workforce housing development developed by or for the County, either by itself or in partnership with another housing development organization, is exempt from the requirements of this Chapter.

(d) The exemptions in subsection (a) for special planning areas and design districts and in subsection (b) relating to zoning density shall expire ten (10) years from the date of their adoption.]”

(Material to be deleted is bracketed. New material to be added is underscored. All material is new.)

2. Amend Sec. 7A-2.1, General Requirements, as follows:

“Sec. 7A-2.1 General Requirements.

(a) Residential Developments. A thirty percent (30%) workforce housing requirement shall be assessed to any residential project subject to the Workforce Housing Policy. The housing assessment shall be satisfied by fee-simple sale of workforce housing units at affordable housing prices, which shall be determined by the Housing Agency pursuant to Article 4 of this Chapter.

(1) For a residential development consisting of ten (10) to twenty-five (25) units, a developer shall be required to satisfy a workforce housing requirement based on project’s total number of residential units. Workforce housing units shall be sold to households earning from eighty percent (80%) to [one hundred forty percent (140%)] one hundred twenty percent (120%) of Kaua’i median household income, with the average sales price being affordable to households earning one hundred percent (100%) of Kaua’i median household income.

(2) For a residential development consisting of twenty-six (26) units or more, a developer shall be required to satisfy a workforce housing requirement based on project’s total number of residential units. Workforce housing units shall be sold to households earning from eighty percent (80%) to [one hundred forty percent (140%)] one hundred twenty percent (120%) of Kaua’i median household income, in accordance with the following income group assessment:

(A) [Twenty percent (20%)] Thirty percent (30%) of total units priced to be affordable to households earning up to eighty percent (80%) of the Kaua’i median household income.

(B) [Thirty percent (30%)] Forty percent (40%) of total units priced to be affordable to households earning up to one hundred percent (100%) of the Kaua’i median household income.

(C) Thirty percent (30%) of total units priced to be affordable to households earning up to one hundred twenty percent (120%) of the Kaua’i median household income.

[D) Twenty percent (20%) of total units priced to be affordable to households earning up to one hundred forty percent (140%) of the Kaua’i median household income.]

(b) Multi-Family Workforce Housing Special Assessments. Projects in the following special areas may elect to adhere to modified workforce housing requirements described below:

(1) Projects within the following special planning areas and design districts, developed at or above the maximum density allowed, or in areas subject to form based codes developed as multi-family projects

may elect to provide all units at or below 120% of Kaua'i median household income:

(1) Līhu'e Town Core Urban Design District as defined in Title IV, Chapter 10, Article 5A.

(2) Kōloa Town Walkable Mixed Use District as defined in Title IV, Chapter 10, Article 6.

(3) Kalāheo Town Walkable Mixed Use District as defined in Title IV, Chapter 10, Article 6.

(2) Projects outside of Visitor Destination Areas and Special Management Areas in residential or mixed use zoning districts with a density of R-10 or greater, consisting of multiple or single family attached dwellings, developed at or above the maximum density allowed may elect to provide all units at or below 120% of Kaua'i median household income.

(3) The multi-family workforce housing special assessment provisions in this subsection shall expire ten (10) years from the date of their adoption.

(b) (c) Resort Developments. For resort projects in visitor destination areas, for amendments into the visitor destination area, and for resort district zoning amendments which [will generate a need for new employees to fill one hundred (100) or more full-time equivalent jobs, or] have density for more than ten (10) [residential] dwelling units or twenty (20) hotel rooms, [a] two workforce assessment methods are available:

(1) a fifty percent (50%) workforce housing requirement [shall be assessed. The] in accordance with the income group assessment provided in Section 7A-2.1(a)(2); or

(2) a workforce housing requirement of at least thirty-five percent (35%) based upon an independent analysis in accordance with the income group assessment provided in Section 7A-2.1(a)(2). For the independent analysis, the number, type, size, income target groups to benefit, and the sales or rental prices of workforce housing units required shall be based on an analysis of the number of jobs to be generated, the availability of workers to fill those jobs, the resultant number and incomes of workers to be supported by those jobs, the estimated number of workers requiring housing assistance, and the amount of housing inventory available to those workers. Such analysis shall be conducted by an economist retained by, but independent of, the developer. The analysis shall be subject to approval by the County Council for all petitions for visitor destination area or zoning district boundary amendments, or approval by the Housing Agency for subdivision, zoning, or building permit applications. [The]

Under either assessment method, the developer shall complete construction of the required workforce housing units before final building inspections or certificate of occupancy is issued for any facility or accommodation of the resort development, except for temporary buildings for real estate sales offices.”

(Material to be deleted is bracketed. New material to be added is underscored.)

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